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China

COI Compilation

March 2014

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This COI compilation does not cover the Special Administrative Regions of Hong Kong and Macau, nor does it cover Taiwan. The decision to exclude Hong Kong, Macau and Taiwan was made on the basis of practical considerations; no inferences should be drawn from this decision regarding the status of Hong Kong, Macau or Taiwan.

This report serves the specific purpose of collating legally relevant information on conditions in countries of origin pertinent to the assessment of claims for asylum. It is not intended to be a general report on human rights conditions. The report is prepared on the basis of publicly available information, studies and commentaries within a specified time frame. All sources are cited and fully referenced.

This report is not, and does not purport to be, either exhaustive with regard to conditions in the country surveyed, or conclusive as to the merits of any particular claim to refugee status or asylum. Every effort has been made to compile information from reliable sources; users should refer to the full text of documents cited and assess the credibility, relevance and timeliness of source material with reference to the specific research concerns arising from individual applications.

An electronic version of this report is available on www.ecoi.net.

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List of Abbreviations

ACWF - All-China Women's Federation
CCC – Chinese Christian Council
CCP/CPC – Chinese Communist Party / Communist Party of China
CDP – Chinese Democracy Party
CDPF – China Disabled Persons Federation
CMC - Central Military Commission (of the People's Republic of China or of the Communist Party of China)
CPA – Catholic Patriotic Association
CPL – Criminal Procedure Law
C&E – Custody and education
C&R – Custody and rehabilitation
ETIM – East Turkestan Islamic Movement
GAD – People's Liberation Army General Armaments Department
GLD – People's Liberation Army General Logistics Department
GPD – People's Liberation Army General Political Department
GSD – People's Liberation Army General Staff Department
LPDP – Law of the People's Republic of China on the Protection of Persons with Disabilities
MPS – Ministry for Public Security
MSS – Ministry for State Security
NPC – National People's Congress
PAP – People's Armed Police
PLA – People's Liberation Army
PLAA – PLA army
PLAAF – PLA air force
PLAN – PLA navy
PRC – People's Republic of China
PSB – Public Security Bureau
PSC – Politburo Standing Committee
RMB – Renminbi
RTL – Re-education through labour
SARA – State Administration for Religious Affairs
SMF – Social maintenance fees
SPC – Supreme People's Court
TAP – Tibetan Autonomous Prefecture
TAR – Tibet Autonomous Region
TSPM – Three-Self Patriotic Movement of Protestant Churches in China
XUAR – Xinjiang Uyghur Autonomous Region

1 Background information

1.1 Geographical information

1.1.1 Map of China

Source: OCHA - UN Office for the Coordination of Humanitarian Affairs: National Reference Map of China, 31 July 2006
http://reliefweb.int/sites/reliefweb.int/files/resources/B7ADEC24DDBA825F85257221005E33B8-ocha_REF_chn310706.pdf

1.1.2 Map of Tibet Autonomous Region (TAR)

A general map of Tibet[1] is accessible via the following link:

- Tibet Map Institute: General Map of Tibet, undated (a)
  http://www.tibetmap.com/tibet21.jpg

A map showing prefectures and counties of Tibet Autonomous Region (TAR) can be accessed via the following link:

- SEAPC - South East Asia Prayer Center: Tibet County Outline Map, October 2011
  http://www.seapc.org/wp-content/uploads/2011/10/Tibet-County-Outline-Map_web.jpg

For a more detailed map of the TAR, please see the following link:

- ChinaMaps.org: Tibet Province Map, undated (a)
  http://www.chinamaps.org/china/provincemaps/tibet-map.html

[1] The blue-bordered area "is the area of the tibetan [sic] civilisation extension" while the green-bordered area shows the boundaries of the Tibetan Autonomous Region (TAR) (Tibet Map Institute, undated (b)).

1.1.3 Map of Xinjiang Uyghur Autonomous Region (XUAR)

A schematic map with names of prefectures, administrative districts and northern belt cities of Xinjiang Uyghur Autonomous Region (XUAR) is provided on page 411 of the following report:

- Harlan, Tyler: Private Sector Development in Xinjiang, China: A Comparison between Uyghur and Han. In: Espace populations societies, 2009/3, 2009, pp. 407-418 http://www.eps.revues.org/pdf/3772

For a more detailed map of the XUAR, please refer to:

- ChinaMaps.org: Xinjiang Province Map, undated (b) http://www.chinamaps.org/china/provincemaps/xinjiang-map.html

1.2 Brief overview of political institutions and structures

1.2.1 Government structure

The UK Foreign and Commonwealth Office (FCO) notes that "China has all the structures a modern democratic state would expect to have, with in theory a separation of powers between the different functions of state similar to most western democracies", adding, however, that "all structures are subordinate to the leadership of the CCP [Chinese Communist Party]" (FCO, February 2012). Similarly, the New York Times (NYT) states that "the Communist Party continues to exercise authority over all aspects of governance" (NYT, 7 January 2013). The US Congressional Research Service (CRS) mentions that the Chinese state and society is dominated by the CCP, which "is committed to maintaining a permanent monopoly on power". Nonetheless, as the CRS adds, "analysts consider China's political system to be neither monolithic nor rigidly hierarchical. Jockeying among leaders and institutions representing different sets of interests is common at every level of the system" (CRS, 20 March 2013, Summary).

The Economist Intelligence Unit (EIU), the business information arm of the London-based media company Economist Group, describes China's political system as "complex". According to the source, the government in China consists of two parallel systems, the CCP hierarchy and the state hierarchy:

> "The country is essentially run by two parallel systems of government that interlock at every level: the CCP hierarchy and the state one. The state system is headed by the president, with the premier leading the State Council (cabinet) and its various ministries, and the National People's Congress (NPC) serving as a legislature. This branch of the government is important, particularly in terms of day-to-day administration, but plays very much a subservient role to the parallel CCP one. The party system, in turn, is headed by the Politburo Standing Committee (PSC) under the leadership of the CCP general secretary." (EIU, 2012, p. 2)

The CRS notes that "powerful Communist Party bodies that exist in parallel to the State bodies set policy at all levels and make major decisions", whereas "the State system implements and executes policy" (CRS, 20 March 2013, p. 28).

Article 57 of the Constitution of the People's Republic of China (adopted on 4 December 1982, amended on 14 March 2004) stipulates that "[t]he National People's Congress of the People's

Republic of China is the highest organ of state power", with the Standing Committee of the National People's Congress being its permanent body (Constitution of the People's Republic of China, 14 March 2004, Article 57). According to Article 58, "[t]he National People's Congress and its Standing Committee exercise the legislative power of the State" (Constitution of the People's Republic of China, 14 March 2004, Article 58). BBC News explains that under China's constitution, the National People's Congress is meant to be "the most powerful organ of state", but adds that "[i]n truth, it is little more than a rubber stamp for party decisions". The source further reports that the congress is composed of nearly 3,000 delegates who are elected by the country's provinces, autonomous regions, municipalities and the armed forces. The delegates are elected for five-year terms, and the congress meets in full session once a year. BBC News suggests that, due to "[t]his sporadic and unwieldy nature", the "real influence lies within a standing committee of about 150 members elected from congress delegates", which "meets every couple of months". As regards the powers and independence of the congress, the source notes:

> "In theory, the congress has the powers to change the constitution and make laws. But it is not, and is not meant to be, an independent body in the Western sense of a parliament. For a start, about 70% of its delegates - and almost all its senior figures - are also party members. Their loyalty is to the party first, the NPC [National People's Congress] second. [...] What actually tends to happen, therefore, is that the party drafts most new legislation and passes it to the NPC for 'consideration', better described as speedy approval. The NPC has shown some signs of growing independence over the past decade. In a notable incident in 1999, it delayed passing a law bringing in an unpopular fuel tax. It has also been given greater leeway drafting laws in areas like human rights. The congress also 'elects' the country's highest leaders, including the state president and vice-president, the chairman of the government's own Military Affairs Commission and the president of the Supreme People's Court. But again, these elections are very different from the Western ideal." (BBC News, undated)

Similarly, the GlobalPost, an online US news company focusing on international news, refers to the National People's Congress as a state body that "is theoretically an independent arm of the Chinese government, but which in reality simply is a rubber-stamping body that approves whatever's been handed down from on high" (GlobalPost, 4 March 2013). According to the CRS, "[a]t the annual full sessions, NPC deputies almost always vote to approve the reports, laws, and candidates put before them, usually by overwhelming margins. NPC delegates do occasionally push back, however. At the March 2013 session of the NPC, 25% of deputies withheld their support from the Supreme People's Court's report to the Congress, and nearly 22% withheld their support from the Ministry of Finance's budget report" (CRS, 20 March 2013, p. 31). Regarding the oversight authority granted to the congress under the country's constitution, the CRS notes:

> "According to China's state constitution, the National People's Congress (NPC) oversees the State Council, as well as four other institutions: the Presidency, the Supreme People's Court, the public prosecutors' office, and the military. In practice, the NPC, like People's Congresses at every level of administration, is controlled by the Communist Party and is

> able to exercise little oversight over any of the institutions officially under its supervision." (CRS, 20 March 2013, p. 4)

The CRS also mentions that the National People's Congress "is the uppermost layer of a nation-wide system of People's Congresses" that are "loosely linked together in process and function". Direct elections are only held for the lowest level of People's Congresses. But even there, candidate lists are traditionally "controlled by the Party, and elections are uncontested" (CRS, 20 March 2013, p. 32). Based on information provided by Xinhua News Agency, China's official press agency, the source offers a graphical representation of the organisational structure of the National People's Congress (CRS, 20 March 2013, p. 32).

Article 79 of the Constitution gives the National People's Congress the right to elect the country's President (Constitution of the People's Republic of China, 14 March 2004, Article 79). However, as noted by the CRS, the CCP decides on who will fill this position. The role of the congress "is simply to ratify the Party's decisions" (CRS, 20 March 2013, p. 7). The Economist Intelligence Unit (EIU) notes that the President is approved by the National People's Congress for a maximum of two consecutive five-year terms (EIU, 9 October 2013).

Articles 80 and 81 define the functions and duties of the President (Constitution of the People's Republic of China, 14 March 2004, Articles 80 and 81). The international business daily newspaper Financial Times (FT) calls the presidency of China "a largely ceremonial office" (FT, 14 March 2013). Likewise, the CRS notes that the positions of President and Vice President, China's highest ranking state officials, "are largely ceremonial and involve few duties" (CRS, 20 March 2013, p. 28). In March 2013, General Secretary of the Communist Party Xi Jinping was formally elected President of China by the National People's Congress, replacing Hu Jintao (e.g. CNN, 14 March 2013; Guardian, 14 March 2013). For more information on the March 2013 presidential appointment by the National People's Congress, please refer to section 2.4 of this compilation.

According to Article 85 of the Constitution, the "State Council, that is, the Central People's Government, of the People's Republic of China is the executive body of the highest organ of state power; it is the highest organ of State administration" (Constitution of the People's Republic of China, 14 March 2004, Article 85). The State Council's functions and powers are outlined in Article 89 (Constitution of the People's Republic of China, 14 March 2004, Article 89). The CRS notes that the Communist Party "delegates day-to-day administration of the country" to the State Council (CRS, 20 March 2013, Summary), whose leadership is made up of a Premier, four Vice Premiers and five State Councilors (CRS, 20 March 2013, p. 29). In an explainer on China's National Party Congress, the Qatar-based TV news network Al Jazeera says that the "State Council oversees China's bureaucracy, and its 35 members include the heads of government agencies such as the Ministry of Foreign Affairs and the Ministry of Justice. The Council's most important role, however, is running and managing the state's economy" (Al Jazeera, 8 November 2012). BBC News provides the following overview of the State Council's role and functions:

> "The State Council is the cabinet which oversees China's vast government machine. It sits at the top of a complex bureaucracy of ministries and commissions and is responsible for

making sure party policy gets implemented from the national to the local level. In theory it answers to the National People's Congress, but more often the State Council submits legislation and measures which the NPC then approves. The State Council's most important roles are to draft and manage the national economic plan and the state budget, giving it decision-making powers over almost every aspect of people's lives. It is also responsible for law and order. The full council meets once a month, but the more influential standing committee comes together more often, sometimes twice a week." (BBC News, 8 October 2012)

As stipulated in Article 87 of the Constitution, the Premier, Vice Premiers and State Councilors shall serve a maximum of two five-year terms (Constitution of the People's Republic of China, 14 March 2004, Article 87). In March 2013, the National People's Congress formally elected Li Keqiang as China's Premier, succeeding Wen Jiabao (e.g. Guardian, 15 March 2013; Reuters, 15 March 2013). There were only three no votes and six abstentions (Reuters, 15 March 2013).

China has "four levels of formal administration under the central government", which are outlined by the CRS as follows[2]:

"The first level is officially made up of 34 provincial-level governments. This includes 23 provinces; five geographic entities that China calls 'autonomous regions,' which have large ethnic minority populations (Guangxi, Inner Mongolia, Tibet, and Xinjiang); four municipalities that report directly to the central government (Beijing, Chongqing, Shanghai, and Tianjin); and the two special administrative regions of Hong Kong and Macau. The PRC's count of 23 provinces includes Taiwan, the island of 23 million people that the PRC does not control, but over which it claims sovereignty.

The second level of administration includes more than 300 prefectural-level administrative units, including prefectures and prefectural-level cities. The third level of administration includes nearly 3,000 counties and county-level cities. The lowest tier of official administration is made up of approximately 40,000 townships and towns.

The first, third, and fourth levels of administration all have political structures that mirror the central government, with parallel Party and government organizations and people's congresses. At the second administrative level, prefectural-level cities and autonomous prefectures also have government organizations and people's congresses, but regular prefectures do not. Instead, they have administrative agencies.

Villages are not considered part of the formal administrative structure, but are rather considered 'mass organizations of self-management at the grass-roots level.' Their status outside the government hierarchy allowed China to introduce direct elections at the village level in the 1980s without setting a precedent for direct elections at higher levels." (CRS, 20 March 2013, pp. 9-10)

[2] Despite mentioning that China has five "autonomous regions", the CRS report only lists four of them (Guangxi, Inner Mongolia, Tibet and Xinjiang). According to information retrieved from the Chinese government's website, the country's five autonomous regions are Gunagxi, Inner Mongolia, Tibet, Xinjiang and Ningxia (Central People's Government of the People's Republic of China, undated).

1.2.2 Communist Party of China (CPC)

The 2009 edition of the reference book Political Parties of the World states that "[a]ccording to its authorized history, the CPC was founded in July 1921 at a congress in Shanghai attended by a dozen delegates (among them Mao Zedong) from Marxist groups with a total membership of 57" (Political Parties of the World, 2009, p. 120).

Al Jazeera refers to the Communist Party of China (CPC) as "the world's largest political party, with more than 80 million members" and "the most influential instrument in contemporary Chinese society" (Al Jazeera, 8 November 2012). The Council on Foreign Relations (CFR), a US think tank specializing in foreign policy and international affairs, writes that the Communist Party "is the founding and ruling political party of modern China" with more than 82 million party members (CFR, 29 August 2013). China's official press agency Xinhua provides the following information regarding CPC membership and the party's demographic composition with reference to data published by the Organisation Department of the CPC Central Committee:

> "The number of Communist Party of China (CPC) members has surpassed 85 million, according to latest figures from the Organization Department of the CPC Central Committee. The CPC had 85.13 million members at the end of 2012, according to a department statement on Sunday, one day before the 92nd anniversary of its founding. Last year, 3.23 million people joined the CPC, the world's largest political Party – a net increase of 2.53 million taking into account members who died or left the Party. More than 44 percent of new members are frontline workers, such as industrial employees, farmers, herders and migrant staff. [...] Of the total party members, 20.27 million, or 23.8 percent, are women and 5.80 million, or 6.8 percent, are from ethnic minority groups, according to the statement. In terms of occupation, farmers, herders and fishers totaling 25.35 million is the largest group, while 7.25 million Party members are industrial workers, according to the statement. Another 7.16 million members work in Party and state agencies, and 20.20 million are managerial staff and professional technicians working in enterprises and nonprofit organizations. Students make up 2.91 million, the statement said. More than a quarter of members are 35 years or younger and about 34.09 million have obtained degrees in higher education institutions, according to the statement." (Xinhua, 30 June 2013)

The Congressional Research Service (CRS) observes that "[p]arty membership is considered prestigious, although not to the degree that it was in earlier eras" (CRS, 20 March 2013, p. 20). According to BBC News, joining the party offers personal benefits:

> "Joining the party brings significant privileges. Members get access to better information, and many jobs are only open to members. Most significantly in China, where personal relationships are often more important than ability, members get to network with decision-makers influencing their careers, lives or businesses." (BBC News, 8 October 2012)

The CRS similarly notes that it is thought that many young people become party members for career reasons, as the CPC controls "all avenues for public sector advancement":

> "Party units exist in all official and semi-official organizations and institutions, including state-owned enterprises and universities. As of the end of 2011, they also existed in nearly 1 million private businesses and foreign-owned enterprises and in nearly every officially registered civil society organization. These Party bodies can wield great power within an institution, even though in some cases, as in foreign-owned companies, they may have little formal authority. With the Party controlling all avenues for public sector advancement, it is thought that many young people join the Party for career reasons." (CRS, 20 March 2013, p. 20)

The same source identifies the key pillars on which the CPC's power rests:

> "True to its Leninist roots, the Chinese Communist Party dominates state and society in China. Its power rests on four pillars: its control of China's approximately 2.25 million person-strong military, the People's Liberation Army (PLA), its 1.5 million person-strong paramilitary force, the People's Armed Police, and its 800,000 other internal security forces; its control of personnel appointments across all political institutions, the military, state-owned corporations, and public institutions; its control of the media; and its control of the judiciary and the internal security apparatus. [...] The Party's leadership role is referenced five times in the preamble to the PRC's [People's Republic of China] 1982 constitution, but is not mentioned in any of the articles of the constitution, creating ambiguity about the legal basis for the Party's vast powers." (CRS, 20 March 2013, pp. 3-4)

Al Jazeera explains that the CPC "has a pyramid structure, with village members at the bottom and Beijing-based decision-making bodies at the top" (Al Jazeera, 8 November 2012). Likewise, BBC News reports that "[t]he party has a pyramid structure resting on millions of local-level party organisations across the country and reaching all the way up to the highest decision-making bodies in Beijing". The source adds:

> "In theory, the top of the pyramid is the National Party Congress, which is convened once every five years and brings together more than 2,000 delegates from party organisations across the country. The congress' main function is to 'elect' a central committee of about 200 full members and 150 lower-ranking or 'alternate' members, though in fact almost all of these people are approved in advance. In turn, the central committee's main job is to elect a new politburo and its smaller, standing committee, where real decision-making powers lie." (BBC News, 8 October 2012)

Article 21 of the Constitution of the Communist Party of China stipulates that the Central Committee is elected for a five-year term, with the number of members and alternate members determined by the National Congress. Members and alternate members "must have a Party standing of five years or more". The Central Committee holds at least one plenary session annually, and when the National Party Congress is not in session, it "carries out its resolutions, directs the entire work of the Party and represents the Communist Party of China in its external relations" (Constitution of the CPC, 14 November 2012, Article 21). According to Article 22, the Central Committee elects the Politburo, the Standing Committee of the Politburo and the party's General Secretary, and decides on the members of the party's Central Military Commission (Constitution of the CPC, 14 November 2012, Article 22).

However, as noted by the CRS, "[i]n practice, incumbent top officials provide a list of nominees to the Central Committee, which ratifies it" (CRS, 20 March 2013, p. 23).

The US Department of State (USDOS) writes that "[u]ltimate authority rests with the 25-member Political Bureau (Politburo) of the CCP and its seven-member Standing Committee" (USDOS, 27 February 2014, Executive Summary). BBC News describes the Politburo as "the nexus of all power in China" and adds that "real power lies with its smaller standing committee, which works as a kind of inner cabinet and groups together the country's most influential leaders" (BBC News, 8 October 2012). Similarly, the Economist Intelligence Unit (EIU) refers to the Standing Committee of the Politburo as "the focus of power". Regarding the powers of the Politburo, the source states that it "decides on policy and controls all administrative, legal and executive appointments" (EIU, 9 October 2013). The inner workings of the Standing Committee are secret, according to BBC News, which adds that "its meetings are thought to be regular and frequent" and that "[t]he emphasis is always on reaching a consensus". In case of remaining disagreement, the majority prevails (BBC News, 8 October 2012).

The CRS notes with respect to the Politburo and its Standing Committee:

> "At the top of the Party's hierarchy, the most powerful policy- and decision-making entity is the Politburo Standing Committee (PSC), currently comprised of seven men. They are all members of the broader Politburo, which has a membership of 25. The PSC and the Politburo are supported by the seven-man Party Secretariat. Politburo members are all members of the broadest senior grouping of Communist Party officials, the Central Committee, which has 205 full members and 171 alternate members.
>
> [...] each member of the PSC has a rank, from one to seven, and is responsible for a specific portfolio. [...] To ensure Party control, the top-ranked members of the PSC serve concurrently as the heads of other parts of the political system. The top ranked PSC member, Party General Secretary Xi Jinping, for example, serves concurrently as Chairman of the Central Military Commission, and as State President. The second-, third-, and fourth-ranked PSC members serve respectively as State Premier and as heads of the NPC and the CPPCC [Chinese People's Political Consultative Conference]. [...]
>
> The next highest decision-making body is the full Politburo. [...] Because of its relatively unwieldy size and the geographic diversity of its members, the full Politburo is not involved in day-to-day decision-making. In 2012, it is reported to have met eight times, with its meetings often focused on a single major policy area or on preparations for major national meetings." (CRS, 20 March 2013, pp. 21-22)

The same source also provides a list of members of the current Politburo, appointed at the first plenum of the 18th Central Committee (CRS, 20 March 2013, pp. 22-23) as well as a graphic illustration of the national-level Communist Party hierarchy (CRS, 20 March 2013, p. 21).

Article 22 of the Party Constitution requires that the party's General Secretary "must be a member of the Standing Committee of the Political Bureau" (Constitution of the CPC,

14 November 2012, Article 22). As noted by Al Jazeera, "[s]ince 1993, the party's general secretary has also served as the president of the country" (Al Jazeera, 8 November 2012). The CRS provides the following information regarding the General Secretary's role:

> "Party General Secretary Xi Jinping is ranked first among the seven and has responsibility for convening PSC and larger Politburo meetings. He also controls some of the most consequential portfolios, including military and foreign affairs. Unlike his predecessor, who had to wait two years after becoming head of Party to be named head of the military, Xi was awarded the top military post immediately upon taking over leadership of the Party, a development that has enhanced his authority. Like all his colleagues, however, Xi must still win consensus from the rest of the group for major decisions." (CRS, 20 March 2013, p. 5)

1.2.3 Other recognized political parties

In addition to the Communist Party, eight minor parties participate in the political system. These are the China Association for Promoting Democracy, the China Democratic League, the China National Democratic Construction Association, the China Party for Public Interests (China Zhi Gong Party), the China Peasants' and Workers' Democratic Party, the Chinese Revolutionary Committee of the Kuomintang, the September 3 Society (Jiusan Society) and the Taiwan Democratic Self-Government League (CRS, 20 March 2013, p. 33, footnote 78; People's Daily Online, undated (a); Political Parties of the World, 2009, p. 124). In 1998, "[p]ro-democracy activists failed [...] in several attempts to register the Chinese Democracy Party" (Political Parties of the World, 2009, p. 124).

The Preamble to the Constitution states that "[i]n the long years of revolution and construction, there has been formed under the leadership of the Communist Party of China a broad patriotic united front which is composed of the democratic parties and people's organizations", adding that "[t]he system of multi-party cooperation and political consultation led by the Communist Party of China will exist and develop for a long time to come" (Constitution of the People's Republic of China, 14 March 2004, Preamble).

According to the UK Foreign and Commonwealth Office (FCO), the Constitution provides for "a multi-party socialist state under the guidance of the Communist Party of China (CPC)". However, as the source adds, "China's leaders have consistently rejected the prospect of a separation of powers, and China operates essentially as a single-party state" (FCO, April 2013). The February 2014 US Department of State (USDOS) annual report on human rights (covering 2013) notes with regard to China's political party system:

> "Official statements asserted, 'The political party system [that] China has adopted is multi-party cooperation and political consultation under' CCP leadership. The CCP, however, retained a monopoly on political power, and the government forbade the creation of new political parties. The government officially recognized nine parties founded prior to 1949, and parties other than the CCP held 30 percent of the seats in the NPC [National People's Congress]." (USDOS, 27 February 2014, section 3)

The 2009 edition of the Political Parties of the World gives the following brief historical overview of China's "democratic" parties:

> "Eight other 'democratic' parties are permitted to exist in China on the basis of participation in a 'united front' with the CPC. Officially they are recognized as having co-operated with the CPC in the war of resistance against Japan (1937-45) and in the war of liberation against the KMT [Kuomintang], and as having played a role, as members of the China People's Political Consultative Conference (CPPCC), in the formulation of the first PRC Constitution. Not allowed to operate during the Cultural Revolution, these essentially powerless parties re-emerged in the late 1970s." (Political Parties of the World, 2009, p. 124)

The Congressional Research Service (CRS) informs that, apart from the Communist Party, there are eight minor political parties (known as "democratic parties") with "little substantive power". Common to all these parties is that they "were established before the Communists came to power, pledge loyalty to the Communist Party, and accept its leadership" (CRS, 20 March 2013, p. 4). Reflecting on the role and powers of the minor political parties, the CRS details:

> "Their role is strictly circumscribed, but the Communist Party uses their existence to argue that China operates a 'multi-party cooperation system,' and is therefore not strictly a one-party state. Crucially, the minor political parties are all required to accept the permanent leadership of the Communist Party. They are expected to work 'hand in hand' with the Communist Party in 'developing socialism with Chinese characteristics,' and they are barred from operating as opposition parties. With each party's yearly intake of new members capped by the Communist Party, the combined members of the minor parties number fewer than 1 million, compared to the Communist Party's 82.6 million members. The smallest of the parties claims a membership of just 2,100. The minor parties exercise modest influence in the political system by virtue of the Communist Party's policy of allotting the minor parties leadership positions in the state bureaucracy, the legislatures, and the political advisory bodies. The heads of the minor parties all serve as vice-chairmen of the National People's Congress, making them state leaders for protocol purposes. In 2007, the current Minister of Science and Technology, Wan Gang, became the first minor party member in the post-Mao era to be named to a ministerial post. He serves concurrently as chairman of the Zhi Gong Party, whose mandate is to represent Chinese who have returned to China after living overseas or who have relatives living overseas. As of 2011, the leadership teams of the Supreme People's Court, the Supreme People's Procuratorate, and the ministries, commissions, offices, and bureaus under the State Council included just 19 non-Communist Party members." (CRS, 20 March 2013, p. 33)

The US daily newspaper New York Times (NYT) calls China's non-Communist parties "an ingenious attempt to neutralize would-be opponents among the educated urban elite" and to silence "critics who describe China as a single-party dictatorship". The parties, which are managed and financed by the CPC, "are the handiwork of the United Front Work Department, the party apparatus that seeks to co-opt segments of society that could one day congeal into an organized opposition". The source further indicates that to secure its control over political

power, the CPC "lends" some of its members to the non-Communist parties. (NYT, 12 March 2013)

An August 2012 article of Beijing-based journalist Mu Chunshan, written for the Tokyo-based current affairs magazine The Diplomat, also elaborates on the role of China's eight non-Communist parties. The author quotes an unnamed friend of his as saying that many people join non-Communist party ranks for career advancement:

> "Although not known to most people, China indeed has nine legitimate parties, the Communist Party and eight non-Communist parties. They are not necessarily like the Republican Party in the United States, but nevertheless are non-Communist parties in Chinese politics. These parties supported the Communist Party in their war against the Kuomintang in the late 1940s. Many people may be curious about what role these parties play in today's politics in China. The answer is actually quite simple: they help the Communist Party hold power. [...]
>
> Although the non-Communist parties are merely 'ornament' in the eyes of many people, a lot of people still desperately want to join their ranks. In fact, a friend of mine recently asked if I was acquainted with any members of these groups as he wanted to join them. He explained to me that to achieve a promotion in the company he works for, in addition to Communist Party members, non-Communist party members will be given priority in consideration because the official regulations specify a certain proportion of non-Communist party members hold leadership positions, which means that if he becomes a member of a non-Communist party, he is more likely to stand out in the competition because the other competitors are all members of the Communist Party. He said it is an open secret that many people join the non-Communist parties in order to recieve promotions from their employers. When I asked him what the aim and purpose of the non-Communist parties he looked puzzled. 'To make more money,' he finally answered. However, it is not easy to join these groups. Many parties require their members to have certain academic qualifications and titles. For example, some require that prospective members have a master's degree, intermediate professional titles (equivalent to associate professor), or outstanding contributions and awards in their respective fields." (Diplomat, 25 August 2012)

For more information on the eight non-Communist parties, please see the 2007 White Paper on China's political party system published by the State Council Information Office:

- State Council Information Office: White paper on China's political party system, 15 November 2007 (available at china.org.cn)
  http://www.china.org.cn/english/news/231852.htm

1.3 Brief overview of socio-economic situation

A summarizing overview of China's recent economic development is provided by a September 2013 BBC News article:

> "After stagnating for more than two decades under the rigid authoritarianism of early communist rule under its late leader, Chairman Mao, China now has the world's fastest-

> growing economy and is undergoing what has been described as a second industrial revolution. [...] Nowadays China is one of the world's top exporters and is attracting record amounts of foreign investment. In turn, it is investing billions of dollars abroad. The collapse in international export markets that accompanied the global financial crisis of 2009 initially hit China hard, but its economy was among the first in the world to rebound, quickly returning to growth. In February 2011 it formally overtook Japan to become the world's second-largest economy, though by early 2012 the debt crisis in the eurozone – one of the biggest markets for Chinese goods – was beginning to act as a drag on China's growth." (BBC News, 4 September 2013)

In a September 2013 report on China's economic performance, the US Congressional Research Service (CRS) notes that China "is currently the second-largest economy after the United States" and "the world's largest manufacturer, merchandise exporter, and holder of foreign exchange reserves". However, as added by the source, "[o]n a per capita basis [...] China is significantly less developed than the United States". Moreover, the CRS refers to estimations according to which 500 million people have been lifted out of extreme poverty since the initiation of economic reforms in 1979 (CRS, 5 September 2013, p. 1). This number is also quoted by several other sources (e.g. UNDP, undated (a); World Bank, 2 June 2010).

In its undated country overview of China, the World Bank points to remaining socio-economic challenges, such as the still large number of poor, high economic inequality and internal labour migration:

> "In 2012, China's gross national income per capita of $6,091 ranked 90th in the world; and about 128 million people still live below the national poverty line of RMB 2,300 per year (about $1.8 a day). With the second largest number of poor in the world after India, poverty reduction remains a fundamental challenge. Rapid economic ascendance has brought on many challenges as well, including high inequality; rapid urbanization; challenges to environmental sustainability; and external imbalances. China also faces demographic pressures related to an aging population and the internal migration of labor." (World Bank, undated)

BBC News also lists various socio-economic challenges that China is facing today:

> "Some Chinese fear that the rise of private enterprise and the demise of state-run industries carries heavy social costs such as unemployment and instability. [...] The economic disparity between urban China and the rural hinterlands is among the largest in the world. In recent decades many impoverished rural dwellers have flocked to the country's eastern cities, which have enjoyed a construction boom. By the beginning of 2012, city dwellers appeared to outnumber the rural population for the first time, according to official figures. Social discontent manifests itself in protests by farmers and workers. Tens of thousands of people travel to Beijing each year to lodge petitions with the authorities in the hope of finding redress for alleged corruption, land seizures and evictions. Other pressing problems include corruption, which affects every level of society, and the growing rate of HIV infection. A downside of the economic boom has been

> environmental degradation; China is home to many of the world's most-polluted cities." (BBC News, 4 September 2013)

In an article published in May 2013, the South China Morning Post (SCMP), an English-language Hong Kong newspaper, reports on the findings of the China Health and Retirement Longitudinal Study (CHARLS) directed by Peking University in Beijing. The study is based on interviews with 17,708 individuals over the age of 45 living in 10,287 households in 150 counties/districts in 28 of China's 30 provinces excluding Tibet. One of the findings is that 23 per cent of individuals over the age of 60 live below the poverty line, whereas 15 per cent of those between the ages of 45 and 60 do so (SCMP, 31 May 2013). The entire study can be found via the following link:

- National School of Development (Peking University): Challenges of Population Aging in China; Evidence from the National Baseline Survey of the China Health and Retirement Longitudinal Study (CHARLS), May 2013
  http://charls.ccer.edu.cn/uploads/document/public_documents/application/Challenges-of-Population-Aging-in-China-final0916.pdf

China Daily, the state-owned English-language newspaper of China, quotes the Ministry of Human Resources and Social Security as saying that the unemployment rate in urban China was 4.04 per cent in the first three quarters of 2013, "dropping for the first time in three years" (China Daily, 25 October 2013). However, as noted by Bloomberg Businessweek, a US weekly business magazine, "China's official urban unemployment rate has long been a near-worthless measure" as it only includes "those urban workers who are formally registered and thus eligible for unemployment benefits". The official measure does not take into account "the 230 million migrant workers who live in the cities" as well as the "still large surplus agriculture labor force" (Bloomberg Businessweek, 26 July 2013). Derek Scissors, Senior Research Fellow at The Heritage Foundation, a Washington, D.C.-based conservative think tank, similarly states that "the only regularly published unemployment rate is 'urban registered unemployed' [...]. These are exclusively urban workers in the jurisdiction where they are officially registered, and who have worked for certain periods for surveyed employers (most of which are state entities)" (Heritage Foundation, 4 September 2013).

China Labour Bulletin, an NGO founded in Hong Kong that seeks to defend and promote workers' rights in China, also points to the shortcomings of the official unemployment rate. According to the source, a "more accurate estimate of China's unemployment rate" is available from the Southwestern University of Finance and Economics' 2012 survey which includes migrant workers and indicates a national unemployment rate twice as high as the official number:

> "Despite rapid development and severe fluctuations in the labour market, China's unemployment rate has remained suspiciously stable at around its current level of 4.1 percent for the last decade or so. Even when an estimated 20 million migrant workers were laid off in the wake of the global economic crisis in 2008, the official unemployment rate only increased to 4.3 percent or about ten million workers. This is because the official unemployment statistics only include urban workers who have registered as unemployed. Urban workers make up less than two thirds of the urban working population. They have

better job security than migrant workers and are less likely to be fired during company restructuring or downsizing. Moreover, many of the most secure positions, those in government and public institutions, are reserved exclusively for those with a local urban hukou. A more accurate estimate of China's unemployment rate is that of the Southwestern University of Finance and Economics' 2012 survey which takes into account the migrant worker population and puts the national unemployment rate at eight percent; double the official figure." (China Labour Bulletin, 22 June 2013)

The US Central Intelligence Agency's (CIA) World Factbook lists the estimated unemployment rate for 2012 at 6.5 per cent (CIA World Factbook, 28 January 2014).

A January 2013 in-depth article on China's growing income equality, published by the Qatar-based news network Al Jazeera, contains the following information:

"This country's economic boom has lifted millions of its citizens out of poverty and led to predictions it will become the world's largest economic power by 2030. However, while China's GDP has increased, so has the gap between its wealthiest and poorest citizens, placing the country among the most unequal nations in the world, according to a study by a Chinese institute. China's Gini coefficient, a widely accepted measure of income distribution, reached 0.61 in 2010, according to findings by the Survey and Research Centre for China Household Finance. A score of zero represents perfect equality while a score of one represents total inequality, with one individual possessing 100 percent of a country's income. [...] Chinese estimates of the country's Gini coefficient have varied considerably. For example, in September, the International Institute for Urban Development in Beijing calculated China's Gini coefficient to be 0.438 in 2010, much lower than the Survey and Research Centre's result. Professor Gan Li, the centre's director, said he could not explain the differing figures but added that their study, which surveyed 8,400 households, was the first to publicly release all its data. In an interview with the Communist Party-owned Global Times newspaper, Zheng Xinye, a professor at Renmin University, said the real figure may be even higher than 0.61 – as it is difficult to survey the super-rich in China. He blamed the widening income gap on 'restrictions that kept small and medium-sized companies from entering high-profit sectors, as well as by employment discrimination'. However, Professor Martin Whyte, a sociologist at Harvard University who has carried out research on attitudes towards inequality in China, said he found the figure of 0.61 hard to believe. 'The best survey research on income gaps leads to the same conclusion that the figure [Gini coefficient] is rising but is nowhere near these sort of figures,' he said." (Al Jazeera, 12 January 2013)

Regarding inequalities between rural and urban China, the source states:

"Inequality may also have increased between the country's wealthy east coast, where the major cities of Shanghai and Beijing are located, and the rural interior. Earlier this year, the gap between urban and rural areas was highlighted with the news that students in an area of Hubei Province had to provide their own desks for school, in stark contrast with the air-conditioned schools in the country's largest cities. The gap between urban and rural incomes is about 26 percent higher than in 1997 and 68 percent higher than in

1985, according to a report by the Chinese Academy of Social Sciences. More than half of China's workers now live in urban areas, as rural migrants move to cities for better employment options. According to official figures, there are now 252 million migrant workers, many of whom now live in the country's cities. They usually are not entitled to healthcare, a pension or free education for their children under China's household registration system or hukou, which divides citizens into urban and rural residents and allocates public services accordingly." (Al Jazeera, 12 January 2013)

2 Main political developments

2.1 Electoral framework

For information regarding the election of National People's Congress deputies and the President of the People's Republic of China, please refer to section 1.2.1 of this compilation.

In a 2006 paper on election reform in China, Lin Feng, who was then an associate professor of law at the City University of Hong Kong, notes that "China's electoral system is composed of three elements: (i) the electoral system of grassroots autonomous organizations such as village residents' committees; (ii) the electoral system of the people's congresses at all levels; and (iii) the electoral system of officials of governmental organs at all levels" (Lin, January 2006, p. 2).

Article 97 of the Constitution stipulates that "[d]eputies to the people's congresses of provinces, municipalities directly under the Central Government and cities divided into districts are elected by the people's congresses at the next lower level", whereas "deputies to the people's congresses of counties, cities not divided into districts, municipal districts, townships, nationality townships, and towns are elected directly by their constituencies" (Constitution of the People's Republic of China, 14 March 2004, Article 97). Article 101 states that "[l]ocal people's congresses at their respective levels elect and have the power to recall governors and deputy governors, or mayors and deputy mayors, or heads and deputy heads of counties, districts, townships and towns" and that "[l]ocal people's congresses at or above the county level elect, and have the power to recall, presidents of people's courts and chief procurators of people's procuratorates at the corresponding level" (Constitution of the People's Republic of China, 14 March 2004, Article 101). According to Article 98, "[t]he term of office of the local people's congresses at various levels is five years" (Constitution of the People's Republic of China, 14 March 2004, Article 98).

The Rights Practice, a charitable organisation registered both in the US and England and Wales, focusing on the promotion of human rights and public participation in China, states in a September 2012 report that "[i]n China, the regulatory framework for elections is provided by the Constitution, the Election Law as well as untold numbers of local and, often, internal regulations" (Rights Practice, September 2012, p. 3). Under the heading "Local People's Congress Deputy Elections"[3], the source lists the following information about the Election Law and direct election provisions contained therein:

> "The Election Law was first enacted in 1953 at the 20th meeting of the Central People's Government Council which had adopted a Resolution on Convening the National People's Congress and Local People's Congresses in January 1953. Possibly as a way to legitimize and consolidate power in China, the CCP initiated local elections shortly after it came into power. Elections were subsequently suspended during the turmoil of the Cultural Revolution and reinstated in 1979 when China passed a second Election Law as one of seven basic laws passed at the launch of reforms. The 1979 law expanded the scope of elections from just township to county level; required the number of formal candidates to

[3] For the purposes of the report, The Rights Practice defines "local people's congresses" as "those that are directly elected by the public" (Rights Practice, September 2012, p. 7).

be greater than the number of deputies to be elected; gave voters the right to nominate candidates; established the principle of requiring a secret ballot; allowed all political parties, organisations and voters to 'promote' (campaign for) candidates; allowed for primary elections if too many candidates were nominated; and required a candidate to earn more than 50% of votes cast.

Since, China has enacted five rounds of election law amendments, including in 1982, 1986, 1995, 2004 and most recently in 2010. There is no discernible trend towards freer or fairer elections: some amendments have enhanced voters' rights while others have made elections more susceptible to interference. [...] Amendments made in 2010 are generally seen as mixed; they appear to take steps towards strengthening equal representation of voters and increasing candidate contact with voters. The new provisions require that the ratio of voters to LPC [Local People's Congress] deputies in urban and rural areas be equal; whereas the previous acceptable ratio was 4-to-1, urban-to-rural. The new law also attempts to strengthen interaction between voters and candidates by extending the time allowed for such interaction and by stating the election committee 'should,' rather than 'can,' facilitate such meetings." (Rights Practice, September 2012, pp. 7-8)

The same report provides the following information with regard to local implementing rules:

"Each province, autonomous region and municipality directly under the central government is required to develop local implementing regulations in addition to the Election Law and relevant rules issued by the National People's Congress. These local regulations are normally adopted by the people's congress at the provincial level or the standing committee of the provincial people's congress. In practice, the people's congresses below the provincial level also draft rules to implement elections in accordance with provincial regulations. In particular, electoral polices and implementing rules at the district and county levels have important implications for the election of LPC deputies. However, while there is some local experimentation and variation, particularly in districts around progressive Chinese universities, there is not widespread divergence in these local regulations from the spirit and letter of the national law." (Rights Practice, September 2012, pp. 9-10)

The US Department of State (USDOS) annual report on human rights in 2013, published in February 2014, notes that "[t]he election law governs legislative bodies at all levels, although compliance and enforcement of the election law was uneven across the country". According to this law, "citizens have the opportunity every five years to vote for local people's congress representatives at the county level and below, although in most cases higher-level government officials or CCP cadres controlled the nomination of candidates in those elections". (USDOS, 27 February 2014, section 3)

The Congressional Research Service (CRS) provides the following information regarding candidates for direct elections for local people's congresses:

"By law, any organization or group of ten persons or more can nominate a candidate to the local people's congress. Although voters generally have a choice of candidates and candidates are not required to be Communist Party members, CCP election committees

> may disqualify candidates at any level, and they effectively control most candidate lists." (CRS, 15 March 2013, p. 5)

An unauthorised English translation of the Election Law of the People's Republic of China on the National People's Congress and Local People's Congresses is provided in the Annex I of the above-cited September 2012 report by the Rights Practice:

- Rights Practice: Being a real citizen starts with your vote! 2011-12 Local People's Congress Elections, September 2012, pp. 43-57
  http://www.rights-practice.org/docs/LPC%20Election%20report_final.pdf

Article 111 of the Constitution stipulates that "[t]he residents committees and villagers committees established among urban and rural residents on the basis of their place of residence are mass organizations of self-management at the grass-roots level" and that "[t]he chairman, vice-chairmen and members of each residents or villages committee are elected by the residents" (Constitution of the People's Republic of China, 14 March 2004, Article 111).

The rules and regulations of rural villagers' committee elections are governed by the Organic Law of Villagers' Committees, which was passed by the National People's Congress in 1987 and revised in 1998 "to improve the nomination process and to transfer nomination authority to villagers themselves" (Center for Democracy and Civil Society, December 2011, p. 9). This law includes the principle of direct election of villagers' committees (Organic Law of the Villagers' Committees, 4 November 1998, Article 11) and stipulates that "[a] villagers' committee is composed of 3 to 7 members, including a chairman, vice-chairman (vice-chairmen) and members" (Organic Law of the Villagers' Committees, 4 November 1998, Article 6). The term of office for a villagers' committee is three years (Organic Law of the Villagers' Committees, 4 November 1998, Article 11).

With regard to the regulatory framework for villagers' committee elections, Emerson M. S. Niou, Professor of Political Science at Duke University in the US, states in a report published in 2011:

> "Besides the principle of direct election of village committee members, the Organic Law [of the Village Committees] does not provide any other guidance on election method. The provincial People's Congresses and local governments took the initiative in formulating local election methods. Consequently, electoral systems not only differ among provinces but also differ among villages within the same county." (Niou, 2011, p. 2)

In the same report, Niou mentions that the village committee elections are of two-fold importance:

> "Village committee elections are significant for two reasons. First, although the village committee is a basic-level administrative unit, its functions are have [sic] direct effects on the welfare of the villagers. The specific functions of the village committees include: planning village economic and social development, collecting taxes and fees, managing village budget, allocating collective natural resources such as land, ponds, forest within the administrative boundary of the village, enforcing birth control policies. Therefore, the

> village committee elections directly affect village development and resource allocation within the village. Second, the implementation of direct elections of village committee members was an important development in the election history of the Chinese communist system. It was the first time that the law permitted Chinese peasants to directly elect executive officials." (Niou, 2011, p. 1)

A March 2013 Congressional Research Service (CRS) report comments on the direct elections of village heads as follows:

> "In the 1980s, in an effort to foster greater support for local leaders among the community, create incentives for more effective local governance, and provide a disincentive for local government corruption, the Party sanctioned limited direct elections for leaders at level of the village, an administrative unit outside the formal Chinese administrative hierarchy. Those elections continue, although village party officials, who are not subject to popular vote, determine what name or names may appear on the ballot. The rules also bar candidates from running on behalf of a political party or as part of a slate of candidates and restrict public campaigning to a few minutes of public remarks immediately before the vote. In his March 2012 press conference, then-Premier Wen pronounced village elections a success and said he saw no reason why such direct elections could not eventually move up to the level of the township, and even the county." (CRS, 20 March 2013, p. 40)

An English-language translation of the full text of the Organic Law of the Villagers' Committees is available via the following link:

- Organic Law of the Villagers' Committees of the People's Republic of China, effective since 4 November 1998, amended on 28 October 2010 [Chinese with English translation] (available on the website of the Landesa Rural Development Institute) http://landwise.landesa.org/record/269

2.2 2011-12 Local People's Congress elections

China's official Xinhua news agency reports in January 2013 that a new round of elections of lawmakers at county- and township-level has been completed:

> "China's top legislature said on Tuesday that elections for new lawmakers in all county and township legislatures have been completed. Since early 2011, nearly 600,000 deputies to 2,878 county legislatures and 1.9 million deputies to 33,281 township legislatures have been elected, according to a statement issued by the Standing Committee of the National People's Congress (NPC). According to NPC statistics, more than 981 million people registered to vote in the county-level elections, while 723 million registered for the township-level elections. Over 90 percent of the registrants cast votes." (Xinhua, 22 January 2013)

The US-Congressional-Executive Commission on China (CECC) gives the following information on the 2011-2012 cycle of direct elections to local people's congresses, and in particular on "independent candidates" and their treatment by Chinese authorities:

> "Towards the end of 2012, China completed the most recent cycle of direct elections for local people's congress delegates. During the election cycle the Internet provided a new platform for 'independent candidates,' but authorities took a variety of steps to suppress their election efforts. At the lowest administrative levels, including the county and township levels, citizens, in theory, directly vote for people's congress delegates. Above this level, people's congresses elect delegates for congresses at the next highest level. Ten or more citizens may nominate 'independent candidates,' otherwise known as 'voter-nominated' candidates. One source reported that during the 2011–2012 election cycle there were thousands of independent candidates, known partially because of their presence on the Internet. Reports surfaced, however, noting that authorities in some locations did not accept the nomination of some of these 'voter-nominated' candidates. In this election cycle, as in previous cycles, large numbers of 'independent candidates' were winnowed out, leaving few to compete in elections. One source considers this cycle of elections the darkest (for independent candidates) in the last 30 years." (CECC, 10 October 2013a, p. 142)

China Human Rights Defenders (CHRD), a network of Chinese and international activists promoting human rights in China, comments as follows on the elections:

> "China's officially self-proclaimed experiment in 'participatory governance' – holding elections for local People's Congress delegates in 2011 and 2012 – proved largely to have been a failure in allowing citizens any meaningful exercise of their right to vote and to run for legislative seats. The elections were marred by flagrant violations of Chinese electoral laws, particularly when independent candidates, who had no affiliation with nor endorsement from the CCP, attempted to run against candidates hand-picked by CCP officials." (CHRD, March 2013, p. 11)

A February 2012 article by the Taipei Times, an English-language daily newspaper published in Taiwan, briefly refers to local elections in China's capital, stating that "'[v]oting' in Beijing produced more than 4,000 representatives to the local people's congress [...] but Chinese officials place strict controls even at this basic level, banning candidacies of non-Chinese Communist Party members" (Taipei Times, 1 February 2012).

A December 2011 article by the New York Times (NYT) on the local people's congress elections quotes Li Fan, "an election expert who has been monitoring the elections around the country", as saying that "the votes were more rigged than ever". However, the article adds that "[a] final assessment is still months away":

> "[...] while Chinese leaders speak in favor of political reform, local authorities routinely deny voters the chance to freely choose a political representative. Such official machinations have become more obvious and more intense this year – a telling indicator of the government's paranoia over a greatly increased pool of independent candidates, even given the near powerlessness of the congresses.
>
> A final assessment is still months away. But Li Fan, an election expert who has been monitoring the elections around the country, said the votes were more rigged than ever. 'It is a big step backward from previous years,' said Mr. Li, director of the World and

> China Institute, a nongovernmental research center in Beijing. The government, obsessed with the notion that political stability must be maintained, 'has taken strict control of the elections,' he said.
>
> Inspired by the potential of Internet services like China's Twitter-like microblogs to create visibility and impetus, an unprecedented number of independent candidates are trying to contest the Communist Party's chosen candidates for two million seats on the local People's Congresses, China's lowest parliamentary tier, which has elections every five years for posts that are largely symbolic." (NYT, 4 December 2011)

Radio Free Asia (RFA), a US-based non-profit corporation broadcasting news and information to people in Asian countries, reports in February 2012 that "[w]ould-be independent candidates in district-level parliamentary elections have hit out at a recent poll in the southwestern Chinese province of Sichuan, saying it was conducted without transparency amid allegations of vote-buying, unofficial detentions, and police violence" (RFA, 29 February 2012).

The above-mentioned Li Fan states in a November 2012 article for the Taiwan-based news website Want China Times that "[t]ens of thousands of independent candidates emerged for the local People's Congress elections in 2011 and 2012", but that "almost all of them were defeated due to manipulation by the government" (Want China Times, 1 November 2012).

Detailed election monitoring reports from the World and China Institute's China Electoral System Reform Research Group (CESRRG) on local people's congress elections in Beijing, Tianjin and Handan can be found on pages 58 to 69 of a September 2012 report by The Rights Practice (Rights Practice, September 2012, pp. 58-69).

For further information regarding the treatment of independent candidates trying to run in the 2011-2012 local people's congress elections, please refer to section 4.1.2 of this compilation.

2.3 CPC party congress

The 18th National Congress of the Communist Party of China convened in Beijing from 8 to 14 November 2013 (e.g. ISS, 23 November 2012; Xinhua, 20 November 2012), and the newly elected Central Committee held its First Plenum on 15 November 2013 (Miller, 14 January 2013, p. 1). According to the European Union Institute for Security Studies (ISS), the Union's agency dealing with foreign, security and defence policy issues, the 18th Party Congress saw a "once-in-a-decade leadership succession", with Xi Jinping taking over from Hu Jintao as Party General Secretary and Chairman of the Central Military Commission (ISS, 23 November 2012). Amnesty International (AI) similarly notes that at the 18th Party Congress, the CPC "made its first official top leadership change in 10 years", adding that Xi Jinping was promoted as the Party leader and Li Keqiang as the second ranked member of the CPC Politburo Standing Committee (AI, 23 May 2013).

According to Xavier Nuttin, Senior Asia Analyst in the Policy Unit of the Directorate-General for External Policies of the European Parliament, "[d]ue to a strict age limit in the party more than 60% of the party leadership has changed" (Nuttin, 4 December 2012, p. 2). Alice Miller,

research fellow at the Hoover Institution, a US-based conservative public policy think tank, notes on the scale of leadership turnover at the Party Congress:

> "As widely anticipated, the scale of leadership turnover at the party congress was extensive. Among the 24 members of the outgoing 17th Central Committee Politburo who remained after the removal of Bo Xilai earlier in 2012, 14 retired, all on the basis of the party norm that members 68 or older by the time of a party congress step down. Among the nine members of the Politburo's Standing Committee, seven retired. In addition, 8 of 12 members of the party's Central Military Commission (CMC) stepped down, including Chairman Hu Jintao, and 5 of 6 members of the party Secretariat exited (though not entirely through retirement)." (Miller, 14 January 2013, p. 1)

A total of 2,270 delegates were originally selected to attend the Party Congress. Of them, two died before the congress began (Guardian, 9 November 2012a). As noted by the Center for Strategic and International Studies (CSIS), a foreign policy think tank based in Washington, D.C., the delegates ranged "from incumbent top CCP leaders, cabinet ministers, and senior military generals to so-called grassroots representatives from various walks of life, including workers, scientists, farmers, and sports figures" (CSIS, 8 November 2012). In a January 2013 Issue Brief focusing on China's 18th Party Congress, the Institute of Peace and Conflict Studies (IPCS), a New Delhi-based think tank that conducts independent research on issues related to South Asian security, lists the following information regarding the delegates to the congress:

> "Reflecting the CCP's increased strength of 82.6 million, 2,270 Delegates, each representing 38,000 Party members, were selected for the 18th Party Congress. 50 additional Delegates represented 'businessmen'. The CCP's changing complexion was evident in the inclusion among the Delegates of 160 of China's 1,024 wealthiest men. The number of Delegates representing the People's Liberation Army (PLA) registered a slight increase at 251 against 249 for the 17th Congress." (IPCS, January 2013, p. 1)

In a report on the outcomes of the 18th Party Congress, the US-China Economic and Security Review Commission, a congressional commission of the US government, elaborates as follows on the election of the new CPC Central Committee, Politburo and Politburo Standing Committee:

> "There is a very limited form of 'election' regarding candidates for the CCP Central Committee, a body composed of roughly 350-400 of the Party's most senior members. Delegates to the Party Congress are provided with a slate of candidates, and then vote from this list. […] In the November 2012 voting for the Central Committee, the delegates at the Party Congress elected 205 candidates from the 224 names on the provided slate for full membership (leaving the bottom 8.5 percent eliminated). In the voting for alternate members, they elected 171 members from a candidate slate of 190 (10 percent elimination).
>
> In theory, the new Central Committee then proceeds to select the membership of the new Politburo and Standing Committee. However, the Politburo-level appointments are always worked out beforehand in secretive discussions involving the CCP's most senior leaders and retired Party Elders […]. The new members of the Central Committee do not select

> the Politburo members, but rather endorse the names presented to them [...]." (US-China Economic and Security Review Commission, 21 December 2012, pp. 10-11)

In an article on the Party Congress, BBC News similarly notes that "[w]hile votes are held, key selections are in reality decided in advance by top leaders". As regards the size and composition of the new Central Committee, the source reports that it "contains 205 full members, who are usually leading figures of the party, government and army. A 171-strong list of alternate members was also selected". Almost half of the Central Committee members "are new faces – many of the old members are past retirement age" (BBC News, 14 November 2012). The IPCS lists the following information regarding the strength and composition of the new Central Committee:

> "The strength of the Party's 18th Central Committee (CC) registered a marginal increase from 371 to 376. The average age of the new 18th CC, however, dropped to 56.1 with 166 of the 205 full members born in the 1950s. The number of women reduced to 33. There are 39 ethnic minorities represented in the CC, though the number of Tibetans in the CC has dropped from 2 to 1. Interestingly, the number of Tibetans among the alternate members of the CC, at the same time, rose to an all time high of 4." (IPCS, January 2013, pp. 1-2)

The Politburo was elected by the Central Committee at its First Plenum held on 15 November 2012 (Miller, 14 January 2013, p. 2). Reuters news agency calls the new 25-member Politburo a "mix of military and civilian leaders from a range of provinces and regions", adding that of the 25 members, two are women (Reuters, 15 November 2012).

As reported by the ISS, the 18th Party Congress reduced the size of the Politburo Standing Committee from nine members to seven in order to improve decision-making (ISS, 23 November 2012). Besides Xi Jinping and Li Keqiang, the newly formed Standing Committee consists of (in hierarchical order): Zhang Dejiang, Yu Zhengsheng, Liu Yunshan, Wang Qishan, Zhang Gaoli (CRS, 20 March 2013, pp. 5-6). Regarding the size and composition of the Politburo Standing Committee, the IPCS informs:

> "Notable is the reduced size of the PBSC, from 9 to 7. Reliable reports circulating in Beijing claimed that the size of the PBSC was conclusively decided only on November 14 evening. The reduced size meant that unlike in the earlier PBSC no leaders from the successor 'sixth generation' were inducted, though at least 9 potential candidates for the top jobs are present in the PB. Ethnic minorities are not represented in the PBSC or PB, perhaps suggestive of an increased emphasis on political reliability and loyalty to the Party. The 7-member Politburo Standing Committee (PBSC) led by 62-year old Xi Jinping with Li Keqiang comprises dependable apparatchiks who adhere to the Party line and discipline and will neither brook any violation. Four of them are 'princelings'." (IPCS, January 2013, p. 2)

An October 2013 paper by David Shambaugh, Professor of Political Science and International Affairs and Director of the China Policy at George Washington University in Washington, D.C., examines the characteristics of China's new leadership:

"The new Politburo Standing Committee appears to be filled with strongly conservative individuals while the broader Politburo contains more reformist elements. This would suggest a continuation of current conservative policies – most likely for five years until five of the seven must retire at the 19th Party Congress in 2017. At that point, the more reformist members of the Politburo would be set to step up to the Standing Committee and a more progressive and more reformist second Xi Jinping term might be anticipated.

It is interesting to note, however, some characteristics (some new) of the new leadership as a whole. The average age of the new Politburo is 61 and, on average, they are all in their early sixties. They continue the trend of better educated leaders – 19 of the Politburo's 25 members have university degrees, one has a military academy degree, and the remaining five have credentials from the Central Party School. By contrast, thirty years ago on the 1982 Politburo none possessed university degrees. The new Politburo also reverses the previous tilt towards those with background in coastal provinces, and has a better balance: 14 members from coastal provinces, 11 from central provinces, and none from the western regions. As has been the case since the 1990s, the new Politburo leadership continues to be strongly civilian (21 of 25 have no military experience at all).

There are two other noteworthy characteristics. First, this is the 'Cultural Revolution Generation' – 15 of the 25 joined the Party during the Cultural Revolution. Of these, many were sent to the countryside (including Xi Jinping). Second, there is a relative decline in those with 'technocratic' backgrounds (training in engineering or natural sciences) and a relative increase in those with backgrounds in economics, social sciences, law, journalism, and even humanities. Six members of the new Politburo hold economics degrees, two in international relations, two in literature, one in history, and one in political science. Moreover, 13 of the 25 hold post-graduate degrees." (Shambaugh, October 2013, p. 3)

Under the heading "Ideological Themes and Political Programs Emphasized at the 18th Party Congress", the US-China Economic and Security Review Commission report states that the Party Congress amended the Party Constitution to incorporate outgoing General Secretary Hu Jintao's "Scientific Outlook on Development" theory:

"Adhering to historical practices, the Party Congress delegates unanimously approved amending the CCP Constitution to officially adopt the ideological program most closely associated with the Party's retiring senior leader: Hu Jintao's 'Scientific Outlook on Development' was enshrined alongside Marxism-Leninism, Mao Zedong Thought, Deng Xioping Thought, and Jiang Zemin's theory of the 'Three Represents.' The 'Scientific Outlook,' an idea introduced in October 2003 and promoted by the Hu Jintao – Wen Jiabao leadership team throughout their tenure, 'advocates sustainable and efficient economic and social development instead of breakneck growth at the expense of the environment and society.'

This concept promised an increased effort to focus development efforts on China's poorer inland and rural regions, and to address acute social problems such as environmental pollution and rapidly widening disparities of wealth; and by implication, to place less emphasis on the rapid economic development of China's southeastern coastal regions.

> However, the continued worsening of many of China's social ills over the past decade – most particularly corruption, income disparity, and social unrest – calls into question the extent to which the 'Scientific Outlook on Development' translated from narrative into actual policy." (US-China Economic and Security Review Commission, 21 December 2012, p. 13)

Under the same heading, the US-China Economic and Security Review Commission notes that "the presentation of the official work report of the Party leadership, delivered as a lengthy speech by outgoing General Secretary Hu Jintao" constituted "a centerpiece of the 18th Party Congress". According to the source, the work report "provided a catalogue of the leadership's successes, as well as the continued challenges faced by the Party". The majority of the report "focused on China's pressing domestic and economic problems, while projecting confidence in the Party's ability to meet these daunting challenges" (US-China Economic and Security Review Commission, 21 December 2012, p. 13). A full text English translation of the work report is provided by Xinhua News Agency (Xinhua, 17 November 2012).

Reflecting on the messages sent out by the 18th Party Congress, Willy Lam, a Hong Kong-based China specialist and senior fellow at the Jamestown Foundation, a Washington, D.C.-based independent, nonpartisan, non-profit organisation that provides information on terrorism, the former Soviet republics, Chechnya, China and North Korea, notes:

> "The most pertinent message of the just-ended 18th Chinese Communist Party (CCP) Congress has perhaps come from Premier Wen Jiabao. This is despite the fact outgoing General Secretary Hu Jintao's 101-minute Political Report to the 18th Party Congress (hereafter Report) has dominated Chinese and international media coverage of the seven-day mega-event. 'We must strengthen and improve the leadership of the Party,' Wen said while talking to members of the Tianjin delegation to the Congress, 'In particular, we must push forward the reform of the leadership system of the party and state' (Xinhua, November 9). It is true that Hu, who remains state president until next March, has devoted a good part of his Report to political and institutional reforms. Yet the most important function of the Congress – picking a new slate of Fifth Generation leaders – has been dominated by old-fashioned, non-transparent factional intrigue as well as the resurgence of the influence of long-retired party elders." (Lam, 16 November 2012)

On the same topic, the IPCS states:

> "The 18th Party Congress has sent out three clear messages. These are of: continuity, re-assertion of the Party's traditional orthodox values and discipline, and retention of focus on domestic issues including gradual economic reforms leading to 'common prosperity'. Domestic security will receive greater attention of the Party General Secretary. The issue of the restive ethnic minorities, and particularly Tibetans, will be a high priority. This portends an increase in China's activities in Nepal and among Tibetan Buddhists." (IPCS, January 2013, p. 4)

2.4 March 2013 presidential appointment by the NPC

As already noted in section 1.2.1 of this compilation, on 14 March 2013, the National People's Congress formally elected General Secretary of the Communist Party Xi Jinping as the country's new President to succeed Hu Jintao. There was one vote against him and three abstentions (e.g. Guardian, 14 March 2013; VOA, 14 March 2013). The British daily newspaper The Guardian writes that "Xi had been chosen by the party elite long before he took over", and adds that his "real power stems from his position as general secretary of the party and accompanying role as chairman of its military commission, the role he took over from Hu Jintao" in November 2012 (Guardian, 14 March 2013). Also elected was Li Yuanchao as new Vice President (e.g. Reuters, 14 March 2013; UPI, 14 March 2013).

Reuters news agency lists the following information regarding the formal election of Xi Jinping as President and Li Yuanchao as Vice President:

> "China's parliament formally elected heir-in-waiting Xi Jinping president on Thursday, completing the country's second orderly political succession since the Communist Party took power in 1949. The largely rubber-stamp National People's Congress chose Xi in a tightly scripted ceremony at the Great Hall of the People in central Beijing, putting the final seal of approval on a generational transition of power. Xi was appointed party and military chief - where real power lies - in November. The 59-year-old was also elected head of the Central Military Commission, a parallel government post to the party's top military position which he already holds, ensuring that he has full power over the party, state and armed forces. There was virtually no opposition among the carefully selected legislators to Xi becoming president. Xi drew just one no vote and three abstentions from the almost 3,000 delegates. [...] Li Yuanchao was also elected vice president, confirming an earlier Reuters story. There were five other candidates put forth for the vice-presidential position including Wang Yang, the reformist former party chief of southern Guangdong province, and propaganda tsar Liu Yunshan. Xi had fended off a bid by influential former president Jiang Zemin to install Liu, a source with ties to the leadership said." (Reuters, 14 March 2013)

An article by BBC News provides the following analysis of Xi Jinping's election as President of China:

> "China's parliament engaged in a political ceremony that involved all the hallmarks of a real election: a ballot box, long lines of delegates queuing to vote, and a televised announcement of a winner. However, no-one was surprised to hear the results: with a whopping 99.86% of the vote, Xi Jinping was anointed President of the People's Republic of China and Chairman of the People's Liberation Army. In November, Mr Xi was elevated to the top spot in China's Communist Party. However, he did not become the country's official head of state until his candidacy was approved by China's parliament. According to China's constitution, almost 3,000 NPC delegates are allowed to 'elect' candidates for the state's top positions. However, in practice, delegates merely endorse the names put forward by the party. Perhaps the only interesting result of the election is that Mr Xi did not receive 100% of the ballot. One person voted against him and three people abstained.

The result leaves some in China to wonder: perhaps, in an act of modesty, Mr Xi voted against himself." (BBC News, 14 March 2013)

3 Rule of law and the administration of justice

3.1 Law enforcement, intelligence and armed forces

The February 2014 annual human rights report of the US Department of State (USDOS) provides a brief overview of the main security agencies:

> "The main domestic security agencies include the Ministry of State Security, the Ministry of Public Security, and the People's Armed Police. The People's Liberation Army is primarily responsible for external security but also has some domestic security responsibilities. Local jurisdictions also frequently used civilian municipal security forces, known as "urban management" officials (chengguan), to enforce administrative measures. The Ministry of Public Security coordinates the country's civilian police force, which is organized into specialized police agencies and local, county, and provincial jurisdictions. Procuratorate oversight of the police was limited. Corruption at the local level was widespread. Police and urban management officials engaged in extrajudicial detention, extortion, and assault. (USDOS, 27 February 2014, section 1d)

The Center for Strategic and International Studies (CSIS), a US think tank, states in a report of July 2012 that "overall security responsibilities are shared among the Ministry for State Security, the Ministry for Public Security, the People's Armed Police (PAP), and the PLA [People's Liberation Army]." The responsibilities of these four organisations are outlined as follows:

> "Ministry for State Security (MSS)
>
> The Ministry for State Security serves under the PRC's State Council and conducts foreign as well as domestic intelligence. Its agents perform covert activities, both inside and outside of China. Moreover, it combines domestic counter-intelligence work with foreign intelligence collection.
>
> Ministry for Public Security (MPS)
>
> Responsibility for internal security falls to the Ministry for Public Security, which is also under the State Council. It is the highest administrative body for Chinese law enforcement forces and oversees approximately 1.9 million police personnel who are spread throughout China. These police forces have 'many functions including domestic patrol, traffic control, detective, anti-crime, anti-riot, and anti-terrorism.' [...]
>
> People's Armed Police (PAP)
>
> The PAP serves under the command of the Central Military Commission (CMC) and the State Council, but it is by definition not part of the PLA. It serves as an internal security force, and has been described by the 2010 White Paper as the 'shock force in handling public emergencies.' In addition, it acts as a light infantry reserve in the event of war, and also takes part in reconstruction and rescue efforts after national emergencies. The PAP's 660,000+ personnel are spread between the Internal Security Forces, the Border Defense Force (including Coast Guard), the China Marine Surveillance agency, the Maritime Safety

Administration, and the Fisheries Enforcement Command. Some PAP units are responsible for border security and for guiding critical infrastructure, including critical military infrastructure. In addition, China's 2010 White Paper states that the PAP shares some territorial air defense duties with the PLAAF, PLAN, and PLA ground forces.

People's Liberation Army (PLA)

The PLA comprises China's main armed forces and can best be defined through its chain of command. All military units exclusively under the authority of the CMC are part of the PLA. Although it is called People's Liberation Army, the PLA consists of three services and an independent branch – the PLA army (PLAA), the PLA navy (PLAN), PLA air force (PLAAF), and the PLA Second Artillery Corps." (CSIS, 30 July 2012, pp. 46-47)

Amnesty International (AI) notes the following implications of new Criminal Procedure Law (CPL) for the powers of police and public security organs:

> "The new law significantly expands the powers of the police and public security organs without introducing corresponding and necessary mechanisms for oversight, monitoring, and restraint in the use of such powers in order to protect the rights of individuals to liberty and security of person, and the concomitant prohibition of arbitrary detention." (AI, 15 July 2013, p. 5)

3.1.1 Law enforcement

The Tibetan Centre for Human Rights and Democracy (TCHRD) refers to the Public Security Bureau (PSB) as "the main police authority in China" which is "responsible for day-to-day law enforcement". The People's Armed Police (PAP) is described as "a paramilitary force whose role is to safeguard domestic security and maintain public order" while the People's Militia is characterized as "a mixed professional-civilian institution" whose role it is to "assist in maintaining public order". (TCHRD, 17 January 2013a, p. 9)

As regards the functions and organizational structure of the Ministry of Public Security (MPS), the UK Home Office country of origin report of October 2012 quotes the following information from a September 2011 country assessment issued by the Jane's Information Group, a British publisher with a focus on defence and security issues:

> "'The Ministry of Public Security (MPS) exercises oversight for domestic policing activities throughout China and is responsible for routine law enforcement, although it does not maintain its own paramilitary capability. The ministry has functional departments for areas such as Economic Crime Investigation, Public Order Administration, Border Control, Criminal Investigation and Traffic Control.' 'Subordinate to the ministry are provincial-level public security departments; public security bureaux and sub-bureaux at the county level (the bureaux located in the prefectures and large cities, the sub-bureaux in counties and municipal districts); and public security stations at the township level. While public security considerations have a strong influence at all levels of administration, the police appear to wield progressively greater influence at the lower levels of government…' 'The MPS evolved soon after the creation of the People's Republic of China, largely coming from the Chinese Communist Party's Central Department of Social Affairs. It is responsible for the

> majority of daily police activities within mainland China, and maintains active liaison with security officials in both Hong Kong and Macau. Although the MPS is not directly involved in domestic intelligence gathering, the provincial and municipal public security bureaux are involved in domestic intelligence related to corruption cases and directed at foreigners in China. Additionally, the MPS acts as a cover organisation for the Ministry of State Security, the principle Chinese intelligence service.'" (UK Home Office, 12 October 2012, p. 31)

Paramilitary security forces including the Militia are covered by the same source as follows: With regard to the paramilitary security forces, the UK Home Office report goes on to state with reference to the same Jane's Information Group assessment:

> "'China maintains some 12 million paramilitary personnel, responsibility for them divided between the Ministry of Public Security and the People's Armed Police (PAP). The largest security force, the Militia, consists of approximately 10 million personnel ranging from 18 to 35 years of age. It is divided into the Basic (Primary) Militia and the Ordinary Militia" (UK Home Office, 12 October 2012, p. 32)

As noted by the Congressional-Executive Commission on China (CECC) in its October 2013 annual report, "China's domestic security apparatus has grown significantly in stature and influence since 2007" (CECC, 10 October 2013a, p. 77).

"Para-police" (Urban Management Law Enforcement, chengguan)

The annual report of the Congressional-Executive Commission on China (CECC) of October 2013 states that "para-police" (chengguan), which it refers to as a "symbol of unchecked police power", are used to "enforce administrative regulations in the cities, often using violent methods" (CECC, 10 October 2013a, p. 78).

According to Human Rights Watch (HRW), "[t]he para-police agency is tasked with enforcing noncriminal urban administrative regulations". The China director of HRW is reported as referring to the chengguan as "actively undermining" the safety of citizens, pointing to changuan abuses and impunity (HRW, 22 July 2013).

An older report published by HRW in May 2012 provides extensive coverage of the Chengguan Urban Management Law Enforcement:

> "Since its founding in 1997, China's Chengguan Urban Management Law Enforcement (城管执法), a para-police agency tasked with enforcing non-criminal urban administrative regulations, has earned a reputation for excessive force and impunity. The chengguan have become synonymous among some Chinese citizens with arbitrary and thuggish behavior including assaults on suspected administrative law violators (some of which lead to serious injury or death), illegal detention, and abuses accompanying forceful confiscation of property." (HRW, 23 May 2012, p. 1)

> "China's first chengguan unit began operating on an experimental basis in Beijing in 1997 following passage of the Law of the People's Republic of China on Administrative Penalty

(hereafter, 'Administrative Penalties Law'). That law gave municipalities authority to create a new mechanism for enforcing non- criminal municipal regulations and imposing fines on violators. [...] The Administrative Penalties Law permits provincial, autonomous region, and municipal governments to transfer law-enforcement duties for relatively minor infractions in areas such as traffic control, environmental regulation, and city beautification from existing municipal departments to new units tasked specifically with such duties. In response, a total of 308 Chinese municipalities formed chengguan units by the end of 2005." (HRW, 23 May 2012, p. 3)

The same report notes with regard to the duties and powers of chengguan:

> "Individual municipalities define the duties and powers of their chengguan units. [...] Chengguan duties can extend to enforcement of municipal government property eviction and demolition orders. [...] Beijing regulations, which other municipalities have adopted as a model, give chengguan enforcement powers in 14 areas and stipulate 300 sub-categories of violations for which chengguan have the power to impose punishment, including a catch-all 'other administrative punishments' category." (HRW, 23 May 2012, p. 18)

Human Rights Watch (HRW) notes that "more than 150 cases of chengguan abuses [were] reported in Chinese national and local media between July 2010 and March 2012" (HRW, 23 May 2012, p. 2).

HRW provides further coverage of abuses committed by chengguan:

> "Victims of chengguan abuse interviewed by Human Rights Watch told us they were slapped, shoved, pushed to the ground, forcibly held down on the ground, dragged, punched, kicked, and thrown from their vehicles to the street. Many of those with whom Human Rights Watch spoke were street vendors, whose status as internal migrants puts them at particular risk of abuse. Although chengguan personnel have no legal authority to detain suspects, several interviewees said they were detained by them. Some said they suffered physical abuses while detained or while resisting being detained. Many street vendors told us their vehicles and merchandise were confiscated. In some instances, chengguan officers conditioned the return of confiscated belongings on payment of seemingly arbitrary fines, spurring popular speculation of corruption by chengguan authorities. Chengguan have also been implicated in abusive forced evictions of residents from their homes [...]. Chinese journalists who attempt to report on chengguan abuses have also been targeted with illegal detention and physical violence by chengguan. [...] And while the Chinese government has launched legal reform initiatives aimed at reducing police abuses, the chengguan, as a non-criminal law enforcement organ, has not yet been the target of such initiatives. Despite criticism of chengguan abuses by the Chinese public, state media, lawyers, and legal scholars, the Chinese government has failed to develop effective mechanisms to prevent abuses and punish perpetrators." (HRW, 23 May 2012, pp. 2-3)

The same HRW report states:

> "In principle, chengguan can be criminally prosecuted for abuses of power under existing Chinese law, but such charges are rarely brought. There is no overarching national regulatory framework laying out the permissible scope of chengguan duties, no uniform training requirements or code of conduct, and no systematic monitoring and investigation of alleged chengguan abuses. [...] Some municipalities have responded to criticism of chengguan abuses by imposing limitations on chengguan powers. Those limitations have in some cities included explicit prohibitions on chengguan use of 'excessive force' in the discharge of their duties. However, other cities have focused on more cosmetic approaches to public criticism of chengguan abuses [...]." (HRW, 23 May 2012, pp. 3-4)

> "On January 1, 2012, the Chinese government implemented the Administrative Enforcement Law, which the government describes as a means to improve supervision of 'administrative organs.' The law makes no specific mention of the chengguan but certain sections stipulate that 'administrative organs' have the right and duty to suspend enforcement of administrative regulations if enforcement risks 'irreparable damage' and specifies restitution or compensation for people affected by errors in administrative regulation enforcement. That regulation appears designed to curb chengguan abuses and to provide legal redress for people who are victims of such abuse. It is not yet clear whether the Administrative Enforcement Law is having a substantive impact on curbing chengguan abuses." (HRW, 23 May 2012, pp. 25-26)

> "Popular perceptions that chengguan rarely get punished for abuses deter victims from pursuing legal action against them." (HRW, 23 May 2012, p. 43)

The February 2014 annual human rights report of the US Department of State (USDOS) notes:

> "Police and urban management officials engaged in extrajudicial detention, extortion, and assault. [...] Oversight of civilian municipal security forces was highly localized and ad hoc. By law the officials can be criminally prosecuted for abuses of power, but such cases were rarely pursued. There were multiple reports of conflicts erupting between these officials and street vendors in Liaoning, Jilin, and Heilongjiang provinces. For example, on June 19, civilian municipal security forces reportedly beat a family of fried-chicken vendors in the Beihang night market in Shenyang, Liaoning Province, who refused to turn over their equipment. In protest more than one thousand Shenyang residents gathered at the scene and blocked traffic, and some reportedly retaliated by beating the officials. In some cases mediation resulted in compensation being paid to victims of these officials." (USDOS, 27 February 2014, section 1d)

As noted by Radio Free Asia (RFA), "beatings to death of Chinese citizens [...] are frequently reported at the hands of police, hired thugs and urban management officials" (RFA, 30 May 2013).

HRW reports on a July 2013 killing of a watermelon vendor in the city of Linwu (Hunan province), allegedly committed by a chengguan officer (HRW, 22 July 2013).

As reported by Radio Free Asia (RFA) in November 2012, a new guide has been issued to chengguan in Gansu province which provides that "[u]rban management enforcement officials may use coercive administrative measures such as detention and seizure (RFA, 27 November 2012).

In an October 2011 report on forced evictions, Amnesty International (AI) reports that according to state media and testimony given to AI by interviewees, "people facing eviction have been beaten, abducted, murdered, and in at least one case buried alive by a bulldozer", with violence carried out by "state actors such as police, chengguan or other government employees" (AI, 11 October 2012, p. 20).

Several other reports document cases of physical abuse perpetrated by chengguan officers (RFA, 17 January 2013; CRS, 15 March 2013, p. 4; RFA, 27 November 2012).

3.1.2 Intelligence

According to Global Security, a US-based think tank focusing on security issues, the MSS "is the Chinese Government's intelligence arm, responsible for foreign intelligence and counterintelligence operations." (Global Security, 28 July 2011a).

A brief description of the Ministry of State Security (MSS), dated July 2012, is provided by the People's Daily, the official newspaper of the Communist Party of China (CPC):

> "The Ministry of State Security is a ministry under the State Council of the People's Republic of China, responsible for counter-espionage and political security. It was established in 1983 through the merger of the investigation department of the CPC Central Committee, the political security bureau of the Ministry of Public Security, and some departments of the United Front Work Department and State Commission of Science and Technology for National Defense Industry. The Ministry's task is to safeguard national sovereignty and the [national] interests. The Ministry can exercise rights to conduct investigation, detention, preliminary examination and arrest stipulated in constitution and other laws." (People's Daily Online, 31 July 2012)

Global Security states that "[a]side from the MSS, the People's Liberation Army (PLA), General Staff Second and Third Departments also engage in military intelligence and counterintelligence operations." (Global Security, 28 July 2011a).

Peter Mattis, a fellow at the the Jamestown Foundation (JF), wrote an academic article on Chinese intelligence services that was published in the journal Studies in Intelligence in September 2012. The article provides an overview of Chinese civilian and military intelligence and security services with their respective responsibilities. The civilian intelligence organisations are indicated as being 1) the Ministry of State Security (MSS), responsible for counterespionage and counterintelligence as well as for foreign and domestic intelligence, and 2) the Ministry of Public Security (MPS) charged with matters regarding the national police and domestic intelligence. The military intelligence organisations are listed as being 1) the Second Department of the People's Liberation Army (PLA) General Staff Department (2PLA), responsible for foreign intelligence, the defence attaché system, imagery intelligence and

tactical reconnaissance and 2) the Third Department of the PLA General Staff Department (3PLA) which is in charge of signals intelligence (Mattis, September 2012, p. 52).

Matthis further details on the MSS and MPS:

> "Since its creation in 1983, the Ministry of State Security (MSS) has fought to carve out its operational and policy space from the Ministry of Public Security. When Beijing created the MSS, it fused the remnants of the CCP's Investigation Department with the intelligence- and counterintelligence-related components of the MPS. [...]
>
> The civilian organizations, the MPS and MSS, report to the political-legal system (zhengfa xitong) overseen by Zhou Yongkang, who also sits on Politburo Standing Committee. [...] Both civilian ministries also have substantial portions – probably the majority – of their personnel in provincial departments or local bureaus, which report to the provincial and local party committees in addition to their home ministries." (Mattis, September 2012, pp. 51-53)

Referring to a report by Boxun, described as an "overseas Chinese community website" whose "claims cannot always be verified", the Taiwan-based newspaper Want China Times reports that an unsuccessful defection attempt in 2012 has "uncovered a bitter and long-standing power struggle between the country's state security and public security organs" (Want China Times, 25 February 2013).

As regards military intelligence, the Mattis article of September 2012 focuses on the Third Department of the People's Liberation Army's General Staff Department (3PLA), whose responsibilities and regional presence are described as follows:

> "The 3PLA – responsible for signals intelligence, computer network reconnaissance (cyber), and technical countermeasures – has offices and technical reconnaissance bureaus in each of China's seven military regions and several major cities, and it is likely that the Chinese services have their own training and procurement units in these areas." (Mattis, September 2012, p. 53)

The Mattis article further reports on the powers and operational capabilities of intelligence agencies:

> "China's civilian intelligence and security agencies are empowered to arrest and to operate inside and outside China. The distinction between intelligence and internal security policy is minimal, institutionally speaking. This makes these services not just part of a policy staff process but an integral tool for the preservation of the power of the Chinese Communist Party (CCP). Yet, very little is known about the organizations themselves and their importance to China and its future." (Matthis, September 2012, p. 47)
>
> "Today, domestic intelligence agencies have adapted to the Internet and mobile communications and are capable of following electronic breadcrumbs left behind as people move through China's 'informatized' (xinxihu) society." (Matthis, September 2012, p. 48)

> [T]he MPS directs its officers to focus on collecting information about potential social disturbances." (Mattis, September 2012, p. 50)

As reported by Bloomberg Businessweek, the formation of a National Security Committee was announced at the Third Plenary Session of the 18th CPC Central Committee in November 2013. As stated by a spokesman of the Ministry of Foreign Affairs, the purpose of the National Security Committee is to "ensure the nation's security" while a research institute affiliated with the same ministry said that the agency may have an international focus (Bloomberg Businessweek, 14 November 2013). An article by the Wall Street Journal (WSJ) of November 2013 states:

> "China's Communist Party plans to establish a state security committee that has the potential to cement President Xi Jinping's hold on the military, domestic security and foreign policy and help establish him as the country's most individually powerful leader since Deng Xiaoping. [...] The plan for the security committee, which is expected to work much like the U.S. National Security Council, was one of few concrete measures announced in a communiqué Tuesday after a meeting of the party's Central Committee - its top 376 leaders. [...] Two Chinese experts on international relations and security said it would likely be modeled on the NSC and headed by Mr. Xi with representatives from the military, the Foreign Ministry and intelligence agencies, as well as some economic officials. The new body, which Mr. Xi is almost certain to head, will now likely allow him to coordinate foreign and defense policy with less interference from other top leaders on the Politburo Standing Committee, analysts said. The communiqué didn't give any details about the new body, but several analysts suggested it would be more focused on internal security than its U.S. counterpart, given Mr. Xi's clampdown on political dissent, especially among popular online social commentators, in recent months, several of whom have been detained and are awaiting trial." (WSJ, 12 November 2013)

3.1.3 Armed forces

"The People's Liberation Army, or PLA, is China's military" (CRS, 10 May 2012, p. 19). A brief undated overview of the PLA has been published by the People's Daily, the official newspaper of the Communist Party of China (CPC):

> "The PLA is a people's army created and led by the Communist Party of China (CPC), and the principal body of China's armed forces. The PLA is made up of both active and reserve components. Its total force is maintained below the 2,500,000-strong mark. The active components of the PLA are the country's standing army, consisting of the Army, Navy, Air Force and the Second Artillery Force, whose main task is to conduct operations of defense, and, if necessary, help to maintain social order in accordance with the law. Through the General Staff Headquarters, the General Political Department, the General Logistics Department and the General Armaments Department, the CMC exercises operational command over the whole PLA and leadership for the development of the PLA." (People's Daily Online, undated (b))

A May 2012 report by the Congressional Research Service (CRS) describes the organizational structures and operational roles of the PLA and the paramilitary People's Armed Police (PAP):

"Officially, the PLA reports to both a Party Central Military Commission (CMC) and a State CMC. [...] They are effectively a single body, with the Party CMC the real locus of authority. The PLA is a Party army, rather than a national army, meaning that the PLA is expected to put the Party's interests ahead of those of the nation. [...] A major tool for Party control of the military is the General Political Department (GPD), one of four 'general departments' of the military represented on the CMC. Among other things, the GPD is responsible for political training, military media and cultural activities, and military personnel matters, including management of personnel dossiers, promotions, and job assignments. GPD political commissars (known at lower levels as political directors and political instructors) serve side-by-side with military commanders at all levels of the PLA, and head the Party committees in all PLA units. Almost all PLA officers are Party members. The PLA's other general departments are the General Staff Department (GSD), responsible for operations, intelligence, professional education, and foreign affairs; the General Logistics Department (GLD), which handles military pay, supplies, healthcare, and transportation; and the General Armaments Department (GAD), which manages the PLA's weapons and equipment needs and also oversees China's manned space program. The CMC uses the four general departments, which are dominated by the ground forces, to direct three military service branches, plus China's strategic missile forces, the Second Artillery Force, and seven military regions, also known as military area commands or theaters of war. A paramilitary force, the People's Armed Police, which plays a major role in putting down domestic unrest, reports to both the Central Military Commission and the State's leading body, the State Council, through the Ministry of Public Security. It is ultimately overseen, however, by the Party's Central Commission of Politics and Law." (CRS, 10 May 2012, pp. 19-20)

An overview of the PAP is provided in the UK Home Office country of origin report of October 2012 which quotes the September 2011 country risk assessment compiled by the Jane's Information Group:

"The People's Armed Police (PAP) is one of China's three armed forces - alongside the People's Liberation Army (PLA) and reserve forces - and numbers approximately 1.5 million personnel. This includes regular military forces (the PLA) on domestic defence duty and approximately 660,000 armed, frontier defence and fire-fighting police personnel. The PAP is organised like a military service system. It exists for domestic, police and social control purposes and follows the administrative rules and regulations of the PLA. The first legislation on the PAP was passed in August 2009, when the organisation was given statutory authority to respond to security emergencies and 'take necessary measures to dispel large assemblies of people that compromise social order.' 'Created in 1983 from remnants of the PLA's border control, internal security units (so-called domestic internal guards), regional fire departments and some Ministry of Public Security units, the PAP has undergone sev eral administrative and cosmetic changes. In late 2007, the PAP was issued new olive green uniforms with insignia reading 'China Armed Police Force.' During the world-wide Olympic torch relay prior to the 2008 Olympic Games, a group called the 'Beijing Olympic Games Sacred Flame Protection Unit,' wearing blue tracksuits, protected the torch against a range of protesters. This unit is believed to be drawn from one of the PAP's elite special mission units.' 'In peacetime, the PAP is responsible for interior security,

national level construction projects and works closely with the Public Security Bureaux throughout China. In wartime, the PAP would be re-subordinated under a military command and would be responsible for counter-infiltration and battlefield security.' 'The PAP is organised into three types of unit: an internal security force of 45 divisions; a second force of 186,000 personnel, tasked with border and coastal control; and a third force of 69,000 which protects key national logistic sites. The PAP's general headquarters, located in Beijing, has three departments responsible for operational, political and logistical matters.' 'Formerly under the joint control of the Central Military Commission (CMC) and the Ministry of Public Security (MPS), in October 1995 control of the PAP's internal security wing (of about 441,000 personnel) was consolidated under the Central Military Commission. The revised structure left the MPS with direct control over only a limited number of border security troops and a number of auxiliary units, such as forest protection units.'" (UK Home Office, 12 October 2012, pp. 32-33)

Another description of the PAP, updated in July 2011, is available on the Global Security website, a US-affiliated non-profit think tank providing information and analysis on security-related issues:

"The Chinese People's Armed Police Force was set up in April 1983 and is made up of PLA forces on domestic defense duty and the armed, frontier defense and fire-fighting police, which carry out a military service system. It is an armed defense force for social security, which undertakes police duties. The armed police force follows the rules and regulations of the PLA and enjoys equal treatment with PLA troops. The armed police force headquarters falls under the direct jurisdiction of the Ministry of Public Security. It also has headquarters in various provinces, autonomous regions and municipalities, under which there are detachments, groups and squadrons. [...] The armed police force undertakes the tasks of avoiding and curbing through the use of arms acts of sabotage, defending social security and protecting national security, life and property according to the needs of public security work and in compliance with the law, government rules and regulations and other administrative laws and regulations. [...] There are two chains of Command for People's Armed Police. The Armed Police is simultaneously under the command of the CCP's Central Military Committee and the State Council. [...] Most of the armed police corps in provinces, municipalities and autonomous regions have created comprehensive combat command systems integrating the use of computers and telecommunications technology. The upgraded command systems can enhance communications between tens of thousands of duty posts nationwide, and among armed police corps in municipalities and provinces with their Beijing-based headquarters. Advanced armored carriers, multi-functional refueling trucks, field water-supply vehicles, and other kinds of equipment have also helped enhance the combat capability of the armed police." (Global Security, 28 July 2011b)

As reported by Radio Free Asia (RFA) in May 2013, a group of teenage boys who went to a military camp near their home village in Sichuan province to collect bullets was attacked by a group of PLA soldiers. One teenager was killed in the attack. RFA comments that such incidents involving the PLA are "relatively rare" compared to reports on beatings "at the hands of police, hired thugs and urban management officials" (RFA, 30 May 2013).

3.2 Overview of Chinese judicial system

3.2.1 Courts and prosecution system

As stated in the Legal Research Guide on China published by the Library of Congress (LoC), "[t]he Constitution of the People's Republic of China is the highest law within China", which has a legal system "based primarily on the model of Civil Law" (LoC, 26 July 2012).

The Constitution of the People's Republic of China (PRC), amended as of March 2004, states in Article 123 that "[t]he people's courts of the People's Republic of China are the judicial organs of the State". Article 124 stipulates that "[t]he People's Republic of China establishes the Supreme People's Court and the people's courts at various local levels, military courts and other special people's courts". (Constitution of the People's Republic of China, 14 March 2004, Articles 123-124)

According to Article 127 of the Constitution, the Supreme People's Court (SPC) is defined as "the highest judicial organ". It "supervises the administration of justice by the people's courts at various local levels and by the special people's courts". Article 128 states that the SPC "is responsible to the National People's Congress and its Standing Committee". (Constitution of the People's Republic of China, 14 March 2004, Articles 127-128)

A brief description of the court system is provided in an article published by the Chinese Journal of Comparative Law (CJCL)[4]:

> "Technically, the Chinese court system is structured into four levels. Corresponding to the governance system of China, there are thousands of basic-level people's courts at the district or county level (with many divisions in township and rural areas known as people's tribunals), hundreds of intermediate people's courts at the city or prefecture level within the provinces, thirty-one high people's courts at the provincial level, and the SPC [Supreme People's Court] at the national level. There are also specialist courts, such as military courts and maritime courts. These specialist courts have special jurisdiction over particular types of disputes. For example, maritime courts located in various coastal cities handle exclusively maritime disputes, while military courts oversee all disputes relating to army personnel." (CJCL, 13 October 2013)

The same article outlines the competencies of people's courts at different levels and the hierarchical relationships between them:

> "[T]he basic-level people's courts deal with the great majority of cases tried at first instance in the country. The intermediate people's courts have appellate jurisdiction over cases appealed to them from the basic-level courts as well as original jurisdiction over crimes against national security, criminal cases involving serious punishment (life imprisonment and death penalty) and foreigners, and important foreign-related civil and commercial disputes. The high people's courts hear appeals from the intermediate courts

[4]The CJCL refers to itself as "an independent, peer-reviewed, general comparative law journal published under the auspices of the International Academy of Comparative Law (IACL) and in association with the Silk Road Institute for International and Comparative Law (SRIICL) at Xi'an Jiaotong University, PR China" (CJCL, undated).

> and try first instance cases that are considered of provincial significance. The SPC exercises original, as well as appellate, jurisdiction in important cases at the national level. In addition to adjudication, the SPC has another important 'legislative' power. The SPC promulgates judicial interpretative documents to fill in the gaps in the implementation of the laws, and these judicial interpretations are considered to be binding rules in all Chinese courts." (CJCL, 13 October 2013)

The internal structure of Chinese courts is outlined as follows:

> "With respect to their internal structure, each Chinese court consists of a number of divisions (ting), which manage the pre-trial, trial, and post-trial activities of each case. For example, the Filing Division (li'an ting) handles the filing of cases during the pre-trial stage, and these judges are mainly tasked with resolving jurisdictional disputes. The Enforcement Division (zhixing ting) handles enforcement petitions from parties (where the period of enforcement listed on the judgment has expired). The Trial Division represents the core work of a court, and judges sitting on the panels of these divisions are those narrowly defined as real adjudicators or judges (shenpanyuan). They specialize in the trials of different types of cases, ranging from criminal to civil and administrative." (CJCL, 13 October 2013)

A more detailed but undated overview of the Chinese court system is given by the China Internet Information Centre (china.org.cn), an authorized government web portal that provides news on China and information on the country's politics, economy and culture:

- China Internet Information Centre: China's Judiciary, undated http://www.china.org.cn/english/Judiciary/31280.htm

The people's procuratorates are defined in article 129 of the Constitution of the PRC as the "State organs for legal supervision". As stipulated in Article 130, the PRC "establishes the Supreme People's Procuratorate and the people's procuratorates at various local levels, military procuratorates and other special people's procuratorates" (Constitution of the People's Republic of China, 14 March 2004, Articles 129-130).

Law Information China, a website operated by Peking University, states that "[p]rocuratorates are established at levels corresponding to those of courts so that cases can be prosecuted in accordance with legal procedures." (Law Information China, 31 May 2010)

Article 132 of the Constitution provides with regard to the Supreme People's Procuratorate:

> "The Supreme People's Procuratorate is the highest procuratorial organ.
>
> The Supreme People's Procuratorate directs the work of the people's procuratorates at various local levels and of the special people's procuratorates. People's procuratorates at higher levels direct the work of those at lower levels." (Constitution of the People's Republic of China, 14 March 2004, Article 132)

Article 133 of the Constitution states that "[t]he Supreme People's Procuratorate is responsible to the National People's Congress and its Standing Committee" while "[p]eople's

procuratorates at various local levels are responsible to the organs of state power which created them and to the people's procuratorates at higher levels" (Constitution of the People's Republic of China, 14 March 2004, Article 133).

The division of work between people's courts, people's procuratorates and public security organs is set out in article 135 of the Constitution:

> "The people's courts, the people's procuratorates and the public security organs shall, in handling criminal cases, divide their functions, each taking responsibility for its own work, and they shall coordinate their efforts and check each other to ensure the correct and effective enforcement of law." (Constitution of the People's Republic of China, 14 March 2004, Article 135)

3.2.2 Independence of judiciary

The Constitution of the PRC stipulates in its Article 126 that "[t]he people's courts exercise judicial power independently, in accordance with the provisions of law, and not subject to interference by any administrative organ, public organization or individual" (Constitution of the People's Republic of China, 14 March 2004, Article 126).

Article 131 of the Constitution provides that "[t]he people's procuratorates exercise procuratorial power independently, in accordance with the provisions of law, and not subject to interference by any administrative organ, public organization or individual" (Constitution of the People's Republic of China, 14 March 2004, Article 131).

As stated by Human Rights Watch (HRW) in its World Report 2014, the Communist Party "maintains authority over all judicial institutions and coordinates the judiciary's work through its political and legal committees" (HRW, 21 January 2014).

The UK Foreign and Commonwealth Office (FCO) notes in its annual report of April 2013, which covers events of 2012:

> "Although the constitution guarantees the independence of the courts, in practice the law is subordinate to the interests of the party and social stability. The party's Politics and Law Committees can intervene in court operations and give judges 'guidance' on verdicts and sentencing in specific cases. Safeguards against judicial corruption are weak and poorly enforced." (FCO, April 2013)

A July 2013 report by Amnesty International (AI) indicates:

> "The long established supremacy of Chinese Communist Party policy over the criminal justice system and the resulting practice for judges to apply the law in accordance with Party policies have meant that the judiciary in China lacks independence. This is institutionalized through the Party's Political and Legal Commissions, which have a leading role in judicial work at every administrative level and therefore control the work of the courts." (AI, 15 July 2013, p. 5)

The annual report of the US Department of State (USDOS) on human rights practices during 2013 notes several factors affecting the independence of courts:

> "The law states that the courts shall exercise judicial power independently, without interference from administrative organs, social organizations, and individuals. The judiciary did not exercise judicial power independently. Legal scholars interpreted former president Hu Jintao's doctrine of the 'Three Supremes' as stating that the interests of the CCP are above the law. Judges regularly received political guidance on pending cases, including instructions on how to rule, from both the government and the CCP, particularly in politically sensitive cases. The CCP Law and Politics Committee has the authority to review and influence court operations at all levels of the judiciary. [...] A CCP-controlled committee decides most major cases, and the duty of trial and appellate court judges is to craft a legal justification for the committee's decision. [...] Corruption also influenced court decisions. Safeguards against judicial corruption were vague and poorly enforced. Local governments appoint and pay local court judges and, as a result, often exerted influence over the rulings of judges in their districts. Courts are not authorized to rule on the constitutionality of legislation. The law permits organizations or individuals to question the constitutionality of laws and regulations, but a constitutional challenge can be directed only to the promulgating legislative body. Lawyers have little or no opportunity to rely on constitutional claims in litigation." (USDOS, 27 February 2014, section 1e)

An article of October 2013, published in the Chinese Journal of Comparative Law (CJCL), points to the following issues:

> "In China, the Constitution and Organic Law of the People's Courts provide that Chinese courts have the right to be free from external interferences in their work. However, the laws further require that individual courts at different levels must be administratively and institutionally accountable to the corresponding level of people's congresses. In addition, courts in China are subject to dual leadership. They are subject to political supervision from the CCP Committee within the court (dangwei) and the CCP Political and Legal Affairs Committee (zhengfawei) outside the court ('horizontal supervision'). At the same time, their decisions and court judgments are scrutinized professionally by higher-level people's courts on the basis of judiciary hierarchy ('vertical scrutiny'). This scrutiny stands in sharp contrast with the understanding of collective independence in the Western ideologies where all individual courts enjoy functional independence. [...] The independence of the local people's courts is further undermined by the way in which they are funded. Courts in China are financed by governments at their corresponding levels. [...] The courts' financial reliance on the local government has allowed local political and administrative powers to encourage local protectionism." (CJCL, 13 October 2013)

The influence exerted by the Communist Party of China (CPC) on the adjudication of cases is addressed in the Freedom in the World 2014 report of Freedom House, a US-based NGO which conducts research and advocacy on democracy, political freedom, and human rights:

> "The CCP controls the judiciary. Party political-legal committees supervise the operations of courts at all levels, and allow party officials to influence verdicts and sentences. Most judges are CCP members. Their appointment, salaries, and promotions are largely

> determined by party and government officials at the same bureaucratic level. CCP influence is especially evident in politically sensitive cases, such as the prosecution of activists or officials like Bo Xilai who have fallen out of favor." (Freedom House, 23 January 2014)

According to an undated overview of the issue of judicial independence in the PRC, published on the website of the US Congressional-Executive Commission on China (CECC), "China's judiciary continues to be subject to a variety of internal and external controls that significantly limit its ability to engage in independent decisionmaking". The CECC describes the following internal constraints on independent judicial decision-making:

> "Several internal mechanisms within the judiciary itself limit the independence of individual judges. A panel of judges decides most cases in China, with one member of the panel presiding at trial. Despite recent reforms to enhance the independence of individual judges and judicial panels, court adjudicative committees led by court presidents still have the power to review and approve decisions in complex or sensitive cases. Finally, judges in lower courts frequently seek the opinions of higher courts before making decisions on cases before them. Some legal reformers in China oppose this practice, arguing that it undermines the right of appeal. China experts differ on whether the practice has become more or less frequent as reforms have progressed in recent years." (CECC, undated (a))

The CECC notes the influence of local governments, the Communist Party, people's procuratorates and people's congresses on judicial decision-making:

> "Local governments are the most significant source of external interference in judicial decisionmaking. Local governments often interfere in judicial decisions in order to protect local industries or litigants, or, in the case of administrative lawsuits, to shield themselves from liability. Local governments are able to exert influence on judges because they control local judicial salaries and court finances and also make judicial appointments. [...] The Communist Party also influences judicial decisions in both direct and indirect ways. Party groups within the courts enforce Party discipline and the Party approves judicial appointments and personnel decisions. [...] The Party exercises direct influence in individual cases through the Political-Legal Committees (PLCs) at each level of government. PLCs supervise and direct the work of state legal institutions, including the courts. PLCs are typically staffed by court presidents, the heads of law enforcement agencies, officials of the justice ministry or bureau, and other legal organs. Although PLCs focus primarily on ideological matters, they can influence the outcome of cases, particularly when the case is sensitive or important. Judicial surveys suggest that direct Party interference is less common than local government interference, but this distinction is clouded in practice, as most key government officials are also Party members. A third significant form of external control is supervision by people's congresses and the procuratorate. Under the Chinese Constitution and national law, both the procuratorate and the people's congresses have the power to supervise the work of judges and the courts and to call for the reconsideration of cases. In the case of the procuratorate, this power presents particular problems. Because the procuratorate has a dual role as both prosecutor and supervisor of

> the legal process, it has a conflict of interest in exercising its function of supervising the courts." (CECC, undated (a))

The same source indicates that "Communist Party and government leaders [...] have taken limited steps to enhance the autonomy of China's judges and courts" and notes that "[a]lthough important and complex cases are still subject to adjudication committee review, reforms have enhanced the power of presiding judges, and panels of trial judges now have the power to decide many ordinary cases without interference from court presidents or the adjudicative committee." (CECC, undated (a))

Freedom House notes in its Freedom in the World 2014 report of January 2014:

> "Following official statements surrounding the CCP Central Committee's third plenum that acknowledged the need for greater transparency and judicial autonomy from local authorities, some experts speculated about a possible reduction of political control over parts of the judiciary in the coming years." (Freedom House, 23 January 2014)

The relationship between judicial accountability and judicial independence is discussed by the CECC as follows:

> "There is also a tension between judicial accountability and judicial independence. To deal with corruption and lack of professional competence in the court system, China's leaders have strengthened penalties for misconduct and wrongly decided cases and enhanced internal and external supervision of the courts. However, these steps also limit judicial independence. As China law expert Randall Peerenboom observes, improvements in judicial independence are likely to be incremental as China continues to deal with problems of corruption and competence in the courts." (CECC, undated (a))

An Amnesty International (AI) press release of April 2013 quotes Teng Biao, a Beijing lawyer and academic, as saying:

> "Judges are influenced or even controlled by the local police or the Communist Party. [...] In many cases the police tortured a suspect and the judges use this evidence even when they know it has been obtained illegally. A judge is supposed to exclude evidence obtained through torture but because the court is not independent they instead listen to the police and Communist Party officials." (AI, 16 April 2013)

3.3 Criminal justice

As noted by the UK Foreign and Commonwealth Office, "[b]roadly speaking, access to justice remains limited in China, and the rule of law is weak" and that "[t]here is no presumption of innocence" (FCO, April 2013).

Article 125 of the Constitution of the People's Republic of China provides that "[e]xcept in special circumstances as specified by law, all cases in the people's courts are heard in public" and that "[t]he accused has the right to defence" (Constitution of the People's Republic of China, 14 March 2004, Article 125).

The USDOS states in its annual human rights report of April 2013 that "[r]egulations of the Supreme People's Court require all trials to be open to the public, with the exceptions of cases involving state secrets, privacy issues, and minors." while also noting that "[a]uthorities used the state-secrets provision to keep politically sensitive proceedings closed to the public, sometimes even to family members, and to withhold access to defense counsel." (USDOS, 27 February 2014, section 1e)

According to Freedom House, "[c]riminal trials in China, which often amount to mere sentencing announcements, are frequently closed to the public, and the conviction rate is estimated at 98 percent (Freedom House, 23 January 2014).

A new Criminal Procedure Law (CPL) was adopted in March 2012 and took effect in January 2013 (CECC, 10 October 2013a, p. 77).

An English-language translation of the amended CPL has been published on the Law Info China website of Peking University:

- CPL - Criminal Procedure Law of the People's Republic of China, 14 March 2012a [Chinese with English translation] (published by Law Info China, available on the NATLEX database of the International Labour Organization (ILO))
  https://www.ilo.org/dyn/natlex/docs/ELECTRONIC/60490/103249/F-1220070742/CHN60490%20(2012).pdf

The Chinese-language original text of the new CPL is available on the website of the Central Government of China:

- CPL - Criminal Procedure Code of the People's Republic of China, 14 March 2012b [in Chinese] (available on the website of the Central People's Government of the People's Republic of China)
  http://www.gov.cn/flfg/2012-03/17/content_2094354.htm

Articles 3, 4, 7 and 8 of the new CPL, adopted in 14 March 2012, contain the following provisions regarding criminal procedure:

> "Article 3 [...] People's Procuratorates are responsible for procuratorial supervision, approval of arrests, investigation of cases directly accepted by procuratorial authorities, and initiation of public prosecution. People's Courts are responsible for trial and sentencing. Except as otherwise provided for by law, no other authority, organization, or individual shall exercise such powers. In criminal procedures, people's courts, people's procuratorates, and public security authorities must strictly abide by this Law and relevant provisions of other laws.
>
> Article 4 National security authorities shall, in accordance with law, handle criminal cases regarding compromising national security and perform the same functions as those of public security authorities. [...]
>
> Article 7 In criminal procedures, people's courts, people's procuratorates, and public security authorities shall, according to their division of functions, coordinate and check each other to ensure correct and effective enforcement of law. [...]

> Article 8 People's procuratorates shall conduct legal supervision over criminal procedure in accordance with law." (CPL, 14 March 2012a, Articles 3, 4, 7, 8)

The Amnesty International (AI) annual report of May 2013 briefly summarizes the changes introduced by the new CPL:

> "Revisions to the Criminal Procedure Law, adopted in March to be effective 1 January 2013, introduced strengthened protections for juvenile criminal suspects and defendants, and those with mental disabilities. However, for the first time, the revisions authorized police to detain suspects for up to six months for certain types of crimes, including 'endangering state security', without notifying the suspect's family of the location or reasons for detention. The revisions therefore potentially legalized enforced disappearance." (AI, 23 May 2013)

Freedom House states in its Freedom in the World report of January 2014:

> "In January 2013, amendments to the Criminal Procedure Law took effect. They include improvements for ordinary criminal proceedings, including exclusion of evidence obtained through torture, access for lawyers to their clients, and the possibility of witnesses being cross-examined. However, legal experts raised concerns that the revised law includes exceptions for cases of 'endangering state security,' 'terrorism,' and 'major bribery'—categories often employed to punish nonviolent activism and political expression. The amendments allow such suspects to be detained in an unspecified location for up to six months, and notification of families is not strictly required, essentially legalizing the practice of enforced disappearances." (Freedom House, 23 January 2014)

A July 2013 briefing by Amnesty International (AI) provides a detailed summary and commentary with respect to the amendments introduced to the 2013 CPL, addressing the following issues: rights of a person deprived of liberty (right of notification, the right to legal counsel, summonses), the use of vaguely defined crimes and fair trial (presumption of innocence, use of illegal evidence). (AI, 15 July 2013)

Rights of arrested and detained persons

With respect to the rights of arrested and detained persons, the AI briefing reports on changes concerning the right to having family members notified, as laid down in Articles 73, 83 and 91 of the new CPL which deal with "residential surveillance", "police detention" and "arrest" respectively. As noted by AI, the new CPL narrows the circumstances under which exceptions from the requirement to notify families may be made:

> "China's old CPL, at a minimum, specifically provided for the right of individuals detained or arrested to have their family notified within 24 hours of the reasons for and the place of custody [old Articles 64 and 71]. Two exceptions where such notification was not required were 'where such notification would hinder the investigation' and where 'there is no way of notifying' family. [...] The new Articles 73 and 91 dealing with 'residential surveillance' and 'arrest' respectively somewhat narrow the allowed exceptions. Both state that family members of the person in custody should be informed within 24 hours with the

> only exception being where it is impossible to furnish notice, thereby eliminating the legal exception based on notification hindering the investigation. New Article 83, dealing with police detention, also keeps the general exception based on it being impossible for police to furnish notice, and allows the exception based on notification hindering the investigation, but only when crimes of 'endangering state security' or 'terrorism' are involved." (AI, 15 July 2013, pp. 10-11)

Amnesty further notes that the new CPL "undercuts the potential value of notification by removing the specific requirements that notification include the location and reasons for custody under 'residential surveillance in a designated location', police detention and arrest" (AI, 15 July 2013, p. 11). The briefing points to the following potential consequences that this non-inclusion of the requirement to provide reasons for and location of custody may entail:

> "The failure to include these specific elements of notification – reasons for and location of custody – in the law has potentially the gravest consequences in the case of 'residential surveillance in a designated location'. As individuals held in this form of custody may be kept in locations which are not detention or investigation facilities this means potentially that individuals could be kept for up to six months in locations not officially recognized as detention facilities without family knowing their whereabouts or well-being, thereby potentially increasing their risk of torture and other forms of ill-treatment." (AI, 15 July 2013, p. 11)

The Dui Hua Foundation, a US-based human rights group working for the rights detainees, states in January 2013:

> "Under the revised CPL, which took effect on January 1, 2013, police are thus required to give notice to relatives within 24 hours of all individuals being subjected to "non-residential residential surveillance." This limits the ability of police to make an individual disappear without a trace, but the practice of non-residential residential surveillance remains deeply problematic, even though its inclusion in the CPL has given it a veneer of legitimacy." (Dui Hua, 8 January 2013)

A March 2012 article by Dui Hua notes that under the amended CPL, "authorities are allowed to waive family notification [...] when a suspect in a state security or terrorism case is placed under criminal detention (i.e., held in a detention center) and 'notification has the potential to interfere with the investigation.'" Dui Hua adds that "[c]riminal detention can last for up to 37 days" (Dui Hua, 19 March 2012).

The Taiwanese news website Want China Times states with reference to Xinhua news agency that the amended CPL "relieves the law enforcement department of the obligation to inform the closest kin of arrested suspects within 24 hours of their arrest if the individuals are suspected of crimes against national security or of terrorist acts, or if informing relatives would impede investigations." The same source adds that "the law enforcement department must inform relatives of suspects once the impediment ceases to exist" (Want China Times, 15 March 2012).

The US Department of State (USDOS) notes in its February 2014 annual human rights report which covers events of 2013:

> "The law requires notification of family members within 24 hours of detention, but individuals were often held without notification for significantly longer periods, especially in politically sensitive cases. Under a sweeping exception officials are not required to provide notification if doing so would 'hinder the investigation' of a case. The revised criminal procedure law limits this exception to cases involving state security or terrorism. The law allows for residential surveillance rather than detention in a formal facility under certain circumstances. Under the revised criminal procedure law, with the approval of the next higher-level authorities, officials can enforce 'residential surveillance' on a suspect at a designated place of residence (i.e., a place other than the suspect's home) for up to six months, when they suspect crimes of endangering state security, terrorism, or serious bribery and believe that surveillance at the suspect's residence would impede the investigation. Authorities must notify relatives of individuals placed under formal arrest or residential surveillance in a designated abode within 24 hours, unless notification is impossible. They are not required to specify the grounds for or location of the detention. Authorities can also prevent defense lawyers from meeting with suspects in these categories of cases." (USDOS, 27 February 2014, section 1d)

A March 2012 article by the BBC states:

> "Human rights activists said many detainees who have been put under 'residential surveillance' in the past - often in hotels or apartments in the suburbs - have reported torture and abuse by police." (BBC News, 8 March 2012)

The quarterly update on the human rights situation published by the UK Foreign & Commonwealth Office (FCO) in July 2013 states:

> "The controversial Article 73 was used for the first time in January, when activist Zhu Chengzhi, detained since June 2012, was transferred to 'residential surveillance at a designated location'. He was returned home on 1 February but again transferred to an undisclosed location in March. He remains under investigation for inciting subversion." (FCO, 30 June 2013)

The right to appeal for bail is addressed by the USDOS as follows:

> "Criminal defendants are entitled to apply for bail (also translated as "a guarantor pending trial") while awaiting trial, but the system does not appear to operate effectively and few suspects were released on bail." (USDOS, 27 February 2014, section 1d)

Right to legal counsel

As regards the right to legal counsel, the Amnesty International (AI) briefing of July 2013 refers to provisions laid down in Articles 33, 34, 37 and 84 of the new CPL (AI, 15 July 2013, pp. 11-13), whereby it is noted that "[i]n the Chinese justice system [...], distinction is made between the term 'defender' which can include representation by a relative, friend, person from a public organization or lawyer and the more specific term 'lawyer', as defined in Article

2 of the Law of the People's Republic of China on Lawyers, as a professional who has acquired a lawyer's practice certificate or license" (AI, 15 July 2013, p. 12).

The AI briefing quotes the following extract of Article 33:

> "The criminal suspect has the right to appoint a defender as of the date on which the suspect is first interrogated by the investigating authority or is subject to compulsory measures.... When the investigating authority first interrogate the criminal suspect or subject a criminal suspect to compulsory measures, the criminal suspect should be informed of the right to appoint a defender." (AI, 15 July 2013, p. 13)

The same source, however, notes that this Article 33 "only allows a lawyer to act as legal counsel during the investigation period, potentially denying many suspects access to legal advice from other defenders during this phase, including lawyers who have lost their license" (AI, 15 July 2013, p. 13).

The annual report of the Congressional-Executive Commission on China (CECC) of October 2013 states:

> "Harassment of weiquan (rights defense) lawyers continued to follow the trend of past years with the Chinese government using a variety of measures, including license suspension, surveillance, and illegal detention, to intimidate lawyers. Prominent human rights advocates Gao Zhisheng and Ni Yulan continued to serve harsh prison sentences; authorities arrested rights advocate Xu Zhiyong in August 2013 following several months of 'house arrest' and criminal detention." (CECC, 10 October 2013a, p. 45)

Articles 37, 84 and 34 of the amended CPL are summarized by AI as follows:

> "Amended Article 37 gives detention facilities up to 48 hours to arrange for a lawyer to meet with a detained criminal suspect or defendant from the time the lawyer makes such a request [...]. If an offense involves a crime of 'endangering state security', a crime of 'terrorism' or a particularly serious crime of 'bribery', the defence lawyer must seek permission from the investigating authority to meet with the suspect. [...]
>
> The fact that police continue to be required, in new Article 84, to interrogate a person within 24 hours of their being taken into custody, greatly increases the probability that these initial interrogations will take place with suspects being denied the benefits of legal assistance. [...]
>
> The new CPL does provide, in Article 34, that authorities should notify legal aid organizations to assign a lawyer as a defender, but only in cases where the criminal suspect or defendant is blind, deaf or mute or is a mentally ill person or if he may be sentenced to life imprisonment or death. In other cases, a lawyer should be provided if conditions for legal aid are satisfied. Many suspects however are not able to afford a lawyer and will not qualify for legal aid." (AI, 15 July 2013, pp. 13-14)

The US Department of State (USDOS) notes with regard to a defendant's right to be provided a lawyer:

"The criminal procedure law requires a court to provide a lawyer to a defendant who has not already retained one; who is blind, deaf, mute, or a minor; or who may be sentenced to death. Revisions that took effect on January 1 [2013] added defendants facing a life sentence or who are mentally ill. This law applies whether or not the defendant is indigent. Courts may also provide lawyers to other criminal defendants who cannot afford them, although courts often did not appoint counsel in such circumstances." (USDOS, 27 February 2014, section 1d)

"The revised criminal procedure law makes clear that a criminal suspect may retain a lawyer immediately after an initial police interrogation or after his or her freedom has been officially limited. Investigators are required to inform suspects of their right to retain counsel. Police must also arrange meetings between a defense lawyer and his or her client within 48 hours of a request from defense counsel. Individuals facing administrative detention do not have the right to seek legal counsel. Criminal defendants were eligible for legal assistance, although more than 50 percent of criminal defendants went to trial without a lawyer. According to the Ministry of Justice, in 2012 there were more than one million legal aid cases. The revised criminal procedure law expanded requirements for legal aid to include cases that could result in life imprisonment and cases involving individuals suffering from mental illness. Human rights lawyers reported that authorities did not permit them to defend certain clients or threatened them with punishment if they chose to do so. The government suspended or revoked the licenses of lawyers or their firms to stop them from taking sensitive cases, such as defending prodemocracy dissidents, house-church activists, Falun Gong practitioners, or government critics." (USDOS, 27 February 2014, section 1e)

The Congressional-Executive Commission on China (CECC) states in its annual report of October 2013:

"The 2012 PRC Criminal Procedure Law (CPL) contains several positive developments with respect to access to counsel. For example, it expands the circumstances under which legal aid must be provided for suspects and defendants (for example, if the suspect is facing a possible life sentence or death) – a revision that may raise the generally low rate of representation of defendants in criminal trials. [...] The new CPL stipulates that a lawyer need only show 'three certificates' (i.e., a lawyers' license, a law firm certificate, and a client engagement letter), and the detention center must arrange for a meeting with the detainee within 48 hours of the request." (CECC, 10 October 2013a, p. 82)

As regards the implementation of the new provisions in the revised CPL that address the issue of legal counsel, the CECC points to results of preliminary research conducted by a law firm based in Beijing:

"Although it is too early to draw conclusions, preliminary research conducted by Shangquan Law Firm, a Beijing-based firm that specializes in criminal defense, suggests that there has been substantial improvement in the ability of defense lawyers to meet with their detained clients. The Shangquan report notes, however, that some problems still exist in certain locations. For example, several detention centers in different jurisdictions require the presence of two lawyers before a meeting will be arranged. Reminiscent of the

> 'state secrets' exception under the prior CPL, public security officials can rely on a vague exception in the new CPL to require defense attorneys to first obtain permission before they may meet with a detained suspect. Article 37 of the 2012 CPL requires prior permission in cases involving the crimes of endangering state security, terrorism, or serious bribery. The law firm's research found that public security agencies are interpreting these 'three categories of cases' (sanlei anjian) broadly and are invoking sanlei anjian as an excuse to restrict or prohibit meetings between lawyers and their clients." (CECC, 10 October 2013a, p. 82)

The same source further notes that "[i]n 'politically sensitive' cases, defendants still have difficulty not only gaining access to counsel but also retaining counsel of their own choosing" (CECC, 10 October 2013a, p. 82).

In October 2013, Human Rights Watch (HRW) reports on the case of the Guangzhou human rights activist Guo Feixiong:

> "Since leading Guangzhou rights activist Guo Feixiong was detained on August 8, 2013, his lawyers have had no success visiting him. After their sixth attempt failed on October 11, the lawyers filed a complaint with prosecutors on October 15. During that process, they finally learned that Guo, who had been detained on the dubious charges of 'gathering crowds to disturb public order,' had finally been formally arrested. According to the newly revised Criminal Procedural Law, which came into effect on January 1, Guo's lawyers should have free access to their client. Lawyers' access was hailed by China's official media as one of the major 'bright spots' in protecting the rights of criminal suspects. According to article 37 of the Criminal Procedure Law, lawyers must be able to access their clients without prior appointment or official permission, and such access should be arranged within 48 hours. But there is also a dangerous loophole: if a case is deemed to involve endangering national security, terrorism, or major bribery, access to lawyers can be denied. Police can do so arbitrarily, and there are few ways to challenge such a decision. This is the legal black hole into which Guo's case is falling. Although he is charged with a crime that has nothing to do with national security, the police told his lawyers that Guo's case was 'related' to another one in which suspects were charged with such crimes—thus depriving him access to his lawyers. However, the police have not made a credible explanation of how Guo's case is one involving national security." (HRW, 17 October 2013)

Summonses

The AI briefing reports on the powers of the police to summonse criminal suspects as laid down in the new CPL:

> "In Chinese law, 'summonsing' (chuanhuan) or 'compelled appearance' (juchuan) allows authorities to question or interrogate individuals who they determine need not be arrested or detained. […] China's new CPL further weakens the rights of criminal suspects by expanding the power of police to 'summons' criminal suspects for interrogation 'on the spot', at a crime scene or elsewhere. […] The new law, furthermore, extends the permitted length of time an individual can be held under summonsing from 12 to 24 hours 'where a

> case is particularly serious and complicated and custody or arrest is required.'" (AI, 15 July 2013, p. 14)

The same AI briefing reports on the use of successive summonsing of suspects:

> "Chinese lawyers have reported to Amnesty International that police do in practice frequently use successive summonsing as a way to extend the length of time a suspect can be held for questioning before protections associated with formal detention and arrest become applicable." (AI, 15 July 2013, p. 15)

Provisions of the new CPL regarding the right for a suspect to remain silent are reported by the same source as follows:

> "A positive aspect of the new CPL is the inclusion for the first time in national law of the principle that no suspect or defendant 'may be forced to prove his own guilt' in the course of the investigation and evidence gathering (new CPL Article 50). However, it falls short of explicitly providing for the right of suspects to remain silent." (AI, 15 July 2013, p. 15)

Fair trial

As regards use of vaguely defined crimes, the AI briefing states that "[s]uspects and defendants in cases involving 'serious crimes', including 'endangering national security,' 'terrorism,' and major bribery cases, are not granted the same protections as suspects and defendants in other cases" (AI, 15 July 2013, p. 16). As indicated by the Congressional-Executive Commission on China (CECC), "[o]fficials used vaguely worded criminal charges to detain rights advocates, Internet writers, human rights lawyers, and citizen journalists who engaged in peaceful expression and assembly" (CECC, 10 October 2013a, p. 62).

The same briefing addresses changes in legal provisions concerning fair trial rights, reporting as follows on the issue of presumption of innocence:

> "The new CPL introduces a number of provisions, which, if fully implemented, have the potential to ensure fairer trials. In a positive step it introduces a new article which clearly places the burden of proof of guilt on the prosecutor, rather than on the defence to prove the innocence of the defendant, as had previously been the case. Article 35 of the old law stated it was the defenders responsibility 'to present, according to the facts and law, materials and opinions proving the innocence of the criminal suspect or defendant…'. The new Article 49, by contrast, provides that '(t)he onus of proof that a defendant is guilty shall be on the public prosecutor in a public prosecution case.' And in a further positive step the new CPL removes the clause 'except where stipulated by law' which was in the first set of revisions issued on 30 August 2011 and which would have allowed for legislating exceptions to this rule. Amended Article 35 also removes the word 'proving' from the responsibility of the defender. […] However, as discussed above, the new CPL fails to explicitly provide for the right of those charged with a criminal offence to be presumed innocent until proven guilty through a fair trial and through all levels of appeal as called for in international human rights law and standards. And, in the absence of a clear articulation of the presumption of innocence, a shift on the wording of the

> responsibility of the defender from 'proving the innocence' to 'present(ing) materials and opinions related to the innocence' of the suspect or defendant may have limited practical impact." (AI, 15 July 2013, p. 18)

The October 2013 annual report of the Congressional-Executive Commission on China (CECC) states that the revised CPL "fails to incorporate several key rights for suspects and defendants, such as a clear presumption of innocence and an explicit right to remain silent and not to incriminate oneself" (CECC, 10 October 2013a, p. 77).

Presumption of innocence is addressed in the USDOS annual report on human rights practices in 2013 as follows:

> "The criminal justice system was biased toward a presumption of guilt, especially in high-profile or politically sensitive cases. According to the Supreme People's Court, in 2011 the combined conviction rate for first- and second-instance criminal trials was 99.9 percent. Of 1,051,638 criminal defendants tried in 2011, only 891 were acquitted." (USDOS, 27 February 2014, section 1e)

The AI briefing reports on changes with regard to the exclusion of the use of illegal evidence:

> "The new CPL takes the positive step of incorporating into national law the exclusion of illegally obtained evidence in all criminal cases which previously existed only in lower level regulations, rules, and judicial directives. It's too early to say whether these measures will strengthen the mechanisms for effectively excluding such evidence in practice. […] In an additional positive step, the amended CPL provides, for the first time in law, an explicit role for lawyers to challenge the admissibility of evidence on the basis that it was illegally obtained. New Article 56 grants a defendant and his or her lawyers the right to apply to the court to exclude evidence which they allege was gathered illegally, and new Article 55 requires the prosecutor's office to 'investigate and verify the allegation' if it receives a report, an accusation, tips or discovers that investigators collected evidence illegally. Courts are also called on to conduct an investigation if they are 'of the opinion that illegally obtained evidence' may exist [new Article 56]. The new CPL, also for the first time, requires, in amended Article 57, police investigators and others notified by the court to appear in court to 'provide an explanation' of allegations of illegally obtained evidence. […] Article 54 of the new law allows illegally gathered physical and documentary evidence to be admitted if 'justifications' can be provided, thereby weakening the exclusion. […] So if, for instance, police 'justifies' having obtained physical evidence through torture on the grounds that it provides critical evidence proving a suspect's guilt, then that piece of evidence could, under the current law, be admitted." (AI, 15 July 2013, pp. 18-20)

The October 2013 report of the Congressional-Executive Commission on China (CECC) states:

> "Torture by police in the course of criminal investigations remains a common problem. The government relies overwhelmingly on confessions as evidence in criminal cases. […] The 2012 PRC Criminal Procedure Law (CPL) contains new provisions that aim to prevent confessions obtained through torture. The law incorporates a June 2010 rule prohibiting the use of illegally obtained evidence in criminal proceedings. Moreover, Article 50 of the

2012 CPL contains a provision that prohibits police, prosecutors, and judicial personnel from forcing a suspect to incriminate himself. Article 50 is not framed as a right held by the suspect, however, and its potential for curbing abuse during interrogation is diminished by the retention of a provision from the prior CPL requiring that suspects have an obligation to answer the interrogator's questions 'truthfully.' The absence of an explicit right to remain silent and a presumption of innocence may well undermine efforts to prevent coerced confessions, and the absence of a right to legal counsel during a detained suspect's first interrogation also increases the likelihood of abuse. It remains to be seen how the provisions in the new CPL regarding the exclusion of illegally obtained evidence will be implemented in practice." (CECC, 10 October 2013a, p. 83)

The May 2013 Amnesty International (AI) annual report notes:

"Criminal defendants faced routine violations of the right to a fair trial and other rights, including denial of access to their lawyers and family, detention beyond legally allowed time frames, and torture and other ill-treatment in detention. The use of torture to extract confessions remained widespread." (AI, 23 May 2013)

The USDOS states the following with regard to witness appearances in court and pretrial access to evidence for defence attorneys:

"Mechanisms allowing defendants to confront their accusers were inadequate. Only a small percentage of trials involved witnesses, and fewer than 10 percent of subpoenaed witnesses appeared in court. A provision of the revised criminal procedure law compels witnesses to appear in court and includes protections for witnesses and financial allowances for performing the duties of a witness. In most criminal trials, prosecutors read witness statements, which neither the defendants nor their lawyers had an opportunity to rebut. Although the law states that pretrial witness statements cannot serve as the sole basis for conviction, prosecutors relied heavily on such statements. Defense attorneys had no authority to compel witnesses to testify or to mandate discovery, although they could apply for access to government-held evidence relevant to their case. Defense attorneys received minimal pretrial access to information." (USDOS, 27 February 2014, section 1e)

Torture during criminal investigations is addressed in the CECC annual report of October 2013 as follows:

"Torture by police in the course of criminal investigations remains a common problem. The government relies overwhelmingly on confessions as evidence in criminal cases. [...] The 2012 PRC Criminal Procedure Law (CPL) contains new provisions that aim to prevent confessions obtained through torture. The law incorporates a June 2010 rule prohibiting the use of illegally obtained evidence in criminal proceedings. Moreover, Article 50 of the 2012 CPL contains a provision that prohibits police, prosecutors, and judicial personnel from forcing a suspect to incriminate himself. Article 50 is not framed as a right held by the suspect, however, and its potential for curbing abuse during interrogation is diminished by the retention of a provision from the prior CPL requiring that suspects have an obligation to answer the interrogator's questions 'truthfully.' The absence of an explicit right to remain silent and a presumption of innocence may well undermine efforts to

prevent coerced confessions, and the absence of a right to legal counsel during a detained suspect's first interrogation also increases the likelihood of abuse. It remains to be seen how the provisions in the new CPL regarding the exclusion of illegally obtained evidence will be implemented in practice." (CECC, 10 October 2013a, p. 83)

The UK Foreign and Commonwealth Office notes with regard to torture and other abuse in custody:

> "[T]here were widespread reports in 2012 of abuse, mistreatment and torture. Human rights defenders were particularly at risk. Reports detailed the use of methods of abuse and torture, including sleep deprivation, the use of stress positions, beatings and electric shocks. The revised Criminal Procedure Law contains provisions which, properly enforced, could help to prevent torture and mistreatment. It codifies the Rules on the Preclusion of Illegally Obtained Evidence introduced in 2010. Police must transfer suspects to pre-trial detention centres within 24 hours of arrest and any successive interrogations must be carried out there. In the most serious cases, audio or video recording of interrogations is mandatory. Confessions will be inadmissible where there is reason to suspect they were extracted under duress. When defendants make an allegation of torture, police should appear in court to testify. The revised law also expands the interpretation of torture beyond the infliction of purely physical suffering. The revised law seeks to limit the use of pre-trial detention and expand the use of bail and residential surveillance, which should help to reduce the risk of torture and mistreatment. However, the provisions on residential surveillance for cases involving 'endangering state security', corruption and terrorism charges, could increase the risk of torture or mistreatment in such cases, as noted above." (FCO, April 2013)

A November 2013 article by the state-run Xinhua news agency reports on the publication of a document by the Supreme People's Court (SPC) according to which "illegal evidence and defendant testimony obtained through torture or other illegal methods - such as forcing the accused to suffer from extreme temperatures, hunger and fatigue - must be ruled out" (Xinhua, 21 November 2013).

Article 10 of the 1997 Criminal Law deals with the issue of double jeopardy:

> "Article 10 Any person who commits a crime outside the territory and territorial waters and space of the People's Republic of China, for which according to this Law he should bear criminal responsibility, may still be investigated for his criminal responsibility according to this Law, even if he has already been tried in a foreign country. However, if he has already received criminal punishment in the foreign country, he may be exempted from punishment or given a mitigated punishment." (Criminal Law, 14 March 1997, article 10)

Juvenile justice is addressed in an April 2013 report by Dui Hua, a US-human rights organisation focusing on detainees' rights in China:

> "In March, the Research Office of the Supreme People's Court published juvenile justice statistics for 2008-2012, reflecting positive reforms in juvenile justice. During the period,

China adjudicated 365,750 juveniles, down 4.5 percent from the previous five years. Meanwhile, the portion of juveniles receiving non-custodial punishments increased, reaching 42 percent in 2012 from 35 percent in 2008.

China added a juvenile section to its Criminal Procedure Law (CPL) last year including diversionary measures and codifying the principle of education first, punishment second. In 2011, the country amended its Criminal Law to recommend suspended sentences for youth who commit minor offenses. [...] Although juvenile justice is meant to be impartial, migrant youth have been barred from equal access to non-custodial punishments in China. Shanghai and Guangdong have lower than average rates of juvenile non-custodial punishments, and courts in both regions have attributed this to higher proportions of migrants among juvenile defendants." (Dui Hua, 8 April 2013)

3.4 Arbitrary arrest/detention and enforced disappearances

The Constitution of the People's Republic of China, amended as of March 2004, stipulates in its article 37:

> "Freedom of the person of citizens of the People's Republic of China is inviolable. No citizen may be arrested except with the approval or by decision of a people's procuratorate or by decision of a people's court, and arrests must be made by a public security organ. Unlawful detention or deprivation or restriction of citizens' freedom of the person by other means is prohibited, and unlawful search of the person of citizens is prohibited." (Constitution of the People's Republic of China, 14 March 2004, Article 37)

Article 3 of the new Criminal Procedure Law (CPL) of March 2012 provides that "[p]ublic security authorities are responsible for criminal investigation, detention, execution of arrest warrants, and interrogation in criminal cases" (CPL, 14 March 2012a, Article 3).

Article 51 of the new CPL stipulates:

> "A written request of a public security authority for approval of an arrest, an indictment of a people's procuratorate, and a sentence of people's court must be consistent with the truth. Where truth is withheld intentionally, liability shall be investigated." (CPL, 14 March 2012a, Article 51).

Article 153 of the new CPL stipulates in its article 153 that "[a] public security authority may directly issue a wanted notice within its jurisdiction; and, to issue a wanted notice beyond its jurisdiction, shall request a higher authority with the deciding power to issue such a [notice]" (CPL, 14 March 2012a, Article 153).

Article 78 of the same code reads:

> "Article 78 The arrest of a criminal suspect or defendant must be subject to the approval of a people's procuratorate or a decision of a people's court and be executed by a public security authority" (CPL, 14 March 2012a, Article 78)

Amnesty International (AI) notes the following legal provisions with regard to the imposition of residential surveillance which may be enforced both at the suspect's place of residence as well as at a "designated place of residence":

> "Article 73 of the Criminal Procedure Law (2012 amendment), which took effect on 1 January 2013, provides that in situations where the criminal suspect has a regular domicile, residential surveillance should be enforced at the suspect's place of residence. Nevertheless, it also provides that it may be enforced at a place outside of one's home at a 'designated place of residence', 'where there is suspicion of the crime of endangering national security, the crime of terrorism or major crimes of bribery, and residential surveillance at the domicile may impede the investigation' and 'may not be enforced at a detention facility or an investigation facility'. However, neither the amended Criminal Procedure Law nor the 2012 Rules for Public Security Organs on Procedure for Handling Criminal Cases specify the need on the part of the authorities to inform the family of the location where the suspect is detained." (AI, 11 January 2013)

Article 72 of the new CPL sets out the conditions in which a criminal suspect or defendant may be placed under residential confinement:

> "Article 72 Under any of the following circumstances, a people's court, a people's procuratorate, and a public security authority may place a criminal suspect or defendant who meets the arrest conditions under residential confinement: (1) the criminal suspect or defendant suffers a serious illness and cannot live by himself or herself; (2) the criminal suspect or defendant is a pregnant woman or a woman who is breastfeeding her own baby; (3) the criminal suspect or defendant is the sole supporter of a person who cannot live by himself or herself; (4) considering the special circumstances of the case or as needed for handling the case, residential confinement is more appropriate; or (5) the term of custody has expired but the case has not been closed, and residential confinement is necessary. Where a criminal suspect or defendant meets the conditions for bail but is neither able to provide a surety nor able to pay a bond, he or she may be placed under residential confinement. Residential confinement shall be executed by a public security authority." (CPL, 14 March 2012a, Article 72)

Article 73 of same law includes the following provisions governing the execution of residential confinement:

> "Article 73 Residential confinement shall be executed at the residence of a criminal suspect or defendant; or may be executed at a designated residence if the criminal suspect or defendant has no fixed residence. Where execution of residential confinement at the residence of a criminal suspect or defendant in a case regarding compromising national security, terrorist activities, or extraordinarily significant bribery may obstruct criminal investigation, it may be executed at a designated residence with the approval of the people's procuratorate or public security authority at the next higher level. However, residential confinement may not be executed at a place of custody or a place specially used for handling cases. If residential confinement is executed at a designated residence, the family of the person under residential confinement shall be notified within 24 hours after residential confinement is executed, unless such notification is impossible. Where a

criminal suspect or defendant under residential confinement retains a defender, the provisions of Article 33 of this Law shall apply. People's procuratorates shall oversee the legality of decisions and execution of residential confinement at a designated residence." (CPL, 14 March 2012a, Article 73)

Article 83 provides that "[w]hen detaining a person, a public security authority must produce a detention warrant". The same article also stipulates:

> "After a person is detained, the detainee shall be immediately transferred to a jail for custody, no later than 24 hours thereafter. The family of a detainee shall be notified within 24 hours after detention, unless such notification is impossible or such notification may obstruct criminal investigation in a case regarding compromising national security or terrorist activities. However, once such a situation that obstructs criminal investigation disappears, the family of the detainee shall be immediately notified." (CPL, 14 March 2012a, Article 83)

Article 84 states:

> "Article 84 A public security authority shall interrogate a detainee within 24 hours after detention. If it is discovered that the person should not have been detained, the person must be immediately released, and a certificate of release shall be issued to the person." (CPL, 14 March 2012a, Article 84)

Article 85 provides reads as follows:

> "Article 85 A public security authority shall prepare a written request for approval of arrest of a criminal suspect, which shall be submitted along with the case file and evidence to the people's procuratorate at the same level for examination and approval. When necessary, the people's procuratorate may send procurators to participate in the public security authority's discussion of a significant case." (CPL, 14 March 2012a, Article 85)

Further provisions regarding arrest procedures are set out in Articles 87 through 98 of the new CPL (CPL, 14 March 2012a, Articles 87-98).

The annual human rights report of the US Department of State (USDOS), which covers events of 2012, notes the following legal provisions pertaining to pre-trial detention:

> "Police detention beyond 37 days requires prosecutorial approval of a formal arrest. After arrest police are authorized to detain a suspect for up to an additional seven months while the case is investigated. After the completion of a police investigation, an additional 45 days of detention are allowed for the procuratorate to determine whether to file criminal charges. If charges are filed authorities can detain a suspect for an additional 45 days before beginning judicial proceedings. Police sometimes detained persons beyond the period allowed by law, and pretrial detention periods of a year or longer were common. The law stipulates that detainees be allowed to meet with defense counsel before criminal charges are filed. Some criminal defense attorneys noted that under the newly revised criminal procedure law their ability to meet with clients improved significantly. In some cases defense attorneys were able to arrange visits at any time and to have private

> meetings with their clients in detention centers. This generally did not apply to cases considered politically sensitive." (USDOS, 27 February 2014, section 1d)

As noted in Amnesty International (AI)'s annual report 2013 (covering events of 2012), "[p]olice arbitrarily deprived hundreds of thousands of people of their liberty by placing them in administrative detention, including RTL [re-education through labour] camps, without recourse to independent courts" (AI, 23 May 2013).

Jerome A. Cohen, a professor of law at New York University, states in a July 2013 commentary commissioned by Human Rights Watch (HRW):

> "The administration of criminal justice is still dominated by the police and the Party. The police still have enormous, virtually unfettered discretion in dealing with what they deem to be anti-social elements of all types. Some of the measures they impose are totally without legal foundation and often violate constitutional and legislative norms. Human rights activists, dissidents, protesters, petitioners, and their lawyers and families are frequent targets of illegal intimidation, threats, house arrest, kidnapping, beating, "black jails" and temporary internal exile [...]. The formal criminal process offers the police additional options. For up to one year they can prevent a suspect from leaving his locality by subjecting him to a type of bail arrangement. For six months they can subject him to very restricted house arrest, and this 'residential surveillance' is sometimes the pretext for confining the suspect incommunicado outside his own home for up to six months before deciding whether to release him or move him through the formal criminal process of detention, arrest, indictment, trial, judgment, sentencing and possibly appeal. Unless the hapless detainee can muster unusually good political connections or can benefit from large-scale protests, he has no effective means to challenge these coercive bail and residential surveillance measures, either via the procuracy, the courts, the local PLC or local legislators or officials." (Cohen, 25 July 2013)

Arbitrary detention is addressed in the October 2013 annual report of the Congressional-Executive Commission on China (CECC) as follows:

> "The UN Working Group on Arbitrary Detention defines the deprivation of personal liberty to be 'arbitrary' if it meets one of the following criteria: (1) There is clearly no basis in law for such deprivation; (2) an individual is deprived of his or her liberty for having exercised rights under the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR); or (3) there is grave noncompliance with fair trial standards set forth in the UDHR and other international human rights instruments. In addition to the many democracy and human rights advocates who continue to be arbitrarily detained in prison under the second and/or third criteria of the Working Group's definition above (e.g., Liu Xiaobo, Chen Wei, Chen Xi, Guo Quan, Li Tie, Zhu Yufu, Liu Xianbin, Gao Zhisheng, Ni Yulan, Wang Bingzhang), authorities also detain Chinese citizens arbitrarily using other venues and methods. Forms of arbitrary detention include, among others, 'soft detention' (ruanjin), 'black jails' (hei jianyu), shuanggui (a form of Party discipline), enforced disappearance, and various forms of administrative detention such as reeducation through labor, 'custody and education' (for

sex workers and their clients), and compulsory drug treatment centers. Many forms of arbitrary detention violate China's own laws." (CECC, 10 October 2013a, p. 79)

The US Department of State (USDOS) notes in its February 2014 annual report on human rights, which covers events of 2014:

> "Arbitrary arrest and detention remained serious problems. The law grants police broad administrative detention powers and the ability to detain individuals for extended periods without formal arrest or criminal charges." (USDOS, 27 February 2014, section 1d)

The same source also reports:

> "Authorities arrested persons on allegations of revealing state secrets, subversion, and other crimes as a means to suppress political dissent and public advocacy. These charges – including what constitutes a state secret – remained ill defined. Authorities also detained citizens and foreigners under broad and ambiguous state secrets laws for, among other actions, disclosing information on criminal trials, meetings, commercial activity, and government activity. Authorities sometimes retroactively labeled a particular action as a violation of the state secret laws." (USDOS, 27 February 2014, section 1d)

The same report also indicates that "[c]orruption at the local level was widespread" and that "[p]olice and urban management officials engaged in extrajudicial detention, extortion, and assault" (USDOS, 27 February 2014, section 1d).

As noted by Freedom House in its Freedom in the World 2013 report which covers the year 2012, "[n]ew forms of extralegal detention have multiplied in recent years" including "'black jails' for petitioners, psychiatric confinement of citizen activists, and disappearances of political dissidents for weeks or months at a time" (Freedom House, January 2013a).

The same source states in its Freedom in the World 2014 report on the year 2013:

> "In November [2013], the CCP Central Committee chosen at the party congress a year earlier convened for its crucial third plenum, announcing a series of modest reforms in the economic, social, and legal spheres. They included a decision to close the country's infamous 'reeducation through labor' camps, where individuals can be detained without trial, but the authorities continued to use various alternative forms of administrative or extralegal detention—as well as formal criminal charges with potentially longer sentences—to punish human rights defenders, anticorruption activists, petitioners, and religious believers." (Freedom House, 23 January 2014)

The Political Prisoner Database (PPD), which is operated by the Congressional-Executive Commission on China (CECC) provides a "List of Political Prisoners Detained or Imprisoned as of October 10, 2013", which comprises 1,308 cases:

> "As of October 10, 2013, the PPD contained information on a total of 7,333 cases of political or religious imprisonment in China. Of those, 1,308 are cases of political and religious prisoners currently known or believed to be detained or imprisoned, and 6,025 are cases of prisoners who are known or believed to have been released, or executed,

who died while imprisoned or soon after release, or who escaped. The CECC notes that there are considerably more than 1,308 cases of current political and religious imprisonment in China." (CECC, 10 October 2013b)

The Tibet Addendum of the USDOS annual report on human rights in 2013 notes with respect to the Tibetan areas:

"Arbitrary arrest and detention was a problem in Tibetan areas. With a detention warrant, police may legally detain persons for up to 37 days without formally arresting or charging them. Police must notify the relatives or employer of a detained person within 24 hours of the detention. Following the 37-day period, police must either formally arrest or release the detainee. Police frequently violated these requirements. It was unclear how many Tibetan detainees were held under the Re-education Through Labor (RTL) system or under other forms of detention not subject to judicial review." (USDOS, 27 February 2014, Tibet Addendum)

The Tibetan Centre for Human Rights and Democracy (TCHRD) reports:

"In Tibet, arbitrary arrests and detentions are commonplace occurences. A high number of arrests and detentions takes place without any explanations from the authorities, and family members and relatives are denied any information about their loved ones' whereabouts and condition. Many remain in secret detention without any access to a fair trial or access to their own choice of defense lawyers." (TCHRD, 17 January 2013a, p. 47)

The April 2013 annual report of the UK Foreign and Commonwealth Office (FCO) states:

"The use of unlawful and arbitrary measures to target human rights defenders continued during 2012. These included enforced disappearance, house arrest, restrictions on freedom of movement, communication and association, extrajudicial detention (including 're-education through labour' (RTL), 'black jails' and involuntary psychiatric committal) and harassment of family members." (FCO, April 2013)

The issue of enforced disappearance is reported by the CECC as follows:

"Police relied on enforced disappearance (usually in the name of 'residential surveillance') in the crackdown following the calls for Tunisian-style 'Jasmine' protests in China in February 2011 to such an extent that the UN Working Group on Enforced or Involuntary Disappearances issued a statement in April of that year expressing 'serious concern' about the wave of disappearances in China. The practice of enforced disappearance has not only continued since 2011, but is now codified in one of the most controversial revisions to the recently amended PRC Criminal Procedure Law (CPL), which took effect on January 1, 2013. Article 73, or 'the disappearance clause,' provides that 'residential surveillance' of up to six months may be carried out in a 'designated residence' (zhiding jusuo) – i.e., a place of the public security bureau's choosing that is not an officially recognized place of detention – when there is suspicion of the crime of endangering 'national security, terrorism, or serious bribery' and residential surveillance at the suspect's domicile may impede the investigation. Family members must be notified within 24 hours only of the fact of 'residential surveillance in a designated location' and not of the person's whereabouts

> or the basis of detention. [...] The individual is thus held incommunicado, increasing the likelihood that he or she will suffer torture or abuse." (CECC, 10 October 2013a, pp. 80-81)

In its Freedom on the Net 2013 report, Freedom House documents what it refers to as "covert detention":

> "State agents can abduct and hold individuals in secret locations without informing their families or legal counsel. This long-standing practice, which initially lacked a legal foundation, came into the spotlight in 2011 as authorities reacted to the threat of Arab Spring–style protests. Among dozens of cases reported that year, prominent artist and blogger Ai Weiwei was abducted and held from April to June 2011 and subsequently fined for alleged tax evasion." (Freedom House, 3 October 2013, pp. 27-28)

As reported by Amnesty International (AI) in October 2013, some 60 persons had been "criminally detained or subjected to enforced disappearance" during the previous few months in connection with the "New Citizens' Movement", a grass-roots anti-corruption movement, with 29 individuals "known to have been formally arrested" at the time of reporting (AI, 11 October 2013).

The arrests of activists affiliated with the New Citizen's Movement and other activists is reported in a Human Rights Watch (HRW) press release of October 2013:

> "The New Citizens Movement was established in May 2012. It advocates civic values including equality, justice, freedom, and the rule of law, and it rejects authoritarianism. [...] At least 18 activists affiliated with the movement, including the prominent activist Xu Zhiyong, have been arrested since April. They were taken into custody together with dozens of other activists who were not directly affiliated with the movement as part of the government's crackdown on activists and online expression. Many of the detained activists swept up in the current crackdown, including the three in Jiangxi, are charged with crimes such as 'gathering crowds to disturb order' and 'creating disturbances.'" (HRW, 24 October 2013)

As reported by the US Department of State (USDOS), "[a]uthorities resorted to extralegal measures such as enforced disappearance and strict house arrest, including house arrest of family members, to prevent public expression of independent opinions". The same source also lists "incommunicado detention, including prolonged illegal detentions at unofficial holding facilities known as 'black jails'" among human rights violations reported during the year 2013 (USDOS, 27 February 2014, Executive Summary).

The annual report of the UK Foreign and Commonwealth Office (FCO) of April 2013 notes:

> "The use of enforced disappearance and arbitrary detention to silence other human rights defenders, including activists Song Ze and Zhu Chengzhi, continued. Several, such as Shanghai academic Feng Zhenghu, spent prolonged periods under house arrest in 2012, while others, such as Sakharov Prize winner Hu Jia and environmental activist Sun Xiaodi,

continued to be subjected to periodic harassment and restrictions on their personal freedom." (FCO, April 2013).

3.4.1 Enforced disappearances of political activists' family members

Among the sources consulted by ACCORD within time constraints, no specific information could be found with regard to enforced disappearances of political activists' family members. The following sources report on cases where relatives of political activists were subjected to extralegal detention and imprisonment:

An overview of such cases is provided in the October 2013 annual report of the Congressional-Executive Commission on China (CECC):

> "During the 2013 reporting year, the Commission observed reports of ongoing official harassment of family members of rights defenders and political activists. Chinese authorities used a range of methods, such as intimidation, extralegal detention, imprisonment, and physical violence against these individuals.
>
> • Chen Guangcheng. Multiple family members of the prominent legal advocate Chen Guangcheng have suffered abuse in connection with Chen's rights advocacy in China and his departure to the United States in 2012. These include his nephew, Chen Kegui, who was sentenced in 2012 to three years and three months in prison for an alleged assault on a group of plainclothes officials and hired personnel who broke into his home in the middle of the night; his elder brother, Chen Guangfu; his sister-in-law, Ren Zongju; and his mother, Wang Jinxiang.
>
> • Hada. Xinna, the wife of rights advocate Hada, and the couple's son, Uiles, have spent years under surveillance, sometimes in detention centers, in connection to Hada's efforts to preserve Mongolian ethnic identity in Inner Mongolia. During this reporting year, authorities limited their rights to freedom of movement and communication.
>
> • Liu Xiaobo. Liu Xia, wife of Nobel Peace Prize laureate Liu Xiaobo, reportedly has been confined to her home under 24-hour surveillance since October 2010, without cell phone or Internet access. In June 2013, Chinese authorities sentenced Liu Xia's brother, Liu Hui, to 11 years in prison for fraud, but Liu Xia and others assert that Liu Hui's sentence is retribution against Liu Xiaobo and Liu Xia.
>
> • Rebiya Kadeer. Family members of Uyghur human rights activist Rebiya Kadeer have faced official persecution, including home eviction, loss of livelihood, and extralegal detention. One of her sons, Ablikim Abdureyim, is serving a nine-year prison term on the charge of 'instigating and engaging in secessionist activities.'
>
> Other family members of rights defenders and political activists who have been harassed and are mentioned in this report include Zhang Anni, the daughter of Zhang Lin; Liu Ying, the ex-wife of Liu Benqi; and some relatives of Zhu Yufu." (CECC, 10 October 2013a, pp. 161-162)

The case of Xinna, wife of imprisoned human rights advocate Hada, and their son Uiles is also reported by the Southern Mongolian Human Rights Information Center (SMHRIC):

As reported in a February 2013 article by the Southern Mongolian Human Rights Information Center (SMHRIC), Xinna and Uiles, the wife and son of detained activist Hada, had gone missing again since around late January 2013 (SMHRIC, 24 February 2013).

The same source reports in early November 2012 that Xinna and Uiles had disappeared again at some point during the previous two weeks. Shortly before disappearing, they had spoken out about "the violation of their human rights and the authorities" refusal to address Hada's deteriorating health condition" in interviews with several news agencies (SMHRIC, 7 November 2012).

The Christian Science Monitor (CSM) quotes Human Rights Watch (HRW) researcher Nicholas Bequelin as saying that "[p]ersecuting relatives is part of the arsenal deployed against dissidents, critics and whistleblowers as a matter of routine" (CSM, 23 April 2013).

As reported by the BBC, Liu Hui, the brother-in-law of the imprisoned Nobel laureate Liu Xiaobo, was sentenced to eleven years in prison on fraud charges in June 2013. This sentence was upheld in August 2013 (BBC News, 16 August 2013). The April 2013 CSM article states that Liu Xia, the wife of Liu Xiaobo (and sister of Liu Hui) has been "confined to her Beijing apartment by plainclothes guards almost permanently since her husband's arrest, despite the fact that she has never been accused of any crime". The same article further quotes the brother of blind legal activist Chen Guangcheng, Chen Guangfu, as saying that he and his family are facing constant surveillance by plainclothes police. After activist Chen Guangcheng escaped from house arrest and emigrated to the United States, Chen Guangfu's son (and Chen Guangcheng's nephew) was sentenced to 39 months in prison on charges of assault and "told by officials that if he appeals against the sentence he will be locked up for life", according to Chen Guangfu (CSM, 23 April 2013).

In his July 2013 commentary commissioned by Human Rights Watch (HRW), New York University law professor Jerome A. Cohen illustrates the case of Chen Guangcheng's nephew, Chen Kegui, as follows:

> "Shortly after learning that Kegui's uncle, the famous blind 'barefoot lawyer,' had escaped from their illegal home imprisonment of him and his family, over 30 police, thugs and local officials staged a lawless after-midnight break-in of the farmhouse where Kegui, his parents and his wife and child lived. In apparently attempting to defend himself and his family against the infuriated invaders' brutal beating, Kegui, having been wounded himself, used a kitchen knife to wound three of the attackers. Kegui was held incommunicado in the county detention center from late April 2012 until put on trial on November 30. No family, friends, or lawyers of his choice were permitted to see him. [...] After he received a sentence of three years and three months, the local lawyers who had been foisted on him would not even tell his parents, who had been detained in a police van outside the courthouse, what had taken place." (Cohen, 25 July 2013)

As reported by Amnesty International (AI) in July 2012, "[a]uthorities in Xinjiang have detained, threatened and intimidated families seeking information about missing relatives" while "dozens, if not hundreds, of Uighurs remain subjected to enforced disappearance by the authorities" in connection with the July 2009 ethnic protests (AI, 4 July 2012).

For information on the treatment of political activists, please refer to section 0 of this compilation.

3.5 Unfair trial of political dissidents

Freedom House states in its report Freedom in the World 2014, published in January 2014:

> "Adjudication of minor civil and administrative disputes is fairer than in politically sensitive or criminal cases." (Freedom House, 23 January 2014)

The Congressional-Executive Commission on China (CECC) notes in its annual report of October 2013 that "Chinese criminal defense lawyers and suspects in free speech cases continued to face substantial obstacles in ensuring that courts upheld procedural safeguards and the right to a fair trial" (CECC, 10 October 2013a, p. 62).

The UK Foreign and Commonwealth Office (FCO) notes in its 2012 annual report, published April 2013, that human rights activists "continued to be subjected to criminal charges and procedurally flawed trials, often involving the poorly defined category of offences encompassing 'endangering state security' (FCO, April 2013).

As reported by AI in May 2013, critics of the state "were frequently charged with 'endangering state security', 'inciting subversion of state power' and 'leaking state secrets', and were sentenced to long prison terms, in many cases, for posting blogs online or communicating information overseas that was deemed sensitive" (AI, 23 May 2013).

The US Department of State (USDOS) indicates in its February 2014 annual report on human rights covering events of 2013:

> "In many politically sensitive trials courts handed down guilty verdicts immediately following proceedings with no deliberation. Courts often punished defendants who refused to acknowledge guilt with harsher sentences than those who confessed. The appeals process rarely reversed convictions. Appeals processes failed to provide sufficient avenues for review, and remedies for violations of defendants' rights were inadequate." (USDOS, 27 February 2014, section 1d)

> "Some lawyers declined to represent defendants in politically sensitive cases, and such defendants frequently found it difficult to find an attorney. [...] When defendants were able to retain counsel in politically sensitive cases, government officials sometimes prevented attorneys from organizing an effective defense. Tactics employed by court and government officials included unlawful detentions, disbarment, harassment and physical intimidation, and denial of access to evidence and to clients." (USDOS, 27 February 2014, section 1e)

The US Department of State (USDOS) notes in its annual report on human rights in 2013:

> "During the year media sources indicated public security authorities used televised confessions of foreign and domestic bloggers, journalists, and business executives in an attempt to establish guilt before their criminal trial proceedings began." (USDOS, 27 February 2014, section 1e)

Freedom House notes in its report Freedom on the Net 2013:

> "Trials and hearings lack due process, often amounting to little more than sentencing announcements, and detainees frequently report abuse in custody, including torture and lack of medical attention." (Freedom House, 3 October 2013, p. 25)

The same source states in its Freedom in the World 2014 report, which covers the year 2013, that "local officials routinely intercept and harass petitioners, at times detaining them in illegal 'black jails' and labor camps to stop them from visiting Beijing" and that "[d]etained petitioners are reportedly subject to beatings, psychological abuse, and sexual violence" (Freedom House, 23 January 2014).

Several sources report on the trial of three activists of the New Citizens Movement, Liu Ping Wei Zhongping and Li Sihua, who were detained in April 2013 after holding up signs in public calling for high-ranking officials to disclose their assets (RFA, 29 October 2013; NYT, 28 October 2013; BBC News, 28 October 2013). The RFA article quotes their lawyers as saying that they were detained for a period longer than the three months permitted under the Criminal Procedure Law (CPL). The ensuing initial judicial proceedings against Liu, Wei and Li are reported with reference to statements made by their lawyers:

> "Their six lawyers, Zhang Xuezhong, Zheng Jianwei, Liu Jinbin, Chen Guangwu, Pang Kun, and Li Jinxing called on Monday for the presiding judges at Xinyu's Yushui District People's Court to step down, citing a lawsuit filed on Oct. 15 protesting the activists' prolonged detention ahead of the trial. Liu, Wei and Li then effectively dismissed their legal team, saying that their case hadn't received a fair hearing, and the attorneys walked out. Zheng, acting for Liu, said on Tuesday: 'The court was unable to support an effective defense on the part of the lawyers, and didn't respect due process,' he said. 'The three defendants then dissolved the obligations of their six lawyers.'" (RFA, 29 October 2013)

As reported by Radio Free Asia (RFA), "[a]uthorities in the southwestern Chinese province of Sichuan on Friday put on trial seven members of the banned Falun Gong spiritual movement with no legal representation, after their lawyers were prevented from entering the courtroom" (RFA, 18 October 2013).

Amnesty International (AI) reports on the case of housing rights activist Ni Yulan and her husband Dong Jiqin:

> "Housing rights activist Ni Yulan was released on 5 October after serving two years and six months in Tiantanghe Women's Prison in Beijing. She has been reunited with her family, including her husband Dong Jiqin, who was released from prison on 5 April. [...] Both Ni Yulan and Dong Jiqin were detained on 7 April 2011 on suspicion of 'picking

> quarrels and provoking trouble'. They were formally arrested on the same charge on 17 May 2011. The charge of 'fraud' was later added in the case of Ni Yulan. On 10 April 2011, Ni Yulan was sentenced to two years and eight months in prison for 'picking quarrels and making trouble' and 'fraud'. Her husband, Dong Jiqin, was sentenced to two years' imprisonment for 'picking quarrels and making trouble'. Their trial did not meet international fair trial standards. They appealed and in July 2012, the Beijing Municipal No.1 Intermediate People's Court overturned Ni Yulan's sentence for 'fraud'. However, the court upheld her and her husband's sentences for 'picking quarrels and provoking trouble'." (AI, 8 October 2013)

The US Department of State (USDOS) notes in the Tibet Addendum to its annual human rights report of February 2014:

> "In cases that authorities claimed involved 'endangering state security' or 'separatism,' trials often were cursory and closed. Authorities sentenced Tibetans for alleged support of Tibetan independence regardless of whether they were alleged to have committed violent acts." (USDOS, 27 February 2014, Tibet Addendum)

For more information on the treatment of political dissidents, please refer to section 0 of this compilation.

For more information on the treatment of lawyers, please refer to section 4.4 of this compilation.

3.6 Unlawful or disproportionate punishment for crimes

Court sentences

As reported by Amnesty International (AI) in December 2011, activist Chen Wei was sentenced to nine years in prison for 'inciting subversion of state power' after allegedly posting online and "sending to overseas organizations" articles that were critical of the Chinese Communist Party (CCP). According to AI's Deputy Director for Asia-Pacific, this was "the toughest sentence given to anyone who was arrested and charged during the so-called Jasmine crackdown, when the government rounded up activists out of fear for potential demonstrations inspired by the Middle East and North Africa" (AI, 24 December 2011).

According to a February 2013 Reuters report, a court in Qidong city sentenced 16 people "to 12 to 18 months in prison" for having been involved in an envioronmental protest in July 2012. However, 13 of them "were given a reprieve on the grounds that they had confessed and repented" (Reuters, 7 February 2013).

As reported by BBC News, Liu Hui, the brother-in-law of the imprisoned Nobel laureate Liu Xiaobo, was sentenced to eleven years in prison on fraud charges in June 2013. This sentence was confirmed in August 2013 (BBC News, 16 August 2013). In June 2013, reporting on the earlier verdict, the BBC states that "[t]he lawyer defending Liu Hui said the jail term was out of

all proportion to the alleged offence" and that "[h]e said it should have been treated as a civil dispute, not a criminal matter" (BBC News, 9 June 2013).

In September 2013, Radio Free Asia (RFA) reports on the execution of street vendor Xia Junfeng in the city of Shenyang who was convicted for killing two members of the "urban management" (chengguan) force (RFA, 25 September 2013). The killings took place after his detention for "hawking". As noted by the BBC, Xia "argued that he had acted in self-defence after the men attacked him" (BBC News, 25 September 2013). As reported by RFA, human rights lawyers in Beijing stated that his death sentence was disproportionate to his crime. Rights lawyer Li Heping is quoted as saying that he "discussed this case with 18 other lawyers", with "many of them" believing "that Xia Junfeng acted in self-defense and that he should have been released without charge." (RFA, 25 September 2013)

A February 2013 press release by Human Rights Watch (HRW) reports on sentences handed down to Lorang Konchok, a monk, and his nephew Lorang Tsering, a former monk:

> "On January 31, 2013, the Intermediate People's Court of the Aba Tibetan and Qiang Autonomous Prefecture sentenced Lorang Konchok to death with two years' reprieve and his nephew, Lorang Tsering, to 10 years in prison on charges of 'intentional homicide' in connection with the self-immolation protests of other Tibetans. [...] According to Chinese state media reports of the trial, both men confessed to trying to 'goad' or 'incite' eight people to self-immolate since 2010, three of whom died, on instructions from 'the Dalai Lama clique.' Those confessions were made public in December, after the men had been in detention for four months." (HRW, 1 February 2013)

The same report notes that "[s]ince mid-2011, the Chinese government has detained and prosecuted at least a dozen people who have allegedly been associated with immolations" (HRW, 1 February 2013).

An April 2013 press release by Amnesty International (AI) points to the case of "Li Yan, a woman sentenced to death for killing her husband, despite evidence that she had suffered sustained domestic violence" (AI, 16 April 2013).

The Freedom House report Freedom on the Net 2013 states:

> "Members of religious and ethnic minorities face particularly harsh treatment for transmitting information abroad and accessing or disseminating banned content. In the aftermath of ethnic violence in Tibet in 2008 and Xinjiang in 2009, local courts imposed prison sentences on at least 17 individuals involved in websites that reported on Tibetan or Uighur issues, often in closed trials. Many details of the charges and sentences were not reported even to the defendants' families, but at least two Uighur website managers, Memetjan Abdulla and Gulmire Imin, were jailed for life. After more unrest in Xinjiang in 2013, at least 20 individuals were sentenced because they supposedly 'used the Internet, mobile phones and digital storage devices to organize, lead and participate in terror organizations, provoke incidents, and incite separatism.' [...] Three other extrajudicial

> measures used to punish internet users are detention in 'reeducation through labor" camps, house arrest, and covert detention.'" (Freedom House, 3 October 2013, p. 26)

Freedom House states in its Freedom of the Press 2013 report:

> "[F]reelance journalists, writers, online activists, and a range of other Chinese citizens continue to be sentenced to prison or labor camps, particularly for disseminating information online or sending it to contacts outside China." (Freedom House, 1 May 2013)

In August 2012, RFA reports with reference to state media reports that courts in the cities of Urumqi, Aksu and Kashgar sentenced "20 people, all believed to be Uyghurs" to prison sentences "between 18 months and 15 years for 'plotting terrorist activities'". The convicted had been accused of "using the internet to 'spread separatism'" (RFA, 2 August 2012).

In July 2013, the US current affairs magazine The Atlantic reports on the execution of Zeng Chengjie, a businessman convicted of illegal fundraising and financial fraud:

> "Zeng Chengjie, a self-made businessman who pulled himself up by the bootstraps from abject poverty to become a powerful real estate developer, was showered with accolades and superfluous praises for most of his life. [...] Zeng was executed on July 12, 2013 by lethal injection. His crimes were illegal fundraising activities and financial fraud. He allegedly defrauded more than 57,000 investors out of approximately RMB 2.8 billion (US $460 million), of which RMB 1.7 billion had been returned. He used the money to fund his company that bid for urban development projects, including key local landmarks and public facilities, in Jishou, a small city in Hunan. Zeng's family was not notified before his execution, and did not see his body before it was cremated." (Atlantic, 15 July 2013)

The state-owned Xinhua news agency reports on the death penalty case of Wu Ying, a businesswoman sentenced for defrauding investors:

> "A Chinese court on Monday imposed a lighter penalty on Wu Ying, who has been convicted of financial fraud, after her initial death sentence sparked heated debates over China's fund-raising system and calls for using capital punishment prudently. Following a retrial, the Higher People's Court (HPC) of east China's Zhejiang Province sentenced the 31-year-old businesswoman to death with a two-year reprieve. The court's final judgement also ordered that all Wu's personal property be confiscated and that she be stripped of her political rights for life. [...] In December 2009, Wu, the former owner of the Zhejiang-based Bense Holding Group, was sentenced to death by the Jinhua Intermediate People's Court (IPC) for cheating investors out of 380 million yuan (60.2 million U.S. dollars). Wu raised 770 million yuan by promising investors high returns from May 2005 to January 2007, the intermediate court found. [...] Despite Wu's appeal, the Zhejiang HPC upheld the death sentence without reprieve on Jan. 18. But the Supreme People's Court overrode the ruling on April 20 and sent the case back to the Zhejiang HPC for re-sentencing." (Xinhua, 21 May 2012)

Arbitrary or unlawful killings and abuse of detainees

The US Department of State (USDOS) annual human rights report 2013 lists "extrajudicial killings, including executions without due process" among human rights violations reported during the year 2013 (USDOS, 27 February 2014, Executive Summary). The Tibet Addendum of the same report notes the occurrence of extrajudicial killings and torture in the Tibetan areas during 2013 (USDOS, 27 February 2014, Tibet Addendum, Executive Summary). The same human rights abuses are also reported in the previous USDOS human rights report and Tibet addendum which cover the year 2012 (USDOS, 19 April 2013, Executive Summary; USDOS, 19 April 2013, Tibet Addendum, Executive Summary).

The USDOS human rights report for 2013 on China notes that "[d]uring the year security forces reportedly committed arbitrary or unlawful killings" and that "[i]n many instances few or no details were available." With regard to the extent of impunity, the report states:

> "It was not clear to what extent impunity was a problem. Following cases of killings by police, there often was an announcement that an investigation was to be conducted, but it was not clear whether there were any findings of police malfeasance or any cases in which police were disciplined." (USDOS, 27 February 2014, section 1a)

The annual human rights report for the year 2012 states in its that "the government did not report official statistics regarding deaths in custody" (USDOS, 19 April 2013, section 1a). No information on this issue could be found in the USDOS annual human rights report which covers the year 2013 (USDOS, 27 February 2014).

The USDOS annual human rights report on the year 2013 indicates that "[d]efendants in criminal proceedings were executed following convictions that lacked due process and adequate channels for appeal" (USDOS, 27 February 2014, section 1a).

The Tibet Addendum of the same report states that "[t]here were reports that the government or its agents committed arbitrary or unlawful killings" while "[t]here were no reports that officials investigated or punished those responsible for such killings" (USDOS, 27 February 2014, Tibet Addendum).

Torture and abuse of detainees are addressed by the Congressional-Executive Commission on China (CECC) as follows:

> "Despite the Chinese government's continued efforts to address the problem, torture and abuse in police stations, detention centers, prisons, administrative detention facilities, and secret detention sites remain widespread in China." (CECC, 10 October 2013a, p. 83)

The US Department of State (USDOS) indicates in its annual human rights report for the year 2013:

> "The law prohibits the physical abuse of detainees and forbids prison guards from extracting confessions by torture, insulting prisoners' dignity, and beating or encouraging others to beat prisoners. Amendments to the criminal procedure law that exclude

> evidence, including confessions, obtained through illegal means, including under torture in certain categories of criminal cases, took effect on January 1 [2013]. Numerous former prisoners and detainees reported that they were beaten, subjected to electric shock, forced to sit on stools for hours on end, deprived of sleep, and otherwise subjected to physical and psychological abuse. Although ordinary prisoners were subjects of abuse, prison authorities singled out political and religious dissidents for particularly harsh treatment. In some instances close relatives of dissidents also were singled out for abuse." (USDOS, 27 February2014, section 1c)

The same source notes that "[t]here were widespread reports of activists and petitioners being committed to mental-health facilities and involuntarily subjected to psychiatric treatment for political reasons" (USDOS, 27 February 2014, section 1c).

3.7 Death penalty

The US Department of State (USDOS) notes that "[t]he criminal code contains 55 capital offenses, including nonviolent financial crimes such as embezzlement and corruption" and that "[l]ethal injection and shooting were employed as execution methods" (USDOS, 27 February 2014, section 1e).

The country of origin report of the Dutch Ministry of Foreign Affairs (BZ) states that the 55 capital offences include the following: 1) political crimes such as revealing military secrets and counter-revolutionary activities, 2) offences including murder, drug trafficking, trafficking in women and children, arson, smuggling, spread of superstitious beliefs by so-called "evil sects", vandalism, pimping and group fighting and 3) economic crimes such as theft, bribery, corruption, embezzlement, tax evasion, forgery, bank fraud, use of false documents and filing false insurance claims. (BZ, 11 December 2012, p. 56)

The same BZ report indicates that "[t]he Criminal Code does not contain an article that lists all the offenses for which the death penalty may be imposed". The report further explains that the eighth amendment of the Criminal Law (2011) exempted 13 statutory offences from capital punishment, thereby reducing the number of capital offences to 55. (BZ, 11 December 2012, p. 56)

Referring to the eighth Amendment to the Criminal Law, however, the BBC states that offences for which the death penalty was removed included fraud on financial instruments, fabricating tax invoices, smuggling precious metal, smuggling cultural relics and theft (BBC News, 24 February 2012).

The state-run Xinhua news agency reports on the following changes in legal provisions introduced by the 2011 amendment of the Criminal Code:

> "China's newly revised Criminal Law has reduced the number of crimes punishable by death by 13 to 55. [...] It was the first time the People's Republic of China has reduced the number of crimes subject to the death penalty since the Criminal Law took effect in 1979. [...] According to the SPC, the court has overturned 10 percent of death sentences nationwide since 2007. The amendment also stipulates that the death penalty will not be

> imposed on people aged 75 or older at the time of trial, except if they had committed a murder with exceptional cruelty. Previously, only convicts younger than 18 when the crime was committed, and pregnant women at the time of the trial, were exempted from capital punishment." (Xinhua, 25 February 2011)

The US-based human rights group Dui Hua states on its website that it has "reported an estimated 4,000 executions in 2011" and an estimated 3,000 executions in 2012 (Dui Hua, undated).

The 2012 annual report of the UK Foreign and Commonwealth Office (FCO) notes that "[t]he number of executions per year has reportedly halved since the Supreme People's Court took back the power of final review over death sentences in 2007, although the number of executions continues to be a state secret".However, the source adds that "[i]nformed estimates currently place the figure at around 4,000–5,000 per year" (FCO, April 2013).

An Amnesty International (AI) report on death sentences and executions in 2012 states:

> "Since 2009, Amnesty International has stopped publishing estimates on the use of the death penalty in China, where data on the use of the death penalty is considered a state secret. The lack of reliable data does not allow Amnesty International to publish credible minimum figures for the use of the death penalty in the country [...]." (AI, 2013, p. 2)

> "Claims by officials from the Supreme People's Court that the total number of executions has more than halved since the court resumed reviewing all death sentences in 2007 have yet to be proven. Death sentences continued to be imposed after unfair trials and for offences, such as drug-trafficking or financial crimes [...]. No procedures for death row prisoners to seek pardon or commutation of their sentence were established under national legislation." (AI, 2013, p. 19)

The Congressional-Executive Commission on China (CECC) quotes Yi Yanyou, a law professor at Tsinghua university, as putting the number of executions "at over 2,000" (CECC, 10 October 2013a, p. 84).

The Amnesty International (AI) briefing of July 2013 reports on changes in legal provisions pertaining to death penalty cases, as stipulated in the amended Criminal Procedure Law (CPL) of 2012 which entered into force in January 2013:

> "The new CPL Article 34 requires not only the courts but also the procuratorate and the police to inform legal aid organizations that they should assign a defence lawyer to all suspects or defendants who potentially face life imprisonment or the death penalty and have not themselves designated a defence lawyer. However, there is no concomitant responsibility of the legal aid organization or timeframe for their compliance stipulated in the amended law. Legal scholars within China have called for greater clarification to establish beyond doubt in the law that legally aided defence is available at all stages of the process in capital cases. They have also called for clearer delineation of the role and responsibility of defence lawyers in the appeal and final review process. In a positive step, the new CPL (Article 121) provides that interrogations of criminal suspects may be

recorded or videotaped; however for suspects facing a potential death sentence or life imprisonment, it is mandatory for interrogations to be recorded in full. Regrettably, as noted above, suspects are still not guaranteed the right to have a lawyer in attendance during interrogations. It is furthermore a positive step that Article 223 of the new CPL requires courts of second instance [appellate courts] to hold a court hearing, in which evidence is reviewed, in appeal cases where the defendant has been sentenced to death. This removes the discretion not to do so, which was possible under the old law. Previously, in January 2007, the power to 'review and approve' all death sentences was returned to the SPC. New CPL Article 239 broadens the SPC's authority and provides some additional detail regarding the process of review. In addition to remanding a case for retrial back to the courts of first or second instance, if the SPC does not approve a death sentence, it may now also change the sentence (gaipan). Article 240 of the new CPL further requires the SPC to 'hear the opinion of the defence attorney' if the latter requests this and to 'question the defendant' during the review process. While these are positive steps, they are regrettably limited, and the amended CPL fails to provide clear guidelines regarding the final SPC review of death sentences. For instance, it remains unclear if the new law requires the SPC to question the defendant in person, or whether it would be adequate for this to be done by video relay through the intermediary of a lower level court, which was previous practice. [...] The new law also does not make clear exactly how the court should 'listen to the opinion' of the defence lawyer, for instance whether this should be done in person and what type of format is intended." (AI, 15 July 2013, pp. 21-22)

3.8 Types of detention

Freedom House states in its Freedom in the World 2014 report that "[o]verall, detention facilities are estimated to hold three to five million people" (Freedom House, 23 January 2014).

As reported by Human Rights Watch (HRW), "[h]uman rights defenders in China regularly face police harassment, house arrest, short-term detention, 'reeducation through labor [RTL],' forcible commitment to psychiatric facilities, or imprisonment on criminal charges, often on state security or public order grounds" (HRW, 31 January 2013).

In its October 2013 annual report, the Congressional-Executive Commission on China (CECC) notes that "[d]espite the Chinese government's continued efforts to address the problem, torture and abuse in police stations, detention centers, prisons, administrative detention facilities, and secret detention sites remain widespread in China" (CECC, 10 October 2013a, p. 83).

The US Department of State (USDOS) notes that "[i]nformation about prisons, including associated labor camps and factories, was considered a state secret," but notes that the Minister of Justice stated "[i]n an April 2012 report to the NPC Standing Committee [...] that the country had 681 prisons with 1.64 million inmates." The USDOS further states that "the government did not permit independent monitoring of prisons or RTL camps" and that "[a]uthorities did not allow the International Committee of the Red Cross to have access to prisoners or perform prison visits in the country." (USDOS, 27 February 2014, section 1c)

The USDOS goes on to say that "[c]onditions in penal institutions for both political prisoners and criminal offenders were generally harsh and often degrading" while "[c]onditions in administrative detention facilities, such as RTL camps, were similar to those in prisons". The same source states that "[b]eating deaths occurred in administrative detention and RTL facilities" and that "[d]etainees reported beatings, sexual assaults, lack of proper food, and limited or no access to medical care." (USDOS, 27 February 2014, section 1c)

3.8.1 Criminal detention

As provided in Article 42 of the Criminal Law, amended as of March 1997, "[a] term of criminal detention shall be not less than one month but not more than 6 months" (Criminal Law, 14 March 1997, Article 42).

The annual report of the Congressional-Executive Commission on China (CECC) of October 2013 states:

> "During the Commission's 2013 reporting year, as in previous years, developments in criminal justice were driven by the Chinese government's and Communist Party's top priorities: maintaining 'social stability' and ensuring the Party's continued monopoly on political power. The Commission observed the politically motivated use of criminal law and police power to suppress dissent and perceived challenges to Party rule. The arrest of anticorruption campaigners and well-known rights activist Xu Zhiyong, as well as the criminal detention of prominent human rights advocate Guo Feixiong (aka Yang Maodong), are just several examples from this reporting year of the Party's use of criminal law to silence its critics." (CECC, 10 October 2013a, p. 77)

3.8.2 Administrative detention

The October 2013 annual report of the Congressional-Executive Commission on China (CECC) notes that "[t]here are several different forms of administrative detention in China, including reeducation through labor (RTL); 'custody and education' (shourong jiaoyu), which is applied to sex workers and their clients; and 'custody and rehabilitation' (shourong jiaoyang), which targets juvenile delinquents (under the age of 16)." (CECC, 10 October 2013a, p. 81)

The same source further explains:

> "Administrative punishments can range from a warning or fine to detention in a reeducation through labor (RTL) center for up to three years, with the possibility of a one-year extension. Forms of administrative detention include, among others, short-term detention under the Public Security Administration Punishment Law, RTL, forced psychiatric commitment, forced drug detoxification, and work-study schools." (CECC, 10 October 2013a, p. 214, footnote 10)

Referring to data from the Ministry of Justice and Human Rights Watch (HRW), an article by the BBC of November 2013 states: that there were "260 labour camps holding 160,000 inmates" at the start of the year 2013 (BBC News, 20 November 2013). According to testimony provided to the Congressional-Executive Commission on China (CECC) by Harry

Wu, executive director of the Laogai Research Foundation, "an estimated 300 - 400 labor camps exist in China", with "an estimated 200,000-300,000 inmates" (CECC, 9 May 2013a, p. 2).

As noted by the US Department of State (USDOS) in its annual human rights report of February 2014, "[a]uthorities used administrative detention to intimidate political activists and prevent public demonstrations" (USDOS, 27 February 2014, section 1d).

Human Rights Watch states in a report published in May 2013:

> "Due process protections are virtually absent from the administrative detention systems in which prostitution offenders are held. As noted above, defendants are not entitled to a lawyer, and a sentence to administrative detention is not decided by a court but by a committee headed by the police. There are no meaningful procedures to appeal or seek remedies for procedural violations. As a result, both the Custody and Education system, which is administered by the Ministry of Public Security, and Re-education Through Labor (RTL), which is administered by the Ministry of Justice, constitute forms of arbitrary detention under international law since they allow individuals to be deprived of their liberty without due process of law. Past research conducted on these institutions has documented widespread abuses, including arbitrary detention, forced labor, and physical and psychological abuse." (HRW, 14 May 2013, p. 16)

> "In the Chinese legal system, individuals suspected of administrative offences enjoy far fewer procedural protections than do suspects in the criminal system. On paper, those charged with crimes are entitled to access to a lawyer within 48 hours of detention, among other defense rights, and are tried and sentenced by a court composed of a three-judge bench rather than police. In practice, however, the procedural rights of criminal suspects are also routinely violated and ignored by the judicial system." (HRW, 14 May 2013, pp. 17-18)

Amnesty International (AI) states in a media briefing of November 2012:

> "Illegal forms of detention, including prolonged house arrest without legal grounds, detention in 'Black Jails', 'political education centres', psychiatric institutions, and unidentified 'hotels' remain common." (AI, 2 November 2012a)

The UK Foreign and Commonwealth Office (FCO) states in its April 2013 annual report:

> "The use of unlawful and arbitrary measures to target human rights defenders continued during 2012. These included enforced disappearance, house arrest, restrictions on freedom of movement, communication and association, extrajudicial detention (including 're-education through labour' (RTL), 'black jails' and involuntary psychiatric committal) and harassment of family members. [...] The use of extrajudicial and extra-legal forms of detention persisted, including in 'black jails', house arrest and involuntary psychiatric committal. Use of RTL, effectively a form of arbitrary detention, also remained widespread. Public security organs can order the administrative detention of an individual without trial for RTL for up to three years, with the possibility of up to a year's extension. Although RTL

is meant to be used to punish minor offences, it is also used to silence petitioners, Falun Gong practitioners and human rights defenders. There continued to be reports of abuse, mistreatment and torture in RTL facilities." (FCO, April 2013)

"Re-education through labour/Reform through labour" (RTL, laojiao)

A May 2013 report of the Congressional-Executive Commission on China (CECC) describes the Re-education through Labour (RTL) system as follows:

> "Reeducation through labor refers to the system of extra-judicial 'detention and punishment administratively imposed on those who are deemed to commit minor offenses but are not legally considered criminals.' [...] [A]uthorities frequently use RTL to punish, among others, petitioners, dissidents, drug users, sex workers, Falun Gong practitioners, and individuals who belong to religious groups not approved by the government." (CECC, 9 May 2013b, p. 3)

Human Rights Watch (HRW) notes that while RTL is "in principle reserved for minor crimes that do not qualify for criminal punishment[,] [...] the police have also long used it as an expedient tool for suppressing dissent and incarcerating government critics, petitioners, whistle-blowers, rights activists, members of underground Christian churches or banned religious sects, and others deemed a 'threat' to public order" (HRW, 15 November 2013).

A March 2013 report by the Congressional Research Service (CRS) provides the following estimates on numbers and categories of persons detained in Re-education Through Labour (abbreviated here as RETL) facilities:

> "According to some estimates, between 2% and 10% of the RETL population is sent there for political reasons. Many Falun Gong adherents were sent to RETL camps during the height of the crackdown on their group a decade ago, at one time reportedly constituting from one-quarter to one-half of all detainees. Estimates of the RETL population vary, from roughly 160,000 to 260,000 persons. According to one source, drug offenders constitute the largest group in the RETL system, or about 200,000 people." (CRS, 15 March 2013, p. 8)

The US Department of State (USDOS) notes:

> "Before the December 28 [2013] NPC Standing Committee decision to abolish RTL, nonjudicial panels, known as "labor re-education panels," could remand persons to RTL camps for up to three years without trial. Labor re-education panels were authorized to extend these administrative sentences for up to one year. Detainees were technically allowed to challenge administrative RTL sentences and appeal for sentence reduction or suspension, but appeals were rarely successful." (USDOS, 27 February 2014, section 1d)

The Congressional-Executive Commission on China (CECC) similarly states:

> "The RTL management committees are able to order citizens, without legal proceedings or due process, to serve a period of up to three years of forced labor with the possibility of up to a one-year extension." (CECC, 9 May 2013b, pp. 3-4)

The US Department of State (USDOS) notes in its Trafficking in Persons Report of June 2013:

> "State-sponsored forced labor is part of a systematic form of repression known as 're-education through labor.' The government reportedly profits from this forced labor, and many prisoners and detainees in at least 320 of these facilities were required to work, often with no remuneration. The prisoners were sometimes beaten for failing to complete work quotas. NGO reports state that forced labor is also a problem in government drug detention centers." (USDOS, 19 June 2013)

A November 2013 article by the state-run Xinhua news agency quotes Professor Chen Weidong of Renmin University of China as saying that the RTL (laojao) system "can be harsher than a penalty imposed by a court" in view of the fact that the lightest penalty under the Criminal Law amounts to three months to two years of home arrest under surveillance and the second lightest is one to six months in a police detention facility (Xinhua, 15 November 2013a).

The annual report of the Congressional-Executive Commission on China (CECC) of October 2013 notes the following developments:

> "There have been reports of RTL centers releasing detainees ahead of their scheduled release dates and of centers being repurposed as compulsory drug treatment centers. Compulsory drug treatment centers, however, present the same legal problems and human rights issues as RTL, and they violate both Chinese and international law." (CECC, 10 October 2013a, p. 81)

Freedom House notes in its report Freedom in the World 2014:

> "Following years of such pressure, the authorities in January [2013] had issued a preliminary announcement that the decades-old network of 'reeducation through labor' camps, which permit individuals to be held for up to four years without a judicial hearing, would be abolished by year's end. The camps were believed to hold several hundred thousand citizens, including a substantial contingent of political and religious prisoners, alongside petty criminals, prostitutes, and drug offenders. Throughout the year, the media and human rights groups reported the closure of camps and the release of prisoners, including prisoners of conscience." (Freedom House, 23 January 2014)

A November 2013 article by the state-run Xinhua news agency reports on the announcement of a decision to abolish the RTL system, approved by the Third Plenary Session of the 18th CPC Central Committee (Xinhua, 15 November 2013a).

In late December 2013, Xinhua reports that the Standing Committee of the National People's Congress (NPC) announced the passing of a resolution, which was due to take effect on 28 December 2013, that "abolishes legal documents on 'laojiao' (reeducation through labor)". As indicated in the report, "[t]he resolution stresses that all legal laojiao penalties before the abolition of the system remain valid, but after abolition, those still serving laojiao time will be set free" and "[t]heir remaining terms will not be enforced." (Xinhua, 28 December 2013).

The Freedom House states in its report Freedom in the World of January 2014:

> "In late December [2013], the Standing Committee of the NPC formally approved the camps' abolition and the release of remaining detainees, though it affirmed the legitimacy of existing sentences to prevent victims from suing for redress. However, according to media reports and a detailed report published by Amnesty International in December, alternative nonjudicial detention systems were used during the year to hold the same categories of detainees previously subject to reeducation through labor, though often for shorter terms. Some camps were transformed into coercive drug-rehabilitation centers, and prostitutes were sent to 'custody and education centers,' both of which typically involve forced labor. Some petitioners and Falun Gong detainees who had failed to 'reform' were sent directly to other types of extralegal facilities for indefinite detention. More broadly, a growing number of activists, petitioners, microbloggers, and Falun Gong practitioners have been confined in extralegal 'black jails,' 'legal education centers,' or psychiatric facilities. Others faced formal prosecution, with some receiving harsher sentences than those possible via the labor camp system." (Freedom House, 23 January 2014)

A December 2013 article by Reuters notes the following developments:

> "Many of China's re-education through labour camps, instead of being abolished in line with a ruling Communist Party announcement this month, are being turned into compulsory drug rehabilitation centres where inmates can be incarcerated for two years or more without trial. Human rights activists and freed inmates said drug offenders were still being forced to do factory work, as has been the practise under the re-education through labour system, colloquially known as 'laojiao'. [...] Labour camps across China began changing their names to drug centres earlier this year, after a surprise announcement in January from Public Security Minister Meng Jianzhu that the network of 350 camps would be scrapped. They also took it as a cue to start releasing some people who were there for non-drug offences." (Reuters, 1 December 2013)

Human Rights Watch (HRW) states in its annual report of January 2014, which covers events of 2013:

> "In November, the government announced its intention to abolish re-education through labor (RTL), a form of arbitrary detention in which the police can detain people for up to four years without trial. There were about 160,000 people in about 350 camps at the beginning of the year, but numbers dwindled rapidly as the police stopped sending people to RTL. The official press, however, reported that some of these facilities were being converted to drug rehabilitation centers, another form of administrative detention. At time of writing it was unclear whether the government would fully abolish administrative detention as a way to deal with minor offenders, or whether it would instead establish a replacement system that continued to allow detention without trial." (HRW, 21 January 2014)

The BBC reports with reference to media reports and comments made by Nicolas Bequelin, China researcher at Human Rights Watch (HRW):

> "Most of the people locked up under the re-education through labour system are detained for drug offenses - either selling or buying small quantities of illegal narcotics. At least one former labour camp in Yunnan province will be transformed into a drug rehabilitation centre, according to state-run Xinhua news agency. More camps in Sichuan and Guangdong provinces have also made the switch, according to Human Rights Watch. 'They're just changing the name of 're-education through labour camps' to 'drug rehabilitation centres'. 'They're just changing the sign boards,' Mr Bequelin said. The police will still have various tools at their disposal to deal with petitioners or dissidents, including so-called black jails, or extra-legal prisons, or the ability to dispatch detainees to psychiatric prisons without their consent. Still, the abolition of the camp system reduces the power of China's police to act with impunity." (BBC News, 20 November 2013)

The Congressional Research Service (CRS) states in March 2013:

> "China's system of formal and informal prisons and detention centers reportedly perpetrates some of the most egregious human rights violations, particularly toward citizens who actively opposed government actions and policy. Many political dissidents accused of violating state security laws have been held incommunicado for long periods." (CRS, 15 March 2013, p. 9)

"Custody and education" (C&E, shourong jiaoyu)

The October 2013 report of the CECC provides a brief description of "Custody and education" (C&E), which is referred to as a "quasi-RTL" measure:

> "C&E is a form of administrative detention that permits Chinese police to send sex workers and their clients to detention facilities for up to two years without trial or judicial oversight. As with RTL and compulsory drug treatment, C&E inmates are subjected to forced labor, and rights abuses are rampant." (CECC, 10 October 2013a, p. 81)

As noted by the US Department of State (USDOS), "custody and education" is a form of administrative detention used for "women engaged in prostitution and those soliciting prostitution" (USDOS, 27 February 2014, section 1d).

Human Rights Watch (HRW) states that while the RTL system is "administered by the Ministry of Justice", the "Custody and Education" system is "administered by the Ministry of Public Security" (HRW, May 2013, p. 16).

Dui Hua states that "Custody and Education" system originated "from the State Council's 1993 Measures for the Custody and Education of Prostitutes and Clients of Prostitutes" and that "[i]ts aim is for these groups of people to be 'centralized for legal and moral education, organized to participate in productive labor, and screened and treated for sexually transmitted diseases.'". Dui Hua notes that the terms of detention under "Custody and Education" "range from six months to two years" (Dui Hua, 9 July 2013).

The same source further states with regard to the legal and administrative framework of the "Custody and Education" system:

> "Article 7 of the Measures for the Custody and Education of Prostitutes and Clients of Prostitutes states that, aside from the punishments provided for in Article 66 of the Public Security Administration Penalty Law, persons who engage in prostitution or who consort with prostitutes but who do not [meet the criteria for] RTL may be sent for custody and education by the public security organ." (Dui Hua, 9 July 2013)

> "[T]he most evident characteristic is the prison-like custody and management through which citizens are deprived of their personal freedom. The next [most obvious characteristic] is the procedure whereby decisions are made, insofar as each measure actually leaves primary responsibility to the public security organs and does not involve any procedures for check and balance by the procuratorate or courts. It is also difficult for the procuratorates or courts to exercise any systematic oversight." (Dui Hua, 9 July 2013)

A report by Human Rights Watch (HRW) of May 2013 states that "[s]ex workers face one of four levels of administrative punishment that can be imposed entirely at the discretion of the police without court proceedings":

> "1. Five days of administrative detention, or a fine of up to 500 yuan (US$75) if the circumstances are judged 'minor.'

> 2. Ten to 15 days of administrative detention, and/or a fine of up to 5,000 yuan (US$750) in 'ordinary' cases.

> 3. An 'educational coercive administrative measure' of six months to two years of detention in a Custody and Education (shourong jiaoyu) facility.

> 4. A sentence to Re-education Through Labor (RTL) (laodong jiaoyang) for up to two years (limited to repeat offenders)." (HRW, May 2013, p. 15)

The HRW report further states:

> "The government does not disclose information on the number of individuals held in Custody and Education centers, and the exact number of centers is unclear. In 2000, 183 such facilities existed, holding 18,000 inmates. The Custody and Education system is supposed to provide sex workers and clients with educational support, including literacy and vocational training; health monitoring, with testing and treatment for sexually-transmitted diseases (STDs); and work experience. Previous research shows that, in practice, this system of incarceration largely fails to achieve its purported rehabilitative mandate, with forced labor by inmates taking precedence over the other stated goals. RTL is only imposed on sex workers who are repeat offenders. Since 1999 sex workers are increasingly sent to Custody and Education institutions instead of RTL." (HRW, May 2013, p. 17)

The same source further remarks that while "[i]n January 2013 Chinese media reported that the government intended to "stop using" the RTL system by the end of the year [...], there has

been no such announcement for Custody and Education or forced drug detoxification centers" (HRW, May 2013, p. 17).

"Custody and training" (aka "Custody and rehabilitation" (C&R), shouyang jiaoyang)

As noted by the US Department of State (USDOS), "Custody and Training" is a form of administrative detention intended "for minor criminal offenders" (USDOS, 27 February 2014, section 1d).

The October 2013 annual report of the CECC notes with regard to "Custody and Training" (referred to here as "Custody and Rehabilitation" (C&R)):

> "Under C&R, police may send juvenile offenders under the age of 16 to detention facilities for periods between one and three years without due process of law." (CECC, 10 October 2013a, p. 81)

Dui Hua similarly states:

> "[C]ustody and rehabilitation is a means of administrative punishment of between one and three years for 'juveniles under the age of 16 who cannot be given criminal punishment.'(Dui Hua, 9 July 2013)

Dui Hua further states that, as it is the case with RTL and "Custody and Education", "Custody and Training" (referred to as "Custody and Rehabilitation"), is characterized by "prison-like custody and management" and the fact that responsibility for decisions is primarily left to public security organs who act without "procedures for check and balance by the procuratorate or courts" for whom it is "difficult [...] to exercise any systematic oversight" (Dui Hua, 9 July 2013).

Compulsary drug rehabilitation

The US Department of State (USDOS) notes:

> "The law establishes a system of 'compulsory isolation for drug rehabilitation.' The minimum stay in such centers is two years, and the law states that treatment can include labor. Public security organs authorize detention in these centers, and it often was meted out as an administrative rather than criminal measure. (USDOS, 27 February 2014, section 1d)

As noted in the October 2013 report of the CECC, "[c]ompulsory drug treatment centers [...] present the same legal problems and human rights issues as RTL, and they violate both Chinese and international law" (CECC, 10 October 2013a, p. 81).

The May 2013 report by Human Rights Watch (HRW) notes that while "[i]n January 2013 Chinese media reported that the government intended to "stop using" the RTL system by the end of the year [...], there has been no such announcement for Custody and Education or forced drug detoxification centers" (HRW, May 2013, p. 17).

In addition to the above-mentioned forms of administrative detention, sources report on the following types:

The October 2013 CECC report notes a form of detention referred to as "shuanggui":

> "Shuanggui ('double regulation' or 'double designation') is a form of extralegal detention used primarily for Chinese Communist Party officials who are suspected of corruption or other infractions, but also for 'cadres who have transgressed politically.' Detainees are held incommunicado with no access to a lawyer or family members. Secrecy and harsh interrogation methods further the main objectives of shuanggui: the extraction of confessions." (CECC, 10 October 2013a, p. 80)

Some sources report on labour camps referred to as "laogai":

Harry Wu, director of the Laogai Research Foundation, a US-based NGO aiming to raise public awareness of the laogai system, states in a testimony given to the Congressional-Executive Commission on China (CECC) in May 2013:

> "The Chinese government initially established two networks of labor camps: laogai camps and laojiao camps. Although conditions in laogai and laojiao camps were substantially similar, laogai camps were reserved for convicted criminals, whereas laojiao camps served as jails for political dissidents and suspected petty criminals. In 1994, Chinese authorities proclaimed an end to the laogai system when they changed the name of these facilities to 'jails.' The government continues, however, to openly use laojiao camps." (CECC, 9 May 2013a, p. 1)

A June 2012 article by the Voice of America (VOA) quotes Harry Wu as saying that the laogai system is widely used, with its two functions being thought reform and forced labour. According to Wu, Chinese authorities currently refer to the laogai system as the "prison system administration" (VOA, 7 June 2012).

A description of the laogai in relation to the laojiao (RTL) system is also provided in a February 2013 article by the US news magazine The Atlantic:

> "Laogai is distinguished from laojiao , the more traditional Chinese labor camp system, in that the former is a prison used to detain individuals convicted under the Chinese Criminal Code, whereas the latter is used to detain those who have only committed minor offenses and thus are viewed by the government as being easy to reform. Detention at laojiao may last up to three years and does not require a judicial procedure; at laogai, one can be sentenced to life, though only after a trial. Both systems aim to 're-educate' the detainees through penal labor." (Atlantic, 6 February 2013)

Among the sources consulted by ACCORD within time constraints, no further corroborating information could be found on laogai camps.

3.8.3 Mental institutions

The October 2013 annual report of the CECC reports that the country's first Mental Health Law, which came into force on 1 May 2013, aims to "prevent cases of being 'misidentified as mentally ill' (bei jingshen bing), a practice which has been used by Chinese law enforcement officials to involuntarily detain petitioners and others in psychiatric facilities" (CECC, 10 October 2013a, p. 35).

As noted by Human Rights Watch (HRW), the Mental Health Law "does not eliminate the country's system of involuntary confinement" and expresses concerns that it "will not protect against involuntary, arbitrary detention of people on the basis of disability" (HRW, 3 May 2013).
The same source states:

> "It is estimated that between 70 and 80 percent of all patients in psychiatric hospitals are involuntarily incarcerated. Close relatives, employers, and the police would be able to send 'suspected mental disability sufferers' who have harmed, or who are at risk of harming, themselves or others to psychiatric hospitals for evaluation. And if they are found to have a 'serious' mental disability, based solely on the opinion of psychiatrists, then they can be forcibly committed. The law does not provide any further details or definitions on what constitutes a risk, or how serious a risk must be to justify forcible measures. The law also fails to guarantee the right to a lawyer and to a clear judicial review process by which to appeal such arbitrary detention. It also restricts a person's right to communicate with those outside of the institutions during the 'acute onset of illness' or 'to avoid hampering treatment.' [...] Human rights abuses in mental health institutions in China are extensively documented. Patients are frequently deprived of the right to make decisions regarding treatment and confinement; forced medications and violence are rife. [...] The use of these institutions to incarcerate political dissidents, activists, and petitioners is also well documented [...]." (HRW, 3 May 2013)

The same source reports on psychiatric facilities known as "Ankang hospitals":

> "Under the new Mental Health Law, the police continue to be in charge of running some psychiatric institutions known as 'Ankang hospitals' where abuses including beatings and electric shocks have been documented. Staff at 'Ankang' ('peace and health'), including medical and nursing personnel, are typically full-time officers in the Public Security Bureau, and all inmates are persons who have been detained for criminal offenses committed while allegedly under the influence of severe mental disabilities." (HRW, 3 May 2013)

The May 2013 International Religious Freedom Report of the US Department of State (USDOS) indicates that "[a]ccording to Legal Daily, the MPS directly administered 24 high-security psychiatric hospitals for the criminally insane (also known as ankang facilities). The same report pursues:

> "Regulations for committing a person to an ankang facility were not clear, and detainees or their families were afforded few formal mechanisms for effectively challenging public security officials' determinations of mental illness or the administrative sentencing of individuals to ankang facilities. Some patients in these hospitals reportedly were given

medicine against their will and sometimes forcibly subjected to electric shock treatment." (USDOS, 20 May 2013, section 2)

The February 2014 annual human rights report of the US Department of State (USDOS) notes:

> "There were widespread reports of activists and petitioners being committed to mental-health facilities and involuntarily subjected to psychiatric treatment for political reasons. According to Legal Daily (a state-owned newspaper covering legal affairs), the Ministry of Public Security directly administered 24 high-security psychiatric hospitals for the criminally insane (also known as ankang facilities). From 1998 to May 2010, more than 40,000 persons were committed to ankang hospitals. In 2010 an official of the Ministry of Public Security stated that detention in ankang facilities was not appropriate for patients who did not demonstrate criminal behavior. Nonetheless, political activists, underground religious adherents, persons who repeatedly petitioned the government, members of the banned Chinese Democracy Party (CDP), and Falun Gong practitioners were among those housed in these institutions." (USDOS, 27 February 2014, section 1c)

The Congressional Research Service (CRS) states in a March 2013 report:

> "Many petitioners, rights activists, Falun Gong practitioners, underground religious worshippers, and others also have been held in psychiatric (ankang) hospitals for the criminally insane, where they reportedly have been forced to take medications and subjected to other human rights violations." (CRS, 15 March 2013, p. 9)

Freedom House reports in its report Freedom on the Net 2013, published in October 2013, that "[i]nternet users have occasionally fallen victim to forced psychiatric detention" (Freedom House, 3 October 2013, p. 28).

Chinese Human Rights Defenders (CHRD), a US-based human rights group, provides extensive coverage of the situation relating to involuntary committal to mental health facilities in a report published in August 2012:

> "China's involuntary commitment system is a black hole into which citizens can be 'disappeared' for an indefinite period of time based on the existence or mere allegation of a psychosocial disability by family members, employers, police or other state authorities. According to one official estimate, 800,000 people are admitted to psychiatric hospitals in China every year. Many of them [...] are brought to hospitals against their will, often by force. The hospitals then admit these individuals and do not allow them to leave unless those who have had them committed agree that they can be discharged. In the psychiatric hospitals, patients are denied the right to make decisions and are at the mercy of the hospitals and those who took them there. The latter are assumed by the hospitals to be 'guardians' of these individuals. These patients are often subjected to forced treatment, including medication and electric shocks." (CHRD, August 2012, pp. 1-2)

> "The current system of psychiatric confinement is also highly vulnerable to abuse. Those who have the means – power and money – to either compel or pay psychiatric hospitals to detain individuals out of a desire to punish and silence them have been able to do so

with impunity. [...] Currently, many of those involuntarily committed by state agents are petitioners, along with dissidents and activists." (CHRD, August 2012, p. 3)

"In Chinese laws and regulations as well as in actual practice, 'forcible admission' (强制收治) is only used to describe commitment by the police. When the commitment is not carried out by the police, admission to psychiatric hospitals is considered 'voluntary,' and if admitted individuals are compelled to receive treatment in these institutions, they are viewed as simply receiving 'medical protection' (医疗保护)." (CHRD, August 2012, p. 6)

The US Department of State (USDOS) notes in its annual report on human rights in 2013:

"In October 2012 the government passed legislation banning involuntary mental health examinations and inpatient treatment except in cases in which patients expressed an intent to harm themselves or others. Critics maintained, however, that the law still does not provide meaningful legal protections for persons sent to psychiatric facilities. The March 2012 amendments to the criminal procedure law require a procuratorate (the agency responsible for both prosecution and investigation) review and a court decision for the psychiatric commitment of persons who have committed serious offenses but are exempt from criminal responsibility under the law. The amendments went into effect in April and include a provision for appealing compulsory medical treatment decisions." (USDOS, 27 February 2014, section 1c)

3.8.4 House arrest ("soft detention", ruanjin)

The US Department of State (USDOS) annual report of April 2013 mentions "soft detention" as one of the "extralegal measures" to which authorities resorted during 2012 in order to "prevent the public voicing of independent opinions" (USDOS, 19 April 2013, Executive Summary). The USDOS annual human rights report for the year 2013 does not contain any references to "soft detention" (USDOS, 27 February 2014).

The annual report of the Congressional-Executive Commission on China (CECC) of October 2013 provides the following overview information on "soft detention" (ruanjin):

"Soft detention (ruanjin) includes a range of extralegal controls to which an individual may be subjected, such as home confinement, surveillance, restricted movement, and limitations on contact with others. During this reporting year, authorities continued to use ruanjin against individuals deemed 'sensitive,' such as dissidents, rights defense lawyers, activists, civil society actors, and sometimes their family members as well. Liu Xia's ongoing unlawful home confinement (since October 2010) is an example of the use of ruanjin against an activist's spouse. Before Xu Zhiyong was taken into custody in mid-July, he was unlawfully confined to his home for three months." (CECC, 10 October 2013, p. 79)

"In April 2012, officials also placed Dong Xuan, the daughter of housing rights advocate and lawyer Ni Yulan, under 'soft detention' (ruanjin) and 24-hour surveillance." (CECC, 10 October 2013, p. 99)

"Roughly two dozen police guarded the home of Feng Zhenghu, a Shanghai human rights activist, and enforced his extralegal home confinement for 268 days from February to

> November 2012. During that time Feng was allowed to leave his home only for police interrogations. Public security officials unlawfully confined prominent legal scholar and rights advocate Xu Zhiyong to his home for three months after police officers stopped him in the airport to prevent him from traveling to Hong Kong in April 2013." (CECC, 10 October 2013a, pp. 107-108)

The annual human rights report of the UK Foreign and Commonwealth Office (FCO), also notes that "Liu Xia, wife of Liu Xiaobo, remained under house arrest" during 2012 (FCO, April 2013).

Freedom House states in its Freedom on the Net 2013 report that house arrest involves "invasive surveillance at the detainee's home, where internet and mobile phone connections are often severed to prevent the individual from contacting supporters and journalists". In regard to the duration of house arrest, the report indicates that "[w]hile there are several cases of long-term house arrest, it can be adjusted arbitrarily over time." The same source report on cases in which house arrest was imposed on internet activists:

> "In September 2012, academic and blogger Jiao Guobiao was first banned from traveling to an overseas conference and placed under strict house arrest for several days, then arrested and detained for two weeks after publishing an online article about the disputed Diaoyu (Senkaku) Islands, and finally released, to continued surveillance. Some groups compile tallies of dissidents known to be held under house arrest, but there are no statistics available to show which of them may have been targeted specifically for their online activity." (Freedom House, 3 October 2013, p. 27)

The Tibetan Centre for Human Rights and Democracy (TCHRD) states in its annual report of January 2013:

> "The Chinese government also employs the illegal tactics of house arrest and residential surveillance. Under these practices, security forces will heavily guard an individual's home, controlling their ability to freely move. In addition to the harassment by security forces, the suspected dissident is subject to constant surveillance. This type of confinement is referred to as 'soft detention' (Ch: ruanjin). Under ruanjin, a suspected dissident 'may be subject to various forms of harassment, including home confinement, surveillance, restricted movement, and limited contact with others.' Because this type of confinement is given without any due legal process, ruanjin 'has no basis in Chinese law and constitutes arbitrary detention under international human rights standards.'" (TCHRD, 17 January 2013a, p. 54)

The January 2014 annual report of the TCHRD points to the following cases from 2013:

> "On 24 April 2013, Lobsang Tenzin, the longest- serving political prisoner in Tibet, was released after completing a 25-year term for a crime he never committed. In spite of having served the entire sentence imposed on him, he is currently being held under house arrest and with access only to family members." (TCHRD, 20 January 2014, p. 21)

> "On 8 March 2013, writer, blogger and activist Tsering Woeser, held under house arrest in Beijing, was prevented from travelling to the US to receive the 2013 International Women of Courage Award, granted by the US State Department. After the announcement of the award, Woeser's movements were further restricted and monitored." (TCHRD, 20 January 2014, p. 32)

An October 2012 press release by Human Rights Watch (HRW) mentions the activist Hu Jia, Liu Xia (the wife of Liu Xiaobo) and activist and legal advocate Feng Zhenghu as "currently living under long-term house arrest" (HRW, 24 October 2012).

In November 2012, Amnesty International (AI) reports that "police have placed dozens of activists under house arrest" and "forcibly removed individuals from Beijing":

> "More than 100 activists have been rounded-up in recent weeks as the government looks to stifle criticism and prevent protests ahead of the 18th Communist Party Congress that begins in Beijing on 8 November. [...] At least 130 people have been detained or had restrictions placed upon them since September, according to reports Amnesty International has received. The police have placed dozens of activists under house arrest, forcibly removed individuals from Beijing, and have closed down the offices of community groups in attempts to suppress peaceful dissent." (AI, 2 November 2012b)

3.8.5 "Black jails"

A concise overview of black jails is given in a July 2013 press release by Amnesty International (AI):

> "'Black jails' refers to a range of informal practices that authorities across China use to detain people illegally, outside recognized places of detention and beyond the protection of the law. They have primarily been used to detain petitioners (people seeking redress from the authorities for perceived injustices) without any due process and incommunicado. They are often run by local government officials but tolerated by the police. People held in 'black jails' are often tortured or subjected to other ill-treatment. 'Black jails may be in hotels, hostels, mental hospitals, nursing homes and other unofficial sites." (AI, 22 July 2013)

The annual report of the CECC, published in October 2013, refers to "black jails" as follows:

> "'Black jails' are secret detention facilities that operate completely outside of China's official judicial and administrative detention systems. Chinese authorities primarily use 'black jails' to detain petitioners who leave their hometown to seek redress at higher levels for complaints they have relating to actions taken by local government officials, such as forced evictions and land seizures. Although Chinese officials have occasionally taken legal action against individuals involved in operating 'black jails,' the facilities continue to exist [...].' The central government is determined to keep petitioners off the streets of Beijing in order to 'maintain stability,' and local officials want to ensure that their careers are not adversely affected by disgruntled local residents causing 'trouble' in Beijing." (CECC, 10 October 2013a, pp. 79-80)

An older report by Human Rights Watch (HRW) dating from November 2009, which extensively covers "black jails", describes these facilities as follows:

> "Since 2003, large numbers of Chinese citizens have been held incommunicado for days or months in secret, unlawful detention facilities. These facilities, known informally as 'black jails' (黑监狱) or 'black houses' (黑房屋), are created and used primarily by local and provincial officials to detain petitioners who come to Beijing and provincial capitals seeking redress for complaints that are not resolved at lower levels of government." (HRW, 12 November 2009, p. 2)

> "Black jail facilities are often temporary; the number in operation at any given time is dependent on the number of detained petitioners. [...] The facilities share several key characteristics: they are organized to severely restrict detainees' freedom of movement, association, and expression through locked doors, locked and barred windows, restrictions on access to phones and other communications, and 24-hour surveillance by guards armed with weapons, including clubs and guns." (HRW, 12 November 2009, pp. 16-17)

As noted in a March 2012 Al Jazeera report, taking persons to ad-hoc holding facilities is "one way of controlling ordinary citizens in possession of evidence of government corruption". The report refers to "black jails" as "illegal detention centres that allow authorities to by-pass the law" and as "a place for police to capture people without arrest, without charge and basically disappear them", with "family members not informed of the disappearances of their loved ones by police." (Al Jazeera, 13 March 2012)

As noted by the Congressional Research Service (CRS), many "black jails" are "operated by the governments of the petitioners' home provinces in an attempt to prevent them from taking their complaints to the central government" (CRS, 15 March 2013, p. 9).

A March 2013 article by the Economist reports that the city of Beijing has "many informal detention centres, known as "black jails", run illegally at the behest of local governments, but to which the central government usually turns a blind eye." The same report also notes the following developments:

> "On February 5th [2013] a court in Beijing sentenced ten people to prison terms of up to two years for running a black jail. They had taken a group of petitioners, who had arrived in Beijing last April from the central province of Henan, from Jiujingzhuang relief centre to two black jails on the city's edge. China Youth News, a Beijing newspaper, reported that some of the protesters were driven back to their hometown a day later. But they soon returned to Beijing where they told the police, who (remarkably) helped secure the release of the others. The sentences were not the first handed down to black jailers." (Economist, 2 March 2013)

These developments in 2013 are also referred to in the CECC report quoted above:

> "There were several hopeful signs with respect to 'black jails' during this reporting year. In a rare move, Chinese authorities released hundreds of petitioners detained in Jiujingzhuang, one of Beijing's largest 'black jails,' in connection with Rule of Law

> Promotion Day on December 4. And, in February 2013, Xinhua reported that a Beijing court convicted 10 men from Henan province for illegally detaining 11 petitioners from Henan in Beijing. Seven of the defendants received sentences ranging from six months to two years; the other three were juveniles and given suspended sentences. [...] Despite these and other efforts by the central government to rein in 'black jails,' observers caution it is unlikely that the Chinese government will dismantle the system anytime soon." (CECC, 10 October 2013a, p. 80)

The March 2013 report of the Congressional Research Service (CRS) notes the following events of 2011 and 2012:

> "In 2011, the Beijing municipal government reportedly launched a crackdown on black jails. In December 2012, tens of thousands of petitioners reportedly were suddenly released from a detention center in Beijing." (CRS, 15 March 2013, p. 9)

The Tibetan Centre for Human Rights and Democracy (TCHRD) states in its January 2013 annual report which covers the year 2012:

> "Petitioners, or those who travel to Beijing or other major cities in China to lodge complaints against the Chinese government, are placed into black jails to suppress their dissent. Black jails are secretive and privately operated places of confinement, where the petitioners are held without any formal arrest, access to a lawyer, trial, sentence, or other basic due legal process protections. According to the United Nations Committee Against Torture, when referring to black jails, '[d]etention in such facilities constitutes per se disappearance.' Much like RTL and soft detention, the Chinese authorities use black jails to circumvent the law and avoid legal due process. In black jails, '[d]etainees are often physically and psychologically abused. Many are deprived of food, sleep, and medical care, and they are subject to theft and extortion by their guards. They have no access to family members or to legal counsel or to courts.'" (TCHRD, 17 January 2013a, pp. 54-55)

The TCHRD notes in its annual report of January 2014 which covers the year 2013:

> "Many petitioners have [...] suffered arbitrary detention and confinement in the 'black jails' as well as in mental hospitals, where they have been subjected to further human rights violations including torture, denial of food and medical care, extortion, physical and psychological abuse." (TCHRD, 20 January 2014a, pp. 14-15)

For more information on the treatment of petitioners, please refer to section 4.5 of this compilation.

3.8.6 Tibet Autonomous Region (TAR) prisons

The US Department of State (USDOS) notes in the Tibet Addendum to its annual human rights report of February 2014:

> "The number of prisoners was unknown. There were reports of recently released prisoners who were permanently disabled or in extremely poor health because of the harsh treatment they endured in prison. According to numerous sources, political prisoners endured unsanitary conditions and often had little opportunity to wash or bathe. Many

prisoners slept on the floor without blankets or sheets. Former prisoners reported being isolated in small cells for as long as three months and deprived of sunlight, adequate food, water, and blankets. Additionally, prison authorities banned religious observances and forced prisoners, particularly political prisoners, to attend political re-education sessions. According to sources prisoners rarely received medical care except in the case of serious illness. Former prisoners also complained that they often failed to receive money, food, clothing, and books from their families because prison guards confiscated such items. There were cases of persons detained and imprisoned who were denied visitors, including family members and legal counsel. Authorities apparently applied this policy to many detainees and prisoners, but more routinely and stringently to political detainees and prisoners. Authorities required those allowed to see their family members to speak Mandarin Chinese (as opposed to their native Tibetan) during the visit. As elsewhere in the PRC, authorities did not permit independent monitoring of prisons. [...] It was unclear how many Tibetan detainees were held under the Re-education Through Labor (RTL) system or under other forms of detention not subject to judicial review. [...] An unknown number of Tibetans were detained, arrested, and/or sentenced as a result of their political or religious activity. Many prisoners were held in extrajudicial RTL prisons and never appeared in public court." (USDOS, 27 February 2014, Tibet Addendum)

The October 2013 annual report of the CECC includes the following summary of data contained in its Political Prisoner Database (PPD):

> "As of September 1, 2013, the PPD contained records of 642 Tibetan political prisoners believed or presumed currently detained or imprisoned. Of those, 622 are records of Tibetans detained on or after March 10, 2008; 20 are records of Tibetans detained prior to March 10, 2008. PPD information for the period since March 10, 2008, is certain to be far from complete. Of the 622 Tibetan political prisoners who were detained on or after March 10, 2008, and who were believed or presumed to remain detained or imprisoned as of September 1, 2013, PPD data indicated that:
>
> • 314 (51 percent) are Tibetan Buddhist monks, nuns, teachers, or trulkus.
> • 550 (88 percent) are male, 46 (7 percent) are female, and 26 are of unknown gender.
> • 288 (46 percent) are believed or presumed detained or imprisoned in Sichuan province; the rest are believed or presumed detained or imprisoned in the Tibet Autonomous Region (143), Qinghai province (122), Gansu province (68), and the Xinjiang Uyghur Autonomous Region (1)." (CECC, 10 October 2013a, p. 185)

The January 2014 annual report of the TCHRD includes an updated version of the TCHRD Political Prisoner Database on pages 184 through 247:

- TCHRD - Tibetan Centre for Human Rights and Democracy: Annual Report: Human Rights Situation in Tibet 2013, 20 January 2014a, pp. 184-247 (available at ecoi.net)
  http://www.ecoi.net/file_upload/1788_1390214250_200837998-2013-annual-report-human-rights-situation-in-tibet.pdf

The Dharamshala (India)-based Central Tibetan Administration (CTA), commonly referred to as the Tibetan Government in Exile, states in May 2012 that "most of the detention centres and prisons of the Tibet Autonomous Region are situated on the north west of Lhasa". As notd by

the CTA, "[t]hese prisons were built rapidly in 1983" and have been "used ever since for secret detention of political prisoners and dissidents". The same report further notes:

> "Reports coming out of Tibet say, an internal notice sent to all the prisons and detention centers of the Tibet Autonomous Region (TAR) in March 2012, has barred all prisoners from meeting their friends and family. The notice has also clearly outlined a need for stricter vigilance in the prisons and has directed all the prison officials to closely monitor the movements of the Tibetan prisoners. Lawyers and legal advisers of the prisoners were asked to get the permission only from the chief warden and were allowed only a limited amount of time for case discussion. The reason for stricter rules in the prison was cited as public security and the welfare of Lhasa residents." (CTA, 3 May 2012)

Dolkar Kyap, a Tibetan activist living in exile, notes in a statement of June 2012:

> "In the Tibet Autonomous Region, there are three prisons – Drapchi Prison, Chushur Prison, and Lhasa Prison. [...] In total, in all of the TAR, there are three prisons and 82 detention centers. Most of the Tibetan political prisoners under labor reform are placed in the three prisons mentioned above. Likewise, Tramog detention center, Shigatse detention center, Lhasa City National Security Detention Center, Lhasa City detention center are the main detention centers for political prisoners." (Dolkar Kyap, 4 June 2012)

The Tibetan Centre for Human Rights and Democracy (TCHRD) notes in its January 2014 annual report:

> "In 2013, Tibetans continued to be sentenced to RTL for exercising their rights to freedom of religion, peaceful assembly and freedom of expression. Monks and nuns are especially targeted, according to a veteran Tibetan official of the CCP whose identity is kept anonymous for security reasons and who has written a book exposing the PRC's abuses of Tibetans [...]." (TCHRD, 20 January 2014a, p. 17)

In another report published in January 2014, the same source reports on the situation of persons detained in the Tristam RTL facility near Lhasa:

> "The decision on where a detainee would serve an RTL sentence seems to be largely determined by geography. The Tibetans interviewed by TCHRD arrested in the Tibet Autonomous Region (TAR) were sent to the Trisam RTL facility near Lhasa in Toelung Dechen (Ch: Doilung Deqen) County. Those arrested in Sichuan Province were usually sent to the RTL facility in a large prison near Mianyang, larger prisons usually house RTL facilities half a day's drive from Trindu (Ch: Chengdu), the capital of Sichuan Province." (TCHRD, 20 January 2014c, pp. 80-81)

> "Tibetans interviewed by TCHRD that were arrested in TAR were sent to the Trisam RTL facility. Trisam is a RTL facility for political prisoners near Lhasa. 469 Unlike Mianyang, where the detainees were worked beyond exhaustion producing untraceable parts for sale, in Trisam the detainees worked 50-60 hours each week, from 9 am to 6 pm six to seven days a week. The abuses that accompanied the extreme working hours in Mianyang were mitigated in Trisam. However, the extra time when the detainees were not actively making money for the facility allowed for more forced military drills and punishments. [...]

> Detainees could be beaten during military drills or at any other time. [...] Between military drills, the work around the camp, gardening, and the minimal diet the detainees were in a state of perpetual exhaustion and quite weakened. [...] Like Mianyang, in Trisam they were loath to provide people with medical care." (TCHRD, 20 January 2014c, pp. 86-88)

The Tibetan Centre for Human Rights and Democracy (TCHRD) reports in October 2012:

> "In February 2012, hundreds of Tibetan pilgrims returning from religious teachings in India were arbitrarily detained at the Nepal-Tibet border and placed in ad hoc detention centers to undergo intense political re-education. Although various buildings have been identified as being used as ad hoc detention centers, in many cases relatives have not been given any official notification of the detentions and do not know where the detainees are being held." (TCHRD, 30 October 2012, p. 34)

For general information on the situation of Tibetans, please refer to section 8.5 of this compilation.

4 Freedom of expression, association and assembly

This section should be read in association with section 5 of this compilation.

According to Article 35 of the Constitution, "[c]itizens of the People's Republic of China enjoy freedom of speech, of the press, of assembly, of association, of procession and of demonstration" (Constitution of the People's Republic of China, 14 March 2004, Article 35). Article 41 stipulates that citizens have "the right to criticize and make suggestions regarding any State organ or functionary" as well as "the right to make to relevant State organs complaints or charges against, or exposures of, any State organ or functionary for violation of law or dereliction of duty" (Constitution of the People's Republic of China, 14 March 2004, Article 41). Article 51 states that citizens "may not infringe upon the interests of the State, of society or of the collective, or upon the lawful freedoms and rights of other citizens" when exercising their freedoms and rights (Constitution of the People's Republic of China, 14 March 2004, Article 51).

Freedom House states in its report Freedom in the World 2014 – China (covering the year 2012) that "[f]reedoms of assembly and association are severely restricted", adding that "[c]itizens risk punishment for organizing demonstrations without prior government approval, which is rarely granted" (Freedom House, 23 January 2014).

The Congressional-Executive Commission on China (CECC), a US government commission that monitors human rights and the rule of law in China, indicates in its annual report 2013 (covering the period from autumn 2012 to autumn 2013) that "Chinese authorities continued to use the criminal justice system to detain and punish citizens exercising their constitutional rights to 'freedom of speech, of the press, of assembly, of association, of procession and of demonstration'" (CECC, 10 October 2013a, p. 62).

The US Department of State (USDOS) annual report on human rights in 2013 provides the following with regard to freedom of speech:

> "With significant exceptions, especially speech that challenged the government or the CCP, political topics could be discussed privately and in small groups without official punishment. During the year some independent think tanks, study groups, and seminars reported pressure to cancel some sessions on sensitive topics. Those who made politically sensitive comments in public speeches, academic discussions, and comments to the media remained subject to punitive measures." (USDOS, 27 February 2014, section 2a)

The USDOS summarizes the situation regarding freedoms of assembly and association during the year 2013 as follows:

> "While the law provides for freedom of peaceful assembly, the government severely restricted this right. The law stipulates that such activities may not challenge 'party leadership' or infringe upon the 'interests of the state.' Protests against the political system or national leaders were prohibited. Authorities denied permits and quickly suppressed demonstrations involving expression of dissenting political views. [...]

> The law provides for freedom of association, but the government restricted this right. CCP policy and government regulations require that all professional, social, and economic organizations officially register with, and receive approval from the government. These regulations prevented the formation of truly autonomous political, human rights, religious, spiritual, labor, and other organizations that the government believed might challenge its authority." (USDOS, 27 February 2014, section 2b)

Article 7 of the 1989 Law on Assemblies, Processions and Demonstrations requires that "[f]or the holding of an assembly, a procession or a demonstration, application must be made to and permission obtained from the competent authorities in accordance with the provisions of this Law" (Law of the People's Republic of China on Assemblies, Processions and Demonstrations, 31 October 1989, Article 7). An exception to this requirement applies for the following activities:

> "(1) celebrations or commemorative activities held by the state or by state decisions; and (2) assemblies held by state organs, political parties, public organizations, enterprises or institutions in accordance with law or the relevant articles of association" (Law of the People's Republic of China on Assemblies, Processions and Demonstrations, 31 October 1989, Article 7)

Article 12 of the same law regulates that "[n]o permission shall be granted for an application for an assembly, a procession or a demonstration which involves one of the following circumstances: (1) opposition to the cardinal principles specified in the Constitution; (2) harming the unity, sovereignty and territorial integrity of the state; (3) instigation of division among the nationalities; or (4) the belief, based on sufficient evidence, that the holding of the assembly, procession or demonstration that is being applied for will directly endanger public security or seriously undermine public order" (Law of the People's Republic of China on Assemblies, Processions and Demonstrations, 31 October 1989, Article 12).

Article 27 obliges the police to stop an assembly, a procession or a demonstration if one of the following circumstances is involved:

> "(1) failure to make an application in accordance with the provisions of this Law or to obtain permission for the application; (2) failure to act in accordance with the purposes, manners, posters, slogans, starting and finishing time, places and routes permitted by the competent authorities; or (3) the emergence, in the course of the activity, of a situation which endangers public security or seriously undermines public order" (Law of the People's Republic of China on Assemblies, Processions and Demonstrations, 31 October 1989, Article 27)

Article 30 of the Regulations for the Implementation of the Law of Assembly, Procession and Demonstration, promulgated in June 1992, stipulates with regard to the participation of foreigners in assemblies, processions and demonstrations in China:

> "When foreigners want to participate in an assembly, procession or demonstration held by Chinese citizens, the responsible individual of the assembly, procession or demonstration shall clearly state this in the application. Without the expressed approval of the competent

> pubic security organs, they will not be allowed to participate." (Regulations for the Implementation of the Law of Assembly, Procession and Demonstration of the People's Republic of China, 1 June 1992, Article 30)

Reuters news agency notes in an article of November 2013 that China's constitution "does not explicitly allow or ban the establishment of political parties" (Reuters, 9 November 2013). The USDOS similarly mentions that "[n]o laws or regulations specifically govern the formation of political parties" (USDOS, 27 February 2014, section 2b).

In its report of September 2012, The Rights Practice, a charitable organisation registered both in the US and England and Wales, focusing on the promotion of human rights and public participation in China, lists the following information about the legal situation concerning the establishment of political parties:

> "While China's election law gives citizens the right to try and stand for election and citizens and political parties both have rights to put forward candidates, the law is silent on the right to join or establish a political party or organization. There is no formal ban on forming non-religious organisations under Chinese law, but there is also no legislation that enables, or gives corporate status to a political party to collect funds or own property in the name of a party." (Rights Practice, September 2012, p. 30)

The same source adds that "[r]ecent history illustrates that any person or group endeavouring to exploit legal ambiguities and establish a political party is likely to face any number of criminal charges, including sedition, subversion or revealing state secrets, as demonstrated from the experience of the China Democracy Party and other activists" (Rights Practice, September 2012, p. 30)

The UK Foreign and Commonwealth Office (FCO) indicates in its annual report on the human rights situation in 2012 (published in April 2013) that the Communist Party "continues to control the only officially recognised trade union, the All-China Federation of Trade Unions" and that "[c]ollective bargaining and the right to strike are restricted both in law and in practice". The FCO further reports of new Regulations on Consultation and Mediation for Labour Disputes in Enterprises which came into force on 1 January 2012. According to the source, these regulations "were a positive step and should in time help to improve resolution of labour disputes, but their immediate effect has been limited". (FCO, April 2013)

The CECC refers to the Trade Union Law, noting that it requires all union activity be approved by and structured under the All-China Federation of Trade Unions:

> "Although the PRC Trade Union Law provides workers with the right to participate in and form trade unions, it also restricts workers' rights to freedom of association by requiring that all union activity be approved by and structured under the All-China Federation of Trade Unions (ACFTU), an organization under the direction of the Chinese Communist Party." (CECC, 10 October 2013a, p. 67)

In its March 2013 submission to the United Nations' Office of the High Commissioner for Human Rights (OHCHR), the International Trade Union Confederation (ITUC) lists the following information regarding workers' rights in China:

> "2. Workers in China still cannot establish their own independent trade union. The official All China Federation of Trade Unions (ACFTU) and its branches are the only trade unions allowed by the Chinese government. There is no strike law in China that leaves workers and labour activists in extremely vulnerable situation and subject to retaliation by criminal prosecution and administrative punishment for organizing and participating in strikes and demonstrations.
>
> 3. The ITUC emphasizes that China still hasn't ratified four fundamental Conventions of the International Labour Organisations (ILO) - No. 87 Freedom of Association and the Protection of the Right to Organise Convention, No. 98 Right to Organise and Collective Bargaining Convention, No. 29 Forced Labour Convention and No. 105 Abolition of Forced Labour Convention. China signed the International Covenant on Economic, Social and Cultural Rights (IESCR) in 1998 with reservation on Article 8 of the Covenant. Article A8.1.a of ICESCR states that 'form trade unions and join the trade union of his choice'. It is hard to see the Chinese government's real commitment on the protection of workers' rights without full ratification of the above Covenants and the fundamental ILO conventions." (ITUC, 4 March 2013, p. 1)

The USDOS annual report on human rights in 2013 gives the following overview of registration requirements for NGOs:

> "To register, an NGO must find a government agency to serve as its organizational sponsor, have a registered office, and hold a minimum amount of funds. Some organizations with social or educational purposes that previously registered as private or for-profit businesses reportedly were requested to find a government sponsor and reregister as NGOs during the year. Finding a government sponsor was often very difficult, since the government department can be held responsible if the NGO engages in sensitive behavior. In March the NPC announced changes for NGO registration that waived the requirement to find a government sponsor. However, these changes only apply to four types of NGOs – industrial associations, charities, community services, and organizations dedicated to the promotion of technology. NGO sources reported that the new regulations do not apply to organizations primarily focused on advocacy or rights promotion.
>
> In July the Ministry of Civil Affairs announced the intention to pass legislation that would allow international NGOs to register with provincial civil affairs authorities instead of the ministry. By year's end the legislation had not been promulgated.
>
> In 2012 Guangdong provincial government officials initiated proposals aimed at facilitating the operations and work of many NGOs, including, for example, simplifying registration procedures so that certain categories of NGOs could register directly with the Ministry of Civil Affairs. Implementation of regulations associated with these proposals was often inconsistent. Although some NGOs perceived to be working in nonpolitically sensitive

areas enjoyed increased opportunities, others continued to face interference from authorities, for example, through increased financial scrutiny. Labor NGOs in Shenzhen continued to face a challenging environment, including registration hurdles and occasional government interference with their activities." (USDOS, 27 February 2014, section 2b)

4.1 Political opposition

Reuters news agency notes in November 2013 that before President Xi Jinping's assumption of power in November 2012, "some had expected him to loosen China's rigid political system, which tolerates no dissent", but that "Xi has overseen a new crackdown on dissidents and freedom of expression" (Reuters, 8 November 2013). In an article of November 2013, the British weekly newsmagazine The Economist similarly notes "a fierce crackdown on political dissidents in recent months" (Economist, 16 November 2013).

An October 2013 press release by Human Rights Watch (HRW) briefly states with regard to the Communist Party's dominant role and the treatment of individuals and organisations attempting to challenge the party's authority:

> "The legal system, including the judiciary, remains explicitly under the 'supervision and guidance' of the party despite being nominally independent. Party control is reinforced by the constitutional prohibition of any action that detracts from the 'four cardinal principles,' which include upholding the 'leadership of the CCP' and the 'people's democratic dictatorship.' These imperatives bar any direct criticism of the CCP by any individual or organization, and attempts to organize political parties independent of the communist party are severely punished. Every year, hundreds of prosecutions for 'subversion' and 'separatism' attest to the strict enforcement of these prohibitions." (HRW, 21 October 2013)

Amnesty International (AI) writes in its annual report for 2012, published in May 2013:

> "The authorities maintained a stranglehold on political activists, human rights defenders and online activists, subjecting many to harassment, intimidation, arbitrary detention and enforced disappearance. At least 130 people were detained or otherwise restricted to stifle criticism and prevent protests ahead of the leadership transition initiated at the18th Chinese Communist Party Congress in November. [...] At the end of 2011 and beginning of 2012, several human rights defenders who consistently called for political reform were sentenced to long jail terms for 'inciting subversion of state power' through articles and poems they wrote and distributed." (AI, 23 May 2013)

The executive summary to the US Department of State (USDOS) annual report on human rights in 2013 contains the following information regarding the Chinese authorities' response to dissent:

> "Repression and coercion, particularly against organizations and individuals involved in civil and political rights advocacy and public interest issues, ethnic minorities, and law firms that took on sensitive cases, were routine. Increasingly officials employed harassment, intimidation, and prosecution of family members and associates to retaliate against rights advocates and defenders. Individuals and groups seen as politically sensitive by authorities

> continued to face tight restrictions on their freedom to assemble, practice religion, and travel. Authorities resorted to extralegal measures such as enforced disappearance and strict house arrest, including house arrest of family members, to prevent public expression of independent opinions." (USDOS, 27 February 2014, Executive Summary)

The same source summarizes the situation of political prisoners in China as follows:

> "Government officials continued to deny holding any political prisoners, asserting that authorities detained persons not for their political or religious views but because they violated the law. Authorities, however, continued to imprison citizens for reasons related to politics and religion. Tens of thousands of political prisoners remained incarcerated, some in prisons and others in RTL camps or administrative detention. The government did not grant international humanitarian organizations access to political prisoners." (USDOS, 27 February 2014, section 1e)

The Congressional-Executive Commission on China (CECC) notes that according to its database of political prisoners, "as of September 1, 2013, the Commission staff had documented 1,304 cases of political and religious prisoners currently known or believed to be detained or imprisoned" and an additional "6,005 cases of prisoners who are known or believed to have been released or executed, who died while imprisoned or soon after release, or who escaped". The source explains that "these numbers reflect the efforts by the Commission's staff to document cases for which information is publicly available and that the actual number of cases of current political and religious imprisonment in China is likely to be much higher". (CECC, 10 October 2013a, p. 13)

The most up-to-date version of the Political Prisoner Database maintained by the CECC can be accessed via the following website:

- CECC - Congressional-Executive Commission on China: Political Prisoner Database, undated (b)
  http://www.cecc.gov/resources/political-prisoner-database

4.1.1 Banned political parties

The US Department of State (USDOS) annual report on human rights in 2013 notes that although "[o]fficial statements asserted, 'The political party system [that] China has adopted is multi-party cooperation and political consultation under' CCP leadership", the CCP "retained a monopoly on political power, and the government forbade the creation of new political parties" (USDOS, 27 February 2014, section 3).

Reuters news agency indicates in an article of November 2013 that "[t]he Communist Party views the founding of opposition parties as subversion" (Reuters, 9 November 2013). The same article also reports on the establishment of a new political party, the Zhi Xian Party (literally "the constitution is the supreme authority" party), on 6 November 2013 by supporters of "disgraced senior politician Bo Xilai", who has been named the group's "chairman for life":

> "Supporters of China's disgraced senior politician Bo Xilai, who has been jailed for corruption, have set up a political party, two separate sources said, in a direct challenge

> to the ruling Communist Party's de facto ban on new political groups. The Zhi Xian Party, literally 'the constitution is the supreme authority' party, was formed on November 6, three days before the opening on Saturday of a key conclave of top Communist Party leaders to discuss much-needed economic reforms, the sources said. It named Bo as 'chairman for life', Wang Zheng, one of the party's founders and an associate professor of international trade at the Beijing Institute of Economics and Management, told Reuters by telephone. [...] The Communist Party has not allowed any opposition parties to be established since it came to power following the 1949 revolution, so history suggests it will not look kindly on this new party, even more so because its titular head is a former member of its top ranks. Activists have been jailed in the past for setting up political parties, although parties have never before coalesced around fallen top political figures." (Reuters, 9 November 2013)

The US broadcast institution Voice of America (VOA) notes on the newly established Zhi Xian Party and party founder Wang Zheng:

> "A political party formed by followers of ousted politician Bo Xilai does not appear to be a threat to China's Communist rulers in itself, but is another example of a growing number of citizens speaking up for their rights and the rule of law. Several well-known supporters of Bo have distanced themselves from the China Zhi Xian Party – literally 'the constitution is the supreme authority' party. Its formation last week challenges the long-ruling Communist Party's ban on other parties, but Zhi Xian is unlikely to bring people out on the streets or demand Bo's political rehabilitation. [...] So far the government does not appear to be taking any direct action against Wang, a Beijing academic, although her home is under surveillance by police and plainclothes security. Wang told Reuters she is no anti-government revolutionary and is not challenging the Communist Party's right to govern, which she accepts is enshrined in the constitution. Instead, the Zhi Xian Party simply wants the government to guarantee things like freedom of assembly and elections." (VOA, 11 November 2013)

In its aforementioned annual report for 2013, the USDOS states that the Chinese Democracy Party (CDP) "remained banned" and that "the government continued to monitor, detain, and imprison current and former CDP members" (USDOS, 27 February 2014, section 2b).

In September 2013, Radio Free Asia (RFA), a US-based non-profit corporation broadcasting news and information to people in Asian countries, reports on the case of Zhang Lin, a veteran activist with the banned CDP, who "served more than 13 years in prison on subversion charges for his political activities" since the party's banning in 1998:

> "Zhang [...] is currently being held on public disorder charges stemming from a long-running dispute with the authorities over [his daughter] Anni's schooling. Zhang was formally arrested on Aug. 22 for 'gathering a crowd to disrupt public order' following a dispute with the authorities after police pulled Anni out of primary school in February and detained her for several hours. In April, Zhang and Anni left the provincial capital of Anhui for the family's hometown of Bengbu after more than 30 activists from around the country converged on Hefei in protest at Anni's Feb. 27 removal from the city's Hupo Elementary

> School by police. The family was held under house arrest and Anni was still denied permission to attend school, prompting Zhang to escape house arrest to press his case with National People's Congress delegates and activists in Beijing. State security police brought the pair back to Bengbu amid firm promises that Anni could attend school and that no retaliatory action would be taken. But the authorities swiftly moved against Zhang, holding him under criminal detention soon after his return, and prompting a lone protest from Anni outside the Bengbu detention center, where she held up a placard which read: 'Release my father and let me go to school.'" (RFA, 9 September 2013)

The Congressional-Executive Commission on China (CECC) annual report 2013 also refers to the case of Zhang Lin (CECC, 10 October 2013a, p. 141).

The USDOS annual report for 2013 lists the following information pertaining to the treatment of current or former CDP members and the situation of the founder of the China New Democracy Party, Guo Quan:

> "In 2009 in Hunan Province, dissident Xie Changfa, who tried to organize a national meeting of the banned CDP, was sentenced to 13 years in prison. Guo Quan, a former Nanjing University professor and founder of the China New Democracy Party, remained imprisoned following his 2009 sentence to 10 years in prison and three years' deprivation of political rights for 'subversion of state power.' Guo published articles criticizing the country's one-party system. Other current or former CDP members, including Yang Tianshui, remained in prison or in RTL [reeducation through labour] camps for their calls for political reform and their affiliation with the CDP." (USDOS, 27 February 2014, section 3)

According to the CECC, Guo Quan was sentenced by a court in Jiangsu province to 10 years' imprisonment "for his attempts to organize the 'China New Democracy Party' and to use the Internet to seek members and disseminate his political views" (CECC, 4 December 2009). In its 2012 annual report on the human rights situation in China (published in March 2013), Chinese Human Rights Defenders (CHRD), a network of Chinese and international activists promoting human rights in China, refers to Guo Quan as "a founder of the 'New People's Party of China' from Jiangsu Province", adding that he "remains imprisoned for 'subversion' after being sentenced to 10 years in 2009" (CHRD, March 2013, p. 10).

A November 2012 article by RFA quotes pro-democracy activist Zou Wei as saying that the Chinese authorities seem to be "keen to silence any talk of political reform in the immediate aftermath of the 18th Party Congress" and that the new leadership is "moving to crackdown on [members of the] China Democracy Party, so as to make clear that they will be taking a hard line in future". The article further reports that two CDP activists have gone incommunicado. (RFA, 23 November 2012)

Freedom House writes in its report Freedom in the World 2014 – China (covering 2013) that "[c]itizens who attempt to form opposition parties or advocate for democratic reforms have been sentenced to long prison terms in recent years" (Freedom House, 23 January 2014).

Freedom House's report Freedom in the World 2013 – China (covering events of 2012) notes the following specific cases:

> "In January 2012, Li Tie of Hubei Province was sentenced to 10 years in prison for being a member of the China Social Democracy Party and for his online writings. In October, Cao Haibo of Yunnan Province was sentenced to eight years for starting online discussion groups about a possible political party." (Freedom House, January 2013a)

A January 2012 article in the US daily newspaper New York Times (NYT) notes on the case of activist Li Tei that he was sentenced "to 10 years in prison for subversion of state power, a more serious charge than the original accusation of inciting to subvert". Li was detained in September 2010 and tried by a court in Wuhan in April 2011. According to the article, the evidence in the case "included membership in an alternative political group, the China Social Democracy Party, and a succession of essays that took issue with the government, led by an online criticism titled 'Human Beings' Heaven Is Human Dignity'". (NYT, 19 January 2012)

On the case of Cao Haibo, CHRD reports:

> "Born in 1985, Cao was detained in October 2011 and later arrested for 'inciting subversion of state power,' though Cao was eventually convicted of 'subversion,' a more serious crime. Authorities shut down the 'League of Rejuvenating the Chinese Nation' (振华会), a discussion group Cao founded in late 2010 where members talked about democratic reform and constitutional rights. Cao also reportedly tried to form an opposition party online called the China Republican Party, which existed for one day before it was taken down. In addition, police cited Cao posting articles on foreign websites and text messages sent to friends as evidence of his crimes." (CHRD, March 2013, p. 40)

4.1.2 Independent candidates

Voice of America (VOA) notes in an article of October 2013 that "low level elections are often touted by China's leadership as a sign of the government welcoming people's participation". However, as added by the source, "candidates that decide to run independently from the party [...] are harassed during campaigns and usually prevented from appearing on ballots" (VOA, 28 October 2013). In a letter to President Xi Jinping and Chairman of the National People's Congress, Zhang Dejiang, Human Rights Watch (HRW) mentions that individuals who run as independent candidates to the "state-controlled local people's congresses" are often subjected to "serious reprisals" (HRW, 8 October 2013). A March 2013 report by the Congressional Research Service (CRS) notes a "growing number" of independent candidates in people's congress elections at township and district level, adding that many of them were subjected to "government harassment":

> "A growing number of citizens have run as 'independent' candidates for township and district people's congresses, including academics, college students, journalists, bloggers, leaders of non-governmental organizations (NGOs), private entrepreneurs, lawyers, and farmers. Many of them have conducted their election campaigns through such media as the Internet and microblogging (weibo). Many candidates have experienced government harassment, such as surveillance, intimidation, or detention, thus forcing them to quit." (CRS, 15 March 2013, p. 5)

The February 2014 US Department of State (USDOS) annual report on human rights provides the following information with regard to the treatment of independent candidates:

> "In 2012 the local governments kept most independent candidates – those without official government backing – off the ballots despite their meeting nomination criteria. No declared independent candidates won election in 2012. Election officials pressured independent candidates to renounce their candidacies, manipulated the ballot to exclude independent candidates, refused to disclose electorate information to independent candidates, and sometimes adjusted electoral districts to dilute voter support for independent candidates.
>
> In September an independent People's Congress candidate from Foshan City, Guangdong Province, who was detained in 2011 during the People's Congress representative elections that year on a charge of undermining elections, was tried and found guilty of 'disrupting elections.' According to open source websites, hundreds of her supporters who wanted to observe her trial were denied access to the court." (USDOS, 27 February 2014, section 3)

In its annual report on human rights in 2012, published in April 2013, the same source notes the following specific cases:

> "Chengdu authorities harassed many independent candidates who attempted to run for local people's congress elections in February. On February 8, security officers beat Gan Xingyan as she attempted to register her candidacy in Chengdu's rural Shuangliu County. Local police reportedly refused to investigate her case. In other areas of Chengdu, serious violations were reported throughout the election process. Independent candidates were denied nomination forms, or the deadline for turning in nominations was suddenly changed. Several candidates withdrew after authorities threatened individuals who had signed their petitions. In April an independent People's Congress candidate from Foshan City, Guangdong Province who was detained in September 2011 on a charge of undermining elections, was released on bail and taken to a hospital for medical treatment. The candidate had been tried in February but no verdict was announced and four bail applications were not approved." (USDOS, 19 April 2013, section 3)

Chinese Human Rights Defenders (CHRD) notes in its 2012 annual report on the situation of human rights defenders in China (published in March 2013) that according to Chinese activists who monitored the 2011-2012 elections for local people's congress delegates, "citizens who tried to register as independent candidates were systematically harassed and eventually barred from running". CHRD further notes that "[w]hen voting days arrived all over the country, independent candidates were detained, kept away, left off ballots, and even physically assaulted". The report continues:

> "When elections were held in Chengdu in Sichuan in February 2012, authorities issued unheard-of requirements in order to block independent candidates from registering their candidacies while engaging in other abuses. Challenging the requirements' legality, independent candidates one day tried to approach government officials but were dispersed by security personnel, who severely beat and injured one candidate. On election days in Chengdu, independent candidates were widely harassed, voting was conducted

> without sufficient publicity and oversight, and election officials even offered money to residents to entice them to vote. Unidentified individuals (likely dispatched by government authorities) closely monitored independent candidates, some of whom were inexplicably photographed as they voted at the polls. Activist Chen Qian (陈 茜), who tried to run as an independent candidate, reported that she was placed under surveillance the day before an election. Government officials and police took another independent candidate, Wang Rongwen (王荣文), to a voting location, forced her to cast a ballot, and then dragged her away and kept her incommunicado for a short period (CHRD, March 2013, pp. 11-12)

Yu Liu, political scientist at Qinghua University (Beijing), and Dingding Chen, assistant professor of government at the University of Macau, note in the winter 2012 issue of The Washington Quarterly that the Communist Party has used "all sorts of measures" to prevent independent candidates competing in local people's congress elections in 2011 from being elected (Yu/Dingding, winter 2012, pp. 53-54). The source specifies that "[d]ifferent local governments use different methods to stop independent candidates from running. Some measures are relatively 'polite,' such as removing the posters of the candidate or disqualifying candidates by adding tailored specifications. Some, however, use direct threats, including beatings" (Yu/Dingding, winter 2012, p. 62, footnote 49).

In its September 2012 report on the 2011-2012 local people's congress elections, The Rights Practice refers to individuals who were planning to run as independent candidates but were eventually prevented from doing so:

> "Prior to and in the first period of the recent election cycle there were large numbers of so-called independent candidates promising to stand for election to local people's congresses. Chinese election scholars reported that hundreds if not thousands of people were planning to stand. Popular understanding of an independent candidate does not necessarily refer to someone who is not a member of the Communist Party, but instead someone who has not been recommended as a candidate by the Party or one of the Party sponsored mass organisations. Most independent candidates have sought the recommendation of ten or more voters.
>
> On June 8, 2011 the head of the Commission for Legislative Affairs of the NPC Standing Committee published a statement that raised questions about the notion of an independent candidate. The official asserted that independent candidates are not recognized by law, explaining that a candidate must first be recommended as a deputy candidate and then confirmed as an 'official deputy candidate'. The law grants 'qualified citizens the right to vote and to be elected, but election activities must adhere with the law and its specific provisions' which he explained follow certain steps: a citizen must first register to win confirmation of his or her qualifications for lawmaker candidacy. They may then be recommended as a 'deputy candidate' by political parties, social organisations or ten or more voters; the list of official nominees is then determined based on the majority of opinions of the constituency, or in a preliminary (primary) vote if necessary.

> Results from the recent elections confirm that having a sufficient number of recommendation signatures has very little to do with getting one's name on the ballot. Mr. Yu Nan, 37, from Lanzhou is a case in point. After acquiring 19 recommendations, and even initially making it onto the list of official candidates in his district, Mr. Yu was asked by election committee officials to resubmit the names and household registration information of everyone who had recommended him after he had posted campaign commitments online about serving the people and calls for more transparency. Although he complied with the request, his name was eventually removed from the official list of candidates and was not included on the ballot." (Rights Practice, September 2012, pp. 23-24)

A November 2013 article by Ying Sun, post-doctoral fellow and lecturer at the School of law, Sun Yat-Sen University (Guangzhou City), examines the origin and historical development of independent candidates in people's congress elections. It also includes a detailed account of the performance of independent candidates in the 2011-2012 direct elections:

- Ying, Sun: Independent Candidates in Mainland China: Origin, Development and Implications for China's Democratization. In: Asian Survey, Volume 53, Issue 2, 4 November 2013, pp. 245-268
  http://papers.ssrn.com/sol3/Delivery.cfm/SSRN_ID2349489_code2150464.pdf?abstractid=2349489&mirid=3

Some additional information on the treatment of independent candidates is included in section 2.2 of this compilation.

4.2 Anti-corruption activists

As reported by Freedom House in July 2013, the New Citizens' Movement, "an initiative urging public officials to disclose their wealth", has been targeted by the authorities, "with more than a dozen members arrested and several set to face trial". According to Freedom House, "two members of the movement were detained in Beijing" on 12 July 2013. (Freedom House, 18 July 2013)

An October 2013 article by BBC News reports that three anti-corruption activists affiliated with the New Citizens' Movement have been brought to trial after they took photographs with banners urging the disclosure of officials' wealth. BBC News further mentions that since the ascendancy of Xi Jinping as new Communist Party chief, several activists of the movement have been detained:

> "China has put three anti-corruption campaigners on trial, in what is being seen as part of a crackdown on activists under President Xi Jinping. The trial of Liu Ping, Wei Zhongping and Li Sihua, activists associated with the New Citizens' Movement, began in Xinyu, Jiangxi province, on Monday. They were detained after taking photographs with banners urging officials to disclose their assets. [...] They were initially detained for subversion, but the charge was later changed to illegal assembly, activists and lawyers say. [...] Since Xi Jinping took over the leadership of the Communist Party a year ago, his government has launched its own anti-corruption drive, the BBC's Damian Grammaticas reports from outside the court in Xinyu. But Mr Xi has also overseen the broadest crackdown China has

> seen in recent years, our correspondent adds. Several activists in the New Citizens' Movement, which calls for more democracy and government transparency, have been detained." (BBC News, 28 October 2013)

Reuters news agency also reports on the trial of Liu Ping, Wei Zhongping and Li Sihua, referring to it as "the first prosecution of anti-graft activists" in a wider crackdown against activists under the new government (Reuters, 28 October 2013).

In its February 2014 annual report on human rights (covering 2013), the US Department of State (USDOS) briefly writes:

> "Citizens who promoted efforts to combat corruption were themselves detained and arrested. For example, throughout the year, NGO sources reported that authorities arrested at least 29 persons associated with the New Citizens Movement on charges stemming from activities to promote good governance." (USDOS, 27 February 2014, Executive Summary)

The same report includes the following information with regard to whistleblowing protections:

> "In 1991 the Supreme People's Procuratorate published the Regulation to Protect Citizen's Whistleblowing Rights. Whistleblowing protections are also included in various criminal and labor laws. Legal experts opined, however, that the constellation of laws and regulations did not provide adequate protections to whistleblowers. In September the government created an official website for citizens to report fraud, graft, and government mismanagement, with priority given to those who provide their real names and contact information. The government does not provide legal protection for whistleblowers who do not use official channels." (USDOS, 27 February 2014, section 4)

In its annual report 2013 (covering the period from autumn 2012 to autumn 2013), the Congressional-Executive Commission on China (CECC) notes that as of late August 2013, "dozens of anticorruption advocates and other citizens reportedly affiliated with the New Citizens' Movement had been detained or arrested for peaceful assembly on various charges, including 'unlawful assembly' and 'inciting subversion'" (CECC, 10 October 2013a, p. 78). In addition, the source lists the following more detailed information regarding the treatment of anti-corruption activists and individuals demanding the disclosure of officials' assets or calling for the release of detained anti-corruption advocates:

> "Chinese leaders and citizens continued to express concern about official corruption, and many foreign and domestic business people reportedly think China's legal environment has deteriorated. Top leaders link the Party's legitimacy to its ability to manage corruption. Authorities continued to issue regulatory measures to curb corruption. [...] Central leaders have not, however, fully supported requirements for top officials to disclose their assets, and continued to have little tolerance for non-governmental anticorruption efforts. Against the backdrop of strong public demand for disclosure of officials' finances, authorities criminally detained or arrested dozens of advocates who made public appeals for top officials to disclose their finances, including anticorruption advocates such as Sun Hanhui,

> Ding Jiaxi, Hou Xin, Yuan Dong, Zhang Baocheng, Ma Xinli, Liu Ping, Zhao Changqing, and Wang Yonghong." (CECC, 10 October 2013a, p. 42)
>
> "During the reporting period, officials have detained a number of online corruption whistleblowers and have had little tolerance for citizens and non-governmental organizations in various locations that have expressed demands for disclosure of officials' assets. As of mid-September 2013, officials in various locations reportedly had detained nearly 60 people who participated in petition drives or demonstrations calling for more transparency of government officials' finances, who called for the release of detained advocates, or who engaged in other related political advocacy efforts, and authorities formally arrested 29 of those people:" (CECC, 10 October 2013a, p. 144)

Examples of specific instances of detention of anti-corruption activists can be found on pages 144-145 of the report (CECC, 10 October 2013a, pp. 144-145).

In its 2013 annual report on the human rights situation in China (published in March 2014), Chinese Human Rights Defenders (CHRD) notes the following cases:

> "[…] police in Beijing took into custody activists who had organized a campaign that called for, among other things, more than 200 high-ranking CCP officials, including President Xi and Premier Li Keqiang, to publicly disclose their personal wealth. The activists' anti-corruption campaign took off soon after Xi himself vowed to cleanse the CCP of rampant corruption. Among the first to be detained in the capital were Hou Xin (侯欣), Ma Xinli (马新立), Yuan Dong (袁冬), and Zhang Baocheng (张宝成). The detentions of the so-called 'Xidan Four' – police took these activists into custody after they demonstrated in Beijing's Xidan shopping district – would inspire widespread appeals for justice. (Yuan and Zhang were tried in January 2014; Yuan was given an 18-month sentence but no verdict was issued for Zhang.) Showing solidarity with these activists, dozens of petitioners were also swept up during the year after joining the anti-corruption drive or rallying for the detained HRDs' [human rights defenders] freedom." (CHRD, March 2014, p. 4)
>
> "[…] police in Hunan detained Duan Xiaowen (段小文), a netizen known by the screen name 'Uncle Anti-Corruption' (反腐大叔观音土), on the suspected crime of 'creating a disturbance.' Duan has used the Internet to disclose scandals involving local officials, including forced evictions and demolitions and also a case where a government post was secured through bribery. Days later, Hunan police detained Yin Weihe (尹卫和) for going online to expose graft by officials, calling for commemoration of June Fourth victims, and demanding the government pay reparations to individuals detained in the crackdown on peaceful assembly and association […]. Yin was arrested in October for 'creating a disturbance' and remains in police custody." (CHRD, March 2014, pp. 8-9)

In August 2013, Radio Free Asia (RFA) mentions the case of Chongqing-based journalist Liu Hu who was detained by "men identifying themselves as Beijing police" after he "reported on corruption among officials of the ruling Chinese Communist Party". As noted by the source, "[s]ome analysts saw his detention as part of an ongoing crackdown on whistleblowers and

activists who called on Party officials to reveal details of their assets, and those of their families". (RFA, 23 August 2013)

A June 2013 press release by Human Rights Watch (HRW) notes that between late March and late May 2013, 15 anti-corruption activists were detained in Beijing and Jiangxi province on charges of "illegal assembly", "inciting subversion of state power", "disturbing social order" and "extortion":

> "More than a dozen anti-corruption activists in Beijing and Jiangxi Province were detained between late March and late May after participating in or organizing demonstrations calling for government officials to publicly disclose their assets, China Human Rights Lawyers Concern Group, Committee to Support Chinese Lawyers, Front Line Defenders, Human Rights Watch, and Independent Chinese PEN said today. [...] Since May 7, 10 of the 15 have been formally arrested, indicating that they are likely to be prosecuted and convicted. The charges against the 15 include 'illegal assembly,' 'inciting subversion of state power,' 'disturbing social order,' and 'extortion.' The crime of inciting subversion carries up to 15 years in prison, while the other crimes have an upward penalty of five years in prison." (HRW, 9 June 2013)

The same press release also notes that President Xi Jinping has launched an anti-corruption drive since formally coming to power in March 2013, but that "Chinese activists and citizens are campaigning for the government to go further":

> "Since formally assuming power in March 2013, President Xi Jinping has described fighting corruption as one of his top priorities. Most recently, his efforts appear to have targeted lavish displays of wealth such as banquets, and led to the removal from office of a number of high-ranking government officials, such as the deputy head of the National Development and Reform Commission. However, Chinese activists and citizens are campaigning for the government to go further, urging that it pass a law requiring government officials to disclose their assets. In December 2012, a group of intellectuals drafted a public letter calling on Chinese Communist Party Central Committee members to disclose their assets; over 7,000 people signed. Activists have also displayed banners and handed out fliers across the country, and encouraged participation in this loosely organized, national 'asset disclosure campaign.'" (HRW, 9 June 2013)

The CECC states in its annual report 2012 (published in October 2012 and covering the period from autumn 2011 to autumn 2012) that "[p]rotections for whistleblowers remained insufficient and authorities continued to have little tolerance for non-governmental anticorruption efforts" (CECC, 10 October 2012, p. 132). On page 132, the report also describes a number of specific cases of ill-treatment of anti-corruption activists (CECC, 10 October 2012, p. 132).

In its 2012 annual report on the human rights situation in China (published in March 2013), Chinese Human Rights Defenders (CHRD) notes that activist Pei Fugui was ordered to serve 15 months of Re-education through Labour (RTL) "in apparent retaliation for his long-term charitable efforts and anti-corruption work":

> "Activist Pei Fugui, who founded 'Petitioners' House' in Beijing to provide services to petitioners, was given a 15-month Re-education through Labor (RTL) punishment in September 2012, on a charge of 'creating a disturbance.' His alleged 'crimes' include refusing to buy tickets when taking the public bus, renting out living quarters to petitioners at low rates, and writing anti-corruption slogans on the walls of his home. The punishment is in apparent retaliation for his long-term charitable efforts and anti-corruption work." (CHRD, March 2013, p. 42)

The April 2013 US Department of State (USDOS) annual report on human rights (covering 2012) describes the following specific instances of detention of individuals exposing alleged official corruption:

> "On January 7, local police in Fujian Province's Xiamen municipality detained an online activist for blogging about alleged corruption behind forced home evictions and demolitions in the city's Jimei district. The blogger had previously refused to comply with authorities' requests to remove claims of corruption from her blog." (USDOS, 19 April 2013, section 2a)

> "On February 27, authorities prevented seven residents of Fujian Province from distributing leaflets exposing alleged judicial corruption in Sanming City, Fujian, in front of a foreign embassy. Police forcibly returned four of the protesters to their hometowns in Fujian, where they were placed in administrative detention." (USDOS, 19 April 2013, section 2b)

4.3 Human rights defenders

In March 2014, Chinese Human Rights Defenders (CHRD) published an extensive report on the situation of human rights activists in China in the year 2013. In the introduction, the report says:

> "Human rights defenders in China experienced a tumultuous year of government suppression, yet they continued to demonstrate remarkable strength and extraordinary courage. In interviews and discussions conducted by Chinese Human Rights Defenders (CHRD), dozens of Chinese activists describe 2013 as the worst year for human rights since at least 2008, which saw severe crackdowns on civil liberties around the Beijing Olympics and with the Charter 08 campaign for reform. Some of them pointed out that the number of activists detained on criminal charges in the 2013 crackdown surpassed that in any period of suppression since the late 1990s, when many organizers of the Democracy Party of China were jailed." (CHRD, March 2014, p. 1)

The full version of the 28-page publication can be accessed via the following link:

- CHRD - Chinese Human Rights Defenders: A Nightmarish Year Under Xi Jinping's "Chinese Dream", March 2014
  http://chrdnet.com/wp-content/uploads/2014/03/FINAL-PDF_2013_CHRD-Report-on-Human-Rights-Defenders-compressed.pdf

The Congressional-Executive Commission on China (CECC) writes in its 2013 annual report (covering the period from autumn 2012 to autumn 2013) that official rhetoric at the start of

President Xi Jinping's term of office "suggested openness to reforms and limits on the power of officials, sparking public discussion across the country". However, "the new leadership soon cracked down on growing calls for human rights and the rule of law and reiterated the Party's dominance over public affairs". (CECC, 10 October 2013a, p. 1)

A press release published by the UN Office of the High Commissioner for Human Rights (OHCHR) in October 2013 states that UN independent experts expressed "serious concern" at reports that Chinese human rights activists have been "threatened, arrested or banned from taking part in demonstrations or stopped from leaving China" in the run-up to the second Universal Periodic Review (UPR) of the country's human rights record by the UN Human Rights Council scheduled for 22 October 2013 (OHCHR, 16 October 2013).

An August 2013 press release by Human Rights Watch (HRW) notes a "nationwide crackdown on dissent in an apparent campaign against challenges to one-party rule". The press release further observes:

> "Since February 2013 the government has arbitrarily detained at least 55 activists, taken into custody critics and online opinion leaders, and increased controls on social media, online expression, and public activism, rolling back the hard-won space China's civil society has gained in recent years. The crackdown is unfolding as China campaigns to be elected to the United Nations Human Rights Council, the UN's preeminent human rights body, in November 2013, and prepares for the review of its human rights record before the council in October 2013. [...] The crackdown on dissent reflects the general hardline shift taken by the Xi Jinping leadership in recent months. It contrasts sharply with Xi's rhetoric at the beginning of his presidency in March, when he promised to 'uphold the constitution and the rule of law' and 'always listen to the voice of the people.' [...]
>
> In April, the office of the Central Committee of the Chinese Communist Party issued an internal directive stressing that the party must eliminate 'seven subversive currents' in China today, including those who advocate for 'Western constitutional democracy,' 'universal values' such as human rights, civil society, and 'Western press values.' In June, the Supreme People's Procuratorate issued a notice demanding that prosecutors at all levels 'combat the crimes of endangering national security' by 'resolutely combating crimes such as illegal assemblies, the gathering of crowds to disturb social and public order, and others, which aim to subvert state power.' Reflecting an apparent departure from a rule of law approach, the notice stressed that legal organs should 'unify social, political, and legal results' in their work, rather than solely base their decisions on the law." (HRW, 30 August 2013)

The same source informs in a press release dated October 2013 that "[s]ince February, dozens of human rights activists in China have been detained for organizing and being involved in collective rights actions". Among them are "the prominent activist Xu Zhiyong, who is considered to be the intellectual force behind the group New Citizens Movement; and Guo Feixiong, involved in initiating a public letter calling on the government to ratify the International Covenant on Civil and Political Rights". (HRW, 21 October 2013)

The Human Rights Watch (HRW) annual report of January 2014 notes that "China's human rights activists often face imprisonment, detention, torture, commitment to psychiatric facilities, house arrest, and intimidation". The report continues:

> "One of the most severe crackdowns on these individuals in recent years occurred in 2013, with more than 50 activists put under criminal detention between February and October. Human rights defenders are detained for ill-defined crimes ranging from 'creating disturbances' to 'inciting subversion' for organizing and participating in public, collective actions. In July, authorities detained Xu Zhiyong, who is considered an intellectual leader of the New Citizens Movement, a loose network of civil rights activists whose efforts include a nationwide campaign that calls on public officials to disclose their assets.
>
> In September, Beijing-based activist Cao Shunli was detained after she was barred from boarding a flight to Geneva ahead of the United Nations Human Rights Council (HRC) review of China on October 22. Cao is known for pressing the Chinese government to include independent civil society input into the drafting of China's report to the HRC under a mechanism called Universal Periodic Review (UPR). Another activist, Peng Lanlan, was released in August after she spent one year in prison for 'obstructing official business' for her role in the campaign.
>
> Nobel Peace Prize winner Liu Xiaobo continues his 11-year jail term in northern Liaoning province. His wife Liu Xia continues to be subjected to unlawful house arrest. In August, Liu Xiaobo's brother-in-law, Liu Hui, was given an 11-year sentence on fraud charges; it is widely believed the heavy sentence is part of broader effort to punish Liu Xiaobo's family." (HRW, 21 January 2014)

The UK Foreign and Commonwealth Office (FCO) quarterly human rights update of 30 June 2013 reports that the period since the previous update of 31 March 2013 "saw continuing harassment of human rights defenders, including human rights lawyers". According to the FCO, "[a] number of human rights defenders around the country were harassed, illegally detained, or placed under house arrest in this period, with such incidents increasing around the anniversary of the Tiananmen unrest". These rights defenders included "Mao Hengfeng, Hu Jia, Xu Zhiyong, Tibetan blogger Woeser and rights lawyers Teng Biao and Tang Jingling". (FCO, 30 June 2013)

A brief overview of the situation of civil society groups and domestic NGOs in 2013 is given in the US Department of State (USDOS) annual report on human rights in 2013, published in February 2014:

> "The government sought to maintain control over civil society groups, halt the emergence of independent NGOs, hinder the activities of civil society and rights' activist groups, and prevent what it called the 'Westernization' of the country. The government did not permit independent domestic NGOs to monitor openly or to comment on human rights conditions, and it harassed domestic NGOs. The government tended to be suspicious of independent organizations and scrutinized NGOs with financial and other links overseas. Most large NGOs were quasi-governmental, and many official NGOs had to be sponsored by government agencies. The NPC introduced new registration procedures in March that

allowed certain types of nonadvocacy NGOs to register directly with the Ministry of Civil Affairs [...]." (USDOS, 27 February 2014, section 5)

The USDOS annual report further notes:

> "An informal network of activists around the country continued to serve as a credible source of information about human rights violations. The information was disseminated through organizations such as the Hong Kong-based Information Center for Human Rights and Democracy, the foreign-based Human Rights in China, and Chinese Human Rights Defenders and via the internet. [...]The government did not have a human rights ombudsman or commission. The government-established China Society for Human Rights was an NGO whose mandate is to defend the government's human rights record. The government maintained that each country's economic, social, cultural, and historical conditions influenced its approach to human rights." (USDOS, 27 February 2014, section 5)

The United States Commission on International Religious Freedom (USCIRF) indicates in its 2013 annual report on religious freedom (covering the period from 31 January 2012 to 31 January 2013) that since 2011, "[o]ver 100 lawyers and human rights defenders have been forcibly disappeared, tortured, detained, or sentenced to prison terms", adding that"[l]ocal government security agencies monitored rights defenders' whereabouts, forced them to leave their homes for remote locations during sensitive visits of foreign delegations, and detained them in their homes" (USCIRF, 30 April 2013, p. 40).

A more detailed account of the situation of human rights defenders in 2012 is set out in the Amnesty International (AI) annual report, published in May 2013:

> "The authorities budgeted over 701 billion yuan (approximately US$112 billion) to maintain public security, an increase of over 30 billion from 2011. Provincial governments called on lower level authorities to 'strengthen community works' in the run-up to the Chinese Communist Party leadership transition. This included collecting information from community monitors, frequently warning dissidents and their families, and imprisoning government critics or placing them under house arrest all as a means to silence dissent.
>
> At the end of 2011 and beginning of 2012, several human rights defenders who consistently called for political reform were sentenced to long jail terms for 'inciting subversion of state power' through articles and poems they wrote and distributed. Sentences included 10 years for Guizhou human rights forum leader Chen Xi and activist Li Tie, nine years for Sichuan human rights activist Chen Wei, seven years for Zhejiang Democratic Party member Zhu Yufu and, at the end of 2012, eight years for Jiangsu internet activist Cao Haibo, who set up an online group to discuss constitutional law and democracy.
>
> Human rights defenders working on economic, social and cultural rights were also targeted. They were either placed under surveillance, harassed, or charged with vaguely worded offences." (AI, 23 May 2013)

4.4 Lawyers

A June 2013 article by Radio Free Asia (RFA) notes with reference to lawyers and rights groups that "[d]ozens of China's top human rights lawyers are facing unexplained delays in getting their business licenses renewed, in what is possibly the biggest clampdown on the country's embattled legal profession to date". According to RFA, "China frequently withholds the licenses of lawyers who represent 'sensitive' and disadvantaged groups, such as those who pursue complaints against official wrongdoing". The source also notes that "[n]ew rules introduced in the past two years ban lawyers from defending certain clients and leave them vulnerable to being charged themselves with subversion if they defend sensitive cases". (RFA, 6 June 2013)

In its annual report on human rights in 2013, published in February 2014, the US Department of State (USDOS) notes that "[t]he annual licensing review process administered by the Beijing Lawyers Association was used to withhold or delay the renewal of professional lawyers' licenses, which restricted the ability of a number of human rights and public interest lawyers to practice law" (USDOS, 27 February 2014, section 1e)

The Congressional Research Service (CRS) states in a report of March 2013 that "[l]awyers who take on politically sensitive cases often face reprisals, including the forced closure of law offices, suspension or cancellation of law licenses, and unlawful detention, beatings by plain-clothes agents, house arrest, and prison terms" (CRS, 15 March 2013, p. 10). Similarly, Amnesty International notes in its annual report 2013 (covering 2012) that "[l]awyers who took on controversial cases faced harassment and threats from the authorities and, in some cases, the loss of professional licenses, severely curtailing people's access to justice" (AI, 23 May 2013).

In April 2013, the Unrepresented Nations and Peoples Organization, an international membership organisation of nations and peoples that are not adequately represented in international forums such as the United Nations, indicates that China "pursues discriminatory law practices", including "threatening lawyers representing members of ethnic minorities" (Unrepresented Nations and Peoples Organization, April 2013, p. 8). According to a February 2013 report by the Society for Threatened Peoples, a Germany-based international NGO and human rights organisation, "Chinese human rights lawyers who were willing to defend Tibetans were advised to keep out of it or otherwise their licenses could be revoked or suspended" (Society for Threatened Peoples, 22 February 2013, p. 2). Freedom House similarly states in its report Freedom in the World 2013 – Tibet (covering events of 2012) that "Chinese lawyers who offer to defend Tibetan suspects have been harassed or disbarred" (Freedom House, January 2013b).

As report by several sources, in 2012 new regulations ordered lawyers to swear an oath of loyalty to the Communist Party when applying for or renewing their licenses (e.g. CRS, 15 March 2013, p. 10; Reuters, 21 March 2012). Radio Free Europe/Radio Liberty (RFE/RL), a private, non-profit, US government funded radio broadcaster, notes with regard to this obligation:

> "[…] all lawyers applying for new licenses or renewed licenses are required to pledge to 'support the leadership of the Communist Party of China and uphold the socialist system.' Critics, including human rights lawyers in China, say the new oath is inappropriate, violates the principle of the rule of law, and is likely to strengthen the ability of authorities to ban uncooperative lawyers. The Justice Ministry says the new rule it is necessary to raise lawyers' 'political, professional, and moral standards.'" (RFE/RL, 22 March 2012)

The CRS writes in its aforementioned report of March 2013 that since 2008, the Communist Party "has established cells in most law firms" (CRS, 15 March 2013, p. 10). On the same topic, the USDOS annual report on human rights in 2013 notes:

> "The government continued to require law firms with three or more CCP members to form a CCP unit within the firm. Firms with one or two CCP members may establish joint CCP units with other firms. In smaller counties and cities with few lawyers, CCP members may join local Justice Bureau CCP units. This rule also applies to private companies and other organizations." (USDOS, 27 February 2014, section 1e)

According to the CRS, Chinese lawyers who advised their clients to withdraw confessions extracted through torture placed themselves in jeopardy of criminal conviction under Article 306 of the country's Criminal Law:

> "Article 306 of China's Criminal Law, which makes it a crime to fabricate evidence or induce a witness to change his testimony, often has been invoked to deter defense lawyers from gathering evidence and to prosecute attorneys who had advised clients to recant confessions obtained through torture." (CRS, 15 March 2013, pp. 10-11)

A May 2011 editorial in the New York Times (NYT) looks at the situation of Chinese criminal lawyers and lists the following information regarding Article 306 of the Criminal Law and its application:

> "They [criminal lawyers in China] point in particular to article 306 of China's Criminal Law — 'Big Stick 306' — that they say gives prosecutors unlimited power to intimidate lawyers and derail defenses. Any defense lawyer accused of fabricating evidence or inducing a witness to change his testimony, […] can be immediately detained, arrested and prosecuted for perjury. Although the majority of lawyers prosecuted have been acquitted, the long, demeaning process of investigation is severe punishment. Sida Liu and Terence Halliday, who study the Chinese legal system, estimate hundreds of defense lawyers have been prosecuted under 'Big Stick 306.' They say it is why 'the vast majority of Chinese lawyers do not collect their own evidence in criminal cases.'" (NYT, 5 May 2011)

The Congressional-Executive Commission on China (CECC) annual report 2013 (covering the period from autumn 2012 to autumn 2013) notes with regard to the treatment of rights protection lawyers:

> "The Commission observed instances of government harassment, detention, and physical violence against weiquan (rights defense) lawyers during the 2013 reporting year, continuing a pattern of human rights violations against rights defenders documented in prior years. During the annual license renewal period in May 2013, the Beijing Justice

> Bureau reportedly did not renew licenses of approximately 10 law firms and possibly dozens of weiquan lawyers, many of whom have provided legal counsel in religious freedom, state security, and reeducation through labor cases. International news media also reported that authorities have shut down the blogs of lawyers involved in rights defense, and placed at least one lawyer on a government list of so-called 'key persons' (zhongdian renyuan, i.e., a person of 'key' interest to security authorities). Local law enforcement also reportedly detained and beat a group of weiquan lawyers who went to Sichuan province in May 2013 to investigate an allegedly illegal detention center." (CECC, 10 October 2013a, p. 160)

Freedom House states in its report Freedom in the World 2014 – China (covering the year 2013):

> "The country's growing contingent of civil rights lawyers continued to face restrictions and physical attacks in 2013. Lawyers were prevented from seeing their clients, disbarred, beaten, and in some cases detained. Prominent lawyer Gao Zhisheng remained imprisoned and at risk of torture at year's end. In May, plainclothes police beat and detained 11 lawyers as they were attempting to investigate abuses at an extralegal detention center in Sichuan Province." (Freedom House, 23 January 2014)

The USDOS annual report on human rights in 2013 observes:

> "Human rights lawyers reported that authorities did not permit them to defend certain clients or threatened them with punishment if they chose to do so. The government suspended or revoked the licenses of lawyers or their firms to stop them from taking sensitive cases, such as defending prodemocracy dissidents, house-church activists, Falun Gong practitioners, or government critics. [...] Government officials continued to harass lawyers for their involvement in high-profile, rights-related cases." (USDOS, 27 February 2014, section 1e)

The UK Foreign and Commonwealth Office (FCO) quarterly human rights update of 30 June 2013 provides the following information with regard to the situation of human rights lawyers since the previous update of 31 March 2013:

> "[...] this period also saw continuing harassment of human rights defenders, including human rights lawyers. In April, lawyer Wang Quanzhang was sentenced to judicial detention while defending a Falun Gong client, although he was released early after protests by other rights lawyers. Also in April, rights lawyer Cheng Hai was reportedly assaulted by police while trying to defend Falun Gong clients in Dalian. On 13 May eleven human rights lawyers were briefly detained while investigating a 'legal education centre' in Sichuan, which was reportedly being used to detain Falun Gong practitioners. A number of human rights defenders around the country were harassed, illegally detained, or placed under house arrest in this period, with such incidents increasing around the anniversary of the Tiananmen unrest. These included Mao Hengfeng, Hu Jia, Xu Zhiyong, Tibetan blogger Woeser and rights lawyers Teng Biao and Tang Jingling." (FCO, 30 June 2013)

A February 2013 written statement by the Jubilee Campaign, a US-based non-profit organisation that promotes human rights and religious freedom of ethnic and religious minorities, also provides information with regard to the treatment of human rights lawyers. As noted by the Jubilee Campaign, the views expressed in this statement are also shared by the UK-based NGO Christian Solidarity Worldwide (CSW):

> "The second and most recent National Human Rights Action Plan of China (2012-2015) includes a clause 'guaranteeing the personal rights and right of defence of lawyers' (II: 3, para. 3). While any proposal to improve protection for human rights lawyers is to be welcomed, its full application has yet to be realised. At the time of writing, a number of lawyers are in detention. Even prominent lawyers such as Gao Zhisheng can come to be regarded as a threat to the state as a result of their work on sensitive issues. Such issues include freedom of religion or belief, forced eviction and family planning policies.
>
> Annual inspections and evaluations are often used to prevent human rights lawyers from practicing. Judicial administrative departments are able to terminate lawyers' licences on the grounds that they have not passed their evaluation. Human rights lawyers also face opposition and hostility from lawyers' associations and law firms, often in response to government pressure on the firms themselves.
>
> Like other human rights defenders, human rights lawyers have been evicted from their homes by landlords who are under pressure from local authorities not to rent to them. In the most severe cases, lawyers have been illegally detained and tortured, and their own lawyers have been pressured to withdraw from the case; pressure from the Bureau of Justice forced the lawyer representing human rights lawyer Ni Yulan to drop the case. In addition, local authorities' alleged refusal to grant lawyers access to Gao Zhisheng on the grounds that he does not need legal representation 'because he is a lawyer', is of particular concern. Ni Yulan and Gao Zhisheng are currently in detention as a result of their work on sensitive cases. Both were detained prior to charges being brought against them, and both were tortured while in detention." (Jubilee Campaign, 20 February 2013, pp. 2-3)

4.5 Petitioners

A February 2013 article by Radio Free Asia (RFA) lists the following information regarding China's petitioning system and the treatment of petitioners:

> "While they complain of being stonewalled, detained in 'black jails,' beaten, and harassed by the authorities, China's petitioners are nonetheless making use of a legal and official channel for complaints and grievances; the 'letters and visits' system. Initially established in 1951, the petitioning system was reinstated during the 1980s following the large number of appeals against summary verdicts handed down during the political turmoil of the Cultural Revolution (1966-76). China says it receives between 3 million and 4 million complaints in the form of 'letters and visits' annually, on average. However, many petitioners say they have been pursuing grievances, which are often linked to acts of violence by police or officials, forced evictions and loss of farmland, for decades with no result." (RFA, 14 February 2013)

The petitioning system is also briefly described in the Congressional-Executive Commission on China (CECC) 2013 annual report. Furthermore, the CECC refers to a "prominent Chinese economist" who reportedly estimated the number of petitioners to be 20 million in 2012:

> "The petitioning, or xinfang (letters and visits), system exists to provide a channel, outside court challenges, for citizens to appeal government, court, and Communist Party decisions and to present their grievances. Citizens often turn to petitioning as a means to seek redress for a wide range of disputes – such as forced evictions and land expropriation, wage arrears, unpaid pensions to military veterans, and unpaid compensation required under health-related regulations – due to institutional weaknesses in the judiciary and limits on citizens' ability to air grievances. A prominent Chinese economist reportedly estimated 20 million petitioners in 2012, including repeated filings and petitions at various levels of government. Chinese authorities, however, announced an 11-percent decrease in the total number of petitions during 2012 at a teleconference of the heads of Letters and Visits Bureaus in January 2013, a continuation of an eight-year decrease from 2005, when 12.6 million petitions were officially reported." (CECC, 10 October 2013a, pp. 158-159)

A November 2013 article by The South China Morning Post (SCMP) reports tightened security measures and the arrest of petitioners by police and local governments ahead of the Communist Party Central Committee's third plenary meeting. In the same article, the SCMP provides the following more general information regarding the treatment of petitioners in China:

> "Since early imperial times, petitioning has been a traditional means for people to voice their grievances to officials. In modern times, it is more often a last recourse when attempts to seek redress through the legal system are unsuccessful. Petitioners said that thousands of people had been detained by police or held at 'black jails' – usually flats or hotels but sometimes much larger unofficial detention centres on the outskirts of Beijing where petitioners are held until they are sent back to their home provinces. Other petitioners had been barred by their local officials from travelling to Beijing, they said. [...] While authorities stopped sending petitioners to loajiao [re-education through labour] earlier this year, police still place many of them for shorter periods under administrative or criminal detention. Many other petitioners, meanwhile, are sent home for 'law education classes' – another form of unauthorised detention that can last for months." (SCMP, 7 November 2013)

The same source notes in an article dated February 2013 that "[m]any local governments on the mainland employ thugs to rough up and detain petitioners from their provinces in run-down hostels known as black jails, to prevent them from taking their complaints to the central government" (SCMP, 6 February 2013). Similarly, Voice of America (VOA) states in February 2013 that according to rights groups, "local Chinese officials often hire agents to stop petitioners from airing their grievances in Beijing" (VOA, 5 February 2013).

Under the heading "Arrest Procedures and Treatment of Detainees", the US Department of State (USDOS) annual report on human rights in 2013, published in February 2014, provides the following:

"The law provides for the right to petition the government for resolution of grievances, but citizens who traveled to Beijing to petition the central government were frequently subjected to arbitrary detention, often by police dispatched from the petitioner's hometown. Some provincial governments operated facilities in Beijing or in other localities where petitioners from their districts were held in extrajudicial detention. Some local governments took steps to restrict petitioning. According to a 2010 Shanxi provincial government report, the Shanxi Province People's Congress adopted regulations that listed eight types of 'prohibited' petitioning, including: 'illegally gathering, encircling, or rushing into government offices or important public spaces, stopping cars or hindering public transportation, linking up with others to petition,' and similar acts. The Shanxi regulations also stated that petitioners suspected of 'misrepresenting facts to frame others' could be subject to criminal charges. Online reports claimed local officials in Zengcheng City, Guangdong Province, sealed off two villages in March during the People's Congress and the Chinese People's Political Consultative Conference (CPPCC) sessions to prevent residents from petitioning." (USDOS, 27 February 2014, section 1d)

In a section that discusses freedom of assembly, the same report lists the following information with regard to petitioning in China:

"The law protects an individual's ability to petition the government, but persons petitioning the government faced restrictions on their rights to assemble and raise grievances [...]. Most petitions addressed grievances about land, housing, entitlements, the environment, or corruption. Most petitioners sought to present their complaints at national and provincial 'letters and visits' offices.

Although banned by regulations, retaliation against petitioners reportedly continued. This was partly due to incentives the central government provided to local officials to prevent petitioners from raising complaints to higher levels. Incentives included provincial cadre evaluations based in part on the number of petitions from their provinces. This initiative aimed to encourage local and provincial officials to resolve legitimate complaints but also resulted in local officials sending security personnel to Beijing and forcibly returning the petitioners to their home provinces to prevent them from filing complaints against local officials with the central government. Such detentions often went unrecorded. Rules issued by the General Office of the State Council mandate sending officials from Beijing to the provinces to resolve petition problems locally, thereby reducing the number of petitioners entering Beijing. The rules also mandate a 60-day response time for petitions and provide for a single appeal in each case.

Petitioners faced harassment, illegal detention, and even more severe forms of punishment when attempting to travel to Beijing to present their grievances. On January 5, authorities prevented 13 petitioners from Fujian Province from requesting assistance with their petitions from a foreign embassy in Beijing. According to online reports, police detained six of the petitioners for five days and one petitioner for 10 days." (USDOS, 27 February 2014, section 2b)

In its annual report on human rights in 2012, published in April 2013, the same source mentions the following specific cases:

> "In August, as part of a larger-scale crackdown on petitioners in the period leading to the 18th Party Congress, Yunnan's Xuanwei City reportedly detained 40 would-be petitioners and sent some to psychiatric hospitals. Yunnan petitioner Cai Huaxian reportedly was sentenced to one year of RTL." (USDOS, 19 April 2013, section 2b)

Amnesty International (AI) notes in a report dated December 2013:

> "Evidence recently gathered by Amnesty International and other NGOs show [...] that despite the closure of RTL camps and the recent announcement regarding its imminent abolition, the practice of arbitrarily detaining, harassing, and forcibly sending individuals back to their hometowns for their petitioning activities has continued unabated. [...]
>
> However, while petitioners used to be sent to RTL camps in large numbers, they now appear to be primarily sent to 'black jails', forcibly held in psychiatric institutions and hospitals, detention centres, threatened with prison terms, and harassed in other ways if they do not cease their petitioning. While these forms of punishment had previously been used against petitioners, Amnesty International interviews with petitioners suggest their use has increased over the last year." (AI, 17 December 2013, p. 39)

Freedom House notes in its report Freedom in the World 2014 – China (covering 2013) that "[t]he central government ranks provincial and city officials based on the number of petitioners who travel from their jurisdictions to Beijing to report injustices, affecting their chances of promotion". As a consequence of this, "local officials routinely intercept and harass petitioners, at times detaining them in illegal 'black jails' and labor camps to stop them from visiting Beijing". As Freedom House further notes, "[d]etained petitioners are reportedly subject to beatings, psychological abuse, and sexual violence". The report continues:

> "In November 2013, state media reported that the authorities planned to abolish the ranking system to encourage disputes to be settled locally, and have implemented pilot programs in Zhejiang and Jiangsu Provinces. However, some experts warned that without the pressure to reduce numbers of petitioners, local officials would have even fewer incentives to address grievances." (Freedom House, 23 January 2014).

China's plans to end the policy of measuring local officials' performance based on the number of petitioners from their jurisdiction that register a complaint in Beijing is also reported in a November 2013 article by the New York-headquartered international newspaper The Epoch Times:

> "According to China's state-run media, a policy will quietly end that gave local officials incentives to punish individuals from their jurisdictions who appealed in Beijing for the redress of grievances. [...] In 2005, this system of holding local officials accountable was formalized in the Petition Regulation. According to the regulation, a list of the number of petitions originally from all the provinces in China is kept. That list then is used to help determine an official's political achievement, according to state-run media reports." (Epoch Times, 13 November 2013)

The Epoch Times further quotes Yang Jianli, democracy advocate and founder of the civil rights organisation Initiatives for China, as commenting as follows on the plans to abolish petition ranking:

> "'Abolishment of petition ranking can't solve the problem anyway, because the issues of the local government are not solved,' Yang said. 'If the Chinese government keeps on plundering people financially and suppressing them politically, petitioners will still have grievances and keep on petitioning in Beijing, which brings pressure to security. Thus, local governments still have the pressure of maintenance of stability. Then, they'll keep on suppressing petitioners.'" (Epoch Times, 13 November 2013)

The Chinese Human Rights Defenders (CHRD) annual report on the situation of human rights defenders in China in 2012 mentions several cases of petitioners being targeted by authorities with detentions, threats and forcible commitment to psychiatric facilities. On a positive note, CHRD states that "[s]everal prominent HRDs [human rights defenders] have been released from RTL camps before their punishments were complete, and fewer petitioners have been sent to RTL in some cities where lawyers have sued police committees in charge of RTL decisions". (CHRD, March 2013, p. 9)

A February 2013 article by Agence France-Press (AFP) news agency reports that according to state-run media, ten people who detained eleven petitioners in Beijing have been given prison sentences ranging from six months to two years by a Chinese court (AFP, 5 February 2013). As reported by the Indian news and current affairs channel Zee News, the ten defendants, all natives of the city of Yuzhou in Henan province, "had falsely imprisoned the 11 petitioners, also from Henan, in April, 2012, in two courtyards in Wangsiying township in Beijing's Chaoyang district for two to six days before being arrested by police on May 2" (Zee News, 5 February 2013). The SCMP also reports on the case, referring to the verdict as "a rare victory for petitioners" (SCMP, 6 February 2013).

5 Freedom of the media

Constitutional provisions relevant to freedom of the media are included in section 0 of this compilation.

The US Congressional-Executive Commission on China (CECC) annual report 2013 (covering the period from autumn 2012 to autumn 2013) states that "[m]any official Chinese restrictions on free expression" violate Article 19 of the International Covenant on Civil and Political Rights (ICCPR), which was signed by the Chinese government in 1998 but has yet to be ratified:

> "While international standards permit states to restrict expression in limited circumstances, official Chinese restrictions during the Commission's 2013 reporting year covered a much broader range of activity – including peaceful expression critical of the Chinese Communist Party and independent news reporting. Many official Chinese restrictions on free expression fail to comply with international human rights standards. Article 19 of the International Covenant on Civil and Political Rights (ICCPR) and Articles 19 and 29 of the Universal Declaration of Human Rights permit officials to restrict expression so long as it is (1) for the purpose of respecting the rights or reputations of others or protecting national security, public order, public health or morals, or the general welfare; (2) set forth in law; and (3) necessary and the least restrictive means to achieve the purported aim. Regarding the first requirement, the UN Human Rights Council (UNHRC) has said restrictions on 'discussion of government policies and political debate,' 'peaceful demonstrations or political activities, including for peace or democracy,' and 'expression of . . . dissent' are inconsistent with Article 19 of the ICCPR, which the Chinese government signed in 1998 but has not yet ratified." (CECC, 10 October 2013a, p. 57)

The same source lists the following information with regard to the State Administration of Press, Publication, Radio, Film, and Television, China's newly merged media oversight body, and licensing and accreditation requirements imposed on media organisations and journalists in China:

> "China's media regulator, the State Administration of Press, Publication, Radio, Film, and Television, continued to enforce a system of strict controls and licensing requirements. (In 2013, the General Administration of Press and Publications (GAPP) and the State Administration of Radio, Film, and Television merged to create the State Administration of Press, Publication, Radio, Film, and Television.) All media organizations in China are subject to an extensive licensing system and government supervision. In order to report the news legally, domestic newspapers, magazines, Web sites, and journalists must obtain a license or accreditation from the government. Radio and television broadcast journalists, for instance, must pass a government-sponsored exam that tests them on subjects including basic knowledge of Marxist views of news and Communist Party principles." (CECC, 10 October 2013a, pp. 64-65)

The CECC further reports on regulations that were introduced to control journalists' use of information:

> "In recent years, China's media regulator has issued a range of regulations to 'strengthen management' and address official concerns over 'false information' in news reports. In

> October 2011, the GAPP, the former government agency responsible for monitoring and regulating print-based media, released regulations on controlling use of 'unverified information' by prohibiting journalists from directly referencing information obtained from the Internet or social media in their reporting. Less than two years later, in April 2013, the newly merged State General Administration of Press, Publication, Radio, Film, and Television issued a directive that officially bans journalists from using foreign media reports without authorization and forbids news editors from reporting information online that has not been verified through official channels." (CECC, 10 October 2013a, p. 65)

Freedom House's report Freedom of the Press 2013 (covering events of 2012) gives the following overview of legal provisions relevant to activities of journalists and media workers:

> "Article 35 of the constitution guarantees freedoms of speech, assembly, association, and publication, but such rights are subordinated to the discretion of the CCP and its status as the ruling power. Moreover, the constitution cannot, in most cases, be invoked in court as a legal basis for asserting individual rights. Judges are appointed by the CCP and generally follow its directives, particularly in politically sensitive cases. There is no press law that governs the protection of journalists or the punishment of their attackers. Instead, vague provisions in the penal code and state secrets legislation are routinely used to imprison Chinese citizens for the peaceful expression of views that the CCP considers objectionable. Criminal defamation provisions are also occasionally used to similar effect. Amendments to the Criminal Procedure Law passed in March 2012 permit suspects accused of 'endangering state security' – a charge that is often employed to punish nonviolent activism and political expression – to be detained for up to six months in an unofficial location, prompting concerns that the rule effectively legalizes enforced disappearances. Since open-government regulations took effect in 2008, many agencies have become more forthcoming in publishing official documents, but courts have largely hesitated to enforce information requests, and government bodies routinely withhold information, even regarding matters of vital public concern. Journalists and other media workers are required to hold government-issued press cards in order to be considered legitimate. Those who violate content restrictions risk having their press-card renewals delayed or rejected, being blacklisted outright, or facing criminal charges." (Freedom House, 1 May 2013)

In February 2013, the US-based NGO Committee to Protect Journalists (CPJ) reports as follows on provisions of the Chinese Penal Code that permit authorities to silence journalists covering sensitive issues:

> "In China, [...] Article 103 of the penal code criminalizes 'undermining the unity of the country,' allowing the prosecution of journalists covering minorities like Tibetans and Uighurs who have grievances with official policies. Journalists in China can also be charged under the broad provisions of Article 105, which states: 'Whoever incites others by spreading rumors or slanders or any other means to subvert the State power or overthrow the socialist system shall be sentenced to fixed-term imprisonment of not more than five years, criminal detention, public surveillance, or deprivation of political rights.'" (CPJ, February 2013)

The US Department of State (USDOS) annual report on human rights in 2013 indicates that "[t]he law provides for freedom of speech and press, although authorities generally did not respect these rights". As noted in the report, "[g]overnment officials used criminal prosecution, civil lawsuits, and other punishments, including violence, detention, and other forms of harassment, to intimidate authors and journalists and to prevent the dissemination of controversial writings". The USDOS adds that domestic journalists "can face demotion or job loss for publishing views that challenge the government". (USDOS, 27 February 2014, section 2a)

The USDOS further reports:

> "All books and magazines require state-issued publication numbers, which were expensive and often difficult to obtain. Nearly all print media, broadcast media, and book publishers were affiliated with the CCP or a government agency. There were a small number of print publications with some private ownership interest but no privately owned television or radio stations. The CCP directed the domestic media to refrain from reporting on certain subjects, and all broadcast programming required government approval.
>
> In November the General Administration of Press, Publication, Radio, Film, and Television began requiring news organizations to hold weekly lectures on the CCP's journalistic principles, and journalists applying to renew their media credentials are required to take an examination on Marxist journalistic ideals. [...]
>
> Authorities continued to enforce tight restrictions on citizens employed by foreign news organizations. The code of conduct for Chinese employees of foreign media organizations threatens with dismissal and loss of accreditation Chinese employees who engage in 'independent reporting' and instructs them to provide their employers information that projects a good image of the country.
>
> Official guidelines for domestic journalists were often vague, subject to change at the discretion of propaganda officials, and enforced retroactively. Propaganda authorities forced newspapers to fire editors and journalists responsible for articles deemed inconsistent with official policy and suspended or closed publications. The system of postpublication review by propaganda officials encouraged self-censorship by editors seeking to avoid the losses associated with penalties for inadvertently printing unauthorized content. Officials can be punished for unauthorized contact with journalists." (USDOS, 27 February 2014, section 2a)

Regarding censorship and content restrictions, the same source writes:

> "Authorities continued to ban books with content they deemed controversial. The law permits only government-approved publishing houses to print books. The State Press and Publications Administration (PPA) controlled all licenses to publish. Newspapers, periodicals, books, audio and video recordings, or electronic publications may not be printed or distributed without the approval of the PPA and relevant provincial publishing authorities." (USDOS, 27 February 2014, section 2a)

Madeline Earp, research analyst at Freedom House, notes in her contribution to a March 2013 report by the Committee to Protect Journalists (CPJ) that "[i]n 2013, the [Communist] party does not uniformly criminalize critical journalism. Yet digital information leaves a trail that can be mustered – even 10 years after publication – as justification for silencing a voice that the party deems dangerous to its rule". According to Earp, "some China specialists argue that critique is permitted as long as those articulating it are not, consciously or otherwise, likely to rally anti-government activity". (CPJ, March 2013)

In its annual report of October 2013, the CECC informs that in December 2012, the Standing Committee of the National People's Congress adopted new internet regulations, which reportedly require "Internet users to register accounts by using their real names". Moreover, in September 2013, Chinese officials issued new internet rules that could see internet users who post defamatory comments imprisoned if their statements are widely reposted:

> "On December 28, 2012, the National People's Congress Standing Committee adopted a 12-article decision, titled 'Decision on Strengthening Online Information Protection,' with new regulations stipulating the collection of online personal information. According to multiple reports, new requirements mandating Internet users to register accounts by using their real names generated controversy. In early September, the Supreme People's Court and the Supreme People's Procuratorate also issued an official interpretation regarding re-posting defamatory content online purportedly to protect users' rights and reputations. The Interpretation states that Internet users could face up to three years' imprisonment if defamatory content is reposted 500 times or is viewed 5,000 times online." (CECC, 10 October 2013a, p. 58)

The same source states with regard to regulations relating to internet censorship:

> "Chinese regulatory and legal measures do not clearly define prohibited online content. Internet regulations contain vague and broad prohibitions on content that 'harms the honor or interests of the nation,' 'spreads rumors,' or 'disrupts national policies on religion.' Chinese law does not define these concepts, nor does it contain specific criteria to establish whether an action presents 'harm' to the 'honor or interests of the nation.' Since the concepts remain undefined, Chinese authorities broadly apply these and other vague legal provisions to punish those seeking to express opinions or share information. At the same time, the Chinese government places the burden on Internet service and content providers to monitor and remove content based on these vague standards and to maintain records of such activity and report it to the government." (CECC, 10 October 2013a, p. 60)

The USDOS annual report on human rights in 2013 provides the following information with regard to internet freedom:

> "A State Council regulation deems personal blogs, computer bulletin boards, and cell phone text messages to be part of the news media, which subjects these media to state restrictions on content. Internet service providers were instructed to use only domestic media news postings, to record information useful for tracking users and their viewing

habits, to install software capable of copying e-mails, and to end immediately transmission of 'subversive material.' [...]

In 2011 central government authorities ordered all public spaces offering free wireless internet access to install costly software that would enable police to identify users of the service. Authorities warned Beijing cafe and restaurant owners they would face a fine of 20,000 renminbi (RMB) ($3,270) if they offered wireless internet access without installing the software. In December 2012 the NPC ratified a law requiring persons to give their real names when signing up for internet, fixed telephone line, or mobile telephone services. Providers must also require persons' names when allowing them to post information publicly.

Major news portals require users to register using their real names and identification numbers to comment on news articles. Individuals using the internet in public libraries are required to register using their national identity card, and usage reportedly was monitored at all public library terminals. [...]

The State Secrets Law obliges internet companies to cooperate with investigations of suspected leaks of state secrets, stop the transmission of such information once discovered, and report the crime to authorities. Furthermore, the companies must comply with authorities' orders to delete such information from their websites, and failure to do so is punishable by relevant departments such as the police and the Ministry of Public Security." (USDOS, 27 February 2014, section 2a)

5.1 Control of the internet and the media; censorship

This section should be read in association with the information contained in the preceding section and in section 5.2.

In the 2013 Press Freedom Index established by the international media freedom NGO Reporters Without Borders (Reporters Sans Frontières, RSF), China is ranked 173 out of 179 countries (one being the most free and 179 the least) listed in the index (RSF, 30 January 2013).

The US Department of State (USDOS) annual report on human rights in 2013 notes that authorities continued to impose censorship and exert control over the media:

> "Authorities continued to control print, broadcast, and electronic media tightly and used them to propagate government views and CCP ideology. During the year authorities imposed censorship and manipulated the press and the internet, particularly around sensitive anniversaries." (USDOS, 27 February 2014, section 2a)

As noted by Freedom House, "[r]estrictions on print media were especially tight during the year [2012], with journalists reporting progressively more intrusive interventions by propaganda officials in newsroom decisions" (Freedom House, 1 May 2013).

Freedom House states in its report Freedom in the World 2014 – China (covering the year 2013) that "[d]espite relative freedom in private discussion and citizen efforts to push the limits of permissible public speech, China's media environment remains extremely restrictive". The report further notes:

> "All Chinese television, radio, and print outlets are owned by the CCP or the state. Moreover, all media outlets are required to follow regularly issued CCP directives to avoid certain topics or publish content from party mouthpieces. Routinely censored topics include calls for greater autonomy in Tibet and Xinjiang, independence for Taiwan, the 1989 Tiananmen Square crackdown, the persecuted Falun Gong spiritual group, the writings of prominent activists, and critical commentary regarding CCP leaders. Other directives issued in 2013 barred or 'guided' reporting on antigovernment protests, torture, certain cases of official corruption, and fatal industrial accidents. Outlets that disobey official guidance risk closure, and journalists face dismissal and sometimes imprisonment. Pressure on investigative journalism remained intense during the year, as several respected periodicals and journalists faced suspension, dismissals, or tighter supervision. Meanwhile, regulators introduced various restrictions, including prior censorship for television documentaries, tightened controls on outlets' use of foreign sources or microblogs, and plans to require Chinese journalists to pass a new ideological exam in order to receive their press cards." (Freedom House, 23 January 2014)

The same source informs in its report Freedom of the Press 2013 (covering 2012) that the Communist Party "maintains direct control over news media coverage through its Central Propaganda Department (CPC) and corresponding branches at lower administrative levels that determine the boundaries of permissible reporting", further noting that "[a] number of additional government agencies are involved in overall regulation of the media sector". As stated by the report, in addition to "[r]outinely forbidden topics" such as "calls for greater autonomy in Tibet and Xinjiang, relations with Taiwan, the persecution and activism of the Falun Gong spiritual group, the writings of prominent dissidents, and unfavorable coverage of CCP leaders", propaganda officials "issue secret directives on other subjects that are communicated almost daily to website administrators and periodically to traditional media editors". (Freedom House, 1 May 2013)

In the same report, Freedom House notes that "[d]uring 2012, the authorities continued to employ more subtle means to 'guide' news coverage". One of these strategies is specified as follows:

> "These [means] included proactively setting the agenda by allowing key state-run outlets to cover potentially damaging news in a timely but selective manner, then requiring other media to restrict their reporting to the established narrative. The aim is to preempt less favorable coverage by bloggers, foreign journalists, and the more aggressive commercial news outlets. This strategy was evident in the tightly scripted coverage of the trials of Bo Xilai's wife, Gu Kailai, and former Chongqing police chief Wang Lijun in connection with the murder of a British businessman. Only journalists from state-run outlets like Xinhua News Agency or China Central Television (CCTV) were permitted inside the courtroom, leaving foreign media to rely on their accounts and forcing domestic media to relay the

official version of events. Online comments questioning the credibility of the official narrative, including one by a forensic scientist, were quickly deleted." (Freedom House, 1 May 2013)

A January 2013 article by BBC News reporting on a dispute between the editorial staff of China's Southern Weekly newspaper and provincial censors contains the following information with regard to censorship procedures placed on Chinese media:

> "The unwritten rules governing the Chinese media vary from outlet to outlet, but all journalists and editors follow the same basic system. Sometimes, censorship instructions come in phone calls directly from Beijing, ordering editors how to deal with sensitive stories. However, on a daily basis, individual journalists submit content to their editors, who are then tasked with tweaking the content to meet the needs of the local propaganda department." (BBC News, 8 January 2013)

The USDOS states with respect to content-related restrictions imposed by propaganda officials on media outlets and internet companies during 2012:

> "Media outlets received regular guidance on topics that should not be covered from the CCP's Central Propaganda Department. For example, in April the department issued censorship instructions to mainland media prohibiting them from reusing, reporting, and commenting on Lens magazine's April article on the Masanjia Women's Labor Re-education Camp in Liaoning Province [...].
>
> Following an October typhoon in Yuyao, Zhejiang Province, that killed 10 persons and sparked protests about the government response, the State Council Information Office issued instructions to media outlets and internet companies not to report a local newspaper's story about the protests.
>
> In December 2012 the Central Propaganda Department ordered media outlets to adhere strictly to the information provided by authoritative departments when reporting on officials suspected of involvement in graft or bribery. Throughout the year the Central Propaganda Department issued similar instructions regarding the election of Hong Kong's chief executive, the self-immolation of Tibetans, and the Bo Xilai scandal. The orders included instructions for media outlets not to investigate or report on their own." (USDOS, 27 February 2014, section 2a)

The same report continues:

> "Newspapers, periodicals, books, audio and video recordings, or electronic publications may not be printed or distributed without the approval of the PPA and relevant provincial publishing authorities. Individuals who attempted to publish without government approval faced imprisonment, fines, confiscation of their books, and other sanctions. The CCP exerted control over the publishing industry by preemptively classifying certain topics as state secrets.
>
> Many intellectuals and scholars exercised self-censorship, anticipating that books or papers on political topics would be deemed too sensitive to be published. The censorship process

for private and government media also increasingly relied on self-censorship and, in a few cases, postpublication sanctions.

The General Administration of Press, Publication, Radio, Film, and Television, and the CCP remained active in issuing restrictive regulations and decisions constraining the content of broadcast media.

Authorities continued to jam, with varying degrees of success, Chinese-, Uighur-, and Tibetan-language broadcasts of the Voice of America (VOA), the BBC, and RFA. English-language broadcasts on the VOA generally were not jammed. Internet distribution of streaming radio news and podcasts from these sources often was blocked. Despite the jamming of overseas broadcasts, the VOA, the BBC, RFA, Deutsche Welle, and Radio France International had large audiences, including human rights advocates, ordinary citizens, and government officials.

Overseas television newscasts, largely restricted to hotels and foreign residence compounds, were occasionally subject to censorship. Such censorship of foreign broadcasts also occurred around the anniversary of the 1989 Tiananmen massacre and during the 18th Party Congress in 2012. Individual issues of foreign newspapers and magazines were occasionally banned when they contained articles deemed too sensitive. After two U.S. media websites published articles on Bloomberg.com and in the New York Times detailing the family wealth of Xi Jinping and Wen Jiabao, websites for both media outlets were blocked.

Politically sensitive coverage in Chinese, and to a lesser extent in English, were censored more than coverage in other languages. The government prohibited some foreign and domestic films deemed too sensitive or selectively censored parts of films before they were released." (USDOS, 27 February 2014, section 2a)

With regard to access to Tibetan areas (including the Tibet Autonomous Region, TAR) and the Xinjiang Uyghur Autonomous Region (XUAR) by foreign journalists, the USDOS notes:

> "Foreign journalists were denied permits to travel to the TAR, except for a very few highly controlled, government-organized press visits. Travel to Tibetan areas outside the TAR became increasingly difficult for foreign journalists. While foreign journalists were allowed access to Urumqi, XUAR, local and provincial authorities continued to control strictly the travel, access, and interviews of foreign journalists, even forcing them to leave cities in parts of the XUAR." (USDOS, 27 February 2014, section 2a)

Freedom House similarly mentions in its report Freedom of the Press 2013 (covering 2012) that "access for foreign journalists to Tibet and Tibetan-populated regions of neighboring provinces was especially restricted" (Freedom House, 1 May 2013). According to the Human Rights Watch (HRW) annual report for 2012, "Chinese security forces maintain a heavy presence and the authorities continue to tightly restrict access and travel to Tibetan areas, particularly for journalists and foreign visitors" (HRW, 31 January 2013).

A November 2013 article by Voice of America (VOA) reports on censorship following a fatal car crash in Beijing's Tiananmen Square described by authorities as "a premeditated terrorist attack by members of an ethnic minority group from Xinjiang":

> "In the wake of the Tiananmen incident, media outlets in China have been instructed to not publish anything other than official Xinhua reports. On China's Twitter-like Weibo service, typically a vibrant forum for discussion, postings on Tiananmen are being censored almost as quickly as they are published. Even a release on state broadcaster CCTV's English microblog, which had new details about the attack, was later removed." (VOA, 4 November 2013)

In an article on the same incident, Sarah Cook, senior research analyst at Freedom House, similarly writes that "Chinese officials promptly took control of the narrative, claiming that the event was a premeditated attack by members of the Uighur ethnic group". As Cook adds, "[I]est anyone suggest otherwise, the authorities arrested foreign journalists covering the scene and promptly censored discussion on Chinese social networks" (Cook, 4 November 2013). A Congressional-Executive Commission on China (CECC) analysis of the Tiananmen Square car crash, based on several media sources, reports of curbs on foreign reporters and censorship of social media activity in the wake of the incident. With regard to the management of the official news narrative, the CECC states:

> "According to Los Angeles Times (28 October 13), Chinese state-run television did not immediately broadcast news of the crash, which took place on the eve of the Third Plenum, a major policy planning meeting held in the nearby Great Hall of the People. The 7 p.m. news broadcast on October 28 had no mention of the incident, which was only reported later during the late evening news broadcast. China Digital Times reported on October 30, 2013, on censorship instructions issued by the Central Propaganda Department, stipulating that domestic news media must strictly adhere to 'Xinhua News Agency wire copy' when reporting on the crash, must 'not produce any other reports or commentary,' and must not place the relevant report on their front page or the home page of their Web site." (CECC, 15 November 2013)

For information regarding the impact of the Communist Party's media restrictions on news outlets based outside mainland China, please see the following October 2013 report by Sarah Cook:

- Cook, Sarah: The Long Shadow of Chinese Censorship: How the Communist Party's Media Restrictions Affect News Outlets Around the World, 22 October 2013 http://freedomhouse.org/sites/default/files/CIMA-China_Sarah%20Cook_10_22_13.pdf

A July 2013 article by BBC News states with reference to official figures that China "has 591 million internet users". The article further refers to the Twitter-like micro-blogging service Sina Weibo, noting that according to its own information, in February 2013, the platform "had more than 500 million registered users, with about 46 million people using the product on any given day". (BBC News, 17 July 2013)

In its report Freedom on the Net 2013 (covering the period from May 2012 to April 2013), Freedom House lists the following information with respect to access to internet services in mainland China:

> "More than 500 million people in the country are now online. Internet penetration is at 42 percent, compared with just 6 percent when Xi's predecessor, Hu Jintao, took office in 2003. Residents of cities like Shanghai and Beijing are the primary beneficiaries of this expanded access, while rural areas lag behind. An estimated 800 million people still rely on television outlets, like state broadcaster China Central Television (CCT V), as their main source of information. But for the first time on record, more Chinese people connected to the internet via mobile phone than through any other method in the past year, meaning penetration will only continue to climb." (Freedom House, 3 October 2013, p. 3)

The same source provides a detailed account of internet content restrictions occurred during the report's coverage period (Freedom House, 3 October 2013, pp. 12-23). A summary preceding the section on internet content control states:

> "Censorship predictably intensified in advance of the leadership transitions at the November 2012 party congress and the March 2013 National People's Congress session. Reports of unrest, such as Tibetans self-immolating, were especially curtailed. The methods used were generally more precise and less visible than in the past, with the exception of a campaign against Bloomberg and the New York Times for their probing reports on wealth accumulation by China's first families. Instead of filtering out the individual articles, censors blocked the entire websites, depriving them of readership and advertising revenue. Users in China can still access content hosted outside China using circumvention tools, at least until more companies follow China Unicom, which started severing connections on which circumvention was detected in December. Meanwhile, microblog users sometimes find that their posts have become invisible to others, requiring them to repost to keep their content in the public domain. These customized controls and manipulative practices are better understood thanks to some meticulous research and reporting published in 2012 and 2013. In the past year, digital media also fueled popular participation in key debates over issues of public interest, such as smog levels in Beijing. But it is becoming harder to assess whether these movements represent a challenge to the censorship apparatus. They may be a sign that information authorities are more adept than ever at channeling outbreaks of discontent away from political issues and into local, finite, social matters." (Freedom House, 3 October 2013, p. 12)

The CECC annual report of October 2013 (covering the period from autumn 2012 to autumn 2013) notes that despite increased internet controls during the Commission's 2013 reporting year, officials faced difficulties "in completely controlling this emerging and vibrant space for expression":

> "Despite the stated goals of increasing online access, official statements and state-run publications continue to emphasize strengthening the legal limits and management of Internet information rather than protecting Internet freedoms. During the Commission's 2013 reporting year, Chinese officials and state-run media outlets consistently used the threat of 'online rumors' (wangluo yaoyan) and 'unhealthy information' (buliang xinxi) as

> a basis for increased Internet controls and real-name registration requirements. [...] Despite efforts to control Internet content and regulate account registration, Chinese activists and foreign media have noted the difficulties that officials face in completely controlling this emerging and vibrant space for expression, including criticism of government policies and discussion of politically sensitive topics." (CECC, 10 October 2013a, p. 58)

Under the heading "Censorship of online content", the same source elaborates as follows on developments during the reporting year:

> "This past year, Chinese authorities appeared to maintain or enhance policies to block and filter online content, particularly sensitive information about rights activists, official corruption, or collective organizing. According to the Open Net Initiative, the Chinese government 'maintains one of the most pervasive and sophisticated regimes of Internet filtering and information control in the world.' Chinese officials remained non-transparent in disclosing content that is blocked or why it is blocked. The online censorship and Web site closures, in some cases, appeared politically motivated and appeared to counter international standards on freedoms of opinion and expression. [...] International reporting and research continued to illustrate how Chinese officials, Internet companies, and state-sponsored agents are able to control access to and content on the Web. During the reporting year, the Chinese government allegedly enhanced its national system of surveillance and censorship (commonly known as the Great Firewall or GFW), especially leading up to and throughout the 18th Party Congress." (CECC, 10 October 2013a, p. 59)

The CECC further states:

> "Chinese regulatory and legal measures do not clearly define prohibited online content. Internet regulations contain vague and broad prohibitions on content that 'harms the honor or interests of the nation,' 'spreads rumors,' or 'disrupts national policies on religion.' Chinese law does not define these concepts, nor does it contain specific criteria to establish whether an action presents 'harm' to the 'honor or interests of the nation.' Since the concepts remain undefined, Chinese authorities broadly apply these and other vague legal provisions to punish those seeking to express opinions or share information. At the same time, the Chinese government places the burden on Internet service and content providers to monitor and remove content based on these vague standards and to maintain records of such activity and report it to the government." (CECC, 10 October 2013a, pp. 59-60)

Freedom House's report Freedom of the Press 2013 (covering 2012) finds that the Chinese government "has developed the world's most sophisticated and multi-layered apparatus for censoring, monitoring, and manipulating online content". The report however adds that "this robust censorship system was unable to completely stop the circulation of unfavorable news in 2012, as technological advancements and the dedication of domestic and overseas activists have made the suppression of information more difficult". Freedom House lists the following additional information about China's internet censorship and surveillance system:

> "Nationwide technical filtering restricts users' access to uncensored information hosted outside of China. One of the most important functions of the filtering system has been to permanently block international social-media applications like the video-sharing site YouTube, the social-networking site Facebook, and the microblogging platform Twitter. With such services out of reach, domestic equivalents have gained popularity, but they are legally liable for content posted by users and risk losing their business licenses if politically sensitive information is circulated widely. The firms consequently employ automated programs and thousands of human censors to screen user-generated content and delete relevant posts per CCP directives. One academic study of censorship across nearly 1,400 blog-hosting and bulletin-board platforms estimated that 13 percent of posts were deleted. Some foreign internet companies whose websites are accessible in China have also cooperated with the Chinese government on censorship enforcement." (Freedom House, 1 May 2013)

The Human Rights Watch (HRW) annual report for 2012, published in January 2013, states that "[g]overnment restrictions on journalists, bloggers and [...] internet users continued to violate domestic and international legal guarantees of freedom of press and expression". The following examples of media content restrictions are provided:

> "In mid-June, internet censors blocked all searches for Yili milk powder, an infant formula, after the company recalled products contaminated with mercury. Government censors excised eight pages of Southern Weekend newspaper's coverage of the disastrous July 21-22 Beijing flood that caused widespread property damage and disrupted transportation infrastructure. On September 12, censors banned searches for the name 'Jinping' amid frantic speculation as to why Chinese Vice President Xi Jinping had disappeared from public view and from mention in Chinese state media for almost two weeks. He later reappeared with no official explanation for his absence." (HRW, 31 January 2013)

With regard to Sina Weibo, China's largest social media microblog service, HRW notes that it gives users "space to express opinions and discontent to an extent previously unavailable". However, "like all online content, Weibo is subject to strict scrutiny and manipulation by China's censors tasked with shaping online debate in line with government policy". (HRW, 31 January 2013)

In a contribution to a March 2013 report by the Committee to Protect Journalists (CPJ), Sophie Beach, executive director of China Digital Times, a US-based independent, bilingual media organisation covering China, provides the following information with regard to censorship on Sina Weibo and other microblog platforms:

> "[...] while discussions on weibo are much more freewheeling and open than elsewhere in the Chinese public sphere, strict limitations on what topics can be broached are still firmly in place. Posts are censored, accounts are closed down, and search results are filtered for sensitive political content. The proliferation of rumors has justified widespread crackdowns on unwelcome content. Weibo users have been questioned and, occasionally, imprisoned for content that they post." (CPJ, March 2013)

> "Microblog platforms use a variety of methods to comply with government censorship requests. Keyword filtering is the most widely deployed method to limit content. Some terms will prevent a post from being published at all; others will mark it for editorial review, while other terms cannot be searched through the platform's search engine, making those posts difficult to access. China Digital Times researches and maintains lists of terms banned by Sina Weibo search and has collected almost 2,000 banned or temporarily banned search words since April 2011. In addition, Sina Weibo users often report that their posts have been published for only the author to see, so they may not realize at first that they have been censored. If a user posts on a forbidden topic despite these filtering techniques, their account can be closed temporarily as a warning, or permanently for repeated offenses." (CPJ, March 2013)

For more information on censorship techniques used by Sina Weibo, please refer to the full text of the article contained in the CPJ report (CPJ, March 2013).

5.2 Treatment of critical journalists, citizen journalists, bloggers, etc.

As reported by BBC News in October 2013, "China's 250,000 journalists and reporters are currently undertaking compulsory on-the-job training" in what critics say is an apparent attempt "to make sure that journalists toe the party line" (BBC News, 23 October 2013). The online business newspaper International Business Times UK (IBTimes UK) also reports on the mandatory training, specifying that its aim is to educate the journalists "on reporting the government's foreign policy and other issues". According to IBTimes UK, "[t]he trained journalists will have to appear for an exam in early 2014 to renew their press accreditation to continue working in China" (IBTimes UK, 20 October 2013).

The Office of the High Commissioner for Human Rights' (OHCHR) compilation of UN information for China's Universal Periodic Review (UPR) (published by the UN Human Rights Council (HRC) in August 2013) refers to information provided by the United Nations Educational, Scientific and Cultural Organization (UNESCO), according to which there were "reported cases of journalists and social media producers being harassed, intimidated or even arrested for reporting on allegedly sensitive issues" (HRC, 7 August 2013, p. 11).

Reporters Without Borders (RSF) notes in a press release of October 2013 that "[d]espite its oft-repeated promises to combat corruption, the government continues to persecute journalists who expose corruption by Communist Party bureaucrats and local officials". RSF states that "[i]n the latest example, Liu Hu, a journalist with the Gunagzhou-based daily Xin Kuai Bao (Modern Express) who was arrested on 24 August, was officially charged with defamation on 30 September" (RSF, 11 October 2013). Bloomberg News, an international news agency headquartered in New York, also reports on the case of Liu Hu, adding that "[w]hile some journalists like Liu who alleged corruption have been detained, others have been allowed to work unimpeded":

> "A Chinese journalist who posted allegations of wrongdoing by government officials online has been formally arrested on a defamation charge, his lawyer said. The Beijing People's Procuratorate approved Liu Hu's arrest on Sept. 30, lawyer Zhou Ze said by phone yesterday. Liu, who worked for the Guangzhou-based New Express, had been in detention

since Aug. 24, according to Zhou. Liu's arrest comes as China's government seeks to stem the flow of what it calls online rumors and false news in an effort to exert control over the Internet. Authorities have targeted outspoken bloggers and announced that people who post comments deemed defamatory could face as much as three years behind bars. [...] While some journalists like Liu who alleged corruption have been detained, others have been allowed to work unimpeded. In December, a journalist at Caijing Magazine, Luo Changping, posted allegations against Liu Tienan, who was vice chairman of the country's top economic planning agency. Liu Tienan was stripped of his position in May, and Luo has since serialized his account online." (Bloomberg News, 11 October 2013)

The situation of journalists is briefly summarized in the US Department of State (USDOS) annual report on human rights in 2013:

> "Government officials used criminal prosecution, civil lawsuits, and other punishments, including violence, detention, and other forms of harassment, to intimidate authors and journalists and to prevent the dissemination of controversial writings. A domestic journalist can face demotion or job loss for publishing views that challenge the government." (USDOS, 27 February 2014, section 2a)

The US Congressional-Executive Commission on China (CECC) annual report of October 2013 (covering the period from autumn 2012 to autumn 2013) states under the heading "Punishment of domestic journalists":

> "While the 2012–2015 National Human Rights Action Plan announced official intentions to safeguard 'the legitimate rights and interests of news agencies, journalists, editors and other persons concerned,' during this reporting year, Chinese authorities took actions to punish, suspend, or remove outspoken and independent journalists and newspaper staff. In March 2013, Deng Yuwen, an editor at a prominent Chinese Communist Party journal, was 'suspended indefinitely' after publishing an editorial that criticized China's 'outdated' alliance with North Korea in the U.K.-based Financial Times. In August 2013, authorities in Chongqing municipality detained Liu Hu, a journalist for a Guangdong province-based newspaper, under suspicion of 'fabricating and spreading rumors' in apparent connection with his online request that authorities investigate a former Chongqing official for corruption. In other instances, Chinese journalists faced threats or violence in attempting to investigate news stories. In July 2013, for instance, public security authorities in Hunan province threatened and then assaulted two journalists attempting to report on protests sparked by the death of a citizen assaulted by local chengguan, or urban management officials. According to the Beijing News, a popular newspaper, the public security officers threatened the journalists by saying, 'Take no photos, or if you take any, you will die here.'
>
> Chinese journalists working for foreign-based Web sites and newspapers also faced the threat of official reprisals for independent news reporting. In April 2013, Chinese authorities detained journalist Sun Lin, a reporter with the foreign-based Chinese news Web site Boxun, after he distributed online footage of a protest over an elementary school's expulsion of a rights advocate's daughter." (CECC, 10 October 2013a, p. 65)

Freedom House's report Freedom of the Press 2013 (covering 2012) states that "several media personnel were dismissed, demoted, suspended, or forced to resign from publications across China", adding that "journalists have increasingly turned to microblogs to share sensitive information":

> "Journalists who attempt to investigate or report on controversial issues, question CCP rule, or present a perspective that conflicts with state propaganda directives face harassment, dismissal, and abuse. During 2012, several media personnel were dismissed, demoted, suspended, or forced to resign from publications across China. Other prominent reporters – including Jian Guangzhou of the Oriental Daily, who became widely known for his 2008 report on tainted milk powder – voluntarily left their positions while voicing concerns that the space for investigative journalism was shrinking. In several instances, journalists and outlets were punished by local authorities for actions that would normally be considered acceptable at the national level, such as exposing the use of luxury cigarettes among local officials, republishing profiles of Chinese leaders from an official party publication, or reporting the results of a public survey in which residents expressed dissatisfaction with local officials. This strengthened the sense of arbitrary and ever-changing 'red lines,' a feature of official restrictions that encourages self-censorship. [...] In order to circumvent the more rigid restrictions on their formal outlets, journalists have increasingly turned to microblogs to share sensitive information that might otherwise go unreported. At least three journalists were suspended or dismissed in 2012 for comments made on microblogs, the first such cases to be documented." (Freedom House, 1 May 2013)

RSF notes in March 2013 that "China jails more people involved in news and information than any other country", adding that "[t]oday 30 journalists and 69 netizens are in prison" (RSF, 12 March 2013, p. 23). In its annual census of imprisoned journalists, the Committee to Protect Journalists (CPJ) identifies 32 journalists jailed in China as of 1 December 2012 (CPJ, 11 December 2012). Freedom House notes with regard to the imprisonment of journalists:

> "The tightened institutional controls over print and broadcast media mean that fewer journalists at established news outlets have been jailed in recent years. However, freelance journalists, writers, online activists, and a range of other Chinese citizens continue to be sentenced to prison or labor camps, particularly for disseminating information online or sending it to contacts outside China. According to international media freedom watchdogs, no less than 32 journalists were in jail in China in 2012, including many Uighurs and Tibetans. [...]
>
> Members of religious and ethnic minorities are subject to particularly harsh treatment for their online activities, writings, or efforts to disseminate information that departs from the CCP line. Several of the journalists serving the longest prison terms in China are Uighurs and Tibetans." (Freedom House, 1 May 2013)

The Human Rights Watch (HRW) annual report published in January 2013 refers to the following developments during 2012:

> "At least 27 Chinese journalists were serving prison terms in 2012 due to ambiguous laws on 'revealing state secrets' and 'inciting subversion.' Journalists are also at risk of perceived violations of censorship restrictions. Southern Metropolitan editor Yu Chen was removed from his position after an anonymous posting to the paper's website criticized the Chinese Communist Party's control over the People's Liberation Army. Xian Evening News reporter Shi Junrong was suspended on July 2 for an unspecified time for writing a June 27 expose about local Communist Party member spending money on cigarettes. He remained suspended at this writing.
>
> Journalists who report on sensitive topics remained vulnerable to physical violence in 2012. In one of the higher profile of such incidents, Lei Zhaohe, a reporter with Hong Kong's Asia Television, was punched and kicked by two men on August 10 while filming police detain protesters outside a courthouse in Hefei, Anhui province. Other journalists at the scene identified the two men as plainclothes police." (HRW, 31 January 2013)

A November 2013 article by New Tang Dynasty Television (NTDTV), a Falun Gong-linked television broadcaster based in New York, notes that according to state-run Beijing Youth Daily, Sina Weibo has closed more than 100,000 microblog accounts for violating newly agreed censorship guidelines, known as the "seven bottom lines":

> "Recent news from China tells of a massive and an exemplary denial of freedom of speech on the Internet, with huge numbers having their accounts closed, including one widely respected commentator. On Nov. 13, Beijing Youth Daily reported that more than 100,000 microblog accounts accused of violating 'seven bottom lines' have been canceled by Sina Weibo. [...] Lu Wei, director of the China Internet Information Office, held a meeting on Aug. 10 with several network celebrities, including Jilian Hai, Xue Manzi, Chen Li, and Pan Shiyi (also known as Big Vs on Weibo). Lu claimed that a consensus on adhering to the 'seven bottom lines' had been reached with the Big Vs—individuals who use their real names when they blog and attract millions of followers. The 'seven bottom lines' are meant to identify topics about which bloggers know the CCP will scrutinize what they write with special care: laws and regulations, the socialist system, national interests, legitimate interests of citizens, social public order, trends in morality, and the authenticity of information." (NTDTV, 20 November 2013)

The same source refers to new anti-defamation laws designed "to combat rumors spreading through the Internet" and a subsequent campaign of arrests of internet celebrities and opinion leaders:

> "In September, the 'two highs' [namely the Supreme People's Procuratorate and the Supreme People's Court in China] promulgated provisions to combat rumors spreading through the Internet, stipulating: 'If the same defamatory information is clicked and viewed 5,000 times or more, or forwarded more than 500 times, it will be regarded as 'serious' and the rumormonger will be sentenced to three years imprisonment.' Subsequently, in order to strengthen the Internet control, the CCP's new leadership launched a campaign to occupy the new battlefield of public opinion, leading to the arrest of many Internet celebrities and opinion leaders." (NTDTV, 20 November 2013)

An October 2013 press release by RSF also reports on the new anti-defamation regulations, noting that they are "part of a campaign against 'online rumours' that was launched in the summer". According to RSF, "[o]ne of the first victims" of the new regulations was a 16-year-old schoolboy whose online posts implicating the police in a karaoke bar owner's death were shared more than 500 times:

> "Reporters Without Borders urges the Chinese authorities to stop censoring information and harassing independent news providers, a policy that has just received a new boost in the form of an 'anti-rumour' campaign. Combined with a wave of arrests for 'disturbing public order,' this new offensive against freedom of information is fuelling fears of an unprecedented increase in self-censorship in China. [...]
>
> According to the legal 'interpretation' issued jointly on 9 September by the supreme court and public prosecutor's office, any 'defamatory' or 'rumour-spreading' online content that is viewed more than 5,000 times or re-posted more than 500 times could result in sentence of up to three years in prison under article 246 of the criminal code for the person who originally posted it. And any messages or content whose publication online leads to 'demonstrations, ethnic or religious clashes, deterioration in the country's image or negative international consequences are also to be regarded as crimes. [...] The new legal interpretation or ruling is part of a campaign against 'online rumours' that was launched in the summer. The Communist Party also inaugurated a new 'ideological purification campaign' in August, President Xi Jinping announced. The stated aim, according to Xi, is to 'reconquer the new media's territory,' possibly entailing measures against those that promote 'the western ideology of universal values,' which – Xi said – are 'non-existent.' This campaign surfaced during the China Internet Conference. Held from 13 to 15 August, it saw the adoption of a seven-point resolution constituting a manual of permitted online behaviour designed to achieved [sic] a 'healthy Internet environment.' [...]
>
> One of the first victims of the new ruling was Yang Hui (杨辉), a 16-year-old schoolboy whose posts on the Tencent microblog implicating the police in a karaoke bar owner's death was retweeted more than 500 times, leading to his arrest by the Zhangjiachuan police on 16 September for 'provocation and causing trouble.' A major outcry on the Internet led to his release a week later, when his punishment was commuted to seven days of 'administrative detention.' It also led to the suspension of Zhangjiachuan's police chief. The two events confirmed the effectiveness of online social networks as a place for protesting and showing the authorities that they cannot persecute netizens and freedom of information defenders without consequences. The only way left for the thwarted local authorities to reassert themselves was to prevent Yang Hui from returning to school a few days after his release." (RSF, 4 October 2013)

The RSF press release continues:

> "The anti-rumour campaign has been accompanied by a series of arrests of dissidents on public order grounds. Unable to arrest influential bloggers on the grounds of what they post, the authorities often wait until they organize a peaceful demonstration in order to arrest them on a charge of disturbing public order. At the same time, more drastic methods are being used to intimidate cyber-dissidents who are not charged. In the past

> the political police would 'invite them for tea' in order to issue a warning. But now they are arrested summarily and held for 10 to 20 days before being released. [...] While a charge of 'disturbing public order' is currently the most-used pretext for detaining independent news providers and government critics, more traditional forms of reprisal are also being used including other trumped-up charges and harassment of relatives." (RSF, 4 October 2013)

A September 2013 article by the New York Times (NYT) notes that hundreds of microblog users have been detained since August 2013, as the government has launched "a propaganda and police offensive" to wipe out rumours online. The article cites the case of Charles Xu, a prominent microblogger arrested on charges of soliciting prostitution:

> "Worried about its hold on public opinion, the Chinese government has pursued a propaganda and police offensive against what it calls malicious rumor-mongering online. Police forces across the country have announced the detentions of hundreds of microblog users since last month on charges of concocting and spreading false claims, often politically damaging. For weeks, a torrent of commentaries in the state-run news media have warned popular opinion makers on China's biggest microblog site, Sina's Weibo service, to watch their words. One of the most popular microbloggers, Charles Xue, an American investor of Chinese origin who writes under the name Xue Manzi, was arrested in Beijing on Aug. 23, accused of having sex with a prostitute. He has been paraded on television, contrite in jail clothes. Mr. Xue was due to finish his initial detention by Tuesday, and the police could release him or hold him for extended punishment and investigation, according to Chinese news reports. [...] The campaign is among the efforts of Xi Jinping, the Communist Party leader appointed in November, to reverse the spread of liberal ideas that challenge one-party rule, observers said." (NYT, 10 September 2013)

A September 2013 press release by HRW similarly mentions that "[s]ince August, the authorities have waged a campaign against 'online rumors'", specifying that hundreds of internet users have been detained and over 100 'illegal' news websites run by citizen journalists closed down (HRW, 13 September 2013). A September 2013 article by Radio Free Asia (RFA) quotes the overseas-based China Human Rights Defenders (CHRD) group as stating that "[s]ince the end of August, state media in China has reported on the detention of hundreds of people, including online commentators and citizen journalists, who use [Twitter-like services] to disclose corruption and injustice" (RFA, 10 September 2013).

The CECC annual report of October 2013 (covering autumn 2012 to autumn 2013) states that "[o]fficials used vaguely worded criminal charges to detain rights advocates, Internet writers, human rights lawyers, and citizen journalists who engaged in peaceful expression and assembly". Among the internet writers who were detained in China during the reporting period was blogger Zhai Xiaobing. He was detained by Beijing security authorities in November 2012 after joking on Twitter about the Communist Party's 18th Congress and released weeks later (CECC, 10 October 2013, p. 62). The report further gives several examples of official harassment of human rights activists and internet writers, including the case of Tibetan writer, blogger and rights advocate Tsering Woeser who was placed under "soft detention", an extralegal form of house arrest, in June 2013, "reportedly in connection

with her efforts to highlight Chinese human rights abuses against Tibetans". As noted by the CECC, Woeser was reportedly also held under "soft detention" in March 2013 (CECC, 10 October 2013a, p. 63).

Under the heading "Violations of user rights", Freedom House's report Freedom on the Net 2013 (covering the period from May 2012 to April 2013) provides the following information with regard to the imprisonment of internet users:

> "Prosecutors exploit vague provisions in China' s criminal code, laws governing printing and publications, and state secrets legislation to imprison citizens for online activity such as blogging, downloading censored material from overseas, or sharing information by text message, e-mail or social media platforms. [...]
>
> Reporters Without Borders documented a total of 69 netizens in Chinese jails as of February 2013. Individuals sentenced during the coverage period included Cao Haibo, a cybercafé employee who received eight years in jail 2012 for promoting democracy online. Long-term detainees include 2010 Nobel Peace Prize winner Liu Xiaobo, who is serving an 11-year sentence on charges of 'inciting subversion of state power' for publishing online articles, including the prodemocracy manifesto Charter 08. Though these represent a tiny percentage of the overall user population, the harsh sentences have a chilling effect on the close-knit activist and blogging community and encourage self-censorship in the broader public." (Freedom House, 3 October 2013, pp. 25-26)

The same source goes on to state that "[t]hree other extrajudicial measures used to punish internet users are detention in 're-education through labor' camps, house arrest, and covert detention". These forms of punishments are further described, along with specific examples where these have been applied against bloggers, on pages 26 to 28 of the report. (Freedom House, 3 October 2013, pp. 26-28)

Furthermore, Freedom House reports cases of forced psychiatric detention, summonses for questioning, "forced vacation" and violence:

> "Internet users have occasionally fallen victim to forced psychiatric detention, a measure used to commit individuals to mental institutions and prevent them from seeking redress for injustice or engaging in other unwelcome behavior. The whereabouts of at least one detainee, Li Qidong, who officials hospitalized in Liaoning in 2009 after he criticized the government in online articles, are not known.
>
> Law enforcement officials frequently summon individuals for questioning in relation to online activity, an intimidation tactic referred to euphemistically online as 'being invited for tea.' Activists have also been instructed to travel during times of political activity or heightened public awareness of their cause. Security agents sent photojournalist Li Yuanlong on a 'forced vacation' from his native Guizhou Province in 2012, after he published shocking photographs of children who had died of exposure on a popular website, prompting calls for accountability from local schools and officials.

> Internet users sporadically report encountering violence as a result of online activity. In August 2012, masked men raided the offices of a Hong Kong citizen-journalism platform and destroyed computers, apparently in retaliation for the site's coverage of local politics. Hu Jia, a dissident who is active online, reported that security agents beat him during an eight-hour detention in March 2013, on the day before Xi Jinping took office as president." (Freedom House, 3 October 2013, pp. 28-29)

The USDOS annual report on human rights in 2013 finds that "[a]uthorities continued to jail numerous internet writers for peaceful expression of political views", noting the following specific case:

> "According to online reports, in June police in Fujian detained an online activist for 10 days for her microblog comments about a June 7 bus explosion in Xiamen. Police previously detained this same blogger in January 2012 for her comments about alleged corruption behind forced home evictions and demolitions in Xiamen's Jimei district." (USDOS, 27 February 2014, section 2a)

The April 2013 annual report on human rights (covering 2012) of the same source mentions the following additional cases:

> "On February 10, Zhu Yufu, a writer based in Hangzhou, Zhejiang Province, received a sentence of seven years for 'inciting subversion,' after a one-day trial on January 31. The court referred to a poem Zhu published online entitled 'It's Time,' and interviews Zhu gave in early 2011 that expressed views supporting political action. The Hangzhou City High People's Court rejected Zhu's appeal. Zhu previously served two other prison terms, including a seven-year sentence for 'inciting subversion.'
>
> In November authorities detained Zhai Xiaojun and seized his computer after he posted a comment suggesting that the next Final Destination movie would be about the Great Hall of the People collapsing on delegates to the 18th Party Congress. The government began investigating him for 'spreading terrorist information,' a charge that can lead to a maximum five-year prison term." (USDOS, 19 April 2013, section 2a)

In the Tibet Addendum to the February 2014 annual report, the USDOS states:

> "Domestic journalists generally did not report on repression in Tibetan areas. Authorities promptly censored the postings of bloggers who did so, and the authors sometimes faced punishment" (USDOS, 27 February 2014, Tibet Addendum).

6 Freedom of movement

6.1 Freedom of residence

An overview of the freedom to change one's workplace or residence is provided in the February 2014 annual human rights report of the US Department of State (USDOS):

> "Although the government maintained restrictions on the freedom to change one's workplace or residence, the national household registration system (hukou) continued to change, and the ability of most citizens to move within the country to work and live continued to expand. Rural residents continued to migrate to the cities, where the per capita disposable income was more than four times the rural per capita income, but many could not change their official residence or workplace within the country. Most cities had annual quotas for the number of new temporary residence permits that could be issued, and all workers, including university graduates, had to compete for a limited number of such permits. It was particularly difficult for rural residents to obtain household registration in more economically developed urban areas." (USDOS, 27 February 2014, section 2d)

6.1.1 The hukou system

The household registration (hukou) system is outlined in the October 2013 annual report of the Congressional-Executive Commission on China (CECC):

> "The Chinese government continued to enforce the household registration (hukou) system, established in the 1950s. [...] The hukou system classifies Chinese citizens as either rural or urban and accordingly confers legal rights and access to social services. The implementation of these regulations discriminates against rural hukou holders who migrate to urban areas by denying them equal access to public services and social security benefits, as well as equal social, employment, and educational opportunities." (CECC, 10 October 2013a, p. 105)

The South China Morning Post (SCMP) reports that city residents who hold a rural hukou "may not enjoy the rights and public services accorded their neighbours in the city" and that "[w]ithout these basic guarantees, rural hukou holders can't settle down in the city" (SCMP, 21 February 2013).

The December 2012 General Official Report (Algemeen ambtsbericht) of the Netherlands Ministry of Foreign Affairs (BZ) states that China has been digitizing the hukou registration system since 2000. Changes to the hukou can be made either by computer or by hand. The sole institution authorized to make changes to hukou is the Public Security Bureau (PSB), which is responsible for population registration. According to Chinese regulations, the person concerned or the family head (i.e. the main tenant as indicated in the hukou booklet) is responsible for the timely reporting of changes in the hukou registration. As far as is known, the PSB does not check whether a person is actually living at a particular address, and there is no obligation to live at the address of hukou registration. As long as a person has indicated his or her correct name, date of birth and the last known address, his or her data should be retrievable in the hukou system. Experience shows that Public Security Bureaus still have records of hukou registrations dating back to the 1970s and 1980s. There is no central

institution where all hukou registrations are recorded, and separate hukou records are maintained regionally in the provincial capitals. Generally, all PSB work in the same way but it cannot be excluded that in certain rural areas other methods are applied. If a person moves abroad for a period longer than one year, this person or the respective main tenant is obliged to report this to the local hukou authority. Upon return from abroad, the hukou entry can be directly re-activated, allowing the person to regain access to basic services at his or her place of origin in China. However, there is no official information available as to whether it is possible to activate the hukou registration upon return after an illegal departure. Nor is it known whether people who have left China illegally are effectively removed from the hukou registry. (BZ, 11 December 2012, pp. 36-37)

As reported by the South China Morning Post (SCMP), "[a]bout 35 per cent of Chinese people have an urban hukou" (SCMP, 21 February 2013). According to the CECC, government officials and media estimate the number of rural migrants who live in cities but lack urban hukous to be "between 170 and 260 million" (CECC, 10 October 2013a, p. 105). The Economist puts this number at about 270 million (Economist, 2 November 2013).

The USDOS annual human rights report of February 2014 notes with regard to the obstacles facing migrant workers in cities:

> "Many migrant workers and their families faced numerous obstacles with regard to working conditions and labor rights. Many were unable to access public services, such as public education or social insurance, in the cities where they lived and worked because they were not legally registered urban residents. […] Some major cities maintained programs to provide migrant workers and their children access to public education and other social services free of charge, but migrants in some locations reported difficulty in obtaining these benefits due to the onerous bureaucratic processes involved in obtaining access to urban services." (USDOS, 27 February 2014, section 2d)

The situation of rural migrants without urban hukous is also addressed in the CECC annual report:

> "According to a 2013 survey commissioned by the National Development and Reform Commission (NDRC), nearly 45 percent of migrant workers living in cities reported not receiving social benefits, including health care and unemployment benefits. In cities including Beijing, Nanjing, Shanghai, Xi'an, Hangzhou, and Zhengzhou, migrants (even those educated in the city) faced restrictions when seeking employment, such as hiring policies favoring local hukou holders or denial of employment due to lack of a local hukou. Similarly, migrants working alongside local urban hukou holders reportedly received lower salaries for performing similar work. Moreover, children of migrants continued to be denied equal access to urban public education and higher educational opportunities. Government efforts toward urbanization have fostered anger among rural residents at the same time that competition for public resources and systemic discrimination stemming from the hukou system has exacerbated tensions between urban and rural residents." (CECC, 10 October 2013a, p. 105)

The NGO Chinese Human Rights Defenders (CHRD) notes in a report published in August 2013:

> "Since most migrants in China hold rural hukou (household registration), in cities where they work and live, they are not entitled to the same rights and services provided to urban residents (holding urban hukou). The hukou system divides the Chinese population into two categories: urban and rural. Under this system, urban and rural residents receive disparate services in accessing education, healthcare, housing, and work. The government allocates most government resources to services provided to urban residents. This discriminatory household registration system is one of the main culprits responsible for unfair treatment of rural migrant children in their access to public schools in Chinese cities. Migrant children, who come largely from families with rural household registrations, are generally not admitted into public schools in cities." (CHRD, August 2013, pp. 7-8)

The December 2012 report of the Dutch Foreign Ministry highlights the social consequences of the hukou system which it says is used to regulate migration from the countryside to the cities: Under the household registration system, all families in China are divided into rural and urban households. Migrants from rural areas have no access to social services in the cities where they work and reside. The same goes for people with an urban household registration from another region who have been unable to convert their hukous. Migrant workers can barely claim health care and social security benefits and can be evicted by the police at any time. In addition, facilities including telephone, water, light and opening a bank account and obtaining education are more expensive for urbanites without hukous. The report also points out that the system is vulnerable to corruption. A person who does not have a hukou registration cannot enter an official employment contract with an employer. Persons whose hukous are registered at a different place from where they actually live, are generally allowed to work but have limited or no access to social services including social security, medical care and schooling for children, and things such as entering into marriage, having children, applying for passport are impossible or extremely burdensome. (BZ, 11 December 2012, pp. 37-38)

As reported in a November 2013 article by the Financial Times (FT), the hukou system "restricts access to public services such as schools or hospitals outside a person's official residence". The article further notes the following developments:

> "China has already relaxed hukou restrictions significantly since migrants began flooding into cities and coastal factories in the 1980s and 1990s. Some provinces no longer make a distinction between rural migrants and urbanites in their region, in others migrants can freely register in certain areas but can't easily become residents of the larger and more attractive cities. Migrants can now enrol in medical insurance programmes, although often reimbursements don't cross provincial lines. It has gradually become easier for migrant parents to enrol young children in city schools, although they pay more than city students. That means many parents no longer have to leave babies behind in the countryside when they migrate for work and many choose to raise their children in the cities – that is, as long as they can." (FT, 8 November 2013)

The South China Morning Post (SCMP) reports:

> "The latest round of hukou reform that started in 2009 advocates a gradual approach, and leaves city governments to decide for themselves the criteria and pace of granting migrants an urban hukou, in step with each city's development and capacity. Three years on, progress remains slow because of a lack of co-ordination." (SCMP, 21 February 2013)

The October 2013 CECC annual report notes:

> "Some local governments continued to relax hukou restrictions consistent with ongoing reform efforts. Beijing, Guangzhou, and Shanghai municipalities issued measures to expand and promote equal access to educational opportunities for children of migrants. Despite efforts like these, thousands of migrant children continued to be prohibited from taking entrance exams in their locations of residence and returned to their hometowns to take these exams." (CECC, 10 October 2013a, p. 106)

The China Labour Bulletin, an NGO founded in Hong Kong that seeks to defend and promote workers' rights in China, indicates in June 2013:

> "[T]here is [...] considerable resistance from urban residents to relaxation of restrictions. Urban governments often do not have the financial resources to expand provision of social services to include all migrant workers and their families. There is also resistance from the police to wholesale hukou reform, at least until an alternative system of national identity cards can be put in place that can ensure effective surveillance and tracking of criminals. At present, hukou reform has been limited to piecemeal reform at the local level, with individual regions relaxing restrictions for certain rural migrant workers, in most cases those from the same province and those who have already made a demonstrable contribution to the local economy. That approach seems destined to continue for the foreseeable future." (China Labour Bulletin, 27 June 2013)

A December 2013 article by the state media source China Daily quotes Huang Ming, vice minister of public security, as saying that the Ministry of Public Security and eleven other ministries and commissions have drafted guidelines for reforming the hukou system that, if approved by the central government, will take effect immediately and aim to install a new hukou system by 2020. According to Huang, the new hukou system will be based on a person's place of residence and workplace rather than the place of birth, and will make it easier for people to transfer their hukou. The same article further points to a statement released after a conference attended by President Xi Jinping and Premier Li Keqiang promising full removal of hukou restrictions in towns and small cities, gradual relaxation of restrictions in mid-sized cities and the setting of "reasonable" conditions in large cities, while the population of megacities should remain under strict control (China Daily, 18 December 2013).

6.1.2 Land disputes

Freedom House states in its report Freedom in the World 2014:

> "Property rights protection remains weak in practice. Urban land is owned by the state, even if the buildings that sit on it are privately owned. Rural land is collectively owned by villages. Farmers enjoy long-term lease rights to the land they farm, but are barred from

> selling or developing it. Low compensation standards and weak legal protections have facilitated land seizures by local officials, who often evict the residents and transfer the land rights to developers. Corruption is endemic in such projects, and local governments rely on land development as a key source of operating revenue, funds for debt repayment, and economic growth statistics that are critical to officials' careers. According to the State Bureau of Letters and Visits, an estimated four million disputes resulting from land grabs and property demolition occur each year. Residents who resist eviction, seek legal redress, or organize protests often face violence at the hands of local police or hired thugs." (Freedom House, 23 January 2014)

As reported in a November 2013 article by BBC China correspondent Damian Grammaticas, published in the BBC News China Blog, "[a]s China's urban areas are expanding they are gobbling up farms and fields", giving rise to "conflicts between farmers and local governments" (BBC News, 9 November 2013). A March 2013 article by Radio Free Asia (RFA) similarly quotes analysts as attributing violent conflicts over farmland to "the ruling Chinese Communist Party's program of relentless urbanization" (RFA, 22 March 2013).

An October 2013 article by Radio Free Asia (RFA) states:

> "In China, all land is ultimately owned by the state, but is allocated to rural communities under collective contract and through the household responsibility system that replaced the state-run farms and communes of the Mao era. Land acquisition for development, often resulting in lucrative property deals for local officials, sparks thousands of protests by local communities across China every month, many of which escalate into clashes with police." (RFA, 21 October 2013)

The BBC similarly notes that "there is no private land ownership in China" and that land "is all, in effect, owned by the government", with farmers being "simply allocated land for a set period of time" (BBC News, 15 December 2011).

A December 2011 article by the Wall Street Journal (WSJ) provides the following overview:

> "In China, all urban land is owned by the state, although usage rights can be traded. Farmland belongs to rural collectives, headed by village officials, and usage rights can also be traded, though only for agriculture. Under Chinese law, local governments can acquire farmland for construction projects that are 'in the public interest' in exchange for compensation based on a multiple of the land's agricultural yield, rather than its market value. In reality, local authorities often hatch those deals secretly with village officials, change the land's status from rural to urban to allow construction, and then sell the land-use rights to property developers at an enormous profit, according to experts in the field. In such cases, some villagers are typically angered that rights to their land have been sold at all, while others are upset that they are not paid the market value, with most of the profits going to the officials and developers." (WSJ, 15 December 2011)

MSN News reports in an August 2013 article:

> "Seizures of land across China have been fueled by soaring prices and the government's urban expansion drive, resulting in often violent clashes between officials and villagers. Outdated laws mean farmers have little legal recourse to oppose land grabs — commonly where village leaders sell off plots to a developer with little or no consultation — or to demand fairer compensation." (MSN News, 29 August 2013)

A March 2013 article by Radio Free Asia (RFA) notes:

> "While China has compensation rules for farmland based on the expected yield of a piece of land, villagers often complain that they never see the money, which is often appropriated by village committee members for their own ends." (RFA, 22 March 2013)

The US Department of State (USDOS) annual report on human rights in 2013 mentions land disputes among the economic and social concerns leading to "mass incidents" and protests:

> "The number of "mass incidents" and protests, including some violent protests, against local governments increased during the year. According to an international NGO, a former leading member of the CCP's Politics and Law Commission stated that the country experienced 30,000 to 50,000 mass incidents every year. As in past years, the vast majority of demonstrations concerned land disputes; housing problems; industrial, environmental, and labor matters; government corruption; taxation; and other economic and social concerns." (USDOS, 27 February 2014, section 2b)

Human Rights Watch (HRW) states in its annual report of January 2014:

> "[C]itizens are increasingly prepared to challenge authorities over volatile livelihood issues, such as land seizures, forced evictions, environmental degradation, miscarriages of justice, abuse of power by corrupt cadres, discrimination, and economic inequality. Official and scholarly statistics, based on law enforcement reports, suggest there are 300-500 protests each day, with anywhere from ten to tens of thousands of participants." (HRW, 21 January 2014)

In a January 2014 article on Inner Mongolia, Reuters notes that "[e]thnic Mongols have long complained that their traditional grazing lands have been ruined by mining and desertification, and that the government has tried to force them to settle in permanent dwellings" (Reuters, 5 January 2014).

The same Reuters article reports on the following case:

> "Six herders in China who tried to defend grazing land from expropriation by a forestry firm have been sentenced in the resource-rich Inner Mongolia region [...]. The six Mongol herders were sentenced to prison terms ranging from one to two years on December 31 on a charge of 'sabotaging production management' by a court in Ongniud Banner, the area of Inner Mongolia where the incident occurred, a lawyer representing one of the accused and family members of two of them told Reuters by telephone. [...] The herders were arrested in June after a clash with workers from the state-owned Wengniuteqi

> Shuanghe Forestry, the herders' family members said previously. The herders had accused the workers of illegally occupying grazing land." (Reuters, 5 January 2014)

An August 2013 article by the Southern Mongolian Human Rights Information Center (SMHRIC) reports on the following event:

> "On August 19, 2013, around 5:30 PM local time, Mr. Bayanbaatar, a 58-year old Mongolian herder from Dalan-tsetseg Village, Tohootai Gachaa (a Gachaa consists of several pastoral villages), Tug Sum ('Sum' is equivalent to township), Uushin Banner of western Southern (Inner) Mongolia, was brutally beaten to death by Chinese railroad workers while he was defending his grazing land. His son was severely injured. Several other herders were also beaten. Bayanbaatar's body was left in the Uushin Banner People's Hospital for cremation." (SMHRIC, 20 August 2013)

An October 2013 RFA article reports on a protest led by some 4,000 residents of Liantang village in Guangdong province against local authorities, with villagers being quoted as saying that their collectively held farmland had been sold off in secret, with no compensation provided. According to a Liantang resident, two organisers of the protest were detained by authorities. (RFA, 21 October 2013)

In July 2013, RFA reports on an attack by a Chinese gang on residents of the Tibetan-populated village of Arik Dragkar in Qinghai province in connection with a long-standing land dispute between ethnic Chinese and Tibetans:

> "More than a dozen Tibetans were severely injured in an attack by a 100-strong armed Chinese gang over a long running land dispute in a village in Qinghai province, according to sources at the weekend. The attack occurred last Wednesday in the Tibetan-populated Arik Dragkar village in Dola (in Chinese, Qilian) county on the border with the Chinese township of Tsomen in Minle in Gansu province. The Tibetans have been locked in a land dispute with the residents of Tsomen for decades but the latest attack on a Tibetan security post in the village was among the bloodiest, with at least 17 seriously wounded, one Tibetan in the area said. [...] The Tsomen residents allegedly hired a Chinese gang of about 100 who launched a lightning raid on the post manned by Tibetans living in tents. [...] Residents in Tibetan-populated areas in Qinghai have long been engulfed in land disputes amid allegations that the Chinese authorities in some cases have been seizing their land and giving it to new Chinese migrants." (RFA, 21 July 2013)

The same RFA article further points to the following incidents that occurred in spring 2013:

> "In April [2013], Chinese security forces detained 21 Tibetans following clashes with police over a forced demolition of recently rebuilt homes in the earthquake-hit town of Kyegudo in the Yulshul (in Chinese, Yushu) Tibetan Autonomous Prefecture. At least six Tibetans and four policemen were injured in the clashes after a protest by over 100 area residents angered by the demolition of Tibetan homes in Kyegudo. The town was mostly destroyed by a devastating earthquake in 2010 that killed almost 3,000 residents by official count. Now, Chinese authorities have begun to demolish rebuilt Tibetan homes, saying their occupants are not officially registered to live in the town, sources said. Many of the houses

were built by families on their own land and with their own resources, sources said. In late March, a Tibetan woman set herself on fire to protest the demolition of her home in the Kyegudo area." (RFA, 21 July 2013)

Another RFA article, published in March 2013, reports:

> "Authorities in the southwestern region of Guangxi have detained at least 20 people following clashes between police and villagers protesting the loss of their farmland to development, residents said on Friday. [...] A former resident of Tuyintang surnamed Chen said the dispute with local officials over land grabs in the area had been bitter and long-running, adding that the government had offered 70,000 yuan (U.S. $11,270) per mu (less than one-fifth acre) of land in compensation to local people. 'The villagers wouldn't agree to this, so the authorities took the land anyway,' said Chen, whose brick factory was demolished by officials. [...] He said the government had already grabbed several thousand mu of farmland from a community of 400 households in Tuyintang. [...]
>
> Earlier this month, a land dispute flared into violent clashes during which police fired tear gas and beat protesters in Shangpu village, Guangdong, leaving dozens of people in hospital. Five people were detained, while Shangpu village committee chief Li Baoyu is currently under 'criminal detention' after being accused by villagers of brokering a deal to lease around 33 hectares (82 acres) of rice paddy to electronics company Wan Feng without giving most residents a chance to object." (RFA, 22 March 2013)

As reported by MSN News in August 2013, "[a] bulldozer killed a 4-year-old girl in southeastern China after her family resisted a land grab" (MSN News, 29 August 2013).

HRW reports in its World Report of January 2014:

> "The government continues to raze traditional Uyghur neighborhoods and rehouse families in planned settlements as part of a comprehensive development policy launched in 2010. The government says the policy is designed to urbanize and develop Xinjiang." (HRW, 21 January 2014)

HRW reports in a press release of June 2013 on relocations of Tibetan herders in the Tibet Autonomous Region (TAR) and in Qinghai province:

> "Since 2006, under plans to 'Build a New Socialist Countryside' in Tibetan areas, over two million Tibetans have been 'rehoused' – through government-ordered renovation or construction of new houses – in the Tibet Autonomous Region (TAR), while hundreds of thousands of nomadic herders in the eastern part of the Tibetan plateau have been relocated or settled in 'New Socialist Villages.' [...] The authorities in the Tibet Autonomous Region have announced plans to further rehouse and relocate more than 900,000 people by the end of 2014. In Qinghai province, on the eastern part of the Tibetan plateau, the authorities have relocated and settled 300,000 nomadic herders since the early 2000s, and have announced their intent to turn an additional 113,000 nomads into sedentary dwellers by the end of 2013. The Chinese government asserts that all relocation and rehousing operations are entirely voluntary and respect 'the will of the Tibetan farmers

> and herders.' [...] Tibetans coming from both farming and nomadic herding communities, interviewed by Human Rights Watch between 2005 and 2012, say that large numbers of people relocated or rehoused did not do so voluntarily, and that they were never consulted or offered alternatives. They say that many face financial difficulties as a result of having to move, reduce their herds, or demolish and reconstruct their houses." (HRW, June 2013)

In September 2012, Radio Free Asia (RFA) reports on the following incident:

> "Police in the central Chinese province of Hubei beat to death one villager and injured two more in clashes between land protesters and officials outside county government offices, protesters said on Wednesday, while the local government said he had died of a heart attack." (RFA, 24 September 2012)

The Daily Mail reports in September 2012 that a man apparently resisting protesting government eviction from Changsha Village in Hunan province was reportedly killed by a construction vehicle. As stated by the Daily Mail, government officials wanted to claim village land for commercial use (Daily Mail, 25 September 2012).

RFA reports on protests in the village of Wukan in Guangdong province that erupted in September 2011:

> "In September 2011, the village of Wukan near Shanwei city stunned officials with a highly organized and orderly anti-corruption protest by more than 3,000 villagers wielding colorful banners outside government offices. However, 18 months after the rebel village succeeded in throwing out its ruling Chinese Communist Party leaders, the newly elected committee has been hamstrung in its attempts to return residents' farmland sold to developers by a corrupt village chief." (RFA, 21 October 2013)

In December 2011, The Wall Street Journal (WSJ) reports that residents of Wukan are in "open revolt against the local government a day after it announced the death in police custody of a villager who had led protests over an alleged land grab. While the local authorities indicated that the man had died of cardiac arrest, villagers reported that his relatives believed he was beaten to death. (WSJ, 15 December 2011)

For more information on the situation of the ethnic groups referred to in this section, please see section 8.4 (Mongolians) and section 8.5 (Tibetans) of this compilation.

6.2 Freedom of movement in-country

The annual report of the Congressional-Executive Commission on China (CECC) of October 2013 states with respect to freedom of movement and residence within the country:

> "Chinese authorities continue to violate this right by restricting the domestic movement of rights advocates and their families as a form of harassment, frequently under the guise of 'stability maintenance.' [...] Authorities increased restrictions on freedom of movement during politically sensitive periods this past year, including the 18th National Congress of

> the Chinese Communist Party in November, the March meetings of the National People's Congress and the Chinese People's Political Consultative Congress, and the anniversary of the 1989 Tiananmen protests on June 4." (CECC, 10 October 2013, pp. 107-108)

The February 2014 annual human rights report of the US Department of State (USDOS) indicates:

> "The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, but the government generally did not respect these rights. [...] Authorities heightened restrictions on freedom of movement, particularly to curtail the movement of individuals deemed politically sensitive, before key anniversaries, visits by foreign dignitaries, or major political events and to forestall demonstrations." (USDOS, 27 February 2014, section 2d)

The CECC report of October 2013 notes the following cases:

> "Xinna, the wife of rights advocate Hada, and the couple's son, Uiles, have spent years under surveillance, sometimes in detention centers, in connection to Hada's efforts to preserve Mongolian ethnic identity in Inner Mongolia. During this reporting year, authorities limited their rights to freedom of movement and communication." (CECC, 10 October 2013a, p. 161)

> "During the reporting year, Chinese officials implemented restrictions on passports and international and domestic travel for Uyghurs, highlighting official restrictions on Uyghurs' freedom of movement." (CECC, 10 October 2013a, p. 168)

The February 2014 annual human rights report of the USDOS states that "[u]nder the 'staying at prison employment' system applicable to recidivists incarcerated in RTL camps, authorities denied certain persons permission to return to their homes after serving their sentences. Some released or paroled prisoners returned home but were not permitted freedom of movement." (USDOS, 27 February 2014, section 2d)

The Tibet Addendum of the same report refers to freedom of movement in the Tibet Autonomous Region (TAR) and other Tibetan-populated areas as follows:

> "Freedom of movement for all Tibetans, but particularly for monks and nuns, remained severely restricted throughout the TAR [Tibet Autonomous Region], as well as in other Tibetan areas. The PAP [People's Armed Police] and local PSBs [Public Security Bureaus] set up roadblocks and checkpoints on major roads, in cities, and on the outskirts of cities and monasteries, particularly around sensitive dates. Tibetans traveling in monastic attire were subject to extra scrutiny by police at roadside checkpoints. Following the May 2012 self-immolation in Lhasa of two young Tibetans from Tibetan areas of Sichuan and Gansu provinces (the first instances of self-immolation in Lhasa in recent years), authorities largely banned Tibetans from outside the TAR, particularly monks and nuns, from traveling to the TAR without first obtaining special official travel documents. Many Tibetans reported encountering difficulties in obtaining the required travel documents. This not only made it difficult for Tibetans to make pilgrimages to sacred religious sites in the TAR but also

obstructed land-based travel to India through Nepal. During the year some Tibetans reported that authorities no longer required them to obtain special official travel documents to visit the TAR but required them to register with local authorities upon arrival in the TAR. Some Tibetans from outside the TAR that traveled to Lhasa also reported that in Lhasa authorities required them to notify a police officer posted in their hotel lobby of their plans on a daily basis. Additionally, many nonlocal Tibetan monks, nuns, and laypersons who had resided in the TAR for as long as 15 years were expelled in 2011 and 2012. Authorities have not allowed many to return. For example, in December 2012 a young Tibetan artist in Chengdu reported that government officials had forced him to leave the TAR after discovering that he was originally from Sichuan Province's Ganzi (Kardze) TAP [Tibetan Autonomous Prefecture]. The artist had worked for two years at a famous TAR monastery painting and restoring sacred thangka paintings. Even outside the TAR, many Tibetan monks and nuns reported that it remained difficult to travel beyond their home monasteries, with officials frequently denying permission for visiting monks to stay temporarily at a monastery for religious education. Authorities allowed many nonethnic Tibetans, particularly ethnic Han Tibetan Buddhists, only temporary visits to Tibetan Buddhist monasteries. Implementation of this restriction was especially rigorous in the TAR and Tibetan areas in Sichuan Province." (USDOS, 27 February 2014, Tibet Addendum)

The January 2014 annual report of the Tibetan Centre for Human Rights and Democracy (TCHRD) notes:

"Following 2008 uprisings, the Chinese government has become increasingly restrictive about the mobility of monastics. These restrictions have become even more stringent in the wake of the self-immolations, such that monks and nuns cannot even leave their monastic grounds in areas where self-immolations and other protests have occurred. This is the case for the monastics of the nearly 500 monasteries and nunneries in the Chamdo area, who have been prohibited from leaving their monasteries since 2012. As procedures to obtain travel permits are difficult, requiring several levels of government involvement, permission to leave is rarely granted: in 2012, not a single monk or nun went to Lhasa and in 2013, only 4 monks obtained permission to travel to Lhasa. If they do not return within the allotted time period, they are charged with resisting the government and severely punished. Due to these tight restrictions, monastics throughout Tibet frequently wear lay clothes as opposed to their robes while traveling in order to avoid discrimination and arbitrary arrests by the authorities. Even in areas where no self-immolations or political protests have occurred, the Chinese government is increasingly strict. If Tibetans outside the Tibet Autonomous Region (TAR) wish to visit Lhasa or other locations in the TAR, they much first gain the permission of county authorities, such as the County police station or the County PSB office. In the application process, Tibetans must make a formal pledge not to join any protest activities in the TAR. If Tibetans visit the TAR without government authorization, they are subject to detainment and questioning. These permits are frequently denied, prohibiting religious practitioners from doing pilgrimage and monastics from receiving their traditional religious education. These travel restrictions are particularly difficult for Gelugpa monks, the largest sect of Tibetan Buddhism, as Sera, Ganden, and Drepung, amongst the three most important Gelugpa monasteries in Tibet,

are all located in Lhasa. Tashi Lhunpo, the traditional seat of the Panchen Lama and another important Gelugpa monastery, is located in Shigatse, also in the TAR. The reverse situation is also true – it has become increasingly difficult for monks and nuns from the TAR to travel to other Tibetan regions to pursue a religious education. Given the massive expulsion campaigns carried out at monasteries and nunneries in Lhasa and throughout the TAR post-2008, many monastics are forced to seek educational opportunities in eastern Tibet. Reports from Tibet show that Chinese authorities in Nagchu (Ch: Naqu) Prefecture, TAR are persecuting monks and nuns who travel outside the TAR for religious education as 'social prisoners' (Tib: chitsok ki tsonpa). If Tibetans from the TAR are caught crossing the border into neighboring Tibetan areas of Sichuan, Gansu and Qinghai, they are subject to detainment, harassment and interrogation by local Public Security Bureau (PSB) officers. In 2012, government authorities in Gansu Province issued an order to expel all monks who had come from outside Gansu to pursue their religious studies in monasteries located in the province, including the renowned Labrang Tashikyil Monastery, founded Jamyang Shepa, one of the greatest of Gelupa seers." (TCHRD, 20 January 2014a, pp. 53-54)

Freedom House states in its Freedom in the World 2013 report on Tibet, published in January 2013:

"Heightened restrictions on freedom of movement—including the use of troop deployments, roadblocks, and passport restrictions—were employed during 2012, particularly in areas where self-immolations took place. New travel restrictions introduced in March inhibited many Tibetans from entering the TAR. It was reported in May that Tibetans without permanent residency permits were being forced to leave Lhasa. Increased security efforts kept the number of Tibetans who successfully crossed the border into Nepal at between 300 and 600 in 2012, continuing a trend of annual declines from over 2,000 in 2007. In February, hundreds of Tibetans were interrogated and subjected to "reeducation" sessions upon returning from India, where they attended religious teachings by the Dalai Lama. According to Radio Free Asia, new regulations introduced in April led to almost no passports being issued to TAR Tibetans for the rest of 2012." (Freedom House, January 2013b)

The Tibetan Centre for Human Rights and Democracy (TCHRD) states in a January 2013 report:

"In addition to bans on holidays, the Chinese government has taken to heavily restricting freedom of movement in the TAR and other Tibetan areas for both the monastic community and lay Tibetans. Major road, cities, and monasteries are flooded with roadblocks and checkpoints manned by local security officials, particularly around religiously and politically sensitive dates. In addition to the stringent rules delineated for travel from their home monasteries and nunneries, the monastic population is subject to extra scrutiny at checkpoints. All pilgrims are required to obtain permit to go to the sacred mountain Mount Kailash in Ngari (Ch: Ali) Prefecture. These permits are routinely denied, and attempting to travel without one is a criminal offense. Pilgrims are further required to carry personal identification cards (Ch: shenfengteng) and Chinese ration

> cards, the absence of which results in being turned away from checkpoints and pilgrimage locations. As the capital of Tibet and centre of tourism, Lhasa is controlled by exceptionally stringent security measures. The People's Armed Police are permanently stationed in the centre of Lhasa, and snipers emerge on the rooftops surrounding the Jokhang temple during politically sensitive times. Patrolling officers subject Tibetans arriving in the capital to meticulous screening. Outside the city are numerous police surveillance stations and checkpoints to monitor approaching travellers, who must register with the police upon arrival and departure, and are strictly prohibited from remaining in the city for more than a month. The number of these surveillance 'dogs' dens' in and around Lhasa is regularly increasing." (TCHRD, 17 January 2013b, pp. 62-63)

As reported in the International Religious Freedom Report of the US Department of State (USDOS), authorities in Beijing restricted the freedom of movement of the head pastor of the unregistered Shouwang church and of his family and several other leaders of the church during 2012 (USDOS, 20 May 2013, section 2).

For more information on the situation of the groups referred to in this section, please see section 8.4 (Mongolians) and section 8.5 (Tibetans) of this compilation.

7 Freedom of conscience and freedom of religion

Article 36 of China's Constitution stipulates:

> "Article 36 Citizens of the People's Republic of China enjoy freedom of religious belief.
>
> No State organ, public organization or individual may compel citizens to believe in, or not to believe in, any religion; nor may they discriminate against citizens who believe in, or do not believe in, any religion.
>
> The State protects normal religious activities. No one may make use of religion to engage in activities that disrupt public order, impair the health of citizens or interfere with the educational system of the State.
>
> Religious bodies and religious affairs are not subject to any foreign domination." (Constitution of the People's Republic of China, 14 March 2004, Article 36)

Article 11 of the Law on Regional Ethnic Autonomy, adopted in 1984 and revised in 2001, contains the following provisions relating to freedom of religion:

> "Article 11 Autonomous agencies in ethnic autonomous areas guarantee the freedom of religious belief to citizens of the various nationalities.
>
> No state organ, public organization or individual may compel citizens to believe in, or not to believe in, any religion, nor may they discriminate against citizens who believe in, or do not believe in, any religion.
>
> The state protects normal religious activities. No one may make use of religion to engage in activities that disrupt public order, impair the health of citizens or interfere with the educational system of the state.
>
> Religious bodies and religious affairs shall not be subject to any foreign domination." (Regional Ethnic Autonomy Law of the People's Republic of China, 1 October 1984, Article 11)

In a paper presented at the 19th Annual International Law and Religion Symposium on "Religion, Democracy, and Civil Religion" held in Salt Lake City in 2012, Ping Xiong, lecturer at the School of Law at the University of South Australia, mentions several laws which provide a legal framework to protect religious freedom in China:

> "The legal framework in China for the protection of freedom of religion includes the laws promulgated by the People's Congress or the Standing Committee of the People's Congress, and administrative regulations promulgated by the State Council and the implementation rules of the various ministries. The most important law is the Constitution of PRC (amended in 2004), which protects the equal voting rights of the citizen who are of different religion believes, and the freedom of religion of citizens. [...]
>
> In addition, the protection of freedom of religion can be found in other laws, such as the Law of the PRC of China on Regional National Autonomy (amended in 2001); the General

> Rules of Civil Law (1986); the Law of Education; the Labor Law; the Compulsory Education Law; the Law on the Election of Deputies of National People's Congress; the Organic Law of the Rural Residents Committees of PRC; the Law of Advertisement. These laws protect the property of religious bodies, the separation between religion and education, the equal education opportunities of the citizens with different religious backgrounds, the respect for the customs and religious beliefs of each ethic groups, the equal opportunity of citizens for employment and non-discrimination against any religion in advertisement." (Ping, 2012, pp. 1-2)

The paper goes on to say:

> "Relevantly for the religious bodies, especially foreign religious bodies, there are two important rules and regulations, and they are the Regulations on Religious Affairs (2005, State Council of PRC) and the Rules for the Implementation of the Provisions on the Administration of Religious Activities of Aliens within the Territory of the People's Republic of China (2000, State Administration for Religious Affairs)." (Ping, 2012, p. 2)

The US Department of State (USDOS) annual report on religious freedom in 2012 states:

> "The constitution states that Chinese citizens have 'freedom of religious belief,' but limits protections for religious practice to 'normal religious activities,' a term applied in a manner that falls well short of international human rights standards for freedom of religion. The constitution does not define 'normal.' The government has signed, but not ratified, the International Covenant on Civil and Political Rights (ICCPR), which provides all individuals the right to 'adopt a religion or belief' of choice and manifest belief through 'worship, observance, and practice.' The constitution provides for the right to hold or not hold a religious belief and states that state organs, public organizations, and individuals may not discriminate against citizens 'who believe in, or do not believe in, any religion.' It is not possible to take legal action against the government on the basis of the religious freedom protections afforded by the constitution. Criminal law allows the state to sentence government officials to up to two years in prison if they violate religious freedom. There were no reported cases of such prosecutions during the year." (USDOS, 20 May 2013, section 2)

The US Congressional-Executive Commission on China (CECC) annual report of October 2013 (covering the period from autumn 2012 to autumn 2013) lists the following information pertaining to the legal framework for religion, adding that only five religions are officially recognized by the state: Buddhism, Catholicism, Taoism, Islam and Protestantism:

> "The Chinese government's legal and policy framework for religion violates the protections for freedom of religion set forth in Article 18 of the Universal Declaration of Human Rights, Article 18 of the International Covenant on Civil and Political Rights, and other international human rights instruments. Although the PRC Constitution states that all citizens enjoy 'freedom of religious belief,' it limits citizens' ability to exercise their beliefs by protecting only 'normal religious activities,' a vaguely defined term that has been used to suppress forms of religious activity protected under international human rights standards. The government has created a regulatory framework that recognizes only five

> religions – Buddhism, Catholicism, Taoism, Islam, and Protestantism – for limited state protections for religious activity, and the government has continued to outlaw some belief systems, thereby denying members of these communities the right to practice their faith openly and without fear of government reprisal." (CECC, 10 October 2013a, p. 86)

Under the heading "Regulatory and policy framework", the CECC report states that while the 2005 Regulations on Religious Affairs and local government regulations provide protection for some religious activities, such protection is limited in scope and extends only to the five state-approved religions. The report further notes that the Chinese government and the Communist Party exert their control over religious affairs through the State Administration for Religious Affairs (SARA) and lower level religious affairs bureaus (RABs) under the State Council, the Party's United Front Work Department (UFWD), and the five "patriotic" religious associations:

> "During the Commission's 2013 reporting year, the Chinese government continued to use law and policy as tools to restrain rather than protect Chinese citizens' right to freedom of religion. Although the 2005 Regulation on Religious Affairs (RRA) and local government regulations protect some religious activities, such protection is limited in scope and applies only to the five state-sanctioned religious communities. The RRA does not include criminal penalties for violation of its provisions, but authorities use the PRC Criminal Law, anti-cult regulations, and various administrative punishments, including reeducation through labor, to punish or detain citizens for forms of religious practice deemed to fall outside of approved parameters. Chinese government and Communist Party control over religious affairs is exercised through the State Administration for Religious Affairs (SARA) and lower level religious affairs bureaus (RABs) under the State Council, the Party's United Front Work Department (UFWD), and the five 'patriotic' religious associations: The Buddhist Association of China (BAC), the Catholic Patriotic Association of China (CPA), the Islamic Association of China (IAC), the Three-Self Patriotic Movement of Protestant Churches in China (TSPM), and the Chinese Taoist Association (CTA). All religious clergy are required to be registered with the government. In January 2013, a top religious official announced that all clergy would be registered by the end of the year." (CECC, 10 October 2013a, p. 86)

Further information on provisions contained in the Regulation on Religious Affairs is provided by the US Commission on International Religious Freedom (USCIRF) in its annual report on religious freedom of April 2013 (covering 31 January 2012 to 31 January 2013). In contrast to the above-cited CECC annual report of October 2013, the USCIRF refers to "seven government-approved associations", though without explicitly naming them[5]:

> "The government continues to use law to restrict religious activity and manage religious groups. The Chinese government's religion policy is governed by the National Regulations on Religious Affairs (NRRA), first issued in March 2005 and updated in 2007. The NRRA requires all religious groups to affiliate with one of seven government-approved

[5] Forum 18, a Norway-based human rights organisation that promotes religious freedom, notes in an article of December 2006 that there are "seven national state-controlled organisations: the Chinese Buddhist Association, the Chinese Patriotic Catholic Association and the Chinese Bishops Conference, the Chinese Daoist Association, the Chinese Islam Association, and the 'Two Associations' of Protestant Christianity – the Three-Self Patriotic Movement (TSPM) and the Chinese Christian Council (CCC)" (Forum 18, 5 December 2006).

> associations and allows government control of every aspect of religious practice and related activities. The NRRA does allow registered religious groups to carry out some religious activities and charitable work. When registered, religious communities can apply for permission to possess property, accept donations from overseas, conduct religious education and training, and host inter-provincial religious meetings. The NRRA permits only 'normal religious activity' and contains vague national security provisions that suppress the peaceful activity of unregistered religious groups, organizations deemed 'cults,' and Uighur Muslims and Tibetan Buddhists. [...] In Tibetan and Uighur regions, the NRRA includes additional restrictions on peaceful religious expression and leadership decisions and is supplemented by extensive provincial regulations." (USCIRF, 30 April 2013, pp. 31-32)

The USCIRF notes an increasing number of people able to practice their religion but finds that the government "represses and harasses" forms of religious practice it considers "'superstitious,' a 'cult,' a threat to national security or social harmony", or as falling outside the vague definition of a "normal" religious activity:

> "While a growing number of Chinese citizens are allowed to practice their religion, the government tightly controls religious groups and actively represses and harasses religious activity that it views as 'superstitious,' a 'cult,' a threat to national security or social harmony, or falling outside the vague parameters of 'normal' religious practices. The majority of religious practice in China falls within these disfavored categories, creating large problems for the government's religion policies. The Chinese government's approach to religion prioritizes the five government-approved religions – Buddhism, Daoism, Catholicism, Protestantism, and Islam. Chinese government officials, at many levels, view religious organizations as an extension of state policy, bolstering support for state economic and social goals, and do not promote religious freedom. In an April 2012 speech, the head of the United Front Work Department (UFWD), the Communist Party's organization tasked with implementing state policy on religion, said the government should 'remove the chaff' of religious practice so it can better adapt to 'socialist society.'" (USCIRF, 30 April 2013, p. 31)

The USCIRF further reports:

> "The Chinese government, as part of official policy, continues to restrict peaceful religious expression and the expansion of religious ideas or worship on the Internet. It confiscates or punishes individuals for the distribution of unapproved Bibles, Muslim books, Falun Gong documents, and interpretations of religious texts. It also blocks access to Internet sites of religious groups or those with 'illegal' religious content. Nevertheless, a wide array of religious materials and books is available for purchase without restrictions in state-approved bookstores." (USCIRF, 30 April 2013, p. 32)

The USDOS notes several restrictions imposed on religious groups in China and states that Beijing has banned certain religious and spiritual groups as "evil cults":

> "Only religious groups belonging to one of the five state-sanctioned 'patriotic religious associations' (Buddhist, Taoist, Muslim, Roman Catholic, and Protestant) are permitted to

register with the government and legally hold worship services. Other religious groups, such as Protestant groups unaffiliated with the official patriotic religious association or Catholics professing loyalty to the Vatican, are not permitted to register as legal entities. Proselytizing in public or unregistered places of worship is not permitted. Tibetan Buddhists in China are not free to venerate the Dalai Lama openly and encounter severe government interference in religious practice [...]. Religious groups independent of the five official government patriotic religious associations have difficulty obtaining legal status and are vulnerable to coercive and punitive action by SARA, the Ministry of Public Security (MPS) and other party or government security organs.

Certain religious or spiritual groups are banned by law. The criminal law defines banned groups as 'evil cults' and those belonging to them can be can be sentenced to prison. A 1999 judicial explanation stated that this term refers to 'those illegal groups that have been found using religions, qigong (a traditional Chinese exercise discipline), or other things as a camouflage, deifying their leading members, recruiting and controlling their members, and deceiving people by molding and spreading superstitious ideas, and endangering society.' There are no public criteria for determining, or procedures for challenging, such a designation. The government maintains a ban on the Guanyin Method Sect (Guanyin Famen or the Way of the Goddess of Mercy), Zhong Gong (a qigong exercise discipline), and Falun Gong. The government also considers several Christian groups to be 'evil cults,' including the 'Shouters,' Eastern Lightning, the Society of Disciples (Mentu Hui), Full Scope Church, Spirit Sect, New Testament Church, Three Grades of Servants (or San Ban Pu Ren), Association of Disciples, Lord God Sect, Established King Church, Unification Church, Family of Love, and the South China Church." (USDOS, 20 May 2013, section 2)

The USDOS also provides the following information:

"Since 2005 SARA [State Administration for Religious Affairs] has acknowledged, through a policy posted on its Web site, that family and friends have the right to meet at home for worship, including prayer and Bible study, without registering with the government. However, authorities regularly harass and detain small groups that meet for religious purposes in homes and other locations." (USDOS, 20 May 2013, section 2)

The Human Rights Watch (HRW) annual report of January 2014 (covering events of 2013) briefly describes the religious freedom situation in China as follows:

"Although the constitution guarantees freedom of religion, the government restricts religious practices to officially approved mosques, churches, temples, and monasteries organized by five officially recognized religious organizations. It audits the activities, employee details, and financial records of religious bodies, and retains control over religious personnel appointments, publications, and seminary applications.

Unregistered spiritual groups such as Protestant 'house churches' are deemed unlawful and subjected to raids and closures; members are harassed and leaders are detained and sometimes jailed.

> The government classifies Falun Gong, a meditation-focused spiritual group banned since July 1999, as an 'an evil cult' and arrests, harasses, and intimidates its members." (HRW, 21 January 2014)

Forum 18, a Norway-based human rights organisation that promotes religious freedom, lists the following information regarding the situation of religious non-governmental organisations (RNGOs) in China:

> "Religious non-governmental organisations (RNGOs) in China face many challenges. They mainly support people such as migrant workers and their families, orphans, and victims of natural disasters, Forum 18 News Service notes. The government encourages this, but also places many restrictions on NGOs gaining legal registration. It also bans RNGOs from overtly religious activity, such as the Theological Education Society raided in June 2012. This has led many groups engaged in charitable activity - like those associated with illegal Protestant house churches - either to not seek registration, or to register as commercial organisations. Despite these challenges, RNGO leaders remain cautiously optimistic about the future.
>
> Religious non-governmental organisations (RNGOs), both local and international, exist in China – but those that are legally registered as non-profit organisations are often linked to either the representative bodies of the five state-approved religions or other state organisations. Both the legally allowed and other RNGOs have mainly devoted their efforts and resources to supporting the neediest people in China, especially migrant workers and their families, orphans and victims of natural disasters, Forum 18 News Service notes.
>
> Most of China's existing religious NGOs have been able to carry out the activities they have been set up to do. Yet the state does not allow them to conduct religious activities, such as overt sharing beliefs. Activities that can be described as political – such as lobbying to change laws – are also not allowed. Many secular and religious NGOs involved in development work worldwide often see encouraging legislative change as a mainstream part of their work.
>
> So, despite RNGOs often operating quite successfully in China, like all NGOs they face an uncertain legal environment, a generally hostile political environment, and an apathetic social environment.
>
> The numbers of RNGOs are increasing, and their activities and geographic reach are expanding. For example, since the 1990s rising numbers of Chinese Buddhist RNGOs at all administrative levels have provided scholarships to impoverished children, managed orphanages and provided disaster relief." (Forum 18, 12 July 2012)

According to the USDOS, "CCP members are required to be atheists and are forbidden from engaging in religious practices. Members who belong to religious organizations are subject to expulsion". However, as the USDOS adds, the attendance of Communist Party members "at official church services in Guangdong Province was reportedly growing, as authorities increasingly chose to turn a blind eye to their attendance". (USDOS, 20 May 2013, section 2)

7.1 Registration

This section should be read in association with the information contained in the preceding section (7).

As reported by Freedom House, "[a]ll religious groups must register with the government, which regulates their activities, oversees clergy, and guides theology" (Freedom House, 23 January 2014). According to the US Department of State (USDOS), "only religious groups belonging to one of the five state-sanctioned 'patriotic religious associations' (Buddhist, Taoist, Muslim, Roman Catholic, and Protestant) are permitted to register with the government and legally hold worship services" (USDOS, 20 May 2013, Executive Summary).

Under the heading "Continuing restrictions on religious organization registration" [6], the US Congressional-Executive Commission on China (CECC) lists the following information:

> "Registration requirements for religious organizations in China continue to be highly restrictive, limiting the growth of religious communities and the right to freedom of religion, assembly, and association. During the 2013 reporting year, the Chinese government announced an institutional reform plan that will loosen registration and administrative strictures on some social organizations, including charities and social services organizations, but which explicitly excludes religious organizations, among others. Religious organizations will continue to be required to operate under a legal framework that requires the approval and oversight of a supervisory unit and registration with the relevant level of civil affairs bureau. A February 2012 opinion issued by SARA [State Administration for Religious Affairs], the UFWD [the Communist Party's United Front Work Department], and four other government departments called for 'equal treatment' of religious groups in establishing charitable organizations and noted that 'some localities and departments had not yet adequately recognized the positive significance of religious communities' participation in charitable activities.' It is unclear how the government will facilitate religious communities' legal participation in charitable and public interest activities given the exclusion of religious groups from the current social organization reform plan." (CECC, 10 October 2013a, pp. 86-87)

Freedom House's report Countries at the Crossroads of November 2011 mentions that "[r]eligious groups that are not registered with state authorities, or that reject Party leadership, risk abuse and imprisonment" (Freedom House, 4 November 2011). However, the US Commission on International Religious Freedom (USCIRF) notes in its annual report on religious freedom of April 2013 (covering 31 January 2012 to 31 January 2013) that "the government continues to tolerate regular and public worship activities of both legally-approved and some unregistered religious groups", adding that "[t]olerance for unregistered religious activity often varies, depending on province, locality, or relationship with provincial government officials" (USCIRF, 30 April 2013, p. 31).

[6] "The term 'religious organization' (zongjiao tuanti) or 'religious-type of social organization' (zongjiaolei shehui zuzhi or shehui tuanti) refer here to registered religious groups, such as Catholic dioceses, Muslim congregations, Protestant congregations, as well as to charitable organizations established by registered religious organizations, all of which are under the oversight of the five Patriotic religious associations, the relevant level religious affairs bureau, and the relevant civil affairs bureau." (CECC, 10 October 2013, p. 214, footnote 16)

The USDOS annual report on religious freedom covering the year 2012 informs that "[i]n addition to the five nationally recognized religions, local governments have legalized certain religious communities and practices, such as Orthodox Christianity in Xinjiang, Heilongjiang, Zhejiang, and Guangdong provinces" (USDOS, 20 May 2013, section 1). The report also mentions that local governments tolerated the activities of unregistered religious groups in some parts of the country, while in others the same activities were punished:

> "In parts of the country, local authorities tacitly approved of or did not interfere with the activities of unregistered groups. Guangdong officials, for example, increasingly allowed unregistered places of worship to hold services provided that they remained small in scale and did not disrupt social stability. In other areas, local officials punished the same activities by restricting activities and meetings, confiscating and destroying property, physically assaulting and injuring participants, or imprisoning leaders and worshippers. In some parts of the country, authorities charged religious believers not affiliated with a patriotic religious association with various crimes, including 'illegal religious activities' or 'disrupting social stability.' Local authorities often pressured unaffiliated religious believers to affiliate with patriotic associations and used administrative detention, including confinement and abuse at Reeducation Through Labor (RTL) camps, to punish members of unregistered religious or spiritual groups." (USDOS, 20 May 2013, section 2)

The situation of religious communities lacking state recognition is also addressed in a September 2013 article by Forum 18:

> "In a system established by China's communist rulers in the 1950s, five state-backed religious headquarter bodies have an official monopoly over all legal religious activity in the country. Only Buddhist, Catholic (independent of the Vatican), Daoist, Islamic and Protestant Christian groups under these headquarter bodies can gain legal status. [...] A handful of Orthodox Christian churches have state approval to remain open outside this framework, while foreign adherents are allowed to worship in separate Protestant, Jewish and other religious communities to which their Chinese co-religionists are denied access. At the same time, millions of China's citizens worship in religious communities that have no state recognition, including members of numerous Protestant 'house churches' and Catholics loyal to the Vatican. [...]
>
> Under the current restrictive system, legal registration status allows a religious community to conduct regular meetings in permanent venues that can also be publicised without fear of state crackdowns. In general, registered Buddhist, Catholic, Daoist, Islamic and Protestant Christian groups in China within the state-approved hierarchical structures all enjoy these advantages. Conversely, unregistered religious groups (including those of these five faiths but which are outside the state-approved hierarchical bodes) are unable to enjoy either some or all of these advantages. For instance, unregistered Protestant and Catholic groups (especially those visibly loyal to the Vatican) always face the prospect of state crackdowns. Other unregistered groups, such as the Protestant Christian community of Taiwan residents in Shanghai, are unable to establish permanent venues despite the fact that the Shanghai government has allowed the community to function. These and

other challenges confront a variety of faiths which have some measure of religious practice but have yet to achieve state recognition in China. Such faiths include Judaism, Russian Orthodoxy, Seventh-Day Adventism, the Baha'i faith and Mormonism." (Forum 18, 16 September 2013)

In its March 2013 background paper on the situation of Protestants in China, the Australian Refugee Review Tribunal provides the following observations based on information from academic sources and the news service of the Christian initiated NGO Amity Foundation:

"A registered church is a congregation that has chosen to comply with the government regulations for registration of places of worship and has met six general requirements. The six requirements for registration:

1. The congregation must have a fixed place

2. The congregation must have a fixed name.

3. There must be citizens who are religious believers regularly participating in religious activities.

4. They must have a management organisation composed of citizens who are religious believers.

5. They must have persons meeting the requirements of the particular religious group to lead religious services.

6. They must have their own legal source of income.

Although registration should not require a congregation to join either the TSPM [Three Self Patriotic Movement] or the CCC [China Christian Council], (Article 6 of the 2005 Religious Affairs regulations allows churches to register with the Ministry of Civil Affairs without the need to register with the appropriate patriotic association), in practice churches who refuse to join the TSPM have been refused registration. [...]

Unregistered churches are formally illegal. However unregistered groups should not be equated with groups which have been declared 'evil cults' (see section on Cults). While, strictly speaking, both groups are illegal (as they operate outside the registration process), in practice unregistered religious groups are sometimes treated with a certain level of tolerance, while individuals belonging to 'cults' are ruthlessly pursued." (RRT, 21 March 2013, pp. 6-7)

The US Commission on International Religious Freedom (USCIRF) elaborates on the reasons for religious adherents and spiritual movements not to join state-approved religious organisations:

"The government seeks to 'guide' unregistered Christian groups toward affiliation with government-sanctioned groups and to stop the proliferation of unregistered Buddhist, Daoist, or folk religion groups because they promote 'superstition.' Catholics, Protestants, Buddhists, and spiritual movements consistently have not joined officially-sanctioned

> religious organizations because they refuse, among other things, to: provide the names and contact information of their followers; submit leadership decisions to the government or to one of the government-approved religious organizations; or seek advance permission for all major religious activities or theological positions. They also do not trust government oversight, given past persecution." (USCIRF, 30 April 2013, p. 32)

7.2 Religious demography

The US Commission on International Religious Freedom (USCIRF) notes in its annual report of April 2013 that "[d]espite restrictions, harassment, arrests, and government oversight, the number of religious adherents continues to grow in China" (USCIRF, 30 April 2013, p. 31). Similarly, numerous sources indicate a "religious revival" in China since the 1980s (e.g. NOREF, March 2013, p. 1; UCA News, 30 May 2012).

According to a June 2013 report by the US Congressional Research Service (CRS), "[h]undreds of millions of Chinese openly practice one of five officially recognized religions", namely Buddhism, Protestantism, Roman Catholicism, Taoism and Islam (CRS, 19 June 2013, p. 11).

China's national report to the Working Group on the Universal Periodic Review (UPR), published by the UN Human Rights Council (HRC) in August 2013, provides the following statistical data regarding the country's religious landscape:

> "Currently, there are about 5,500 religious groups in China, along with nearly a hundred religion-affiliated academic institutions and as many as 140,000 places of religious activity registered in accordance with the law and open to the public. Religious clergy number some 360,000, and there are around 100 million believers." (Ministry of Foreign Affairs China; Government of Hong Kong Special Administrative Region; Government of Macao Special Administrative Region, 5 August 2013, p. 13)

The US Department of State (USDOS) annual report on religious freedom covering the year 2012 cites two estimates of the number of religious adherents in China, one by the government, the other by Shanghai-based East China Normal University:

> "According to Bureau of Statistics information as of November 1, 2010, the population of mainland China is 1,339,725,000. In its report to the United Nations Human Rights Council during its Universal Periodic Review in February 2009, the government stated that there were 'more than 100 million followers of different religious faiths and the religious population is steadily increasing.' However, accurate estimates of the numbers of religious believers vary widely depending on the source. For example, a 2007 survey conducted by East China Normal University states that 31.4 percent of citizens aged 16 and over, or 300 million people, are religious believers." (USDOS, 20 May 2013, section 1)

A summary of all findings of the above-mentioned survey by East China Normal University is presented in a February 2007 article by the state-run China Daily newspaper. According to the article, the survey suggests that "the five major religions", Buddhism, Taoism, Catholicism, Christianity and Islam, account for 67.4 per cent of religious adherents in China:

> "The number of people who describe themselves as religious is a startling three times more than the official estimate, according to the country's first major survey on religious beliefs. The poll of about 4,500 people, conducted by professors Tong Shijun and Liu Zhongyu of Shanghai-based East China Normal University from 2005 till recently, found that 31.4 percent of Chinese aged 16 and above or about 300 million are religious. This is in sharp contrast to the official figure of 100 million, which has remained largely unchanged for years. According to the survey, Buddhism, Taoism, Catholicism, Christianity and Islam are the five major religions, accounting for 67.4 percent of believers." (China Daily, 7 February 2007)

The survey further estimates that "[a]bout 200 million people are Buddists [sic], Taoists or worshippers of legendary figures such as the Dragon King and God of Fortune" (China Daily, 7 February 2007). In its annual report on religious freedom covering the year 2011, the USDOS states that the estimation of the number of Buddhists and Taoists is difficult as "they do not have congregational memberships, and many practice exclusively at home". According to the report, "[a] 2007 public opinion poll found that 11 to 16 percent of adults identified themselves as Buddhists, and less than 1 percent of adults identified themselves as Taoists" (USDOS, 30 July 2012, section 1). In a December 2012 report, the Pew Forum on Religion & Public Life, a project of the US-based, nonpartisan think tank Pew Research Center, estimates that Buddhists constituted 18.2 per cent of the total Chinese population as of 2010 (Pew Forum on Religion & Public Life, December 2012, p. 46).

A 2013 report by Katharina Wenzel-Teuber of China-Zentrum e.V., a Germany-based non-profit organisation that describes itself as encouraging "encounters and exchange between cultures and religions in the West and in China", lists the following statistical data on Buddhism and Taoism in China, obtained from the 2007 Chinese Spiritual Life Survey (CSLS) and the 2012 Blue Book of Religions (BB):

> "For this largest sector of religious life in China there are no new statistics for 2012. Older surveys, conducted in 2007, such as the Chinese Spiritual Life Survey (CSLS), provide some orientation. Among other things, it gives the following results:
>
> 185 million consider themselves Buddhists, i.e. 18% of the population over 16 years.
>
> 17.3 million have taken the triple refuge (in the Buddha, Dharma and Sangha), i.e. have formalized their adherence to Buddhism through ritual.
>
> 12 million of the adult population clearly identify with Daoism.
>
> 173 million have exercised some Daoist practices or participated in them, but these are difficult to distinguish from popular religion.
>
> The number of Daoist temples is declining; only a few were re-opened in 2011. This was observed in the 2012 Blue Book of Religions (henceforth BB) published by the state-run Chinese Academy of Social Sciences. According to the BB, about 2,600 Taoist temples were re-opened in all of Mainland China by the end of 2001 (sic), which the report called

a small number compared to the more than 9,000 Daoist temples in Taiwan." (Wenzel-Teuber, 2013, pp. 18-19)

In the Tibet Addendum to its annual report on religious freedom covering the year 2012, the USDOS gives the following overview of the religious landscape in Tibetan areas:

> "Most ethnic Tibetans practice Tibetan Buddhism, although a sizeable minority practices Bon, an indigenous religion, and very small minorities practice Islam, Catholicism, or Protestantism. Some scholars estimate that there are as many as 400,000 Bon followers across the Tibetan Plateau. Scholars also estimate that there are up to 5,000 ethnic Tibetan Muslims and 700 ethnic Tibetan Catholics in the TAR [Tibet Autonomous Region]. [...]
>
> Other residents of traditionally Tibetan areas include ethnic Han Chinese, many of whom practice Buddhism, Daoism, Confucianism, or traditional folk religions; Hui Muslims; and non-ethnic Tibetan Catholics and Protestants. Approximately 4,000 to 5,000 Muslims worship at mosques in the TAR. A Catholic church with 560 members is located in the traditionally Catholic community of Yanjing in the eastern TAR. Cizhong (Tsodruk), in Diqing (Dechen) Tibetan Autonomous Prefecture (TAP), Yunnan Province, is also home to a large Tibetan Catholic congregation. The TAR is home to a small number of Falun Gong adherents, as well as unregistered Christian churches.
>
> According to the State Council Information Office's 2011 White Paper 'Sixty Years Since Peaceful Liberation of Tibet,' the TAR has over 1,700 'venues for religious activities and about 46,000 monks and nuns.' While no recent data on the number of Tibetan Buddhist monasteries in other Tibetan areas of China are available, according to a 2009 article in the People's Daily (the official newspaper of the CCP), altogether in the TAR and in Gansu, Qinghai, Sichuan and Yunnan Provinces, there are 3,000 Tibetan Buddhist monasteries with 120,000 Tibetan Buddhist monks and nuns." (USDOS, 20 May 2013, Tibet Addendum, section 1)

According to the above-cited survey by East China Normal University, "12 percent of all believers, or 40 million, are Christians". Official figures of 2005 placed the number of Christians at 16 million (China Daily, 7 February 2007). Statistical data on Christian adherents in China is also provided by the USDOS:

> "The 2011 Blue Book of Religions, produced by the Institute of World Religions at the Chinese Academy of Social Sciences (CASS), a research institution directly under the State Council, reports the number of Protestant Christians to be between 23 and 40 million. A June 2010 SARA [State Administration for Religious Affairs] report estimates there are 16 million Protestants affiliated with the Three-Self Patriotic Movement (TSPM). According to 2010 Pew Research Center estimates, there are 67 million Protestant Christians, of whom 23 million are affiliated with the TSPM. According to SARA, more than six million Catholics worship in sites registered by the Catholic Patriotic Association (CPA). The Pew Center estimates that there are nine million Catholics on the mainland, 5.7 million of whom are affiliated with the CPA." (USDOS, 20 May 2013, section 1)

In December 2011, the Pew Forum on Religion & Public Life published a statistical report on the size and distribution of the world's Christian population. With regard to the Christian share of the Chinese population, the report notes:

> "Published estimates of the Christian share of the Chinese population range from about 1% in some relatively small-sample public opinion surveys to about 8% in reviews of membership reports from churches and church leaders (including unregistered churches) within China. [...] Based on a review of these estimates, the Pew Forum's demographers think that the 2010 Christian share of China's population is likely in the neighborhood of 5% (or 67 million people of all ages) [...]. This figure includes non-adult children of Chinese believers and un-baptized persons who attend Christian worship services." (Pew Forum on Religion & Public Life, December 2011, pp. 97-98)

Of the 67 million people estimated by the Pew Forum to be Christian, 58 million are Protestant and nine million Catholic. Orthodox Christians are estimated to number 20,000 (Pew Forum on Religion & Public Life, December 2011, p. 97).

The above-cited report by Wenzel-Teuber gives the following figures relating to Protestants and Catholics in China:

> "20 million Protestant Christians, of whom 70% are in rural areas, and 53,000 Protestant churches and meeting places – according to the official Protestant bodies (Three-Self Patriotic Movement and Chinese Christian Council).
>
> 23.05 million Chinese, of whom 67.5% are baptized, consider themselves Protestant Christians (regardless of membership in formal or informal groups) – according to a 2008/2009 household survey conducted by the Chinese Academy of Social Sciences (CASS 2010). This number has since been repeated in many Chinese publications.
>
> There are significantly higher estimates from different sources [...]." (Wenzel-Teuber, 2013, pp. 21-22)
>
> "12 million number of Catholics, according to estimates of the HSSC [Holy Spirit Study Centre of the Catholic Diocese of Hong Kong], including both the official part of the church and the Catholics in the underground.
>
> 6 million number of Catholics, according to information from the official Catholic governing bodies (PA-BiCo [Chinese Catholic Patriotic Association – Chinese Catholic Bishops' Conference])" (Wenzel-Teuber, 2013, p. 24)

According to the USDOS annual report on religious freedom covering the year 2011, "[t]he Pew Research Center estimated in 2007 that 50 million to 70 million Christians practiced in unregistered religious gatherings, also known as 'house churches'" (USDOS, 30 July 2012, section 1)

Demographic information about the Muslim population of China is contained in the USDOS annual report on religious freedom in 2012:

> "According to the State Administration for Religious Affairs (SARA), there are more than 21 million Muslims in the country; unofficial estimates range as high as 50 million. Hui Muslims are concentrated primarily in the Ningxia Hui Autonomous Region and Qinghai, Gansu, and Yunnan provinces. Uighur Muslims live primarily in Xinjiang. According to Xinjiang Statistics Bureau data from 2010, there are approximately 10 million Uighurs in Xinjiang." (USDOS, 20 May 2013, section 1)

The USDOS annual report on religious freedom covering the year 2011 provides the following additional information:

> "According to SARA there are approximately 36,000 Islamic places of worship (more than half of which are in the XUAR [Xinjiang Uyghur Autonomous Region]), more than 45,000 imams, and 10 Islamic schools in the country. Some Muslim communities have designated separate mosques for female worshippers. There are 10 predominantly Muslim ethnic groups in the country. The 2000 census reported 20.3 million members of predominantly Muslim nationalities, of which 96 percent belonged to three groups: Hui, 9.8 million; Uighurs, 8.4 million; and Kazakhs, 1.25 million." (USDOS, 30 July 2012, section 1)

Wenzel-Teuber notes in her above-cited report that according to the official Chinese Islamic Association (CIA), "23 million is the number of Muslims in Mainland China" (Wenzel-Teuber, 2013, p. 19).

A June 2012 article by Global Security, a US-based think tank focusing on security issues, lists the following information on Chinese folk religion, including statistical data on the number of practitioners:

> "Chinese Folk Religion is a combination of Confucianism, Taoism, and Buddhism placed atop Chinese archaic Shamanism. In addition to practicing religion, many persons also follow a collection of beliefs that are deeply ingrained in Chinese culture that can be referred to as 'traditional Chinese folk religion.' These beliefs include, but are not limited to, shamanism, ancestor worship, magic, ghosts and other spirits, and aspects of animism. Such folk religion may overlap with an individual's belief in Buddhism, Taoism, Confucianism, or other traditional Chinese religions. [...] Some put the number of Chinese folk religion believers alone at nearly 300 million. [...] Based on a 2005 survey of Encyclopedia Britannica, 33% of the worlds'' spiritual adherents follow Christianity, 20% follow Islam, 13% follow Hinduism, 6.3% follow Chinese folk religion, and 5.9% follow Buddhism. And a 2012 estimate concluded that there were about 2.1 billion Christians (32% of the world population); 1.3 billion Muslims (19%); 0.8 billion Hindus (13%); 0.4 billion practise Chinese folk religion (6%)." (Global Security, 18 June 2012)

The above-cited December 2012 report by the Pew Forum on Religion & Public Life points to difficulties in determining the number of folk religionists. As explained by the Pew Forum, "[...] though folk religions are pervasive in China, they typically do not appear in surveys in China because they are not one of the five religions officially recognized by the government". In addition, "the boundaries between folk religions and other religions are blurry in some contexts" (Pew Forum on Religion & Public Life, December 2012, pp. 34-35). In the same report, the Pew Forum estimates that the number of folk religionists in China was

294,320,000 (21.9 per cent of the Chinese population) in 2010, noting that the estimate "relies [...] on survey questions about worship of gods or spirits associated with Chinese folk religions" (Pew Forum on Religion & Public Life, December 2012, pp. 34-35).

According to the USDOS, "[s]ome ethnic minorities retain traditional religions, such as Dongba among the Naxi people in Yunnan and Buluotuo among the Zhuang in Guangxi. Worship of the folk deity Mazu reportedly has been reclassified as 'cultural heritage' rather than religious practice". (USDOS, 20 May 2013, section 1)

The USDOS annual report on religious freedom published in October 2009 (covering the period from 1 July 2008 to 30 June 2009) refers to Falun Gong as "a self-described spiritual discipline that is Buddhist in nature" and "combines the meditation techniques and physical exercises of qigong (a traditional Chinese exercise discipline) with the teachings of its founder Li Hongzhi". As for the number of Falun Gong practitioners, the USDOS states:

> "Prior to the Government's 1999 ban on Falun Gong, it estimated that there were 70 million adherents; the Government subsequently adjusted the number of adherents to approximately 2 million. Falun Gong sources estimate that tens of millions continue to practice privately." (USDOS, 26 October 2009, section 1)

An April 2009 article by the British online newspaper The Telegraph quotes a lawyer from Gongdao law firm in Beijing as saying that "[t]here are still huge numbers of Falun Gong members in China, in the tens of millions" (Telegraph, 24 April 2009).

7.3 Treatment of religious/spiritual groups

This section should be read in association with section 7 of this compilation.

Freedom House's report Freedom in the World 2014 – China (covering 2013) states that "[r]eligious freedom is sharply curtailed by the formally atheist Communist Party" (Freedom House, 23 January 2014).

Amnesty International (AI) writes in its 2013 annual report (covering 2012) that "Muslims, Buddhists and Christians, who practised their religion outside officially sanctioned channels, and Falun Gong practitioners, were tortured, harassed, arbitrarily detained, imprisoned and faced other serious restrictions on their right to freedom of religion" (AI, 23 May 2013).

The US Department of State (USDOS) annual report on religious freedom covering the year 2012 indicates that "[t]he government's respect for religious freedom declined during the year, particularly in Tibetan areas and the Xinjiang Uighur Autonomous Region (XUAR)" (USDOS, 20 May 2013, Executive Summary). The report further notes:

> "During the year religious affairs officials and security organs scrutinized and restricted the religious activities of registered and unregistered religious and spiritual groups. The government harassed, detained, arrested, or sentenced to prison a number of religious adherents for activities reported to be related to their religious beliefs and practice. These

activities included assembling for religious worship, expressing religious beliefs in public and in private, and publishing religious texts." (USDOS, 20 May 2013, section 2)

In its annual report of April 2013 (covering the period from 31 January 2012 to 31 January 2013), the US Commission on International Religious Freedom (USCIRF) designates China as a Country of Particular Concern (USCIRF, 30 April 2013, p. 29), meaning it had "systematic, ongoing, and egregious" violations of religious freedom (USCIRF, 30 April 2013, p. 3). In addition, the report contains the following information with respect to religious freedom conditions in China:

> "Poor religious freedom conditions in China deteriorated significantly, particularly for Tibetan Buddhists and Uighur Muslims. To stem the growth of independent Catholic and Protestant groups, the government detained and arrested leaders, forcibly closed churches, and selected Catholic bishops without the approval of the Vatican. The Falun Gong, and other groups deemed 'evil cults,' face long-term imprisonments, forced renunciations of faith, and torture in detention." (USCIRF, 30 April 2013, p. 29)

> "The Chinese government continues to perpetrate particularly severe violations of the freedom of thought, conscience, and religion or belief. Religious groups and individuals considered to threaten national security or social harmony, or whose practices are deemed beyond the vague legal definition of 'normal religious activities,' are illegal and face severe restrictions, harassment, detention, imprisonment, and other abuses. Religious freedom conditions for Tibetan Buddhists and Uighur Muslims remain particularly acute, as the government broadened its efforts to discredit and imprison religious leaders, control the selection of clergy, ban certain religious gatherings, and control the distribution of religious literature by members of these groups. The government also detained over a thousand unregistered Protestants in the past year, closed 'illegal' meeting points, and prohibited public worship activities. Unregistered Catholic clergy remain in detention or disappeared. Falun Gong face some of the most intense and violent forms of persecution. Adherents are tortured and mistreated in detention and are pursued by an extralegal security force chartered to stamp out 'evil cults.' The Chinese government also continues to harass, detain, intimidate, and disbar attorneys who defend members of vulnerable religious groups." (USCIRF, 30 April 2013, p. 30)

With regard to religious education, Forum 18 notes in May 2013:

> "Religious groups not officially permitted by the state – including the Vatican-loyal Catholic Church, unregistered Protestant house churches, or Jehovah's Witnesses – or those that are slightly tolerated – including Protestant denominations like Seventh-day Adventists which maintain some self-identity within the state-approved Protestant body, or the tiny Chinese Orthodox Church – have no possibility for formal religious education." (Forum 18, 15 May 2013)

> "Informal religious education outside state control is possible, though difficult, while education abroad is an 'alternative'. However, this option is usually available only for those who have completed religious studies in China." (Forum 18, 15 May 2013)

As already noted in section 7.1 of this compilation, the USCIRF and the USDOS both indicate that in some parts of the country there is limited government tolerance for activities of unregistered religious groups.

7.3.1 Buddhism

According to the Pew Forum on Religion & Public Life, there are three major branches of Buddhism in the modern world: Mahayana Buddhism, Theravada Buddhism and Vajrayana (sometimes described as Tibetan) Buddhism. Alternatively, "some scholars consider there to be two main Buddhist branches – Mahayana and Theravada – and classify Vajrayana as part of the Mahayana branch". Mahayana Buddhism is the dominant form of Buddhism in China (Pew Forum on Religion & Public Life, December 2012, p. 31). The same is stated by Reuters news agency in an article published in June 2011 (Reuters, 16 June 2011). According to the Congressional-Executive Commission on China (CECC), Mahayana Buddhism is also referred to as Han Buddhism (CECC, 10 October 2013a, p. 215).

For information on Tibetan Buddhism, please see the sub-section entitled "Tibetan Buddhism (Lamaism)" below; information on Theravada Buddhism in China is contained in this section as well as in the sub-section entitled "Hinayana ('lesser vehicle') / Theravada Buddhism".

A September 2013 article by Reuters news agency notes with reference to three independent sources with ties to the leadership that President Xi Jinping "wants the ruling Communist Party to be more tolerant of traditional faiths", including Buddhism and Taoism, in the hope to fill the moral vacuum "that has allowed corruption to flourish". An anonymous source is quoted as saying that "[t]raditional cultures will not be comprehensively popularized, but attacks on them will be avoided". However, as further noted in the article, "[s]keptics described such tactics as a ploy to divert blame away from the party for the many problems that anger ordinary Chinese, from corruption to land grabs". (Reuters, 29 September 2013)

The US Department of State (USDOS) annual report on religious freedom covering the year 2012 observes that "[o]fficial tolerance for groups associated with Buddhism, except for Tibetan Buddhism, and Taoism, was greater than that for groups associated with other religions" (USDOS, 20 May 2013, section 2). A March 2013 report by the Norwegian Peacebuilding Resource Centre (NOREF), which describes itself as an "independent foundation established to integrate knowledge and experience in order to strengthen peacebuilding policy and practice", similarly notes with regard to Han Buddhism (referred to in the report as Chinese Buddhism):

> "Currently, Chinese Buddhism is often more favourably treated than the other officially recognised religions, even though the government has been very specific about treating all these religions equally. This new, relatively tolerant attitude toward Chinese Buddhism is caused by the fact that the Beijing government has found Buddhism to be a convenient political resource for promoting its political goal of establishing a 'harmonious society' domestically and to project China as a country striving to contribute to a 'harmonious world' internationally." (NOREF, March 2013, p. 2)

According to the NOREF, Chinese Buddhism is not perceived as a threat by the authorities, for three main reasons:

> "Firstly, Chinese Buddhism is to a large degree seen as a local religion. Even though Buddhism originated in India, it has been an integral part of the Chinese cultural and religious landscape for more than 2,000 years. [...] Secondly, Chinese Buddhists do not have religious authorities outside the country that potentially could challenge the Chinese governments' authority, unlike the Pope in Rome or the Dalai Lama in Dharamsala. [...] Thirdly, Chinese Buddhism is not linked to separatist movements." (NOREF, March 2013, p. 2)

The CECC annual report of October 2013 lists the following information relating to the situation of the two major non-Tibetan Buddhist schools in China, Mahayana (or Han) and Theravada (or Pali) Buddhism:

> "During the Commission's 2013 reporting year, the Chinese government and Communist Party, through the State Administration for Religious Affairs (SARA), local religious affairs bureaus, and the state-run Buddhist Association of China (BAC), continued to monitor, control, restrict, and 'guide' the religious activities of Buddhists in non-Tibetan areas of China. [...] In a speech delivered at a ceremony commemorating the 60th anniversary of the BAC in August 2013, Vice Premier and member of the Political Bureau of the Communist Party Central Committee (Politburo) Liu Yandong stated her hope that Buddhists in China 'adhere to the tradition of loving the country and loving religion, embrace the leadership of the Party'; 'love deeply' (re'ai) the Party, the nation, socialism, and the masses; and 'adhere to the road of socialism with Chinese characteristics.' In October 2012, SARA and nine other central level government agencies issued a joint opinion on the handling of problems involved in the management of Buddhist monasteries and Taoist temples, calling for tighter control and regulation of religious sites and personnel, and prohibiting unregistered organizations and religious sites from conducting religious activities or collecting religious donations. The Chinese government continues to ban at least three sects of Buddhism it has labeled as 'cults' (xiejiao): Guanyin Famen, the True Buddha School (lingxian zhen fozong), and Yuandun Famen. A prominent Guangdong province-based Buddhist leader, Wu Zeheng, also known as Zen Master Xing Wu, has been monitored and harassed since his release from prison for 'economic crimes' in 2010. The Chinese government has also refused to issue Wu a passport, thereby preventing him from lecturing abroad: 'It's just another way to punish people they don't like,' Wu told the New York Times in February." (CECC, 10 October 2013a, p. 87)

The case of Buddhist leader Wu Zeheng is also reported by the US Department of State (USDOS) in its annual report on religious freedom covering the year 2012. As noted by the USDOS, at the end of 2012, Wu "continued to face harassment, close monitoring, and restrictions on his movement by authorities in Guangdong Province's Zhuhai City, according to overseas media and religious groups". (USDOS, 20 May 2013, section 2)

Tibetan Buddhism (Lamaism)

This section should be read in association with section 8.5 of this compilation.

An overview of the situation of Tibetan Buddhism is given in the Executive Summary of the Tibet Addendum to the US Department of State (USDOS) annual report on religious freedom covering the year 2012:

> "The government's respect for and protection of religious freedom in the TAR [Tibet Autonomous Region] and other Tibetan areas deteriorated markedly, with a substantial increase in official interference in religious practice, especially in Tibetan Buddhist monasteries and nunneries. Repression was severe throughout the year, but tightened further in the lead-up to and during politically sensitive and religious anniversaries and events. Official interference in the practice of Tibetan Buddhist religious traditions continued to generate profound grievances. An increasing number of Tibetans self-immolated during the year. The government routinely denigrated the Dalai Lama, whom most Tibetan Buddhists venerate as a spiritual leader, and blamed the 'Dalai clique' and 'other outside forces' for instigating the 83 self-immolations by Tibetan monks, nuns, and laypersons that reportedly occurred during the year. Chinese authorities often publicly associated Tibetan Buddhist monasteries with 'separatism' and pro-independence activism, and characterized disagreement with religious policy as seditious behavior." (USDOS, 20 May 2013, Tibet Addendum, Executive Summary)

Religious freedom conditions in Tibetan Buddhist areas of China are also addressed in the US Commission on Religious Freedom (USCIRF) annual report of April 2013 (covering the period from 31 January 2012 to 31 January 2013):

> "The religious freedom conditions in Tibetan Buddhist areas of China are worse now than at any time over the past decade. Since 2008 protests in Tibetan areas, the government's control of the doctrines, worship sites, and selection of religious leaders of Tibetan Buddhism, and its arrests and detentions of individuals who oppose government policy or support the Dalai Lama, have nurtured deep resentments among Tibetans. [...]
>
> During the past year, the Chinese government continued efforts not only to strengthen control over Tibetan Buddhism but also to chart its future development, including new regulations, new oversight bureaucracy, and the opening of a government approved Tibetan Theological Institute. Zhu Weiqun, UFWD [United Front Work Department] deputy director and director of the Communist Party's General Office for Tibet Affairs, said the goal of the new institute was to 'conform Tibetan Buddhism...to the development of our times, and to resist the Dalai clique's religious infiltration... and remove the crude customs and habits that are not in line with social progress.'" (USCIRF, 30 April 2013, pp. 32-33)

The USDOS notes that during the year 2012, "[t]here were numerous reports of societal discrimination, including of Tibetans who encountered discrimination in employment, obtaining hotel accommodation, and in business transactions". However, as "Tibetan Buddhists' ethnic identity is closely linked with religion, it can be difficult to categorize incidents solely as examples of either purely ethnic or religious intolerance". Many Tibetan Buddhist monks and

nuns reported having worn civilian clothes instead of monastic robes when traveling in other parts of China "in order to avoid being targeted for discrimination or arbitrary police checks". (USDOS, 20 May 2013, Tibet Addendum, Executive Summary)

A January 2013 report by the India-based human rights NGO Tibetan Centre for Human Rights and Democracy (TCHRD) also refers to discrimination and harassment experienced by Tibetan Buddhist monks and nuns:

> "Monks and nuns are frequently denied basic services, such as accommodations at hotels, 'particularly during sensitive times, including the period around the Beijing Olympics, the 60th anniversary of the country on 1 October 2009, and the Shanghai World Expo in 2010.' Religious personnel specifically are denied the right to freedom of movement. They are more strictly searched at the increased security blocks around Lhasa and other places in Tibet, facing harassment, beatings, and expulsion from the region." (TCHRD, 17 January 2013b, p. 115)

In the Tibet Addendum to its annual report on religious freedom covering the year 2012, the USDOS reports on the TAR implementing measures for the 2005 Religious Affairs Regulations, noting that they provide officials with the power to control "all aspects of Tibetan Buddhism":

> "The TAR [Tibet Autonomous Region] Implementation of the Religious Affairs Regulations (the 'Implementing Regulations'), also issued by SARA [State Administration for Religious Affairs], assert state control over all aspects of Tibetan Buddhism, including religious groups, venues, and personnel. The TAR government has the right under the Implementing Regulations to deny any individual's application to take up religious orders. The Implementing Regulations codify the practice of controlling the movement of nuns and monks, requiring them to seek permission from county-level religious affairs officials to travel to another prefecture or county-level city within the TAR to 'practice their religion,' engage in religious activities, study, or teach. In Tibetan Buddhism, a key component of religious education is to visit different monasteries and religious sites in the region and abroad to receive specialized training from experts in particular theological traditions. The Implementing Regulations require that monks who travel across county or provincial lines for religious teaching or study must obtain permission from the Religious Affairs Bureau (RAB) of both the sending and receiving counties. Such restrictions sometimes also apply to monks visiting other monasteries within the same county for short-term study or teaching. Tibetan Buddhist monks say that these restrictions have resulted in a decline in the quality of monastic education. The Implementing Regulations also give the government formal control over the building and management of religious structures and the holding of large-scale religious gatherings, each of which requires official permission. The TAR maintains tight government control over the use of Tibetan Buddhist religious relics and maintains that the relics, as well as the religious buildings and institutions themselves, are state property." (USDOS, 20 May 2013, Tibet Addendum)

The same source notes with regard to government oversight and management of monastic activity in the Tibet Autonomous Region (TAR):

"Provincial, prefectural, county, and local Party leaders and branches of the UFWD, SARA, and the Buddhist Association of China coordinate implementation of religious policies in monasteries.

During a January 4 official meeting on stability maintenance, TAR [Tibet Autonomous Region] Party Secretary Chen Quanguo announced that Party cadres and government officials would be routinely stationed at all TAR temples and monasteries to strengthen monastery management. A February 15 report in the Global Times, a commercially focused newspaper affiliated with the official daily of the CCP Central Committee, announced that Monastery Management Committees (MMC) headed by Party and government officials had been established in each of the TAR's 1,787 monasteries. General monastery affairs in TAR monasteries, which in the past had been managed by Democratic Management Committees (DMCs) staffed primarily by monks from the respective monasteries, are now overseen by MMCs and Monastery Government Working Groups (also composed of governmental officials and Party members). In accordance with official guidelines for monastery management, leadership of and membership in the various committees and working groups is restricted to 'politically reliable, patriotic, and devoted monks, nuns, and Party and government officials.' Government-selected monks have primary responsibility for conducting 'patriotic education campaigns' at each monastery. In some cases, the government has established 'official working groups' at monasteries, and religious affairs and public security officials personally lead the patriotic education." (USDOS, 20 May 2013, Tibet Addendum)

On the same topic, the USCIRF writes:

"In February 2012, government officials completed the establishment of a new Monastery Management Committee (MMC) headed by Party and government officials residing in every Tibet Autonomous Region (TAR) monastery. According to the CECC [Congressional-Executive Commission on China], the goals of the new MMC's are to ensure that monks and nuns observe regulations, abide Chinese laws, and build 'harmony.'" (USCIRF, 30 April 2013, p. 32)

The USCIRF further reports that nine of the ten Tibetan autonomous prefectures located outside the TAR issued regulatory measures establishing greater control of internal Tibetan Buddhist affairs:

"Nine of the ten Tibetan autonomous regions in China issued measures to subordinate internal Tibetan Buddhist affairs to central government regulation, particularly over monasteries that had resisted 'management by law and supervision by the public.' These measures were coordinated with local initiatives of April 2011 that allowed religious personnel to be removed for perceived disloyalty to government policy, limited the number of monks and nuns living in monasteries, and required religious personnel to conform with unspecified political, professional, and personal criteria. There is real concern that government officials will use the new regulations to remove monks, nuns, or trulkus (living Buddhas) viewed as devoted to the Dalai Lama or his recognized Panchen Lama, or to those holding positions the government deems problematic or illegal." (USCIRF, 30 April 2013, p. 33)

A September 2013 joint report by the International Federation for Human Rights (FIDH), a non-governmental federation for human rights organisations, and the International Campaign for Tibet (ICT), a US-headquartered non-profit advocacy group dedicated to promoting democratic freedoms for Tibetans, states with regard to the regulatory measures on Tibetan Buddhist Affairs that they "establish greater and more detailed control of Tibetan religious activity" and "will affect almost half of the area that the Chinese government designates as 'Tibetan autonomous region' and slightly more than half of the Tibetans living in Tibetan autonomous areas of China" (FIDH/ICT, September 2013, p. 9). The report goes on to state:

> "The regulations reveal varying degrees of control over religious practice. For instance, measures from Ngaba in Sichuan, where the wave of self-immolations began, iterate a degree of detail and scrutiny far above and beyond that of neighboring Huangnan in Qinghai. The requirements for travel by monks for the purpose of study, for example, are defined with very broad strokes in the Huangnan regulations, but precisely described in Ngaba. In Ngaba, there appears to be extremely onerous and bureaucratic hurdles to cross for even the most basic functions of monasteries and monastics – with lines of reporting up at least two tiers of government authority even to perform religious services in people's homes." (FIDH/ICT, September 2013, p. 10)

Please refer to the above-cited TCHRD report of January 2013 for further and more detailed information relating to the control of monastic activity (TCHRD, 17 January 2013b, pp. 35-58).

The FIDH/ICT report states that officials continue to exercise a ban on Dalai Lama images and the public veneration of the exiled Tibetan Buddhist leader:

> "Government representatives of the PRC at times maintain there is no law against possessing or displaying pictures of the Dalai Lama, but rather that most Tibetans chose not to display his picture. However, this is not the case – officials still remove pictures of the Dalai Lama from monasteries and private homes and open veneration of the Dalai Lama remains prohibited. At some monasteries where monks participated in protests in 2008, armed police stamped upon or defaced images of the Dalai Lama." (FIDH/ICT, September 2013, p. 9)

The Tibet Addendum to the USDOS annual report on religious freedom covering the year 2012 similarly observes:

> "Although some government officials have maintained there is no law against possessing or displaying pictures of the Dalai Lama, multiple sources reported that open veneration of the Dalai Lama remained prohibited and that officials, who considered the images to be symbols of opposition to the CCP and the state, removed pictures of the Dalai Lama from monasteries and private homes. […] The ability of Tibetans to display the Dalai Lama's picture varied regionally and with the political climate." (USDOS, 20 May 2013, Tibet Addendum, section 2)

A June 2013 article by BBC News reports that Tibetan advocacy groups indicated the "experimental" lifting of the ban on monks displaying images of the Dalai Lama in some Tibetan monasteries. However, no confirmation on this matter could be obtained:

> "Persistent reports from Tibetan advocacy organizations, including Free Tibet and the US-funded broadcaster, Radio Free Asia, indicated that an 'experimental' policy allowed the open worship of the Dalai Lama in some Tibetan monasteries. However, the BBC was unable to confirm this news, despite repeated phone calls to monasteries in Lhasa, the capital of the Tibetan Autonomous Region, and Tibetan areas in the provinces of Qinghai and Sichuan. Several monks admitted they had heard of possible changes to the government's long-standing policy, but said they had not witnessed any relaxation in policy themselves. Portraits of the Tibetan spiritual leader are still banned, the monks explained. Only officially sanctioned images of the Buddha are permitted to be displayed, one monk in Lhasa confirmed today." (BBC News, 28 June 2013)

A July 2013 press release by the TCHRD mentions that some monasteries in Qinghai were told by officials to display portraits of the Dalai Lama, although no written permission was issued in any of these cases:

> "According to information received by TCHRD, some monasteries in Qinghai, particularly in Tsolho (Ch: Hainan) Tibetan Autonomous Prefecture indeed were told to worship the Dalai Lama and display his portraits. Sources also told TCHRD that the caretakers at the home monastery of an imprisoned reincarnated lama (name withheld) in Kardze (Ch: Ganzi) County had recently been told by County government officials to display the imprisoned lama's portraits in the monastery. However, in all these cases, no written permission in the form of documents endorsing a policy change was distributed among these monasteries indicating that the authorities are unsure of how the trial measures on the Dalai Lama will play out over time. Mindful of the role of new media in spreading information quickly and widely, the authorities have carefully avoided putting their directives in writing." (TCHRD, 5 July 2013)

In February 2013, the International Fellowship of Reconciliation (IFOR), an international spiritually-based movement composed of people committed to active non-violence, lists the following information with respect to "patriotic (re-)education" campaigns which involve monks and nuns being forced to declare loyalty to Beijing and denounce their spiritual leader:

> "'Patriotic (re-)education' was originally launched in 1996 as a five-year programme 'Love your Country, Love your Religion.' Since then monks and nuns have been subjected to an increasing intensity of such programmes, during which they are obliged to pledge their allegiance to the Chinese government, denouncing His Holiness the Dalai Lama. Those who refuse to take part in, or fail, the programme often have their right to practise as monks or nuns revoked." (IFOR, 20 February 2013, p. 2)

The USDOS also elaborates on the issue of "patriotic education campaigns":

> "'Patriotic education campaigns,' in which authorities forced monks and nuns to participate in 'legal education,' denounce the Dalai Lama, study materials praising the leadership of the CCP and the socialist system, and express allegiance to the government-recognized 11th Panchen Lama, were carried out with intensity and frequency at monasteries and nunneries across the Tibetan Plateau. Monks and nuns reported patriotic education campaigns detracted from their religious studies, and some fled their monasteries and

> nunneries because they faced expulsion for refusing to comply with the education sessions. The relentless implementation of patriotic education, coupled with strengthened controls over religious practice, including the permanent installation at some monasteries and nunneries of party and public security officials, were believed by many observers to be among the primary sources of discontent among Tibetan Buddhist monks and nuns, and the impetus behind many of the self-immolations." (USDOS, 20 May 2013, Tibet Addendum, section 2)

Please refer to the TCHRD report of January 2013 for further details on the anti-Dalai Lama campaign by the Chinese government and "patriotic education" programmes for Tibetan monks and nuns (TCHRD, 17 January 2013b, pp. 25-35).

In a press release dated February 2012, Human Rights Watch (HRW) reports that according to multiple sources, hundreds of Tibetans who attended religious teachings given by the Dalai Lama in India have been detained upon their return to Lhasa and other Tibetan areas and subjected to political re-education sessions. According to HRW, "[t]his is the first known instance since the late 1970s in which the Chinese authorities have detained laypeople in Tibet in large numbers to force them to undergo re-education" (HRW, 16 February 2012). The incident is also referred to in the September 2013 report by FIDH and ICT (FIDH/ICT, September 2013, p. 12) and in the Tibet Addendum to the USDOS annual report on religious freedom covering the year 2012 (USDOS, 20 May 2013, Tibet Addendum, section 2). The Tibet Addendum provides the following additional information relating to the treatment of Tibetan pilgrims:

> "According to sources cited by RFA [Radio Free Asia], on May 26 Chinese border officials forcibly sent back to Nepal nine Tibetan pilgrims who had attended the Kalachakra and were attempting to return to China. Chinese authorities reportedly severely beat the pilgrims and detained them for a week before handing them over to Nepalese officials. There were also continued reports that Chinese border security forces detained Tibetans seeking to cross the border from Tibet to Nepal for religious purposes. Such detentions reportedly lasted as long as several months and sometimes took place without formal charges." (USDOS, 20 May 2013, Tibet Addendum, section 2)

As noted in the FIDH/ICT report, in 2007, the Chinese government's State Administration of Religious Affairs (SARA) issued legal measures "stating that all reincarnated lamas (tulkus) must have government approval". The report further details:

> "The measures, which are deliberately targeted at one of the core belief systems of Tibetan Buddhism, reveal the CCP's agenda to undermine and supplant the Tibetan religious hierarchy and weaken the authority of Tibetan religious leaders including the Dalai Lama.
>
> The new 'management measures for the reincarnation of living Buddhas in Tibetan Buddhism', which are described by the official press as 'an important move to institutionalize the management of reincarnation' were passed by the State Administration of Religious Affairs (SARA) for implementation from September 1, 2007. The Chinese authorities use the term 'Living Buddhas' to describe reincarnate lamas or tulkus,

> individuals who have consciously decided to be reborn, often many times, for the benefit of all others.
>
> In the measures, SARA states that reincarnations of 'living Buddhas' who do not have government approval are 'illegal or invalid', which is intended to convey that the Tibetan system of recognizing and educating reincarnate lamas is no longer relevant, because it is the government that decides whether a reincarnation is a legitimate religious figure or not. The government intends this to apply even to tulkus who have been recognized some years ago by Tibetan religious authorities, as part of their systematic attempts to undermine the traditional religious hierarchy in Tibet." (FIDH/ICT, September 2013, p. 7)

On the same topic, the USDOS writes:

> "The regulations stipulate that city governments and higher political levels can deny the required permission for a lama to be recognized as a reincarnate, or 'tulku.' Provincial-level or higher governments must approve reincarnations, while the State Council reserves the right to deny the recognition of reincarnations of high lamas, often referred to by the Chinese term 'Living Buddhas,' of 'especially great influence.' Regulations state that no foreign organization or individual can interfere in the selection of reincarnate lamas, and all reincarnate lamas must be reborn within the country. The government maintains a registry of officially recognized reincarnated lamas." (USDOS, 20 May 2013, Tibet Addendum, section 2)

Under the heading "Persecution of monks and nuns", FIDH and ICT indicate that "[r]eligious activities and beliefs that are seen as posing a threat to the authority of the Party are criminalized and targeted, and China's Criminal Law is used to prosecute individuals whose religious activities are equated with 'separatism'" (FIDH/ICT, September 2013, p. 12).

The US-Congressional Executive Commission on China (CECC) annual report of October 2013 notes that "[a]s of September 1, 2013, the PPD [the Commission's Political Prisoner Database] contained records of 642 Tibetan political prisoners believed or presumed currently detained or imprisoned". Of these, 622 are Tibetans detained on or after 10 March 2008 (the beginning of a series of protests in Tibetan areas), including 51 per cent Tibetan Buddhist monks, nuns, teachers or trulkus. As indicated by the CECC, PPD information for the period since 10 March 2008 "is certain to be far from complete". (CECC, 10 October 2013a, pp. 184-185)

The issue of detentions of Tibetans by Chinese authorities is also addressed in the Tibet Addendum to the USDOS annual report on religious freedom covering 2012:

> "Authorities across Tibetan areas continued to detain arbitrarily Tibetan monks and laypeople for indefinite periods of time. Several of these detentions appeared to be linked to the government's attempts to punish those suspected of being associated with self-immolations or those who refused to cooperate with official demands to hand over the remains of self-immolation victims." (USDOS, 20 May 2013, Tibet Addendum, section 2)

The USCIRF annual report of April 2013 states with regard to self-immolations by Tibetans, including monks, nuns and former nuns, and the treatment of people accused of assisting or encouraging self-immolations:

> "Since May 2011, there have been 106 self-immolations, including 52 monks, nuns, and former nuns. Eighty-eight people have died and the others remain detained. In the past year, the number of self-immolations, mostly involving laypeople, has increased. The self-immolations are also spreading to other Tibetan areas from the Kirti monastery epicenter in Aba (Ngaba) county, Aba Tibetan and Qiang Autonomous Prefecture, Sichuan province. [...] Chinese authorities have not acknowledged that their policies of repression have contributed to the self-immolations, instead calling them 'terrorist acts' that are orchestrated with the 'instigation and support' of the Dalai Lama.
>
> Reports indicate that those who spoke during their self-immolations called for Tibetan independence and the return of the Dalai Lama to Tibet. In several cases, the protestors also called for the release of the Panchen Lama and protection of the environment. In some areas of Quinhai and Sichuan provinces, self-immolation protests have drawn sympathetic crowds who gather to pray and chant slogans. According to Radio Free Asia, at least six people died when police attempted to stop the spontaneous demonstrations.
>
> In response to the increasing number of self-immolations, in early December 2012, China's Supreme Court, prosecution agency, and Ministry of Public Security issued guidelines that criminalized the act of self-immolation and stated that anyone assisting or encouraging self-immolation would be charged with murder. Later that month, police arrested Lorong Konchok, a 40-year-old monk, and his nephew in Sichuan province for encouraging eight people to burn themselves. Lorong Konchok was reported to have confessed to acting on the instructions of the Dalai Lama. The Tibetan government-in-exile in India denied this and said the confession must have been coerced. As of the end of the reporting period, 70 people had been arrested for assisting self-immolations. Most were given long prison terms or, in the case of Lorong Konchok, a suspended death sentence." (USCIRF, 30 April 2013, p. 33)

For more detailed information on Tibetan self-immolations, including a list of Tibetan self-immolations reported or believed to focus on political and religious issues (from September 2012 to July 2013), please refer to pages 172 to 181 of the CECC annual report of October 2013 (CECC, 10 October 2013a, pp. 172-181). Another list of Tibetan self-immolation protests (from February 2009 to December 2013) is provided by the TCHRD in its annual report on the human rights situation in Tibet of January 2014 (TCHRD, 20 January 2014a, pp. 162-183).

Hinayana ("lesser vehicle") Buddhism

Numerous sources use the term Hinayana Buddhism synonymously for Theravada (or Pali) Buddhism (e.g. Blackburn, 2005, p. 49; MRG, 1 July 2010; Reuters, 16 June 2011).

In his 2013 book on Buddhist spirituality, William Stoddart, author of several guides to the world religions, provides the following information on Hinayana Buddhism:

> "A few centuries after its birth, Buddhism began to crystallize into two great schools, the Southern and the Northern. The Northern school or Mahayana ("Great" or "Broad" Way), which began to take form towards the beginning of the Christian era, called everything that came before it Hinayana ("Small" or "Narrow" Way). Although the term Hinayana has been applied diminishingly, it refers in a positive sense to the original monastic or ascetic Way, and is not in itself disparaging. The Hinayana school had many branches or sects, including Theravada, Mahasanghika, Vatsiputriya, and Sarvastivada. Of these only Theravada (the 'Doctrine of the Elders') survives. The Southern school, Hinayana (in fact Theravada), comprises Ceylon (Sri Lanka), Burma, Siam (Thailand), Cambodia, and Laos. The Northern school Mahayana, comprises China, Tibet, Ladhak, Nepal, Bhutan, Mongolia, Japan, Korea, and Vietnam." (Stoddart, 2013, p. 53)

In contrast, Ron Epstein, former Research Professor at the Institute for World Religions in Berkeley, California, states that Theravada Buddhism should not be called Hinayana as "Hinayana originally referred to the commitment of individuals, not to a school of Buddhism":

> "The Theravada School of Buddhism, which is found in Sri Lanka and most of Southeast Asia, should not be called 'Hinayana', because Hinayana originally referred to the commitment of individuals, not to a school of Buddhism. Later it became incorrectly used as an inappropriate and pejorative term for the Theravada. Theravada is sometimes referred to as Southern Buddhism, while Mahayana is sometimes called Northern Buddhism, because it came to be found in China, Korea, Japan, and Tibet." (Epstein, February 1999)

According to the Congressional-Executive Commission on China (CECC), Theravada Buddhism "is practiced mainly by the Dai ethnic group and other ethnic minorities in Yunnan province" (CECC, 10 October 2013a, p. 215, footnote 22). Similarly, Colin Mackerras, Emeritus Professor at the Department of International Business & Asian Studies at Griffith University, Australia, notes that "[s]everal ethnic groups of Yunnan province still practise Theravada Buddhism, most importantly, the Tai (Dai), but also the De'ang, Achang, Blang and Jingpo" (Mackerras, 2005, p. 821).

Minority Rights Group International (MRG), an international human rights organisation working to promote the rights of ethnic, national, religious and linguistic minorities and indigenous peoples, states in its 2010 annual report on the situation of minorities (covering 2009):

> "Some Han followers of Buddhism, Catholicism, Protestantism or Taoism have faced religious restrictions and detentions in 2009. Among the Tibetan Buddhist (Lamaism) sects, the powerful Gelug – with the Dalai Lama as spiritual leader – remained the most persecuted and discriminated against in the TAR [Tibet Autonomous Region] and the IMAR [Inner Mongolia], enduring rigorous restrictions of religious practices. In contrast, Ben, Kagyu, Nyingma and Sakya Buddhist devotees from Lhobas, Monbas, Tus and Yugurs enjoyed greater religious freedom and less official scrutiny. The same went for Achang, Bai, Blang, Dai, De'ang, Gin and Lahu ethnic minorities practising Hinayana or Pali Buddhism in Yunnan province." (MRG, 1 July 2010, p. 140)

Further information on the situation of Theravada Buddhism in China is contained in the general part on Buddhism (section 7.3.1) above.

7.3.2 Islam

This section should be read in association with section 8.1 and section 8.3 of this compilation.

The Congressional-Executive Commission on China (CECC) annual report of October 2013 (covering the period from autumn 2012 to autumn 2013) lists the following information on state controls over Islam in China:

> "Chinese authorities continued to place curbs on Muslims' ability to practice their religion and continued to emphasize the role of Islamic clergy in promoting state policies. [...] During the 2013 reporting year, Chinese authorities continued to regulate the confirmation of religious leaders and to monitor overseas pilgrimages in furtherance of state policy. Chinese authorities guided the training of imams at 10 state-run Islamic institutes and conducted regular training courses for Muslim clergy that stressed adherence to Party religious and ethnic policies. Under the 2006 Measures for Accrediting Islamic Clergy, the first requirement listed for government recognition of imams is that they must 'love the motherland, support the socialist system and the leadership of the Communist Party of China, comply with national laws, [and] safeguard national unity, ethnic unity, and social stability.'
>
> At an Islamic Association of China (IAC) certification ceremony for Muslim religious clergy in February, Ma Jin, Deputy Director of the Islamic Department of the State Administration for Religious Affairs (SARA), told the newly accredited Islamic clergy he hoped they would 'resolve to become politically reliable.' The IAC worked to strengthen its system for organizing Hajj pilgrimages to Mecca, and local authorities throughout the XUAR [Xinjiang Uyghur Autonomous Region] warned religious believers against going on Hajj pilgrimages not organized by the government.
>
> Authorities also continued to exert influence over the teachings of Muslim clergy, such as through the interpretation of Islamic scripture. SARA reported in February 2013 that Chinese authorities had engaged in efforts to interpret Islamic scripture for more than 10 years. SARA also reported that authorities had recently distributed copies of compilations of state-prescribed teachings of Islam to every mosque in the XUAR." (CECC, 10 October 2013a, pp. 90-91)

The same report also notes that "[a]uthorities in charge of religious affairs sought to portray violent clashes that took place in the spring and summer of 2013 throughout the XUAR as acts inspired by 'religious extremism,' and urged Muslim clergy to work against 'religious extremist forces' and the 'three evil forces' of terrorism, separatism, and religious extremism" (CECC, 10 October 2013a, p. 91).

Under the heading "Restrictions on government-approved religious groups", the US Commission on International Religious Freedom (USCIRF) annual report of April 2013 (covering 31 January 2012 to 31 January 2013) states:

> "Government oversight of the Islamic Association of China (IAC) affects both Uighurs and Hui Muslims, the majority of China's Muslim population. In the past year, authorities continued to regulate the selection of religious leaders and overseas pilgrimages. Authorities also continued to control the content of sermons and the ability of Muslims to do missionary work (dawa). Some provincial areas issued bans on dawa, including Changde city, Hunan province and in the Menyuan Hui Autonomous County, Qinghai province." (USCIRF, 30 April 2013, p. 39)

The same report then goes on to cite the case of 14 people who, in December 2012, were given prison sentences "for clashing with police over a disputed mosque in Hexi township, Ningxia Hui Autonomous Region (NHAR)". The clashes erupted after members of the Hui Muslim community demonstrated to prevent authorities from demolishing their mosque. Radio Free Asia (RFA) said two people died and 50 were injured in the violence. (USCIRF, 30 April 2013, p. 40)

The clashes are also reported in a January 2012 article by AsiaNews, a press agency of the Pontifical Institute for Foreign Missions. As regards the Hui Muslims' attitude towards the Chinese authorities, the article states:

> "Hui Muslims are the area's largest minority and have traditionally been friendly to the authorities. Unlike Turkic-speaking Uyghurs, Hui Islam is not anti-regime. The fact that on this occasion they openly challenged the regime is an indication that the government's anti-religious crackdown is intensifying." (AsiaNews, 3 January 2012)

In an October 2012 article, RFA reports on clashes that broke out between Tibetans and Hui Muslims in Gansu province, "apparently sparked by plans to go ahead with a planned mosque in the Tibetan Buddhist town of Mulang in Luqu county, Gannan Tibetan Autonomous Prefecture". A Tibetan resident of Mulang told that more than a dozen people were injured in the violence, adding that "she didn't know why local people opposed the mosque, which Hui residents say they began building following nearly three decades of stalling on the part of the local government, which hadn't issued a permit for the project in spite of repeated applications". (RFA, 8 October 2012)

As indicated by the US Department of State (USDOS) annual report on religious freedom covering the year 2012, "Hui Muslims in Ningxia, Gansu, Qinghai, and Yunnan provinces engaged in religious practice with less government interference than did Uighurs" (USDOS, 20 May 2013, section 2).

The same report notes with respect to religious freedom conditions in the Xinjiang Uyghur Autonomous Region (XUAR):

> "In the XUAR, the government's concerns over 'separatism, religious extremism, and terrorism' contributed to repressive restrictions on religious practices of Uighur Muslims. Authorities often failed to distinguish between peaceful religious practice and criminal or terrorist activities. It remained difficult to determine whether particular raids, detentions, arrests, or judicial punishments targeted those seeking political goals, the right to worship,

> or criminal acts. Uighur sources reported increased pressure in official campaigns to dissuade women from wearing religious clothing and men from wearing beards. Uighur sources also reported that recipients of public welfare stipends were asked to sign a pledge not to cover their faces for religious reasons." (USDOS, 20 May 2013, section 2)

The USDOS further states that during 2012, "Muslims in the XUAR reported that they lost their positions and were detained by authorities for praying in their workplaces" (USDOS, 20 May 2013, section 2).

The USCIRF annual report of April 2013 reports on authorities cracking down on "illegal religious activity" in the XUAR:

> "Efforts to promote 'ethnic unity,' curb free speech and public protest, and halt independent religious activity, which started after 2009 demonstrations and riots in the XUAR, continued during the past year. Local governments pursued campaigns to curtail illegal religious gatherings, and in January 2012, the deployment to rural areas of 8,000 new security personnel was announced, tasked with 'cracking down on illegal religious activities,' among other things.
>
> The increased police presence in rural areas of the XUAR is complimented by a system of informal 'religious information gatherers' who are paid to provide details on Friday sermons and other religious activity. According to information compiled by the CECC, such a system was authorized last year in Chapchal Xibe Autonomous County, Ili Kazakh Autonomous Prefecture, and in parts of the city of Urumqi, where authorities called on religious personnel to halt the emergence of 'illegal religious sects' that they deem 'contrary' to the Qur'an. According to the Uyghur-American Association (UAA), villages in Hoten implemented a system of 'voluntary pledges' to regulate religious and political behavior of villagers, placing special emphasis on promises to curb 'illegal religious activity.' Provincial authorities reportedly target 23 kinds of 'illegal religious activity,' including student prayer, holding unauthorized religious classes, 'distortion' of religious doctrine, conducting certain marriage and divorce practices, and advocating 'Pan-Islamism' and 'Pan-Turkism.' During June 2012, police conducted neighborhood sweeps in the city of Hoten as part of a campaign to stop illegal religious schools. There have been yearly campaigns and arrests of individuals in Hoten engaged in private study of the Qur'an. In February 2012 police detained and fined over one hundred people and shut down hundreds of religious sites." (USCIRF, 30 April 2013, p. 34)

The following examples of the authorities' crackdown on Muslims engaging in "illegal religious practices" are cited in the USDOS annual report on religious freedom covering the year 2012:

> "In May authorities in Shunle County, Kashgar Prefecture, sentenced Uighur Muslim Sidik Kurban to 15 years in jail and five years' deprivation of political rights for overseeing illegal home-based religious schools throughout the region. In June authorities in Hotan Prefecture sentenced Uighur Muslim Hebibullah Ibrahim to 10 years for selling 'illegal religious materials.' In June police raided an unsanctioned Islamic religious school in Hotan. Twelve children, two school staff, and three policemen reportedly were injured in the raid. Police reportedly arrested 47 people in a subsequent crackdown following the raid on

> accusations of owning illegal publications and disturbing social stability." (USDOS, 20 May 2013, section 2)

A May 2013 report by the French NGO Mouvement contre le Racisme et pour l'Amitié entre les Peuples (MRAP) briefly addresses religious restrictions affecting Muslim Uyghurs:

> "Uyghurs ability to practise their religion, namely Islam, is well-known to be heavily restricted, with minors not permitted to study at all, and only state Imams and mosques being recognised, whom Uyghurs frequently complain often espouse CCP's official views and whose teachings bear little resemblance to the one which Uyghurs aspire. Uyghurs often resort to obtaining a basic religious education at unsanctioned locations due to these heavy restrictions. Those who do not follow the official state sanctioned practise of religion are often met with violence and repression [...]." (MRAP, 16 May 2013, p. 3)

The UK Foreign and Commonwealth Office (FCO) annual report on human rights in 2012 says:

> "Restrictions on the religious practices of the Muslim Uighur minority in Xinjiang are also strict, and were intensified during Ramadan. Minors are not permitted to attend Koranic study classes or worship in mosques. Police raids on illegal Koranic schools in May and June reportedly resulted in a number of children being injured and several deaths. A number of Uighurs received heavy prison sentences during 2012 for crimes such as selling illegal religious publications and holding illegal religious meetings." (FCO, April 2013)

The USDOS annual report on religious freedom covering the year 2012 informs that "[d]espite widespread reports of prohibitions on children participating in religious activities in various localities throughout the XUAR, observers reported seeing children in mosques and at Friday prayers in some areas of the region". The same report adds that "Islamic schools in Yunnan Province were reluctant to accept ethnic Uighur students out of concerns that they would bring unwanted attention from government authorities and negatively impact school operations". (USDOS, 20 May 2013, section 2)

With regard to the ability of China's Muslims, especially Uyghur Muslims, to participate in the annual Islamic pilgrimage to Mecca, the Hajj, the USDOS notes:

> "Media reported that Muslims could apply online or through local official Islamic associations to participate in the Hajj. According to media reports in the country, approximately 13,800 Muslim citizens participated in the Hajj in the fall, flown on 41 specially arranged Hajj charter flights, although this number included Islamic association and security officials sent to monitor Muslim citizens and prevent unauthorized pilgrimages. Uighur Muslims separately reported difficulties taking part in state-sanctioned Hajj travel due to the inability to obtain travel documents in a timely manner, difficulties in meeting criteria required for participation in the official Hajj program run by the Islamic Association of China, and quotas on the number of travelers from the country imposed by Saudi Arabia. The government took measures to limit the ability of Uighur Muslims to make private Hajj pilgrimages outside of the government-organized program." (USDOS, 20 May 2013, section 2)

The above-cited USCIRF annual report of April 2013 lists the following information regarding state control of imams in Uyghur areas and restrictions over Uyghurs' observance of Ramadan:

> "In Uighur areas, imams are required to undergo annual political training seminars to retain their licenses, and local security forces monitor imams and other religious leaders. Imams at Uighur mosques are reportedly required to meet monthly with officials from the provincial level Religious Affairs and Public Security Bureaus to receive 'advice' on the content of their sermons. Failure to attend such meetings can result in the imam's expulsion or detention. The XUAR government restricts observance of religious holidays, particularly Ramadan. Teachers, professors, university students, and other government employees are prohibited from observing Ramadan and reportedly are subject to fines if they attempt to do so. Government officials are prohibited from fasting or attending mosques." (USCIRF, 30 April 2013, p. 35)

An August 2013 article by Radio Free Asia (RFA) reports that on the eve of the Eid al-Fitr festival, three civilians were killed and about a dozen other injured when security forces clashed with Muslim Uyghur in the No. 16 village of Aykol town in Xinjiang region. According to the article, the violence erupted "after the authorities prevented residents from one hamlet in the village from going to another to perform the Eid eve prayers" (RFA, 12 August 2013). In an article about a week after the incident, RFA further reports that 300 to 400 Uyghurs are believed to have been detained in connection with the clashes (RFA, 15 August 2013).

A July 2013 article by the South China Morning Post (SCMP) states that "[r]ights groups are calling on the central government to lift restrictions that they say have been preventing Uygurs in the region of Xinjiang from observing Ramadan". According to the rights groups, "Beijing's security crackdowns after recent outbreaks of violence in the restive region have discouraged Muslims from praying at mosques and interfered with their requisite daytime fasting". The article further quotes a local news source as reporting that "authorities have banned organised study of religious texts and placed religious venues under close watch, including an 'around-the-clock' monitoring of mosques in the northern city of Karamay" (SCMP, 12 July 2013). Restrictions on Uyghur Muslim activities in Karamay city are also reported in a July 2013 article by RFA. According to residents, the restrictions, which include banning Uyghur Muslims from holding private religious discussions and visiting mosques outside their residential areas during Ramadan, are part of tightened security measures across Xinjiang (RFA, 11 July 2013).

Reflecting on the situation of Uyghur Muslims, the USCIRF annual report of April 2013 notes that "[t]here continue to be reports of campaigns to prevent men from wearing 'large beards' and women from wearing veils". The report then goes on to cite the following particular instances of discrimination:

> "In July 2012, government officials required welfare recipients in Hoten, Asku, and Kashgar to sign pledges promising not to cover their faces for religious reasons. In Hejing country, BMAP [Bayangol Mongol Autonomous Prefecture], welfare recipients were told that their

benefits would be cut if women wore veils and parents allowed minors to attend mosques." (USCIRF, 30 April 2013, p. 35)

A November 2013 article by the New York-based online newspaper International Business Times (IBTimes) notes that according to reports, Chinese officials in Xinjiang region have "stopped veiled women on the streets and compelled them to enter brief 're-education' programs to get them to change their fashion styles. Others, including bearded men, are stopped, interrogated and sometimes registered in police files" (IBTimes, 27 November 2013). In August 2013, RFA reports on the case of a Muslim Uyghur woman who was evicted from her rental property in the Xinjiang capital Urumqi for wearing a veil covering her face. As stated in the article, authorities carried out the eviction "despite having no legal basis to do so, claiming that the action was taken for 'security reasons'" (RFA, 27 August 2013).

Another article by RFA, published in May 2013, reports that authorities in Xinjiang's Bulaqsu township have begun keeping registers of religious believers, "in a fresh move that appears targeted at the region's population of 9 million mostly Muslim Uyghurs". The article details:

> "Photos of such a register from the offices of the Bulaqsu township government near Kashgar city were circulated online this week, showing the assignment of various categories to those on the register, including 'strongly religious but holds no religious office,' 'woman who wears a veil,' and 'person studying the Quran.' While repeated calls to the Bulaqsu township government offices went unanswered during office hours on Thursday, a Uyghur resident of Bulaqsu confirmed the report. 'Now they do,' he said, when asked if religious believers needed to register with the government. A second Uyghur resident of Bulaqsu also confirmed the reports. [...] The photos, posted on the Uyghur Online website, showed registration documents dated 2013, which categorized the people registered according to their beliefs and activities, as well as adding key personal information about them, including their personal circumstances, level of religious knowledge, current attitudes and social connections. The documents also identified whether a person was a target for 'priority surveillance.' [...] While residents of Bulaqsu confirmed independently the existence of registers of religious households in their village, China's special security provision for the whole of Xinjiang means that the practice is likely to be part of a region-wide strategy, observers say." (RFA, 2 May 2013)

The CECC annual report of October 2013 notes with regard to registration books documenting religious believers in the Xinjiang Autonomous Region (XUAR):

> "Authorities in Bulaqsu township, Shufu county, Kashgar prefecture, reportedly kept registers related to 'stability maintenance' efforts that detailed the personal information of local religious believers and their family members. The registers included information such as whether or not female Muslims wore a veil and when they started wearing it, as well as what time a student of the Quran received Quranic instruction. A Uyghur resident of Keriya (Yutian) county, Hotan prefecture, told RFA in May 2013 that local officials in his township maintained registration books documenting religious believers, and a resident of Urumqi city reportedly told RFA that officials maintained such documents throughout the XUAR." (CECC, 10 October 2013a, pp. 169-170)

A March 2013 report published by the Uyghur Human Rights Project (UHRP) of the Washington D.C.-based advocacy organisation Uyghur American Association (UAA) elaborates in detail on religious freedom conditions for Uyghur Muslims in the XUAR. It contains information on religious administration and regulations as well as violations of the right to religious freedom among Uyghur Muslims. The report is available via the following link:

- UHRP - Uyghur Human Rights Project: Sacred Right Defiled: China's Iron-Fisted Repression of Uyghur Religious Freedom, March 2013 http://docs.uyghuramerican.org/Sacred-Right-Defiled-Chinas-Iron-Fisted-Repression-of-Uyghur-Religious-Freedom.pdf

7.3.3 Christianity

Catholicism

CNN reports in March 2013 that according to China's State Administration for Religious Affairs (SARA), "some six million Chinese Catholics attend services in government-sanctioned churches", but that "others practice their faith in secret – in Catholic churches outside government control". Experts are quoted as saying that "millions worship in underground churches – so-called 'house churches' that are fiercely loyal to the Vatican and disagree with government restrictions and periodic crackdowns". With regard to China-Holy See relations, CNN states that "China cut off ties with the Vatican in 1951", adding that "the two sides have been estranged ever since". (CNN, 4 March 2013)

The US Commission on International Religious Freedom (USCIRF) annual report of April 2013 provides the following summary information regarding the situation of China's Catholics:

> "The Chinese government continues to interfere in the religious activities of Chinese Catholics, including the ability of priests and bishops to affiliate with the Holy See. Tensions between the government-approved 'Catholic Patriotic Association' (CPA) and so-called 'underground' Catholics continued, and priests and bishops continued to be imprisoned. Governmental efforts to convince or coerce Catholic clergy to join the CPA are particularly intense in the two provinces with the largest Catholic communities, Hebei and Shaanxi." (USCIRF, 30 April 2013, p. 35)

The same report further indicates that "[p]riests, seminarians, and some laity were forced to attend political 'education' sessions in the past year" (USCIRF, 30 April 2013, p. 36).

As reported in the October 2013 annual report of the Congressional-Executive Commission on China (CECC), "[t]he Justice and Peace Commission of the Hong Kong Catholic Diocese noted cases of underground clergy who have been detained and 'disappeared' for their pastoral activity and refusal to join the CPA, such as priests Ma Wuyong, Liu Honggeng, Lu Genjun, and elderly bishops Su Zhimin and Shi Enxiang" (CECC, 10 October 2013a, p. 89).

The USCIRF notes that according to information provided by the CECC, at least 40 Catholic bishops remain imprisoned, detained or their whereabouts are unknown:

> "According to the CECC, at least 40 Roman Catholic bishops remain imprisoned or detained, or were forcibly disappeared, including the elderly Bishop Su Zhimin, whose current whereabouts are unknown and who had been under strict surveillance since the 1970s. In addition, the whereabouts of Bishop Shi Enxiang, who was detained in April 2001, and Auxiliary Bishop Yao Ling, remain unknown. The whereabouts of two unregistered priests, Ma Shengbao and Paul Ma, detained in March 2009, remain unknown. In addition, Father Li Huisheng remains in custody serving a seven-year term for 'inciting the masses against the government' and Fr. Wang Zhong is serving a three-year sentence for organizing a ceremony to consecrate a new unregistered church." (USCIRF, 30 April 2013, p. 36)

In a November 2013 article, AsiaNews, a press agency of the Pontifical Institute for Foreign Missions, reports on the case of two priests from the underground Church who are in prison since early October for having organised adult catechism classes in the town of Qinyuan (Hebei Province). Four laypersons, who helped the priests in their pastoral activities, were ordered to pay a fine of 4,000 yuan each. The article further states that "[a]ccording to AsiaNews sources, there are at least 10 priests in similar conditions", with some of them even being sent to forced labour camps. (AsiaNews, 19 November 2013)

As indicated by the article, the arrests of the two priests occurred only a few weeks after the setting up of the new National Security Council which sparked hope among some Catholics that there will be an improvement in religious freedom conditions. The article details:

> "The few explanations on how the NSC [National Security Council] would function were given by Xi Jinping, who stated that the new body should 'strengthen the unity of the leadership in state security', making 'national security and social stability preconditions for reform and development' (Xinhua, 15/11/2013). Several experts think that 'the unity of the leadership in state security' means that the NSC will be a superior power to the army, the police, the intelligence services and the judiciary, which should ensure social stability and internal relations with foreign countries.
>
> Some Catholics in the north and east of China believe this concentration of power in the hands of the central government, and perhaps the same Xi Jinping, will promote religious freedom. Very often, the imprisonments, the expropriation of church land, the arrests of priests and faithful depend on the decisions of local leaders, who have no qualms in ignoring national regulations on religion. In addition, strengthening central power could weaken the Ministry of Religious Affairs [...] and patriotic associations." (AsiaNews, 19 November 2013)

The article goes on to state that "[a]s a proof of a certain relaxation of control in the peripheries, Catholics are quoted as saying that the police leave underground communities room to breathe, are concerned about the health of the bishops (for fear of having to face a more serious crises in the case of an appointment), maintain dialogue (perhaps to control) with underground priests". However, "other believers in Beijing and central China say that 'nothing has changed' and that the situation is always the same". (AsiaNews, 19 November 2013)

In August 2013, AsiaNews reports on the arrest of an underground priest of the diocese of Xiwanzi in Hebei Province, adding that "[i]n recent years, the Chinese government has clamped down harshly on the local underground Church". As noted in the article, "many priests and bishops were imprisoned, placed under house arrest or forced to undergo 'study sessions' to convince them to join the Patriotic Association". (AsiaNews, 10 August 2013)

The above-cited CECC annual report of October 2013 lists the following information relating to the appointment of new Chinese bishops:

> "The Chinese government and Communist Party deny Catholics in China the freedom to accept the authority of the Holy See to select bishops. Although the Commission reported that the Holy See has had a quiet role in jointly approving some bishops in recent years, four bishops were ordained in China between November 2010 and July 2012 without Holy See approval. In late 2012, the BCCC [Bishops Conference of the Catholic Church in China] adopted a new national regulation on the selection and ordination of bishops that took effect in April 2013; the Holy See and international observers suggest the new regulation strengthens a hardline approach. The regulation explicitly requires bishop candidates to 'endorse the Chinese Communist Party's leadership and the socialist system.' The new regulation also expands the authority of the BCCC and the role of provincial-level religious affairs bureaus in the selection and consecration process compared with an earlier (1993) regulation." (CECC, 10 October 2013a, p. 88)

The same topic is addressed in the USCIRF annual report of April 2013 and the US Department of State (USDOS) annual report on religious freedom covering the year 2012:

> "The Chinese government continued to put forward bishops not recognized by the Holy See and to place these bishops in charge of both the CPA and the Catholic Bishop's Council in China. An estimated 90 percent of CPA bishops and priests are secretly ordained by the Vatican and, in many provinces, CPA and unregistered Catholic clergy and congregations work closely together. In 2006, the Vatican and the CPA worked together to select eleven bishops, reversing a previous trend of the government appointing all bishops without Vatican approval. However, beginning in late 2010, the CPA ordained seven bishops without Vatican approval, and the Vatican excommunicated four of them. Three bishops received prior Vatican approval, though the Chinese government is now detaining two of these bishops for secretly contacting the Holy See." (USCIRF, 30 April 2013, p. 35)

> "The CPA does not recognize the authority of the Holy See to appoint bishops; approximately 40 Catholic bishops remain independent of the CPA and operate unofficially. The CPA has allowed the Vatican discreet input into selecting some bishops, and an estimated 90 percent of CPA bishops have reconciled with the Vatican. Nevertheless, in some locations local authorities reportedly pressure unregistered Catholic priests and believers to renounce all ordinations approved by the Holy See. Most of the Catholic bishops previously appointed by the government as CPA bishops later were elevated by the Vatican through apostolic mandates." (USDOS, 20 May 2013, section 2)

The Chinese authorities announced in December 2012 a decision to strip bishop Thaddeus Ma Daqin of his title of auxiliary bishop of Shanghai after he publicly resigned from the Catholic Patriotic Association (CPA) at his ordination ceremony in July 2012. Since his withdrawal from the CPA, Ma has been confined to Shanghai's Sheshan Seminary (CECC, 10 October 2013a, pp. 8 and 88). The case of Ma Daqin is also mentioned in several other sources (e.g. BBC News, 11 December 2012; HRW, 31 January 2013; USCIRF, 30 April 2013).

Protestantism

The March 2013 background paper on the situation of Protestants in China prepared by the Australian Refugee Review Tribunal (RRT) observes:

> "Protestants, usually referred to in China simply as 'Christians', are permitted to worship at officially registered Protestant churches and many millions do so. A far greater number of Protestants, however, worship at churches which are not officially registered ('house churches') and their situation varies from toleration to repression." (RRT, 21 March 2013, p. 2)

According to the RRT, there are two organisations that make up the leadership of the official Protestant Church in China, the Three Self Patriotic Movement (TSPM) and the China Christian Council (CCC):

> "The Three Self Patriotic Movement (TSPM) and the China Christian Council (CCC) are the two organisations which lead the official Protestant Church in China. The TSPM is an overtly political organisation which oversees church policy and monitors foreign relations. The CCC is more pastoral and ecclesiastical in function." (RRT, 21 March 2013, p. 5)

Based on information from academic sources, the RRT lists the following information regarding state control over registered churches:

> "Seminary training is in accordance with government-approved theology and ideology, part of which is the stress on the mutual adaptation of socialism and religion as well as political study 'to train young patriotic religious personnel who support socialism and the leadership of the Party'. TSPM officials are also supposed to ensure that sermons delivered in recognised churches are in accordance with party proscriptions; this means avoiding taboo subjects such as the Armageddon and the Second Coming." (RRT, 21 March 2013, p. 7)

The October 2013 annual report of the Congressional-Executive Commission on China (CECC) refers to the situation of registered and unregistered Protestant churches as follows:

> "The Chinese government continued to control the doctrine and activities of its official Protestant church and to target members of unregistered Protestant groups for harassment, detention, and other forms of abuse. The Three-Self Patriotic Movement of Protestant Churches in China (TSPM) and the China Christian Council (CCC) are the Protestant associations that manage registered Protestants on behalf of the government and Party. Protestants who choose not to affiliate with the TSPM must worship with

unregistered 'house churches,' which are often subject to interference, harassment, and abuses during peaceful religious activities." (CECC, 10 October 2013a, p. 91)

On the same topic, the US Commission on International Religious Freedom (USCIRF) annual report of April 2013 (covering the period from 31 January 2012 to 31 January 2013) notes:

> "The Chinese government continues to restrict the religious activities of Protestants who worship in the government-approved church and to harass, intimidate, detain, and arrest unregistered Protestants for religious activities protected by China's constitution. In the past year, police and security officials detained almost 1,500 Protestants, some in long-term home detention, sentenced as many as 18 religious leaders to prison or re-education through labor, harassed and closed churches, and curtailed both public worship activities and outreach to students.
>
> The majority of Protestants in China, estimated to be at least 70 million, are affiliated with the 'house church' movement, which refuses, both for theological and political reasons, to affiliate with the government-sanctioned Three-Self Protestant Movement (TSPM) or China Christian Council (CCC). The government requires all Protestant groups to register and join one of these officially-recognized religious organizations; those that do not are technically illegal, though there is uneven enforcement of this provision, with some churches meeting openly and regularly with memberships of several hundred to a thousand. The government largely tolerates groups that meet in homes or in small groups, but continues to view with suspicion religious organizations with extensive foreign ties, whose memberships grow too quickly, whose leadership becomes too popular or organizes across provincial lines, or whose religious activities allegedly disrupt ethnic or social 'harmony.'" (USCIRF, 30 April 2013, pp. 36-37)

The above-cited CECC annual report of April 2013 provides the following information relating to state interference with places of worship of both registered and unregistered Protestant churches:

> "Authorities continued to interfere with the religious activities of registered and unregistered Protestant congregations by pressuring landlords to terminate their leases, conducting raids during religious gatherings, and threatening demolition of their buildings. The government continued its efforts to prohibit worship gatherings of the Beijing Shouwang Church, a house church of over 1,000 congregants in Beijing municipality that has endured ongoing official harassment since at least 2006. [...] Reports continued to emerge this year regarding state-sanctioned raids on house churches across China. In Shandong province in April and May, for example, authorities raided two house churches in Linshu county, Linyi city, and Yutai county, Jining city, issued ban orders to both on grounds of 'illegal assembly,' confiscated donations, and imposed fines on members. According to Radio Free Asia, these actions may have been part of an informal crackdown against Protestant house churches launched by Shandong authorities in March. Also during this reporting year, authorities conducted raids on house church meetings – in some cases threatening or questioning attendees, and in other cases fining, beating, or detaining them – in other areas of China, including Beijing, Guizhou province, Heilongjiang province, the Xinjiang Uyghur Autonomous Region, and the Inner Mongolia Autonomous Region.

> Authorities in locations including Hubei, Jilin, and Henan provinces also reportedly threatened churches with demolition or eviction. In one case in Zhengzhou city, Henan province, authorities repeatedly threatened a registered TSPM church with eviction and demolition of their newly constructed, government-approved building. In connection with these threats, the church building has reportedly lost power and water, and has been rendered inaccessible twice after government-owned trucks blocked its doors with piles of dirt and rocks." (CECC, 10 October 2013a, pp. 91-92)

In a 2011 paper, David C. Schak, Adjunct Associate Professor of International Business and Asian Studies at Griffith University (Australia), examines the relationship between the Chinese state and Protestantism. The situation of unregistered Protestant churches is summarized as follows:

> "There are tens of thousands of unregistered churches in China, most of which carry out their business with little if any trouble from the local authorities. However, in a small number of cases, governments have taken sometimes quite severe actions against particular churches resulting in their closure; the destruction of church property; the confiscation (or looting) of church assets or materials; their fragmenting into much smaller congregations; and even the jailing of leadership personnel. Although actions taken are couched in legal justifications, the present relationship between house churches and government is not governed by law but is best described as closer to a metaphorical social contract based on incomplete or unarticulated understandings of what is and is not permissible." (Schak, 2011, p. 85)

The situation of Protestant house churches is also addressed in the CECC annual report of April 2013. As noted by the CECC, reported cases of harassment throughout 2013 indicate an increased pressure on unregistered church members to join officially sanctioned churches:

> "The Chinese government and Communist Party continued to harass and detain Protestants who worship outside of state-approved parameters. [...] Members of house church congregations in particular remained subject to official harassment and maltreatment. Throughout the reporting year, local- and national-level government offices issued directives calling for the need to further monitor and control house churches, in one case alluding to the alleged 'instability' posed by their proliferation in recent years. Reported cases of harassment throughout 2013 suggest authorities have heightened pressure on house churches to register with local religious affairs bureaus and join state-sanctioned churches, in some instances leading to violence and the detention of house church members." (CECC, 10 October 2013a, p. 92)

The USCIRF annual report of April 2013 refers to a ten-year government plan to "eradicate" churches refusing to join the Three-Self Patriotic Movement (TSPM) or the Chinese Christian Council (CCC) and cites particular instances of official harassment of Protestant house churches:

> "In recent years, both SARA [State Administration for Religious Affairs] and various security bureaus have sought to reduce the visibility of large unregistered churches and curtail missionary, educational, and charitable work. During the reporting period, the NGO

> ChinaAid published several government directives, including a ten-year plan to 'eradicate' churches that refuse to affiliate with the TSPM or the CCC, and orders to limit missionary activity among university students in order to 'resist foreign influence.' [...]
>
> During the reporting period, the government attempted to force unregistered groups to either join the TSPM or face harassment, closure or other penalties. In Xilinhot city, Xilingol league, Inner Mongolia Autonomous Region, local authorities demanded that the New Canaan Church affiliate with the TSPM. In January 2012, public security officials raided the house church, confiscated Bibles and hymnals, installed new locks, pressured the landlord to terminate the lease, and interrogated the pastor and two members of the congregation for several hours before releasing them. In May 2012, police interrupted services at house churches in Shijiazhuang city, Hebei province, and Langzhong city, Nanchong municipality, Sichuan province, and told parishioners to worship only at a TSPM church. In August 2012, three churches in Dongguan, Guangdong province were closed after they refused to join the TSPM. Also in August, a house church in Gushi county, Henan province, was raided, the church's pastor beaten, and the police said the church must join the TSPM if it was to remain open." (USCIRF, 30 April 2013, p. 37)

An August 2013 press release by Christian Solidarity Worldwide (CSW), a UK-headquartered advocacy and human rights organisation with a special focus on religious freedom, informs that according to reports from the US-based Christian non-profit organisation Christian Aid Association (ChinaAid), several unregistered Christian groups "have been closed down, fined or had their members detained by police in Xinjiang in the last five months". The press release details:

> "In March, one such group in Yili was shut down by local police and the religious affairs bureau, and a residence used for church meetings in Kurla was searched by police equipped with guns and electric batons; a woman was later detained. In June, two meetings in Urumqi were disrupted by local police and security officials and two people were detained for short periods. One of the leaders was detained a second time in August when another meeting was disrupted by officials. He has since filed an application for administrative reconsideration. A Bible study leader detained in June after being charged with conducting 'illegal' Christian activity is also filing for administrative reconsideration. In the majority of cases described above, police and officials failed to show any identification or warrant and some individuals present were unsure about why they were being questioned. In addition, the activities concerned were mostly very small meetings of less than 20 people in the private homes of the members." (CSW, 8 August 2013)

Also in the press release, CSW writes that the situation of Protestant churches varies depending on geographical location:

> "Protestant churches in some major cities generally enjoy increasingly more freedom despite a lack of legal recognition; however, in areas like Xinjiang where citizens typically face more restrictions on their civil and political rights, even registered religious activities by Muslims, Catholics and Protestants are closely monitored and often restricted." (CSW, 8 August 2013)

As indicated by the USDOS, the government "considers several Christian groups to be 'evil cults'", including the "Shouters", Eastern Lightning, the Society of Disciples (Mentu Hui), Full Scope Church, Spirit Sect, New Testament Church, Three Grades of Servants (or San Ban Pu Ren), Association of Disciples, Lord God Sect, Established King Church, Unification Church, Family of Love, and the South China Church (USDOS, 20 May 2013, section 2).

The CECC notes with respect to the treatment of Protestant groups which are deemed "cult organisations" by the Chinese authorities:

> "The Chinese government and Party continue to prohibit categorically some Protestant groups from exercising their right to religious belief by criminalizing their communities as 'cult organizations' (xiejiao zuzhi). The government has designated at least 18 Protestant groups as 'cult organizations,' banning their practice throughout the country. Moreover, the PRC Criminal Law includes provisions authorizing fines and imprisonment of up to seven years for forming or associating with 'cult organizations.' According to one Chinese freedom of religion advocate, authorities have increasingly utilized criminal law statutes, including those provisions related to 'cult organizations,' to detain and imprison house church leaders." (CECC, 10 October 2013a, p. 93)

As indicated by the USCIRF, members of these Protestant groups "are the most vulnerable to detention, arrest, and harassment":

> "Members of unregistered Protestant groups that the government arbitrarily deems 'evil cults' are the most vulnerable to detention, arrest, and harassment. The extrajudicial security apparatus, called the 6-10 Office, has broadened its mandate beyond Falun Gong activity to include groups that self-identify as Protestant." (USCIRF, 30 April 2013, p. 37)

Specific instances in which individuals were detained due to their affiliation with Protestant groups considered by authorities to be "cult organisations" are given in the CECC annual report of October 2013:

> "In April 2013, authorities in Ye county, Pingdingshan municipality, Henan province, sentenced house church pastor Hu Linpo and congregation members Han Hai, Yang Lianbing, Zhang Mian, Cao Xia, Wang En, and Li Dan to prison sentences ranging from three years to more than seven years for 'using a cult organization to undermine implementation of the law.' Authorities reportedly first detained all seven individuals in April 2012 during a house church raid. According to the Ye County Procuratorate indictment notice, authorities accused the defendants of belonging to the Local Church, referred to by authorities as the 'Shouters.'
>
> In December 2012, authorities throughout the country engaged in a wide-ranging crackdown on followers of the Church of the Almighty God (CAG) in connection with their belief that December 21 was prophesied to be the date of the apocalypse. According to Chinese official media, authorities in 16 provinces detained more than 1,300 CAG followers in December 2012. In one case, authorities in Shaoguan city, Guangdong province, sentenced CAG adherent Lai Yiwa to seven years' imprisonment in April 2013 for

> reportedly photocopying and distributing pamphlets in December 2012 related to the apocalypse prophesy." (CECC, 10 October 2013a, pp. 93-94)

A December 2012 article by the British international daily newspaper Financial Times (FT) also reports on the nationwide crackdown on members of the Church of Almighty God (also referred to as "Eastern Lightning"), noting that it "has so far led to the arrest of about 1,000 followers of the quasi-Christian group". The article adds that "some Christian activist groups outside China are concerned that the latest arrests of adherents could mark the beginning of a wider campaign against underground Christian churches". (FT, 20 December 2012)

For further information on the authorities' targeting of Protestant churches during the year 2012, please refer to the 2012 annual report[7] of ChinaAid, published in February 2013 (ChinaAid, February 2013).

7.3.4 Taoism

As already noted in section 7.3.1 of this compilation, Reuters news agency reports in a September 2013 article that according to sources with ties to the leadership, President Xi Jinping wants the Communist Party to be "more tolerant" of traditional religions, including Buddhism and Taoism. In this way, he hopes to fill the "moral void" that has allowed corruption to emerge. Critics describe "such tactics as a ploy to divert blame away from the party for the many problems that anger ordinary Chinese, from corruption to land grabs". (Reuters, 29 September 2013)

A Taoist priest interviewed for a South China Morning Post (SCMP) article published in April 2013 responds as follows to the question of how Taoism is applied and practiced in modern China:

> "As is the case with other religions, Taoism has been set aside on the mainland since the 1950s, as the government is officially atheist and tries to maintain a separation between people and religion. Though there has been a massive effort to rebuild Buddhist and Taoist temples since the mid-1980s, and even though the government has also expressed support for Buddhism and Taoism, authorities really only convey to the people that Taoism is a part of traditional Chinese culture, linking it to health and long life. However, when it comes to spreading the philosophy of Taoism, including individual freedom and self-development, or any concept or ideology that differs from the dominant party's system or theory, it is almost impossible to promote and reach the public." (SCMP, 14 April 2013)

The Netherlands Ministry of Foreign Affairs (Ministerie van Buitenlandse Zaken, BZ) states in its country report on China, published in December 2012, that according to what is known, there are only few restrictions on Taoism from the side of the authorities. However, the authorities are trying to control and regulate the finances of temples. (BZ, 11 December 2012, p. 32)

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[7] According to ChinaAid, the annual report focuses "mainly on persecution of Protestant house churches". All cases included in the report have been "investigated in collaboration with local house church leaders and believers, corroborated through direct interviews with victims and family members, and verified by secondary sources". As stated by ChinaAid, the cases in the annual report "are only the tip of iceberg". (ChinaAid, 4 February 2013)

As already mentioned in section 7.3.1 of this compilation, the US Department of State (USDOS) annual report on religious freedom covering the year 2012 notes that official tolerance for groups associated with Buddhism (except Tibetan Buddhism) and Taoism was greater than for groups associated with other religions (USDOS, 20 May 2013, section 2).

The US Congressional-Executive Commission on China (CECC) annual report of October 2013 (covering autumn 2012 to autumn 2013) lists the following information relating to the situation of the Taoist community:

> "The Chinese government continued its control over Taoists and Taoist activities. As in the past, the Chinese Taoist Association (CTA) continued to work with the Chinese government to ensure that Taoist religious groups 'uphold the leadership of the Communist Party and the socialist system,' 'actively participate in socialist material, political, and spiritual civilization,' and 'make a contribution to the protection of religious harmony, ethnic unity, social harmony, unity of the motherland, and world peace.' Government agencies and the CTA continued to hold training sessions for Taoist leaders, including a November 2012 meeting of the CTA executive council to 'study the spirit of the 18th National Congress of the Communist Party of China' and a May 2013 study class led by the State Administration for Religious Affairs (SARA) and attended by over 130 Taoist leaders from localities across China. In the November meeting, SARA Director Wang Zuo'an reminded Taoist leaders in attendance that 'studying and putting into practice the spirit of the 18th Party Congress is the chief political task for religious communities for the coming period of time.' He further noted that he hoped the Taoist community would gain a 'deeper understanding of the greatness of the Chinese Communist Party,' 'more conscientiously accept the leadership of the Chinese Communist Party,' and 'take the path that conforms to socialist society,' among other goals." (CECC, 10 October 2013, p. 94)

In its previous annual report, published in October 2012 and covering the period from autumn 2011 to autumn 2012, the CECC writes that "[d]uring the Commission's 2012 reporting year, the Chinese government's control over Taoism and Taoist activities paralleled restrictions on other religious communities, including on doctrine, clergy, religious activity, and sites of worship" (CECC, 10 October 2012, p. 85).

An older article (November 2010), written by Beijing-based journalist and author Ian Johnson for the New York Times (NYT), informs that the central government "recently sponsored international conferences on Buddhism and Taoism" and that "local governments have welcomed temples [...] as ways to raise money from tourism". The article goes on to state:

> "Taoism has been making a comeback, especially in the countryside, where its roots are deepest and Western influence is weaker. The number of temples has risen significantly: there are 5,000 today, up from 1,500 in 1997, according to government officials. Beijing, which had just one functioning Taoist temple in 2000, now has 10. The revival is not entirely an expression of piety; as on Mount Yi, the government is much more likely to tolerate temples that also fulfill a commercial role." (NYT, 5 November 2010)

A February 2011 article by Radio Free Asia (RFA) reports on the case of Guan Shaohong, a former deputy head of a textile factory and scholar of traditional Taoist philosophy, who carried out research into the social relevance of ancient Taoist texts and was sentenced in 2006 "to a total of 19 years' imprisonment, of which he would serve 15 for 'using superstition to interfere with the enforcement of the law,' 'running an illegal business,' and 'tax evasion.'" A female relative said that Guan "was in poor health during a recent visit by family members", but that prison authorities refused to discuss this with her. The relative further stated that Guan's 2008 book on Taoist sage Lao Zi and other Taoist philosophers "and his attempt to circulate his message had led to similar convictions in around 20 Chinese cities and provinces", adding that "[s]ix people were still serving prison terms linked to his activities". (RFA, 8 February 2011)

7.3.5 Shamanism

In a January 2014 e-mail response to the question of how believers of Shamanism are treated in China, Barend J. Ter Haar, the Shaw Professor of Chinese at Oxford University, with a focus on cultural and religious history, states:

> "Hard to say. One thing is your definition of shamanism, better term might be mediums (gods descending in a medium, rather than his/her soul travelling around). A variant form is spirit writing, in which the writing object is possessed. Both practices are common enough and as long as it does not lead to overly large groups they are tolerated. But the practices are still prohibited and the local state may come down on them as it sees fit. Any charismatic practice which leads to uncontrollable group-formation is looked at askance by the CCP/communist state." (Ter Haar, 10 January 2014)

In a 2010 report entitled "The present situation of religious culture in China", Ter Haar provides the following information:

> "Some phenomena are still illegal or merely tolerated, such as shamanism and medium cults, making it very difficult for us to determine whether these practices are still going on underground or have been restored only partially. Isolated fieldwork (such as in the neighborhood of Tianjin and Hebei province, but also in Fujian) suggests that there are still or again medium cults, but by no means in the same quantities as in the past. The biggest controversies arise when medium cults practice forms of healing in competition with Western or Chinese medical traditions. [...] Still, it would seem that religious treatments with a strong psycho-somatic dimension or non-intrusive forms of religious medical healing are left alone as long as they do not acquire an organized following." (Ter Haar, 2010, pp. 51-52)

Among the sources consulted by ACCORD within time constraints, no further recent information could be found on the treatment of believers/practitioners of shamanism. Below follows some older information:

Graham Harvey, lecturer in religious studies at the UK-based Open University, and Robert J. Wallis, professor of visual culture at Richmond University in London, notes in their 2007 historical dictionary of shamanism that "[i]n the Communist era, shamans have continued to

serve local communities as mediums, exorcists, and purifiers of homes and villages (especially in southeastern China), but they have no official status and have been persecuted" (Harvey/Wallis, 2007, p. 55).

Alison R. Marshall of the Department of Religion at Canada-based Brandon University states in 2004 that "although many shamanic activities continue to be officially banned, they are for the most part tolerated" (Marshall, 2004, p. 706).

In 2003, Peter Knecht, then professor of anthropology at Japan-based Nanzan University, lists the following information:

> "At an international conference on shamanism held in Yakutsk in 1991 the Minister of Culture [of the Sakha Republic of the Russian Federation] said in his welcoming address that the government wanted this kind of conference to take place because it believed that shamanism was the foundation of Sakha culture, but that decades ago it had been cut off from this foundation through the propagation of Christianity and communism. [...] Similar government positions can also be found today in other areas of Siberia and Central Asia where communism was prevalent. In China the situation is not that favourable, but I was very much surprised to meet with a respected and somewhat feared shaman in 2001 who said that he had about fifty disciples. I was able to meet some of them and they told me that the shaman's estimate was not an exaggeration. However, elsewhere I saw signs that active shamans have to be careful not to attract too much public attention. One shaman in Changchun, fearing that she might attract the attention of the police, had removed all the decorative flags she had received as a sign of gratitude from her satisfied clients, leaving her department entirely devoid of them when we visited her. Yet some of the major shamanistic rituals are publicly celebrated and attract considerable crowds." (Knecht, 2003)

7.3.6 Dongba religion

According to Heather A. Peters, an anthropologist with a special focus on the ethnic diversity of Yunnan Province and Cultural Consultant of UNESCO Bangkok, "Dongba is the traditional pre-Buddhist Naxi religion. The term refers both to the religion itself and the traditional shamanistic priests who performed the traditional rituals and ceremonies. The religion is a complex mixture of gods, ancestor and nature worship" (Peters, 2013, p. 118, footnote 2). Minority Rights Group International (MRG) refers to Dongba as an "ancient shamanistic religion" practised by the Naxi ethnic minority in Yunnan and Sichuan provinces (MRG, 4 March 2007, p. 79).

As indicated by the US Commission on International Religious Freedom (USCIRF) annual report of March 2012 (covering the period from 1 April 2011 to 29 February 2012), "some ethnic minority groups have been allowed to retain traditional religious practice, such as Dongba among the Naxi people in Yunnan" (USCIRF, March 2012, p. 149).

Among the sources consulted by ACCORD within time constraints no further information could be found with regard to the treatment of practitioners of the Dongba religion.

7.3.7 Falun Gong

This section should be read with information contained in section 14.2 of this compilation.

Sarah Cook, senior research analyst at Freedom House, describes Falun Gong as "a spiritual practice whose key features are qigong exercises and teachings reminiscent of Buddhist and Taoist traditions that have been an essential dimension of Chinese culture for thousands of years" (Cook, 18 December 2012). According to the Falun Dafa Information Center (FDIC), a New York-based organisation that refers to itself as "the official press office for Falun Gong", the values of truthfulness, compassion and tolerance are at the core of Falun Gong's belief system (FDIC, 5 September 2012).

In its annual report covering the year 2011, Amnesty International (AI) refers to Falun Gong as a "spiritual group" which was banned as "heretical cult" in 1999 (AI, 24 May 2012). BBC News notes on the banning of Falun Gong in 1999:

> "Falun Gong was banned in China in 1999 for carrying out 'illegal activities'. [...] Falun Gong was initially tolerated in China, but was banned after 10,000 practitioners staged a protest outside the central government's leadership compound in Beijing. Officials said the ban was introduced because the group carried out illegal activities, promoted superstition and disrupted social order. It is often referred to by the government as an 'evil cult'." (BBC News, 22 July 2009)

According to a December 2012 press release by AI, Falun Gong "gained large numbers of supporters in China during the 1990s", but was banned after staging "a peaceful gathering in Tiananmen Square in July 1999". As stated by AI, after the ban, the government "launched a long-term campaign of intimidation and persecution, directed by a special organization called the 610 Office". (AI, 13 December 2012)

The US Department of State (USDOS) annual report on religious freedom covering the year 2012 notes that "[t]he CCP maintains its Leading Small Group for Preventing and Dealing with the Problem of Heretical Cults and its implementing '610' offices (named for the date of its creation on June 10, 1999) to eliminate the Falun Gong movement and address 'evil cults'" (USDOS, 20 May 2013, section 2). Human Rights in China (HRIC), an international NGO founded by overseas Chinese students and scientists with its head office in New York, refers to the 610 Office as "a nationwide special security unit set up in 1999 to target Falun Gong practitioners" (HRIC, 20 October 2013). According to David Matas, an international human rights lawyer based in Canada, the 610 Office "is a Party office only, not a state office" and serves as "the instrument of the Party instructing the police, the prisons, the labour camps, the prosecution and the courts on the repression of Falun Gong" (Matas, 2013, p. 3). A more detailed description of the 610 Office and its main functions is offered in a September 2011 article by Sarah Cook and China researcher Leeshai Lemish:

> "The 610 Office was formed [...] as this leading group's [Leading Small Group for Preventing and Handling the Problem of Heretical Organizations] implementing body and is named after the date of its creation: June 10, 1999. 'Six-ten' functions outside the state system without any official standing. At its core, the 610 Office is a plainclothes CCP-based

> extra-ministerial security force focused on suppressing the Falun Gong spiritual group. The leading group sets the policy direction, which the 610 Office executes. [...] The 610 Office has two main functions: coordinating personnel at state institutions to assist in fulfilling the office's mandate and directly conducting operations against Falun Gong and other forbidden spiritual groups. The first coordination role can involve pressuring staff from state bodies to act according to the 610 Office's wishes, even when these run counter to their legal authority. [...] Second, the 610 Office also has an immediate role in executing the leading group's policies. In the process, the 610 Office appears largely exempt from even the basics of China's judicial and legal reforms, often employing methods that are technically illegal under Chinese law. Various credible sources describe 610 Office agents directly participating in extrajudicial killings, torture, sexual assault, and illegal confiscation of property." (Cook/Lemish, 16 September 2011)

Freedom House states in its report Freedom in the World 2014 – China (covering 2013) that "[i]n 2013, the [Communist] party launched a new three-year initiative to coerce its [Falun Gong] adherents to renounce their beliefs", adding that "[w]hile some Falun Gong practitioners were released from detention as part of the closure of labor camps, authorities seized hundreds of others in home raids, sending them to extralegal detention centers for forced conversion or sentencing them to long prison terms" (Freedom House, 23 January 2014). In December 2012, AI provides the following summary information relating to the situation of Falun Gong practitioners in China:

> "Tens of thousands of Falun Gong practitioners have been arbitrarily detained as a 'threat to social and political stability' since the spiritual movement was banned. Practitioners have been held in psychiatric hospitals, re-education through labour (RTL) facilities – a form of administrative detention imposed without charge, trial or judicial review – sentenced to long prison terms, and been held in specialized detention centres whose mission is to 'transform' Falun Gong practitioners, a process through which they are coerced into renouncing their spiritual beliefs, often through the use of torture and other ill-treatment. Torture and other ill-treatment are endemic in all forms of detention, despite China's ratification of the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 1988. Falun Gong sources have documented numerous deaths in custody of Falun Gong practitioners, believed to have been caused by torture and other ill-treatment." (AI, 13 December 2012)

The situation of Falun Gong practitioners is also addressed in the Congressional-Executive Commission on China (CECC) annual report of October 2013 (covering the period from autumn 2012 to autumn 2013):

> "The Commission continued to observe reports of arbitrary treatment of Falun Gong practitioners by Chinese security and judicial authorities, in some cases involving physical and mental abuse. Courts continued to sentence Falun Gong practitioners to long terms in prison. Authorities detained and harassed persons who attempted to assist Falun Gong practitioners, including lawyers Wang Quanzhang and Cheng Hai. The Chinese Communist Party and government continued to pressure Falun Gong practitioners to renounce their belief and practice. The Party and government refer to this process as 'transformation

through reeducation,' or simply 'transformation.' From 2010 to 2012, the government implemented a three-year, national campaign to increase efforts to 'transform' Falun Gong practitioners.

The Commission also observed reports this past year regarding official anti-cult efforts that placed an emphasis on the need to educate the public to 'resist' Falun Gong. An All-China Women's Federation report stressed the need for the expansion of anti-cult campaigns directed against Falun Gong throughout Chongqing municipality, including through mobile schools and mobile teams of anti-cult educators. At an anti-cult symposium in Hangzhou city, Zhejiang province, held in May, a provincial official emphasized the need to bring anti-cult efforts 'deep into the grassroots and into the heart of the masses,' and to 'vigorously carry out' education against Falun Gong.

In April 2013, an article published in the China-based Lens Magazine reported on claims of torture and severe maltreatment of inmates at the Masanjia Women's Reeducation Through Labor (RTL) Center in Liaoning province. According to the New York Times, former detainees reported that approximately half of the people detained at the center are Falun Gong practitioners or members of underground churches. Former detainees at the center said authorities regularly tortured them with electric batons, handcuffed them in painful positions for long periods of time, and locked them in tiny 'punishment cells,' among other forms of mistreatment. Beginning in June 2013, Beijing authorities detained journalist Du Bin for five weeks, on allegations he said were partly a result of his film about the abuses at the Masanjia Women's RTL Center.

At a Commission hearing on December 18, 2012, Falun Gong practitioner Hu Zhiming testified that, during the eight years and two months he spent in detention in several different locations in China for practicing Falun Gong, authorities allowed prisoners to beat him and subjected him to sleep deprivation, denial of medical care, and other types of abuse. At the same hearing, Bruce Chung, a Falun Gong practitioner from Taiwan, testified about how Chinese state security officials detained him for 54 days during a visit to Jiangxi province in the summer of 2012 and subjected him to lengthy interrogation sessions without access to a lawyer in connection with his earlier efforts to broadcast Falun Gong materials into China." (CECC, 10 October 2013, pp. 89-90)

On the same topic, the US Commission on International Religious Freedom (USCIRF) annual report of April 2013 (covering the period from 31 January 2012 to 31 January 2013) writes:

"The Chinese government continued its fourteen-year campaign to eradicate Falun Gong activity and pressure practitioners to renounce their beliefs. Falun Gong adherents report, and official Chinese government statements confirm, long-term and arbitrary arrests, forced renunciations of faith, and torture in detention. Reportedly, over 3,500 Falun Gong practitioners have died as a result of government-approved persecution. China maintains an extrajudicial security apparatus, the 6-10 office, to stamp out Falun Gong activities and uses specialized facilities known as 'transformation through reeducation centers' to force practitioners to renounce their beliefs through the use of torture and medical

experimentation. Falun Gong practitioners have documented dozens of deaths in these transformation centers.

Provincial authorities were urged to conduct anti-cult campaigns, including public meetings and the signing of anti-cult 'pledge cards.' According to the CECC, a government website provided training materials for these campaigns.

The government detains Falun Gong practioners under Article 300 of the Criminal Procedure Code, which deals with individuals accused of crimes associated with 'evil cults.' Lawyers who have challenged the law and those who sought to defend Falun Gong have been harassed and detained, including in recent years lawyers Wei Liangyue and Wang Yonghang. [...]

It is difficult to determine how many Falun Gong practitioners are in detention because they are most often incarcerated in re-education through labor (RTL) camps and mental health institutions. However, the U.S. Department of State noted that Falun Gong adherents may constitute half of the 250,000 officially recorded inmates in RTL camps. The UN Special Rapporteur on Torture has reported that practitioners make up two-thirds of the alleged victims of torture presented to him.

As of December 2012, the CECC's prisoner database lists 486 Falun Gong practitioners as currently serving prison sentences, though the actual number may be much higher. One such prisoner is Wei Jun, currently serving a five-year sentence at the Heilongjiang Women's Prison, her fourth incarceration since 1999. According to her testimony of torture and abuse while in custody, which was smuggled from prison, she suffers from partial paralysis from being beaten by both prison guards and other prisoners. The Falun Dafa Information Center (FDIC) claims evidence showing that over 50 Falun Gong practitioners died in custody since 2011." (USCIRF, 30 April 2013, pp. 38-39)

The above-cited USDOS annual report on religious freedom in 2012 indicates that "[a]ccording to Legal Daily, the MPS [Ministry of Public Security] directly administered 24 high-security psychiatric hospitals for the criminally insane (also known as ankang facilities)", adding that "[u]nregistered religious believers and Falun Gong adherents were among those reported to be held solely for political or religious reasons in these institutions, along with mentally ill patients" (USDOS, 20 May 2013, section 2). The same report continues:

> "It remained difficult to confirm some aspects of reported abuses of Falun Gong adherents. International Falun Gong-affiliated nongovernmental organizations (NGOs) and international media reported that detentions of Falun Gong practitioners continued to increase around sensitive dates. Authorities reportedly instructed some neighborhood communities to report Falun Gong members to officials and offered monetary rewards to citizens who informed on Falun Gong practitioners. Falun Gong-affiliated NGOs alleged that detained practitioners were subjected to various methods of physical and psychological coercion in attempts to force them to deny their belief in Falun Gong. Falun Gong sources estimated that since 1999, at least 6,000 Falun Gong practitioners had been sentenced to prison. Falun Gong adherents also have been subjected to administrative sentences of up to three years in RTL camps. Reports from overseas Falun Gong-affiliated

> advocacy groups estimated that thousands of adherents in the country had been sentenced to RTL. The media reported allegations of Falun Gong practitioners held without trial at the Masanjia Labor Camp in Liaoning Province." (USDOS, 20 May 2013, section 2)

A November 2013 article by the Falun Gong-affiliated newspaper The Epoch Times reports that "[o]ver the last several months, the Chinese authorities have begun a campaign that seeks to forcibly change the beliefs of millions of Falun Gong practitioners". According to the article, the process of forcing someone to renounce his or her beliefs (known as "transformation" (zhuanhua)) "is supposed to conclude with the adherent signing three statements: a statement of repentance, disavowing their belief in Falun Gong; a statement reporting on others who practice Falun Gong; and statement accepting the beliefs of the Chinese Communist Party". As further stated by The Epoch Times, "[t]his new campaign is being termed the 'final battle (juezhan) in the circulars that are posted on local Party and government websites across the country", although "[i]ts finality may be in question [...] given that it is the second three-year campaign (the first ran from 2010-2012) to follow a similar format: quotas for the targeting of known Falun Gong practitioners across the country". The Epoch Times reviewed a sampling of 56 circulars issued by official agencies in China to assess the spread of the new campaign against Falun Gong, concluding that "[v]irtually every province in China has declared its participation in the current campaign through issuing such notices". (Epoch Times, 16 November 2013)

In a December 2013 briefing on the abolition of China's "Re-education Through Labour" (RTL) system, Amnesty International (AI) details how the authorities are increasingly making use of "alternative channels of arbitrary detention as well as criminal prosecutions of individuals who previously may have been sent to RTL" (AI, 17 December 2013, p. 6). As noted in the separate section on Falun Gong practitioners, AI received reports of Falun Gong followers being directly transferred from RTL camps to "brainwashing centres", detention centres or prisons. In other cases, Falun Gong practitioners are not being released "even though the camps are reportedly closed" or they are released but "quickly picked up again by police and sent to some form of arbitrary detention". Instances of conditional release of Falun Gong practitioners are also reported in the briefing (AI, 17 December 2013, pp. 36-38). For details, please refer to the full text of the AI briefing:

- AI - Amnesty International: "Changing the soup but not the medicine?": Abolishing re-education through labour in China, 17 December 2013
  http://www.amnesty.org/en/library/asset/ASA17/042/2013/en/f7e7aec3-e4ed-4d8d-b99b-f6ff6ec860d6/asa170422013en.pdf

A September 2013 article by The Epoch Times similarly notes:

> "In recent months there have been several reports of re-education-through-labor camps in China closing. In some cases, practitioners of Falun Gong, a heavily persecuted spiritual group, are being released. In other cases, the practitioners are being sent to brainwashing centers or prisons where they receive the same abuse as they had in the labor camps – abuse meant to force them to give up their most deeply held beliefs." (Epoch Times, 14 September 2013)

A September 2013 article by the Falun Gong-affiliated website Minghui.org provides an analysis of cases of detention of Falun Gong practitioners reported on the website during the first six months of 2013. The article states that during this time, 14 practitioners were taken to forced labour camps, 186 sent to brainwashing centres, 445 sentenced to prison and 2.021 arrested. (Minghui.org, 17 September 2013)

Some sources report that in 2012, local government officials in Wugang city, Hunan province, required families to sign a guarantee not to take part in the "evil cult" activities involving Falun Gong and Protestant house churches as a prerequisite for registering their children in city schools (HRW, 31 January 2013; USCIRF, 30 April 2013, p. 38; USDOS, 20 May 2013, section 2).

On the topic of forced organ harvesting from Falun Gong practitioners, a July 2013 article by The Epoch Times states:

> "Many more practitioners are believed to have died from forced organ harvesting. In recent years, evidence has emerged of the systematic harvesting and selling of organs from China's prisoners of conscience, most of them Falun Gong practitioners. In a 2006 investigation conducted by human rights lawyer David Matas and former Canadian secretary of state (Asia-Pacific) David Kilgour, they confirmed that organs were being harvested from Falun Gong practitioners in China for sale to patients in need of organ transplants, killing the practitioners. Although the number of organ transplantations performed in China remains a state secret, David Matas told the Epoch Times in a 2012 interview that he estimates 8,000 Falun Gong practitioners are killed each year for their organs. By that calculation, several thousand may have already perished this year from such organ harvesting practices." (Epoch Times, 20 July 2013)

In December 2013, Voice of America (VOA) reports on a protest meeting in front of the Chinese consulate in Los Angeles held by Falun Gong practitioners accusing the Chinese government "of forcibly harvesting the organs of imprisoned Falun Gong followers". The article includes the following statements by Dana Churchill of Doctors Against Forced Organ Harvesting and prominent human rights activist Harry Wu:

> "Falun Gong practitioner Dana Churchill is with Doctors Against Forced Organ Harvesting. The group works closely with Falun Gong. 'The majority of the people in the labor camps are Falun Gong. The majority of the organs are all coming from Falun Gong practitioners. 65,000 Falun Gong practitioners are estimated to have been murdered for their organs from 2001 to 2006, 2007,' said Churchill. [...]
>
> Harry Wu spent 19 years in Chinese labor camps. He eventually became a U.S. citizen and is a prominent human rights activist. He is skeptical about the Falun Gong accusations. 'If you want to argue, if you want to protest, if you want to show up in front of the Chinese government, it's right [alright]. But I told the Falun Gong very clear[ly] you really need the evidence,' said Wu. Wu has spoken with patients and doctors in China, and says the practice of removing the organs of executed prisoners continues but there has been a change in policy. 'China, until today, [for] more than 30 years remove[d] the organs from

> executed prisoners. If we give a small estimate like 4,000 executed prisoners every year, 30 years that means 120,000 - [a] huge number,' he said." (VOA, 17 December 2013)

The USCIRF annual report of April 2013, in the section on Falun Gong, notes that "[n]umerous allegations of government-sanctioned organ harvesting and psychiatric experimentation [...] continue to surface, and both the UN Special Rapporteur on Torture and the Committee against Torture, a UN treaty-monitoring body, have highlighted concerns" (USCIRF, 30 April 2013, p. 39). A March 2013 report by the Congressional Research Service (CRS) similarly notes that "[s]ome groups allege that tens of thousands of Falun Gong prisoners were victims of illegal, non-consensual organ harvesting". However, "[a]llegations of large-scale organ harvesting have not been independently verified" (CRS, 15 March 2013, p. 16).

7.3.8 Family members of religious groups' members

As observed by the US Department of State (USDOS) in its annual report on religious freedom in 2012, Chinese authorities "harassed or detained the family members of some religious leaders and religious freedom activists" (USDOS, 20 May 2013, section 2). The same source writes in its annual report on human rights in 2013 that "[t]hroughout the year human rights activists, journalists, unregistered religious leaders, and former political prisoners and their family members continued to be among those targeted for arbitrary detention or arrest" (USDOS, 27 February 2014, section 1d).

A November 2013 article by ChinaAid refers to the case of Zhang Shaojie, the pastor of the officially sanctioned Nanle County Christian Church and frequent defender of marginalised social groups, who was detained along with 20 members of his congregation. Zhang's daughter, Zhang Huixin, fled Nanle County together with her husband and her 10-month-old child, for fear of being detained as well. According to Zhang Huixin, she received repeated threatening phone calls, with the callers threatening "to 'wipe out her entire family' if she continued to call for international help and give out information about the persecution of the church" (ChinaAid, 19 November 2013). In December 2013, UK news channel Sky News also reports on the case, stating that Zhang Huixin is still in hiding (Sky News, 16 December 2013).

The above-cited USDOS annual report on religious freedom covering the year 2012 states that authorities restricted the freedom of movement of the head pastor of China's unregistered Shouwang Church and his family (USDOS, 20 May 2013, section 2).

ChinaAid reports in August 2013 that according to his own account, Li Shuangping, leader of Linfen house church, was beaten and threatened with death by agents of the local government. As stated by Li, the assailants also threatened to kidnap and kill his family, including his children. (ChinaAid, 19 August 2013)

A May 2013 article by Radio Free Asia (RFA) informs that in Beshtugmen and Igerchi villages outside Xinjiang's Aksu city, relatives of Muslim women who cover their faces get punished by having their applications for marriage certificates or pilgrimages to Mecca refused:

> "Authorities in two Uyghur villages in China's restive Xinjiang region are punishing relatives of Muslim women who cover their faces by not authorizing their marriage

> applications and disallowing them to perform pilgrimage to Mecca, according to local officials. Community officials in Beshtugmen and Igerchi villages outside Aksu city have been enforcing the measures after residents in Beshtugmen opposed fines against women in the village who wore headscarves in June last year, villagers said. Since then, community officials had eased restrictions on women wearing headscarves, but women who cover their faces with traditional veils still face curbs enforced by Beshtugmen's United Front office, the local branch of a ruling Chinese Communist Party organ tasked with guiding local religious and ethnic policy. [...] 'We do not approve the applications for marriage certificates or pilgrimages to Mecca if the applicant has relatives who cover their face,' the head of the United Front office in Beshtugmen village, who gave his first name as Eziz, told RFA's Uyghur Service. He said 'three generations' of the relatives of women who cover their faces are screened for possible punishment. [...] He said the curbs on the relatives are part of the United Front's policy of encouraging local residents to support the Chinese Communist Party's policies on ethnicity and religion." (RFA, 31 May 2013)

A May 2012 press release by AI reports the detention of Falun Gong practitioners Wang Xiaodong and his sister Wang Junling (also known as Wang Xiaomei) in Cangzhou City, in Hebei province. According to AI, Wang Junling was detained in connection with her efforts to free her brother, who had been detained three months earlier for practising Falun Gong. Her efforts included a petition signed by 300 families from their hometown and an open letter posted online (AI, 31 May 2012). Reporting on the same case, The Epoch Times writes that according to an unnamed source, Wang's sister "was forced out of her home and stayed with friends" before being abducted by police officers (Epoch Times, 16 June 2012).

A July 2012 press release by AI reports that Falun Gong practitioner Wang Xiuqing and her daughter Qin Hailong have been assigned to 18 months Re-education through Labour (RTL), particularly due to their efforts to seek justice for the death of their husband/father, Qin Yueming, in Jiamusi prison in February 2011. According to AI, "Qin Yueming was detained for being a Falun Gong practitioner" (AI, 16 July 2012). In a later press release issued in July 2013, AI notes that Wang Xiuqing and Qin Hailong were released from Harbin City RTL Camp, adding that "[t]hey have returned home but remain under police surveillance" (AI, 29 July 2013).

For further information on the treatment of family members of Falun Gong practitioners, please refer to the following query response prepared by the Immigration and Refugee Board of Canada (IRB):

- IRB - Immigration and Refugee Board of Canada: China: Treatment of family members of Falun Gong practitioners by authorities; situation of persons who assist Falun Gong practitioners; the treatment of such persons if they deny knowledge of having assisted Falun Gong practitioners, agree to cease such assistance, or denounce Falun Gong (2010-September 2013) [CHN104580.E], 18 October 2013 (available at ecoi.net) http://www.ecoi.net/local_link/261942/375242_en.html

8 Treatment of minority ethnic groups

The International Work Group for Indigenous Affairs (IWGIA), an international, non-governmental human rights organisation based in Denmark, notes in its yearbook issued in May 2013 that in addition to the Han majority, China officially recognises 55 ethnic minority groups with specific constitutional rights. However, a number of ethnic groups remain unrecognised in China:

> "Officially, China proclaims itself a unified country with a multiple ethnic make-up, and all ethnic groups are considered equal by law. Besides the Han Chinese majority, the government recognizes 55 ethnic minority peoples within its borders. According to China's sixth national census of 2010, the population of ethnic minorities is 113,792,211 persons, or 8.49 % of the country's total population.
>
> The national 'Ethnic Minority Identification Project', undertaken from 1953 to 1979, settled on official recognition for 55 ethnic minority groups. However, there are still 'unrecognized ethnic groups' in China numbering a total of 734,438 persons (2000 census figure). Most of them live in China's south-west regions of Guizhou, Sichuan, Yunnan and Tibet and other hinterland areas in the country's north and west. The officially recognized ethnic minority groups have rights protected by the Constitution. This includes establishing ethnic autonomous regions, setting up their own local administrative governance and the right to practice their own language and culture. 'Ethnic autonomous regions' constitute around 60% of China's land area." (IWGIA, May 2013, p. 228)

The Minority Rights Group International (MRG) World Directory of Minorities and Indigenous Peoples – China (updated October 2009) contains the following information on ethnic minority groups:

> "Minority groups include Zhuang 16.2 million (1.3%), Manchu 10.7 million (0.86%), Hui 9.8 million (0.79%), Miao 8.9 million (0.72%), Uyghur 8.4 million (0.68%), Yi (Lolo) 7.7 million (0.62%), Tujia 8 million (0.65%), Mongol 5.8 million (0.47%), Tibetan 5.4 million (0.44%), etc. (Source: National Population Survey of China, 2000)
>
> The definition of ethnic minorities/nationalities in the People's Republic of China has been conceived by the state and does not truly reflect the self-identification of such ethnic minorities or the reality of ethnic diversity within China's boundaries. Mínzú (the Chinese term that signifies non-Han 'undistinguished ethnic groups', numbering more than 730,000 people) have not been recognized among or classified within the state's official 56 ethnic minorities (these comprise the majority Han grouping and 55 minority nationalities)." (MRG, October 2009)

The same source indicates in its annual report on minorities and indigenous peoples of June 2012 that in the past decade, China's ethnic minority areas have been the target of a government development programme that critics describe as "internal colonization":

> "While ethnic minorities in China constitute only 8 per cent of the overall population, they inhabit large areas rich in natural resources, especially energy and minerals, in some of the most impoverished regions of the country. For example, Inner Mongolia has rich coal

> deposits; Xinjiang is known to have China's largest oil and gas reserves; Tibet has massive deposits of gold, copper and rare earths, as well as much of the country's water resources.
>
> Over the past decade, these areas have been the target of the government's 'Go West' campaign. Ostensibly, the government's goal has been to reduce regional disparities and bring economic development to the western provinces and autonomous regions (Ningxia, Tibet, Inner Mongolia, Guangxi and Xinjiang); critics have defined the campaign as 'internal colonization', aimed at bringing large areas in minority regions under control so as to exploit their natural resources to support further development along the country's east coast." (MRG, 27 June 2012, p. 160)

Under the heading "Ethnic minority rights", the US Congressional-Executive Commission on China (CECC) annual report of October 2013 (covering the period from autumn 2012 to autumn 2013) provides the following summary information:

> "During the 2013 reporting year, ethnic minorities faced challenges to their rights as provided in the PRC Regional Ethnic Autonomy Law and international law. Authorities placed the strictest controls over groups perceived as potential threats to 'stability,' including those living in the Tibet Autonomous Region (TAR) and other Tibetan autonomous areas, the Xinjiang Uyghur Autonomous Region (XUAR), and the Inner Mongolia Autonomous Region (IMAR). Authorities continued to detain, harass, and imprison ethnic minority rights advocates who engaged in peaceful protest and sought to assert their unique cultural identity." (CECC, 10 October 2013a, p. 96)

In the Freedom House report Freedom in the World 2014, ethnic and religious minorities are mentioned as one of several groups that "face widespread de facto discrimination, in some cases with official encouragement" (Freedom House, 23 January 2014). The Human Rights Watch (HRW) annual report of January 2014 similarly notes that the Chinese government "enforces highly repressive policies in ethnic minority areas in Tibet, Xinjiang, and Inner Mongolia" (HRW, 21 January 2014).

The US Department of State (USDOS) annual report on human rights in 2013, published in February 2014, refers to the general situation for minority groups in China as follows:

> "Most minority groups resided in areas they traditionally inhabited. Government policy calls for members of recognized minorities to receive preferential treatment in birth planning, university admission, access to loans, and employment. Nonetheless, the substance and implementation of ethnic minority policies remained poor, and discrimination against minorities remained widespread. Minority groups in border and other regions had less access to education than their Han counterparts, faced job discrimination in favor of Han migrants, and earned incomes well below those in other parts of the country. Government development programs often disrupted traditional living patterns of minority groups and included, in some cases, the forced relocation of persons. Han Chinese benefited disproportionately from government programs and economic growth. As part of its emphasis on building a 'harmonious society' and maintaining social stability, the government downplayed racism and institutional discrimination against

minorities, which remained the source of deep resentment in the XUAR, the Inner Mongolia Autonomous Region (IMAR), the TAR, and other Tibetan areas." (USDOS, 27 February 2014, section 6)

The same report briefly covers the issue of political representation of ethnic minorities in China:

> "Ethnic minorities represented approximately 14 percent of delegates to the NPC [National People's Congress] and more than 15 percent of NPC Standing Committee members, according to an official report issued in 2011. A 2011 article in the official online news source for overseas readers stated that ethnic minorities comprised 41 percent of cadres in the Guangxi Zhuang Autonomous Region, 25 percent of cadres in Ningxia Hui Autonomous Region, and 51 percent of cadres in the XUAR. According to a July 2012 article from the official Xinhua News Agency, 32 percent of cadres in Yunnan Province were members of an ethnic minority. A June 5 government report stated that, of the 296 civil servants Guangxi Province recruited in 2012, almost 60 percent were ethnic minorities. During the year all five of the country's ethnic minority autonomous regions had chairmen (equivalent to the governor of a province) from minority groups. The CCP secretaries of these five autonomous regions were all Han. Han officials continued to hold the majority of the most powerful CCP and government positions in minority autonomous regions, particularly the XUAR." (USDOS, 27 February 2014, section 6)

8.1 Hui (also Hwei or Huihui)

This section should be read in association with section 7.3.2 of this compilation.

The Joshua Project, a US-based organisation that maintains ethnological data with the aim to support Christian missionary work, refers to the Hui as "an official minority of China", adding that they speak standard Mandarin, "although, in some locations, Persian and Arabic words have been added to their vocabulary". As further stated by the Joshua Project, "[a]lmost all Hui" adhere to the Sunni Muslim faith (Joshua Project, undated (a)).

Al Jazeera notes in October 2012 that the Hui enjoy "much more political and religious freedom" than Uyghur Muslims:

> "The Muslim Hui are an anomaly in China, an ethnic minority granted significant autonomy and allowed to devoutly follow their religion in a region where Islam thrives. [...] While Muslim Uighurs of Turkic descent in the far west face harsh religious restrictions and repression, the Hui have been afforded much more political and religious freedom by Beijing. Observers say it is their friendly historical relations with the ethnic majority Han that is the difference." (Al Jazeera, 12 October 2012)

In an article of January 2014, the New York Times (NYT) lists the following information with regard to the Hui people:

> "China's 10.6 million Hui Muslims are distinct from the country's Uighur Muslims, who have been a source of unrest in the Xinjiang region in the far west. Many Hui people mix more easily with Han Chinese than Uighurs typically do. But Hui people tend to be fiercely protective of their traditions, especially in Ningxia and other parts of northwest China; Hui

> villagers there and elsewhere have protested in past years over perceived religious insults." (NYT, 5 January 2014)

A June 2013 article by Radio Free Asia (RFA) similarly describes the Hui as "culturally more similar to mainstream Han Chinese than Xinjiang's Turkic-speaking Uyghur people", although they "retain some Islamic customs like avoiding pork and circumcising male children". The article adds that "[e]thnic tensions have nonetheless flared in recent years, notably in riots following a 2004 car accident involving a Han Chinese and a Hui Muslim in the central province of Henan. And in 1993, a cartoon ridiculing Muslims led to police storming a mosque taken over by Hui in northwestern China" (RFA, 12 June 2013a).

Osman Abdullah Chuah, Associate Professor in the Department of Usuluddin and Comparative Religion at the International Islamic University Malaysia, states in a 2012 article:

> "The Hui share the same language, culture and social way of life with the non-Muslim Han but unlike the Han, the Hui are also part of the world wide Muslim ummah. The faith and practice of Islam also make the Hui different from the non-Muslim Han. Because of these differences, conflicts, mutual prejudices, discriminations and stereotypes are part of the norms between the Hui and the Han. The Hui do not belong to a majority group; the population is concentrated in North West China and dispersed in the remaining parts of China. There is also substantial acculturation and assimilation of the Hui towards the Han in China in their social interaction." (Chuah, 2012, p. 267)

RFA writes in June 2013 that according to local residents, eight Hui Muslim children in Xiangdong village in Qinghai province were taken to hospital after being shot with tranquilizer darts by riot police during an operation to evict families and demolish their homes (RFA, 12 June 2013a).

Another article by RFA, published in April 2012, reports on ethnic clashes between local Han Chinese residents and Hui Muslims in Ningjin county of Shandong province:

> "Han Chinese residents of Tianzhuang village in Ningjin claimed that over 1,000 Hui Muslims from the neighboring Changguan village had rioted in Tianzhuang on Saturday. A restaurant owner surnamed Tian in Tianzhuang said 'more than 100' police officers stood by and watched as local people were attacked. [...] A Han Chinese shop owner surnamed Zhang said the rioting was apparently a retaliatory attack following an earlier dispute with some Hui youths who had been teasing local schoolchildren. [...] A second woman, also surnamed Zhang, said that between 10 and 20 Han Chinese were seriously injured during the riots." (RFA, 5 April 2012)

The same article further notes:

> "Shandong is no stranger to conflict between Hui Muslims and Han Chinese, with rights groups reporting clashes involving thousands of people in Huimin county in August 2007. In 2000, official media reports said that rioting over the advertisement of 'halal pork' by a Han Chinese vendor had resulted in the deaths of six Hui Muslims" (RFA, 5 April 2012).

8.2 North Koreans

The Congressional-Executive Commission on China (CECC) annual report of October 2013 indicates that Chinese authorities continue to detain and repatriate North Korean refugees, claiming they are "illegal economic migrants". Estimates of the number of North Korean refugees living in China range from 11,000 to 50,000:

> "During the Commission's 2013 reporting year, the Chinese government continued to detain and repatriate North Korean refugees to the Democratic People's Republic of Korea (DPRK), despite the severe punishments refugees reportedly face once returned. The Chinese government maintains that North Korean refugees in China are illegal economic migrants and continues its repatriation policy based on a 1961 treaty with the DPRK and a subsequent 1986 border protocol. China's repatriation of North Korean refugees, including those who leave the DPRK for fear of persecution, contravenes its international obligations under the 1951 UN Convention relating to the Status of Refugees (1951 Convention) and its 1967 Protocol, to which China has acceded. While there is no reliable information available on the number of North Korean refugees living in China – Chinese authorities do not release information on refugees, nor do they permit the Office of the UN High Commissioner for Refugees to operate along China's northeastern border with the DPRK – international scholars and media estimate the total number is currently between 11,000 and 50,000." (CECC, 10 October 2013a, p. 118)

The US Commission on International Religious Freedom (USCIRF) annual report of April 2013 also notes that "[t]he Chinese government continued to detain and repatriate North Korean asylum-seekers despite its international obligations to protect refugees", adding that "[t]he South Korean Unification Ministry estimates that around 5,000 North Koreans are repatriated each year" (USCIRF, 30 April 2013, p. 40).

Under the heading "Protection of refugees", the US Department of State (USDOS) briefly addresses the situation of North Korean refugees in China as follows:

> "The government did not provide protection against the expulsion or forcible return of vulnerable refugees and asylum seekers, especially North Korean and Kachin refugees, to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The government continued to consider all North Koreans 'economic migrants' rather than refugees or asylum seekers, and the UNHCR continued to have no access to North Korean or Burmese refugees inside China. The lack of access to durable solutions and options, as well as constant fear of forced repatriation by authorities, left North Korean refugees vulnerable to human traffickers. Reports of various exploitation schemes targeting North Korean refugees, such as forced marriages, forced labor, and prostitution, were common. The government continued to deny the UNHCR permission to operate along its borders with North Korea and Burma. Some North Koreans who entered diplomatic compounds in the country were permitted to travel to foreign countries after waiting for periods of up to two years." (USDOS, 27 February 2014, section 2d)

The CECC annual report of October 2013 mentions that authorities in Yanbian Korean Autonomous Prefecture in Jilin province established a reward system for Chinese citizens who assist in the arrest of refugees:

> "During this reporting year, the Chinese government appeared to strengthen measures to stem the flow of North Korean refugees into China, including increasing security along the North Korean border and continuing campaigns to seek out and repatriate refugees. Sources cited by Chinese and South Korean media reported that authorities in Yanbian Korean Autonomous Prefecture, Jilin province, initiated a program in March offering financial rewards of up to 2,000 yuan (US$326) to Chinese citizens who provide information leading to the arrest of refugees. According to official reports, the program specifically aimed to 'stop the illegal transboundary criminal situation at Yanbian . . . and strike at illegal border crossers.' Chinese villagers living in Yanbian attested to the success of such programs, stating that the number of refugees in the area had decreased significantly in comparison to previous years. While trans-border criminal activity, including drug and human trafficking, remains a serious concern, Chinese security officials do not distinguish between criminals and refugees, leaving North Koreans who enter China as asylum seekers and refugees at risk of detention and repatriation." (CECC, 10 October 2013a, p. 118)

A December 2013 article by the South China Morning Post (SCMP) quotes NK Defectors Concern, a defectors' rights group set up in 2012, as stating that "Chinese authorities install silent alarms inside residences near North Korea border" to stop North Korean defectors entering China. If the defectors ask for assistance from Chinese residents, "those residents could secretly report [them] to police through the alarm system" (SCMP, 17 December 2013). A March 2013 article by the South Korean Yonhap News Agency cites ethnic Koreans in China as indicating that silent alarm systems have been installed "in every house" in a town in Yanbian Korean Autonomous Prefecture "to try to arrest defectors". An ethnic Korean military officer in Yanbian is quoted as saying that "[t]he Chinese authorities plan to expand the silent alarm system into other areas bordering North Korea" (Yonhap, 23 March 2013).

Roberta Cohen, non-resident senior fellow in Foreign Policy at Brookings Institution, a US-based think tank which refers to itself as non-partisan, states in March 2012 that "[a]lthough China does allow large numbers of North Koreans to reside illegally in its country, they have no rights and China has forcibly returned tens of thousands over the past two decades" (Cohen, 5 March 2012).

T. Kumar, International Advocacy Director at Amnesty International USA, states in a March 2012 testimony before the CECC that undocumented North Koreans in China live in "appalling conditions" and are prone to various forms of exploitation. As noted by Kumar, there have been reports of North Korean security officials crossing into China to "'detain' some North Korean refugees and 'abduct' them back to North Korea":

> "Despite significant risks, thousands of North Koreans illegally cross the border into China every year. China considers all undocumented North Koreans to be economic migrants, rather than as asylum seekers, and forcibly returns them to North Korea if they are

> caught. North Koreans residing 'illegally' in China live in appalling conditions and are vulnerable to physical, emotional and sexual exploitation. North Koreans living in China live in constant fear of being caught and detained by Chinese authorities and forcibly returned to China. North Korean refugees in China are in a very precarious situation. Some find shelter in villages and farms where they are supported by China's ethnic Korean community and ethnic Chinese people. Several work in the service industry but are vulnerable to exploitation and discrimination given their lack of legal status to reside in China. Others are forced into begging. Surveillance and checking for 'illegal' North Koreans in China have intensified and there have been even reports of North Korean authorities crossing the border to 'detain' some North Korean refugees and 'abduct' them back to North Korea." (Kumar, 5 March 2012)

The above-cited CECC annual report of October 2013 similarly notes that according to international media reports, North Korean security officials are operating within China "to apprehend North Korean refugees and disrupt organizations that attempt to assist them":

> "International media reports also indicate Chinese authorities continued to collaborate with North Korean security officials, allowing them to operate within China to apprehend North Korean refugees and disrupt organizations that attempt to assist them. Sources cited by South Korean media noted the presence of North Korean security agents at places commonly frequented by North Koreans in China. One report further stated that four North Koreans were detained and repatriated by North Korean security agents near Shenyang municipality, Liaoning province, in late 2012. According to human rights and refugee advocates, coordinated efforts by China and North Korea have made it increasingly difficult for refugee advocates to operate on both sides of the border." (CECC, 10 October 2013a, pp. 118-119)

In its February 2014 annual report on human rights (covering 2013), the USDOS mentions:

> "There were also reports that North Korean agents operated clandestinely within the country to repatriate North Korean citizens forcibly. According to press reports, some North Koreans detained by Chinese police faced repatriation unless they could pay bribes to secure their release." (USDOS, 27 February 2014, section 2d)

Human Rights Without Frontiers International (HRWF), a Brussels-based human rights organisation, provides the following summary information on the treatment of North Korean defectors in Chinese custody:

> "Human Rights Without Frontiers Int'l has received information directly from North Korean refugees about their ill-treatment while detained in Chinese border prisons for 'illegal immigrants,' as well as testimonies about their severe abuse in North Korea that validates their eligibility for refugee status, data that has been verified by its consistency with other testimonies. In China, defectors have been systematically beaten (often with electric batons), robbed, ill-treated, and deprived of food and medical care. They have also been raped and exposed to exploitation by human traffickers. [...]

> Between 70-80 percent of North Koreans denied refugee status and forcibly repatriated have been women, and North Korean women defectors have been subject to disproportionate abuse when apprehended by Chinese police and border guards, and in North Korea where they have subsequently been punished. HRWF has received detailed reports of rape, gang-rape, humiliating and dangerous body-cavity searches, being sold and re-sold to human traffickers, and other exploitation of defectors while in the custody of Chinese authorities." (HRWF, 4 March 2013)

The situation of North Korean women without legal status in China is described in the CECC annual report of October 2013 as follows:

> "Lacking legal status and under constant threat of forced repatriation, North Korean women who stay in China and do not travel directly to a third country remain vulnerable to abuse, trafficking, and exploitation. Independent experts estimate a majority of North Korean refugees in China are women, of which some have been trafficked into forced marriages or commercial sexual exploitation. Traffickers have used false promises to lure North Korean women into China and in some cases have resorted to kidnapping. In some regions of northeast China, particularly in rural areas, a shortage of marriageable women has created a market for trafficked North Korean brides. Some women reportedly have been sold and resold multiple times, and trafficked North Korean women have testified to being beaten and sexually abused." (CECC, 10 October 2013a, pp. 119-120)

In a June 2013 article on the deportation by Laos of nine orphaned North Korean defectors back to their homeland, Radio Free Asia (RFA) cites a defector living in South Korea who comments on the situation of parentless North Korean children in China. According to the defector, these children "are often forced to live like animals in caves and beg for food after fleeing across the border to China where they stay hidden from the authorities and find themselves eking out a threadbare existence" (RFA, 12 June 2013b).

Referring to information from the Seoul-based Chosun Ilbo newspaper, the SCMP notes in November 2013 that in the previous three weeks, Chinese authorities arrested more than 30 North Korean defectors, including 13 in Kunming, five near Beijing, seven in Shenyang and around ten in Yanji and Dandong. The article further points to an unnamed source indicating that "China distributed guidelines to front-line public security officials instructing them to handle North Korean refugees in the same manner as they would treat major criminals against the state" (SCMP, 21 November 2013).

8.2.1 Children with one North Korean parent

A May 2013 article by CNN states that children born in China from a Chinese-North Korean relationship "may not be recognized by China or North Korea, rendering them stateless. Also, they may not have proper registration in China, which is crucial for social services and education, according to human rights organizations" (CNN, 13 May 2013).

A November 2013 article by the Borgen Magazine, an online initiative of the Borgen Project which refers to itself as "a global movement of people working to bring U.S. political attention to severe poverty", summarises issues discussed at a North Korea human rights summit hosted

by the Center for Global Justice at US-based Regent University. Under the heading "lack of protection for women and children", the article notes:

> "Although Chinese law grants citizenship to children of Chinese nationals, children conceived from these de facto marriages are usually not registered with the Chinese government, in order to avoid the risk of the North Korean mother being deported and sent back. Without a hukou or official Chinese papers, thousands of children are stateless and do not have access to education and other social services." (Borgen Magazine, November 2013)

In a January 2013 Q&A with Radio Free Asia (RFA), Melanie Kirkpatrick, writer and senior fellow at the US-based, non-partisan think tank Hudson Institute, similarly says:

> "China's nationality law says that the child of a Chinese citizen is Chinese. But to claim that citizenship, the father has to register the child at his birth with the authorities. And if he registers the child, he has to reveal the existence of the child's North Korean mother, and that exposes the mother to the possibility of arrest and repatriation. So the father usually doesn't register the child, and then because the child lacks official registration papers, the child can't go to school, can't get medical care, and is essentially a nonperson in China." (RFA, 3 January 2013)

The US Department of State (USDOS) annual report of February 2014 (covering 2013) also points to the lack of access to social services for undocumented children of mixed Chinese-North Korean parentage:

> "Undocumented children of some North Korean asylum seekers and of mixed couples (i.e., one Chinese parent and one North Korean parent) did not have access to health care, public education, or other social services due to lack of legal status." (USDOS, 27 February 2014, section 2d)

Commenting on the situation of children born to North Korean women defectors and Chinese men, Mary Soo Anderson, analyst for refugees issues at SinoNK, a website referring to itself as "a scholarly collective of young Sinologists and Koreanists", states that "[a]lthough some regions of China will grant a hukou without the mother's documentation for a fee, only about a third of these children have been so fortunate" (SinoNK, 31 January 2012).

Human Rights Without Frontiers International (HRWF) states in March 2013 that estimates of the number of children born to North Korean women living illegally in China vary from 25,000 to 100,000 and that verification of the mothers' repatriation is required for such children to be granted hukous:

> "Estimates of the number of children born to North Korean women living illegally in China after crossing the border range from 25,000 to as many as 100,000. Being 'stateless' under Chinese regulations, they are denied education, health care, and any other state service. They can only be granted residence permits (Hukuo) if it is proven that their mothers were repatriated to North Korea. Some of these children have been abandoned by both parents and have learned neither Chinese nor Korean." (HRWF, 4 March 2013)

The situation of children born to North Korean women and Chinese men is also briefly addressed in the Congressional-Executive Commission on China (CECC) annual report of October 2013. As indicated in the report, "[s]everal experts and academic studies contend household registration (hukou) policies have changed in recent years to allow for a greater majority of children born to North Korean women in China to obtain official documentation":

> "Children born to North Korean women and Chinese men are increasingly being raised in China in households where either the mother or both parents are absent. In some instances, Chinese authorities repatriate North Korean mothers to the DPRK [Democratic People's Republic of Korea], while others flee to South Korea or other parts of China. One demographic study published in 2013 estimated the population in northeast China of children born to North Korean women and Chinese men since the late 1990s was between 15,000 and 25,000. Several experts and academic studies contend household registration (hukou) policies have changed in recent years to allow for a greater majority of children born to North Korean women in China to obtain official documentation needed to attend public school and gain access to other social services. Despite these changes, general poverty and the continued threat of repatriation leaves these children and their families at risk. China's repatriation policy is in violation of its international obligations under the Convention of the Rights of the Child, which prohibits separating children from their mothers." (CECC, 10 October 2013a, p. 120)

In an article dated August 2013, the South Korean daily newspaper Hankyoreh reports as follows on the findings of a survey of 100 children born to North Korean women and Chinese men that was conducted by the National Human Rights Commission of Korea (NHRCK) in four regions of China's Jilin province:

> "'Last year, we conducted a survey of 100 North Korean refugee children born in China who are living in four regions of China's Jilin Province,' the National Human Rights Commission of Korea (NHRCK) said on Aug. 19. 'Seven out of 10 respondents were not living with their mother.' The commission said that a gradually increasing number of North Korean refugee children are being left behind in China when their mothers are repatriated to North Korea or depart for South Korea. It estimated that the total number of such children is between 10,000 and 60,000. According to the results of the commission's survey into the families of North Korean refugee children in China, at the time of the survey, children in only 15 of 100 families, or 15%, were being cared for by both parents. 39% of children were being looked after by their grandparents or other relatives, while 26% were being taken care of by only one parent. 20% of children were staying at shelters for young people who are alone with no one to look after them. Generally, the reason these families are being broken up is the unstable situation the mother finds herself in after fleeing North Korea. 71 of the 100 children surveyed had lost their mother when she was repatriated to the North (50.7%) or had run away from home because of poverty or to go to the South (43.7%)." (Hankyoreh, 20 August 2013)

An older report by Human Rights Watch (HRW), dated April 2008, documents the situation (legal status, access to education) of children of North Korean mothers and Chinese fathers in the Yanbian Korean autonomous prefecture in Jilin province (HRW, April 2008).

8.2.2 Persons who assist North Koreans

The US Department of State (USDOS) annual report on trafficking in persons of June 2013 (covering April 2012 to March 2013) observes that "Chinese authorities sometimes prosecuted citizens who assisted North Korean refugees and trafficking victims, as well as those who facilitated illegal border crossings" (USDOS, 19 June 2013).

The same source says in its annual report on human rights in 2013, published in February 2014:

> "The intensified crackdown begun in 2008 against North Korean asylum seekers and refugees reportedly extended to harassment of religious communities along the border. The government arrested and detained individuals who provided food, shelter, transportation, and other assistance to North Koreans. According to reports some activists or brokers detained for assisting North Koreans were charged with human smuggling, and in some cases the North Koreans were forcibly returned." (USDOS, 27 February 2014, section 2d)

The Congressional-Executive Commission on China (CECC) annual report of October 2012 similarly states that Chinese authorities "forcibly detained, tortured, and deported those who attempted to assist North Korean refugees, including foreign aid workers and those involved with humanitarian organizations". The report notes the following specific case:

> "In March 2012, for example, Chinese state security officials in Dalian municipality, Liaoning province, detained four South Korean activists on charges of 'endangering state security,' after they allegedly interviewed North Korean refugees hiding there. The four South Korean detainees reportedly had interviewed refugees to collect information about their circumstances and the situation in the DPRK. After their release in July 2012, one of the detainees, Kim Young-hwan, alleged he was tortured while in Chinese custody." (CECC, 10 October 2012, p. 110)

The treatment of aid workers attempting to assist North Korean refugees is also briefly addressed in a March 2013 report by Human Rights Without Frontiers International (HRWF):

> "Aid workers seeking to assist North Korean refugees and their children have been prosecuted, jailed, expelled and ill-treated, some charged with 'illegal religious activities' and providing social welfare assistance to those who are not officially registered." (HRWF, 4 March 2013)

T. Kumar, International Advocacy Director at Amnesty International USA, states in March 2012:

> "The government of China have on occasion also arrested and imprisoned NGO activists – most of whom are South Korean or Japanese nationals – and others who have been attempting to help North Koreans to leave China and reach South Korea." (Kumar, 5 March 2012)

8.3 Uyghur (also Uygur, Uighur or Weiwu'er)

This section should be read in association with section 7.3.2 and section 14.2 of this compilation.

A July 2008 article by Minority Rights Group International (MRG) provides the following demographic information regarding the Uyghur ethnic minority of China:

> "Uyghurs speak a south-eastern Turkic language and are thought to currently number around 8.6 million, though some groups assert that their numbers are much higher. They tend to be mainly concentrated in the north-western corner of China and, until recently, a substantial majority in the Xinjiang Uyghur Autonomous Region (XUAR). Most are Sunni Muslims. The Uyghurs are a majority in western XUAR and in the Turpan prefecture, while Han Chinese are the majority in most major cities and in the east and north. There are also Uyghurs found in Hunan province in south-central China." (MRG, July 2008a)

An undated entry on Uyghurs in the Encyclopaedia Britannica states:

> "The chief Uighur cities are Ürümqi, the capital of Xinjiang, and Kashgar (Kashi), an ancient centre of trade near the Russian-Chinese border. The Uighurs have lacked political unity in recent centuries, except for a brief period during the 19th century when they were in revolt against Beijing. Their social organization is centred on the village. The Uighurs of Xinjiang are Sunni Muslims. Large numbers of Han (ethnic Chinese) have moved into Xinjiang, especially since the 1990s. This produced economic disparities and ethnic tensions between the Uighur and Han populations that sometimes resulted in protests and other disturbances. A particularly violent outbreak occurred in July 2009, mainly in Ürümqi, in which scores of people were killed and hundreds more were injured." (Encyclopaedia Britannica, undated)

A December 2013 article by CNN states that the size of the Han population in Xinjiang has grown from 220,000 in 1949 to currently more than eight million, with Xinjiang's Uyghur population numbering ten million. The situation of the Uyghurs is briefly described as follows:

> "The arrival of waves of Han Chinese people over the decades has fueled tensions with the Uyghurs. [...] The newcomers take most of the new jobs, and unemployment among Uyghurs is high. They complain of discrimination and harsh treatment by security forces, despite official promises of equal rights and ethnic harmony." (CNN, 16 December 2013)

The situation of China's Uyghur ethnic minority is also briefly addressed in a BBC News Q&A, published in October 2013:

> "Activists say the Uighurs' religious, commercial and cultural activities have been gradually curtailed by the Chinese state. China is accused of intensifying its crackdown on the Uighurs after street protests in the 1990s – and again in the run-up to the Beijing Olympics in 2008. Over the past decade, many prominent Uighurs have been imprisoned or have sought asylum abroad after being accused of terrorism. China is said to have exaggerated the threat from Uighur separatists in order to justify repression in the region. Beijing has also been accused of seeking to dilute Uighur influence by arranging the mass

> immigration of Han Chinese, the country's majority ethnic group, to Xinjiang. Uighurs have become a minority in Xinjiang due to this influx." (BBC News, 29 October 2013)

The Human Rights Watch (HRW) annual report of January 2014 (covering 2013) states that "[p]ervasive ethnic discrimination, severe religious repression, and increasing cultural suppression justified by the government in the name of the 'fight against separatism, religious extremism, and terrorism' continue to fuel rising tensions in the Xinjiang Uyghur Autonomous Region" (HRW, 21 January 2014).

The US Department of State (USDOS) writes in its annual report on human rights in 2013 that Xinjiang authorities continued their crackdown on the region's Uyghur population and the "government-designated 'three forces' of religious extremism, 'splittism', and terrorism":

> "Authorities continued to implement repressive policies in the XUAR and targeted the region's ethnic Uighur population. Officials in the XUAR continued to implement a pledge to crack down on the government-designated 'three forces' of religious extremism, 'splittism,' and terrorism, and they outlined efforts to launch a concentrated antiseparatist re-education campaign. Some raids, detentions, and judicial punishments ostensibly directed at individuals or organizations suspected of promoting the 'three forces' appeared to be targeted at groups or individuals peacefully seeking to express their political or religious views. The government continued to repress Uighurs expressing peaceful political dissent and independent Muslim religious leaders, often citing counterterrorism as the reason for taking action." (USDOS, 27 February 2014, section 6)

The Human Rights Watch (HRW) annual report of January 2013 (covering 2012) notes the existence of "a pervasive system of ethnic discrimination" against Uyghurs and other ethnic minorities in the Xinjiang Uyghur Autonomous Region (XUAR):

> "Under the guise of counterterrorism and 'anti-separatism' efforts, the government maintains a pervasive system of ethnic discrimination against Uighurs and other ethnic minorities in the Xinjiang Uighur Autonomous Region, and sharply curbs religious and cultural expression. Politically motivated arrests are common. A pervasive atmosphere of fear among the Uighur population contributes to growing ethnic polarization. Factors contributing to this bleak atmosphere include the omnipresence of the secret police, the recent history of disappearances, and an overtly politicized judiciary." (HRW, 31 January 2013)

The same report goes on to state:

> "Also contributing to this [ethnic] polarization is the legacy of the Urumqi riots of July 2009, the most deadly episode of ethnic unrest in recent Chinese history. The government has not accounted for hundreds of persons detained after the riots, investigated serious allegations of torture and ill-treatment of detainees that have surfaced in testimonies of refugees and relatives living outside China, or released definitive numbers or names of victims – the majority of whom were ethnic Chinese – killed during the riots." (HRW, 31 January 2013)

A July 2012 press release by Amnesty International (AI) states that three years after the 2009 Urumqi riots, "dozens, if not hundreds, of Uighurs remain subjected to enforced disappearance by the authorities, their families given no information on their whereabouts, well-being or legal status". Families seeking information about their missing relatives have been detained, threatened and intimidated by Xinjiang authorities "in a sustained attempt to stop them searching or petitioning higher authorities". The press release provides "selected accounts of disappeared individuals whose cases were first made public by RFA [Radio Free Asia] and which Amnesty International has been able to confirm through a variety of additional sources". (AI, 4 July 2012)

According to the USDOS annual report on human rights in 2013, "Uighurs continued to be sentenced to long prison terms, and in some cases executed without due process, on charges of separatism and endangering state security" (USDOS, 27 February 2014, section 6).

MRG's report State of the World's Minorities and Indigenous Peoples 2013, published in September 2013, points to an "alarming number of Uighurs on trial for 'endangering state security'" and adds that according to Dui Hua, a US-based non-profit humanitarian organisation, "Uighurs, who account for less than 1 percent of the population in China, comprise about half of all those on trial for endangering state security" (MRG, 24 September 2013, p. 165).

In a press release of February 2014, Dui Hua notes with regard to "endangering state security" (ESS) trials in Xinjiang:

> "Dui Hua estimates that the number of endangering state security (ESS) trials in the Xinjiang Uyghur Autonomous Region (XUAR) rose 10 percent to nearly 300 trials in 2013. The estimate is based on information reported in the annual work report of the XUAR High People's Court. In marked contrast with the transparency with which it treated ESS trial numbers in reports issued since 2008, this year's report does not provide the exact number of ESS trials concluded. [...] Dui Hua believes that, as in previous years, XUAR continued to account for the majority of ESS trials nationwide. [...] The geographic spread of ESS trials is not even throughout the region. Kashgar alone tries more than 60 percent of Xinjiang's ESS cases. The intermediate court in Kezilesu Kirghiz [Kizilsu] Autonomous Prefecture tried 18 ESS cases involving 29 individuals in 2013, while in the first 10 months of 2013, Hami Prefecture Intermediate People's Court concluded just one case of inciting splittism. Although often conflated, ESS crimes do not include terrorism; instead, they often involve speech and association. [...] The vast majority of ESS defendants appear to be Uyghurs passing through Kashgar, but their identities, acts, and fates remain unknown." (Dui Hua, 10 February 2014)

Commenting on developments in Xinjiang, the HRW annual report of January 2013 states that "[t]he government continues to raze traditional Uyghur neighborhoods and rehouse families in planned settlements as part of a comprehensive development policy launched in 2010". According to the government, "the policy is designed to urbanize and develop Xinjiang" (HRW, 21 January 2014).

With regard to the redevelopment of traditional Uyghur neighbourhoods in Xinjiang, the USDOS annual report of February 2014 says:

> "Redevelopment in traditional Uighur neighborhoods in cities throughout the XUAR, such as the Old City area in Kashgar, resulted in the destruction of historically or culturally important areas. Some residents voiced opposition to the lack of proper compensation provided by the government and coercive measures used to obtain their agreement to redevelopment." (USDOS, 27 February 2014, section 1f)

For additional information on the destruction of Uyghur neighbourhoods in Kashgar and throughout Xinjiang, please refer to the following April 2012 report by the Washington D.C.-based advocacy organisation Uyghur American Association (UAA):

- UAA - Uyghur American Association (UAA): Living on the Margins: The Chinese State's Demolition of Uyghur Communities, April 2012
  http://docs.uyghuramerican.org/3-30-Living-on-the-Margins.pdf

The USDOS informs that ethnic Uyghurs faced difficulties in obtaining passports and that "some residents of the XUAR and other citizens" had their valid passports seized:

> "Ethnic Uighurs, particularly those residing in the XUAR, reported that it was very difficult to get a passport application approved at the local level. They were frequently denied passports to travel abroad, particularly to Saudi Arabia for the haj, other Muslim countries, or Western countries for academic or other purposes. Authorities reportedly seized valid passports of some residents of the XUAR and other citizens." (USDOS, 27 February 2014, section 2d)

A November 2013 article by Radio Free Asia (RFA) reports on a newly introduced policy for passport applications, which Uyghurs in Xinjiang claim "is intended to benefit only the majority Han Chinese":

> "Ethnic Uyghurs in China's troubled Xinjiang region are facing increasing travel restrictions despite a policy introduced last month aimed at simplifying procedures for citizens to apply for passports, sources say. The new policy allows applicants to submit their passport applications at 'one-stop' government processing centers, usually police stations, instead of having to obtain approval stamps at as many as 18 separate locations. But the mostly Muslim Uyghurs in the Xinjiang Uyghur Autonomous Region (XUAR) complain that the new policy is intended to benefit only the majority Han Chinese and discriminates against them, according to sources. They say they find it difficult to use the new system because the one-stop government-run processing centers have not yet opened in Uyghur-majority areas of Xinjiang such as Ghulja, Aksu, Hotan, or Kashgar, sources say. Because of this, Uyghurs often turn to privately run centers, which sometimes demand bribes, to process their applications." (RFA, 20 November 2013)

In its annual report of October 2013, the Congressional-Executive Commission on China (CECC) reports of job discrimination against non-Han groups, including Uyghurs, in Xinjiang Uyghur Autonomous Region (XUAR):

> "Some government and private employers in the XUAR continued to discriminate against non-Han job candidates. As in past years, some job announcements reserved positions exclusively for Han Chinese in civil servant posts and private-sector jobs, in contravention of provisions in Chinese law that forbid ethnic discrimination. Private and public employers also continued to reserve more positions for men, leaving non-Han women to face both ethnic and gender discrimination in the employment process. A study conducted by the University of Melbourne, Australia, and published in November 2012, found that Han Chinese residents of the XUAR are much more likely than Uyghur residents to secure employment in high-paying, high-status occupations, a trend that has exacerbated ethnic tensions in the region." (CECC, 10 October 2013a, p. 167)

Commenting on the same topic, an October 2013 article by the New York Times (NYT) notes:

> "Roughly half of the 161 positions advertised on the Civil Servant Examination Information Web site indicate that only ethnic Han Chinese or native Mandarin speakers will be considered. [...] Uighurs are largely frozen out of the region's booming gas and oil industry, airport jobs are mostly reserved for Han applicants, and truck drivers whose national identity cards list their ethnicity as Uighur cannot obtain the licenses required to haul fuel, an unwritten rule based on the fear that oil and gas tankers could easily be turned into weapons, according to several trucking companies." (NYT, 7 October 2013, p. 1)

The same article states that "[s]ince 2004, a so-called bilingual education initiative has required teachers in much of the region to use mandarin for nearly every subject". According to the article "[t]he authorities insist that the policy is aimed at helping Uighurs compete in a country where Mandarin is the lingua franca, but many parents, teachers and Uighur intellectuals are unconvinced" (NYT, 7 October 2013, p. 2). A January 2013 article by RFA similarly notes that "[u]nder the regional 'bilingual education' policy implemented over the past decade, schools that used to be run in Uyghur are teaching most of their lessons in Chinese, and Uyghur teachers are being replaced by Han Chinese" (RFA, 31 January 2013).

8.3.1 Uighur-Han clashes

The Congressional-Executive Commission on China (CECC) annual report of October 2013 states with regard to conflict in Xinjiang that "[i]nstances of violence throughout the spring and summer reportedly resulted in numerous deaths, both Han Chinese and Uyghur, with reported death tolls ranging from dozens to 100 or possibly more" (CECC, 10 October 2013a, p. 163).

Radio Free Asia (RFA) reports on the following incident in Xinjiang's Hotan city on 28 June 2013, in which at least three people are said to have been killed:

> "Local officials also said at the weekend that least three people were killed in separate violence in Tuanjie Square in Hotan city on Friday amid conflicting reports on circumstances that led to the incident. Abdulla Metkurban [the Communist Party chief of No. 13 village in Hanerik] said he was informed that a group of Uyghurs attacked five Han Chinese with knives, killing three and injuring the others, triggering a security clampdown and arrests. [...] But a local Uyghur farmer told RFA that more than 200 people from

> Tuanjie Square had marched on the streets after Friday prayers to protest against 'oppression,' resulting in a crackdown." (RFA, 30 June 2013)

Another article by RFA, published on 26 May 2013, reports on deadly clashes between Han Chinese and Uyghurs in the town of Kargilik (known in Chinese as Yecheng) in Xinjiang's Kashgar prefecture:

> "Deadly clashes between Han Chinese and Uyghurs broke out over the weekend in western China's restive Xinjiang region, according to local residents and officials, who said authorities were strictly controlling information about the incident. A local resident speaking on condition of anonymity said Saturday's clash at the local bazaar in the town of Kargilik (in Chinese, Yecheng) in Xinjiang's Kashgar prefecture left five people dead – three of them Uyghurs and two Han Chinese – and others wounded. Local officials contacted by RFA could not confirm the number of those killed or injured, but said a violent incident had occurred at the bazaar and enhanced security measures had been put in place in response." (RFA, 26 May 2013)

As noted by RFA in July 2013, hundreds of Uyghurs have been taken into custody for questioning following a deadly attack on Han Chinese dam workers in Xinjiang's Qaraqash (Moyu) county on 20 May 2013:

> "Chinese authorities have detained for questioning hundreds of ethnic minority Uyghurs and are hot on the trail of two key suspects in connection with a fatal knife attack on Han Chinese workers building a dam in the restive Xinjiang region, according to local officials and residents. Dozens still remain in custody following the May 20 attack which led to the death of seven Han Chinese workers building a dam on the Qaraqash River in Hotan (In Chinese, Hetian) prefecture's Qaraqash (Moyu) county. [...] Memtimin Yasin, the leading official of the Chinese Communist Party for No. 11 Village in Qaraqash's Hanerik township, confirmed the incident in an interview with RFA. [...] The party secretary said that while he did not know the reason for the attack, he believed it was 'politically motivated.' 'Usually, fights or quarrels occur between Han immigrants [to Xinjiang] and Uyghurs over land and water disputes, or sometimes over cultural differences,' he said. 'This time it appears that it was more politically motivated.' [...] Residents of Hanerik township also confirmed the incident, saying the alleged attackers were members of a group which sought independence for Xinjiang from Chinese rule." (RFA, 29 July 2013)

In April 2013, RFA reports that a seven-year-old Uyghur boy was stabbed to death by a Han Chinese suspect in Xinjiang's Pichan (known in Chinese as Shanshan) county, prompting attempted revenge attacks by Uyghur residents on Han Chinese homes:

> "A seven-year-old Uyghur boy has been hacked to death by a Han Chinese male suspect in an incident that has ignited ethnic tensions in China's restive northwestern Xinjiang region, according to police and local residents. Uyghur residents of the boy's village in Pichan (in Chinese, Shanshan) county in Xinjiang's Turpan prefecture angry over the March 21 killing attempted to attack Han Chinese homes in the village, prompting a police crackdown, sources said. [...] The boy, Enkerjan Ariz, was playing with two other children near a brick kiln run by Han Chinese residents in the township's Dighar village before he

was killed, a senior police official in the neighboring Lukchun village told RFA's Uyghur Service. 'One Han Chinese worker from the brick kiln thought they had come to steal something and he caught one of them,' the senior police official Ahmet Ismail said. 'The other two ran away, and the Han Chinese took the child into his home and killed him.'" (RFA, 9 April 2013)

A March 2013 article by the Japanese non-profit cooperative news agency Kyodo News, referring to information provided by BBC News, the Hong Kong-based Information Center for Human Rights and Democracy and Radio Free Asia, reports on the following incident:

"A knife attack in northwest China's restive Xinjiang Uyghur Autonomous Region has left four people dead and at least eight others injured, the BBC reported Friday. It quoted Xinjiang government spokeswoman Hau Hanmin as saying a suspect was arrested in the attack, which happened in Korla City of Bayingolin Mongolian Autonomous Prefecture on Thursday. She could not confirm the ethnicity of the suspect or the victims, nor did she make it clear whether the incident was related to the separatist movement involving Uyghur Muslims. But according to the Hong Kong-based Information Center for Human Rights and Democracy, the attacker was Uyghur and all the victims – four who died and 13 who were injured – were Han Chinese. The advocacy group said the attacker had earlier quarreled with a Han Chinese in a business area of Korla, the center of Xinjiang's oil industry. It said the area was placed under curfew after the attack. U.S.-based Radio Free Asia said two Uyghur attackers may have been involved." (Kyodo News, 8 March 2013)

The US Department of State (USDOS) notes in its annual report on religious freedom in 2012, published in May 2013, that "[i]n the XUAR [Xinjiang Uighur Autonomous Region], tension between Han Chinese and Uighur Muslims continued during the year" (USDOS, 20 May 2013, section 3). According to the International Work Group for Indigenous Affairs (IWGIA), in 2012, there were riots and clashes between Uyghurs and Han Chinese in Kashgar in the XUAR (IWGIA, May 2013, p. 232).

The USDOS reports as follows on a February 2012 stabbing attack in Yecheng, XUAR, noting that details of the incident were disputed:

"There were conflicting accounts of a February 28 clash in Yecheng, XUAR, in which knife-wielding assailants killed 13 pedestrians and injured many others. According to an official news report, during an exchange of gunfire with the attackers, police killed seven Uighur men and captured one. Overseas groups claimed that the attack was spurred by Uighur anger over the migration of ethnic Han to the area and targeted security personnel. While official reports did not specify the ethnicity of the attackers or victims, an exile group claimed that 10 Uighurs, seven police officers, and five others were killed in the incident. RFA [Radio Free Asia] separately reported that Uighurs had killed three ethnic Han and that police killed 12 young Uighurs." (USDOS, 19 April 2013, section 1a)

8.3.2 Clashes with security forces

Kristin Kupfer, head of the research group on Society, Media, and Contemporary Culture in China at the Berlin-based independent think tank Mercator Institute for China Studies, writes in a January 2014 article for the Federal Agency for Civic Education (Bundeszentrale für politische Bildung, BPB), an agency subordinated to the German Federal Ministry of the Interior, that clashes between Uyghurs and Chinese security authorities escalated in 2013. According to Kupfer, the months of April, June and November 2013 witnessed several major attacks by Uyghurs on Chinese civilians and police in the west and south of Xinjiang, resulting in the deaths of at least 67 people. In August 2013, during raids near the city of Kashgar, local police shot dead at least 28 Uyghurs. (BPB, 7 January 2014)

The Associated Press (AP) notes in an article of January 2014 that according to state media, the Xinjiang Uyghur Autonomous Region (XUAR) "is doubling its budget for fighting terrorism following an unusually bloody year". According to the AP, the increase follows "a series of clashes between authorities and members of Xinjiang's native Turkic Muslim Uighur ethnic group that have left scores dead". (AP, 17 January 2014)

A January 2014 article by the South China Morning Post (SCMP) also notes "a series of clashes in recent months between members of the Uyghur ethnic minority and security forces" and quotes Raffaello Pantucci, a senior research fellow with the London-based Royal United Services Institute for Defence and Security Studies, as estimating the number of fatalities from these clashes to be at least 130 in 2013. According to Pantucci, four years after the 2009 riots in Urumqi, "it seems that the violence is creeping up again". The same article also contains a list of violent attacks in 2013 as well as a map illustrating where these attacks took place. (SCMP, 2 January 2014)

Another list of violent incidents during 2013 involving members of the Uyghur ethnic minority is provided in a January 2014 article by Henryk Szadziewski, a senior researcher of the Uyghur Human Rights Project (UHRP). Szadziewski points out that "[m]any of the details of these incidents are not confirmed, underscoring the lack of information at hand", but goes on to state:

> "If the details [...] can be substantiated, up to 219 people died in violent incidents in Xinjiang in 2013. Uyghur civilians comprise the overwhelming majority of the dead, and in most instances they were killed by Chinese security forces. The large number of Uyghurs shot in 2013 has led some Uyghur activists to speculate that a 'shoot first' policy may be in effect in the Uyghur region. Chinese state media have alleged that ten 'terrorist attacks' occurred in Xinjiang during the year, including the incidents in Hanerik, Lukchun and (on 16 November) in Seriqbuya. But in these instances, and in the incidents unconfirmed by Chinese authorities, the violence seems to have been the result of localised religious disputes and heavy-handed security measures." (Szadziewski, 15 January 2014)

The US Department of State (USDOS) notes in its annual report on human rights in 2013, published in February 2014:

> "A number of violent incidents in the XUAR resulted in multiple deaths. Official accounts of these events generally blamed 'terrorists,' 'separatists,' and 'religious extremists' for what were portrayed as violent terrorist attacks on community members and security personnel. Human rights organizations, on the other hand, asserted that security forces often shot at groups of Uighurs in their homes or during worship. The government's control of information coming out of the XUAR, together with its increasingly tight security posture there, made it difficult to verify the conflicting reports." (USDOS, 27 February 2014, section 1a)

In a December 2013 article detailing an alleged attack on a police station in Yarkand county, the Tokyo-based current affairs magazine The Diplomat states that violent incidents are "increasingly common" in Xinjiang. The article continues:

> "According to South China Morning Post, the area near Kashgar alone has seen at least 72 deaths due to violent clashes since April 2013. In Xinjiang as a whole, there have been nearly 115 deaths, not counting the five people who died after the October attack in Beijing's Tiananmen Square. This is an issue that is likely continue into 2014 and beyond. While it's difficult to verify the motives behind any particular attack, the reasons for general tensions in Xinjiang are easier to pin down. According to Uyghur activists, the native Uyghur population feels repressed, especially when it comes to religious expression. Meanwhile, the influx of immigrants from China's majority Han ethnic group has caused complaints that the Chinese government is attempting to marginalize Uyghurs within their own homeland. There is also a perception among some Uyghurs that the majority of economic progress in the region benefits these Han immigrants, rather than the natives." (Diplomat, 31 December 2013)

The October 2013 annual report of the Congressional-Executive Commission on China (CECC) mentions the following June and August 2013 incidents:

> "In June and August, several incidents reportedly occurred involving security forces' deadly use of force against crowds of Uyghurs. According to official media, on June 28, security forces detained people involved in a 'group disturbance' in Hanerik (Hanairike) township, Hotan county. Overseas media and rights groups reported that security forces fired on a crowd of Uyghurs in Hanerik, resulting in a number of deaths and injuries, with reported death tolls ranging from up to 15 people to more than 100. RFA reported that on August 8, a clash between police and local residents in Aykol township, Aksu city, Aksu prefecture, over religious restrictions led to the deaths of at least three Uyghurs when security forces fired on a crowd of protestors. [...] Overseas media reported that on August 20 in Yilikqi township, Kargilik (Yecheng) county, Kashgar prefecture, Chinese police shot and killed 22 Uyghurs they suspected of terrorism, while the Uyghurs were performing prayers. Official media confirmed the raid, providing information about a Chinese police officer killed in the incident, but did not confirm or deny the 22 Uyghur casualties. On August 23, in Kuybagh (Kuiyibage) township, Poskam (Zepu) county, Kashgar prefecture, security forces reportedly shot and killed 12 Uyghurs and injured 20 authorities said were engaging in building and testing explosives at a 'terrorist' facility." (CECC, 10 October 2013a, pp. 164-165)

In an article dated 27 June 2013, Agence France-Presse (AFP) news agency reports on deadly riots in Turpan city's Lukqun township which it describes as "the deadliest spasm of violence to hit the troubled western region [of Xinjiang] since 2009". The article includes information provided by the state-run Xinhua news agency and the exiled World Uyghur Congress:

> "Armed police in China's ethnically divided Xinjiang Thursday blocked the road to the site of riots that killed 27 people a day earlier in the region's deadliest violence in years, which state media called a 'terrorist incident'. [...] The Xinhua state news agency said Wednesday that 'knife-wielding mobs' attacked police stations and other locations, and nine police or security guards and eight civilians were killed before police opened fire. The reason for the violence was not immediately clear, but state-run media on Thursday called it a 'terrorist incident'. [...] The World Uyghur Congress, a group run by exiled Uighurs, said the incident was 'evidence of China's failed policies towards Uyghurs', in a statement, adding: 'This incident has occurred around the arrival of Ramadan, which is severely repressed each year.' The group said 'an information blackout and security crackdown' in the area called into question state media's account of the clashes." (AFP, 27 June 2013)

Reporting on the same incident, Radio Free Asia (RFA) states that according to local officials and residents, at least 46 people were killed "following an attack on police and government establishments by disgruntled ethnic minority Uyghurs" (RFA, 27 June 2013).

The following April 2013 incident is cited in the USDOS human rights report of February 2014:

> "[...] on April 24, at least 21 persons were killed in a clash in Barchuk County, XUAR: nine bystanders, six police, and six Uighurs (described in the official press as 'thugs'). According to the official account, gunfights broke out when police entered persons' homes to search for 'illegal knives.'" (USDOS, 27 February 2014, section 1a)

In its annual report on human rights in 2012, the same source notes that "[i]n November, in Zhenping County, Henan Province, a Han Chinese man reportedly lifted the veil of a Uighur Muslim girl, resulting in clashes between 1,000 Uighurs and local riot police". Several of the rioters were subsequently detained (USDOS, 19 April 2013, section 3).

An October 2012 article by RFA, with reference to the World Uyghur Congress and Hong Kong's Sun newspaper, reports on a deadly incident involving police and members of the Uyghur ethnic minority in Xinjiang's Korla city:

> "Authorities in China's troubled northwestern region of Xinjiang are carrying out raids on the homes of local residents following clashes between ethnic minority Muslim Uyghurs and armed police in the region's central city of Korla, an exile group said. Dilxat Raxit, spokesman for the Munich-based World Uyghur Congress, said there had been deaths and injuries among police and protesters on Friday after angry Uyghurs gathered outside a police station on Tuanjie Road in the city. [...] Hong Kong's Sun newspaper reported on Tuesday that three Uyghurs had attacked two or three members of China's People's Armed Police force at a police station in Korla on Friday. Police had then opened fire, killing one attacker and injuring another, while the third was on the run, the paper said.

> Police had set up patrols and checkpoints across the city following the attack, and have forbidden local media to report the incident, it said." (RFA, 23 October 2012)

8.3.3 Separatist movements/terrorist groups

The Netherlands Ministry of Foreign Affairs (Ministerie van Buitenlandse Zaken, BZ) states in its country report on China, published in December 2012, that several groups strive for an independent Xinjiang that would be called East Turkestan. According to the Chinese authorities, Uyghurs, represented by, amongst others, the East Turkestan Islamic Movement (ETIM), the East Turkestan Islamic Party, the East Turkestan Liberation Organisation, The Shock Brigade of the Islamic Reformist Party and the East Turkestan Opposition Party, are guilty of different terrorist activities. The East Turkestan Islamic Movement (ETIM) was listed as a terrorist organisation by the United States and the United Nations in 2002. The Chinese authorities have adopted a hard stance in their fight against the "Three Evils" and hardly make any distinction between peaceful and violent forms of protest. Rebiya Kadeer, the exiled president of the World Uyghur Congress (WUC), was accused of being behind the July 2009 riots. While Kadeer is considered by the Chinese authorities to be the head of a subversive and separatist movement, human rights organisations in Western countries regard her as a prominent human rights defender. The Chinese authorities deal with separatist activities in the same way as they deal with terrorism. According to the Netherlands Ministry of Foreign Affairs, anyone involved in either of these two is at high risk of being persecuted and tortured. The Regional Ministry of Justice in Xinjiang estimates that there are 40 to 50 active separatist organisations, but this number fluctuates. These groups are mainly local but there are also reports of international linkages. A small minority of Uyghurs resort to violence to lend weight to their independence efforts. (BZ, 11 December 2012, pp. 77-78)

In a 2013 paper, Jianyu Zhu, who, at the time of writing the paper, was a scholar at the Belfer Center for Science and International Affairs at Harvard University, informs that "[s]everal organisations are regarded as terrorist organisations by China's Ministry of Public Security", including "the Eastern Turkestan Islamic Movement (ETIM), the East Turkestan Liberation Organisation (ETLO), the World Uyghur Congress, and the East Turkistan Information Center" (Zhu, 2013, p. 2).

According to an older article published by the state-run Xinhua news agency in December 2003, China has established criteria for identifying a terrorist or terrorist organisation:

> "The criteria for identifying a terrorist organization are as follows:
>
> (I) An organization or organizations that engage in terrorist activities endangering national security or social stability, and harm the life and property through violence and terror (regardless of whether it is based in or outside of China);
>
> (II) Some form of division for organization and leadership work, or system of division;
>
> (III) Meeting the aforementioned criteria and having involved in any of the following activities: (a) Organizing, masterminding, instigating, staging or taking part in terrorist activities; (b) offering funding assistance or support for terrorist activities; (c) having a

base or bases for terrorist activities, or recruiting and training terrorists in an organized way; (d) collaborating with other international terrorist organizations, accepting funding, training of other international terrorist groups, or taking part in their activities.

The criteria for a terrorist is as follows:

(I) Having contact with a terrorist organization and engaging in terrorist activities at home or abroad that endanger national security and life and property of people (regardless of whether or not the terrorist has been naturalized as a citizen of another nation);

(II) Meeting the aforementioned criteria and being involved in any of the following activities: (a) organizing, heading or taking part in a terrorist organization; (b) organizing, plotting, instigating and inciting terrorist activities; (c) providing funding and assistance for terrorist organizations or terrorists for terrorist activities; (d) accepting funding support or training from aforementioned organizations and other international organizations or pitching in their activities.

The four identified 'East Turkistan' terrorist organizations are the East Turkistan Islamic Movement (ETIM), the East Turkistan Liberation Organization (ETLO), the World Uighur Youth Congress (WUYC)[8] and the East Turkistan Information Centre (ETIC). [Passage omitted]

All those terrorist groups were founded outside China and have plotted, organized and staged terrorist activities and violence, including bombings, assassinations, arson, poisonings, attacks in China's Xinjiang Uighur Autonomous Region and other areas, and some other countries." (Xinhua, 15 December 2003)

The US Department of State (USDOS) annual report on terrorism in 2012, published in May 2013, mentions that the East Turkestan Islamic Movement (ETIM) remained the primary focus of China's counterterrorism efforts, adding that human rights groups maintain that counterterrorism is used as a pretext to crack down on Uyghurs:

"China's domestic counterterrorism efforts remained primarily focused against the East Turkestan Islamic Movement (ETIM) in the Xinjiang Uighur Autonomous Region (XUAR) of northwest China. In public statements, government officials singled out the 'Three Evils' of extremism, separatism, and terrorism in Xinjiang as the main terrorist threat to the nation and characterized Uighur discontent as terrorist activity. Human rights organizations continued to maintain that China used counterterrorism as a pretext to suppress Uighurs, a predominantly Muslim ethnic group that makes up a large percentage of the population of the XUAR." (USDOS, 30 May 2013)

The same report states that in 2012, "[t]he Chinese government characterized two incidents in the XUAR as terrorist attacks". The first is a February 2012 stabbing attack in Yecheng, XUAR, already mentioned in the previous section (8.3.2), the second is summarised in the report as follows:

[8] In 2004, the WUYC and the East Turkestan National Congress merged to form the World Uyghur Congress (WUC) (WUC, undated).

> "On June 29, six Uighurs allegedly attempted to hijack a Chinese airliner en route from Hotan to Urumqi, and injured 10, reportedly using aluminum pipes from a dismantled pair of crutches. According to official Chinese media, three Uighurs were sentenced to death and one received life in prison after reportedly confessing to the crimes of organizing, leading, or participating in a terrorist group, hijacking, and attempting to detonate explosives on an aircraft." (USDOS, 30 May 2013)

A November 2013 Q&A on the ETIM, prepared by BBC News, lists the following overview information on the group:

> "The East Turkestan Islamic Movement (ETIM) is a small Islamic separatist group said to be active in Xinjiang province in western China. [...] The US state department described ETIM as 'the most militant of the ethnic Uighur separatist groups' in 2006. It is said to want to establish an independent 'East Turkestan' in China. ETIM was reportedly founded by Hasan Mahsum, an Uighur from Xinjiang's Kashgar region. Listed as China's most-wanted terrorist, he was shot dead by Pakistani troops in 2003. The group was later led by Abdul Haq, who was also reportedly killed in Pakistan in 2010. [...] The scope of ETIM's activities is not clear. Information from Xinjiang is tightly controlled, particularly concerning incidents that occur there. China often blames ETIM or ETIM-inspired groups for outbreaks of violence in Xinjiang, but details are hard to confirm. Sometimes differing accounts of the cause of the violence – that point to ethnic and religious tensions rather than extremism – emerge subsequently. Uighur groups, meanwhile, claim China exaggerates the threat from ETIM to justify repressive security in the province. Violent attacks attributed to ETIM tend to be small-scale, and correspondents say that there are questions about the group's capacity to organise any serious acts of terror in China." (BBC News, 1 November 2013)

As regards the question of the level of threat emanating from ETIM, BBC News notes with reference to the Chinese Ministry of Foreign Affairs and a professor at Griffith University in Sydney:

> "China describes ETIM as a violent separatist group and a terrorist organisation. Following the Tiananman car crash, Chinese foreign ministry spokeswoman Hua Chunying called the group 'the most immediate and realistic security threat in China'. It and other organisations 'have long been engaged in central, east and west Asia, and have colluded with other international terrorist organisations', she said. However, Michael Clarke, a professor at Griffith University in Sydney who has written about Xinjiang, told AFP news agency: 'It's not that China shouldn''t be concerned [about ETIM's ties to Pakistan and central Asian countries], but the core issue is that the linkages have been exaggerated by the Chinese government.'" (BBC News, 1 November 2013)

The Council on Foreign Relations (CFR), a private think tank based in New York specialising in US foreign policy and international affairs, writes in a backgrounder of December 2013 that "[e]xperts say detailed, reliable information about the ETIM is hard to come by, and they disagree about the extent of the ETIM's terrorist activities and ties to global terrorism" (CFR, 3 December 2013).

CNN, commenting on the deadly attack in Beijing's Tiananmen Square in October 2013, notes that according to a report by the SITE Intelligence Group, an organisation that monitors extremist websites, the leader of the militant Turkestan Islamic Party (TIP), Abdullah Mansour, "said those who carried out the attack [...] were 'mujahideen'". However, "[i]t was unclear from the SITE report if Mansour was claiming responsibility for the Tiananmen attack or just commenting on it". According to CNN, Chinese authorities have said they believe the attack was instigated by the ETIM (CNN, 25 November 2013). Further information on the TIP and its relationship with the ETIM is set out as follows:

> "The relationship between the E.T.I.M. and the T.I.P. is unclear. Some analysts suggest that the two may be part of the same organization. The T.I.P. has been cited in previous years as threatening revenge over Chinese treatment of Uyghurs, but little is known about the group. 'As far as anyone knows, the Turkestan Islamic Party may only exist in name alone,' said Nicholas Dynon, a researcher at Macquarie University in Australia. 'It has been referred to as one of the many jiangdu (or, Xinjiang independence) groups for many years, yet no one is quite sure whether or not they exist – at least in their own right.' The available evidence on separatist organizations in Xinjiang points to 'several disparate groups that neither have a history of coordination nor – it would appear – the means or will to coordinate,' he said. 'What we know of them is largely through two diametrically opposed parties: the Chinese government and Uyghur diaspora groups,' Dynon said. 'And the truth about T.I.P. and its counterparts lies somewhere in the information vacuum between the two.' He said he was skeptical that the T.I.P. had carried out the Tiananmen attack. 'Jiangdu groups have supposedly claimed responsibility for attacks outside of Xinjiang in the past, but such claims have never been verified,' he said." (CNN, 25 November 2013)

The above-cited CFR backgrounder of December 2013 cites different sources commenting on the relationship between the TIP and the ETIM:

> "The U.S.-based intelligence firm Stratfor says the Turkestan Islamic Party (TIP) is another name for the ETIM. That group took credit for a series of attacks in several Chinese cities in 2008, including deadly bus explosions in Shanghai and Kunming. According to Stratfor, the TIP's 'claims of responsibility appear exaggerated, but the threat TIP poses cannot be ignored.' Stratfor also says that the TIP had expanded its presence on the Internet, issuing videos calling for a jihad by Uighurs in Xinjiang. Ben N. Venzke, head of the U.S.-based independent terrorism-monitoring firm IntelCenter, says it is unclear whether the TIP is a separate group or part of the ETIM. However, he says the group's objectives are similar to those of the ETIM, whose goals are both Islamist and nationalist. Others are not convinced. Omer Kanat, senior editor of the Uighur service for U.S.-funded Radio Free Asia, says the TIP may not even be a Xinjiang-based Uighur group. He suggests a possible affiliation between the TIP and the Islamic Party of Turkestan, formerly known as the Islamic Movement of Uzbekistan (IMU)." (CFR, 3 December 2013)

In November 2012, Raffaello Pantucci, a senior research fellow with the London-based Royal United Services Institute for Defence and Security Studies, comments as follows on allegations that members of the ETIM (a name Pantucci says is "used frequently by Chinese officials to

refer to the Turkistan Islamic Party – TIP") and the East Turkistan Educational and Solidarity Association (ETESA) are fighting on the side of the opposition in Syria:

> "Chinese security officials informed reporters in late October that members of the East Turkistan Islamic Party (ETIM, a name used frequently by Chinese officials to refer to the Turkistan Islamic Party – TIP) and the East Turkistan Educational and Solidarity Association (ETESA) had slipped into Syria to join anti-government forces operating there (Global Times [Beijing], October 29). The report came at the end of a month in which the TIP released a number of videos and magazines on jihadist web forums showing their forces training at camps, calling for more support and generally highlighting the group's ongoing struggle. However, neither the videos nor reports from Syria were supported by any visible action or evidence to support the claims. Questions also continue to be raised about the group's ability to launch effective attacks in China, Syria or elsewhere. [...]
>
> It seems clear that the TIP/ETIM continues to exist, that it is a concern to Chinese security officials, and that Xinjiang continues to be an ethnically troubled province that provides a motivating narrative for the group. At the same time, however, the ongoing lack of public evidence of TIP/ETIM attacks in China raises questions about what exactly they are doing. The movement does appear to be active in Waziristan, where their videos are presumably shot and where their cadres are periodically reported to have been killed in drone strikes. So far the movement has not released a video specifically praising the Syrian insurgency or encouraging their units to go there, though given their affiliation with the global jihadist movement, it would not be entirely surprising if some members had elected to join the Syrian jihad. However, in terms of advancing their core agenda of attacking China, the latest round of videos and activity does not seem to provide much evidence that the movement is moving in this direction in any effective way." (Pantucci, 30 November 2012)

8.4 Mongolians (also Mongols)

The Overseas Missionary Fellowship (OMF), an international Christian mission agency, provides the following overview of the Mongolian ethnic minority in China:

> "The Mongolians (or Mongols) are one of the 55 officially recognized minority people groups of Mainland China. According to the 2000 census, there were 5.8 million Mongols in China, mainly in the north-western provinces, especially in Inner Mongolia, which has about 3.5 million Mongols. Mongolians also live in Gansu, Heilongjiang, Jilin, Liaoning, Ningxia, Qinghai, Xinjiang and Yunnan. [...] The Mongolian language belongs to the Ural-Altaic group and there are 12 main dialects. [...] The dialects of western and central Inner Mongolia are similar to what is spoken in Mongolia. Many large city Mongols speak better Chinese than Mongolian. [...] In former times the Mongolians were a pastoral, nomadic people, but in modern times many have settled into agriculture. Much of Inner Mongolia is grassland where the Mongolians still herd cattle, horses and sheep. However, open-range herding, widely practiced in Mongolia, is in decline in Inner Mongolia in favor of raising livestock on farms. [...] Most Mongolians today are Lamaistic Buddhists, with similar beliefs to Tibetans." (OMF, undated)

A July 2008 article by Minority Rights Group International (MRG) states with regard to the Mongols in China:

> "There are somewhere in the vicinity of 5 million Mongols in China, mainly concentrated in the Inner Mongolia Autonomous Region (IMAR) on China's northern border with Mongolia and Russia. The Mongolian language is part of the Mongolic language family, with the majority of speakers in China using the Chahar, Oyirad and Barghu-Buryat dialects. Most Mongols are Tibetan or Vajrayana Buddhists, though some also maintain shamanist practices. They tend to be concentrated in the northern and central parts of the IMAR, although there are also substantial numbers in Liaoning, Jilin, Heilongjiang and Yimin provinces. State-sponsored or voluntary Han migration to the IMAR has long since made the Mongols a minority in their own land. Many Mongols still have a close connection with the traditional pastoral nomadism and culture of their ancestors, though this has been weakened in many areas of China, where this lifestyle is under threat from environmental degradation, urbanization and governmental pressures." (MRG, July 2008b)

The US-based human rights group Southern Mongolian Human Rights Information Center (SMHRIC) informs in an article of October 2013 that "the Chinese authorities carried out a series of anti-terrorism drills [...] amid escalating tensions between Mongolians and Chinese over mining, environmental destruction and land expropriation in Southern (Inner) Mongolia". According to the SMHRIC, the drills were held in Inner Mongolia's Tongliao Municipality, which is home to about 1.5 million Mongolians, and involved more than 1,700 public security personnel and armed police. Authorities also conducted a 10-day long weapons confiscation operation across the region, which they claim yielded about 50 kilograms of explosives, over 120,000 detonators, more than 2,100 guns and over 32,600 knives. (SMHRIC, 9 October 2013) According to Temtsiltu Shobtsood, the chairman of the US-based Inner Mongolian People's Party, "Chinese authorities are using the terrorism drills and disarmament campaign 'as an excuse' to crack down on the Mongolian rights movement" (RFA, 9 October 2013).

A September 2013 article by Radio Free Asia (RFA) reports as follows on an anti-rumour campaign in Inner Mongolia:

> "Authorities in Inner Mongolia have detained 52 people in connection with online posts in recent weeks, amid growing ethnic tension in the region and violent standoffs between ethnic minority herders and Chinese mining companies. Inner Mongolian police said in a statement last week that they are holding 52 criminal suspects who 'created and spread rumors via the Internet' on more than 1,200 occasions. They are mostly being charged with spreading 'Internet rumors and false reports of disaster, epidemic, and police emergencies,' and the official language used suggests the authorities are increasingly worried that localized conflicts between majority Han Chinese and ethnic Mongolians could reach a wider audience. According to the official news agency Xinhua, those detained were accused of 'sensationalizing conflicts that occurred during the development process in Inner Mongolia, deliberately stirring up ethnic relations, encouraging the masses to appeal for their interests in a radical way such as student strikes and protest demonstrations.' A U.S.-based rights group [the Southern Mongolian Human Rights and Information Center] said the Xinhua News article partially admits to 'increasingly tense ethnic relations'

> between the Mongolians and the Chinese in the region. Last month, Chinese authorities 'punished' at least 13 ethnic Mongolian Internet users for 'spreading rumors' about the resettlement to Inner Mongolia of hundreds of thousands of Han Chinese left homeless by a 2008 earthquake. But it was unclear whether that figure was included in the total of 52. [...] Reports of Chinese government plans to resettle 'about a million Chinese' from regions of southwestern China devastated by the 2008 Sichuan earthquake to Inner Mongolia have sparked a series of protests among Mongolians in recent weeks, who have used social media to spread the word and rally other protesters." (RFA, 5 September 2013)

The SMHRIC notes in September 2013 that Yunshaabiin Seevendoo, a respected Buddhist leader and well-known activist fighting for the rights of Mongolian herders, is in poor health following his arrest by Chinese authorities on charges of "involvement in fraud". Seevendoo, who was detained for a month before being formally arrested in July 2013, "is being held in the Right Ujumchin Banner Detention Center and has been denied visitation rights" (SMHRIC, 2 September 2013).

A July 2013 article by the SMHRIC notes that a dozen ethnic Mongolians were arrested and several others hospitalised in clashes with riot police and Public Security authorities in Mandalt township, capital of Inner Mongolia's Sonid Left banner. According to the article, the violence erupted after a Mongolian herder was subjected to insults and beatings by three drunken Han Chinese. The police not only refused to take action against the attackers, "but arrested and tortured the victimized Mongolian herder", the article says (SMHRIC, 21 July 2013).

In its report Freedom of the Press 2013 (covering events of 2012), Freedom House informs that "Hada, the founder of the pro-Mongol newspaper Voice of Southern Mongolia, remained in extralegal detention at year's end", adding that "authorities have harassed his family and continued to hold him in custody since December 2010, when he completed a 15-year prison sentence related to his work" (Freedom House, 1 May 2013). The CECC annual report of October 2013 elaborates on the same case in more detail:

> "The continued extralegal detention of Mongol rights advocate Hada underscores the official repercussions Mongols may face for promoting their rights. During the Commission's 2013 reporting year, authorities in Hohhot city, IMAR, tightened restrictions on the movement and communications of Hada's wife, Xinna, and the couple's son, Uiles. The heightened restrictions began after Xinna gave interviews to international media and rights groups about Chinese authorities' treatment of Hada in extralegal detention and its harmful impact on his mental health. Xinna stated in the interviews that Hada is suffering from depression and that authorities refused to allow him access to psychiatric care that was recommended by a physician. As of September 23, 2013, the whereabouts of Xinna and Uiles are unclear. As of the same date, Hada remained in official custody without apparent legal basis despite his completion of a 15-year prison sentence on December 10, 2010. Authorities imprisoned Hada in 1995 after he organized peaceful protests for Mongols' rights." (CECC, 10 October 2013a, pp. 97-98)

On page 98 of its annual report, the CECC lists three additional representative cases involving the arrest/conviction of ethnic Mongols and goes on to state:

> "A number of other ethnic Mongols remain in prison or detention or are presumed to remain in prison or detention for political reasons, including Erden-uul (pen name Unaga), who was detained in December 2010, and Sodmongol, who was detained in April 2010." (CECC, 10 October 2013a, p. 98)

Also in its annual report of October 2013, the CECC states with regard to grasslands policy and protests in Inner Mongolia:

> "In several instances during the 2013 reporting year, Mongol herders sought to protest the appropriation of their grazing lands for military use and private development projects. On August 19 in Uushin (Wushen) Banner, workers from China Railway 23rd Bureau reportedly beat to death Mongolian herder Bayanbaatar, who was one of several herders protesting the railway bureau's use of his and other herders' grazing land. In March 2013, herders from Durbed (Siziwang) Banner, Wulanchabu municipality, IMAR, reportedly gathered at the train station in Hohhot city, seeking to travel to Beijing to protest the appropriation of their land for the Beijing Military Command's Zhurihe military training base. Police and government officials from Durbed traveled to Hohhot to stop the herders and reportedly physically assaulted several herders who resisted their orders to return to Durbed. Local authorities reportedly had sold the land to Chinese firms, including two major mining companies. In July 2013, 38 Mongol herders reportedly gathered at the train station in Tongliao city, IMAR, seeking to travel to Beijing to protest their community's September 2008 forced resettlement from the Khan Uul (Hanshan) Forest Area to Lubei township, Zaruud Banner. Security personnel reportedly detained the 38 herders and beat those who resisted detention. In 2008, Tongliao city officials resettled 963 people from Khan Uul, a government-designated nature preserve, with the stated aim of creating an area free of people and livestock. However, resettled herders from Khan Uul reportedly complained in March 2013 that miners had begun operations in the area. Local government officials have positively assessed the prospects for mining exploration in the area. In July 2013, a herder in Ongniud (Wengniute) Banner, Chifeng municipality, reportedly killed the head of a 'livestock grazing prohibition team' and seriously injured another official while 'defending his right to graze his livestock on his grazing land,' before committing suicide." (CECC, 10 October 2013a, p. 97)

The US Department of State (USDOS) annual report on human rights in 2012, published in April 2013, notes with reference to information obtained from Reuters news agency and the Southern Mongolian Human Rights Information Center (SMHRIC):

> "Reuters News Agency reported that on April 3, police used 'brutal force' to break up a demonstration by hundreds of ethnic Mongolians who were protesting land seizures near Tongliao in the IMAR. The foreign-based Southern Mongolian Human Rights Information Center stated that five protesters were seriously injured and that 'police violently beat the protesters with batons.' Similar protests were staged throughout the year across the IMAR, often resulting in detentions and police abuse, as the regional government sought

to implement Beijing's policy of resettling China's nomadic population." (USDOS, 19 April 2013, section 6)

Additional information on land disputes involving ethnic Mongolians can be found in section 6.1.2 of this compilation.

MRG indicates in its report State of the World's Minorities and Indigenous Peoples 2013, published in September 2013, that according to the SMHRIC, "after years of efforts by activists, the regional government has agreed to consider a proposal to bring in new legislation to promote the use of the Mongolian language in 2013" (MRG, 24 September 2013, p. 165).

A May 2012 article by RFA states with reference to information provided by the SMHRIC that authorities in Inner Mongolia have vowed to accept Mongolian signatures on official documents:

> "Authorities in northern China have promised to allow ethnic Mongolians the right to sign official documents using their native language, according to a Mongolian rights group, following years of campaigning by one activist as part of an effort to assert autonomy under Chinese rule. [...] Munkhdalai Borjigin, a retired employee of San Lian Chemistry in the regional capital Hohhot, told the U.S.-based Southern Mongolian Human Rights Information Center (SMHRIC) that he had received the notice on May 17 after years of appealing to government departments over being repeatedly denied the right to sign bank documents in Mongolian. According to Munkhdalai, the notice assured him that an official government document would be issued shortly to enforce the order. [...] SMHRIC director Enhebatu Togochog said that hundreds of Mongolians across the IMAR had filed similar complaints over being denied banking and other services because they had attempted to sign documents in their native language." (RFA, 24 May 2012)

Among the sources consulted by ACCORD within time constraints no information could be found on the current status of the proposed new rules promoting the Mongolian language, nor on the progress made to date on the authorities' pledge to allow Mongolian signatures on official documents.

8.5 Tibetans

This section should be read in association with section 3.8.6, section 6.1.2, section 6.2, section 14.2 and the sub-section entitled "Tibetan Buddhism (Lamaism)" of section 7.3.1.

In an article dated July 2008, Minority Rights Group International (MRG) provides the following overview information on Tibetans in China:

> "Tibetans are composed of a number of related ethnic groups sharing linguistic and cultural similarities. Some of these include the Ü-Tsang of Central Tibet, the tent-dwelling Drokpa nomads of the high plateau and the Khambas. The number of Tibetans in China is a matter of controversy: they may number anywhere between 5 million and 7 million people in Tibet and the neighbouring provinces of Qinghai, Gansu and Sichuan. Overall – and officially according to the 2000 Census – Tibetans are supposedly just over 92 per

cent of the population of the Tibetan Autonomous Region (TAR), a figure generally considered as overblown as it does not include many ethnic Han Chinese. The 2000 Census gives the percentage of Han Chinese in the TAR at just over 6 per cent. Most Tibetans observe Tibetan or Vajrayana Buddhism. Some also follow indigenous traditions known as Bön, while there is a small Muslim Tibetan minority known as Kache. In linguistic terms, there are several related Tibetan languages within the Tibeto-Burman family of languages. In addition to Central Tibetan, which is spoken in Lhasa, the variants spoken in Kham and Amdo are usually considered as distinct languages, as are more remotely related languages such as Dzongkha, Sherpa and Ladakhi. While a majority of Tibetans live in the TAR, there are millions living in neighbouring parts of China, especially in areas which were historically part of traditional Tibet but were subsequently 'excised' by authorities of the People's Republic of China." (MRG, July 2008c)

Citing data from the 2010 census, a June 2013 report by Human Rights Watch (HRW) notes that there are about 6.2 million ethnic Tibetans living in China. The report specifies:

> "2.7 million live in the Tibet Autonomous Region (TAR), which occupies the western half of the distinctive geographic area known as the Tibetan plateau. Most of the other 3.5 million Tibetans live in the eastern part of the plateau, in officially designated 'Tibetan Autonomous Prefectures and Counties', which are in the provinces of Qinghai, Sichuan, Gansu, and Yunnan. Tibetans generally divide the plateau into U-Tsang (roughly the area of the TAR), Amdo (the north-eastern part of the plateau, part of Sichuan and Yunnan provinces), and Kham (the south-eastern part of the plateau, part of Sichuan and Yunnan provinces)." (HRW, June 2013, p. 34)

The US Department of State (USDOS) informs in the Tibet Addendum to its annual human rights report of February 2014 that China's Tibet policies are overseen by the Communist Party's (CCP) Central Committee and that ethnic Han CCP members hold almost all top official positions in the Tibet Autonomous Region (TAR) and other Tibetan areas:

> "The Chinese Communist Party's (CCP) Central Committee oversees Tibet policies in the PRC. Chen Quanguo, an ethnic Han from Henan Province, became the TAR party secretary in 2011. Ethnic Han were party secretaries in eight of the 10 TAPs [Tibetan autonomous prefectures], which are located in Gansu, Qinghai, Sichuan, and Yunnan provinces. Two TAPs in Qinghai Province had ethnic Tibetan party secretaries. As in other predominantly minority areas of the PRC, ethnic Han CCP members held almost all top party, government, police, and military positions in the TAR and other Tibetan areas." (USDOS, 27 February 2014, Tibet Addendum, Executive Summary)

Freedom House similarly notes in January 2013:

> "Under the Chinese constitution, autonomous areas have the right to formulate their own regulations and implement national legislation in accordance with local conditions. In practice, decision-making power is concentrated in the hands of senior, ethnic Chinese CCP officials. [...] The few ethnic Tibetans who occupy senior positions serve mostly as figureheads and echo official doctrine on Tibet." (Freedom House, January 2013b)

The January 2014 HRW annual report notes with regard to human rights developments during 2013:

> "The Chinese government systematically suppresses political, cultural, religious and socio-economic rights in Tibet in the name of combating what it sees as separatist sentiment. This includes nonviolent advocacy for Tibetan independence, the Dalai Lama's return, and opposition to government policy. At time of writing, 123 Tibetans had self-immolated in protest against Chinese policies since the first recorded case in February 2009. Arbitrary arrest and imprisonment remains common, and torture and ill-treatment in detention is endemic. Fair trials are precluded by a politicized judiciary overtly tasked with suppressing separatism. Police systematically suppress any unauthorized gathering. On July 6, police opened fire in Nyitso, Dawu prefecture (Ch. Daofu), on a crowd that had gathered in the countryside to celebrate the Dalai Lama's birthday. Two people died on the spot, and several others were injured. The government censored news of the event. In an apparent effort to prevent a repetition of the popular protests of 2008, the government in 2013 maintained many of the measures it introduced during its brutal crackdown on the protest movement – a massive security presence composed largely of armed police forces, sharp restrictions on the movements of Tibetans within the Tibetan plateau, increased controls on monasteries, and a ban on foreign journalists in the Tibetan Autonomous Region (TAR) unless part of a government-organized tour. The government also took significant steps to implement a plan to station 20,000 new officials and Party cadres in the TAR, including in every village, to monitor the political views of all residents." (HRW, 21 January 2014)

Under the heading "Tibet Autonomous Region", the Amnesty International (AI) annual report of May 2013 (covering events of 2012) states that "[t]he authorities continued to repress Tibetans' right to enjoy and promote their own culture as well as their rights to freedom of religion, expression, peaceful association and assembly" and adds that "[s]ocioeconomic discrimination against ethnic Tibetans persisted unchecked". AI further notes:

> "Numerous people allegedly involved in anti-government protests were beaten, detained, subjected to enforced disappearance or sentenced following unfair trials. At least two people were believed to have died because of injuries sustained from police beatings." (AI, 23 May 2013)

The human rights situation in the TAR and other Tibetan areas during 2013 is summarized by the USDOS as follows:

> "During the year the government's respect for and protection of human rights in the TAR and other Tibetan areas remained poor. Under the banner of maintaining social stability and combating separatism, the government engaged in the severe repression of Tibet's unique religious, cultural, and linguistic heritage by, among other means, strictly curtailing the civil rights of China's ethnic Tibetan population, including the freedoms of speech, religion, association, assembly, and movement. [...] Other serious human rights abuses included extrajudicial killings, torture, arbitrary arrests, extrajudicial detentions, and house arrests. There was a perception among Tibetans that authorities systemically targeted them for political repression, economic marginalization, and cultural assimilation, as well as educational and employment discrimination. The presence of the People's Armed Police

(PAP) and other security forces remained at high levels in many communities across the Tibetan Plateau. Repression was severe throughout the year but increased in the periods before and during politically and religiously sensitive anniversaries and events. Students, monks, laypersons, and others in many Tibetan areas were detained after reportedly demanding freedom and human rights, and expressing their support for the Dalai Lama." (USDOS, 27 February 2014, Tibet Addendum, Executive Summary)

Also in the February 2014 Tibet Addendum, the USDOS observes that the security apparatus in Tibetan areas "employed torture and degrading treatment in dealing with some detainees and prisoners". The Addendum continues:

"There were reports during the year that Chinese officials tortured some Tibetans while incarcerated or otherwise in custody, including by electric shocks, exposure to extreme temperatures, severe beatings, and being forced to perform heavy physical labor. Security forces routinely subjected detainees and prisoners to 'political re-education' sessions." (USDOS, 27 February 2014, Tibet Addendum)

HRW states in a press release published in February 2013 that it "has documented endemic use of torture, cruel, inhuman or degrading treatment, and coercion of Tibetans in detention". The press release further notes that "[s]ince mid-2011, the Chinese government has detained and prosecuted at least a dozen people who have allegedly been associated with [self-] immolations" and then goes on to give more details on some of these cases. According to HRW, "[t]here are numerous reports of other detentions that have been carried out after the immolations of fellow monks and family members as an apparent deterrent against future immolations". As HRW further notes, "those detained are often held in secret and information about them is difficult to obtain". (HRW, 1 February 2013)

In its January 2014 annual report on the human rights situation in Tibet, the Tibetan Centre for Human Rights and Democracy (TCHRD) notes with regard to developments during 2013:

"In 2013, Tibetans continued to be tortured, arrested without reason, and sent to detention centers without due process. TCHRD has recorded the details of 119 Tibetans who were either arrested or sentenced in 2013; two Tibetans each received death sentence and suspended death sentence. A significant number of Tibetans were released from Re-education Through Labour camps in 2013." (TCHRD, 20 January 2014a, p. 2)

On the subject of arbitrary arrests and detentions in Tibetan areas, the same report comments as follows:

"2013 has witnessed a significant increase of arbitrary arrests and detentions in Tibet. Most of these arrests have taken place during peaceful protests, where Tibetans expressed their opposition to Chinese policies, particularly the 'mass-line' policy, the implementation of which has seen a sharp rise in intrusive mass surveillance and propaganda campaigns and control of Tibetans. Diru (Ch: Biru) County located in Nagchu (Ch: Naqu) Prefecture, Tibet Autonomous Region (TAR), has been the epicenter of the confrontations between Tibetans and Chinese security forces. The unrest began on 28 September 2013, when local Tibetans in Mowa Village refused to fly Chinese flags on

> their rooftops, as it was mandated by the PRC's 'Nine Must Haves' campaign. On that day as protests spread, 40 Tibetans from neighboring villages (Taklha, Baro, Neshod, and Taring villages) were beaten up and detained by Public Security Bureau (PSB) officers. The crackdown increased through October and November, with numerous arrests and detentions, on charges such as 'revealing State secrets' or 'keeping photographs of the Dalai Lama and patriotic songs on mobile phones'. All the detentions lack basic procedural guarantees, and detainees are often held incommunicado and disappeared." (TCHRD, 20 January 2014a, p. 12)

Also in its annual report of January 2014, the TCHRD states that in 2013, "Chinese officials launched a major crackdown on Tibetan citizen journalists, writers and artists", with many of them being "harassed, detained and imprisoned after informing on human rights conditions in Tibet, writing books on self immolations and other issues regarding Tibet, denouncing Chinese policies in the TAR region or even singing traditional Tibetan songs". As the TCHRD notes, "[t]he usual justifications used by Chinese authorities are that the accused Tibetans were 'carrying out political activities aimed at destroying social stability and dividing the Chinese homeland', but many of them were also detained on unknown charges (TCHRD, 20 January 2014a, pp. 31-32). Examples of the crackdown on Tibetan journalists, writers, intellectuals, artists and activists during 2013 are outlined on pages 32 to 34 of the report (TCHRD, 20 January 2014a, pp. 32-34).

Freedom House states in its report Freedom in the World 2013 (covering events of 2012):

> "Also during the year, officials detained or imprisoned at least 10 cultural figures whose work – often circulated by hand within Tibet and shared with the outside world – emphasizes Tibetan identity. According to overseas Tibetan groups, more than 60 such writers, intellectuals, and musicians have been arrested since 2008, with some sentenced to lengthy prison terms." (Freedom House, January 2013b)

The above-cited TCHRD annual report of January 2014 notes that "[m]any arbitrary detentions occur in the context of the right to petitioning and/or have, as a consequence, the confinement of the person in a 'Re-education Through Labor' camp" (TCHRD, 20 January 2014a, p. 14). The USDOS Tibet Addendum of February 2014 states that "[a]rbitrary arrest and detention was a problem in Tibetan areas", adding, however, that "[i]t was unclear how many Tibetan detainees were held under the Re-education Through Labor (RTL) system or under other forms of detention not subject to judicial review" (USDOS, 27 February 2014, Tibet Addendum).

In January 2014, the TCHRD released a special report which contains research on the history and evolution of RTL, analyses current RTL laws and examines "how RTL violates the international prohibitions of arbitrary detention, forced labor, and torture" (TCHRD, 20 January 2014b). According to the report, despite the official abolition of RTL in late December 2013, it remains to be seen if "the abuses associated with RTL will be abolished or if the People's Republic of China (PRC) will abolish RTL in name only" (TCHRD, 20 January 2014c, p. 7). The report's section on the treatment of RTL detainees is mainly based on interviews conducted with Tibetans who served their RTL sentences between 1989 and 2010 and now live

in India. Most of the interviewees had been arrested because of or during a protest against Chinese rule in Tibetan areas (TCHRD, 20 January 2014c, pp. 72-96).

In an article dated January 2013, Max Fisher, the foreign affairs blogger of the US daily newspaper Washington Post, reports that Chinese authorities instructed all Tibetans in the Tibetan region to turn in their old passports, "ostensibly" to be replaced by electronic ones. However, as Fisher adds, "now many Tibetans don't have their old or new passports and can't travel internationally". (Washington Post, 23 January 2013)

Referring to the passport withdrawal, Robert Barnett, the director of the Tibet Studies Institute at Columbia University in New York City, says in a Q&A with the US magazine The Atlantic:

> "The current passport restriction, then, was initially designed to weed out people who might do this sort of thing again. But now they seem to have extended it to all Tibetans in Tibet, using the excuse that their passports – even if they are valid and even if they're about to travel somewhere – have to be replaced by new-issue electronic passports. [...]
>
> There was some word that the passport withdrawal would be done to Han Chinese citizens too, under the name of adapting to new electronic/bio data passports. But thus far I hear that there are Chinese people in Tibet whose passports were not taken, and others say that even if Chinese ones were taken, they get them back quickly. Tibetans so far have not reported any being returned, as far as we know." (Atlantic, 31 January 2013)

A January 2013 article by Radio Free Asia (RFA) states that according to sources, "[h]ardly any Tibetans have been issued international passports since Chinese authorities introduced tough travel rules nearly a year ago in the Tibet Autonomous Region (TAR)". The article specifies:

> "Under the April 2012 procedures issued by the TAR authorities, prospective Tibetan travelers are subject to arduous – and what some call discriminatory – procedures in an apparent attempt by Beijing to clamp down on their travels abroad. The procedures, contained in an official TAR document obtained by RFA's Tibetan Service, were introduced after many Tibetans attended the 'Kalachakra' religious gathering in India in January 2012 presided over by exiled Tibetan spiritual leader the Dalai Lama, who is reviled by Chinese leaders as a separatist. The move was also part of tightened security measures following self-immolation protests by Tibetans questioning Chinese rule in the TAR and Tibetan-populated areas of neighboring Chinese provinces. 'Since February or March of last year, there has been no issuing of new Chinese passports to Tibetans and those in the TAR were hit hard by the move,' Office of Tibet in Taiwan researcher Sonam Dorjee told RFA's Tibetan service. Another source, who has contacts in Tibet and spoke on condition of anonymity, said he was only aware of Tibetan officials being issued passports by Chinese authorities. 'No new Chinese passports have been issued to Tibetan individuals in TAR, except for a few Tibetan officials who received the passports for official purpose and which they need to hand back upon their return,' the source said. Unlike Chinese nationals, Tibetans face a 'very complicated and difficult process' to obtain passports, Dorjee said. 'They may have to wait for years for their applications to be processed and may have to

pay bribes along the way.' 'For most Tibetans with no official connections, they cannot get a passport at all,' Dorjee said." (RFA, 20 January 2013)

With regard to passport restrictions for Tibetans, the Tibet Addendum to the USDOS annual report on human rights in 2013 states:

> "Many Tibetans, particularly prominent religious and cultural figures, scholars, and activists, as well as those from rural areas, continued to report difficulties in obtaining new, or renewing existing, passports. Some Tibetans reported they were able to obtain passports only after paying substantial bribes or making promises not to travel to India. In other cases authorities precluded Tibetan students admitted to foreign schools from studying abroad by refusing to issue them passports. [...] Tibetans continued to encounter substantial difficulties and obstacles in traveling to India for religious, educational, and other purposes. Contacts also reported instances of local authorities' revoking the passports of individuals who had traveled to India." (USDOS, 27 February 2014, Tibet Addendum)

The same report provides the following information regarding reported socioeconomic discrimination against ethnic Tibetans in 2013:

> "Economic and social exclusion was a major source of discontent among a varied cross section of ethnic Tibetans, including business operators, workers, students, university graduates, farmers, and nomads. Some ethnic Tibetans continued to report discrimination in employment, and some job advertisements expressly noted that ethnic Tibetans were not welcome to apply. In the past some have claimed that ethnic Han were hired preferentially for jobs and received higher salaries for the same work. The problem intensified after May 2012, since many Tibetans of outside origin were expelled from the TAR, creating more job and business opportunities for non-Tibetans. Some Tibetans reported that it was more difficult for ethnic Tibetans than ethnic Han to obtain permits and loans to open businesses. Restrictions on international NGOs that provided assistance to Tibetan communities remained, resulting in the lack of many beneficial NGO programs in the TAR and other Tibetan areas." (USDOS, 27 February 2014, Tibet Addendum)

As the USDOS adds, "[g]overnment propaganda against alleged Tibetan 'pro-independence forces' contributed to Chinese societal discrimination against ordinary Tibetans" (USDOS, 27 February 2014, Tibet Addendum).

Under the heading "Right to work", the TCHRD annual report of January 2014 states:

> "A 2013 report by China Labor Watch, revealed that Apple production suppliers in the PRC, such as 'Pegatron Technology', had a list of unlawful discriminatory hiring practices, including refusing to hire people of ethnic minorities like Tibetans. These cases reveal the huge gap between theory and practice, because actually the Apple Supplier Code of Conduct clearly forbids discrimination in hiring decisions, and are also a reflection of the labor policies adopted by the Chinese government. Labor discrimination, like that practiced by Apple's suppliers against Tibetans, seems to be common throughout the PRC: a study conducted in 2011 on China's internet labor market showed that applications from ethnic

> minorities, including Tibetans, were subjected to significant discrimination when compared with typically Han Chinese applications. The arrival of a large number of Han Chinese to Tibet since 2006 has also contributed to the discrimination of local Tibetans in hiring practices and wage rates. According to Tibet Justice Center, Chinese workers receive a preferential treatment over Tibetans and have higher salaries than Tibetans for the same work. Tibetans also face numerous problems in order to start up their own businesses due to the difficulties to obtain permits and loans." (TCHRD, 20 January 2014a, p. 71)

8.5.1 Tibet Autonomous Region (TAR): relocation/re-housing policy and "Grid system"

Relocation/Re-housing policy

A January 2014 article by Voice of America (VOA), citing China's official Tibet TV website, notes that China has moved 2.3 million nomads in the Tibet Autonomous Region (TAR) into new settlements, completing a "controversial project" that was started in 2006. As the article further notes, China is now encouraging the former nomadic herders to join livestock "cooperatives", which are said to be run by government officials. While authorities claim "moving nomads into permanent homes provides them with a better life and could help the fragile environment of Tibetan Plateau", critics argue that "the program ignores environmental realities [...] and is really a way for authorities to control the livestock and land that belonged to the nomads". (VOA, 24 January 2014)

Under the heading "Economic development Policy and Implementation" in Tibet, the Congressional-Executive Commission on China (CECC) annual report of October 2013 lists the following information:

> "Forced settlement. Official media reported that the TAR government would settle 460,000 farmers and herders in 2013, and that 'nearly 2.1 million' had been settled (or resettled) during 2006–2012. Party Secretary Chen Quanguo said in September 2012 that 'all farmers and herders' in the TAR would be settled by the end of 2013. A 2011 government opinion called for nationwide settlement of herders to be 'basically' accomplished by 2015." (CECC, 10 October 2013a, p. 184)

In its annual report of January 2014, Human Rights Watch (HRW) briefly refers to the rehousing and relocation of Tibetans as follows:

> "The government is also subjecting millions of Tibetans to a mass rehousing and relocation policy that radically changes their way of life and livelihoods, in some cases impoverishing them or making them dependent on state subsidies, about which they have no say. Since 2006, over two million Tibetans, both farmers and herders, have been involuntarily 'rehoused' – through government-ordered renovation or construction of new houses – in the TAR; hundreds of thousands of nomadic herders in the eastern part of the Tibetan plateau have been relocated or settled in 'New Socialist Villages.'" (HRW, 21 January 2014)

The Tibetan Centre for Human Rights and Democracy (TCHRD) annual report of January 2014 states:

> "In Tibet, Tibetans are suffering. The PRC's forcible resettlement of nomads has resulted in the almost complete destruction of their way of life. The nomads are not consulted and rarely paid the compensation they were promised. Many are forced to live in newly built urban areas that cannot sustain their way of life and where they receive less government support than parts of Tibet with a large migrant Chinese population. It is estimated that by the end of 2013, 90% of all Tibetan nomads living in Qinghai Province, which contains parts of Tibetan provinces of Amdo and Kham, will be resettled. Ostensibly, the nomads are forced off their land to protect the environment. In reality, the nomads are replaced by State Owned Enterprises that build mines to extract natural resources from the Tibetan Plateau. Large quantities of oil, gold, lithium, copper, chrome, and other natural resources are extracted in Tibet and then sent east. Profits from these minerals do not reach Tibetans who do not operate or own the mines. The extraction of natural resources, and other industries brought into Tibet, pollutes the air and drinking supplies." (TCHRD, 20 January 2014a, p. 2)

In an extensive report on mass rehousing and relocation programmes in Tibetan areas of China, published in June 2013 and primarily based on interviews conducted between March 2005 and June 2012 with 114 Tibetans outside China, HRW informs:

> "Since 2006, the Chinese government has implemented large-scale programs to 'rehouse' – through renovation of existing houses or construction of new ones – a majority of the rural population of the Tibet Autonomous Region (TAR) under a policy called 'Comfortable Housing.' In parallel, the government has accelerated the relocation and sedentarization of nomadic herders in the eastern part of the Tibetan plateau, mostly in Qinghai province, and laid the ground for similar policies in other parts of the plateau. Both policies are a component of the government's effort to 'Build a New Socialist Countryside' in Tibetan areas, which the government says is designed to rapidly increase the living standards of rural Tibetans and boost the local economy. The scale and speed at which the Tibetan rural population is being remodeled by these policies is unprecedented in the post-Mao era. According to official figures, under the Comfortable Housing policy, 2 million people – more than two-thirds of the entire population of the TAR – were moved into new houses or rebuilt their own houses between 2006 and 2012. Twenty percent of those rehoused between 2006 and 2010 – about 280,000 people – had to be relocated, some nearby and others at a great distance. The government intends to rehouse 180,000 more by 2015." (HRW, June 2013, p. 4)

The same report explains that "[t]he establishment of what the government calls 'New Socialist Villages' [...] is a core aspect of the campaign to build a 'New Socialist Countryside' in Tibetan areas". According to HRW, "[w]hile the campaign includes sometimes overlapping policies that are implemented differently from place to place, it is nonetheless possible to distinguish two broad policy streams that are being used to pressure Tibetans to move out of their traditional habitat into new or remodeled New Socialist Villages", namely the "Comfortable Housing" scheme and nomadic herder relocation programmes labelled "Environmental Migrations". These two policy streams are further detailed as follows:

"The first stream is composed of the various programs that fall under the rubric of 'Comfortable Housing' (anju gongcheng). Under this policy, rural Tibetans whose dwellings are deemed unsuitable by the authorities are instructed to destroy and rebuild their houses according to strict government standards, either on the same spot or in new settlements often placed alongside existing or newly built roads. Under this scheme, the cost of construction or reconstruction of the new homes is met by a combination of state subsidies, bank loans, prior savings, and other household assets. This policy is chiefly implemented in the TAR, where it was introduced in 2006, but has been extended to areas in the eastern part of the Tibetan plateau. The term 'Comfortable Housing' has over time become used by the government to refer to any policy that aims to improve the living conditions of the Tibetan population, and embraces other issues such as transportation, electrification, and provision of health services.

The second stream of policies comprises various sedentarization or resettlement schemes aimed at nomadic herder communities. Under so-called 'Environmental Migrations' policy schemes, nomadic herder communities must leave the grasslands and relocate to new concentrated settlements, often in the periphery of small towns, and to reduce or sell their livestock. These schemes are chiefly implemented in eastern Tibet (Qinghai province). Human Rights Watch is unaware of any policies in the TAR or in Tibetan areas of Sichuan province that forces herder communities to sedentarize permanently, although the government encourages them to do so by building permanent habitations for them." (HRW, June 2013, p. 19)

As noted by HRW, "[t]he Chinese government asserts that all relocation and rehousing operations are entirely voluntary" and "that all those who have moved to new houses are satisfied and grateful for the improvement in their living conditions" (HRW, June 2013, p. 4). However, the Tibetans interviewed for the report said "that large numbers of people relocated or rehoused did not do so voluntarily and that they were never consulted or offered alternatives" (HRW, June 2013, p. 7). Common issues identified by the interviewees include:

"- The involuntary character of many relocation and rehousing programs;
- The absence of genuine prior consultation with affected communities;
- The lack of meaningful avenues for challenging or seeking remedies for wrongful eviction orders;
- Inadequate and opaque compensation mechanisms;
- Problems with the quality of houses in which communities are resettled or rehoused;
- Increased financial burdens and indebtedness resulting from relocation and/or reconstruction of housing; and
- The loss of tangible and intangible assets and dissolution of communities." (HRW, June 2013, p. 7)

HRW further states that despite the Chinese government rejecting all criticism, "some official reports, as well as Chinese-language academic studies, do acknowledge the existence of significant shortcomings". The report specifies:

"For instance, in 2009, an inspection team from the State Development and Reform Commission of the State Council issued a report detailing defects in the implementation of

> the Comfortable Housing policy in the TAR that closely matched what Tibetans interviewed by Human Rights Watch reported. The problems listed by the report include the 'lack of rational design' for new houses, housing designs that ignore the actual needs of the rural population, waste of construction material for renovation, and increasing risks that households will default on the bank loans contracted to fund the renovation or rebuilding of their houses. The State Council report acknowledges that some communities have been separated from the herds and livestock that had previously helped guarantee their livelihood, and notes that some new settlements have been built on unsuitable and potentially dangerous sites.
>
> Human Rights Watch also found compelling evidence in official policy documents and Chinese language academic studies that the households themselves bear the bulk of the costs of renovating or rebuilding their houses. Official figures show that self-financing and mandatory bank loans tend to account for financing account for up to 75 percent of the cost of renovating or relocating, a considerable financial burden for many Tibetan households, especially poor ones." (HRW, June 2013, pp. 8-9)

For more details, including satellite imagery of relocation zones, please refer to the full-text of the report:

- HRW - Human Rights Watch: "They Say We Should Be Grateful"; Mass Rehousing and Relocation Programs in Tibetan Areas of China, June 2013 (available at ecoi.net) http://www.ecoi.net/file_upload/1476_1372338871_tibet0613webwcover-0.pdf

A January 2012 report by the UN Special Rapporteur on the right to food (published by the UN Human Rights Council, HRC) notes the following with regard to the economic and food security situation in resettlement villages:

> "While the situation is far from being uniform across regions, the Special Rapporteur is concerned that resettlement in the – new socialist villages means giving up herding and farming revenues, and consequently losing economic independence. Food security issues for relocated or rehoused rural residents include loss of land, limited ability to keep livestock, relocation in areas unsuitable to agriculture, and generally a disruption of traditional patterns of livelihood. In some peri-urban areas, farmers were pressured to replace grain crops by vegetables, which could generate cash but were difficult to sell on local markets due to competition from better-organized actors. In the resettlement villages, job opportunities have not materialized on the necessary scale, or have been filled by new migrant labourers moving in, while social assistance allowances are insufficient to make up for the increase in the cost of living that followed resettlement near urban centres." (HRC, 20 January 2012, pp. 15-16)

"Grid system"

Human Rights Watch (HRW) notes in June 2013 that "[a]n urban administrative network that includes significantly increased surveillance and monitoring known as the grid system was introduced in the TAR [Tibet Autonomous Region] in 2012" (HRW, 19 June 2013).

The Tibetan Centre for Human Rights and Democracy (TCHRD) annual report of January 2014 states with regard to the "grid" system:

> "In 2013, the PRC finished implementing the 'Grid' system in Lhasa. This surveillance system works with pre-existing infrastructure to ensure that the police can watch and control everything that happens in Lhasa. There is talk of expanding the system to other Tibetan cities in the future. In 2013, the use of surveillance was used to monitor the movement and activities of Tibetans places subject to a crackdown." (TCHRD, 20 January 2014a, p. 3)
>
> "The new 'Grid system' implemented in 2013 is officially regarded as a tool designed to improve public access to basic services, such as providing employment, education for children and medical care services. It consists of a new administrative level in the Chinese administration in rural and urban areas, and the offices established employ civilian staff and are directed by a Communist Party member.
>
> Regardless of the emphasis placed by authorities on the social nature of the system, the Grid system is consistent with the 'social stability maintenance' policy and aims at increasing surveillance and monitoring of 'special groups' in the TAR, especially those who have returned from exile in India. The Grid system moves a step forward to establish a tighter control over the Tibetan population. It builds upon other pre-existing measures, like the creation of more than 600 'convenience posts' located across Tibet, which is equipped with high-tech computers and video devices to monitor daily life, and the emergence of civilian volunteer security groups ('Red Armband Patrols'). The Red Armband Patrols have been carrying out intrusive searches in Tibetan homes, looking for photographs of the Dalai Lama and other material deemed 'political', in a rampant violation of the individuals' right to privacy and right to freedom of religion." (TCHRD, 20 January 2014a, pp. 22-23)

In a press release issued in March 2013, HRW deals extensively with the new security system, stating that it was announced to be expanded throughout the TAR in the annual TAR work report released in February 2013. The press release details on the "grid" system as follows:

> "Official documents describe the new system, known as 'grid' (Tib.: drwa ba, Ch.: wangge) management, as designed to improve public access to basic services. But the system also significantly increases surveillance and monitoring, particularly of 'special groups' in the region – former prisoners and those who have returned from the exile community in India, among others. Expansion of the grid system, alongside the construction across Tibet of over 600 'convenience police-posts' with high-tech equipment to monitor daily life, and increasingly active volunteer security groups known as 'Red Armband Patrols' (Tib.: dpung rtag dmar po) in 2012, means that surveillance is now a pervasive part of life across the region. [...] The new grid system grows out of the nationwide 'social stability maintenance' (Ch.: weiwen) policy drive, and establishes a new sub-local layer to the administrative system in urban and rural areas across China. According to one Chinese scholar, the grid system is designed to ensure that 'information is proactively gathered about people, events, and things so as to build up a database of urban components and events ... through which relevant departments and work units can proactively uncover problems in a timely manner.' Reports in local-language media in Tibet refer to the security function of

these offices but also emphasize the role of these staff in delivering social services, such as providing employment, medical care, and schooling for the children of migrants and local residents, saying they are 'to create conditions of effective social management and participation in a harmonious society and a good situation for all.' The system is staffed mostly by civilians rather than government officials, usually with a Communist Party member in each office, to manage surveillance and control operations. Party membership in Tibet requires articulating opposition to, among other things, increased Tibetan autonomy, independence, or the Dalai Lama, thus raising concerns that political criteria rather than violations of law may serve as the basis of surveillance, searches, or detentions. In the new grassroots level of urban administration, each 'neighborhood' or 'community' area in towns will be divided into three or more grid units. At least eight pilot units were set up in Lhasa, the regional capital, in April 2012, and in September were declared to have 'achieved notable results.' On October 9, the regional party secretary stated that because 'the Lhasa practice has fully proved the effectiveness of implementing grid management to strengthen and innovate social management,' the system should be made universal in 'the towns, rural areas, and temples' of the TAR." (HRW, 20 March 2013)

With regard to the staffing of the grid offices and their main duties, HRW specifies:

"As with the offices of neighborhoods or 'communities,' most of the staff in grid offices are not government employees or officials but ordinary citizens, and, at least in Tibet, many are Communist Party members. Grid offices in Lhasa appear to use a personnel system known as '1+5+X', which means each unit has a basic team of five staff led by a party secretary, with links to police, military and other agencies. The offices are designed to be part of an integrated 'long-set platform' of government, party and citizen agencies that are intended to provide 'a mass prevention and control network to create stable units and a harmonious environment for residents of sub-districts and communities,' and each grid unit is designed to work in tandem with 'grassroots cadres, sub-police stations (Ch.: paichusuo), coordinators and managers of the floating population, public security personnel, and 24-hour patrols during major holidays.' [...] The primary work of the grid offices, judging by a public notice displayed prominently in the Peling area of Lhasa since at least July 2012, is to establish 'Basic Grid Unit Information.' According to the notice, the office is required to identify the number of people and residences in their area; the number who require social services such as the elderly and the disabled; and the number who belong to 'special groups.' The special groups are: released prisoners, 'nuns and monks on the move,' drug addicts, 'returning people' (Ch.: huiliu renyuan – probably a reference to Tibetans who have returned from the exile community in India), 'people to monitor after the March 14 incident' (a reference to a major protest in Lhasa in 2008), 'people dismissed from monasteries,' members of the forbidden religious group Falun Gong, and 'other individuals who require special attention.' These 'special groups' appear to be the 'critical sectors,' or 'key persons' in the TAR, the control of whom is described in official documents as the most important task or objective of stability maintenance work in Tibet, second only to establishing teams of cadres in villages and monasteries. This indicates that information-collection and surveillance are primary functions for the grid units." (HRW, 20 March 2013)

For more details, including on the "convenience police-posts" and the "Red Armband Patrols", please refer to the full-text of the HRW press release:

- HRW - Human Rights Watch: China: Alarming New Surveillance, Security in Tibet, 20 March 2013
  http://www.hrw.org/news/2013/03/20/china-alarming-new-surveillance-security-tibet

In an article published in June 2013, the weekly newspaper The Economist provides the following information with regard to the "grid" system in Lhasa's Chengguan district, launched in April 2012:

> "It was launched in April 2012 in Lhasa's Chengguan district, where Mr Zhi has been serving as deputy party chief. Officials call it the 'grid system of social management'. One of its main aims is to make it easier for officials to monitor potential troublemakers by using intelligence gathered by community workers within areas known as grids (wangge in Mandarin). Chengguan, which includes most of the city proper and some of the rural area around it, has been divided into 175 of them. The grids' small size (every Lhasa neighbourhood now has several) is intended to facilitate the gathering of detailed, real-time information. [...] Mr Zhi was no newcomer to grid-based surveillance. He had previously served in Beijing as the deputy party chief of a subunit of Dongcheng district, which had pioneered this method in 2004. [...] Dongcheng claims huge success. Its 589 grids (roughly one for every 1,500 long-term residents – about the same ratio as in Lhasa) are monitored on screens in the offices of Dongcheng's subdistricts. Information is fed to these by grid staff equipped with smartphones which can upload geo-tagged photographs of anything troublesome, whether a fallen tree or a protester. 'Nothing must leave the grid' is Dongcheng's motto, meaning problems must be nipped in the bud. Both in Dongcheng and Lhasa there are normally six or seven staff per grid. In Dongcheng they include a policeman and a fire monitor. Lhasa's have an official responsible for religious affairs. The grids also perform such functions as making sure the elderly and sick receive care. But ensuring stability is the priority.
>
> In both cities grid staff are helped by patrols of volunteers wearing red armbands: usually retired people whose role as local snoops long predates the introduction of grids. Human Rights Watch says that in Lhasa these patrols have become more intrusive with the recent immolations, searching homes for pictures of the Dalai Lama and other signs of dissent. Along with the rollout of grids, the Tibetan authorities have been organising households into groups of five or ten. A leader is appointed who becomes a point of contact for grid officials or police wanting information about members of the group. In May Tibet's party chief Chen Quanguo said these groups should be the 'basic unit' of the system, 'ensuring...no blind spots'." (Economist, 22 June 2013)

According to The Economist, "[i]n February [2013] Yu Zhengsheng, a Politburo member in charge of Tibetan affairs, said the grid system should be expanded to other cities in Tibet to form 'a bastion of iron'" (Economist, 22 June 2013).

A November 2012 article by the British daily newspaper The Telegraph states that China has revealed it is using "a massive surveillance camera network" dubbed "Skynet" to cover "restive

areas of Tibet" and to end self-immolation protests. According to the article, Chinese officials "claimed [...] that the 'Skynet' network has divided the region into a closely monitored grid and that teams of security personnel can be mobilised within two minutes to put an end to the suicide attempts". The article continues:

> "Skynet is a highly secretive network and it is not known how many people work for it or how far is its reach. It has hardly been mentioned in official state media communications and is supposed to have a camera on every road in Tibet and in the Tibetan areas of Gansu and Sichuan. Beijing has been steadily expanding its use and in June, in a rare mention, it was praised as a way of combating crime in the region." (Telegraph, 9 November 2012)

As indicated in a January 2013 article by NPR, a US-based non-profit broadcasting organisation, "Skynet" is a "nationwide surveillance system" whose installation began in 2005, with the government placing cameras "along streets, on public buses and outside the homes of dissidents". NPR adds that "[a]fter uprisings in the western regions of Xinjiang and Tibet, the authorities also installed cameras in mosques and temples". (NPR, 29 January 2013)

In a November 2013 article for the New York Times (NYT), Chinese author Hao Qun (using his pen name Murong Xuecun) also provides information on China's "Skynet" monitoring system, though without explicitly addressing the situation in the TAR (NYT, 17 November 2013).

8.5.2 Students' demonstrations of November 2012

A November 2012 article by Radio Free Asia (RFA) reports on student protests in Chabcha (known in Chinese as Gonghe) county in the Tsolho (Hainan) Tibetan Autonomous Prefecture on 26 and 28 November 2012 that sources say were met with police violence:

> "Students from the Tsolho Technical School in Chabcha (in Chinese, Gonghe) county in the Tsolho (Hainan) Tibetan Autonomous Prefecture stormed out of their campus and shouted for 'freedom' and 'Tibetan language rights' in front of the prefecture government center, sources inside Tibet told RFA's Tibetan service. Chinese police beat up the students and detained five of them as they used tear gas to keep the crowd at bay, the sources said, without saying how many were involved in the demonstrations, the second protests police cracked down on this week. [...] Two days ago, about 1,000 students, led by those from the Tsolho Medical Institute, had protested also in Chabcha over the release of an official Chinese booklet which ridiculed the Tibetan language as irrelevant and condemned the series of self-immolation protests against Beijing's rule as acts of 'stupidity.' Chinese authorities arrested four of the students after firing warning gunshots and teargas to suppress the demonstration. Five of 20 wounded students in Monday's protest were in critical condition in hospital, the sources said. The students had burned the offending booklets during the protests and called for 'equality among nationalities and freedom to study the Tibetan language.'" (RFA, 28 November 2012)

Referring to the protests of 26 November 2012, Voice of America (VOA) states that they were apparently sparked by a 10-point leaflet distributed among students and adds that more than 20 students have been hospitalised after police used force against the protesters:

> "Over a thousand students in Chabcha County in Tsolho prefecture took to the streets Monday morning around 6am, chanting slogans for equality of nationalities, freedom of language, respect for truth and establishment of new governance. The protest appears to be a direct response to a 10-point leaflet distributed to students by the local authorities. The leaflet was perceived to be derogatory towards the individuals who have carried out self-immolation protests and against use of Tibetan language. Today's protest by Chabcha Tibetan Medical School students lasted for about two hours before Chinese personnel used force to break the peaceful demonstration, injuring many students. More than 20 students have been hospitalized and four are reported to have required emergency treatment. The school is under complete lock-down and security forces have sealed the area. Parents and local Tibetans outside the school have been barred from getting in touch with any students inside the school." (VOA, 26 November 2012)

The Tibetan Centre for Human Rights and Democracy (TCHRD) notes that the protests of 26 November 2012 erupted after the distribution of political questionnaires and "propaganda booklets" containing disparaging remarks against the Dalai Lama and self-immolation protests among Tibetan students in Tsolho Prefecture. According to the TCHRD, after two hours of protest, local armed police moved in and engaged in "indiscriminate beatings" and detained an "unspecified number" of students. Police also reportedly used tear gas and gunshots to suppress the protests (TCHRD, 17 April 2013).

The International Campaign for Tibet (ICT), a non-profit advocacy group with offices in Washington, D.C., Amsterdam, Brussels and Berlin, states in a press release of December 2012 that "[t]he booklet prompting the protests, 'Ten Ways of Looking at the Present Situation in Tsolho Prefecture' [...], was printed in early May and later distributed as part of a propaganda campaign in the run-up to the 18 Party Congress, which began on November 8, 2012, according to a Tibetan in exile in contact with Tibetans in the area" (ICT, 19 December 2012).

A partial English translation of the booklet is available here:

- TCHRD - Tibetan Centre for Human Rights and Democracy: China alienates, angers Tibetan students with political education, 29 November 2012 http://www.tchrd.org/2012/11/china-alienates-angers-tibetan-students-with-political-education/

As indicated by the TCHRD, on 10 April 2013, eight Tibetan students from Tsolho Vocational School in Chabcha county were sentenced to varying prison terms in connection with the protests of 26 November 2012:

> "Eight Tibetan students have been sentenced to varying prison terms for 'illegally holding demonstration' last year by the Chabcha (Ch: Gonghe) County People's Court in Chabcha County in Tsolho (Ch: Hainan) Tibetan Autonomous Prefecture, Qinghai Province, according to a report published today on the official 'China's Tibet website'. [...] According

> to the report, the county court passed the judgement on 10 April 2013 at around 10 am (local time), sentencing eight Tibetan youths from Tsolho Vocational School in Chabcha County for holding demonstration on 26 November 2012. They were charged of 'causing harm to social stability'. Sangye Bum was sentenced to four years in prison, while Kunsang Bum, Lhaten and Jampa Tsering each received three years and six months of imprisonment. Both Wangyal Tsering and Choekyong Kyap were handed three years and three months in prison. In the Chinese version of the report, the identities of the two other sentenced students were revealed. Tsering Tashi and Dola were each sentenced to three years in prison." (TCHRD, 17 April 2013)

The Central Tibetan Administration (CTA), commonly known as the Tibetan Government in Exile, also reports on the sentencing of the eight Tibetan students, although it uses slightly different names for them (CTA, 17 April 2013).

In an article dated 9 November 2012, the Guardian refers to protests in the town of Rongwo (known in Chinese as Longwu) in Qinghai province, attended mostly by high school students:

> "Hundreds of Tibetans have joined a demonstration in a town in western China, witnesses say, calling for freedom from Chinese rule in the latest act of protest apparently timed to send a signal to the Communist party elite as it gathers in Beijing to induct a new leadership. The protesters, mostly high school students, marched through the town of Rongwo, shouting for independence and for the return from exile of their spiritual leader the Dalai Lama, according to residents and people visiting the town. [...] The protest was the largest demonstration after days of growing tensions in the town, which sits at the edge of the Tibetan plateau and is dominated by the 600-year-old Rongwo monastery. [...] Police kept watch over the protest but did not immediately make any arrests, said a mechanic who would give only his surname, Ma." (Guardian, 9 November 2012b)

Referring to the same protests, RFA states:

> "Several thousand Tibetan students took to the streets in restive Rebgong (in Chinese, Tongren) county in Qinghai province Friday demanding greater rights following a record number of self-immolation protests against Chinese rule in Tibetan populated areas this week, sources said. The students shouted slogans calling for 'equality of nationalities and freedom of languages' and demanding the return of Tibet's spiritual leader the Dalai Lama, who has been living in exile in India since he fled after a failed uprising against Chinese rule in 1959, according to the sources. [...] The demonstrators from local schools, joined by students from the Malho Teacher Training College and the Malho Vocational Institute, assembled at Dolma Square in front of the Rongwo Monastery in Rongwo township, the capital of Rebgong in the Malho (Huangnan) Tibetan Autonomous Prefecture. [...] Chinese security forces have been placed on round-the-clock duty at strategic areas in towns and villages in Rebgong but there were no reports of any clampdown of the protests, the sources said. [...] The India-based Tibetan government-in-exile and the Tibetan Centre for Human Rights and Democracy (TCHRD) said 5,000 students took part in the rally Friday [...]." (RFA, 9 November 2012)

RFA further notes that this was the second straight day of protests by students in Rebgong (Tongren) county, specifying that on 8 November 2012, around 700 schoolchildren in Dowa township had torn down Chinese flags on top of their school building and at the township's government office:

> "A day earlier, as several thousand Tibetan villagers protested following the third self-immolation protest in the county this week, about 700 schoolchildren pulled down Chinese flags hoisted on top of their school building in Dowa township and in the township's government office. 'Moments after the protest, seven military trucks came from Rebgong county but local Tibetans and schoolchildren stopped the trucks from moving to Dowa township,' TCHRD said in a statement, citing local contacts. 'Faced with a crowd of Tibetan protesters, the military trucks backed off, returning to Rebgong.'" (RFA, 9 November 2012)

The same source notes in June 2013 that according to a local source requesting anonymity, Wangchuk Dorje, a student at the Middle School of Nationalities in Malho (known in Chinese as Huangnan) Tibetan Autonomous Prefecture, was detained following the protests of 9 November 2012, when several thousand students took to the streets in Rebgong (Tongren) county "to demand greater rights, including the right to use Tibetan as their language of instruction in the schools". According to RFA's source, Dorje "was subjected to harsh interrogations" by the police and later sentenced to four years in prison for being one of the "main organizers" of the student protests. As indicated by RFA, "[d]etails concerning Dorje's age, the identity of the sentencing court, and the date of his sentencing were not immediately available" (RFA, 12 June 2013c).

The sentencing of Wangchuk Dorje in connection with the student protests of 9 November 2012 is also reported in a June 2013 press release by Free Tibet, a London-based NGO that according to its own statements, campaigns "for Tibetan self-determination, human rights in Tibet and an end to Chinese occupation". The same press release also states that "[o]ther students at the protest [...] have been released or sentenced already but the whereabouts and details of others are unknown". (Free Tibet, 18 June 2013)

8.6 Kazakh

The Joshua Project refers to the Kazakhs as an official minority group in China, adding that although they consider themselves as Muslims, "their practices and rituals are combined with elements of spiritism, black magic, animism, and shamanism". Moreover, the Joshua Project notes that "[s]ince 1980 the Kazaks in China have used a modified Arabic script" and that "[t]here are two main Kazak dialects in China: Southwestern and Northeastern Kazak". The size of the Kazakh minority is given as 1,772,000 (Joshua Project, undated (b)).

Yuxiang Wang, former Associate Professor at Anhui University in China, where he conducted research in the area of language and culture, gives the following brief overview of the Kazakh minority:

> "The Kazakh ethnic minority is found mainly in the Xinjiang Uyghur Autonomous Region and in Qinghai and Gansu Provinces. The written Kazakh language uses Arabic letters, but many people can use Chinese, Uyghur and Mongolian. The Kazakh people believe in Islam." (Wang, 2013, p. 159)

A July 2013 article by the Associated Press (AP) notes that Uyghur scholar Ilham Tohti compiled a list of people who remain missing after authorities launched a crackdown in response to the 2009 Urumqi ethnic riots involving Uyghurs and Han Chinese. According to Tohti, these people include 32 Uyghurs and two members of the Kazakh minority group (AP, 5 July 2013).

The Congressional-Executive Commission on China (CECC) annual report of October 2013 (covering the period from autumn 2012 to autumn 2013) states:

> "Central and regional government authorities continued to enforce grasslands policies that require herders and nomads to resettle in urban areas or in larger, compact rural communities, portraying these developments as a move to improve and 'modernize' the lives of Mongols, Tibetans, Kazakhs, and other minority groups, and combat grasslands degradation." (CECC, 10 October 2013a, p. 96)

In a March 2011 article on ethnic Kazakhs in China, the Finland-based media company GBTimes notes:

> "Even though the Chinese government is urging them to move into permanent housing, the ethnic Kazakhs continue to practice the traditional nomadic lifestyle of cattle-breeding and migration for which they are closely associated." (GBTimes, 12 March 2011)

Among the sources consulted by ACCORD within time constraints no further information could be found with regard to the treatment of the Kazakh ethnic minority.

9 Treatment of women

9.1 Family planning/one-child policy

China's "one-child policy" was "launched in 1980 to curb population growth" and "promotes an ideal of one child per family" (CRS, 15 March 2013, p. 17).

A December 2013 report by the state-run Xinhua news agency provides the following overview:

> "China's family planning policy was first introduced in the late 1970s to rein in the surging population by limiting most urban couples to one child and most rural couples to two children, if the first child born was a girl. One-child families are entitled to bonuses and other benefits. Official statistics show such families account for 37.5 percent of China's more than 1.3 billion population. The policy was later relaxed, with its current form stipulating that both parents must be only children if they are to have a second child. Since its implementation, it is estimated the policy has resulted in a reduction of some 400 million people in China." (Xinhua, 15 November 2013b)

According to data from the Ministry of Health cited by the Financial Times (FT) in March 2013, 336 million abortions and 196 million sterilisations have been performed by doctors since 1971 (FT, 15 March 2013).

The February 2014 annual human rights report of the US Department of State (USDOS) notes that "[t]he 2002 national population and family-planning law standardized the implementation of the government's birth-limitation policies" although its "enforcement varied significantly" (USDOS,27 February 2014, section 6).

The Population and Family Planning Law of the PRC, which entered into force in September 2002, stipulates in its Article 2:

> "China being a populous country, family planning is a fundamental State policy. The State adopts a comprehensive measure to control the size and raise the general quality of the population." (Population and Family Planning Law of the PRC, 1 September 2002, Article 2)

Article 4 of the same law provides:

> "When promoting family planning, the people's governments at all levels and their staff members shall perform their administrative duties strictly in accordance with law, and enforce the law in a civil manner, and they may not infringe upon legitimate rights and interests of citizens. Lawful performance of the official duties by the administrative departments for family planning and their staff members shall be protected by law." (Population and Family Planning Law of the PRC, 1 September 2002, Article 4)

Article 5 stipulates that "[t]he State Council shall exercise leadership over the population and family planning programs throughout the country" while "[l]ocal people's governments at all levels shall exercise leadership over the population and family planning programs within their

own administrative regions" (Population and Family Planning Law of the PRC, 1 September 2002, Article 5).

Article 18 stipulates the following:

> "Article 18
>
> The State maintains its current policy for reproduction, encouraging late marriage and childbearing and advocating one child per couple. Where the requirements specified by laws and regulations are met, plans for a second child, if requested, may be made. Specific measures in this regard shall be formulated by the people's congress or its standing committee of a province, autonomous region, or municipality directly under the Central Government.
>
> Family planning shall also be introduced to the ethnic peoples. Specific measures in this regard shall be formulated by the people's congress or its standing committee of a province, autonomous region, or municipality directly under the Central Government." (Population and Family Planning Law of the PRC, 1 September 2002, Article 18)

Articles 19 and 20 govern the realization of family planning provisions by citizens:

> "Article 19
>
> Family planning shall be practised chiefly by means of contraception. The State creates conditions to ensure that individual citizens knowingly choose safe, effective, and appropriate contraceptive methods. Where birth control operations are performed, the recipients' safety shall be ensured.
>
> Article 20
>
> Couples of reproductive age shall conscientiously adopt contraceptive methods and accept technical services and guidance for family planning.
>
> Incidence of unwanted pregnancies shall be prevented and reduced." (Population and Family Planning Law of the PRC, 1 September 2002, Articles 19 and 20)

Article 22 provides:

> "Discrimination against and maltreatment of women who give birth to baby girls or who suffer from infertility are prohibited. Discrimination against, maltreatment, and abandonment of baby girls are prohibited." (Population and Family Planning Law of the PRC, 1 September 2002, Article 22)

Article 39 of the law provides for penalties for transgressions committed by officials working in family planning while Article 40 stipulates sanctions against administrative units failing to comply with their "obligation of assisting in the administration of family planning":

> "Article 39

Any functionary of a State organ who commits one of the following acts in the work of family planning, if the act constitutes a crime, shall be investigated for criminal liability in accordance with law; if it does not constitute a crime, he shall be given an administrative sanction in accordance with law; his unlawful gains, if any, shall be confiscated:

(1) infringing on a citizen's personal rights, property rights or other legitimate rights and interests;

(2) abusing his power, neglecting his duty or engaging in malpractices for personal gain;

(3) demanding or accepting bribes;

(4) withholding, reducing, misappropriating or embezzling funds for family planning or social maintenance fees; or

(5) making false or deceptive statistic data on population or family planning, or fabricating, tampering with, or refusing to provide such data.

Article 40

Any unit that, in violation of the provisions of this Law, fails to perform its obligation of assisting in the administration of family planning shall be instructed to make rectification and be criticized in a circular by the local people's government concerned; the persons who are directly in charge and the other persons who are directly responsible shall be given administrative sanctions in accordance with law." (Population and Family Planning Law of the PRC, 1 September 2002, Articles 39 and 40)

Article 41 specifies the following sanctions for citizens' failure to comply with the provisions set out in Article 18 above:

"Citizens who give birth to babies not in compliance with the provisions of Article 18 of this Law shall pay a social maintenance fee prescribed by law.

Citizens who fails to pay the full amount of the said fees payable within the specified time limit shall have to pay an additional surcharge each in accordance with relevant State regulations, counting from the date each fails to pay the fees; with regard to ones who still fail to make the payment, the administrative department for family planning that makes the decision on collection of the fees shall, in accordance with law, apply to the People's Court for enforcement." (Population and Family Planning Law of the People's Republic of China, 1 September 2002, Article 41)

"Social maintenance fees" are specified in Article 3 of the "Measures for Administration of Collection of Social Maintenance Fees", promulgated by decree of the State Council of the PRC in August 2002 and effective as of September 2002:

"Those citizens who bear children out of line with the provisions of Article 18 of the Population and Family Planning Law shall pay social maintenance fees according to the provisions of these Measures.

> The standards for the collection of social maintenance fees shall mainly be based upon the reference standard of the urban residents' annual per capita disposable income and the rural residents' annual per capita net income in their respective localities, and the collection amounts shall be determined in the light of actual income levels of the persons and their specific circumstances for having children out of line with the provisions of the relevant laws and regulations. The provinces, autonomous regions and municipalities directly under the Central Government shall lay down their own specific standards for the collection of social maintenance fees." (Measures for Administration of Collection of Social Maintenance Fees, 1 September 2002, Article 3)

The Congressional Research Service (CRS) states in its report of March 2013 that "[e]ach province has its own family planning guidelines" (CRS, 15 March 2013, p. 17).

The US Department of State (USDOS) notes in its annual human rights report of February 2014:

> "The [2002 national population and family-planning] law grants married couples the right to have one birth and allows couples to apply for permission to have a second child if they meet conditions stipulated in local and provincial regulations. The one-child limit was more strictly applied in urban areas, where only couples meeting certain conditions were permitted to have a second child (e.g., if both of the would-be parents were an only child). In most rural areas couples were permitted to have a second child in cases where their first child was a girl. Ethnic minorities were subject to less stringent rules. Nationwide 35 percent of families fell under the one-child restrictions, and more than 60 percent of families were eligible to have a second child, either outright or if they met certain criteria. The remaining 5 percent were eligible to have more than two children. According to government statistics, the average fertility rate for women nationwide was 1.8, and in the country's most populous and prosperous city, Shanghai, the fertility rate was 0.8. In December [2013] the NPC Standing Committee amended the one-child policy to allow couples in which at least one spouse is an only child to have two children." (USDOS, 27 February 2014, section 6)

The same report states:

> "The National Population and Family Planning Commission reported that all provinces eliminated the birth-approval requirement before a first child is conceived, but provinces may still continue to require parents to 'register' pregnancies prior to giving birth to their first child." (USDOS, 27 February 2014, section 6)

The Economist newspaper reports in 16 June 2012:

> "Couples living in the countryside can typically have a second child if the first is a girl. Many other rules seem almost arbitrary. In Shanghai, if either man or wife works in fishing and has been at sea for five years, a couple may have a second child without facing punishment." (Economist, 16 June 2012)

The Guardian states that "some groups, including ethnic minorities, disabled people, and couples in which both members are only children, are allowed to have two [children]" (Guardian, 15 November 2013). The CRS indicates that "[m]any jurisdictions" in China "allow for more than one child for ethnic minorities, rural couples in which the first child is a girl, couples in which both parents are only children, and in various other circumstances" (CRS, 15 March 2013, p. 17).

However, as reported by the state-run Xinhua news agency, the Standing Committee of the National People's Congress (NPC), at its bi-monthly session in December 2013, passed a resolution permitting couples to have two children if either the father or mother is an only child. The article also notes that the resolution is "equal to a legal document" and "entrusts provincial congresses and their standing committees to make their own calls on implementation of the new policy" (Xinhua, 28 December 2013). This policy had previously been approved at the Third Plenary Session of the 18th CPC Central Committee in November 2013 (Xinhua, 15 November 2013b).

Another Xinhua article quotes Yang Wenzhuang[9] of the National Health and Family Planning Commission of the State Council, as saying that the new one-child policy is expected to be implemented "in some provincial regions" during the first quarter of 2014. The same source also indicates that "[l]ocal authorities are expected to implement the family planning policy, improve people's awareness and punish those who violate the policy" (Xinhua, 23 December 2013).

As reported by Human Rights Watch (HRW) in its World Report for the year 2013, "[w]omen's reproductive rights and access to reproductive health remain severely curtailed". The same source goes on to state:

> "While the government announced in November that Chinese couples will now be allowed two children if either parent was a single child, the measure does not change the foundations of China's government-enforced family planning policy, which includes the use of legal and other coercive measures—such as administrative sanctions, fines, and coercive measures, including forced abortion—to control reproductive choices." (HRW, 21 January 2014)

The Congressional-Executive Commission on China (CECC) writes in its October 2013 annual report:

> "In accordance with national measures, local governments direct officials to punish non-compliance with heavy fines, termed 'social maintenance fees' (shehui fuyang fei), which force many couples to choose between undergoing an unwanted abortion and incurring a fine much greater than the average annual income of their locality. Furthermore, despite provisions in the PRC Population and Family Planning Law that prohibit infringements on citizens' personal, property, and other rights, officials in some cases threatened or imposed job termination, expulsion from the Communist Party, and violence for family

[9] A December 2013 article by the China Daily refers to Yang Wenzhuang as the "director of the family planning instruction department of the National Health and Family Planning Commission" (China Daily, 8 December 2013).

> planning violations. In past years, reports have documented officials' use of methods such as destruction of personal property and arbitrary detention to punish couples who did not comply with population planning policies." (CECC, 10 October 2013a, pp. 102-103)

The USDOS notes the following penalties for violations of the one-child policy:

> "The law requires each parent of an unapproved child to pay a 'social compensation fee,' which can reach 10 times a person's annual disposable income. Social compensation fees were set and assessed at the local level. The obtain court approval before taking 'forcible' action, such as detaining family members or confiscating and destroying property of families who refuse to pay social compensation fees. This requirement was not always followed, and national authorities remained ineffective at reducing abuses by local officials." (USDOS, 27 February 2014, section 6)

An article that appeared in the Economist in June 2012 states that "[b]reaching China's one-child policy carries a severe financial penalty" and that "[p]arents in Shanghai pay between three and six times the city's average yearly income in what are called 'social-maintenance fees' (SMF) for extra children". The article quotes He Yafu, an "independent scholar and critic of the one-child policy", as estimating that more than 2 trillion yuan have been collected in SMFs since 1980. The Economist refers to He's calculations as being "conservative". The article states that "[f]ailure to pay the fine carries grave repercussions", mentioning that the "second 'black child' cannot get a household registration, a hukou, which carries with it such basic rights as education". It also refers to the case of a person whose house was destroyed by family-planning officials when he "refused to pay his SMF". (Economist, 16 June 2012)

The USDOS reports:

> "Although the family-planning law states that officials should not violate citizens' rights in the enforcement of family-planning policy, these rights, as well as penalties for violating them, are not clearly defined. By law citizens may sue officials who exceed their authority in implementing birth-planning policy, but few protections for whistleblowers against retaliation from local officials exist [...]. The law provides significant and detailed sanctions for officials who help persons evade the birth limitations." (USDOS, 27 February 2014, section 6)

The New York Times (NYT) reports in an article of May 2013:

> "Zhang Yimou, the celebrated film director and arranger of the 2008 Summer Olympics' opening ceremony in Beijing, was accused last week of being the latest high-profile violator of China's one-child policy. [...] The news has ignited an angry online debate, with Internet users condemning the unequal application of a 1979 law that stipulates every couple may have just one child (or two for ethnic minorities and for rural couples whose first child is a girl). The truth is: for the rich, the law is a paper tiger, easily circumvented by paying a 'social compensation fee' — a fine of 3 to 10 times a household's annual income, set by each province's family planning bureau, or by traveling to Hong Kong, Singapore or even America to give birth. For the poor, however, the policy is a flesh-and-blood tiger with claws and fangs. In the countryside, where the need for extra hands to

help in the fields and the deeply entrenched patriarchal desire for a male heir have created strong resistance to population control measures, the tiger has been merciless. Village family-planning officers vigilantly chart the menstrual cycle and pelvic-exam results of every woman of childbearing age in their area. If a woman gets pregnant without permission and is unable to pay the often exorbitant fine for violating the policy, she risks being subjected to a forced abortion. According to Chinese Health Ministry data released in March, 336 million abortions and 222 million sterilizations have been carried out since 1971. (Though the one-child policy was introduced in 1979, other, less-stringent family planning policies were in place before it.) [...] It is not surprising that China has the highest rate of female suicide in the world. The one-child policy has reduced women to numbers, objects, a means of production; it has denied them control of their bodies and the basic human right to determine freely and responsibly the number and spacing of their children. Baby girls are also victims of the policy. Under family pressure to ensure that their only child is a son, women often choose to abort baby girls or discard them at birth, practices that have skewed China's sex ratio to 118 boys for every 100 girls." (NYT, 21 May 2013)

The March 2013 report of the Congressional Research Service (CRS) states:

> "China's 2002 Population and Family Planning Law does not explicitly condone abortion as a means of dealing with violations of the One-Child Policy, stating that 'Family planning shall be practiced chiefly by means of contraception.' [...] The policy has led to many human rights abuses by local level officials attempting to enforce the law, including forced contraception, sterilization, and abortion." (CRS, 15 March 2013, p. 17)

As reported by the UK Foreign and Commonwealth Office (FCO), "[t]here were continued reports of the illegal use of forced abortions and sterilisations in 2012" (FCO, April 2013).

Freedom House states in its Freedom in the World 2014 report which covers the year 2013:

> "China's population controls mandate that couples must obtain government permission before giving birth. Most urban couples are limited to one child and rural residents to two. Compliance is enforced by intrusive government directives—such as required implantation of long-term contraception devices—and the inability of unregistered children to obtain hukou status, except upon payment of substantial fines. Birth and sterilization quotas remain crucial to the career advancement of local officials. Consequently, compulsory abortion and sterilization still occur, though less frequently than in the past." (Freedom House, 23 January 2014)

The Freedom in the World report for the year 2012 notes the following issues:

> "Officials who fail to meet birth and sterilization quotas risk disciplinary action, and relatives of unsterilized women or couples with unapproved pregnancies were subjected to high fines, job dismissal, and detention in 2012. These controls, combined with commercial ultrasound technology and cultural and economic pressures favoring boys, have led to sex-selective abortion and a general shortage of females, exacerbating the problem of human trafficking." (Freedom House, January 2013a)

The CECC annual report of October 2013 states:

> "Officials in localities across China also continue to employ other forms of coercion and violence against women – including forced abortions, forced sterilizations, and forced contraceptive use – in their enforcement of national and local population planning policies, in contradiction with international standards to which China has agreed. Chinese law leaves women unprotected against such abuses; for even though it prohibits officials from infringing upon citizens' rights and interests during population planning implementation, the law does not define what constitutes a citizen's right or interest, nor does it stipulate punishments for violations." (CECC, 10 October 2013a, p. 112)

The October 2013 annual report of CECC notes:

> "Chinese law reportedly does not stipulate punishment for officials who demand or implement forced abortion. Furthermore, provincial-level population planning regulations in at least 22 of China's 31 provincial-level jurisdictions explicitly endorse the practice, often referred to as a 'remedial measure' (bujiu cuoshi), as an official policy instrument. Officials also reportedly continue to use other coercive methods – including forced abortion under arbitrary detention, forced implantation of long-term birth control devices, and forced sterilization – to implement population planning policies." (CECC, 10 October 2013a, p. 100)

As specified in the USDOS annual human rights report of April 2013, "[r]egulations requiring women who violate family-planning policy to terminate their pregnancies still exist in the 25th and 22nd provisions of the Population and Family Control Regulation of Liaoning and Heilongjiang provinces, respectively" (USDOS, 19 April 2013, section 6). The USDOS annual human rights report of February 2014 notes that "[o]ther provinces – Fujian, Guizhou, Guangdong, Gansu, Jiangxi, Qinghai, Shanxi, and Shaanxi – require unspecified 'remedial measures' to deal with unauthorized pregnancies" (USDOS, 27 February 2014, section 5).

With regard to single mothers, the USDOS notes that "[i]t continued to be illegal in almost all provinces for a single woman to have a child" and that "[p]rovinces and localities imposed fines of various amounts on unwed mothers". The report also states that "some local governments continued to mandate abortion for single women who became pregnant" (USDOS, 27 February 2014, section 6).

In June 2013, the Women News Network (WNN), a news organization with a focus on women's rights, states that "no solution is available to avoid the social compensation fees imposed by local government on unwed mothers for breaking the one-child policy" and that the "burden of fines often weighs only on single mothers, as partners abandon them". The same source continues that people "who do not enjoy family support and fall outside social welfare programs aimed only at married couples, find it very difficult to pay social compensation fees". The WNN also quotes a lawyer as saying that women with children born out of wedlock "receive moral condemnation by society". (WNN, 30 June 2013)

The USDOS annual human rights report of February 2014 states:

> "Officials at all levels remained subject to rewards or penalties based on meeting the population goals set by their administrative region. Promotions for local officials depended in part on meeting population targets. Linking job promotion with an official's ability to meet or exceed such targets provided a powerful structural incentive for officials to employ coercive measures to meet population goals. An administrative reform process initiated pilot programs in some localities that removed this criterion for evaluating officials' performance." (USDOS, 27 February 2014, section 6)

The South China Morning Post (SCMP) reports in July 2012:

> "Coercion and violence are integral parts of the system. The people who track down pregnant women to carry out unwanted terminations do it not because they are evil or unfeeling. They do it because of powerful incentives to meet family-planning targets. Disappointing their superiors by failing to meet targets has serious career consequences, whereas violating the rights of ordinary citizens, an occasional international scandal notwithstanding, results only in temporary suspension or demotion. The understanding is that local officials do whatever dirty work is necessary to keep the numbers right and in turn their bosses look after their interests. [...] These social compensation fees have become a vital component of local officials' income, covering overtime, bonuses, pensions and travel expenses. China Human Rights Defenders has highlighted the financial rewards and penalties on offer to family-planning officials on performance-related pay. Officials lose points for every out-of-quota birth in their area and earn cash bonuses for every abortion and sterilisation they enforce." (SCMP, 25 July 2012)

The October 2013 annual report of the Congressional-Executive Commission on China (CECC) notes that "[b]etween July and September 2012, authorities in 23 of China's 31 provincial-level jurisdictions published statements banning late-term abortions." The CECC reports that after these announcements, "officials in these jurisdictions continued to use forced late-term abortions to implement population planning policies", mentioning such cases in the provinces of Guizhou (July 2013), Hubei (May 2013), Anhui (March 2013) and Shandong (October 2012). The same report also states that "[o]fficials have also continued to implement forced contraceptive surgeries and sterilizations this reporting year" and refers to such cases in Guizhou (February 2013), Hubei (March 2013), Henan (March 2013) and Yunnan (July 2013). (CECC, 10 October 2013a, pp. 101-102)

The USDOS annual human rights report of February 2014 reports on the following forced abortion cases that occurred during 2013:

> "In October [2013], Western media reported that officials from the Shandong Province Family Planning Commission forced their way into the home of Liu Xinwen, dragged her to a nearby hospital, and injected her with an abortion-inducing drug. Shandong officials reportedly forced Liu, who was six months into her pregnancy, to sign a document stating that she had agreed to the abortion. [...] On December 30 [2013], overseas media reported that officials at Nurluq Hospital in Keriye County of Xinjiang's Hotan Prefecture carried out forced abortions on four pregnant women. According to the report, the deputy chief of Hotan's Arish Township confirmed that authorities had carried out four of six

> planned abortions utilizing abortion-inducing drugs. One woman escaped and another was in the hospital awaiting the procedure, the report stated. The head of the township's Family Planning Department stated the abortions were carried out following orders from higher authorities. The husband of one victim stated that his wife had been seven months' pregnant when the procedure was performed and that the baby had been born alive before succumbing to the effects of the chemical toxins hours later." (USDOS, 27 February 2014, section 6)

The April 2013 USDOS annual human rights report refers to the following cases documented during 2012:

> "In April [2012] government officials in Fujian City seized a woman and forced her to abort her child. In June [2012] authorities forcefully took a seven-month pregnant woman, Feng Jianmei, from her home to a hospital in Shaanxi Province and induced the abortion of her child. In response to national and international media attention, the government launched an investigation, which determined that the local family planning bureau had violated her rights. Two local officials were fired and five otherwise sanctioned. Feng was awarded 70,000 RMB ($11,230) in compensation. In June [2012] family planning officials in Changsha, Hunan Province, forcefully took Cao Ruyi from her home and beat her to pressure her into having an abortion. The officials stopped short of inducing an abortion after a public outcry but forced Cao to sign a document agreeing to pay unspecified fines. Local officials also pressured her husband's employer into firing him." (USDOS, 19 April 2013, section 6)

As reported by Radio Free Asia (RFA) in December 2013, four Uyghur women in the Xinjiang Uyghur Autonomous Region were "forced by authorities to undergo abortions – one of them nine months into her pregnancy", under the country's one-child policy (RFA, 30 December 2013).

Sky News reports on the following forced abortion case in Shandong province:

> "A couple have told Sky News how they were physically forced into an abortion by the Chinese authorities, three months before their child was due to be born. At 4am last Friday, a group of 20 officials from the Shandong Province Family Planning Commission forced their way into the home of Zhou Guoqiang and his wife Liu Xinwen. The officials kicked down the door of the family's home. Mr Zhou was held down while his wife was pulled from her bed and taken away. Liu Xinwen, 33, was taken to the People's Hospital of Fangzi District in Weifang City where she was injected with an abortion-inducing drug." (Sky News, 4 October 2013)

In March 2013, RFA reported on "a forced abortion perpetrated on a woman who was seven months pregnant by family planning authorities" in Anhui province (RFA, 26 March 2013).

The June 2012 case of Feng Jianmei in Shaanxi province has been covered by a number of media sources (Economist, 16 June 2012; BBC News, 14 June 2012; Guardian, 27 June 2012; Guardian, 11 July 2012; CRS, 15 March 2013, p. 17).

The Human Rights Watch (HRW) World Report for the year 2012 states that "[i]n recent years coercive birth control policies increasingly extend to ethnic minority areas such as Tibet and Xinjiang" (HRW, 31 January 2013).

The undated website of Women's Rights Without Frontiers, a US-based NGO that campaigns against "forced abortion, gendercide and sexual slavery in China", states:

> "As ethnic minorities, the Uyghurs are supposed to be exempt from the One-Child Policy. In reality, they are subject to strict population control. If they live in the countryside, Uyghurs are allowed three children; in the city, they are allowed two. Uyghurs who exceed this limit are subject to forced abortion, forced sterilization and other coercive measures." (Women's Rights Without Frontiers, undated)

The BBC quotes a Beijing-based lawyer as saying that Pan Chunyan of Fuijian province was subjected to forced abortion in her eighth month of pregnancy in April 2012 although the couple had "already paid a penalty" for breaching the one-child policy (BBC News, 10 July 2012). As reported by the South China Morning Post (SCMP), Pan Chunyan and her husband already had two children (SCMP, 9 July 2012).

In December 2011, RFA reports that family planning officials in Shandong's Linyi city were holding a woman and her infant son hostage, "demanding 40,000 yuan [...] in fines from her family after she allegedly exceeded local birth quotas", according to her husband (RFA, 16 December 2011).

Information on family planning laws and their enforcement in the provinces of Fujian and Guangdong is included in the following October 2012 query response by the Immigration and Refugee Board of Canada (IRB) and a March 2013 country of origin report by the Australian Refugee Review Tribunal (RRT):

- IRB - Immigration and Refugee Board of Canada: China: Family planning laws, enforcement and exceptions in the provinces of Guangdong and Fujian; reports of forced abortions or sterilization of men and women; consequences to officials who force women to have an abortion; whether family planning authorities interact with the Public Security Bureau in enforcing their decisions (2010-September 2012) [CHN104185.E], 1 October 2012 (available at ecoi.net)
  http://www.ecoi.net/local_link/231312/339790_en.html
- RRT: Refugee Review Tribunal (Government of Australia): Background Paper China: Family Planning, 8 March 2013, pp. 18-28 (available at ecoi.net)
  https://www.ecoi.net/file_upload/1226_1374666965_family-planning.pdf

The December 2013 COI report of the UK Home Office contains information on family planning in Fujian and Guangdong provinces as well as Tibet:

- UK Home Office: China; Country of Origin Information (COI) Report, 20 December 2013, pp. 60-61 (available at ecoi.net)
  http://www.ecoi.net/file_upload/1226_1388053533_report-1213china.pdf

9.2 Trafficking in women

The October 2013 annual report of the Congressional-Executive Commission on China (CECC) states:

> "Since its accession to the UN TIP [Trafficking in Persons] Protocol in 2009, the Chinese government has steadily taken steps, in concert with other country governments and international non-governmental organizations, to revise domestic legislation, policies, and anti-trafficking efforts to come into compliance. [...] In January 2013, the State Council took an additional step to bring government efforts into compliance with international standards by issuing the China Action Plan to Combat Trafficking in Persons (2013–2020), which is a revised version of its predecessor, the China Action Plan to Combat Trafficking in Women and Children (2008–2012). The new Action Plan appears to contain some improvements in terminology and objectives, and clearly lays out which government agencies are responsible for implementation. [...] Chinese authorities took limited steps this year to improve prevention, protection, and services for victims of trafficking, but did not release detailed information on the services provided or the number of victims identified and assisted. Chinese officials reportedly established two shelters dedicated to assisting foreign trafficking victims in Yunnan and Guangxi provinces, but did not provide data on the number of victims assisted at these shelters or the types of services provided there. While the government reportedly maintained four nationwide anti-trafficking hotlines, continued training for law enforcement officials, and stepped up efforts to cooperate with the governments of bordering countries such as Laos and Burma, it is difficult to assess China's progress in anti-trafficking efforts, as the government does not release data on the overall number of victims identified or assisted. [...] Additional revisions are needed to bring China's domestic legislation into compliance with the UN TIP Protocol. For example, while the PRC Criminal Law prohibits human trafficking, its provisions do not appear to cover all forms of trafficking, such as certain types of non-physical coercion and the commercial sex trade of minors. [...] Chinese officials' anti-trafficking work reflects a continued misalignment with international standards, especially in officials' conflation of human trafficking with human smuggling and their subsequent treatment of trafficking victims as criminals. [...] Reports indicate that China's sex ratio—which has become severely skewed against the backdrop of China's population planning policies and Chinese families' preference for sons – has increased the demand for trafficking of women for forced marriage and commercial sexual exploitation." (CECC, 10 October 2013a, pp. 113-116)

The US Department of State (USDOS) indicates in its Trafficking in Persons Report 2013, published in June 2013:

> "China is a source, transit, and destination country for men, women, and children subjected to forced labor and sex trafficking. [...] While the majority of trafficking occurs within China's borders, there are reports that Chinese men, women, and children may be subjected to conditions of forced prostitution and forced labor in numerous other countries. [...] Chinese women and girls are subjected to sex trafficking within China; they are often recruited from rural areas and transported to urban centers. China is also a destination for women and girls, largely from neighboring countries, who are sometimes subjected to

forced marriage and forced prostitution upon arrival. Well-organized international criminal syndicates and local gangs play key roles in both the outbound trafficking of Chinese women and girls and the inbound trafficking of foreign women and girls into China. Media sources have reported on the prevalence of underage girls in the sex trade in cities throughout China. [...] During the reporting period, the Chinese government released a new national plan of action that sets forth ways in which the government will increase its efforts in victim protection and cooperation with international organizations. [...] However, despite these modest signs of interest in anti-trafficking reforms, the Chinese government did not demonstrate significant efforts to comprehensively prohibit and punish all forms of trafficking and to prosecute traffickers. The government continued to perpetuate human trafficking in at least 320 state-run institutions, while helping victims of human trafficking in only seven. The government also did not report providing comprehensive victim protection services to domestic or foreign, male or female victims of trafficking. In addition, as the government provides little information about arrests or prosecutions, it is difficult to determine if the government takes adequate steps to punish government officials complicit in trafficking." (USDOS, 19 June 2013)

The same report notes with regard to legislation on human trafficking and prosecution of trafficking crimes:

"Although the government claims otherwise, Chinese law remains inadequate to combat all forms of trafficking. Article 240 of China's criminal code prohibits 'abducting and trafficking of women or children,' but does not define these concepts. Article 358 prohibits forced prostitution, which is punishable by five to 10 years' imprisonment. Prescribed penalties under these statutes range from five years' imprisonment to death sentences, which are sufficiently stringent and commensurate with those prescribed for other serious crimes, including rape. Article 244 of the Chinese Criminal Code prohibits 'forcing workers to labor,' punishable by three to 10 years' imprisonment and a fine, and expands culpability to those who also recruit, transport, or assist in 'forcing others to labor.' However, it remains unclear whether, under Chinese law, children under the age of 18 in prostitution are considered victims of trafficking regardless of whether force is involved. In addition, it remains unclear whether these laws have prohibited the use of common non-physical forms of coercion, such as threats of financial or reputational harm, or whether acts such as recruiting, providing, or obtaining persons for compelled prostitution are covered. While trafficking crimes could perhaps be prosecuted under general statutes related to fraud and deprivation of liberty, authorities did not report using these specific provisions to prosecute and punish trafficking offenders. The government reported law enforcement statistics that included incarceration of sex and labor trafficking offenders involving women and children victims. The government reported that police cracked down on 10,000 alleged human trafficking organized crime groups and placed over 80,000 alleged suspects in criminal detention. However, due to the government's continued conflation of human smuggling, child abduction, and fraudulent adoptions with trafficking offenses and its lack of judicial due process and transparency, it is difficult to ascertain how many trafficking cases the government actually investigated and prosecuted during the reporting period. It therefore was difficult to accurately assess Chinese anti-trafficking

> law enforcement efforts, including the government's statistics on trafficking-related investigations, prosecutions, and convictions." (USDOS, 19 June 2013)

The protection provided by state authorities to trafficking victims is reported by the same source as follows:

> "The Government of China's efforts to protect trafficked victims remained inadequate during the reporting period. During the reporting period, the Chinese government claimed that out of the 1,400 shelters serving a wide variety of people, including victims of crime and the homeless, five were dedicated to care for victims of human trafficking; victims also had access to basic services at China's general-purpose shelter network. The government also reported that two additional shelters were established in Yunnan and Guangxi provinces to protect and assist foreign trafficking victims. However, the government did not report the number of victims assisted or the services provided to the victims." (USDOS, 19 June 2013)

Reuters reports in an article of September 2013:

> "A traditional preference for boys, especially in rural areas, and a strict one-child policy have contributed to a rise in the trafficking of children and women in recent years. Kidnapped women are sold to men in remote areas who are unable to find brides due to a sex imbalance resulting from the draconian one-child policy, which has also encouraged sex-selective abortions." (Reuters, 28 September 2013)

In September 2013, state-run Xinhua news agency reports on the following event:

> "Chinese police rescued 92 children and two women while they seized 301 suspects, part of an 'outsized' human trafficking network. Members of the network were said to follow clear divisions of work: kidnappers collected children in southwest China's Yunnan and Sichuan while deliverymen drove them to other regions to the hands of sellers, according to the statement released Friday by the Ministry of Public Security. Police investigations started in March with a child trafficking case in central China's Henan Province, and the arrests were made on Sept. 11 with the joint efforts of police in 11 provincial-level regions, said the statement." (Xinhua, 28 September 2013)

9.3 Sexual and gender-based violence (SGBV)

The FCO annual report of April 2013 states that "[g]ender-based violence remains a widespread problem" (FCO, April 2013).

Partners for Prevention, a regional joint programme run by the United Nations Development Programme (UNDP), the UN Population Fund (UNFPA), UN Women and United Nations Volunteers (UNV), states in a report published in September 2013 that there exists "[s]ome general legislation on domestic violence", listing the Marriage Law (2001), the Law on the Protection of Rights and Interests of Women (2005) and the Constitution of the People's Republic of China (1982). The report notes that "[a] draft law specifically on domestic violence is in discussion but has not yet been passed". It also notes that "[l]egislation covers rape" while "[m]arital rape is not criminalized". (Partners for Prevention, September 2013, p. 10)

A November 2013 Xinhua article quotes the secretary of the secretariat of the state-run All-China Women's Federation (ACWF) as saying that almost 25 per cent of women in China have been subjected to domestic violence in their marriage, and that the women's federations in the country receive about 50,000 cases of domestic violence per year (Xinhua, 26 November 2013).

An article published by the Japanese daily newspaper Asahi Shimbun in March 2013 states:

> "According to news reports, a survey found that one-quarter of all women in China have suffered from domestic violence, including physical and verbal abuse, and economic restrictions, at the hands of their spouses. Physical abuse was evident in 5.5 percent of the cases, and that proportion rose to 7.8 percent when rural areas alone were singled out, the survey said. Experts have said domestic violence is often seen in China as internal discord within a family, which public authorities should not meddle in. Others have pointed out that male-chauvinistic values remaining from the nation's feudal period still run deep." (Asahi Shimbun, 2 March 2013)

A press release published by Human Rights Watch (HRW) in January 2013 notes that "[a]ccording to Chinese government statistics released in January 2013, one in four women in China are subjected to domestic violence, including marital rape and beatings" (HRW, 30 January 2013).

The Straits Times, a newspaper based in Singapore, reports in a December 2013 article:

> "While public awareness of domestic violence has increased considerably in China over the last decade, many victims still don't get the help and protection they need, partly because of inadequate laws and partly because domestic violence is still often seen as a private family matter, say experts. China has had an average of 40,000 to 50,000 domestic violence, or jia bao, cases a year in recent years, said the All-China Women's Federation (ACFW)." (Straits Times, 14 December 2013)

The October 2013 annual report of the Congressional-Executive Commission on China (CECC) covers domestic and sexual violence as follows:

> "Domestic violence is prohibited and punishable under Chinese law, yet the problem of domestic violence in China remains wide-spread. Current national-level legal provisions regarding domestic violence leave many victims unprotected by prohibiting domestic violence without defining the term or clarifying the specific responsibilities of public and private sector organizations in prevention, punishment, and treatment. As of December 2012, 28 provincial-level jurisdictions and more than 90 cities across China had instituted local anti-domestic violence regulations or policies that address gaps in national-level legislation. [...]
>
> Women and children subjected to sexual violence in China face difficulties defending their rights. Reports regarding officials' or their associates' involvement in sexual violence against women and girls continued to emerge during the Commission's reporting year, igniting public fury at the lack of transparency and abuse of power displayed among

China's elite. [...] Sexual harassment, considered a form of violence against women under international standards, is prohibited under Chinese law; however, due in part to the lack of a clear legal definition and standards for prevention, reporting, and punishment, legal experts continued calls this year for strengthened legislation on the issue. Chinese media reporting on sexual harassment this year included a survey showing a perceived increase of sexual harassment in urban areas, a case of sexual harassment involving Foxconn employees, and a case implicating a Guangdong province official. [...] Women engaging in sex work in China also report suffering frequent violence at the hands of authorities, including beatings and other forms of physical abuse, in order to coerce confessions. Although sex work is illegal under Chinese law, authorities are not permitted to use physical violence or abuse against suspects when enforcing these laws." (CECC, 10 October 2013a, pp. 110-112)

The February 2014 annual report of the USDOS notes with respect to the legal framework and judicial practices relating to domestic violence:

"There was no strong legal mechanism to protect women from domestic abuse. According to the ACWF, laws related to domestic violence were flawed since there was no national provision for dealing with offenders. During the year the creation of such mechanisms was added to the NPC's legislative agenda, the fifth time the ACWF submitted such a proposal. Both the marriage law and the law on the protection of women's rights and interests have stipulations that directly prohibit domestic violence, but some experts complained that the stipulations were too general, failed to define domestic violence, and were difficult to implement. Because of standards of evidence, even if certain that domestic violence was occurring, a judge could not rule against the abuser without the abuser's confession. Only 10 percent of accused abusers confessed to violent behavior, according to 2009 data from the Institute of Applied Laws. The institute reported that, although 40 to 60 percent of marriage and family cases involved domestic violence, less than 30 percent were able to supply indirect evidence, including photographs, hospital records, police records, or children's testimony. Witnesses seldom testified in court." (USDOS, 27 February 2014, section 6)

The Straits Times article of December 2013 reports:

"While China's Marriage Law was amended to include mention of domestic abuse, it lacks specific provisions on enforcement. The laws don't really provide for protective orders to be issued to ensure the safety of victims. China also has relatively few shelters for victims of such abuse. In any case, many abused women do not turn to them. [...] Complicated application processes such as those requiring victims to first submit police or medical reports also deter many from seeking help at these shelters, local media reported. The Chinese reluctance to interfere in another family's business has also made it harder to tackle domestic violence cases, which are often seen as family disputes." (Straits Times, 14 December 2013)

The January 2013 HRW press release notes:

> "Since 2000, local governments across China have passed local regulations on domestic violence. But these regulations focus on general principles and lack specific provisions to effectively protect women from domestic violence. [...] The growing call for anti-domestic violence legislation prompted the Supreme People's Court's own investigation into the issue. The investigation, made public in January 2013, found current laws and regulations insufficient to protect women from domestic violence. According to the Supreme People's Court, there is no clear standard stipulating the conditions under which investigations and prosecutions should be initiated; as a result, such investigations and prosecutions are rare. Even when such cases do come before courts, judges tend to treat domestic violence as a marital dispute and issue light punishments to abusers. The Supreme People's Court investigation also pointed out that in cases where women respond to violence with violence, law enforcement agencies tend to discount their claims of abuse and failed to take them into account during sentencing." (HRW, 30 January 2013)

The September 2013 report by Partners for Prevention includes a table on the percentage of men reporting perpetration of rape against female partners and non-partners. The survey results for China (urban/rural) indicate that 19.4 per cent out of a total of 998 surveyed men reported that they had perpetrated partner rape against women in the past, while 8.1 per cent of surveyed men reported having committed non-partner rape against women, and another 2.2 per cent said that they had perpetrated gang-rape against women. (Partners for Prevention, September 2013, p. 40)

In February 2014, the US Department of State (USDOS) reports on rape and domestic violence as follows:

> "Rape is illegal, and some persons convicted of rape were executed. The penalties for rape can range from three years in prison to a death sentence with a two-year reprieve and forced labor. The law does not address spousal rape. The government did not make available official statistics on rape or sexual assault, leaving the scale of sexual violence difficult to determine. Migrant female workers were particularly vulnerable to sexual violence. Violence against women remained a significant problem. According to reports at least a quarter of families suffered from domestic violence, and more than 85 percent of the victims were women. Domestic violence against women included verbal and psychological abuse, restrictions on personal freedom, economic control, physical violence, and rape. The government supported shelters for victims of domestic violence, and some courts provided protections to victims, including through restraining orders prohibiting a perpetrator of domestic violence from coming near a victim. In March, Shaanxi Province designated the Number Two People's Hospital as an antidomestic violence service station to treat victims of domestic violence, the first designation of its kind. Nonetheless, official assistance did not always reach victims, and public security forces often ignored domestic violence. In 2010 the All China Women's Federation (ACWF) reported that it received 50,000 domestic violence complaints annually. Spousal abuse typically went unreported, and an ACWF study found that only 7 percent of rural women who suffered domestic violence sought help from police. Almost 30 percent of respondents in a recent study felt that domestic violence should be kept a private matter. While domestic violence tended to be more prevalent in rural areas, it also occurred among the highly educated urban

> population. The ACWF reported that approximately one-quarter of the 400,000 divorces registered each year were the result of family violence. According to ACWF statistics nationwide in 2008 there were 12,000 special police booths for domestic violence complaints, 400 shelters for victims of domestic violence, and 350 examination centers for women claiming injuries from domestic violence. Many domestic violence shelters had inadequate facilities, required extensive documentation, or went unused. The government operated most shelters, some with NGO participation." (USDOS, 27 February 2014, section 6)

The same report provides the following information relating to sexual harassment:

> "The law bans sexual harassment, and the number of sexual harassment complaints has increased significantly. [...] Sexual harassment was not limited to the workplace. According to a China Youth Daily survey reported in September [2013], approximately 14 percent of women had been sexually harassed while riding the subway, and 82 percent of those polled believed the problem existed. At a Hainan Province festival in 2012, a dozen women were pinned down by a crowd of men who mauled the women and stripped off their clothes in broad daylight. Police escorted the women away and, according to press reports, subsequently detained six suspects in the assault. According to information on the ACWF website, the internet and hotlines made it easier for women who were sexually harassed to obtain useful information and legal service. A Beijing rights lawyer told the ACWF that approximately 100-200 million women in the country had suffered or were suffering sexual harassment in the workplace but that very few legal service centers provided counseling." (USDOS, 27 February 2014, section 6)

10 Treatment of children

10.1 Hei haizi (black children)

This section should be read in association with section 9.1 on family planning.

The Congressional-Executive Commission on China (CECC) states in its October 2013 annual report:

> "Authorities in some cases deny hukous – household registration permits – to children based on their parents' lack of compliance with local population planning policies. Children who are born 'out-of-plan' may go without hukous until their parents pay the necessary 'social maintenance fees' associated with their birth. These children are commonly referred to as 'illegal residents' (heihu) and face considerable difficulty accessing social benefits typically afforded to registered citizens, including health insurance, public education, and pensions." (CECC, 10 October 2013a, p. 103)

As reported by the Economist in June 2012, failure to pay the "social maintenance fee" means that "the second 'black' child cannot obtain a household-registration document, or hukou, which brings with it basic rights such as education" (Economist, 23 June 2012). The South China Morning Post (SCMP) also indicates that "[o]fficials can deny parents permission to register a child born in contravention of family-planning regulations until a social compensation fee has been paid" and that such "'black children' [...] cannot get a place at school" although "[s]ome schools will take them for a substantial fee". The SCMP also notes that "most hospitals refuse to treat anyone without local hukou" (SCMP, 25 July 2012). Another article by the Economist of June 2012 also notes that "[t]he best schools prefer children carrying a 'glorious certificate for one-child parents'" (Economist, 16 June 2012).

The February 2014 annual human rights report of the USDOS indicates that "[p]arents must register their children in compliance with the national household registration system within one month of birth". The report notes a lack of available data "on the number of unregistered births" (USDOS, 27 February 2014, section 6). In June 2010, Radio Free Asia (RFA) quotes Cheng Hai, a Beijing-based lawyer specialised in the household registration system, as saying that without a registration book, it is not possible to get a national identity card and that access to social services including schooling, health insurance and social assistance requires a registration book or national identity card. According to Cheng, no figures exist for the number of affected children (RFA, 14 June 2010).

In an October 2011 article, Agence France-Presse (AFP) notes the lack of legal status of children of couples who defy the one-child policy, referred to as "black children" (AFP, 26 October 2011).

Reuters reports in an article of December 2013:

> "Chinese warehouse worker Liu Fei was fined 330,000 yuan ($54,200), or 14 times her yearly wage, for having a second child and her failure to pay means the boy has no access to basic rights like schooling and healthcare. [...] Their dilemma has now triggered

> a rare legal battle against the police for denying the boy a 'hukou' - household registration - due to strict family planning laws. [...] Liu's inability to pay the fine has left her son, Xiaojie, without an official identity. Family planning officials in Beijing told Liu in 2011 she would not be able to obtain a 'hukou' if she did not pay up. [...] Liu's ordeal underscores the punitive nature of China's family planning policy, beyond the more well-known stories of forced abortions and sterilizations, and highlights the plight of an estimated 13 million undocumented children, known as 'black children'. In China, 'black' implies something illegal, outside of the mainstream or unofficial. [...] Beijing gives local governments a wide mandate to enforce the one-child policy. Even as China relaxes the rules, allowing millions of families to have a second child, government encroachment into family matters will continue. Family planning officials will still require families to apply for licenses to have children, leaving room for possible abuse. Ma Jiantang, head of the National Bureau of Statistics, said in 2011 that in most of these cases, authorities denied children documentation because the families could not pay the family planning fines, media quoted him as saying. In July, a 16-year-old girl in southwestern Sichuan was granted a 'hukou' after she tried to kill herself by swallowing poison, media said. 'China is a country in which one is unable to move without documentation,' said Yang Zhizhu, a former Beijing-based law professor, who lost his job in 2010 after he and his wife had a second daughter. 'Without a 'hukou', one cannot go to school, join the army, take an exam, get married, open a bank account or take a plane or train.'" (Reuters, 4 December 2013)

The South China Morning Post (SCMP) reports in December 2012 that there is a "virtually [...] unspoken rule in many Chinese cities" that babies born in compliance with family planning regulations are also refused hukous if their mothers do not have a contraceptive intra-uterine device (IUD) inserted first, although the country's "National Population and Family Planning Commission have made it clear that the fitting of IUDs is not a necessary pre-condition for new born babies to obtain hukou". The article refers to the following case in Shandong province:

> "In Mudan district, Heze city, a new born baby was denied household registration, or hukou, China's official record for an individual's residency status. His mother has to get an intra-uterine device (IUD) fitted first, officials said. IUD is the most widely used form of reversible contraception in China. [...] 'Our son is a legitimate first-born child in compliance with the law, and we have completed all required documents. There is no reason to deny him a hukou,' said Mr Liu, the father." (SCMP, 19 December 2012)

A June 2013 article by the Women's News Network (WNN) mentions that a household registration (hukou) is "available only to children born within the frame of legal marriage" and that a child "[w]ithout the household registration [...] will not be allowed into kindergarten and each time he falls ill, medical fees are higher than average" (WNN, 30 June 2013).

For more information on the household registration (hukou) system, please see section 6.1.1 of this compilation.

10.2 Child labour and street children

The Chinese Human Rights Defenders (CHRD), a US-based NGO, states in a report published in August 2013 that refers to older sources:

> "The use of child labor remains widespread in China. Despite a lack of government data, several cases reported in state media specifically illustrate the prevalence of child labor in the country. [...] Prevalent practices of child labor include the large number of secondary spe cialized or technical school students working in companies as unpaid work - study 'interns.' [...] One particular problem with child labor festers in Re-education Through Labor (RTL) camps , where a person can be sent by police and detained for as long as four years without a trial. The government has not made data available showing the number of persons under the age of 18 currently detained in RTL facilities. However, the Chinese media has reported on such cases." (CHRD, August 2013, pp. 14-15)

The US Department of State (USDOS) indicates in its Trafficking in Persons Report 2013 published in June 2013:

> "Forced labor, including forced begging by adults and children, took place throughout China in 2012. Some evidence of child labor has been reported by media outlets, but the government has publicized only limited data on the subject. During the reporting period, some children in 'work-study programs' supported by local governments were forced to work in farms and factories. In 2012, instances of schools forcing students to work in factories were reported." (USDOS, 19 June 2013)

The same source also reports:

> "Media sources have reported on the prevalence of underage girls in the sex trade in cities throughout China. [...] Traffickers recruited girls and young women, often from rural areas of China, using a combination of fraudulent job offers, imposition of large travel fees, and threats of physical or financial harm, to obtain and maintain their service in prostitution. Locations of sex trafficking of Chinese women and girls abroad vary widely, and sometimes are collocated with concentrations of Chinese migrant workers in factories, and mining and logging camps." (USDOS, 19 June 2013)

An undated report by the United Nations Development Programme (UNDP) notes the existence of "some 1.5 million street children in China, most of whom have left their homes to escape either domestic violence or poverty" (UNDP, undated (b)). This information from the UNDP is further quoted by the South China Morning Post (SCMP) in November 2013 (SCMP, 12 November 2013).

The situation of street children in China is described by the UNDP as follows:

> "On the streets they lack access to healthcare, education and social support, and are also vulnerable to abuse, disease and exploitation by criminal networks. This has a lifelong negative impact on their physical and mental health, limiting their opportunities before they have even begun to realize their full potential." (UNDP, undated (b))

Radio Free Asia (RFA) quotes human rights groups as reporting that children are frequently barred from attending school in the cities where their parents work and "often end up being used as child labor". The same RFA report notes the "deaths of five 'left-behind' children of

absent migrant workers in a dumpster in the southwestern province of Guizhou" in November 2012. (RFA, 18 December 2013)

A June 2013 overview published by the China Labour Bulletin, a Hong Kong-based NGO that seeks to promote workers' rights in China, addresses the issue of left-behind children in the countryside as follows:

> "The All-China Women's Federation survey estimated that there were about 61 million children below 18 years of age left behind in the countryside in 2010, accounting for about 22 percent of all children in China, and 38 percent of all rural children. This was an increase of about three million left-behind children over the previous five years. The majority of the left-behind children (57 percent) lived with their grandparents while three percent (mainly teenagers) lived on their own. [...] The sexual and physical abuse of children is a serious problem in China and left-behind children are particularly vulnerable. In many villages, the vast majority of parents are working away from home, leaving young children prey to older predatory men. And in most cases the children suffer in silence because they are too scared or ashamed to talk to their guardians." (China Labour Bulletin, 27 June 2013)

The SCMP reports that there are an estimated 100,000 street children who originated from Xinjiang, the "vast majority" of whom are Uyghurs. Their situation is addressed as follows:

> "Many of the under-age Uygurs living rough on the streets fall prey to human traffickers and end up as pickpockets or prostitutes, one reason why they are reviled by the Han and rejected by conservative Muslim communities at home. This may help to explain why up to 70 per cent of Uygur street children returned to the cities even after they were rounded up and sent home in a massive but largely unsuccessful repatriation campaign over the past decade, according to Alimjan Yusan, a 23-year-old Uygur social science student at Shanghai University who, with the help of several sociologists, recently completed a report on the plight of Uygur street children. [...] The sense of exclusion Uygur children feel in both communities pushes them into lives of delinquency and discrimination, he said. [...] Almost all Uygur street children come from poverty-stricken prefectures in southern Xinjiang, where some parents hand their children to traffickers to seek a better living in other cities. Grinding poverty in their home regions is another of the reasons street children filter back to the cities. The fact that the children were falling prey to human traffickers, who were pressing them into petty crime and prostitution, prompted the Xinjiang government and authorities in some cities to launch the repatriation campaign over the past decade to tackle the homelessness and abduction of children. In February, authorities said 1,600 vagrant Uygur children had returned home in Xinjiang over the past two years. However, Turgunjan Tursun, an associate researcher at the Academy of Social Sciences of Xinjiang, said he estimated that 60 per cent to 70 per cent of them returned to the eastern cities." (SCMP, 12 November 2013)

10.3 Orphans and adoption

The Asia News Network (ANN), a network of newspapers published in Asian countries, states in an article of January 2013:

> "China has about 615,000 orphans. Less than 20 per cent of them are in state homes. Foster parents, legal or illegal, and non-governmental groups take care of the rest, said the Ministry of Civil Affairs. In reality, the numbers in state institutions may be even lower. [...] More than eight in 10 orphans are in rural areas. Only 64 out of China's 2,853 counties have a state children's home. Orphans in China can get 180 yuan (US$28.94) to 360 yuan a month, according to a State Council plan passed in 2010." (ANN, 19 January 2013)

A query response published by the Norwegian Country of Origin Information Centre (Landinfo) contains information on adoption procedures. The response states that China has ratified the Convention on Protection of Children and Co-operation in Respect of Intercountry Adoptions. The country's central authority responsible for domestic and international adoptions is the China Centre for Children's Welfare and Adoption, which was formerly named China Center of Adoption Affairs and is still being abbreviated as CCAA. The CCAA and the adoption offices act under the Ministry of Civil Affairs. As stipulated in section 15 of the Adoption Act, a person intending to adopt a child shall register this with the Ministry of Civil Affairs at or above county level, which in practice is often a CCAA office. An agreement between the parties involved (dangshiren) can be set up if they wish to do so. The same applies for notarisation of adoptions. If a child's biological parents are unknown, the Ministry of Civil Affairs will publicly announce the adoption before implementing it. When an adoption is officially completed, an adoption certificate (Shouyang dengjizheng) is issued. This certificate must be presented in order to obtain a household registration for the child. (Landinfo, 28 February 2013, pp. 3-4)

In its Concluding Observations of October 2013, the UN Committee on the Rights of the Child (CRC), while noting that "the State has made efforts in mainland China to combat unlawful adoptions", states that "it is deeply concerned that thousands of children are estimated to be abducted, trafficked and sold every year, including for illegal adoption purposes". The Committee further states that "[i]t is particularly concerned about reports that some family planning officials coerce parents to give up their children born in excess of the parents' birth quotas, and sell them or transfer them into the care of local orphanages for domestic or international adoption or forced labour". The Committee also notes "the absence of information and public statistics, in particular regarding the number of children in mainland China reportedly sold into adoption for domestic and intercountry adoptions and the number of cases that have been investigated and prosecuted." (CRC, 29 October 2013, p. 13)

The February 2014 annual human rights report of the US Department of State (USDOS) notes:

> "Kidnapping, buying, and selling children for adoption increased during the past several years, particularly in poor rural areas. There were no reliable estimates of the number of children kidnapped, but according to media reports as many as 20,000 children were kidnapped every year for illegal adoption. Most children kidnapped internally were sold to couples unable to have children. Those convicted of buying an abducted child may be sentenced to three years' imprisonment. In the past most children rescued were boys, but increased demand for children reportedly drove traffickers to focus on girls as well. The Ministry of Public Security maintained a DNA database of parents of missing children and

children recovered in law enforcement operations in an effort to reunite families." (USDOS, 27 February 2014, section 6)

China Daily states in a report of July 2012:

> "[I]n 2005, the Ministry of Civil Affairs conducted the first nationwide investigation about the condition of orphans and found 573,000 juveniles were without parents or anyone to take care of them, and 90% of those were living in rural areas. In 2009, the number of orphans on the Chinese mainland reached 712,000, according to the Ministry of Civil Affairs, about 24 percent higher than the 2005 figure, mainly due to adding those living with relatives. [...] More than 100,000 Chinese-born orphans and children with physical disabilities have been adopted by overseas parents over the last 30 years, a government official said on July 4 in Beijing. Overseas adoption has become an important channel through which to find homes for orphaned and disabled children, said Minister of Civil Affairs Li Liguo at a ceremony held for 130 US families and 200 adopted children who came back to China to 'seek their roots.' Li said the adoption system has improved constantly in recent years, with an increasingly mature legal system and expanding social impact. China has cemented adoption agreements with 138 government bodies and children's organizations in 17 countries." (China Daily, 3 July 2012)

The annual report of the Congressional-Executive Commission on China (CECC) notes the following:

> "Reports indicate that China's family planning policies and policy implementers have contributed in part to what the state-controlled Global Times has called China's 'massive and lucrative baby market.' In one such case, state media reported in December 2012 that a family planning official in Anxi county, Quanzhou municipality, Fujian province, faced charges for selling four infants as part of a child laundering ring. Another local government official in Quanzhou was implicated in the same ring for purchasing a baby boy with his wife. A January 2013 Chinese investigative re- port uncovered a separate case of hospital, civil affairs, health bu- reau, and orphanage officials in Guixi city, Yingtan municipality, Jiangxi province, working together to illegally acquire babies from local hospitals or elsewhere and place them for either domestic or international adoption at a profit. An additional case emerged in August involving an obstetrician in Shaanxi province who allegedly convinced a mother to relinquish her newborn son, claiming he was seriously ill. The doctor reportedly sold the healthy newborn for 21,600 yuan (US$3,528) one day after his birth." (CECC, 10 October 2013a, pp. 103-104)

11 Treatment of LGBTI persons

11.1 Legal framework

The 2012-2013 edition of the Spartacus International Gay Guide, an international travel guidebook for gay men, states that "[h]omosexuality is not recognized in China" and that the age of consent for sexual activity is 14 years (Spartacus, 1 March 2012, p. 163).

The US Department of State (USDOS) writes in its annual report on human rights in 2013 that in China, "[n]o laws criminalize private consensual same-sex activities between adults" (USDOS, 27 February 2014, section 6). Freedom House similarly notes in January 2014 that "no law bans same-sex activity" (Freedom House, 23 January 2014).

The legal situation of LGBT persons in China is briefly outlined by Human Rights Watch (HRW) in its annual report of January 2014:

> "The Chinese government classified homosexuality as a mental illness until 2001. To date there is still no law protecting people from discrimination on the basis of sexual orientation or gender identity, which remains common especially in the workplace. Same-sex partnership and marriage are not recognized under Chinese law. In February, a lesbian couple attempted to register at the marriage registry in Beijing but their application was rejected." (HRW, 21 January 2014)

As indicated in a May 2013 article by the Associated Press (AP), "[a] law against 'hooliganism' used to target gays was eliminated in 1997 and homosexuality removed from the list of mental disorders in 2001" (AP, 20 May 2013).

A 2013 report by the Sexual Rights Initiative (SRI), a coalition of organisations advocating for the advancement of human rights in relation to gender and sexuality, lists the following information on progress in legislation with regard to LGBT people in China and remaining gaps:

> "We want to acknowledge three progressive steps the Chinese government has taken in order to decriminalize and de-stigmatize the LGBT population in China. In 1997, the new Criminal Law of People's Republic of China removed the crime of 'hooliganism', which had been used to criminalize same-sex behaviors. In April of 2001, the 'Chinese Classification and Diagnostic Criteria of Mental Disorders' (CCMD, 中国精神障碍分类与诊断标准) removed homosexuality from the list of mental disorder. And according to the official replies from the Ministry of Public Security in 2002 and 2008, people who have changed their sex through sex reassignment operations (SRO) in China or abroad, could change their sex on their legal identity documents, such as Chinese legal identity (shenfenzheng, 身份证) and passport. [...] However, there are still gaps that need further progressive actions from the government of China. Most importantly, there is currently no law or policy in China that ensures LGBT people enjoy equal rights as other citizens. LGBT individuals routinely encounter various forms of discrimination in their daily lives, such as in schools and at their workplaces (which interfere with their rights of education and their rights to work). Secondly, transgender is still listed in the list of mental disorders in the

> CCMD. And despite the above-mentioned legal reform, due to a lack of clear procedure and responsible sector under the government, it is difficult for transsexual people, who have had SRO, to change their sex on other important documents, such as diploma, academic qualification and occupation physician license." (SRI, 2013, p. 2)

Womenofchina.cn, a website sponsored by the All-China Women's Federation (ACWF), the official Chinese women's organisation, provides the following with regard to the legal situation of China's transgender community:

> "With an estimated transgender community of 400,000 in China, the government has adopted policies that grant transgender citizens civil rights according to law, allow them to change their identification cards, and legally recognize their marriages after sex reassignment surgery. The current situation in China may vary from province to province. In a number of provinces it is now possible for trans-gendered people (who have had sex reassignment surgery) to change their legal registration and the associated documents, and to marry." (Womenofchina.cn, 9 January 2014)

In his March 2010 report for the US-based NGO International Gay & Lesbian Human Rights Commission (IGLHRC), Tom Mountford, a barrister admitted to the Bar of England and Wales with a particular research interest in the legal systems of East Asia as well as in human rights, administrative and regulatory law, provides the following information with regard to the legal status and position of LGBT people in China:

> "Homosexuality was decriminalized in China in 1997 and removed from the official list of mental disorders in 2001. However, since these two changes to Chinese law and clinical practice the Chinese government has remained largely silent on the issue of homosexuality. That silence has had two main effects. First, it has stalled any further developments in removing legal discrimination against LGBT people in China. Secondly, it means that the legal status and position of LGBT people is unclear, with varying official treatment across different parts of China. Discrimination against LGBT people continues to be written into many different areas of law in China. Furthermore, as LGBT people in China largely lack legal recognition and legal protections there is no legal certainty as to their position. This results in a situation where the population is unable to clearly determine whether they will face official opposition in meeting together, organizing and providing services within the community. [...] The legal status and position of homosexuality in China bears the hallmarks of a subject which has been little considered within official Chinese governmental circles. The government seems to have maintained an official silence and general restrictions on the LGBT community based on a cautious, conservative policy. This is often expressed in the Chinese idiom as, 不支持, 不反对, 不提倡, (not encouraging, not discouraging and not promoting). However even if the intention of the Chinese authorities is to adopt a cautious policy this is not a neutral policy, and the combination of official policy and official silence entails serious consequences for the LGBT population." (IGLHRC, 24 March 2010, p. 3)

> "LGBT couples are not recognized as constituting families. There is no applicable gay marriage, civil or domestic partnership regime in China. LGBT people face a variety of disadvantages in the context of family law from uncertainty in divorce and child custody

proceedings to strong restrictions on fertility services and gay parenting. Adoption of Chinese children by foreign LGBT couples and individuals has already been prohibited by the Chinese authorities. The spirit of this regulation raises concerns that this explicit prohibition may be applicable or extendable to single Chinese LGBT people who seek to adopt a child." (IGLHRC, 24 March 2010, p. 5)

11.2 Treatment by the state and society

A March 2013 article by the German news magazine Der Spiegel reports on the situation of homosexual persons in China, noting that most of them entered "marriages of convenience" with a person of the opposite sex to satisfy family pressure to wed and have children:

> "Academics at Qingdao University who study sexuality estimate there are 30 million gay men and women living on the Chinese mainland, and that 90 percent of them are thought to live in marriages of convenience. Some have children. Most also continue to sleep with same-sex partners. [...] In many countries it is religious pressures that make life difficult for homosexuals; in China it is family. Marrying and fathering children, especially sons, are among men's most central duties. By doing so, a man ensures his family is provided for – something the country's weak social system doesn't do. As such, men who only have male lovers are seen to be failing their duties to their families – and feel they are betraying them. [...] To this day, there are fathers who try to beat homosexuality out of their sons and doctors who 'treat' homosexual desire with emetics and electroshocks. And there are gay people who take their own lives out of desperation. [...] There are indications that tolerance in China is increasing. In October 2012, two men married for the first time in the southern Chinese city of Ningde and thousands of curious onlookers crowded around to watch them kiss. There is a gay pride parade each year in Shanghai, and a growing number of organizations and self-help groups fight for gay rights. [...] But society remains deeply divided. Even in the Beijing gay bar Destination, one of the most liberal places in the country, it's not hard to find men in their early twenties who use websites such as Chinagayles.com to seek partners for marriages of convenience so their families will leave them in peace." (Spiegel, 8 March 2013)

As indicated in the US magazine The Atlantic in an article dated April 2013, an "increasing number of gay men" in China try to conform to traditional social norms by entering "xinghun", a new Chinese term used to describe a "cooperative marriage" between a gay man and a lesbian woman. According to the article, in such a marriage, "both the husband and the wife continue to have their own same-sex partners and may not even live together" (Atlantic, 11 April 2013).

The situation of gay people in China is briefly described in the 2012-2013 edition of the Spartacus International Gay Guide as follows:

> "In mainland China, gay life often remains hidden because of the conservative traditional Chinese culture. Due to social and family pressure, most gay people living outside the major cities are still expected to marry and have children, while at the same time living a double life, hiding their gay life. [...] The government's policy toward the gay scene can be considered to be neutral. However, sometimes the gay scene is wrongfully accused of

> being involved with sex business, which the police treat harshly." (Spartacus, 1 March 2012, p. 163)

According to a May 2013 article by the Associated Press (AP), "Chinese society is increasingly accepting of gays and lesbians, although same-sex partnerships are not recognized and no laws outlaw discrimination against sexual minorities" (AP, 20 May 2013).

The Atlantic notes in an article dated August 2013 that harassment against LGBT people in China "might be on the decline", but that their rights are "still ignored on a political level":

> "Both domestic and international coverage focused on the increase in opportunities for LGBT activist groups to make their voices heard. The ability to openly discuss LGBT issues in online chat rooms and on social media is increasingly matched by positive attention in traditional, even state-run, media. […] But recent coverage also points to the limits of LGBT advocacy in China. Despite ten years of citizen petitions for same-sex marriage, the government has never responded with a public statement. Although recent developments suggest that the Chinese government policy on homosexuality – usually summarized as 'don't support, don't ban, don't promote' – is being relaxed, in reality no official policy exists. In other words, harassment might be on the decline, but LGBT rights are still ignored on a political level." (Atlantic, 21 August 2013)

A 2013 report by the Sexual Rights Initiative (SRI) states that "[d]ue to the lack of laws and policies protecting their equal rights, as well as the deep-rooted prejudices and discriminations in China, LGBT people cannot fully enjoy their human rights as citizens" (SRI, 2013, p. 2). Under the heading "Rights to work and employment", the report notes that in China's Labour Law and the Labour Contract Law, released respectively in 1994 and 2007, "anti-discrimination against LGBT people or equal rights to work for LGBT people at the workplace are not included" and that "due to deep prejudice and discrimination, LGBT employees often face fear of being dismissed and/or harassment at the workplace" (SRI, 2013, p. 4).

A 2013 online survey on the workplace environment for LGBT people in China, conducted by the Aibai Culture and Education Center, a China-based non-profit organisation dedicated to providing information on the Chinese speaking LGBT community, has found that more than 90 per cent of the LGBT employees who answered the survey choose not to fully disclose their sexual identity at work (Aibai, 2013, p. 8). Around 60 per cent of the respondents stated that they had experienced some form of discrimination or unfair treatment at work, including, for example, verbal insults or derision, harsh treatment, denial of promotion opportunities, dismissal and sexual harassment (Aibai, 2013, p. 9). The survey findings are based on 2,161 questionnaires completed by LGBT employees from 17 provinces, municipalities and autonomous regions (Aibai, 2013, p. 5).

A January 2014 article by Agence France-Presse (AFP) reports on the case of a Chinese man, identified only by his surname, Zhang, who chose to undergo electro-shock therapy as "part of a treatment he hoped would eliminate his sexual attraction to men". According to AFP, Zhang said "he paid for the initial treatments himself after deciding life as gay man would be 'too tough'". The article continues:

"Zhang was treated three years ago, but five clinics contacted by AFP in the last month claimed to offer 'sexuality adjustment' through various means, some of them including hypnosis, drugs and electric shock therapy. The Haiming Psychological Consulting Centre in Beijing touts the use of electricity on its website, saying: 'After each shock, the person will quickly interrupt their thought, and separate from their fantasies.' A member of staff at the hospital told AFP that the shock treatment - in 30-minute sessions every few days - was used only 'in extreme circumstances'. [...]

Some clinics are moving towards counselling and prescribing anti-depressant drugs, said Wei Xiaogang, founder of the Beijing-based 'Queer Comrades' group. 'Now it's more like therapy, like talking, because people want to make money, it's all about business,' he said. Several clinics contacted by AFP said that they saw homosexuality as changeable in people for whom it was not 'innate'." (AFP, 20 January 2014)

The Human Rights Watch (HRW) annual report of January 2014 (covering events of 2013) cites the following incident involving the detention of an organizer of a gay pride parade:

"On May 17, the International Day against Homophobia, Changsha city authorities detained Xiang Xiaohan, an organizer of a local gay pride parade, and held him for 12 days for organizing an 'illegal march.' In China, demonstrations require prior permission, which is rarely granted." (HRW, 21 January 2014)

Xiang's detention is also reported by other sources including the Associated Press (AP) (AP, 20 May 2013) and the South China Morning Post (SCMP) (SCMP, 20 May 2013).

The US Department of State (USDOS) annual report on human rights in 2013, published in February 2014, contains the following observations concerning the situation of LGBT people and activists:

"Due to societal discrimination and pressure to conform to family expectations, most gay, lesbian, bisexual, and transgender (LGBT) persons refrained from publicly discussing their sexual orientation. Individual activists and organizations working on LGBT problems continued to report discrimination and harassment from authorities, similar to other organizations that accept funding from overseas.

In June 2012 the Beijing LGBT center was notified by property management that its lease would be terminated early due to complaints that it was too noisy. Neighbors reportedly pressured management to terminate the lease after learning that it was an LGBT organization. The center was able to recoup only less than one-half of its investment of RMB 11,000 ($1,800) for the move.

In September organizers of the China Charity Fair in Shenzhen, Guangdong Province, told two gay rights advocacy groups that they could not display their advertisements and informational brochures because they were not registered with the Ministry of Civil Affairs. One of the advocacy groups attempting to participate reported that his organization unsuccessfully sought to register with the ministry for several years, despite making dozens of visits to local government offices.

> In contrast with 2012, there reportedly was no government interference with the seventh Beijing Queer Film Festival. Organizers kept a low profile." (USDOS, 27 February 2014, section 6)

The Tokyo-based current affairs magazine The Diplomat states in an article of December 2013:

> "The gay community continues to gain acceptance in China, but it's a slow process. Part of the problem is that China's government is wary of activists gathering to support any cause, whether it's gay rights, environmental protection, or the ultimate bete noire, democracy. LGBT groups have had their events (from film festivals to parades) shut down at the last minute, not because the government opposes gay rights, but because it opposes organized mass events in general." (Diplomat, 13 December 2013)

In his March 2010 report for the International Gay & Lesbian Human Rights Commission (IGLHRC), Tom Mountford provides the following information with regard to the treatment of LGBT people by police and security services:

> "LGBT people continue to suffer from police harassment and arbitrary detention. The police and public security services often use the sexual element of LGBT people's sexuality against them, for example arresting LGBT people for suspected prostitution and using circumstantial items such as possession of condoms as prima facie evidence of the alleged involvement in prostitution. There are continuing problems of LGBT people facing extortion and blackmail from the police and security services, as well as from broader society, at threat of revealing their sexuality." (IGLHRC, 24 March 2010, p. 4)

> "The transgendered community in China faces similar problems to the LGB population. In many instances the level of police harassment against transgendered people is considerably more serious and sustained." (IGLHRC, 24 March 2010, p. 32)

For further information on the situation of sexual minorities, including of lesbians and transgendered persons, please refer to the following October 2013 query response by the Immigration and Refugee Board of Canada (IRB):

- IRB - Immigration and Refugee Board of Canada: China: Situation and treatment of sexual minorities, particularly in Guangdong and Fujian; state protection and support services (2011-February 2013) [CHN104302.E], 11 October 2013 (available at ecoi.net) http://www.ecoi.net/local_link/261933/375226_en.html

12 Treatment of persons with disabilities

12.1 Legal framework

Article 45 of the Constitution of the People's Republic of China provides that citizens "have the right to material assistance from the State and society when they are old, ill or disabled" and that "[t]he State develops social insurance, social relief and medical and health services that are required for citizens to enjoy this right" and that "[t]he State and society help make arrangements for the work, livelihood and education of the blind, deaf-mutes and other handicapped citizens" (Constitution of the People's Republic of China, 14 March 2004, Article 45).

Article 2 of Chapter 1 of the Law of the People's Republic of China on the Protection of Persons with Disabilities (LPDP), amended as of April 2008, defines a "person with disabilities" as "one who has abnormalities of loss of a certain organ or function, psychologically or physiologically, or in anatomical structure and has lost wholly or in part the ability to perform an activity in the way considered normal". The Article states that "[t]he term 'a person with disabilities' refers to one with visual, or hearing, or speech, or physical, or intellectual, or psychiatric disability, multiple disabilities and/or other disabilities". The same Article also provides that "[t]he criteria for classification of disabilities shall be established by the State Council". (LPDP, 24 April 2008, Article 2)

Article 3 in the first chapter of the LPDP provides the following:

> "Article 3 Persons with disabilities shall enjoy equal rights with other citizens in political, economic, cultural and social respects and in family life as well. The rights and dignity of persons with disabilities as citizens shall be protected by law. Discrimination on the basis of disability shall be prohibited. Insult of and disservice to persons with disabilities shall be prohibited. Disparagement of and infringement upon the dignity of persons with disabilities by means of mass media or any other means shall be prohibited." (LPDP, 24 April 2008, Article 3)

The LPDP provides in Article 4 of Chapter 1 that "[t]he State shall provide persons with disabilities with special assistance by adopting supplementary methods and supportive measures with a view to alleviating or eliminating the impact of their disabilities and external barriers and ensuring the realization of their rights". Article 7 of the same chapter provides that "[t]he whole society should display humanitarianism, understand, respect, care for and assist persons with disabilities and support the work on disability", followed by Article 8 which states that the "China Disabled Persons' Federation (CDPF) and its local organizations shall represent the common interests of persons with disabilities" and "protect their lawful rights and interests". (LPDP, 24 April 2008, Articles 4, 7 and 8)

Article 11 in Chapter 1 of the LPDP provides:

> "The State shall undertake, in a planned way, disability prevention, strengthen leadership and publicity in this regard, popularise knowledge of maternal and infant health care as well as disability prevention, establish and improve mechanisms for the prevention, early

> detection and early treatment of birth defects, and mobilize social forces to take measures in dealing with disability-causing factors such as heredity, diseases, medication, accidents, calamity and environmental pollution, to prevent and alleviate disabilities." (LPDP, 24 April 2008, Article 11)

The ensuing chapters of the LPDP address the rights of persons with disabilities with regard to "Rehabilitation Services" (Chapter 2), "Education" (Chapter 3), "Employment" (Chapter 4), "Cultural Life" (Chapter 5), "Social Security" (Chapter 6) and "Accessible Environment" (Chapter 7) (LPDP, 24 April 2008, Chapters 2 to 7).

With regard to education, Article 25 of the LPDP provides that "[o]rdinary educational institutions shall be open to students with disabilities who are able to receive ordinary education, and offer them facilitation and help" (LPDP, 24 April 2008, Article 25).

Article 26 of the LPDP contains the following provisions:

> "Special schools at or below junior high school level and special classes attached to ordinary schools shall be responsible for the implementation of compulsory education for children and juveniles with disabilities who are not able to respond to ordinary education. Special schools and special classes attached to ordinary schools at or above senior high school level, as well as institutions of vocational and technical education for persons with disabilities, shall be responsible for providing general curriculum education at or above senior high school level and vocational and technical education for eligible persons with disabilities. Institutions offering special education should have venues and facilities suitable for the study, rehabilitation and daily life of persons with disabilities." (LPDP, 24 April 2008, Article 26)

Article 33 of the same law stipulates with regard to employment:

> "Article 33 The State shall introduce a quota scheme of employment to provide jobs for persons with disabilities." (LPDP, 24 April 2008, Article 33)

The amended LPDP of April 2008 includes the following provisions in its Chapter 8 entitled "Legal Liabilities" which comprises Articles 59-67:

> "Article 59 Where the lawful rights and interests of persons with disabilities are violated, the offended shall have the right to launch complaints to organizations of persons with disabilities. The organizations shall safeguard the lawful rights and interests of persons with disabilities and have the right to ask competent departments for investigation and action. The competent departments shall make such investigation and action and offer a reply.
>
> Organizations of persons with disabilities shall provide support to persons with disabilities who need help in resorting to litigation for rights protection.
>
> Where the interests of a certain group of persons with disabilities are violated, organizations of persons with disabilities shall have the right to ask competent

departments to make investigations and hold the offenders accountable." (LPDP, 24 April 2008, Article 59)

"Article 60 Where the lawful rights and interests of persons with disabilities are violated, the offended shall have the right to ask competent departments to deal with the case in accordance with law, or submit application to arbitration institutions, or appeal to people's courts in conformity with law.

For persons with disabilities who need legal aid or judicial assistance due to financial difficulties or other reasons, local legal aid institutions or people's courts shall provide legal aid or judicial assistance in accordance with law." (LPDP, 24 April 2008, Article 60)

"Article 61 Whoever, in violation of this law, rejects, delays or holds back the complaint, appeal or report relating to the violation of the rights and interests of persons with disabilities, or retaliates against the one who launches the complaint, appeal or report, shall be ordered to rectify his wrong doing by the organization to which he belongs or higher level authorities. Disciplinary measures shall be taken against the people in charge and others directly responsible.

Where, not in compliance with his public duties, a civil servant fails to stop actions which violate the rights and interests of persons with disabilities or fail to offer necessary help to the harmed, which leads to serious consequences, the organization to which he belongs to or higher level authorities shall take disciplinary measures against the people in charge or others directly responsible." (LPDP, 24 April 2008, Article 61)

In a legal research article published in 2012, Yee-Fui Ng, a former solicitor who is currently a lecturer and PhD candidate at Monash University in Melbourne, notes that while the effects of the 2008 amendment to the LPDP, which provides for "disciplinary actions and administrative penalties against those who infringe the Law as well as legal aid for the financially disadvantaged [...], in general, rights-based laws in China are considered to be 'soft laws' and are not effectively enforced" (Ng, 2012, p. 12).

A July 2013 Human Rights Watch (HRW) report states that "[w]hile Chinese laws and regulations contain provisions prohibiting discrimination on the basis of disability, the provisions are often vague, fail to precisely define discrimination, and do not outline effective redress mechanisms" (HRW, 15 July 2013, p. 3).

The International Disability Alliance (IDA), a network of international and regional organisations working to defend the rights of persons with disabilities, states in its 2013 proposals to the UN Committee on Economic, Social and Cultural Rights (CESCR):

"In general, the emphasis is on rights being granted or safeguarded by the State, rather than asserting the principle of inalienable rights guaranteed by the law, and hence laws lack enforceability. As a consequence, individuals are rarely able to invoke their rights before the authorities or before courts, and the granting of rights is heavily reliant on the positive measures taken by the State through disability specific provisions such as employment quotas, welfare factories and special education institutions, which themselves

> restrict the range of educational and vocational ch oices open to children and adults with disabilities, infringing their equal opportunities, self determination and autonomy. [...] While the prohibition of disability-based discrimination is embedded into laws (LPDP, education law), the law is unclear as to what constitutes a discriminatory act, what legal recourse is available to victims of discrimination, or what penalties can be imposed when such act is proven. Furthermore, many local laws and regulations are at odds with national law; where national law may prohibit disability-based discrimination, l ocal legislation and regulations have not been harmonised with national law." (IDA, 2013, pp. 1-3)

As noted by the US Department of State (USDOS) in its annual human rights report of February 2014, "[t]he law protects the rights of persons with disabilities and prohibits discrimination, but conditions for such persons lagged far behind legal dictates, failing to provide persons with disabilities access to programs designed to assist them" (USDOS, 27 February 2014, section 6).

Human Rights Watch (HRW) states in its World Report of January 2014:

> "In February [2013], the State Council's Legislative Affairs Office announced amendments to the 1994 Regulations of Education of Persons with Disabilities in China. While welcome, the amendments do not ensure that students with disabilities can enroll in mainstream schools or mandate appropriate classroom modifications ('accommodations') enabling them to participate fully in such schools." (HRW, 21 January 2014)

The USDOS also addresses the following issue:

> "The law forbids the marriage of persons with certain mental disabilities, such as schizophrenia. If doctors find that a couple is at risk of transmitting congenital disabilities to their children, the couple may marry only if they agree to use birth control or undergo sterilization. The law stipulates that local governments must employ such practices to raise the percentage of births of children without disabilities." (USDOS, 27 February 2014, section 6)

The Law of the People's Republic of China on Maternal and Infant Health Care (MIHC), effective as of June 1995, states in Articles 7, 8, 9, 11, 12 and 13:

> "Article 7 Medical and health institutions shall provide citizens with pre-marital health-care services. [...]
>
> Article 8 Pre-marital medical examination shall include the examination of the following diseases:
>
> (1) genetic diseases of a serious nature;
>
> (2) target infectious diseases; and
>
> (3) relevant mental diseases.

> After pre-marital medical examination, the medical and health institution shall issue a certificate of pre-marital medical examination.
>
> Article 9 Physicians shall, after pre-marital medical examination, give medical advice to those who are in the infective period of any target infectious disease or who are in the morbid period of any relevant mental disease; both the male and female planning to be married shall postpone their marriage for the time being.
>
> Article 11 Those who have received pre-marital medical examination hold dissenting views on the results of the medical examination may apply for a medical technical appraisement and obtain a certificate of medical appraisement.
>
> Article 12 Both the male and the female shall, in making marriage registration, hold their certificates of pre-marital medical examination or certificates of medical technical appraisement.
>
> Article 13 The people's governments of provinces, autonomous regions or municipalities directly under the Central Government shall, on the basis of the actual conditions of their respective areas, formulate measures for implementing the pre-marital medical examination system." (MIHC, 1 June 1995, Articles 7, 8, 9, 11, 12 and 13)

According to Article 38 of the MIHC law, "'[g]enetic diseases of a serious nature' refer to diseases that are caused by genetic factors congenitally, that may totally or partially deprive the victim of the ability to live independently, that are highly possible to recur in generations to come, and that are medically considered inappropriate for reproduction". "Relevant mental diseases" are defined as "schizophrenia, manic-depressive psychosis and other mental diseases of a serious nature". (MIHC, 1 June 1995, Article 38)

Yee-Fui Ng notes in her 2012 research article that "[a] list of 'serious' genetic diseases was released as Guideline Standards in 1986, which prohibited reproduction for people who were deaf by birth, were intellectually disabled, had uncured venereal diseases or had serious diseases which affected their eyesight" (Ng, 2012, p. 4).

The USDOS annual human rights report of February 2014 mentions the Ministry of Civil Affairs and the China Disabled Persons Federation (CDPF) (described as a "government-organized civil association") as the "main entities responsible for persons with disabilities" (USDOS, 27 February 2014, section 6).

The July 2013 HRW report provides an overview of the CDPF and its functions:

> "According to its constitution, the CDPF aims to 'represent, serve and manage' people with disabilities. Although the government often refers to the CDPF as a nongovernmental organization, it acts under the direct supervision of China's chief administrative authority, the State Council. It has a nationwide network 'reaching every part of China' and 80,000 full-time workers, with its headquarters in Beijing. It is responsible for a wide range of matters relating to people with disabilities including education, employment, rehabilitation, culture, sports, advocacy, publications, and residential care. [...] Despite its laudable

> mandate, however, a number of independent Chinese disability activists have accused the CDPF of corruption, misallocation of funds, hindering their work and threatening them, and failing to represent and fight for the rights of people with disabilities." (HRW, 15 July 2013, pp. 11-12)

As reported by Amnesty International (AI) in May 2013, the revised Criminal Procedure Law (CPL), adopted in March 2012 and effective as of January 2013, introduced reinforced protections for criminal suspects and defendants with mental disabilities (AI, 23 May 2013).

12.2 Treatment by the state and society

As reported by Radio Free Asia (RFA) in May 2013, the China Disabled Persons' Federation (CDPF) "estimates that at least 83 million people in China have some form of disability" (RFA, 21 May 2013), which amounts to 6.3 per cent of the country's population and is "likely an underestimate" (HRW, 15 July 2013, p. 10). HRW indicates that of those with disabilities, "[t]he largest group is people with physical disabilities, with a population of 25 million, followed by those with hearing, multiple, visual, mental, intellectual, and speech disabilities" and that there is "no data on those with autism". The same source indicates that "[t]he government reports that 75 percent of people with disabilities live in rural areas" and that "[i]n China, over 40 percent of people with disabilities are illiterate and 15 million live under one dollar a day in the countryside, according to official figures" (HRW, 15 July 2013, p. 10).

In the Freedom House report Freedom in the World 2014, people with disabilities are mentioned as one of several groups that "face widespread de facto discrimination, in some cases with official encouragement" (Freedom House, 23 January 2014).

The International Disability Alliance (IDA), an network of international and regional organisations working to defend the rights of persons with disabilities, states in its 2013 proposals to the UN Committee on Economic, Social and Cultural Rights (CESCR):

> "Initiatives targeting persons with disabilities are concentrated in the urban centres much to the detriment of the larger proportion of persons with disabilities who live in rural areas (75%). Furthermore, while laws and policies are set at the national level, resources for public social services do not come entirely from the central government and there is a heavy responsibility and burden on the local authorities at and above county level to raise local revenue in order to implement these policies on the ground, leading to significant regional discrepancy of provision of services and enjoyment and exercise of rights. Particularly, poorer rural regions cannot fill resource gaps resulting in the absence or lower provision of services and assistance available to persons with disabilities in those regions. Implementation on the ground is also exacerbated by corruption at the local level where local officials exercise wide discretion in managing goods and services directed at children with disabilities." (IDA, 2013, p. 2)

The USDOS report also states that "[m]isdiagnosis, inadequate medical care, stigmatization, and abandonment remained common problems" and refers to government statistics indicating that "almost one-quarter of persons with disabilities lived in extreme poverty" (USDOS, 27 February 2014, section 6).

In its Concluding Observations of October 2012, the UN Committee on the Rights of Persons with Disabilities (CRPD) expresses its "concern about the abduction of persons with intellectual disabilities, most of them children, and the staging of 'mining accidents' in Hebei, Fujian, Liaoning and Sichuan, resulting in the victim's death in order to claim compensation from the mine owners" (CRPD, 15 October 2012, p. 3). The same source also points to "reported incidents of abduction and forced labour of thousands of persons with intellectual disabilities, especially children, such as the occurrence of slave labour in Shanxi and Henan" (CRPD, 15 October 2012, p. 5).

The CRPD further notes that both the county's laws and its society "accept the practice of forced sterilization and forced abortion on women with disabilities without free and informed consent" (CRPD, 15 October 2012, p. 5).

A Human Rights Watch (HRW) report of May 2013 states:

> "As China's first ever Mental Health Law came into force on May 1, 2013, Human Rights Watch said the law has major shortcomings including that it does not eliminate the country's system of involuntary confinement. The involuntary confinement for people with mental disabilities is devoid of court oversight and falls far short of the requirements of the Convention on the Rights of Persons with Disabilities, which China adopted in 2008. [...] It is estimated that between 70 and 80 percent of all patients in psychiatric hospitals are involuntarily incarcerated. Close relatives, employers, and the police would be able to send 'suspected mental disability sufferers' who have harmed, or who are at risk of harming, themselves or others to psychiatric hospitals for evaluation. And if they are found to have a 'serious' mental disability, based solely on the opinion of psychiatrists, then they can be forcibly committed. The law does not provide any further details or definitions on what constitutes a risk, or how serious a risk must be to justify forcible measures. The law also fails to guarantee the right to a lawyer and to a clear judicial review process by which to appeal such arbitrary detention. It also restricts a person's right to communicate with those outside of the institutions during the 'acute onset of illness' or 'to avoid hampering treatment.' Human rights abuses in mental health institutions in China are extensively documented. Patients are frequently deprived of the right to make decisions regarding treatment and confinement; forced medications and violence are rife." (HRW, 3 May 2013)

In its Concluding Observations of October 2012, the UN Committee on the Rights of Persons with Disabilities (CRPD) notes the following points of concern:

> "The Committee is concerned that the deprivation of liberty on the grounds of disability is allowed in the State party, and that involuntary civil commitment is perceived as a tool to maintain the public order. In this context, the Committee finds it disturbing that many persons with actual or perceived impairments are involuntarily committed to psychiatric institutions for various reasons, such as being petitioners. In addition, the Committee is concerned that many persons who indeed live with intellectual and psychosocial impairments and require a high level of support lack the adequate resources for their medical and social care and are thus permanently confined at home. [...] For those

> involuntarily committed persons with actual or perceived intellectual and psychosocial impairments, the Committee is concerned that the 'correctional therapy' offered at psychiatric institutions represents inhuman and degrading treatment. Further, the Committee is concerned that not all medical experimentation without free and informed consent is prohibited by Chinese law. [...] The Committee is concerned about the current involuntary commitment system in the State party. [...] The Committee is concerned with the imposition of rehabilitation and habilitation measures on persons with disabilities, especially persons with psychosocial or intellectual disabilities, without their informed consent." (CRPD, 15 October 2012, pp. 4-6)

An August 2012 report by Chinese Human Rights Defenders (CHRD), a US-based human rights group, reports extensively on involuntary committal to mental health facilities:

> "Every year, hundreds of thousands of people are detained against their will in China's psychiatric hospitals because they have or are alleged to have, psychosocial disabilities. [...] Patients brought to the hospital are denied of the right to make decisions regarding their own fate, including admission, discharge, and treatment. Forced medical treatment, violence and mistreatment occur frequently. Hospitals restrict or prevent patients from communicating with the outside world, including with their family members and legal counsel. Patients are not entitled to independent reviews upon admission or during their time in psychiatric hospitals. Even when they do manage to sue hospitals or the party that committed them, courts are generally unwilling to accept their cases, or accept their validity as a plaintiff, or to rule against hospitals and the persons who unlawfully committed them." (CHRD, August 2012, p. 28)

The annual report of the USDOS of February 2014 states that "[a]ccording to NGOs, there were approximately 20 million children with disabilities, only 2 percent of whom had access to special education that could meet their needs". The source continues that "[a]ccording to the CDPF, in 2010 more than 519,000 school-age children with disabilities received compulsory education, 68 percent of them in inclusive education, and 32 percent in 1,705 special schools and 2,775 special classes". The USDOS goes on to quote NGOs as saying that "while the overall school enrollment rate was 99 percent, only 75 percent of children with disabilities were enrolled in school". The report indicates that "[n]ationwide, an estimated 243,000 school-age children with disabilities did not attend school". (USDOS, 27 February 2014, section 6)

In its Concluding Observations of October 2013, the UN Committee on the Rights of the Child (CRC) "notes as positive the adoption of various policies that promote the rights of children with disabilities" while also indicating that "that the State party continues to adopt a medical approach to disability and that the services for children with disabilities are centred mostly on institutions for physical 'rehabilitation'. The same source notes "multiple forms of discrimination" experienced by children with disabilities including "limited access to education, health care and social services" and "the high number of children with disabilities living in institutions, particularly in rural areas". (CRC, 29 October 2013, p. 13)

The same source reports that "infanticide, particularly of girls and children with disabilities, remains pervasive" (CRC, 29 October 2013, p. 7). It also notes the "widespread abandonment

of children in mainland China, particularly children with disabilities and girls, mainly due to the State party's family planning policy and discrimination and stigma attached to children with disabilities and girls" (CRC, 29 October 2013, p. 12).

The CRC also states:

> "The Committee is deeply concerned about the incidence and prevalence of lead poisoning of children in mainland China, which has resulted in permanent mental and physical disabilities among hundreds of thousands of children, especially in poor and rural areas. The Committee is particularly concerned about the lack of remedial solutions for the affected children and their families, reports of threats against individuals seeking treatment and information and of refusals to provide appropriate treatment for the affected children." (CRC, 29 October 2013, p. 5)

The CRC further notes "the limited access to and long waiting periods for mental health services available for children" (CRC, 29 October 2013, p. 16).

As noted by the same source, the state pursues a "policy of actively developing segregated special schools while devoting few resources to the education of children with disabilities in mainstream schools". The source also expresses its concern "about reports that children with disabilities are denied admission by mainstream schools, pressured to leave the schools, or sometimes expelled due to their disabilities". (CRC, 29 October 2013, p. 14)

A July 2013 Human Rights Watch (HRW) report on access to education for persons with disabilities states:

> "The Chinese government has an impressive record in providing primary education for children without disabilities, achieving near-universal compulsory education for such children. But according to official statistics, the rate for children with disabilities is much lower: about 28 percent of such children should be receiving compulsory basic education but are not." (HRW, 15 July 2013, p. 2)

The same report provides an overview of the types of schools persons with disabilities may attend:

> "The Chinese government currently operates two main systems of education which people with disabilities may attend: mainstream schools and special education schools. In the special education system, students are divided according to type of disability – there are schools for the blind, for the deaf, and for those with intellectual disabilities; some special education schools can accommodate children with multiple types of disabilities." (HRW, 15 July 2013, p. 13)

The same report notes with regard to the situation of children with disabilities in the mainstream educational system:

> "Discrimination against children and young people with disabilities permeates all levels of education in the mainstream system. Schools sometimes deny enrollment outright, but they are often more subtle, convincing the parents to take their children out of the schools

> with a variety of arguments. [...] Children with disabilities rarely stay in school beyond junior middle school, and for those who aspire to do so, choices are limited. [...] While there are vocational schools for people with disabilities as well as higher education institutions in the special education system, they tend to focus on training for skills and professions that are traditionally reserved for people with disabilities." (HRW, 15 July 2013, pp. 3-5)

Maya Wang, a researcher in the Asia Division of Human Rights Watch (HRW), states in an article that appeared in the South China Morning Post (SCMP) in September 2013:

> "Children with disabilities can in theory attend special education schools, which exist in parallel to the mainstream system. But these schools not only separate children with disabilities, they are also few and far between. Even if there is such a school nearby, children with disabilities might still be unable to attend. In the special education system, students are divided according to type of disability - a school for the blind is not going to be useful to a child with hearing impairments, and few schools accept those with autism and other disabilities outside of the official categories. For many families, the mainstream schools are likely to be their only option. But when those schools reject the children, there is nowhere else to turn. The Chinese government has begun to recognise some of these problems and responded by amending the regulations on the education of people with disabilities. But those revisions do not remove the main obstacles to mainstream education for these children." (SCMP, 18 September 2013)

The UN Committee on the Rights of Persons with Disabilities (CRPD) notes in its Concluding Observations of October 2012:

> "The Committee is concerned about the high number of special schools and the State party's policy of actively developing these schools. The Committee is especially worried that in practice only students with certain kinds of impairments (physical disabilities or mild visual disabilities) are able to attend mainstream education, while all other children with disabilities are forced to either enrol in a special school or drop out altogether." (CRPD, 15 October 2012, p. 6)

The labour market situation of persons with disabilities is addressed by the US Department of State (USDOS) as follows:

> "In part as a result of discrimination, unemployment among adults with disabilities remained a serious problem. The law requires local governments to offer incentives to enterprises that hire persons with disabilities. Regulations in some parts of the country also require employers to pay into a national fund for persons with disabilities when the employees with disabilities do not make up the statutory minimum percentage of the total workforce." (USDOS, 27 February 2014, section 6)

In a May 2013 article, Radio Free Asia (RFA) reports on a campaign by disabled persons protesting "stringent health check standards they say bar people with many disabilities from getting work as teachers" and spotlighting "rampant employment discrimination by governments around the country". Referring to an activist, the article notes that "[n]ew health

check standards issued by the Guangdong provincial authorities [...] removed only mandatory HIV testing from health checks for teachers, while checks for eyesight, hearing, and musculoskeletal fitness [...] remained unchanged. (RFA, 21 May 2013)

In November 2012, China Labour Bulletin published the following information on its website:

> "As in many other countries, men and women with mental disabilities routinely face often insurmountable obstacles in the workplace. However, a particularly serious problem in China is the kidnapping and trafficking of vulnerable individuals into forced labour in remote locations, often for years on end. [...] For workers with physical disabilities, including limited sight, hearing and mobility, finding any form of employment can be difficult. [...] The unemployment situation of the disabled in China was so serious in 2007 that the government Regulations of Employment for People with Disabilities mandated that all enterprises reserve at least 1.5 percent of their workforce positions for disabled workers, or otherwise pay into an employment guarantee fund for the disabled. However, it seems this regulation is widely ignored, even by local government departments." (China Labour Bulletin, 20 November 2012)

The UN Committee on the Rights of Persons with Disabilities (CRPD) states in its October 2012 Concluding Observations:

> "While observing the existence of a quota system, the Committee worries that this system does not effectively address the chronic problem of unemployment among persons with disabilities or the deep-rooted causes of discrimination in employment. Specifically, the Committee is concerned that often the employment offered is only of symbolic value or that companies and Government bodies frequently opt to pay the employment levy rather than employing persons with disabilities. The Committee is also concerned about the practice of reserved employment (such as the field of 'blind massage'), which discriminates against persons with disabilities in their vocational and career choices." (CRPD, 15 October 2012, p. 6)

In the same report, the CRPD commends the "existence of a policy of poverty reduction and providing benefits and subsidies" while it expresses its concerns "about the gap in receiving such benefits between the persons with disabilities living in rural and urban areas" (CRPD, 15 October 2012, p. 7).

In her 2012 research article, Yee-Fui Ng notes with regard to the provision of state support for persons with disabilities:

> "The government does not spend much money on direct income support or poverty relief for people with disabilities, with the exception of those who belong in the san wu or the 'Three Nos' category (i.e. people with disabilities who are not only unable to support or look after themselves, but who also have no employers or relatives who legally bear the responsibility to support or care for them) or those whose disability is related to participation in the revolution or the armed forces. The government rationale for this policy is that Chinese culture assumes primary family responsibility and government

officials claim that disability services are not a priority compared with other social problems." (Ng, 2012, p. 13)

"The Chinese government also strengthened its social security system. In 2007, 2.607 million urban disabled persons were provided with social insurance, 6.359 million received a minimum subsistence allowance, 3.705 million received provisional or fixed term special allowances or social relief, and 608,000 disabled persons lived in welfare institutions and care centres. Despite this, the social security system for disabled persons remains underdeveloped, with limited financial resources in the system, mainly from government inputs, the National Lottery's Welfare Fund and social donations." (Ng, 2012, p. 15)

The annual report of the Congressional-Executive Commission on China (CECC) addresses the issue of compensation for work-related injuries:

"Obtaining compensation for work-related injury or occupational disease in general remains a difficult and protracted process. Chinese labor and occupational-disease advocates contend that the legal framework regulating compensation continues to be overly complicated and time-consuming, taking anywhere between 2 to more than 10 years for compensation claims to be processed, with no guarantee of success. Moreover, illegal practices and intransigence by employers and local governments, including refusing to hand over documents required for processing compensation claims, failing to sign labor contracts or provide workers with statutory injury insurance, and refusing to accept liability for hazardous working conditions, further delay and complicate prospects for obtaining compensation. [...] Variations in local implementing regulations for national legislation on compensation also indicate that actual benefits can differ significantly from region to region. [...] Amendments to the PRC Administrative Measures for the Diagnosis and Evaluation of Occupational Disease, effective April 10, 2013, contain provisions that could make it easier for workers to raise occupational disease claims, while also increasing the liability of employers. Most significantly, it gives workers the right to select the official hospital they will be diagnosed by, whereas previously local authorities would usually only accept a diagnosis from a hospital in the same jurisdiction as an employer, a prospect particularly problematic for migrant workers who may have already left the area after an illness developed." (CECC, 10 October 2013a, pp. 75-76)

13 Treatment of persons living with HIV/AIDS

13.1 Legal framework

A joint report by China's Center for Disease Control and Prevention (CDC) and the International Labour Organization (ILO) on HIV and AIDS related employment discrimination in China, published in January 2011, provides the following information:

> "Since 2004, both central and local governments have either introduced or revised several laws, regulations and rules against HIV and AIDS related discrimination. For example, the Law of the People's Republic of China on the Prevention and Treatment of Infectious Diseases was amended in 2004 to add the following passage: 'Employers and individuals should not discriminate against patients of infectious diseases, carriers of pathogens or those suspected of carrying an infectious disease'. In addition to this, the Regulation on the Prevention and Control of AIDS issued by the State council in 2006 provides that, 'Employers and individuals should not discriminate against people living with HIV, AIDS patients or their family members. The rights and interests of people living with HIV, AIDS patients and their family members concerning their marriages, employment, healthcare and education are protected by law'. Similarly, the Employment Promotion Law stipulates that 'Employers should not deny employment for the reason that the applicant carries pathogens of infectious diseases'. However, the law also states 'Individuals should not do any jobs that may increase the communication of the disease and forbidden by laws, regulations and rules of health authorities, until they recover and the possibility of infection is dismissed.'" (CDC/ILO, 14 January 2011, pp. 10-11)

In a May 2013 report for the United Nations Development Programme (UNDP) on national HIV laws in different Asian countries, HIV and Development Consultant John Godwin refers to the 2006 AIDS Regulations as follows:

> "The Regulations on AIDS Prevention and Treatment (2006) (AIDS Regulations) is an administrative law issued by the State Council of the People's Republic of China. The AIDS Regulations provide a legal statement of the rights of PLHIV [People living with HIV], including the right to marry, to access health-care services, to enjoy equal employment opportunities and education. The AIDS Regulations have also provided a legal basis for implementation of politically sensitive prevention measures by government, including condom promotion, methadone maintenance therapy and needle and syringe programmes." (UNDP, May 2013, p. 69)

Godwin however adds that the 2006 AIDS Regulations "are only administrative regulations and are subject to overriding laws that have a higher priority in the legal hierarchy, such as laws that permit discrimination in some forms of state employment and criminal laws relating to sex work and drug use" (UNDP, May 2013, p. 72). For further information regarding the details of the AIDS Regulations, please refer to pages 69 to 72 of the UNDP-commissioned report (UNDP, May 2013, pp. 69-72).

An English-language translation of the full text of the 2006 AIDS Regulations can be accessed via the following link:

- Regulations on AIDS Prevention and Treatment, adopted on 18 January 2006, and effective as of 1 March 2006 (available on the website of the International Labour Organization, ILO) http://www.ilo.org/wcmsp5/groups/public/---ed_protect/---protrav/---ilo_aids/documents/legaldocument/wcms_113144.pdf

As noted by Godwin, "[l]aws in addition to the AIDS Regulations that provide legal protections for HIV-related human rights" include the Employment Promotion Law (2008), the Law on Prevention and Treatment of Infectious Diseases (2004), the Law on the Protection of Persons with Disabilities (2008), the Anti-Drugs Law (2007), some provincial HIV regulations and the Constitution of the PRC (UNDP, May 2013, pp. 74-75). For further information on these laws and relevant provisions contained therein, please refer to pages 74 to 78 of the UNDP report (UNDP, May 2013, pp. 74-78).

A January 2012 paper by Jinmei Meng, who was then an associate professor at Beijing College of political science and law, gives the following overview of legal developments relating to HIV:

> "Over the last two decades, the law relating to HIV in the People's Republic of China (PRC) has transitioned from denial towards positive responses to HIV. In the 1980–90s, the law provided for mandatory HIV testing and quarantine of people living with HIV/AIDS (PLWHA). It also banned HIV positive foreigners from entering or living in China. However, these defensive laws were ineffective in keeping HIV out of China and containing domestic HIV spread. In the mid-1990s, the number of HIV infections sharply increased with more and more commercial blood donors being found to be infected with HIV. In the late 1990s, the government began to learn how to develop and implement effective HIV strategies and initiated pilot behavioural intervention programs such as condom promotion for sex workers and clean needle exchange for injecting drug users (IDUs). In 2004, China abandoned mandatory HIV testing and HIV quarantine. In 2006, the country legalised behavioural interventions. The ban on the immigration of HIV positive foreigners into China was lifted in 2010. However, China still has a long way to go before achieving good HIV governance by law. The anti-prostitution and anti-drug laws impede behavioural interventions. The laws against sex work and drug use and parts of HIV policy do not conform to international human rights standards. The weak anti-discrimination legal mechanism fails to prohibit HIV-based discrimination. There is a lack of an enabling legal environment for full community participation in all phases of HIV responses. In addition, the state secrets law creates barriers to promoting government transparency and accountability in the area of HIV." (Meng, January 2012, p. 57)

13.2 Treatment by the state and society

An October 2013 article by BBC News notes with regard to the total number of people living with HIV/AIDS in China:

> "According to government figures released in 2012, China has 430,000 people infected with HIV. But the United Nations has said that the real figure could be 620,000 to 940,000. Among them, 146,000 to 162,000 have developed Aids." (BBC News, 14 October 2013)

Freedom House states in its report Freedom in the World 2014 – China (covering 2013) that people living with HIV/AIDS are among the groups that face "widespread de facto discrimination", including in access to employment and education (Freedom House, 23 January 2014).

John Godwin writes in his May 2013 report for the United Nations Development Programme (UNDP):

> "[…] in practice the AIDS Regulations have not provided effective protection for PLHIV [People living with HIV] who have experienced discrimination or other rights violations. The literature review identified only five HIV-related discrimination cases that have been taken to court, only one of which resulted in a favorable settlement for the complainant. PLHIV who take matters to court do so with a low expectation of legal success, but may take such action as a deliberate strategy to bring attention to injustices. In addition to the lack of a strong national law on discrimination, enforcement of rights is difficult because of lack of confidence that complaints will be accepted by the courts, lack of access to legal aid services, concerns about disclosure of identity during legal proceedings and concerns regarding stigma. A strength of China's legal system in handling HIV-related complaints is the availability of negotiated settlements and well-established ADR processes as an alternative to the formal court system. In the absence of a strong national HIV law, PLHIV need to look to other laws for protection. However, there are very limited remedies available from employment law or public health law, and constitutional guarantees of human rights are generally not enforceable by individuals in the courts." (UNDP, May 2013, p. 96)

A May 2013 article by state-run Xinhua news agency states that "[a] recent survey by Beijing Yirenping Center, an NGO dedicated to promoting social justice and public health, suggested that 61 percent of the 729 HIV carriers it surveyed who live in urban areas could not find jobs and 20 percent rely on their families for financial support". The same article adds that "[i]t is not easy for AIDS patients to seek legal help in China, and there have been only four court cases related to employment discrimination due to AIDS since 2010" (Xinhua, 29 May 2013).

A June 2013 press release by the Joint United Nations Programme on HIV/AIDS (UNAIDS) mentions:

> "In recent years, China has seen several high profile court cases filed by people denied of employment as teachers on the grounds of HIV status, but to date none of the cases has resulted in a clear legal victory. In many cases, this is linked to the fact that provincial education authorities have generally based teacher recruitment guidelines on national civil service recruitment guidelines, which exclude people living with HIV." (UNAIDS, 13 June 2013)

The US Department of State (USDOS) annual report on human rights in 2013 contains the following information relating to the situation of persons with HIV/AIDS and HIV/AIDS activists in China:

"Despite provisions in the law, discrimination against persons with HIV/AIDS and hepatitis B carriers (including 20 million chronic carriers) remained widespread in many areas, and local governments sometimes tried to suppress their activities. [...] HIV/AIDS activist Wan Yanhai, founder and director of the Beijing-based NGO Aizhixing, remained overseas after leaving the country in 2010. The organization continued to come under pressure from the government. Western media reported that on May 30, Guangxi activist Ye Haiyan, who advocated for the rights of prostitutes and persons infected with HIV/AIDS, was beaten in her home by a group of 10 police officers before being detained at the local police station in Bobai County.

While in the past, persons with HIV/AIDS were routinely denied admission to hospitals, discrimination was less overt, and some hospitals came up with excuses for not being able to treat them. The hospitals feared that, should the general population find out that they were treating HIV/AIDS patients, patients would choose to go elsewhere. It was common practice for general hospitals to refer patients to specialty hospitals working with infectious diseases International involvement in HIV/AIDS prevention, care, and treatment, as well as central government pressure on local governments to respond appropriately, brought improvements in many localities. Some hospitals that previously refused to treat HIV/AIDS patients had active care and treatment programs because domestic and international training programs improved the understanding of local health-care workers and their managers. In Beijing dozens of local community centers encouraged and facilitated HIV/AIDS support groups.

In March 2012 Zhejiang Province eliminated its mandatory HIV testing for suspects arrested for drug charges, a move seen as a step in protecting the privacy of the individuals. On July 1, Guangxi Zhuang Autonomous Region implemented new legislation requiring real name registration for HIV testing and obliging individuals who tested positive inform their spouses." (USDOS, 27 February 2014, section 6)

An October 2013 article by The Guardian provides the following with regard to social discrimination of people living with HIV:

"The social discrimination against HIV patients extends to public institutions and organisations, with hospitals known to turn away HIV carriers for treatment when suffering other illnesses. In a case that generated attention on Weibo last year, a 25-year-old HIV-positive man falsified his health records to be granted cancer treatment after being refused by two hospitals. Discrimination is equally deep-rooted in the workplace, as mandatory 'pre-employment health checks' often form part of the hiring process: a hurdle for those with HIV and hepatitis. While the law in China deems such practices illegal, employers are rarely held to account. This was clear last year when the first ever case of compensation for a teacher who was denied a job as a result of her HIV-positive status came to court. Though this was heralded as a landmark by many, the fact that HIV-positive candidates cannot qualify for China's civil service shows that the war against inequality is still in its infancy. After all, China only lifted its 20-year ban prohibiting foreigners with HIV from entering the country in 2008 – ahead of the Olympics." (Guardian, 20 October 2013)

In his March 2010 report for the International Gay & Lesbian Human Rights Commission (IGLHRC), Tom Mountford writes:

> "Sufferers of HIV have difficulty accessing adequate medical and personal support. HIV/AIDS has become associated with homosexuality in the public mind in China. Discrimination continues in many contexts of Chinese life against HIV/AIDS sufferers, despite the express prohibitions against discrimination in the Regulation on Aids Prevention and Treatment 2006." (IGLHRC, 24 March 2010, p. 6)

In December 2013, CNN reports on a government proposal to bar people with HIV from entering bathhouses:

> "Chinese laws and regulations prohibit discrimination against people with HIV, but activists cite myriad of real-life examples – including the exclusion from public sector jobs - as evidence of inconsistency in the official policy. Their most recent outcry was triggered by a Commerce Ministry proposal that would bar people with HIV from entering bathhouses, including those offering spa and massage services. Failure to comply would result in fines for the businesses. [...] A poll of 10,000 people on a popular Twitter-like site showed more than 70% of the respondents supported the ban. But it drew immediate fire from many experts and activists who blasted the ministry for lacking basic health knowledge as well as reinforcing public ignorance and prejudice on the issue. [...] Amid the controversy, the Commerce Ministry pledged to consult experts and review the draft." (CNN, 10 December 2013)

This proposal is also mentioned in several other media articles (e.g. BBC News, 14 October 2013; Global Times, 15 October 2013). However, among the sources consulted by ACCORD within time constraints, no information could be found with regard to the proposal's current status.

According to a September 2013 article authored by Renata Lok-Dessallien, who was then the UN Resident Coordinator and UNDP Resident Representative in China, and published in the state-run China Daily newspaper, "Guangdong province [...] abolished restrictions preventing people living with HIV from being employed as teachers. The policy change, which came into force on Sept 1, [2013] represents a shift from previous regulations, which excluded people living with HIV from serving as teachers in the province" (China Daily, 9 September 2013). Referring to the prospective policy revision, the South China Morning Post (SCMP) notes in May 2013:

> "Guangzhou education authorities may reverse a policy which bars HIV carriers and people with sexually- transmitted diseases from teaching – a first for a country which has traditionally had a tough approach towards workers suffering from these diseases. Mandatory HIV tests are to be phased out from the draft list of health qualifications for Guangdong's teachers by September, state media reported on Tuesday. This comes less than six months after a regulation was proposed, which would have essentially banned people with HIV, gonorrhoea, syphilis, genital warts or any of 'three other sexually transmitted diseases' from teaching. The January announcement led to a wave of anti-discrimination lawsuits brought by disqualified teachers and widespread condemnation

from rights groups. [...] HIV carriers are often excluded from civil service jobs, including teaching and policing in many provinces of China." (SCMP, 29 May 2013)

14 Monitoring of Chinese asylum-seekers abroad and treatment of failed asylum seekers upon return

14.1 Exit

Article 322 of the Criminal Law of the People's Republic of China, amended as of March 1997, contains the following provision:

> "Article 322 Whoever, in violation of the laws or regulations on administration of the national border (frontier), illegally crosses the national border (frontier), if the circumstances are serious, shall be sentenced to fixed-term imprisonment of not more than one year, criminal detention or public surveillance and shall also be fined." (Criminal Law of the People's Republic of China, 14 March 1997, Article 322)

The Exit and Entry Administration Law of the People's Republic of China, which came into force in July 2013, contains the following provisions in its Articles 9 through 13 of Chapter 2:

> "Article 9 Chinese citizens who exit or enter China shall, in accordance with the law, apply for passports or other travel documents. [...]
>
> Chinese citizens bound for other countries or regions shall obtain visas or other entry permits from destination countries, unless the Chinese government has signed visa exemption agreements with the governments of those countries, or otherwise stipulated by the Ministry of Public Security and the Ministry of Foreign Affairs. Chinese citizens who exit or enter China as s eamen or work on foreign ships shall apply for seamen's certificates in accordance with the law.
>
> Article 10 Chinese citizens who travel between the Mainland and the Hong Kong Special Administrative Region, between the Mainland and the Macao Special Administrative Region, and between the Mainland and Taiwan Region, shall apply for exit/entry permits in accordance with the law, and abide by the relevant provisions of this Law. The specific administrative measures shall be stipulated by the State Council.
>
> Article 11 Chinese citizens who exit or enter China shall submit their exit/entry documents such as passports or other travel documents to the exit/entry border inspection authorities for examination, go through the prescribed formalities, and may exit or enter upon examination and approval. [...]
>
> Article 12 Under any of the following circumstances, Chinese citizens are not allowed to exit China:
>
> (1) Hold no valid exit/entry documents, or refuse or evade border inspection;
>
> (2) Are sentenced to criminal punishments, the execution of which have not been completed, or are suspects or defendants in criminal cases;
>
> (3) Are involved in unsettled civil cases and not allowed to exit China upon decision of the people's courts;

(4) Are subject to criminal punishment for impairing border administration, or are repatriated by other countries or regions due to illegal exit from China, illegal residence or illegal employment, and the No-Exit-from-China period has not expired;

(5) May endanger national security or interests, and are not allowed to exit China upon decision by competent departments under the State Council; or

(6) Other circumstances in which exit from China is not allowed in accordance with laws or administrative regulations.

Article 13 Chinese citizens residing abroad who desire to return to Chin a for permanent residence shall, prior to the entry, file applications with Chinese embassies or consulates or other institutions stationed abroad entrusted by the Ministry of Foreign Affairs. They may also file such applications to the overseas Chinese affairs departments under the local people's governments at or above the county level of the proposed places of permanent residence on their own or via their relatives in China." (Exit and Entry Administration Law of the People's Republic of China, 1 July 2013, Articles 9-13)

The Exit and Entry Administration Law further stipulates in its Articles 59, 65, 66, 67, 68 and 69 of Chapter 6:

"Article 59 Persons suspected of violating the regulations on exit/entry administration may be interrogated on the spot; upon on-the-spot interrogation, the aforesaid persons may be interrogated in continuation in accordance with the la w under any of the following circumstances:

(1) Are suspected of illegally exiting or entering China;

(2) Are suspected of assisting others in illegally exiting or entering China;

(3) Are foreigners suspected of illegally residing or working in China; or

(4) Are suspected of endangering national security or interests, disrupting social or public order, or engaging in other illegal or criminal activities.

On-the-spot interrogation and continued interrogation shall be conducted in accordance with the procedures prescribed in the People's Police Law of the People's Republic of China.

Where public security organs under local people's governments at or above the county level or exit/entry border inspection authorities need to summon the persons suspected of violating the regulations on exit/entry administration, they shall handle the matter in accordance with the relevant regulations of the Law of the People's Republic of China on Penalties for Administration of Public Security. [...]

Article 65 Where persons are not allowed to exit or enter China upon decisions made in accordance with the law, the decision-making authorities shall duly inform the exit/entry border inspection authorities of such decisions in accordance with relevant regulations;

where the circumstances in which the persons are not allowed to exit or enter China disappear, the decision-making authorities shall duly cancel the aforesaid decisions and inform exit/entry border inspection authorities of the cancellation.

Article 66 On the basis of the need for safeguarding national security and maintaining the order of exit/entry administration, exit/entry border inspection authorities may, when necessary, search the persons entering and exiting the country. Personal Search shall be conducted by two border inspectors who are the same sex as the persons subject to the search.

Article 67 In such cases that the exit/entry documents such as visas or foreigners' stay or residence permits are damaged, lost or stolen, or that after the issuance of such documents, the holders are found not eligible for being issued such documents, the issuing authorities shall declare the aforesaid documents void. Exit/entry documents which are forged, altered, obtained by fraudulent means or are declared void by issuing authorities shall be invalid. Public security organs may cancel or confiscate the exit/entry documents prescribed in the preceding paragraph or used fraudulently by persons other than the specified holders.

Article 68 Public security organs may seize the transport vehicles used to organize, transport or assist others in illegally exiting or entering China as well as the articles needed as evidence in handling the cases. Public security organs shall seize banned articles, documents and data involving state secrets, as well as tools used in activities violating the regulations on exit/entry administration, and handle them in accordance with relevant laws or administrative regulations.

Article 69 The authenticity of exit/entry documents shall be determined by the issuing authorities, the exit/entry border inspection authorities or the exit/entry administrations of public security organs." (Exit and Entry Administration Law of the People's Republic of China, 1 July 2013, Articles 59, 65, 66, 67, 68 and 69)

Articles 71 and 73 of Chapter 7 include the following provisions on legal liabilities:

"Article 71 Persons who commit any of the following acts shall be fined not less than RMB 1,000 yuan but not more than RMB 5,000 yuan; where circumstances are serious, such persons shall be detained for not less than five days but not more ten days and may also be fined not less than RMB 2,000 yuan but not more than RMB 10,000 yuan.

(1) Exit or enter China with forged, altered or fraudulently obtained exit/entry documents;

(2) Exit or enter China using others' exit/entry documents;

(3) Evadeexit/entry border inspection; or

(4) Illegally exit or enter China in any other way. [...]

Article 73 Persons who obtain exit/entry documents such as visas or stay or residence permits by resorting to fraudulent acts shall be fined not less than RMB 2,000 yuan but

not more than RMB 5,000 yuan; where circumstances are serious, they shall be detained for not less than 10 days but not more than 15 days and shall also be fined not less than RMB 5,000 yuan but not more than RMB 20,000 yuan." (Exit and Entry Administration Law of the People's Republic of China, 1 July 2013, Articles 71 and 73)

The US Department of State (USDOS) notes in its annual report on human rights of February 2014:

"The government exercised exit control for departing passengers at airports and other border crossings and utilized this exit control to deny foreign travel to dissidents and persons employed in sensitive government posts. Throughout the year lawyers, artists, authors, and other activists were at times prevented from freely exiting the country. Border officials and police cited threats to 'national security' as the reason for refusing permission to leave the country. Authorities stopped most persons at the airport at the time of the attempted travel. Wuxi environmental activist Wu Lihong was prevented from traveling abroad to accept a human rights award in July. Shanghai activist Zheng Enchong was prevented from accepting a teaching fellowship in Hong Kong in August. Shanghai activist Chen Jianfang was prevented from traveling to a UN human rights training course in Geneva in September. Well known artist Ai Weiwei was denied a passport to attend exhibitions of his work abroad. Other activists also reported being blocked from traveling abroad." (USDOS, 27 February 2014, section 2d)

The same report continues:

"Most citizens could obtain passports, although those government deemed potential threats, including religious leaders, political dissidents, petitioners, and ethnic minorities, reported routinely being refused passports or otherwise prevented from traveling overseas. Ethnic Uighurs, particularly those residing in the XUAR, reported that it was very difficult to get a passport application approved at the local level. They were frequently denied passports to travel abroad, particularly to Saudi Arabia for the haj, other Muslim countries, or Western countries for academic or other purposes. Authorities reportedly seized valid passports of some residents of the XUAR and other citizens. In the TAR and Tibetan areas of Qinghai, Gansu, and Sichuan provinces, ethnic Tibetans experienced great difficulty acquiring passports. The unwillingness of Chinese authorities in Tibetan areas to issue or renew passports for ethnic Tibetans created, in effect, a ban on foreign travel for a large segment of the Tibetan population. Han residents of Tibetan areas did not experience the same difficulties." (USDOS, 27 February 2014, section 2d)

As further noted by the US Department of State (USDOS), "[t]he government continued to try to prevent many Tibetans and Uighurs from leaving the country and detained many who were apprehended in flight" (USDOS, 27 February 2014, section 2d).

For general information on the situation of Uyghurs and Tibetans, please refer to section 8.3 (Uyghurs) and section 8.5 (Tibetans) of this compilation.

14.1.1 Travel routes

In its General Official Report of December 2012, the Ministry of Foreign Affairs of the Netherlands (BZ) states that migrants often leave China legally. A migrant then continues his or her journey under a false name. Since these persons left China in a legal manner, the Chinese authorities do not consider them to be illegal migrants. (BZ, 11 December 2012, p. 85)
The Time magazine reports in July 2012:

> "Since the Dalai Lama fled in 1959, Nepal has played a critical role for the Tibetan exile community, providing safe haven and a passageway to India. But in recent years, Nepal's hospitality has waned – and the reason, many say, is China's growing influence on the country's political elite. Since 2008, when an uprising convulsed Lhasa shortly before the Beijing Olympics and was violently suppressed by Chinese authorities, the number of Tibetans making the journey to India has plummeted. From the early 1990s until 2007, some 2,500 Tibetans were arriving in India each year. In 2008, that number dropped to under 600, and has since hovered at about 800 refugees per year. A key reason, observers say, is that China has significantly tightened security, not only inside Tibet but also along the border with Nepal, choking off crucial escape routes. [...] But China's strategy for containing Tibet's fight for greater independence is no longer restricted to soldiers and sleuths on its own soil. With an eye on curbing what it calls 'anti-China activities,' Beijing has in recent years enlisted the support of its small but strategically important neighbor, Nepal, which hosts an estimated 20,000 Tibetan refugees and serves as a crucial transit path for those traveling to India. According to a confidential U.S. embassy cable revealed by WikiLeaks in 2010, 'Beijing has asked Kathmandu to step up patrols ... and make it more difficult for Tibetans to enter Nepal.' Another cable reads that China 'rewards [Nepalese forces] by providing financial incentives to officers who hand over Tibetans attempting to exit China.' Indeed, 'border management' and 'information sharing' have emerged as key areas of collaboration between the two states, with some reports claiming Nepalese police receive training and equipment from the Chinese. [...] China's growing influence in Nepal has alarmed Tibetan activists and officials, who have long viewed Kathmandu as a sanctuary and an ally. Under an informal agreement made in 1989 between the Nepalese and the U.N. refugee agency, Nepal pledged to allow fleeing Tibetans to pass safely to India. Now, Tibetans say, that trust is eroding." (Time, 17 July 2012)

For general information on the situation of Tibetans, please refer to section 8.5 of this compilation.

14.1.2 Surveillance abroad

In an October 2012 query response on the monitoring of Chinese Falun Gong practitioners outside China, the Immigration and Refugee Board of Canada (IRB) quotes the following information obtained from members of the Falun Dafa Association of Canada (FDAC):

> "Two representatives of the Falun Dafa Association of Canada (FDAC) stated that the Chinese authorities monitor practitioners of Falun Gong in Canada (FDAC 12 Sept. 2012;

> ibid. 18 Sept. 2012). In 21 September 2012 correspondence with the Research Directorate, the Vice-President of the FDAC in Toronto stated that the Chinese Embassy and Consulates in Canada keep 'blacklists' of all known Falun Gong practitioners. Additionally, in a telephone interview with the Research Directorate on 12 September 2012, an Ottawa-based representative of the FDAC explained that the authorities send people to observe, take photos of, and 'attempt to intimidate' practitioners with their presence at public Falun Gong activities (FDAC 12 Sept. 2012). In correspondence sent to the Research Directorate on 18 September 2012, the Toronto FDAC Vice-President wrote that Chinese agents taking photos at Falun Gong events 'run away' when approached (FDAC 18 Sept. 2012)." (IRB, 2 October 2012)

The July 2012 Time magazine article refers to "[a]necdotal evidence" pointing "to a Chinese security presence on the Nepalese side of the border" and mentions that "CNN journalists filming in Nepal were intercepted by Chinese-speaking men in plainclothes" (Time, 17 July 2012).

A December 2013 article by the Beijing-based reporter Jonathan Kaiman that appeared in Foreign Policy (FP), a bi-monthly US-based magazine on global affairs, reports on cyberattacks on the Central Tibetan Administration (CTA), commonly referred to as the Tibetan government in exile, and NGOs in the town of Daramsala in India:

> "The Chinese government is everywhere and nowhere in Dharamsala, planting malware and intercepting messages in ways that are nearly undetectable and difficult to trace. The CTA's Chinese-language website was hacked in August. Everyone within the Tibetan community is a target, from the Dalai Lama's advisors to any smartphone-wielding refugee. [...] Few cyberattacks on Dharamsala are strategically tailored to monitor or control the city's network infrastructure, say experts. The most common attacks are spearphishing attempts: Tibetans, especially those working for the CTA or pro-independence organizations, say they frequently receive strange emails purporting to be from friends or associates. They often contain attachments that, once downloaded, infect the user's computer with malware, allowing a hacker to operate the system remotely. The computer essentially becomes shared; keystrokes are recorded, passwords saved, contacts downloaded. Everything is compromised. [...] More than half The CTAs computers contain some sort of malware, estimates the government in exile's press officer, Tsering Wangchuk." (FP, 4 December 2013)

The Uyghur American Association (UAA), a US-based Uyghur advocacy organization, states in a press release of July 2012:

> "Security researchers at Kaspersky Lab recently announced a Mac-based Trojan originating in China has targeted Uyghur activists in an attempt to collect information about Uyghur activities conducted overseas. The Uyghur American Association (UAA), which is a frequent target of virus emails, believes the surveillance of Uyghur organizations outside of China is part of an effort to silence a Uyghur narrative of conditions in East Turkestan that contradicts official versions. [...] Tibetan activists have frequently been targets of Chinese malware [...]." (UAA, 3 July 2012)

A January 2012 article by Radio Free Asia (RFA) reports on the following:

> "Authorities in Sweden have deported two Muslim ethnic minority Uyghurs to China after their request for political asylum was refused, sparking fears among other Uyghur asylum-seekers that they will also be sent home where they may be persecuted. [...] Munich-based World Uyghur Congress spokesman Dilshat Raxit identified them as Adile Omer, a 25-year-old woman, and Faruh Dilshat, a 23-year-old man. 'I don't know what caused them to flee their homeland, but I know that they had participated in demonstrations held by the Swedish Uyghur community in front of the Chinese embassy in Stockholm. This is enough fodder for the Chinese authorities to punish them severely,' Raxit said. [...] Overseas rights groups said many Uyghurs in European countries are in a similar position, and that there could be a diplomatic reason for the decisions now being taken. 'China is putting unceasing pressure of every kind on EU member states,' Raxit said. [...] Many Uyghurs have been deported in recent years from countries with strong trade and diplomatic ties to China, including Kazakhstan, Kyrgyzstan, Uzbekistan, Pakistan, Cambodia, Vietnam, Thailand, Malaysia, and Laos." (RFA, 6 January 2012)

The BBC reports in an article of March 2010:

> "China's foreign ministry has denied that the country has been spying on political refugees living in Sweden. The reaction comes after a Stockholm court jailed a Uighur refugee for 16 months for passing on information about other Uighurs to a Chinese agent. The court said the man had infiltrated the World Uighur Congress, a political body for exiled Uighurs. But a ministry spokesman in Beijing said the allegations were 'totally groundless' and had 'ulterior motives'." (BBC News, 9 March 2010)

For more information on the situation of the groups referred to in this section, please see section 7.3.7 (Falun Gong), section 8.3 (Uyghurs) and section 8.5 (Tibetans).

14.2 Treatment upon return

The April 2013 annual human rights report of the US Department of State (USDOS) indicates:

> "The law neither provides for a citizen's right to repatriate nor addresses exile. The government continued to refuse reentry to numerous Chinese citizens who were considered dissidents, Falun Gong activists, or 'troublemakers.' Although authorities allowed some dissidents living abroad to return, dissidents released on medical parole and allowed to leave the country often were effectively exiled. Authorities imprisoned some activists residing abroad upon their return to the country." (USDOS, 27 February 2014, section 2d)

As reported by HRW in March 2014, "[i]n recent years there have been multiple incidents of Uyghurs being forcibly returned to China in violation of international law, particularly from Southeast Asia, a common route for people fleeing China" (HRW, 21 March 2014).

The UN High Commissioner for Refugees reports that Cambodian authorities forcibly returned 20 Uyghur asylum-seekers in December 2009 (UNHCR, June 2013, p. 3).

This deportation of the group of Uyghurs from Cambodia is reported in an Al Jazeera article of December 2009:

> "At least 20 Uighurs who fled China after deadly ethnic violence earlier this year have been deported from Cambodia, a government official has said. Khieu Sopheak, a Cambodian interior ministry spokesman, said the group had been put on a plane, sent from China, that left Phnom Penh International Airport at about 9pm (14:00 GMT) on Saturday. 'They are going back to China,' he said. Koy Kuong, a foreign ministry spokesman, said the Uighurs had entered the country illegally. [...] The Uighurs had applied for asylum at the United Nations refugee office, after fleeing riots that killed about 200 people in southern China in July. The UN had urged Cambodia to stop the deportation. A spokeswoman for the UN refugee agency said it had not finished evaluating the Uighurs, including two children, for refugee status. Human rights groups say they fear for the lives of Uighurs deported to China. 'It is hugely concerning that Cambodian authorities are not giving this group an opportunity to seek asylum, or for authorities to assess their asylum case,' Brittis Edman, a Cambodia researcher with Amnesty International, said, before the expulsion. 'This group will be particularly vulnerable to torture. Because of those concerns, Cambodia shouldn't send them back.' The deportation comes a day before Xi Jinping, the Chinese vice-president, visits Cambodia as part of a four-country tour. Cambodia has been under pressure from China, which has called the Uighurs 'criminals' after they fled the country." (Al Jazeera, 19 December 2009)

As noted by Human Rights Watch (HRW), the deported "group of Uyghurs included 17 men, one woman, and two children" (HRW, 22 December 2009).

Amnesty International (AI) covers the same case as follows:

> "On 18 December 2009, 20 Uighur asylum seekers were deported to China from Cambodia, at the request of the Chinese authorities. The Uighurs were fleeing violence and increased persecution in China following the unrest that began on 5 July 2009, when police and security forces reacted brutally to peaceful Uighur demonstrators. [...] Just days before he was refouled, a 27-year-old Uighur man told reporters, 'If I am returned to China, I am sure that I will be sentenced to life imprisonment or the death penalty for my involvement in the Urumqi riots.' The Cambodian Government justified their actions by claiming that the group were merely illegal migrants, but the Uighurs weren't even given the chance to have their claims for asylum assessed by the UN's refugee agency." (AI, 18 January 2010)

Human Rights Watch (HRW) notes that the 20 Uyghurs had been issued 'persons of concern' letters by the UNHCR. The same source also indicates that "[s]ubsequent media reports, which could not be independently verified, stated that some members of that group were tried and sentenced to death, while others were sentenced to prison." (HRW, 21 March 2014).

The US Department of State (USDOS) annual human rights report of February 2014 gives the following account of the treatment of the group of Uyghurs after their return:

> "Of a group of 20 Uighurs returned from Cambodia in 2009, three persons, a woman and two children, were reportedly freed, and in 2011, 16 others received prison sentences ranging from 16 years to life. Chinese authorities continued to refuse to provide information regarding the whereabouts of the remaining individual." (USDOS, 27 February 2014, section 2d)

A Radio Free Asia (RFA) article of March 2014 states that "at least two among the 20 Uyghur asylum-seekers were sentenced to life imprisonment in 2012" (RFA, 14 March 2014).

The Phnom Penh Post newspaper reports that in March 2010, "Laotian authorities reportedly deported an ethnic Uyghur asylum seeker and his family to China" (Phnom Penh Post, 19 December 2010).

Radio Free Asia (RFA) reports that authorities in Laos forcibly returned an Uyghur man, his wife and their five children in March 2010. As indicated by RFA, the Uyghur man, Memet Eli Rozi, was "among a group of 22 Uyghurs who had fled to and sought asylum in Cambodia", 20 of whom were returned to China in December 2009. Rozi asked his wife and children, who were living in Guangzhou City, to join him in Laos. Upon their arrival in Laos, all seven family members were arrested and returned to China. The RFA article, published in December 2010, states that the wife and children were released after 32 days in detention while authorities continued to hold the husband:

> "Laos has deported seven Muslim Uyghurs who fled China following ethnic riots last year, raising concerns over the plight of Uyghur asylum seekers forced to return home where they face possible persecution. The Laotian authorities arrested and expelled Memet Eli Rozi, 34, his wife Gulbahar Sadiq, 28, and their five children in March this year, the wife told RFA from Ghulja city in China's Xinjiang Uyghur Autonomous Region, where she currently lives. Until now, rights groups had been in the dark about the fate of Memet Eli Rozi, among a group of 22 Uyghurs who had fled to and sought asylum in Cambodia. The Cambodian government expelled 20 of them to China in December 19, 2009 despite pleas from the U.N. refugee agency. Another Uyghur from the group has resettled in a third country. As his campatriots were held by Cambodian authorities, Memet Eli Rozi fled to Laos, where he asked his wife and five children to join him from Guangzhou city in southern China. They were apprehended by Laotian police and deported to China on the day that they arrived in Laos, in March this year, Gulbahar Sadiq said. 'A few uniformed persons stopped us and asked for our passports and visa. We were unable to show them any documents. They sent us back to Mengla county in Yunnan province,' she said. 'After three days, Xinjiang's police came to Mengla and interrogated us. We were held there for 32 days. I lived with my five children in one room, and my husband was detained in other room at the same yard,' Gulbahar said. The Chinese authorities sent her and the children to her Ghulja hometown and continued to hold her husband. 'Later I learned that they sent my husband to the Kashgar prefecture detention center.'" (RFA, 15 December 2010)

An August 2011 article by Agence France-Presse (AFP) reports on the deportation of 11 ethnic Uyghurs from Malaysia:

> "A human rights group criticised Malaysia on Tuesday for sending a group of ethnic Uighurs back to China and urged an end to such deportations over fears of mistreatment and even torture. The UN refugee agency also said it had sought access to the 11 people deported on August 18 as well as five others still in custody in Malaysia but had been denied by Malaysian authorities. A senior Malaysian police official defended the government's actions in comments to AFP, saying the Chinese nationals, all members of the Uighur ethnic minority, were involved in a human-smuggling syndicate. 'This group has nothing to do with any political group or asylum-seekers. They are all involved in people smuggling,' he said. Announcing the deportations on Saturday, police said they had busted a Chinese people smuggling ring which was falsely trying to claim UN refugee status for its victims after smuggling them into Malaysia. But New York-based Human Rights Watch denounced the deportations and urged they be halted, saying Uighurs faced 'grave risk of torture' in China." (AFP, 23 August 2011)

A Human Rights Watch (HRW) press release reports on several ethnic Uyghurs forcibly returned from Malaysia, Thailand and Pakistan in August 2011:

> "China should account for Chinese citizens of Uighur ethnicity who were forcibly returned from three Asian countries on August 6 and August 8, 2011, Human Rights Watch said today in a letter to the Chinese government. [...]
>
> Malaysia forcibly returned at least 11 Uighurs on August 6. On the same day, the Thai government turned over an ethnic Uighur, Nur Muhammed, to Chinese diplomats in Bangkok. On August 8, Pakistan deported five blindfolded and handcuffed Uighurs, including a woman and two children, to China, media reports said." (HRW, 2 September 2011)

The same press release lists deportations of ethnic Uyghurs from Asian countries that occurred between 2001 and 2011:

> "The 11 Uighurs deported from Malaysia on August 6 [2011];
>
> Nur Muhammed, deported from Thailand on August 6 [2011];
>
> Muhammed Tohti Metrozi, a Uighur deported from Pakistan in July 2003, and the six Uighurs deported from Pakistan on August 8, including Manzokra Mamad;
>
> The 20 Uighurs deported from Cambodia on December 29, 2009;
>
> Four Uighurs deported from Kazakhstan, including Ahmet Memet and Turgun Abbas in December 2001, Abdukakhar Idris in April or May 2003, and Ershidin Israel on May 30, 2011; and
>
> Abdu Allah Sattar and Kheyum Whashim Ali, deported from Nepal in 2002." (HRW, 2 September 2011)

As reported by HRW, six Uyghurs in Malaysia who had been registered with the UNHCR were forcibly returned to China in December 2012:

> "Malaysia's secret forced return to China of six Uighurs with pending asylum claims on December 31, 2012, was a grave violation of international law, Human Rights Watch said in a letter to the Malaysian government today. [...] Credible sources told Human Rights Watch that the six Uighur men returned to China on December 31 had been detained earlier in 2012 allegedly for attempting to leave Malaysia on false passports. While in detention, they were registered with the office of the United Nations High Commissioner for Refugees and were permitted to proceed with refugee status determination (RSD) interviews. Although all six had asylum claims being reviewed, Malaysian police clandestinely transferred the men in late December into the custody of Chinese authorities, who escorted them from Malaysia to China on a chartered flight." (HRW, 3 February 2013)

The same source notes in March 2014 that it "has been unable to obtain any further information from Malaysian or Chinese government sources as to the six men's whereabouts or well-being" (HRW, 21 March 2014).

An article by Radio Free Asia (RFA) of 14 March 2014 reports on a group of 213 Uyghurs detained in Thailand's Songkhla province near the Malaysian border:

> "Thailand came under pressure Friday not to deport more than 200 Uyghurs back to China after they were detained near the Thai border with Malaysia while fleeing ethnic tension at home. [...] Thai police said that the 213 Turkic-speaking, mostly Muslim Uyghurs, including 80 children, have been taken to a nearby immigration detention center after they were held while hiding in a camp in a rubber plantation in Ratapoom district in Songkhla province on Wednesday. Police are investigating whether they were waiting to be smuggled by a human trafficking ring across the border to predominantly Muslim Malaysia. The Uyghurs had initially told the Thai authorities that they are from Turkey, fearing they would be deported back to Xinjiang if their true identity is revealed, a relative had told RFA's Uyghur Service, speaking from Malaysia. Thai authorities have already informed Chinese diplomats in Bangkok about the group's illegal presence in Thailand and the diplomats have identified them and told them that they should return home, the source said, speaking on condition of anonymity." (RFA, 14 March 2014)

A Human Rights Watch (HRW) press release of 14 March 2014 informs about the same case as follows:

> "The government of Thailand should ensure that a group of 220 ethnic Uighurs are not forcibly returned to China and have urgent access to refugee status determination proceedings by the United Nations refugee agency, Human Rights Watch said today. The group of Uighurs, a predominantly Muslim, Turkic minority that originates from western China, was discovered on March 13, 2014, in a jungle camp in Thailand's Songkhla province. [...] Thai immigration officials conducted a night raid in a remote rubber plantation and detained 60 women, 78 men, and 82 children who identified themselves as Turkish. Immigration officials held the group at the Sadao Immigration Detention Center in Songkhla. The group members said they would only speak with officials from the Embassy of Turkey, who were scheduled to visit on the evening of March 14. A senior diplomat from

> China also flew to Songkhla to raise Beijing's demands for access to the group and to conduct meetings with Thai officials." (HRW, 14 March 2014)

In a press release of 21 March 2014, Human Rights Watch (HRW) reports on a group of 112 persons who were detained in Thailand's Sa Kaew province near the Cambodian border and are believed to be ethnic Uyghurs:

> "The government of Thailand should ensure that 112 newly detained people believed to be ethnic Uighurs are not forcibly returned to China, Human Rights Watch said today. Thai authorities detained the group in Sa Kaew province near the Thai-Cambodia border and brought them to the central Immigration Detention Center in Bangkok. A senior Thai Immigration Bureau official said that Chinese officials with access to the group identified at least 30 as Uighurs, a predominantly Muslim and Turkic minority that originates from western China. [...] Uighurs forcibly returned to China typically face severe persecution, including the threat of arrest and torture." (HRW, 21 March 2014)

In a March 2014 article, the New York Times (NYT) states that a further group of 77 migrants believed to be Uyghurs have been detained in Songkhla province. The article quotes HRW researcher Phil Robertson as saying that group's situation is not clear (NYT, 24 March 2014).

An article by the US writer and mountaineer Jon Krakauer, published in the magazine New Yorker in December 2011, states that "Nepalese police have been apprehending Tibetans far inside Nepal, robbing them, and then returning them to Tibet at gunpoint, where they are typically imprisoned and not uncommonly tortured by the Chinese" (New Yorker, 28 December 2011).

In August 2012, Radio Free Asia (RFA) reports on the following case:

> "In what appears to be a growing trend, Chinese border police have deported to Nepal two groups of Tibetans who had sought to re-enter Tibet, some in hopes of reuniting with family members, according to Tibetan and Nepalese sources. One group of 11 men was forced over the border to Nepal on Aug. 29 [2012], while a second group of four men and one woman was sent back on Aug. 23. All had been held by Chinese police at a detention center in Shigatse, Tibet, after being detained at border crossings with Nepal at Dram, Nangpa La, and Nyalam. Six of the men in the first group are married and have children living in Tibet, sources said. On their return to Nepal, both groups were taken to the Tibetan Refugee Reception Center in Kathmandu with the assistance of United Nations refugee workers. After a short stay at the refugee center, the group of five who were sent back to Nepal on Aug. 23 paid fines and were released, and have now traveled into India, sources said." (RFA, 30 August 2012)

An October 2012 query response of the Immigration and Refugee Board of Canada (IRB) provides the following information with reference to the Falun Dafa Association of Canada (FDAC) and the Falun Gong (Falun Dafa) website Minghui.org:

> "According to the Ottawa FDAC representative, Chinese [Falun Gong] practitioners who live abroad and return to China have been 'detained' and 'interrogated' by the authorities

about their involvement in Falun Gong (12 Sept. 2012). The Toronto FDAC Vice-President added that practitioners are sometimes interrogated 'as soon as they [exit] the airplane' in China (18 Sept. 2012). The Minghui.org article reports that a Vancouver Falun Gong practitioner's daughter and son-in-law, who do not practice Falun Gong themselves, were interrogated by three national security agents in Beijing in 2010 for two hours regarding the practitioner's activities (Minghui.org 21 July 2011). The article states that the authorities 'threatened to 'take action' if the practitioner refused to stop criticizing the CCP abroad (ibid.). Corroborating information could not be found among the sources consulted by the Research Directorate within the time constraints of this Response." (IRB, 2 October 2012)

For more information on the situation of the groups referred to in this section, please see section 7.3.7 (Falun Gong), section 8.3 (Uyghurs) and section 8.5 (Tibetans).

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