



Home Office

Country Information and Guidance

**China: Background Information,
including actors of protection and
internal relocation.**

Version 1.0

September 2015

Preface

This document provides general, background information to Home Office decision makers to provide context for considering specific types of protection-based claims.

Where applicable, it must be read alongside the other country information and guidance material for that country, available at:

<https://www.gov.uk/government/publications/china-country-information-and-guidance>

Decision makers must consider claims on an individual basis, taking into account the case specific facts and all relevant evidence, including: the guidance contained with this document; the available COI; any applicable caselaw; and the Home Office casework guidance in relation to relevant policies.

Country Information

The COI within this document has been compiled from a wide range of external information sources (usually) published in English. Consideration has been given to the relevance, reliability, accuracy, objectivity, currency, transparency and traceability of the information and wherever possible attempts have been made to corroborate the information used across independent sources, to ensure accuracy. All sources cited have been referenced in footnotes. It has been researched and presented with reference to the [Common EU \[European Union\] Guidelines for Processing Country of Origin Information \(COI\)](#), dated April 2008, and the [European Asylum Support Office's research guidelines, Country of Origin Information report methodology](#), dated July 2012.

Feedback

Our goal is to continuously improve the guidance and information we provide. Therefore, if you would like to comment on this document, please [e-mail us](#).

Independent Advisory Group on Country Information

The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to make recommendations to him about the content of the Home Office's COI material. The IAGCI welcomes feedback on the Home Office's COI material. It is not the function of the IAGCI to endorse any Home Office material, procedures or policy.

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Information about the IAGCI's work and a list of the COI documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector's website at <http://icinspector.independent.gov.uk/country-information-reviews/>

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Guidance

Updated: 8 September 2015

1. Introduction

1.1 Summary of Issues to Consider

- 1.1.1 In general, are those at risk of persecution or serious harm able to seek effective protection?
- 1.1.2 In general, are those at risk of persecution or serious harm able to internally relocate within China?

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2. Consideration of Issues

2.1 In general, are those at risk able to seek effective protection?

- 2.1.1 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. Oversight of the police by the Supreme People's Procuratorate – the highest agency at national level responsible for both prosecution and investigation - is limited. The low ratio of public security force police to the population has resulted in local governments hiring temporary or irregular police, known as chengguan. Oversight of these forces is highly localized and ad hoc. In 2009 the Supreme People's Procuratorate acknowledged continuing widespread abuse in law enforcement. Corruption at the local level is reportedly widespread and police and urban management officials reportedly engage in extrajudicial detention, extortion, and assault (see [Security apparatus](#)).
- 2.1.2 The security forces are also reported to commit extrajudicial killings, including executions without due process; enforced disappearance and incommunicado detention, including prolonged illegal detentions at unofficial holding facilities known as “black jails”; torture and coerced confessions of prisoners; detention and harassment of lawyers, journalists, writers, bloggers, dissidents, petitioners, and others who sought to exercise peacefully their rights under the law ; a lack of due process in judicial proceedings; political control of courts and judges; closed trials; the use of administrative detention (see [Police abuses](#)).
- 2.1.3 The use of torture and forced confessions is reported to be endemic to China's criminal justice system. Criminal trials are frequently closed to the public, remain biased to a presumption of guilt and the conviction rate is estimated at 98 percent or more. Only a minority of criminal suspects have defence lawyers and lawyers are prevented from seeing their clients, disbarred, beaten, and in some cases detained and tortured. The appeals process rarely reverses convictions and fails to provide sufficient avenues for review; remedies for violations of defendants' rights are inadequate (see [Judiciary](#)).
- 2.1.4 The power of the police is reflected in the pervasive lack of accountability for police abuse and the fact that the chief of the police usually enjoys a more authoritative position than the heads of either the procuracy or the courts

(see [Oversight of the police](#)) There are particular concerns about access to legal remedies, government officials and other public servants not being held legally accountable for abuses, as well as retaliation for those seeking accountability (see [Police abuses](#), [Oversight of the police](#) and [State responses to violence against women](#))

- 2.1.5 The law states that the courts shall exercise judicial power independently, without interference from administrative organs, social organisations, and individuals. However, in practice, the judiciary are not independent. The Chinese Communist Party (CCP) is regarded as being above the law. Judges regularly received political guidance on pending cases, including instructions on how to rule, from both the government (especially the local government) and the CCP, particularly in politically sensitive cases. Judges have less power in their localities than do the police or prosecutors, or even politically connected local businessmen. The CCP's Law and Politics Committee has the authority to review and influence court operations at all levels of the judiciary (see [Judiciary](#)).
- 2.1.6 The law also allows compensation for wrongful detention, mental trauma, or physical injuries inflicted by detention centre or prison officials. However citizens seldom applied for state compensation because of the high cost of bringing lawsuits, low credibility of courts, and citizens' lack of awareness of the State Compensation Law (see [Oversight of the police](#)). Judges are also reluctant to accept state compensation cases, and government agencies seldom implement court judgments in favour of plaintiffs (see [Judiciary](#)).
- 2.1.7 Although there is a fully functioning criminal justice system, access is ineffective because the courts do not hold the authorities to account for their misdeeds and do not dispense justice because they are in practice not independent. The effectiveness of the police and judiciary is highly susceptible to political interference and corruption. The police commit serious abuses with impunity. A person may not therefore always be able to access effective protection from the state.
- 2.1.8 Decision makers must consider each case on its individual facts. The assessment of whether effective protection is available should be considered in relation to the particular circumstances and profile of the person. If the person's fear is of ill treatment/persecution at the hands of the state, depending on their profile and particular circumstances, it may not be reasonable to consider they would be able to avail themselves of the protection of the authorities.
- 2.1.9 For further guidance on assessing the availability or not of state protection, see section 8.1 of the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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2.2 [In general, are those at risk able to internally relocate within China?](#)

- 2.2.1 Freedom of movement within China depends on the individual's personal circumstances, including ethnicity, and where they are located within China (see [Freedom of movement](#)).

- 2.2.2 The hukou system of individual registration in rural and city areas, historically a rigid family-based structure from which derives entitlement to most social and other benefits, has been significantly relaxed in recent times and many rural residents migrate to the cities, where the per capita disposable income is approximately three times the rural per capita income, but many can not change their official residence or workplace within the country. Most cities have annual quotas for the number of new temporary residence permits that can be issued, and all workers have to compete for a limited number of such permits. It is particularly difficult for rural residents to obtain household registration in more economically developed urban areas (see [Hukou](#)).
- 2.2.3 In the country Guidance case of [AX \(Family Planning Scheme\) China CG \[2012\] UKUT 00097 \(IAC\)](#) (16 April 2012) the upper Tribunal found that where a real risk exists from the authorities in the 'hukou' area, it may be possible to avoid the risk by moving to a city. Millions of Chinese internal migrants, male and female, live and work in cities where they do not hold an 'urban hukou'. Internal relocation may therefore be an option to avoid risk in the 'hukou' area, although it will not be an option where there is credible evidence of individual pursuit of the returnee or his/her family, outside the 'hukou area' or if it would be unduly harsh to expect them to do so.
- 2.2.4 Decision makers must give careful consideration to the relevance and reasonableness of internal relocation on the facts of each case taking full account of the individual circumstances of the particular person.
- 2.2.5 For the factors to be considered and further guidance on considering internal relocation, see section 8.2 of the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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3. History

- 3.1 An overview of China's recent history can be found in the [BBC News China profile](#) which also includes a timeline of events.

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4. Political System

4.1 Constitution

- 4.1.1 The fourth [constitution](#) of the People's Republic of China was adopted in 1982. It vests all national legislative power in the hands of the National People's Congress and its Standing Committee. The State Council and its Standing Committee, by contrast, are made responsible for executing rather than enacting the laws. This basic division of power is also specified for each of the territorial divisions – province, county and so forth – with the proviso in each instance that the latitude available to authorities is limited to that specified by law.¹

4.2 Structure

- 4.2.1 The US State Department 2014 Human Rights Practices Report, released 26 June 2015, stated:

'The constitution states that "all power in the People's Republic of China belongs to the people" and that the organs through which the people exercise state power are the National People's Congress (NPC) and the people's congresses at provincial, district, and local levels. While the law provides for elections, citizens could not freely choose officials who govern them. In fact the CCP controlled virtually all elections and continued to control appointments to positions of political power.

'On August 31 [2014], the NPC Standing Committee approved a framework for implementing universal suffrage for the 2017 election of Hong Kong's chief executive. The framework states that between two and three candidates may be nominated with the approval of more than 50 percent of a nominating committee formed in accordance with the size, composition, and formation method of the existing 1,200 person Election Committee. Prodemocracy activists criticized the framework as undemocratic and designed to ensure that only candidates supportive of the PRC government were nominated by a predominantly unelected, pro-Beijing nominating committee.'²

¹ Encyclopaedia Britannica: China, Constitutional Framework, undated <http://www.britannica.com/EBchecked/topic/111803/China/258953/Constitutional-framework>, Date accessed: 2 June 2015

² US State Department - 2014 Human Rights Practices Report, released 26 June 2015 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dliid=236432>

4.2.2 Jane's Sentinel Security Assessment of China's Internal Affairs, last updated 25 January 2015, noted on the 'Executive':

'A president, who is head of state, and vice-president are elected by the NPC for a term of five years, and are limited to serving no more than two consecutive terms. The most important administrative organ of power of central government is the State Council, comprising the head of government (the premier, separate from the President's office), a variable number of vice-premiers, five state councillors, a secretary-general, and various ministers. The State Council draws up the national budget and economic plans in accordance with the policy of the CCP and, together with the premier and vice-premiers, co-ordinates the work of ministries and commissions. The Chinese government has always been subordinate to the CCP, the central organisations of which make the key policy decisions concerning economic development strategy, foreign policy, and military affairs. The CCP Politburo Standing Committee is the most influential organisation within the party, and formulates medium-term and long-term strategies for the party. The CCP Secretariat handles the day-to-day administration of the party.

4.2.3 The same Jane's Sentinel Security Assessment of China's Internal Affairs, last updated 25 January 2015, noted on the 'Legislature':

'The National People's Congress (NPC) is China's unicameral legislative body or parliament. It is currently in its 12th iteration, and its first plenary session convened in March 2013 when the government leadership changes also took place.

'The NPC comprises nearly 3,000 deputies, elected every five years by the Provincial People's Congresses and the People's Liberation Army. The NPC meets for two weeks once a year to review and approve major new policy directions, laws, the budget, and key changes in personnel, and elects a standing committee that convenes regularly and exercises state power when the NPC is not in session. In addition, the NPC has the power to make amendments to the constitution, and appoint and remove the president and vice-president, the premier and vice-premiers of the State Council, the procurator and president of the Supreme People's Court, and the chairman and members of the state's military commission. However, the NPC is little more than a rubber stamp for policies and legislation that have been devised by the CCP Politburo. The NPC is entirely separate from the CCP Congress, which is a five-yearly body that meets largely to confirm party strategy devised by the CCP Politburo and affirm party positions within the Politburo.'³

5. Security Apparatus

5.1 Police structure

Date accessed: 30 June 2015

³ Jane's Sentinel Security Assessment – Internal Affairs – Executive/Legislature, 26 January 2015 (subscription site), Date accessed: 2 June 2015

5.2.5 The US State Department 2014 Human Rights Practices Report, released 26 June 2015, noted that ‘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.’⁴

5.2.6 An Immigration and Refugee Board of Canada response to information request of 10 October 2014, ‘Structure of the public security police; whether witness protection programs exist for those fearing organized crime groups (2014)’, noted, based on various sources, that:

‘...the police system comprises the following components or branches: the public security police, the state security police, the prison police, and the judicial police for people’s courts and procuratorates.

‘According to a chapter titled “The Police System in China” by Yue Ma, which was published in the 2014 Routledge Handbook of Chinese Criminology, the “public security police” are the largest component of the police force.

Sources note that the public security police force [excluding auxiliary forces such as the People’s Armed Police Force (PAPF) and Chengguan police] is reportedly made up of approximately 1.9 million active duty police officers...In correspondence with the Research Directorate, a research assistant professor in the Faculty of Law at the Chinese University of Hong Kong estimated that the overall number of police officers for Guangdong was approximately 152,000.

‘Ma states that the public security police force is directed and coordinated by the Minister of Public Security.

‘In a report titled Intensifying Contradictions: Chinese Policing Enters the 21st Century by the National Bureau of Asian Research (NBR) , the author explains that “domestic security forces” include a wide range of institutions and are “not grouped neatly on organizational charts,” and that “policing institutions should be considered part of the much larger social-management ... apparatus that includes nearly every organ of the Chinese state”.

According to the NBR report, the MPS has a “very broad set of responsibilities to maintain social order that extend far beyond what is normally handled by a US police department”.

‘Ma describes the organization of the public security police force as follows:

‘Under the Ministry of Public Security, in each province, autonomous region, and municipality directly under the central government, there is a provincial level public security bureau [PSB]. Under the provincial level public security bureau, in provinces and autonomous regions, there are municipal and county public security bureaus. In municipalities directly under the central

⁴ US State Department - 2014 Human Rights Practices Report, released 26 June 2015 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dliid=236432> Date accessed: 30 June 2015

government, there are district and county public security bureaus. At the bottom of the police hierarchy, numerous police stations are set up in larger communities across the country.

'According to [the 2009 book, *Chinese Policing: History and Reform*, by Kam C. Wong, a professor of criminal justice at Xavier University in Ohio] Wong, under the MPS, there are 22 provincial level PSBs, 5 autonomous region PSBs, and 4 PSBs in the municipalities administered by the central government [Beijing, Tianjin, Shanghai, Chongqing... The Research Assistant Professor indicated that Fujian province has 89 county-level PSBs; Guangdong province has 121 PSBs at the county, city, and district level and 20 PSBs in central economic zones, with 58 PSBs at the township level.

'The Research Assistant Professor explained that the organizational structure of the MPS includes "political organs", such as a party committee and party discipline committee, "administrative units," "operational units," police academies, professional foundations, and tactical units.'⁵ Sources report that the low ratio of public security force police to the population has resulted in local governments hiring temporary or irregular police, known as chengguan [also known as urban management security officials], to supplement the professional force'.⁶ The 2014 U.S. Department of State report notes that 'Local jurisdictions also frequently used civilian municipal security forces, known as "urban management" officials (chengguan), to enforce administrative measures'⁷

5.2 Police abuses

5.2.1 The US State Department 2014 Human Rights Practices Report, released 26 June 2015, noted:

'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. Throughout the year human rights activists, journalists, religious leaders, and former political prisoners and their family members continued to be among those targeted for arbitrary detention or arrest. Other human rights problems during the year included alleged extrajudicial killings, including executions without due process; enforced disappearance and incommunicado detention, including prolonged illegal detentions at unofficial holding facilities known as "black jails"; torture and coerced confessions of prisoners;

⁵ Immigration and Refugee Board of Canada response to information request - 'Structure of the public security police; whether witness protection programs exist for those fearing organized crime groups (2014)', 10 October 2014 <http://www.refworld.org/country,,,CHN,,54648cbd4,0.html> Date accessed: 4 June 2015

⁶ Immigration and Refugee Board of Canada response to information request - 'Structure of the public security police; whether witness protection programs exist for those fearing organized crime groups (2014)', 10 October 2014 <http://www.refworld.org/country,,,CHN,,54648cbd4,0.html> Date accessed: 4 June 2015

⁷ US State Department, 2014 Country Report on Human Rights Practices: China, 26 June 2015, Section 1d <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dliid=236432> Date accessed: 30 June 2015

detention and harassment of lawyers, journalists, writers, bloggers, dissidents, petitioners, and others who sought to exercise peacefully their rights under the law ; a lack of due process in judicial proceedings; political control of courts and judges; closed trials; the use of administrative detention. ...’⁸

5.2.2 The Human Rights Watch report of 12 May 2015, ‘Tiger Chairs and Cell Bosses: Police Torture of Criminal Suspects in China’, noted:

‘The Chinese government adopted legal prohibitions on the mistreatment of persons in custody as early as 1979, ratified the United Nations Convention against Torture in 1988, and launched official campaigns to curb torture in the 1990s. Yet at the time of the 2009 and 2010 outcry, the use of torture and forced confessions had long been endemic to China’s criminal justice system. Even Chinese officials had characterized torture in detention as “common,” “serious,” and “nationwide.” It has received attention at the United Nations, by Chinese legal scholars, and in reports of Chinese and international nongovernmental organizations.

‘Following the 2009 cases, the government announced various measures to curb torture as well as convictions based on evidence wrongfully obtained. The measures included legislative and regulatory reforms, such as prohibitions on using detainee “cell bosses” to manage other detainees, and practical steps such as erecting physical barriers to separate police from criminal suspects and videotaping some interrogations.

‘...The Ministry of Public Security, the agency in charge of the police, claims that the use of coerced confessions decreased 87 percent in 2012, that cell bosses who abuse fellow suspects are “things of the past,” and that deaths in custody reached a “historic low” in 2013. Some Chinese legal scholars contend that, due to these efforts, torture is “gradually being curbed” at least for ordinary, non-political criminal defendants.

‘...detainees and defense lawyers...said that some police officers deliberately thwart the new protections by taking detainees from official detention facilities or use torture methods that leave no visible injuries. In other cases, procurators and judges ignore clear evidence of mistreatment, rendering China’s new “exclusionary rule” – which prohibits the use of evidence directly obtained through torture – of no help.

‘...Out of 432 court verdicts from early 2014 examined by Human Rights Watch in which suspects alleged torture, only 23 resulted in evidence being thrown out by the court; none led to acquittal of the defendant. While measures such as the exclusionary rule and videotaped interrogations are positive, they are being grafted onto a criminal justice system that still affords

⁸ US State Department - 2014 Country Report on Human Rights Practices: China, released 26 June 2015, Executive summary and Section 1d
<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dldid=236432> Date accessed: 30 June 2015

the police enormous power over the judiciary and offers police numerous opportunities to abuse suspects. For example, the Ministry of Public Security operates the detention centers, not the Ministry of Justice, permitting police unlimited and unsupervised access to detainees. Lawyers cannot be present during interrogations and suspects have no right to remain silent, violating their right against self-incrimination. Procurators and judges rarely question or challenge police conduct, and internal oversight mechanisms remain weak. According to academic sources, only a minority of criminal suspects have defense lawyers.

‘...Our analysis of court cases and interviews with former detainees show that police torture and ill-treatment of suspects in pre-trial detention remains a serious concern. Former detainees described physical and psychological torture during police interrogations, including being hung by the wrists, being beaten with police batons or other objects, and prolonged sleep deprivation. Some said they were restrained for days in so-called “tiger chairs” (used to immobilize suspects during interrogations), handcuffs, or leg irons; one convicted prisoner awaiting review of his death sentence had been handcuffed and shackled for eight years. Some detainees spoke about abuses at the hands of “cell bosses,” fellow detainees used by detention center police as de facto managers of each multi-person cell. In some cases, the abuse resulted in death or permanent physical or mental disabilities. Most suspects who complained of torture to the authorities had been accused of common crimes such as theft. Interviewees said torture is particularly severe in major cases with multiple suspects, such as in organized or triad-related crimes. In most of the cases we examined, police used torture and other ill-treatment to elicit confessions on which convictions could be secured. Abuses were facilitated by suspects’ lack of access to lawyers, family members, and doctors not beholden to the police. ...’⁹

- 5.2.3 The US State Department 2014 Report on Human Rights Practices, released 26 June 2015, noted with regards to the main domestic security agencies:

‘Oversight of these 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 between these officials and street vendors. In some cases mediation resulted in payment of compensation to victims of these officials.’¹⁰

5.3 Oversight of the police

- 5.3.1 The Human Rights Watch report of 12 May 2015, ‘Tiger Chairs and Cell Bosses: Police Torture of Criminal Suspects in China’, noted:

⁹ Human Rights Watch - ‘Tiger Chairs and Cell Bosses: Police Torture of Criminal Suspects in China’, 12 May 2015, Summary p. 2-5

http://www.hrw.org/sites/default/files/reports/china0515_ForUpload.pdf Date accessed: 5 June 2015

¹⁰ US State Department - 2014 Human Rights Practices Report, released 26 June 2015

<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dclid=236432> Date accessed 30 June 2015

'The extraordinary power of the police is reflected in the pervasive lack of accountability for police abuse, recent reforms notwithstanding. Those whom Human Rights Watch interviewed—including a former judge and a former police officer—agreed that mechanisms to supervise the police are inadequate, and that police officers are rarely held legally accountable for abuse...Police abuse is a function of unchecked power. Police alone make all of the initial decisions to deprive suspects of their liberty and have broad authority to extend detentions within certain, fairly flexible, legal limits. Police also control the facilities in which suspects are held...Mechanisms that should hold police accountable regularly fail to do so. The procuratorate almost never prosecute police officers for torture except in cases when suspects have died or become disabled. Even in those cases, the courts tend to give police officers light sentences. It is also very difficult for victims to obtain official compensation, and on the rare occasions when compensation is forthcoming, the amount tends to be low. In many cases, victims of torture and their families say that authorities ignore them and repeatedly shift blame to other agencies when they seek compensation or accountability; in some instances, they say they are harassed or threatened to stay silent.'¹¹

5.3.2 The Immigration and Refugee Board of Canada response to information request of 10 October 2014 , 'China: Structure of the public security police; whether witness protection programs exist for those fearing organized crime groups (2014)', noted:

'According to a 2011 article published in the peer-reviewed journal *Taiwan in Comparative Perspective* titled "Changing Policing in the People's Republic of China" by Michael Palmer, a professor with the School of Oriental and African Studies at the University of London, "within the Party at any given level, the chief of the police usually enjoys a more authoritative position than the heads of either the procuracy or the courts" and that this "entrenched authority enables the police to resist criticism and reform".

'According to an article published in the journal *the China Quarterly*, "[v]iolations of Party and state discipline by public security and PAP [PAPF] officials are handled primarily by local Party organization, discipline inspection and state supervision departments at the same [local] level" with superior public security units playing a "subsidiary" role...According to the same source, in terms of oversight, this has resulted in "upper level public security organs [having a] lack of effective mechanisms to constrain lower-level public security organs".

'...According to a chapter titled "The Police System in China" by Yue Ma which was published in the 2014 *Routledge Handbook of Chinese Criminology*, the People's procurate has the "general oversight authority" over police to "assure the legality of police actions"...Sources report that cases of criminal prosecution against police for abuse of power are rare...

¹¹ Human Rights Watch - 'Tiger Chairs and Cell Bosses: Police Torture of Criminal Suspects in China', 12 May 2015, p. 2-5, p 91-92
http://www.hrw.org/sites/default/files/reports/china0515_ForUpload.pdf Date accessed: 5 June 2015

According to a 2011 article published in the peer-reviewed journal *Taiwan in Comparative Perspective* titled "Changing Policing in the People's Republic of China" by Michael Palmer "administrative review" is an avenue of complaint against police that permits an aggrieved citizen to file for a review at the "next superior level within the same branch of government;" 25 percent of administrative review cases have reportedly been over allegations of police misconduct in the past decade... Palmer reports that "the administrative review regime for responding to complaints from citizens is limited in effectiveness," due to "the difficulties created by the political environment in which it has to operate" and the "apparent lack of independence" of the process.

'...According to Ma, "police decisions to impose administrative sanctions are not subject to judicial approval" and for citizens, "challenging police decisions in administrative courts [and the imposition of administrative sanctions, including the imposition of fines, administrative detention or re-education through labour (RTL) camps], is the only way to subject police decisions to some form of judicial control".

'...Sources indicate that citizens have the right to petition the government and present grievances through the petitioning system [called *xinfang*, or "letters and visits"...including for complaints against police. However, while individuals can use the petitioning system, the NBR report notes that local officials are subject to penalties if they fail to limit the flow of petitioners to Beijing. Freedom House notes that the number of petitioners who file petitions in Beijing impact a provincial and city official's chance of promotion. As a result, this same source reports, local officials "routinely" intercept, harass and detain petitioners in "black jails" [unofficial holding facilities] or labour camps, and subject petitioners to beatings and abuse. Similarly, Palmer reports that the petition complaint system results in the unlawful detainment, assault and torture of complainants.' ¹²

- 5.3.3 According to an article of 24 April 2014, published by Radio Free Asia (RFA), 'China's Complaints Ban Could Spark 'More Extreme' Protests', nearly 20,000 grievances are filed daily across China, and petitioners interviewed by RFA said they have waited years and sometimes decades without receiving a response. It further explains that faced with thousands of complaints about its officials every day, China has moved to ban its citizens from taking petitions directly to the central government without first going through local authorities from May 2014. However, complaints about corrupt officials of provincial and central governments and petitions about issues that should be addressed across provinces and sectors, as well as those that are

¹² Immigration and Refugee Board of Canada response to information request - 'Structure of the public security police; whether witness protection programs exist for those fearing organized crime groups (2014)', 10 October 2014 <http://www.refworld.org/country,,,CHN,,54648cbd4,0.html> Date accessed: 8 June 2015

not properly handled by provincial governments, will continue to be accepted.¹³

5.3.4 The US State Department 2014 Human Rights Practices Report, released 26 June 2015, noted:

‘Local jurisdictions also frequently used civilian municipal security forces, known as “urban management” officials (chengguan), to enforce administrative measures. Oversight of these 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 between these officials and street vendors. In some cases mediation resulted in payment of compensation to victims of these officials.’¹⁴

5.3.5 The US State Department 2014 Human Rights Practices Report, released 26 June 2015, noted regarding civil judicial procedures and remedies::

‘Courts deciding civil matters faced the same limitations on judicial independence as criminal courts. The State Compensation Law provides administrative and judicial remedies for plaintiffs whose rights or interests government agencies or officials have infringed. The law also allows compensation for wrongful detention, mental trauma, or physical injuries inflicted by detention center or prison officials. Citizens seldom applied for state compensation because of the high cost of bringing lawsuits, low credibility of courts, and citizens’ lack of awareness of the State Compensation Law. Victims’ claims were difficult to assess because of vague definitions in the law and difficulties in obtaining evidence of injury or damage. Judges were reluctant to accept state compensation cases, and government agencies seldom implemented court judgments in favor of plaintiffs.’¹⁵

5.4 State responses to violence against women

5.4.1 With regard to police response to violence against women, Chinese Human Rights Defenders submitted to the UN Committee Against Torture in February 2015 that:

‘Chinese law prescribes rather light punishments for the crime of sexual abuse of women and girls. In some cases, government officials and other public servants, including teachers who had sexually abused girls, were not held legally accountable... Furthermore, parents and supporters who have

¹³ Radio Free Asia - ‘China’s Complaints Ban Could Spark ‘More Extreme’ Protests’, 24 April 2014 <http://www.rfa.org/english/news/china/petitioners-04242014130744.html> Date accessed: 8 June 2015

¹⁴ US State Department - 2014 Human Rights Practices Report, released 26 June 2015 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper> Date accessed: 30 June 2015

¹⁵ US State Department - 2014 Human Rights Practices Report, released 26 June 2015 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dliid=236432> Date accessed: 30 June 2015

tried to seek accountability have run into strong resistance from authorities or even faced retaliation.’¹⁶

5.4.2 The November 2014 Concluding Observations of the UN Committee on the Elimination of Discrimination Against Women state that the Committee ‘remains concerned about reports of women’s limited access to legal remedies. The Committee is also concerned about reports of political interference in the judiciary, which affects the consideration and outcomes of cases, particularly those concerning land disputes involving women.’¹⁷

5.4.3 The US State Department 2014 Human Rights Practices Report, released 26 June 2015, noted:

‘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 sixth 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 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 Supreme People’s Court’s 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.’¹⁸

5.5 Armed Forces

5.5.1 The Jane’s Sentinel Security Assessment Armed Forces profile dated 6 April 2015 noted an active personnel number of 1,510,000 including army, navy, air force and second artillery. There were also 510,000 reservists in the country.¹⁹

5.5.2 The Jane’s Sentinel Security Assessment Executive Summary, dated 6 February 2015, noted:

¹⁶ Chinese Human Rights Defenders – Submission to the UN Committee against Torture, 9 February 2015 <http://chrnet.com/2015/02/chr-d-information-submission-to-the-un-committee-against-torture-for-the-review-of-the-fifth-periodic-report-of-china-february-2015/> Date accessed: 26 June 2015

¹⁷ UN Committee on the Elimination of Discrimination against Women, Concluding observations on the combined seventh and eighth periodic reports of China*, 14 November 2014, paragraph 14 http://www.ecoi.net/file_upload/1930_1431676459_n1462733.pdf Date accessed: 26 June 2015

¹⁸ US State Department - 2014 Human Rights Practices Report, released 26 June 2015 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm#wrapper> Date accessed: 30 June 2015

¹⁹ Jane’s Sentinel Security Assessment – Armed Forces – Executive/Legislature, 6 April 2015 (subscription site) Date accessed: 5 June 2015

'China's People's Liberation Army (PLA) is beginning to realise the joint forces synergies and new capabilities from an aggressive and comprehensive modernisation programme that dates back to the 1980s. The PLA has placed significant focus on improving joint forces interoperability and numerous military exercises demonstrate that this is an area where China has made great strides. Furthermore, China has acquired a range of new information technologies, cyber attack capabilities, new fourth generation level platforms and new precision strike systems as well as implementing a range of personnel and training reforms. The highlight of this effort will be the fielding of an array of new high-tech "anti-access" weapons like anti-satellite systems, anti-ship ballistic missiles, new submarines, new cruise missiles and extensive mine warfare forces, designed to inhibit or prevent US support for Taiwan. Later this decade, this capability will be complemented by a buildup of Special Forces, amphibious and airborne invasion forces and precision strike capable air and missile forces. While China stresses the defensive nature of its armed forces, the latest defence White Paper emphasised the offensive as well as defensive capabilities of the PLA.' ²⁰

5.6 Intelligence agencies

5.6.1 The US State Department 2014 Human Rights Practices Report, released 26 June 2015, noted that:

'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.' ²¹

5.6.2 The Jane's Sentinel Security Assessment Security and Foreign Forces profile dated 26 January 2015 noted:

'The Ministry of State Security (MSS) is the principle external intelligence agency of the People's Republic of China. In June 1983 the National People's Congress, perceiving a growing threat of subversion and sabotage, established the Ministry of State Security under the State Council. The new ministry was charged with ensuring "the security of the state through effective measures against enemy agents, spies, and counter-revolutionary activities designed to sabotage or overthrow China's socialist system", and was an amalgamation of the previous Central Investigation Department and the counter-intelligence elements of the Ministry of Public Security.

'The MSS retains the same authority of arrest and detention as domestic police agencies in China. For this reason, the MSS is a hybrid of external and internal intelligence capability. It is frequently described as the "secret

²⁰ Jane's Sentinel Security Assessment – China: Executive Summary – Executive/Legislature, 6 February 2015 (subscription site) Date accessed: 5 June 2015

²¹ US State Department - 2014 Human Rights Practices Report, released 26 June 2015 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dclid=236432> Date accessed: 30 June 2015

police” or “secret service”. These distinctions are made less clear by the fact that the MSS will frequently operate under Ministry of Public Security cover.

‘Chinese intelligence officers are generally assigned to overseas postings for set terms depending on the nature of the post or on performance. In recent years, the MSS has operated traditionally, out of embassies and consulates in foreign countries, and has established intelligence collection platforms under the cover of legitimate business operations. Finally, the MSS is believed to operate through some number of legitimate Chinese businesses, in which it may have established offices.

‘The First Bureau, the Domestic Bureau, which resembles the former Second Directorate of the Soviet Committee for State Security (KGB), mainly operates within China. Its duties include recruiting assets with overseas connections to work for the Ministry of State Security. The First Bureau recruits persons going abroad for study, business, pleasure, residence, inheritance or other purposes.

‘The First Bureau expedites procedures applying for exit documents in the event of troubles or difficulties with other agencies. It offers travellers payment in exchange for intelligence collection. The bureau is responsible for receiving MSS assets who are returning from abroad for holiday, medical attention and debriefings.

‘To conceal the identity of its assets, the First Bureau may require its agents to enter China through one or more third countries. The Ministry of State Security has special guesthouses in most major cities in China to provide accommodation for returning agents.

‘The Second Bureau is the Foreign Bureau, responsible for operations abroad. The Second Bureau outlines collection priorities and receives, analyses, and reports to higher levels intelligence collected by its operatives and agents.

‘The bureau is responsible for dispatching assets abroad using a variety of covers: official diplomats and government representatives, bankers, businessmen. Chinese embassies and consulates typically have senior personnel working under diplomatic cover while performing intelligence functions. For many years, lacking official representation abroad, the Second Bureau operated through Xinhua news service. More recently, this practice is believed to have been expanded to other media outlets (Guangming Ribao, Jingji Ribao, Zhongguo Qingnian Bao, Gongren Ribao, CCTV, Phoenix TV), which have correspondents in the US, Japan, Europe, and other countries.

‘The Second Bureau is also responsible for recruiting assets abroad. Some of these have worked for the bureau for decades, while others are sleeper agents who are not normally assigned duties and are only activated as needed. Typically, the Second Bureau targets ethnic Chinese, although it

has been known to approach non-Chinese individuals. Typical approaches are considered particularly aggressive by international standards.’²²

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6. Judiciary

6.1 Organisation

6.1.1 lawinfochina.com, operated by Peking University, noted in an undated report on the judiciary:

‘The judicial system of the PRC is established in Articles 123-135, and consists of the people’s courts, the Supreme People’s Court, the people’s procuratorates, the Supreme People’s Procuratorate, military procuratorates and other special people’s procuratorates. Article 129 refers to the people’s procuratorates as “state organs for legal supervision.” The Supreme People’s Procuratorate, accountable to the NPC and its Standing Committee, is the highest prosecutorial agency in China exercising and supervising prosecutorial authority at all state and local levels.

Procuratorates examine cases scheduled for investigation by public security agencies to decide whether a suspect should be arrested or not, and whether a case should be prosecuted or not. They institute and support public prosecution in criminal cases; and oversee the activities of the public security and state security agencies, people’s courts, prisons, houses of detention and reform-through-labor institutions. The Prosecutor General of the Supreme People’s Procuratorate is Jia Chunwang.

‘There is a hierarchy within the court structure from the top down: The Supreme People’s Courts, the Higher People’s Courts, the Intermediate People’s Courts, and the Basic People’s Courts. The Basic People’s Courts are comprised of more than 3,000 courts at county level, which are further subdivided into about 20,000 smaller units referred to as people’s tribunals located in towns and villages. There are 376 Intermediate People’s Courts and 31 Higher People’s Courts located in the provinces. Additionally, there are a number of specialized courts, for example those dealing with railway transportation, forest affairs, the People’s Liberation Army (PLA) and maritime issues. Jurisdiction is allocated partially through the Constitution, the 1979 Organic Law of the People’s Courts, the Law of Criminal Procedure, the Law of Civil Procedure, and the Law of Administrative Procedure.’²³

6.2 Independence

6.2.1 The Congressional Executive Commission on China in an undated report on Judicial Independence in China noted:

²² Jane’s Sentinel Security Assessment Security and Foreign Forces profile, 26 January 2015 (subscription site) Date accessed: 4 June 2015

²³ Lawinfochina.com – Judicial Branch, undated <http://www.lawinfochina.com/Legal/index.shtml> Date accessed: 4 June 2015

'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. 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.

'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. According to one recent SPC study, over 68 percent of surveyed judges identified local protectionism as a major cause of unfairness in judicial decisions. Judicial authorities in China speak frequently about the problem of administrative interference and have identified the spread of local protectionism as one of the principal problems facing the courts...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...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.

'...Both Communist Party and government leaders in China have embraced "judicial independence" as a key reform goal and have taken limited steps to enhance the autonomy of China's judges and courts... Despite these steps, several factors limit the prospects for improved judicial independence in the short term. First, Chinese leaders have a more limited concept of "judicial independence" than that accepted in many Western countries. When Chinese leaders refer to "judicial independence," they are generally not referring to the independence of individual judges, but instead to the autonomy of the courts in relation to other entities and government institutions. Moreover, while the Chinese Constitution provides that the courts are not subject to interference by administrative organs, social organizations, or individuals, judges are expected to adhere to the leadership of the Party and submit to the supervision of the people's congresses and the procuratorate. Unlike in many Western countries, these

influences are generally not considered improper restraints on judicial independence.’²⁴

6.2.2 The Freedom House 2015 Freedom in the World Report, released 28 April 2015, noted:

‘The CCP [Chinese Communist Party] controls the judiciary. Party political-legal committees supervise the operations of courts at all levels, and allow party officials to influence verdicts and sentences. CCP oversight is especially evident in politically sensitive cases. Most judges are CCP members, and party and government officials determine judicial appointments, salaries, and promotions. Adjudication of minor civil and administrative disputes is fairer than in politically sensitive or criminal cases. However, even in commercial litigation and civil suits involving private individuals, previous limited progress toward the rule of law has stalled or been reversed in recent years. Judges have increasingly been pressured to resolve civil disputes through mediation, sometimes forced, rather than actual adjudication.

‘Following official statements in 2013 acknowledging the need for greater transparency and judicial autonomy from local authorities, incremental reforms were initiated in 2014, including a requirement for judges to post decisions on a public online portal and pilot programs in six provinces that shift oversight of appointments and salaries to a higher bureaucratic level. The party’s fourth plenum in October focused on legal reforms. The concluding communiqué included potentially meaningful changes, emphasizing the importance of the constitution and judicial professionalism, exploring the creation of cross-jurisdictional courts, and indicating that prosecutors would be permitted to file public-interest lawsuits. However, it also retained emphasis on the supremacy of the party over the legal system, rejecting actions that would increase the judiciary’s independence and generating skepticism among observers as to how significant any reforms would be.’²⁵

6.2.3 An article in the Economist of 16 August 2014, ‘Realigning justice’, noted:

‘Long before Mr Xi, leaders had often talked about the importance of the rule of law. But they showed little enthusiasm for reforms that would take judicial authority away from party officials and give it to judges. The court system in China is often just a rubber-stamp for decisions made in secret by party committees in cahoots with police and prosecutors. The party still cannot abide the idea of letting a freely elected legislature write the laws, nor even of relinquishing its control over the appointment of judges. But it is talking up the idea of making the judiciary serve as the constitution says it should: “independently ... and not subject to interference”.

²⁴ Congressional Executive Commission on China - Judicial Independence in China, undated <http://www.cecc.gov/judicial-independence-in-the-prc> Date accessed: 3 June 2015

²⁵ Freedom House – 2015 Freedom in the World, 28 April 2015 <https://freedomhouse.org/report/freedom-world/2015/china> Date accessed: 3 June 2015

'In June state media revealed that six provincial-level jurisdictions would become testing grounds for reforms. Full details have not been announced, but they appear aimed at allowing judges to decide more for themselves, at least in cases that are not politically sensitive.

'There is a lot of room for improvement. Judges are generally beholden to local interests. They are hired and promoted at the will of their jurisdiction's party secretary (or people who report to him), and they usually spend their entire careers at the same court in which they started. They have less power in their localities than do the police or prosecutors, or even politically connected local businessmen. A judge is often one of the least powerful figures in his own courtroom. "It's not a career that gets much respect," says Ms Sun, a former judge in Shanghai who quit her job this year (and who asked to be identified only by her surname). The port city is one of the reform test-beds. "Courts are not independent so as a result they don't have credibility, and people don't believe in the law." She says people often assume judges are corrupt...It is unclear how much the mooted changes will alleviate these concerns. Those Shanghai courts that are participating in the pilot reforms (not all are) are expected to raise judges' pay. They are also expected greatly to reduce the number of judges, though younger ones fear they are more likely to be culled than their less qualified but better connected seniors.

'The most important reforms will affect the bureaucracies that control how judges are hired and promoted. Responsibility will be taken away from the cities and counties where judges try their cases, or from the districts in the case of provincial-level megacities like Shanghai. It will be shifted upwards to provincial-level authorities—in theory making it more difficult for local officials to persuade or order judges to see things their way on illegal land seizures, polluting factories and so on.

'Central leaders have a keen interest in stamping out such behaviour because it tarnishes the party's image. But many local officials, some of whom make a lot of money from land-grabs and dirty factories, will resist change. With the help of the police they will probably find other means to make life difficult for unco-operative judges. And provincial authorities are still likely to interfere in some cases handled by lower-level courts, sometimes in order to help out county-level officials.'²⁶

6.2.4 The Freedom House 2015 Freedom in the World Report also noted:

'The country's growing contingent of civil rights lawyers continued to face restrictions and physical attacks in 2014. Lawyers were prevented from seeing their clients, disbarred, beaten, and in some cases detained and tortured. Prominent lawyer Gao Zhisheng was released in August after several years in prison or arbitrary detention, showing signs of torture and psychological trauma from his time in custody; he remained under tight

²⁶ The Economist – 'Realigning justice', 16 August 2014
<http://www.economist.com/news/china/21612161-judges-are-often-impotent-chinas-courtrooms-might-be-changing-realigning-justice> Date accessed: 3 June 2015

surveillance and was barred from leaving the country to join his family in the United States.

‘Criminal trials, which often amount to mere sentencing announcements, are frequently closed to the public, and the conviction rate is estimated at 98 percent or more. Amendments to the criminal procedure code that took effect in 2013 include the exclusion of evidence obtained through torture, access for lawyers to their clients, and the possibility of witnesses being cross-examined. A survey of defense lawyers published by a Beijing law firm in March 2014 found that the ability of defense lawyers to meet with their clients had improved (except in politically sensitive cases), while the other provisions were proving more difficult to implement. The emerging trend of televised “confessions” by journalists, businessmen, and targets of corruption probes also raised doubts about the protection of defendants’ rights.’²⁷

6.3 Fair trial

6.3.1 The US State Department 2014 Human Rights Practices Report, released 26 June 2015, noted:

‘Although the law states that the courts shall exercise judicial power independently, without interference from administrative organs, social organizations, and individuals, the judiciary did not in fact exercise judicial power independently. 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.

‘Corruption often influenced court decisions, since 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 those judges.

‘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.

‘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.

‘At the CCP Central Committee plenaries in November 2013 and October 2014, the CCP announced its intention to strengthen the rule of law by enhancing judicial independence, increasing judicial transparency, and improving legal aid for the indigent. In July the Supreme People’s Court

²⁷ Freedom House 2015 Freedom in the World Report, 28 April 2015
<https://freedomhouse.org/report/freedom-world/2015/china> Date accessed: 3 June 2015

promulgated its Five-Year Plan, announcing its goal of regulating the selection of judges and their salaries, the funding of courts, and giving the tribunal that hears a case the authority to decide it. Six provinces or provincial-level cities were selected as “experimentation centers” to implement these new policies on a trial basis.

‘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, such as the televised confessions of journalists Gao Yu and Xiang Nanfu and socialite Guo Meimei.

‘In May the Supreme People’s Court posted a message on social media applauding the death sentences of mining tycoon Liu Han and four other codefendants before the defendants had the opportunity to file their appeals.

‘...Although the amended criminal procedure law reaffirms the presumption of innocence, the criminal justice system remained biased toward a presumption of guilt, especially in high-profile or politically sensitive cases. According to the work report submitted to the NPC by the Supreme People’s Court, approximately 1.16 million individuals were convicted and 825 were acquitted in 2013.

‘In many politically sensitive trials, courts handed down guilty verdicts immediately following proceedings with little time for deliberation. Courts often punished defendants who refused to acknowledge guilt with harsher sentences than those who confessed. The appeals process rarely reversed convictions and failed to provide sufficient avenues for review; remedies for violations of defendants’ rights were inadequate.

‘Regulations 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, minors, and, on the application of a party to the proceedings, commercial secrets. Authorities used the state-secrets provision to keep politically sensitive proceedings closed to the public, sometimes even to family members, and to withhold defendant’s access to defense counsel. Court regulations state that foreigners with valid identification should be allowed to observe trials under the same criteria as citizens, but foreigners were permitted to attend court proceedings only by invitation. As in past years, authorities barred foreign diplomats and journalists from attending a number of trials. In some instances the trials were reclassified as “state secrets” cases or otherwise closed to the public. During the year foreign diplomats attempted to attend nearly one dozen public trials throughout the country. In each instance court officials claimed there were no available seats in the courtroom and that foreigners needed prior permission to attend trials.

‘Portions of some trials were broadcast, and court proceedings were a regular television feature. A few courts published their verdicts on the internet. Many courts started websites purporting to provide the public with nonconfidential information about court cases and decisions.

'Individuals facing administrative detention do not have the right to seek legal counsel. Criminal defendants were eligible for legal assistance, although the vast majority of criminal defendants went to trial without a lawyer. ...

'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. Some lawyers declined to represent defendants in politically sensitive cases, and such defendants frequently found it difficult to find an attorney. ... Mechanisms allowing defendants to confront their accusers were inadequate. Only a small percentage of trials reportedly involved witnesses. ... In most criminal trials, prosecutors read witness statements, which neither the defendants nor their lawyers had an opportunity to rebut through cross-examination. Although the law states that pretrial witness statements cannot serve as the sole basis for conviction, prosecutors relied heavily on such statements.'²⁸

6.3.2 Human Rights Watch reports in May 2015 that:

'Academic and official sources estimate that 70 to 90 percent of criminal defendants in China have no lawyers, typically because defendants are often too poor to hire them or are discouraged from doing so by the police. Legal representation and legal aid are compulsory for those accused of crimes that might lead to life imprisonment or the death penalty, or to juvenile suspects and those with disabilities. While others can apply for legal aid, such assistance is not guaranteed, as required by international law. In a positive move, the Chinese government has piloted a "duty lawyer" system in some detention centers since 2006 to improve legal access, though it is unclear if and when the scheme will be adopted nationally. For the minority of defendants who can afford lawyers, the next hurdle is being able to contact a lawyer to request legal representation while in police custody. ... Those charged with terrorism, state security crimes, and major corruption charges (involving over 500,000 RMB [\$82,000] in bribes), cannot meet with lawyers without police approval. These same suspects can also be held in a secret location outside of official detention centers for up to six months, creating conditions rife for torture and ill-treatment. Lawyers have also complained that the authorities have abused this exception to legal access even when it is not clear that the case falls into one of the three categories.'²⁹

6.3.3 The same source further reports that

²⁸ US State Department - 2014 Human Rights Practices Report, released 26 June 2015
<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dclid=236432> Date accessed: 30 June 2015

²⁹ Human Rights Watch - 'Tiger Chairs and Cell Bosses: Police Torture of Criminal Suspects in China', 12 May 2015 III. Access to Lawyers, Relatives, and Medical Care p.55, 58
http://www.hrw.org/sites/default/files/reports/china0515_ForUpload.pdf Date accessed: 5 June 2015

'The June 18, 2015 beating of lawyer Wang Quanzhang by court police in Shandong province underscores the perilous environment in China for lawyers who vigorously represent clients or issues unpopular with authorities, Human Rights Watch said today. In the past year, at least 10 other human rights lawyers have also been assaulted while representing clients in what authorities consider sensitive political cases. There is no publicly available evidence to suggest that lawyers in these cases posed threats that warranted the use of force by court police officers. ... Human Rights Watch has frequently reported on the lack of accountability for police implicated in attacks on lawyers. ... Physical assaults are just one of many dangers lawyers – especially those who defend unpopular issues or clients – face in advocating for their clients' fair trial rights, as previously detailed by Human Rights Watch. They are also vulnerable to detention and imprisonment.'³⁰

6.3.4 A Radio Free Asia report of 28 November 2014, 'Guangzhou Activists Not Given Fair Trial: Lawyers, Relative', noted:

'Authorities in the southern Chinese city of Guangzhou on Friday began the trials of two prominent rights activists on public order offenses, as their relatives and lawyers hit out at court officials over a lack of a fair hearing.

'Judges in Guangzhou's Tianhe's District People's Court refused to allow lawyers defending Yang Maodong, better known by his nickname Guo Feixiong, and Sun Sihuo, better known as Sun Desheng, to speak or raise objections during their trial on charges of "gathering a crowd to disrupt public order," lawyers told RFA.

'The two men have been held in police detention since being detained in 2013, after taking part in street protests for press freedom and calling for greater government transparency and protection for human rights.

'...Zhang Lei, a defense lawyer for Guo said he was repeatedly cut off and interrupted by judges during the one-day trial, making it hard to mount a proper defense. "We were cut off and prevented from finishing what we had to say, in particular during the morning session," Zhang told RFA. "We were cut off every time we lodged an objection, made a request for a larger courtroom or an open trial so that all those who wanted to attend the trial could do so," he said.

'...the trial had been held in the smallest chamber of the Tianhe court buildings, and that the authorities had tightly controlled who was allowed to attend...most of the witnesses called by the defense had been forced to leave town ahead of the trial, under a process known as "being vacationed".'

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³⁰ Human Rights Watch, China: Protect Lawyers From Beatings and Harassment, 25 June 2015 <https://www.hrw.org/news/2015/06/25/china-protect-lawyers-beatings-and-harassment> Date accessed: 30 June 2015

³¹ Radio Free Asia - , 'Guangzhou Activists Not Given Fair Trial: Lawyers, Relative', 28 November 2014 <http://www.rfa.org/english/news/china/lawyers-11282014104403.html> Date accessed: 5 June 2015

- 6.3.5 An Immigration and Refugee Board of Canada response to request of 10 October 2014. 'China: Structure of the public security police; whether witness protection groups exist for those fearing organized crime groups (2014)', noted:

'The newly amended Criminal Procedure Law from 1979 came into force on 1 January 2013...and includes several provisions related to witness protection. [Articles 61, 62 and 188].

'...In his 2011 book titled Criminal Justice in China: An Empirical Inquiry, Mike McConville, Founding Dean and Emeritus Professor in the faculty of law at the Chinese University of Hong Kong, writes that in interviews with prosecutors, he found that witnesses were reluctant to appear due to fear of violence and threats from defendants, and due to "insufficient" protection for witnesses who testified in court...in cases involving organized crime or official corruption, "even neighborhood committees fear retaliation and suppression, especially if local police are involved"..'.

'Additionally, McConville found that, according to interviews with lawyers, some police officers threaten witnesses in order to discourage them from testifying...The source notes that defense witnesses fear violence and threats from police and state organs, including the procurate; and that defense witnesses reportedly face a "great risk" of revenge by public security organs, including detention, arrest, and prosecution.'³²

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7. Economy

- 7.1 The World Bank China Overview, last updated 25 March 2015, noted:

'Since initiating market reforms in 1978, China has shifted from a centrally planned to a market based economy and experienced rapid economic and social development. GDP growth averaging about 10 percent a year has lifted more than 500 million people out of poverty. All Millennium Development Goals have been reached or are within reach.

'With a population of 1.3 billion, China recently became the second largest economy and is increasingly playing an important and influential role in the global economy.

'Yet China remains a developing country (its per capita income is still a fraction of that in advanced countries) and its market reforms are incomplete. Official data shows that about 98.99 million people still lived below the national poverty line of RMB 2,300 per year at the end of 2012. With the second largest number of poor in the world after India, poverty reduction remains a fundamental challenge.

³² Immigration and Refugee Board of Canada response to information request - 'Structure of the public security police; whether witness protection programs exist for those fearing organized crime groups (2014)', 10 October 2014 <http://www.refworld.org/country,,,CHN,,54648cbd4,0.html> Date accessed: 8 June 2015

‘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.’³³

7.2 The Bertelsmann Stiftung 2014 Transformation Index, released 1 January 2014, noted:

‘Despite China's continuing economic growth, a large share of the population remains excluded from society due to stagnating social development and a high level of inequality...Independent research in China has even come up with a Gini index of 0.61 (end of 2010), which would make China one of the most unequal societies in the world. Living standards and a general level of development also vary considerably, with Shanghai the highest and Tibet the lowest... Traditionally, Chinese women are well-integrated socially and economically, and in recent years there has been a rise in female employment and self-employment. ... However, gender discrimination exists in the labor market and trends point to a worsening situation...Ethnic minorities are subject to social and economic exclusion and marginalization, with the majority of China's poor living in minority regions and 20% of non-Han Chinese counting as poor. Most prominently in the Muslim Xinjiang Uighur region and the Tibet Autonomous Regions, political marginalization, territorial infiltration by Han Chinese and economic backwardness often provoke violent resistance and lead to the formation of separatist movements.’³⁴

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8. Freedom of Movement

8.1 Freedom of Movement

8.1.1 The US State Department 2014 Human Rights Practices Report, released 26 June 2015, noted:

‘The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, but the government generally did not respect these rights. While seriously restricting its scope of operations, the government occasionally cooperated with the Office of the UN High Commissioner for Refugees (UNHCR), which maintained an office in Beijing, to provide protection and assistance to refugees, asylum seekers, and other persons of concern.

‘Increasingly the government silenced activists by denying them permission to travel, both internationally and domestically, or keeping them under unofficial house arrest.

³³ The World Bank - China Overview, last updated 25 March 2015

<http://www.worldbank.org/en/country/china/overview> Date accessed: 19 May 2015

³⁴ The Bertelsmann Stiftung - 2014 Transformation Index, released 1 January 2014 <http://www.bti-project.org/reports/country-reports/aso/chn/index.nc> Date accessed: 19 May 2015

'In-country Movement: 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, or to forestall demonstrations. Freedom of movement continued to be very limited in the TAR and other Tibetan areas. Police maintained checkpoints in most counties and on roads leading into many towns, as well as within major cities such as Lhasa..... Under the "staying at prison employment" system applicable to recidivists incarcerated in administrative detention, authorities denied certain persons permission to return to their homes after serving their sentences. Some released or paroled prisoners returned home but did not have freedom of movement. ... The government exercised exit control for departing passengers at airports and other border crossings and utilized this exit control to deny foreign travel to some dissidents and persons employed in sensitive government posts. Throughout the year lawyers, artists, authors, and other activists were at times prevented from exiting the country. Border officials and police cited threats to "national security" as the reason for refusing permission to leave the country. ... The law neither provides for a citizen's right to repatriate nor addresses exile. The government continued to refuse reentry to numerous citizens 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.' ³⁵

8.1.2 According to the 2014 U.S. Congressional Executive Commission on China report. 'The Chinese government also continued to deny the right of return to those expressing views the government perceives to be threatening, in violation of international standards' ³⁶

8.1.3 The Freedom House 2015 Freedom in the World Report, released 28 April 2015, noted:

'Millions of people are affected by restrictions on foreign travel and passports, many of them Uighurs and Tibetans. Political and religious dissidents, human rights defenders, and certain scholars are also prevented from traveling abroad or to Hong Kong. Several individuals from Hong Kong who participated in prodemocracy protests in 2014 were barred entry to the mainland.

'...The authorities used the threat of visa denials to retaliate against foreign journalists and news organizations for investigative or critical reporting.' ³⁷

³⁵ US State Department - 2014 Country Report on Human Rights Practices: China, released 26 June 2015 <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dliid=236432> Date accessed: 30 June 2015

³⁶ US Congressional-Executive Commission on China, Annual Report 2014, 9 October 2014, Freedom of Residence and Movement Findings p.31 http://www.cecc.gov/sites/chinacommission.house.gov/files/2014%20annual%20report_0.PDF Date accessed: 30 June 2015

³⁷ Freedom House – 2015 Freedom in the World Report, 28 April 2015 <https://freedomhouse.org/report/freedom-world/2015/china> Date accessed: 2 June 2015

8.1.4 An article in the Guardian of 13 May 2015, 'Chinese police order Yining residents to hand in passports in latest crackdown', noted:

'A district of 5 million people in China's restive far west has demanded that residents hand in their passports to the police for indefinite safekeeping, the latest government crackdown in an area where Beijing has declared a "people's war" on violent separatists.

'...A notice posted in Yining city, nearly 2,000 miles west of Beijing and near the country's border with Kazakhstan, said all passports should be surrendered by 15 May.

"Those who do not hand in their passports on time will be reported to the entry and exit bureau and, according to the relevant regulations, their passports will be cancelled," the memo from a local police station said.

'The order came from authorities in Yili prefecture, which has endured sporadic outbursts of ethnic unrest for nearly two decades. Last year authorities ramped up security and held a public show trial in the main football stadium.

'...Two officers at different Yining city police stations confirmed the announcement was genuine and said the rule applied to anyone officially registered as a resident of the area, even if they were living in other parts of China.

'They declined to give their names or say why the passports were being confiscated, or what conditions residents would need to meet to get them back.

'Restricted access to passports is a recurrent frustration for residents of western Xinjiang region, for both the largely Muslim Uighurs and ethnic Han Chinese.

... "This picture of an official notice appears to confirm numerous credible reports that we have received in recent months and years about Uighur residents not being able to obtain passports, or being required to hand over their individual passports to the public security when they are there," said Nicholas Bequelin, east Asia director for Amnesty International. "These limitations on freedom of movement are part of a larger set of measures that aim at restricting the freedom of movements of ethnic Uighurs and goes a long way in explaining why so many Uighurs have to resort to clandestinely exit the country instead." ³⁸

8.1.5 A Tibetan Centre for Human Rights and Democracy report of 5 May 2015, 'Discriminatory Chinese passport regulations violate Tibetans' right to travel', noted:

'Since 2012, Tibetans from the Tibet Autonomous Region (TAR) have had their passports confiscated and, as a result, unable to travel abroad. This is

³⁸ The Guardian - 'Chinese police order Yining residents to hand in passports in latest crackdown', 13 May 2015 <http://www.theguardian.com/world/2015/may/13/chinese-police-demand-passports-crackdown-rights> Date accessed: 2 June 2015

because of 29 April 2012 “guiding opinions” on implementing passport regulation issued by the Chinese authorities that was recently obtained by the Tibetan Centre for Human Rights and Democracy. The letter of the law and its implementation have prevented almost all Tibetans in the TAR from travelling outside of the People’s Republic of China (PRC). In 2014, further restrictions have prevented Tibetans from travelling to religious ceremonies and sacred sites.

‘...The “guiding opinions” issued by the Secretariat Office of TAR Party Committee..., Lhasa, impose substantial restrictions on the ability of Tibetans to obtain passports, which are necessary for international travel. The first section of the document requires that all passports, even those that are still valid, be withdrawn. People can only obtain a new electronic passport after “strict investigation”. The strict investigation involves each application for a new passport to be reviewed 10 times. After delivering the application to the local Public Security Bureau (PSB), the application is reviewed by PSBs at the county, township, prefecture, and regional level. In some cases, the application is reviewed once by the local PSB office in charge of travel and then again by the head of the office. Governments at the village, county, prefecture, and regional level must also review the application. Tellingly, the document only lists the multiple necessary reviews but does not say when a person will receive a passport. It also does not provide any time limit for how long the process should take or mention any right to appeal if a passport application is denied.

‘People who are given a passport must sign a contract promising not to harm the PRC’s security or interests. Additionally, involvement in any criminal acts will result in the passport being revoked. Article 7 of the Criminal Law of the PRC states that the PRC’s criminal law applies to citizens who are outside of the PRC. The broad references to the PRC’s security and interests and the PRC’s criminal law, which particularly with state secrecy and incitement is notoriously vague, violate the right to travel. It imposes restrictions on the right to travel that violate other protected human rights, for instance, freedom of expression or freedom of assembly if somebody criticise the PRC or attends a prohibited event like a protest or religious service. Article 12(3) of the ICCPR expressly prohibits restrictions on the right to travel that are inconsistent with other rights.

‘...The existing passport regulations along with the “guiding opinions” violate the right to travel internationally...The result of the 2012 “guiding opinions” on implementing the passport regulation was to prevent Tibetans in the TAR from travelling across international borders. This was only the first step in constricting Tibetan’s right to travel. Since 2012, Tibetans have been prevented from travelling to “border areas” for religious purposes, and in some cases, such as in Diru (Ch: Biru) County, Tibetans have been prevented from travelling outside their village.’³⁹

³⁹ Tibetan Centre for Human Rights and Democracy - ‘Discriminatory Chinese passport regulations violate Tibetans’ right to travel’, 5 May 2015 <http://www.tchrd.org/2015/05/discriminatory-chinese-passport-regulations-violate-tibetans-right-to-travel/> Date accessed: 3 June 2015

8.2 Hukou (Registration)

8.2.1 The European Commission's Directorate General for Economic and Financial Affairs Economic Brief of July 2013 noted:

'Hukou is a synonym of official registration in China. Originally, the hukou system divided the population into four types depending on (i) occupational aspects (agricultural/non-agricultural) and (ii) locational aspects (living in urban areas/rural areas), largely according to the place of birth and the hukou status of the parents. The rural hukou status entitled the holder to access to land (namely the right to use construction land, farmland and contracted forestland), while the urban hukou status provided for a variety of social benefits (including pensions, medical care, education and other public services). The match was not exact, but the majority of population living in rural areas had an agricultural hukou.

'The distinction between agricultural and non-agricultural hukou became obsolete in the 1990s with the end of food grain rationing throughout China, but the dichotomy between the access to land for rural hukou holders and social entitlements restricted to urban hukou holders remains the key feature of the system until today.'⁴⁰

8.2.2 The 2014 U.S. Department of State report explained that

'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 approximately three 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. In July the State Council issued a legal opinion that removed restrictions on rural migrants seeking household registration in small and mid-sized towns and cities. Under the new regulations, household registration will be based on place of residence and employment instead of place of birth. The opinion exempted cities with large populations. The city of Guangzhou issued a new policy to allow persons who were legally employed within the city to marry and have a child without returning to the hometown listed on their "hukou."⁴¹

⁴⁰ European Commission's Directorate General for Economic and Financial Affairs - Economic Brief, July 2013 http://ec.europa.eu/economy_finance/publications/economic_briefs/2013/pdf/eb26_en.pdf
Date accessed: 21 May 2015

⁴¹ US State Department, 2014 Country Report on Human Rights Practices: China, 26 June 2015, Section 1d <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dliid=236432>
Date accessed: 30 June 2015

8.2.3 An EastAsia Forum article of 13 January 2015, 'China's hukou reform a small step in the right direction', detailing that the hukou household registration system was put on the national reform agenda in July 2014 noted:

'The first principle of the reform is to eliminate the differential treatment of rural and urban populations. The hukou system was originally designed to support the centrally-planned economy, which prioritised industrial production. A person's hukou status was primarily defined according to their place of origin and occupation. An urban hukou came with comprehensive welfare coverage by employers or the local government. With the help of the hukou system, domestic migration was tightly controlled.

'...The new policy introduced in July 2014 set up a single national resident registration (jumin hukou) system for both rural and urban populations.

'The new reform maintains the principle of population control. It categorises cities by size and encourages rural migrants to settle down in smaller and medium-sized cities. As city size increases, local authorities can set stricter settlement criteria by specifying a narrower list of occupations, more years of residency, or higher levels of social insurance contributions. The Chinese government advises cities with more than five million people to be cautious about further expansion. It also requires the largest cities, such as Beijing, Shanghai, Guangzhou and Shenzhen to tightly control population inflow.

'The reform severs the link between hukou and welfare entitlement. The idea is to provide long-term residents with equal access to social services and welfare. But, ultimately, access to urban social services depends on the resources and political will of local governments.

'Cities that are either unwilling or unable to invest more in social services can use the flexible settlement criteria to set up alternative barriers for entry to replace the older hukou barrier. The largest cities, such as Shanghai and Beijing, have made it even more difficult for migrants to settle down permanently than before. A number of medium-sized cities have also introduced policies to favour highly-skilled migrants at the expense of low-skilled ones.

'The largest cities find it difficult to cope with massive influxes of migrants. But the concentration of social and economic resources in a limited number of large cities is itself what attracts migrants from poorer areas. Until the issue of unequal provision of social services is addressed, setting higher entry barriers could potentially result in greater social exclusion of migrants who do not fit the local criteria.

'The reform of the hukou system is a step in the right direction and will make it easier for migrants to settle in small and also, to some extent, in medium sized cities. But it is only a small step. China needs to continue to reform its

social services policy to address deep inequalities both between cities and between urban and rural areas.’⁴²

8.2.4 The 2014 U.S. Department of State report further noted that:

‘The household registration system added to the difficulties rural residents faced even after they relocated to urban areas and found employment. According to the Statistical Communique of the People’s Republic of China on 2013 National Economic and Social Development published by the Ministry of Human Resources and Social Security, 289 million persons lived outside the jurisdiction of their household registration. Of that number, 245 million individuals worked outside their home district. 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. Poor treatment and difficulty integrating into local communities contributed to increased unrest among migrant workers in the Pearl River Delta. Migrant workers had little recourse when abused by employers and officials. 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 onerous bureaucratic processes.’⁴³

8.2.5 According to the 2014 U.S. Congressional Executive Commission on China report

‘Authorities in some localities denied birth permits and hukous—household registration permits—for children whose parents disobeyed local family planning requirements. In one such example, an April 2014 Shanghai Daily article reported that officials in Guangzhou municipality withheld birth permits for families who were eligible to have a second child, requiring that mothers agree to be sterilized after the birth before they would issue the permit. ... Authorities in some areas also withheld hukous from children born in excess of birth quotas until their parents paid the necessary “social maintenance fees” associated with their birth. ... In some localities, authorities would not issue hukous to children born to single parents, as they required the information of both parents to complete the necessary paperwork. People who lack hukous in China 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.’⁴⁴ The UN Committee on Economic, Social and Cultural

⁴² EastAsia Forum - ‘China’s hukou reform a small step in the right direction’, 13 January 2015
<http://www.eastasiaforum.org/2015/01/13/chinas-hukou-reform-a-small-step-in-the-right-direction/>
Date accessed: 21 May 2015

⁴³ US State Department, 2014 Country Report on Human Rights Practices: China, 26 June 2015, Section 1d
<http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2014&dclid=236432> Date accessed: 30 June 2015

⁴⁴ US Congressional-Executive Commission on China, Annual Report 2014, 9 October 2014, Population Planning, Punishments for Noncompliance p.106

Rights reported in June 2014 that it 'remains concerned that these migrant workers, particularly those who lack household registration, continue to be de facto discriminated against in the fields of employment, social security, health care and education. The Committee is deeply concerned that, reportedly, owing to the hukou system, an estimated number of 55 to 60 million children have been left behind by their parents in the rural areas (arts. 2, para.2; and 10).'⁴⁵ The UN Working Group on the issue of discrimination against women in law and in practice reported in June 2014 that the Hukou system 'produces de facto discrimination for urban migrants, particularly regarding their access to employment, social security, public health services, housing and education. It causes indirect discrimination against women who seek work as urban migrants and need to access those services for their children and parents, for whose care they bear the main responsibility.'⁴⁶

9. Geography

9.1 China covers 9,596,960 sq km and the country borders Afghanistan 91 km, Bhutan 477 km, Burma 2,129 km, India 2,659 km, Kazakhstan 1,765 km, North Korea 1,352 km, Kyrgyzstan 1,063 km, Laos 475 km, Mongolia 4,630 km, Nepal 1,389 km, Pakistan 438 km, Russia (northeast) 4,133 km, Russia (northwest) 46 km, Tajikistan 477 km, Vietnam 1,297 km - regional borders: Hong Kong 33 km, Macau 3 km.⁴⁷

9.2 The population of China as of July 2014 was estimated to be 1,355,692,576.⁴⁸

9.3 Jane's Sentinel Security Assessment Demography profile dated 26 January 2015 noted:

'The most densely populated and fastest-growing provinces of China are in the east and south, around the economically dynamic provinces on the coast. Between the 2000 and 2010 census, the provinces with expanding populations were either in the southeast, central-east or far west (the latter owing to the government's transmigration programme to Xinjiang, Tibet and ethnic minority areas). Central and northeastern China saw declining populations during this period.'⁴⁹

http://www.cecc.gov/sites/chinacommission.house.gov/files/2014%20annual%20report_0.PDF Date accessed: 30 June 2015

⁴⁵ UN Committee on Economic, Social and Cultural Rights, Concluding observations on the second periodic report of China, including Hong Kong, China, and Macao, China* **, 13 June 2014, paragraph 15

http://www.ecoi.net/file_upload/1930_1406730932_g1404983.pdf Date accessed: 30 June 2015

⁴⁶ UN Human Rights Council, Report of the Working Group on the issue of discrimination against women in law and in practice, 12 June 2014, paragraph 71

http://www.ecoi.net/file_upload/1930_1403093244_a-hrc-26-39-add-2-eng-2.doc

Date accessed: 30 June 2015

⁴⁷ CIA World Factbook – China, Geography, last updated 13 May 2015

<https://www.cia.gov/library/publications/the-world-factbook/geos/ch.html> Date accessed: 21 May 2015

⁴⁸ CIA World Factbook – China, Geography, last updated 13 May 2015

<https://www.cia.gov/library/publications/the-world-factbook/geos/ch.html> date accessed: 21 May 2015

⁴⁹ Jane's Sentinel - Demography profile, 26 January 2015 (subscription site) Date accessed: 22 May 2015

- 9.4 Administrative divisions divided into '23 provinces (sheng, singular and plural), 5 autonomous regions (zizhiqu, singular and plural), and 4 municipalities (shi, singular and plural)

'provinces: Anhui, Fujian, Gansu, Guangdong, Guizhou, Hainan, Hebei, Heilongjiang, Henan, Hubei, Hunan, Jiangsu, Jiangxi, Jilin, Liaoning, Qinghai, Shaanxi, Shandong, Shanxi, Sichuan, Yunnan, Zhejiang; (see note on Taiwan)

'autonomous regions: Guangxi, Nei Mongol (Inner Mongolia), Ningxia, Xinjiang Uygur, Xizang (Tibet)

'municipalities: Beijing, Chongqing, Shanghai, Tianjin.

'China considers Taiwan its 23rd province.'⁵⁰

- 9.5 Map(s)

See [Political map of China](#) and [China map](#).

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10. Demography

10.1 Languages

- 10.1.1 Ethnologue stated that 'the number of individual languages listed for China is 297.'⁵¹

- 10.1.2 China's principal languages were 'standard Chinese or Mandarin (official; Putonghua, based on the Beijing dialect), Yue (Cantonese), Wu (Shanghainese), Minbei (Fuzhou), Minnan (Hokkien-Taiwanese), Xiang, Gan, Hakka dialects, minority languages **note:** Zhuang is official in Guangxi, Yue is official in Guangdong, Mongolian is official in Nei Mongol, Uighur is official in Xinjiang Uygur, Kyrgyz is official in Xinjiang Uyghur, and Tibetan is official in Xizang (Tibet).'

10.2 Ethnic/Tribal/Religious Make-Up

- 10.2.1 China's Permanent Mission to the United Nations noted that '...so far, 56 ethnic groups have been identified and recognized by the central government.'⁵³

- 10.2.2 The main ethnic groups were 'Han Chinese 91.6%, Zhuang 1.3%, other (includes Hui, Manchu, Uighur, Miao, Yi, Tujia, Tibetan, Mongol, Dong,

⁵⁰ CIA World Factbook – China, Geography, last updated 13 May 2015

<https://www.cia.gov/library/publications/the-world-factbook/geos/ch.html> date accessed 22 May 2015

⁵¹ Ethnologue – Languages of the World, China, undated <http://www.ethnologue.com/country/CN>

Date accessed: 1 June 2015

⁵² CIA World Factbook – China, People and Society, last updated 13 May 2015

<https://www.cia.gov/library/publications/the-world-factbook/geos/ch.html> Date accessed: 1 June 2015

⁵³ Permanent Mission of the People's Republic of China to the United Nations – Regional Autonomy for Ethnic Minorities in China, undated <http://www.china-un.ch/eng/rqrd/jblc/t187368.htm> Date accessed: 1 June 2015

Buyei, Yao, Bai, Korean, Hani, Li, Kazakh, Dai and other nationalities) 7.1%.’⁵⁴

- 10.2.3 An article in the Economist of 17 January 2015, ‘Don’t make yourself at home’, noted:

‘China is urbanising at a rapid pace. In 2000 nearly two-thirds of its residents lived in the countryside. Today fewer than half do. But two ethnic groups, whose members often chafe at Chinese rule, are bucking this trend. Uighurs and Tibetans are staying on the farm, often because discrimination against them makes it difficult to find work in cities. As ethnic discontent grows, so too does the discrimination, creating a vicious circle.

‘...Part of the problem is linguistic. Uighurs and Tibetans brought up in the countryside often have a very poor grasp of Mandarin, the official language. The government has tried to promote Mandarin in schools, but has encountered resistance in some places where it is seen as an attempt to suppress native culture. In southern Xinjiang, where most Uighurs live, many schools do not teach it.’⁵⁵

- 10.2.4 The CIA World Factbook listed the main religions in the country as ‘Buddhist 18.2%, Christian 5.1%, Muslim 1.8%, folk religion 21.9%, Hindu < .1%, Jewish < .1%, other 0.7% (includes Daoist (Taoist)), unaffiliated 52.2%.’⁵⁶

- 10.2.5 The US Commission on International Religious Freedom 2015 Annual Report, released 28 April 2015, noted:

‘The Chinese Constitution states that it guarantees freedom of religion. However, only so-called “normal religions” – those belonging to one of the five state-sanctioned “patriotic religious associations” associated with the five officially-recognized religions (Buddhism, Taoism, Islam, Catholicism, and Protestantism) – can register with the government and legally hold worship services and conduct religious activities. The government and Chinese Communist Party are officially atheist, with more than 700 million persons unaffiliated with any religion or belief. However, religious followers are strong and reportedly on the rise: more than 294 million practice folk religions, more than 240 million Buddhism, 68 million Christianity, and nearly 25 million Islam. The Chinese government monitors strictly religious activities, including by those recognized by the state, but unregistered groups and their members are especially vulnerable. For example, although Christianity is state-sanctioned, the government continues to engage in severe violations of religious freedom against both registered and unregistered Catholics and Protestants. Some have characterized the new wave of persecution against Christians that swept through China in 2014 as the most egregious and persistent since the Cultural Revolution.

⁵⁴ CIA World Factbook – China, People and Society, last updated 13 May 2015
<https://www.cia.gov/library/publications/the-world-factbook/geos/ch.html> Date accessed: 1 June 2015

⁵⁵ The Economist - , ‘Don’t make yourself at home’, 17 January 2015
<http://www.economist.com/news/china/21639555-ughurs-and-tibetans-feel-left-out-chinas-economic-boom-ethnic-discrimination-not> Date accessed: 1 June 2015

⁵⁶ CIA World Factbook – China, People and Society, last updated 13 May 2015
<https://www.cia.gov/library/publications/the-world-factbook/geos/ch.html> Date accessed: 1 June 2015

Nevertheless, the number of religious followers, of Christianity in particular, is considered to be growing.’⁵⁷

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11. Citizenship

11.1 The Nationality Law of the People’s Republic of China stated:

‘(Adopted at the Third Session of the Fifth National People's Congress, promulgated by Order No.8 of the Chairman of the Standing Committee of the National People's Congress on and effective as of September 10, 1980)

‘Article 1 This Law is applicable to the acquisition, loss and restoration of nationality of the People's Republic of China.

‘Article 2 The People's Republic of China is a unitary multinational state; persons belonging to any of the nationalities in China shall have Chinese nationality.

‘Article 3 The People's Republic of China does not recognize dual nationality for any Chinese national.

‘Article 4 Any person born in China whose parents are both Chinese nationals or one of whose parents is a Chinese national shall have Chinese nationality.

‘Article 5 Any person born abroad whose parents are both Chinese nationals or one of whose parents is a Chinese national shall have Chinese nationality. But a person whose parents are both Chinese nationals and have both settled abroad, or one of whose parents is a Chinese national and has settled abroad, and who has acquired foreign nationality at birth shall not have Chinese nationality.

‘Article 6 Any person born in China whose parents are stateless or of uncertain nationality and have settled in China shall have Chinese nationality.

‘Article 7 Foreign nationals or stateless persons who are willing to abide by China's Constitution and other laws and who meet one of the following conditions may be naturalized upon approval of their applications:

- (1) they are near relatives of Chinese nationals;
- (2) they have settled in China; or
- (3) they have other legitimate reasons.

⁵⁷US Commission on International Religious Freedom – 2015 Annual Report, 30 April 2015 <http://www.uscirf.gov/reports-briefs/annual-report> Date accessed: 1 June 2015

'Article 8 Any person who applies for naturalization as a Chinese national shall acquire Chinese nationality upon approval of his application; a person whose application for naturalization as a Chinese national has been approved shall not retain foreign nationality.

'Article 9 Any Chinese national who has settled abroad and who has been naturalized as a foreign national or has acquired foreign nationality of his own free will shall automatically lose Chinese nationality.

'Article 10 Chinese nationals who meet one of the following conditions may renounce Chinese nationality upon approval of their applications:

- (1) they are near relatives of foreign nationals;
- (2) they have settled abroad; or
- (3) they have other legitimate reasons.

'Article 11 Any person who applies for renunciation of Chinese nationality shall lose Chinese nationality upon approval of his application.

'Article 12 State functionaries and military personnel on active service shall not renounce Chinese nationality.

'Article 13 Foreign nationals who once held Chinese nationality may apply for restoration of Chinese nationality if they have legitimate reasons; those whose applications for restoration of Chinese nationality have been approved shall not retain foreign nationality.

'Article 14 Persons who wish to acquire, renounce or restore Chinese nationality, with the exception of the cases provided for in Article 9, shall go through the formalities of application. Applications of persons under the age of 18 may be filed on their behalf by their parents or other legal representatives.

'Article 15 Nationality applications at home shall be handled by the public security bureaus of the municipalities or counties where the applicants reside; nationality applications abroad shall be handled by China's diplomatic representative agencies and consular offices.

'Article 16 Applications for naturalization as Chinese nationals and for renunciation or restoration of Chinese nationality are subject to examination and approval by the Ministry of Public Security of the People's Republic of China. The Ministry of Public Security shall issue a certificate to any person whose application has been approved.

'Article 17 The nationality status of persons who have acquired or lost Chinese nationality before the promulgation of this Law shall remain valid.

‘Article 18 This Law shall come into force as of the date of its promulgation.’⁵⁸

11.2 A Voice of America News article of 28 August 2014, ‘China Crackdown on Dual Citizens Causes Concern’, noted:

‘China's Ministry of Public Security has announced a new policy to encourage reporting people who obtain citizenship in another country, but still keep their Chinese citizenship. The move has led to a sharp debate about dual citizenship and the impact of the crackdown on Chinese who live abroad.

‘Recently, the Ministry published procedures for reporting those who hold foreign citizenship, but retain their Chinese identifications and benefits. Observers say the new policy is at least in part aimed at so-called “naked” officials, public servants who have family and assets overseas that could allow them to hide the gains of corruption. There are believed to be thousands of the so-called “naked” officials, but the exact figure is unknown.

‘...Corrupt officials who evade legal sanctions by transferring assets abroad, however, are in the minority. Most of those who could be affected are people who have taken citizenship abroad for work or family matters that are not connected to corruption issues.

‘...Enacting legal dual citizenship does not appear to be a priority in the near term, so some are calling on Beijing to expand its “green card” program, which lets foreign citizens live and work inside China.’⁵⁹

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⁵⁸ China.org - The Nationality Law of the People’s Republic of China
<http://www.china.org.cn/english/LivinginChina/184710.htm> Date accessed: 2 June 2015

⁵⁹ Voice of America News - ‘China Crackdown on Dual Citizens Causes Concern’, 28 August 2014
<http://www.voanews.com/content/china-crackdown-on-dual-citizens-causes-concern/2431499.html>
Date accessed: 2 June 2015

Version Control and Contacts

Contacts

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If you notice any formatting errors in this guidance (broken links, spelling mistakes and so on) or have any comments about the layout or navigability of the guidance then you can email [the Guidance, Rules and Forms Team](#).

Clearance

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- First version in new template

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