



Recently arrived Karen refugees on the Thai–Burma border in June

### Ethnic Groups

Despite a number of ceasefire agreements in place since the 1990s, ethnic and minority groups continue to be subjected to a range of human rights abuses, including forced displacement and the use of violence against civilians. Ethnic groups are largely excluded from the political process, passed over for social and economic infrastructure and investment and their language and cultural rights denied.

During 2009 the regime sought to subsume the military wings of all cease-fire groups into a border guard force under the control of the Burmese army in order to consolidate its control in advance of elections in 2010. This risks provoking further conflict with serious impact on civilians. The Burmese army’s attack on the Kokang in August provided a foretaste, resulting in a number of civilian deaths and casualties, and an estimated 30,000 refugees fleeing over the border into China. There are already an estimated 150,000 Burmese refugees in camps in Thailand, and around half a million internally displaced people in eastern Burma.

We were deeply concerned about developments in Karen State in June when up to 4,000 people were forced to flee to Thailand because of an offensive by the Burmese army. Numerous civilian casualties resulted, adding to the suffering of the Karen people. The EU issued a strong statement condemning the attacks. We were also gravely concerned at the attack by the Burmese army in Shan State in July. There were credible reports that Burmese troops had burned down houses and granaries, forcibly relocating ethnic Shan people.

In Northern Rakhine State on the border with Bangladesh, the Rohingya people continued to face particular oppression. The regime’s refusal to recognise them as citizens means they have few rights to work, to access the few basic services on offer or to travel outside their villages. This continues to result in significant numbers of Rohingya fleeing to neighbouring countries. The UK and the EU have encouraged regional governments to treat arrivals in accordance with international law and to help address the root cause through their greater influence with the Burmese authorities.

## China



China’s human rights record remained a serious cause for concern in 2009. China has made good progress on economic and social rights in the last 30 years, bringing more people out of poverty than any country in history. But progress has been far slower on civil and political rights with a marked deterioration in some areas. In February, the Universal Periodic Review (UPR) process provided a valuable opportunity for international engagement on China’s human rights record. UN Member States made a number of recommendations. Regrettably, China accepted none with any timeline attached and rejected many without giving reasons. We were extremely disappointed that China rejected all four UK recommendations: ratification of the International Covenant on Civil and Political Rights (ICCPR); restricting the use of the death penalty; providing a standing invitation to UN Special Rapporteurs; and greater access to Tibetan areas. China adopted some positive recommendations made by countries such as the Netherlands and Japan. For instance, Japan recommended that China continue its efforts to further ensure ethnic minorities the full range of human rights, including cultural rights.

Three issues were of particular concern in 2009: the increasing harassment of defence lawyers; the treatment of detainees in relation to ethnic unrest in Tibet 2008 and in Xinjiang in 2009; and the detention of human rights defenders and political dissidents. The execution of the British National, Akmal Shaikh, in December illustrated serious concerns over the approach to mental health issues in the judicial system.

Other issues of particular concern include: the scope of the death penalty and lack of transparency in its use; torture; the lack of an independent judiciary; obstacles to fair trials; arbitrary detention, including Re-education Through Labour; unsatisfactory prison conditions and ill-treatment of prisoners; failure to protect human rights defenders; harassment of religious practitioners and Falun Gong adherents; restrictive policies in Xinjiang and Tibet; and limitations on freedom of expression and association.

Positive trends in 2009 included indications of increased government accountability in some areas. Citizens have better, though still restricted, access to official information. They are starting to take the government to court, and there are more examples of officials being held accountable for culpable negligence. However, cases of administrative detentions of petitioners indicate that full accountability remains some way off.

Despite continued restrictions on domestic journalists, foreign journalists have benefited from a more liberal reporting regime. Restrictions are still in place in areas such as Tibet. We continue to urge the government to lift these. In a welcome step, China produced its first human rights action plan in 2009. The plan does not, however, include targets for reforms to enable China to ratify and fully implement the ICCPR.

In 2009, the UK published *The UK and China: A Framework for Engagement*, the first time the UK had set out in detail its approach to relations with another country. Human rights feature prominently in Pillar Three of this framework, which focuses on promoting sustainable development, modernisation and internal reform. We use a three-pronged approach: high-level lobbying, led by the Prime Minister; detailed technical dialogue between officials and experts in human rights fields; and providing £1.5 million for human rights projects in China in the period 2008–11, funded by the FCO's

Strategic Programme Fund (SPF). Project work aims to contribute to reducing the number of executions in China, introducing a human rights approach to prison management, and improving the regulation of pre-trial detention, among other things.

### **Ratification of and compliance with the International Covenant on Civil and Political Rights**

China signed the ICCPR in 1998, but has still not ratified it. Ratification would show a firm Chinese commitment to improving the human rights situation in a number of areas. Consequently, China's ratification of ICCPR remains a key objective for the UK. Setting a timetable for ratification would be a major step forward and was a key UK recommendation at China's UPR in February. The Chinese government maintains that legal, judicial and administrative reforms are under way to bring China's domestic laws in line with the provisions of the ICCPR, but that this is a lengthy and complex process.

No UN Special Rapporteur was invited to visit China last year, despite assurances given during their UPR, and during Human Rights dialogues that an invitation would be issued for a visit in 2009 (the last Special Rapporteur visit was in 2005).

### **Access to Justice and Harassment of Defence Lawyers**

We continue to have serious concerns about access to justice, in particular about the lack of an independent judiciary, treatment of detainees and harassment of defence lawyers.

Concerns remain about administrative detention of petitioners, which prevent full accountability. The Chinese media confirmed the existence of "black jails" (*hei jianyu*) following publication of a Human Rights Watch (HRW) report. These facilities are primarily used by provincial and municipal officials to stop local residents complaining to national authorities about corruption and personal injustices. Their extralegal status gives rise to concern about possible use of torture as highlighted in the HRW report. In December, Chinese state media reported that 76 facilities in Beijing, staffed by 10,000 provincial government officials, were being used to detain petitioners temporarily.

Harassment and intimidation of human rights lawyers appears to have increased. Defence lawyers faced

## The Execution of Akmal Shaikh

The British national Akmal Shaikh was executed on 29 December in Urumqi, Xinjiang, following his conviction for drug smuggling. This tragic case highlighted many of the shortcomings in the handling of death penalty cases in China. The Prime Minister, the Foreign Secretary and Foreign Office Minister Ivan Lewis condemned the execution in the strongest terms. The EU and France also issued statements. We had a number of concerns about the case, including lack of transparency and inadequate professional interpretation. But our over-riding concern was that the Courts did not seek a mental health assessment, despite clear indications that Mr Shaikh was suffering from mental health problems at the time of his arrest. British officials and Ministers raised the issue of Mr Shaikh's mental health from the initial stages of the case. Mr Shaikh himself formally requested a psychiatric assessment on 2 April. The Prime Minister expressed his dismay that the Chinese Courts refused the request. A debate has developed among Chinese legal experts over the past year on who should be able to ask for a mental health assessment and the grounds on which a judge should agree.



A candle burns for Akmal Shaikh during a vigil at the Chinese embassy in London on 29 December

increasing pressure not to take on sensitive cases, such as those related to riots in Xinjiang. Lawyers are often prevented from seeing their clients or getting access to evidence. On 1 June, at least 20 human rights lawyers had their licences withdrawn, sending a strong signal to others not to take on sensitive cases. In addition, prominent human rights lawyer Gao Zhisheng was reportedly detained by police at his family home on 4 February. He has not been seen in public since and his whereabouts are unknown at the time of writing. The UK has regularly expressed its concerns and on the anniversary of the disappearance Foreign Office Minister Ivan Lewis issued a statement urging “the Chinese government to provide accurate

information on Gao's situation to ease the concerns of his family and friends and to provide reassurance about his condition”.

We continue to urge the Chinese government to protect lawyers' ability to work without fear of intimidation, harassment or prosecution. A Lawyers' Law, designed to protect the work of lawyers, came into force in 2008 but has not been fully implemented. According to an online survey in May, 73.4 per cent of all respondents (10,000 lawyers and some others) thought that there had been no progress on lawyers' access to clients. The Great Britain–China Centre is working with two Chinese partners to explore ways in which lawyers, prosecutors and police together can ensure effective implementation of the Law. This FCO-funded project includes a pilot scheme to enable standardised access to case files and clients for defence lawyers in Chongchuan district. In 2009, workshops were held to provide a comparative approach to international standards on fair trial rights, and to explore UK experience. A detailed report on conflict between the Lawyers' Law and Criminal Procedure Law was produced. The project will produce policy and legislation recommendations to address these conflicts.

## Death Penalty

China executes more people than any other country. Amnesty International recorded 2,390 known executions around the world in 2008 – 1,718 of them were in China. However, execution figures remain a state secret, and the real number is believed to be much higher (estimates range from 2,000 to 10,000). China retains the death penalty for 68 crimes.

Nevertheless, there has recently been some movement towards restricting the use of the death penalty in China. In July, Zhang Jun, Vice-President of the Supreme People's Court (SPC) announced that legislation would be improved to restrict the number of death sentences and that the SPC would tighten restrictions on the use of capital punishment. There have been two significant procedural reforms; all death penalty appeals must now be held in open court and, since 2007, the SPC reviews all death sentences. China claims this has led to a reduction in executions, although it is impossible to verify without accurate statistics. We continue to urge the authorities to publish statistics on the death penalty. In July, China announced that by the end of 2009, all executions would be by lethal injection rather than by shooting.



Ethnic Uighur women surround a riot policeman in Urumqi on 7 July

In October, two Tibetans were sentenced to death in connection with the unrest in Lhasa in March 2008. Foreign Office Minister, Ivan Lewis, issued a statement following the executions in which he said: "We respect China's right to bring those responsible for the violence in Tibet last year to justice. But the UK opposes the death penalty in all circumstances, and we have consistently raised our concerns about lack of due process in these cases in particular...I call on China to review urgently the cases of those who remain under sentence of death for their alleged involvement in last year's unrest."

A number of people were sentenced to death in connection with the riots in Urumqi in July. We condemned the violence and loss of life and made clear that those responsible should be brought to justice. But we also made clear that those arrested should be given fair and transparent trials. We remain concerned that independent observers were not allowed at the trials and defendants were unable to choose their own legal counsel. At the end of 2009, 22 death sentences, eight of them suspended, had been handed down.

With EU partners, we urged the Chinese authorities not to carry out the sentences but nine people were executed in November. The EU condemned the executions.

The Great Britain–China Centre organised the first two training sessions in an FCO-funded project to promote judicial discretion and the restriction of the application of the death penalty in Wuhan and Zhengzhou in November – 30 judges attended. Female and national minority judges (including members of the Yi, Bai, Wa and Tibetan communities) were well represented. Judge Michael Mettyear,

from the UK Sentencing Guidelines Council, and Dr Shane Darcy, from the Irish Centre for Human Rights, participated as foreign experts.

### Xinjiang

Simmering social and ethnic tensions between ethnic Uighur and Han Chinese erupted into violent riots in the capital Urumqi on 5 July. At least 197 people died in the subsequent unrest, with many more injured. We became increasingly concerned about the lack of transparency and due process in the handling of those detained following the unrest.

In November, a "Strike Hard" security campaign was launched. During such campaigns the threshold for arrests and convictions is lowered. This results in an increase in the number of people sentenced following shortened judicial proceedings, and the establishment of special tribunals, which are likely to breach internationally agreed fair-trial standards. We raised our concerns with the Chinese government, most recently at the EU–China Human Rights dialogue in November 2009.

### Tibet

The Chinese authorities say that Tibet is now stable and secure but the security presence in Tibet and in nearby provinces suggests underlying tensions remain. Foreign Office Minister, Ivan Lewis, said of his visit to Tibet in September, "I saw rapid social and economic development and met individuals and organisations who are doing good work for the benefit of Tibet. But I also left with the impression that the extremely important underlying human rights issues there - regarding freedom of religion and expression, cultural and linguistic rights, or the rule of law - are yet to be properly addressed".



Foreign Office Minister Ivan Lewis meeting with monks of the Drepung Monastery during his visit to Tibet in September

The Prime Minister, the Foreign Secretary and other Ministers regularly raise Tibet with their counterparts. The UK Government considers Tibet to be part of the People's Republic of China. We support meaningful autonomy for the region within the framework of the Chinese constitution. We have consistently made clear the importance we attach to full respect for the human rights of Tibetan people. This includes respect for their distinct culture, language and religion. We remain of the view that only peaceful dialogue between the Chinese government and the Dalai Lama's representatives will result in a lasting and peaceful solution to the problem of Tibet and respect for the full human rights of the Tibetan people. We continue to urge both sides to resume dialogue and to approach talks in good faith.

We are concerned about restrictions on religious freedom in Tibet resulting from political involvement in the management of monasteries. We remain concerned about reports of patriotic education campaigns in schools and monasteries, which require Tibetans to reaffirm their loyalty to the state and denounce the Dalai Lama. Ivan Lewis raised this most recently in November during his meeting with Mr Lie Que, Chairman of the Tibet Autonomous Regional People's Congress.

### Freedom of Expression

There were increasingly severe restrictions on freedom of speech and association in 2009. Censorship of the internet and media grew. Tight restrictions are in place on domestic journalists, with political controls meaning that there is almost no independent media. There are still only limited forms of open communication to and

from Tibet— a block on international text messages remains in place following the 2008 unrest. Making or receiving international phone calls from Xinjiang has been impossible and internet connections have been disabled since the riots, although there were reports of limited access to two government-run websites at the end of December. Reports suggested over 6,000 websites were blocked in the run-up to the 20th anniversary of events in Tiananmen Square on 4 June. YouTube, Facebook and Twitter remain inaccessible in China.

Despite easing of restrictions on foreign journalists, many still struggle to get access to Tibet or Xinjiang. We welcomed the transparency shown by the Chinese authorities in Xinjiang towards Western media at the time of the unrest, but this access was not extended beyond the height of the riots in July. Since then, Western journalists have been prevented from entering Xinjiang.

A worrying number of people were imprisoned in 2009 for attempting to exercise their right to freedom of expression. Officials from the British Embassy in Beijing made repeated efforts to attend the trials of individuals in priority cases but were denied access. Three significant cases of concern are representative of restrictions in China.

Liu Xiaobo is a prominent human rights defender who played a key role in the drafting and dissemination of Charter 08, a blueprint for judicial and democratic reform. He was charged under laws against "inciting subversion of state power and overthrowing the socialist system". With our EU partners, we called for an end to the prosecution of Mr Liu Xiaobo and his immediate release. Despite this, on 25 December, he was sentenced to 11 years' imprisonment with a further two-year suspension of political rights. Diplomats from 14 EU and like-minded countries, including the UK, went to the court for the trial and sentencing, but were denied access. We supported the EU statement expressing grave concern on Liu's sentence. Foreign Office Minister Ivan Lewis also issued a statement expressing concern that international fair trial standards had not been followed and urging the Chinese to follow due process for the appeal. We were very disappointed that Liu Xiaobo's appeal in January 2010 was unsuccessful.

## Hong Kong

During 2009, the “One Country, Two Systems” principle, set out in the 1984 Sino–British Joint Declaration, generally worked well. The rights and freedoms guaranteed in the Joint Declaration and Hong Kong’s Basic Law continue to be upheld.

### Constitutional Development

Hong Kong’s Basic Law states that the “ultimate aim” is the election by universal suffrage of both the Legislative Council and the Chief Executive. In December 2007, the Chinese National People’s Congress Standing Committee ruled out universal suffrage for the elections in Hong Kong in 2012, but stated that the Chief Executive “may” be elected by universal suffrage in 2017 and the Legislative Council “thereafter”.

On 21 February 2008, Donald Tsang, the Chief Executive of the Hong Kong Special Administrative Region Government (SARG), formed a Task Group on Constitutional Development. The Task Group reported its conclusions to the Hong Kong SARG later that year. On 18 November, the SARG launched a public consultation on the next stage on democratisation. In the consultation document, the Hong Kong SARG set out its initial proposals for the 2012 elections. Following the three-month public consultation the government will submit a final proposal to the Legislative Council. Two-thirds of legislators must then vote in favour of each of the two parts of the package, that is, arrangements for the Legislative Council elections and the Chief Executive elections, for each to be passed.

The UK hopes that following the public consultation, the Hong Kong SARG will introduce a final set of proposals that are sufficiently progressive to command the support of the required number of legislators. The UK believes the 2012 elections should



Pro-democracy demonstrators in Hong Kong on 1 January 2010 call for universal suffrage and the release of political prisoners, including Liu Xiaobo

be significantly more democratic than those held in 2007 and 2008, to prepare the way for full universal suffrage in 2017 and 2020. We have actively engaged in the debate, consistently supporting early progress towards universal suffrage. The British Consul-General in Hong Kong set out the UK Government’s views on the proposals to the *South China Morning Post* on 21 December.

Kunchok Tsephel, founder of the Tibetan literary website Chodme (Butter Lamp), which aims to promote traditional Tibetan arts and culture, was detained on 26 February and sentenced to 15 years’ imprisonment. We have serious concerns that Kunchok Tsephel’s trial was not compliant with international fair trial standards. It took place behind closed doors and he had no access to a defence lawyer. Tsephel’s family are reported to have had no contact with him since his detention. We have raised his case with the Chinese authorities.

Increasingly, the authorities are using criminal charges to shut down the activities of human rights defenders.

Xu Zhiyong and three others established the Open Constitution Initiative in 2003. This organisation consists of lawyers and academics advocating the rule of law and greater constitutional protections. In 2009, the organisation published a report criticising the Chinese government’s policy in Tibet. On 14 July, the organisation was fined 1.46 million Renminbi. The centre was declared illegal and closed by the authorities on 17 July. Xu was detained on 29 July for tax evasion but subsequently released on bail pending further investigation. This is another example of the challenges faced by independent civil society organisations operating in China.

In January 2010, Google issued a statement claiming that an attempt had been made to access the accounts of human rights activists and signalling its willingness to withdraw its Chinese website. We are committed to promoting freedom of speech, including online, and will continue to monitor developments closely.

### North Korean Refugees

China does not recognise as refugees undocumented North Koreans crossing into China. Consequently, they do not have legal status in China. There are reportedly 20,000 to 40,000 North Koreans currently in this position. Many may be there for economic reasons but it is impossible to confirm their status, as the UNHCR is denied access to the border region. They live under constant fear of deportation. Each month hundreds are believed to be forcibly repatriated. A majority are women, many of them trafficked into China to work in the sex industry or sold into marriage to Chinese men. Children born to North Korean parents in China are effectively stateless and cannot access education and healthcare services. We are concerned that these migrants are subjected to torture if they are returned to Democratic People's Republic of Korea (DPRK).

However, there are some small signs of progress. The Chinese now allow North Korean children with a Chinese parent to be registered as Chinese residents. This allows them access to education and healthcare. However, this can depend on the status of the Chinese parent and such children remain vulnerable. We raise our concerns regularly with Chinese officials encouraging them to grant UNHCR access to the border region. Most recently Ivan Lewis raised this issue during his visit in September. We also work actively through the EU to raise specific cases with the Chinese and to apply pressure on China to review its policy towards North Korean refugees.

## Colombia



The overall human rights situation in Colombia remains a serious concern. The government has made efforts to strengthen the rule of law in areas previously controlled by illegal groups.

However, as the UN Universal Periodic Review (UPR) report on Colombia in March highlighted, there remain some underlying structural problems which limit the full enjoyment of human rights, particularly with regard to exclusion, marginality, poverty, inequality, land ownership, impunity and a lack of access to justice.

In 2009, the Colombian government did take a more open and cooperative approach to engaging on human rights, including extending official invitations to the UN Special Rapporteur on Extrajudicial, Summary or Arbitrary executions; the Special Rapporteur on Human Rights Defenders; the Special Rapporteur on the Human Rights of Indigenous People; the Special Rapporteur on the Independence of Judges and Lawyers; and the Secretary-General's Special Representative on Human Rights Defenders. Colombia also voluntarily accepted the implementation of the Mechanism to Supervise and Present Reports contained in Security Council resolution 1612 on Children in Armed Conflict.

Despite attempts by the government to strengthen the rule of law, the activities of illegal armed groups and drug traffickers continue to have a severely negative impact. Illegal armed, terrorist and guerrilla groups continue to kill and abuse. An increase in new armed groups and supposedly demobilised paramilitaries returning to criminal ways was of great concern in 2009. We support the Colombian government's determination to tackle these threats in accordance with international humanitarian law.

In March, the Foreign Secretary announced the results of a policy review of UK bilateral assistance to Colombia. The most important change to take place as a result of this review was the ending of the UK's bilateral human rights projects with the Colombian Ministry of Defence. We judged that the project had achieved its objective of developing a roadmap to promote Colombian military adherence to international humanitarian law. The responsibility now falls to the Colombian government to ensure this is embedded and consistently practised by the armed services.

### Human Rights Defenders and Civil Society Groups

As a result of their human rights activity, many human rights defenders and civil society groups, including trades unionists, journalists and members of NGOs, face the risk of attack from illegal armed groups and criminals. The environment in which civil society groups operate has been worsened by messages, often from high-level government officials, equating their human rights work to support for terrorist organisations, thus putting their lives at risk. The resulting mutual distrust has contributed to the continued suspension of dialogue on the coordination and implementation of the National Action Plan on