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CONGRESSIONAL-EXECUTIVE COMMISSION ON CHINA

ANNUAL REPORT

2008

ONE HUNDRED TENTH CONGRESS

SECOND SESSION

OCTOBER 31, 2008

Printed for the use of the Congressional-Executive Commission on China

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CONGRESSIONAL-EXECUTIVE COMMISSION ON CHINA
2008 ANNUAL REPORT

Preface

The findings of the Commission's 2008 Annual Report prompt us to consider not simply what the Chinese government and Communist Party may do in the months and years ahead, but what *we* must do differently in view of developments in China over the last year. We understand that China today is significantly changed from the China of several decades ago, and that the challenges facing its people and leaders are complex. As the United States engages China, it is also vital that our nation pursue the issues that are the charge of this Commission: individual human rights, including worker rights, and the safeguards of the rule of law. As China plays an increasingly significant role in the international community, this report describes how China repeatedly has failed to abide by its commitments to internationally recognized standards. Therefore it is vital that there be continuing assessment of China's commitments. This is not a matter of one country meddling in the affairs of another. Other nations, including ours, have both the responsibility and a legitimate interest in ensuring compliance with international commitments. It is in this context, as Chairman and Co-Chairman of the Congressional-Executive Commission on China, that we submit the Commission's 2008 Annual Report.

This year the international community watched with dismay as Chinese authorities responded with overwhelming force to a wave of public protests that spread across Tibetan areas of China. Amidst the astonishment with which people around the world more recently witnessed the spectacular opening ceremonies of the 2008 Beijing Summer Olympic Games and China's effective management of the Games, Chinese authorities failed to fulfill several Olympics-related commitments—including commitments to press freedom, media access, the free flow of information, and freedom of assembly. The Chinese government's and Communist Party's continuing crackdown on China's ethnic minority citizens, ongoing manipulation of the media, and heightened repression of rights defenders reveal a level of state control over society that is incompatible with the development of the rule of law. The cases of well over a thousand of the political and religious prisoners languishing in jails and prisons in China today are documented by the Commission's publicly accessible Political Prisoner Database.

During the past 12 months, the Chinese government and Communist Party have outlined legislative and regulatory developments in areas such as anti-monopoly, open government information, collective contracting, employment promotion, regulation of the legal profession, and intellectual property, among others. Based on China's record of past enforcement, these new measures will re-

quire consistent and transparent implementation if they are to fulfill the government's stated objectives. China's record on human rights and the development of the rule of law over the last year continued to reflect the following troubling trends: (1) heightened intolerance of citizen activism and suppression of information on matters of public concern; (2) ongoing instrumental use of law for political purposes; (3) stepped up efforts to insulate the central leadership from the backlash of national policy failures; and (4) heightened reliance on emergency measures as instruments of social control. The Chinese government and Communist Party continue to equate citizen activism and public protest with "social instability" and "social unrest." China's increasingly active and engaged citizenry is one of China's most important resources for addressing the myriad public policy problems the Chinese people face, including food safety, forced labor, environmental degradation, and corruption. Citizen engagement, not repression, is the path to the effective implementation of basic human rights, and to the ability of all people in China to live under the rule of law.

Sander M. Levin, Chairman Byron L. Dorgan, Co-Chairman

GENERAL OVERVIEW

Over the last year, the following general trends with regard to human rights and the development of the rule of law have been evident in China:

1. The Chinese government's and Communist Party's intolerance of citizen activism increased, as did the suppression by authorities of information on matters of public concern.
2. The instrumental use of law for political purposes continued, and intensified in some areas, notwithstanding developments in areas such as death penalty reform, anti-monopoly, open government information, employment promotion, and collective labor contracting.
3. Official efforts to insulate the central leadership from the backlash of national policy failures continued, as efforts to prevent "sensitive" disputes from entering legal channels that lead to Beijing intensified.
4. In the wake of Tibetan protests, the Sichuan earthquake, the 2008 Beijing Olympic Games, and, most recently, a food safety crisis involving tainted milk products, the stake that Chinese citizens and citizens of other countries have in improved governance in China continued to rise. The Chinese government's and Communist Party's increasing reliance on emergency measures as instruments of social control over the last year underscored the downside risk of insufficient or ineffective rule of law reforms.

INTOLERANCE OF CITIZEN ACTIVISM

The clearest manifestations of Chinese government and Communist Party intolerance of citizen activism during the past year were the detention, "patriotic education," isolation, and deaths of Tibetans following protests in Tibetan areas of China. Authorities failed to distinguish between peaceful protesters and rioters as required under both Chinese law and international human rights norms. Heightened intolerance of peaceful protest also was evident in the Xinjiang Uyghur Autonomous Region (XUAR) in the aftermath of demonstrations in Hoten and amid security preparations for the 2008 Olympic Games. Participants in the Hoten demonstrations protested government policies against a backdrop of rising controls and repressive measures in the XUAR, including widescale detentions, restrictions on Uyghurs' freedom to travel, and heightened surveillance over religious activities and religious practitioners.

Illegal detentions and harassment of dissidents and petitioners followed the Chinese government and Communist Party's instructions to officials to ensure a "harmonious" and dissent-free Olympics. Individuals detained for circulating a "We Want Human Rights, Not Olympics" petition are now serving sentences in prison and "reeducation through labor" (RTL) centers. The government designated special locations or "zones" for public protest during the 2008 Olympic Games, but no protests received approval, and the harassment of applicants for protest permits has been reported. Authorities also harassed legal advocates connected to religion-related cases and active in defending religious groups. Such harassment intensified in the run-up to and during the 2008 Olympic

Games. Advocates and rights defenders were placed under 24-hour police surveillance during the resumption of the U.S.-China Human Rights Dialogue held in Beijing, and also during a visit to Beijing by Members of the U.S. Congress. Central and local officials also tightened controls over political organizations and political party figures affiliated with parties other than the ruling Chinese Communist Party. Central authorities took steps to quell burgeoning public discussion of the merits of eliminating or phasing out the one-child population planning policy. Authorities targeted a number of HIV/AIDS and other health advocacy organizations, and shut down or removed content from their Web sites.

INSTRUMENTAL USE OF LAW FOR POLITICAL PURPOSES

Chinese authorities' use of law as an instrument of politics continued unabated, and intensified in some areas. Provisions in Internet regulations that prohibit content deemed "harmful to the honor or interests of the nation" and "disrupting the solidarity of peoples," supplied "legal" justification for the censorship of Internet content deemed politically sensitive. The crime of "inciting subversion of state power" under Article 105, Paragraph 2, of the Criminal Law continued to be a principal tool for punishing those who peacefully criticized the Chinese government or who advocated for human rights on the Internet. Chinese government authorities particularly targeted persons who openly tied their criticism to China's hosting of the 2008 Olympic Games or handling of the Sichuan earthquake. Legal provisions that prohibit the incitement of others "to split the state or undermine unity of the country" (Criminal Law, Article 103) have been invoked to punish Tibetans for peaceful expressions of support for the Dalai Lama or for their wish for Tibetan independence. Possession of a photograph of the Dalai Lama or a copy of one of his speeches continued to serve as evidence of "splittism." National and local measures regulating Tibetan Buddhism, and the Regional Ethnic Autonomy Law, prioritize fulfillment of government and Party political objectives and fail to protect Tibetan culture, language, or religion. Pursuant to a 1999 Decision of the National People's Congress Standing Committee that established a ban on "cult organizations," the Chinese government continued to detain and punish Falun Gong practitioners and members of other spiritual and religious groups.

Legal provisions concerning national unity, internal security, social order, and the promotion of a "harmonious society" that were included in new legislation and regulations in 2006 and 2007 were invoked in cases of detention and imprisonment in the last year. China's legal and judicial authorities continued to deny fundamental procedural protections (such as access to a lawyer or a public trial) to those accused of state security crimes. The number of cases in the Xinjiang Uyghur Autonomous Region of state security crimes, including cases involving peaceful expression or religious practice, remains high. Officials continued to use the charge of "illegal operation of a business" as a pretext to detain or convict individuals who publish religious materials or other materials deemed "sensitive."

The Chinese government requires Home Return Permits (HRP) for Hong Kong and Macau residents who are Chinese citizens to

visit the mainland. The Chinese government confiscated the HRPs of citizens deemed prone to overstep the limits of "normal" or "approved" activities, and continued to deny the issuance of HRPs to 12 pro-democracy members of Hong Kong's Legislative Council allegedly for their support of Tiananmen Square protesters in 1989 and their criticism of the Chinese government. In the past year, authorities confiscated, revoked, denied entry, or refused to renew or accept the passport applications of several known dissidents, and denied entry to a Hong Kong reporter covering the 2008 Olympic Games for a pro-democracy Chinese-language newspaper.

INSULATION OF THE CENTRAL LEADERSHIP FROM THE BACKLASH OF POLICY FAILURE

One objective of China's new Law on Emergency Response, which took effect on November 1, 2007, is to "prevent minor mishaps from turning into major public crises" according to legislators cited in official reports. Shortly after the Sichuan earthquake in May, the Supreme People's Court issued a Circular titled, "Completing Trial Work During the Earthquake Disaster Relief Period to Earnestly Safeguard Social Stability" instructing courts to "exercise caution in examining and docketing" cases that are "socially sensitive" or "collective" (e.g., multiple plaintiffs litigating collectively), and "to use mediation to achieve reconciliation through the withdrawal of charges to resolve disputes." In the wake of the earthquake, Party officials directed Chinese media and news editors to focus on "positive" stories that projected national unity and stability, and in the run-up to the 2008 Olympic Games ordered the media to avoid "negative stories" such as those relating to air quality and food safety problems.

Following Tibetan protests this spring, which involved thousands of protesters, Chinese authorities repeatedly placed blame on the actions of "a small handful" of "rioters" and "unlawful elements." The emphasis on "a small handful," combined with propaganda that holds the Dalai Lama personally accountable for events and developments, appears to be a strategy aimed at prompting Chinese citizens to rally around the government, and to pre-empt their pressing the government to explain the frustration and anger of the large number of Tibetan protesters. Authorities have revealed little information about the names of Tibetans detained, the charges (if any) against them, the locations of courts handling the cases, or the location of facilities where protesters have been or remain detained or imprisoned. As a result, China's non-Tibetan citizens are even less likely than before to raise questions or complaints about China's Tibet policy.

RISING STAKES OF LEGAL REFORM IN CHINA

In part due to China's increasing engagement with the world economy, events within China have had an increasing influence on its neighbors and trading partners. Unsafe Chinese exports continue to demonstrate the rising stakes of China's relative lack of government transparency, its weak legal institutions, and the Chinese government's failure to enforce its own product safety laws. China's global reach also affords the government an array of levers through which to reward overseas entities who support or remain silent on domestic Chinese human rights abuses, while penalizing those who criticize the Chinese government's practices. China's actions related to Darfur, Sudan, may be understood, at least in part, in this context.

Government and Party rhetoric warning against foreign influence became more strident in the last year. The Commission also observed detentions of ethnic minority citizens active in international arenas or perceived to have ties with overseas groups. In the past year, authorities targeted some Chinese religious adherents with ties to foreign co-religionists for harassment, detention, and other abuses. In the region along China's border with North Korea, authorities reportedly shut down churches found to have ties with South Koreans or other foreign nationals.

The rising stakes of legal reform also became increasingly evident in the non-governmental organization (NGO) sector over the last year. China's new Corporate Income Tax Law, which took effect on January 1, 2008, encourages public and corporate charitable donations through the provision of tax benefits. Increases in corporate donations and support for NGO activities in the wake of this year's earthquake in Sichuan may have been attributable in part to these provisions. The majority of NGOs in China, however, regardless of their registration status, cannot engage in fundraising activities because charity-related laws only allow a small number of government-approved foundations to collect and distribute donations. This restriction posed significant challenges for the provision of victims' support services in the aftermath of the May Sichuan earthquake, when unprecedented donations overwhelmed the government. China also is an origin, transit, and destination country for human trafficking. Chinese trafficking victims can be found in Europe, Africa, Latin America, Northeast Asia, and North America. Trafficking victims from Southeast Asia, the Russian Far East, Mongolia, and North Korea are trafficked to China, where victims are much in need of support services. The small number of government-approved foundations and the limited capacity to manage funds continued to impact the availability of victims' support and social services.

Even as the Commission highlights these areas of concern, China over the past year has outlined a number of laws and regulations that have the potential to produce positive results if central and local government departments and Party officials prove their ability and willingness to implement them faithfully. Developments in areas such as anti-monopoly, open government information, collective contracting, employment promotion, regulation of the legal profession, and intellectual property, among others, are reported in de-

tail in the pages that follow. The past year also marked the first time that Chinese courts mandated criminal punishment in a sexual harassment case, and issued a civil protection order in a divorce case involving domestic violence. And, as the Commission reported last year, the resumption of the Supreme People's Court's review of death penalty sentences was a significant development for China's criminal justice system. Since January 1, 2007, when the death penalty reform took effect, the Chinese government has reported a 30-percent decrease in the number of death sentences. The Commission will continue to monitor the effectiveness of China's implementation of the rule of law and human rights in the year ahead.

The Commission's Executive Branch members have participated in and supported the work of the Commission. The content of this Annual Report, including its findings, views, and recommendations, does not necessarily reflect the views of individual Executive Branch members or the policies of the Administration.

I. Executive Summary and Recommendations

FINDINGS AND RECOMMENDATIONS BY SUBSTANTIVE AREA

A summary of findings for the last year follows below for each area that the Commission monitors. In each area, the Commission has identified a set of specific findings that merit attention over the next year, and, in accordance with the Commission's mandate, a set of recommendations to the President and the Congress for legislative or executive action.

RIGHTS OF CRIMINAL SUSPECTS AND DEFENDANTS

Findings

- The rights of criminal suspects and defendants continued to fall far short of the rights guaranteed in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, as well as rights provided for under China's Criminal Procedure Law (CPL) and Constitution.
- The Lawyers' Law was revised to enhance the rights of criminal defense lawyers, but some provisions in the revised law conflict with the Criminal Procedure Law.
- Since the Supreme People's Court (SPC) reclaimed its authority to review death penalty sentences as of January 1, 2007, the SPC has overturned 15 percent of all death sentences handed down by lower courts (through the first half of 2008). During 2007, 30 percent fewer death sentences were reportedly meted out, compared with the number of death sentences in 2006. The number of executions carried out annually remains a state secret, however.
- Chinese authorities continued to imprison individuals who were sentenced for political crimes, including "counter-revolutionary" crimes that no longer exist under the current Criminal Law. Individuals involved in the 1989 democracy protests are still being held in prisons in China.
- Misuse of police power and arbitrary detention remain serious problems. Police officers illegally monitored and subjected to arbitrary "house arrest" human rights lawyers and other advocates in Beijing and elsewhere in connection with the 2008 Beijing Olympic Games.
- Local officials continued to abuse police power to suppress public protests. Following numerous clashes between police and civilians, the central government promulgated new rules that hold local officials responsible for misusing police power in "mass incidents" and for mishandling grievances.

Recommendations

○ Sponsor technical assistance programs to support judicial reform and revisions to the Criminal Procedure Law and to ensure their effective implementation, with the aim of bringing China's criminal justice system into conformance with the standards set forth in the International Covenant on Civil and Political Rights.

○ Press the Chinese government to amend state secrets laws and related regulations that prohibit making public the number of executions carried out in China, and to implement such provisions effectively.

○ Continue to call on the Chinese government to release those prisoners still in prison for counterrevolutionary and other political crimes, including those imprisoned for their involvement in the 1989 democracy protests, as well as other prisoners included in this report and in the Commission's Political Prisoner Database.

WORKER RIGHTS

Findings

• Workers in China still are not guaranteed either in law or in practice full worker rights in accordance with international standards. China's laws, regulations, and governing practices continue to deny workers fundamental rights, including, but not limited to, the right to organize into independent unions. Workers who tried to establish independent associations or organize demonstrations continue to risk harassment, detention, and other abuses. Residency restrictions continue to present hardships for workers who migrate for jobs to urban areas. Tight controls over civil society organizations hinder the ability of citizen groups to champion worker rights.

• Labor disputes and protests intensified during 2008. Management's failure to pay wage arrears, overtime, severance pay, or social security contributions, were the most common causes. Social and economic changes, weak legislative frameworks, and ineffective or selective enforcement continue to engender abuses ranging from forced labor and child labor, to violations of health and safety standards, wage arrearages, and loss of job benefits.

• The discovery of an extensive forced labor network in Guangdong province this year revealed authorities' inability to enforce basic protections for workers against China's powerfully embedded labor trafficking networks.

• Three major national labor-related laws took effect this year: Labor Contract Law and new Employment Promotion Law took effect on January 1, 2008, and China's new Labor Dispute Mediation and Arbitration Law took effect on May 1, 2008.

Recommendations

○ Fund multi-year pilot projects that showcase the experience of collective bargaining in action for both Chinese workers and All China Federation of Trade Union (ACFTU) officials. Where possible, prioritize programs that demonstrate the ability to conduct collective bargaining pilot projects even in factories that do not have an official union presence.

○ Expand multi-year funding for conferences in China on collective bargaining that bring together worker representatives, labor rights NGO representatives, labor lawyers, academics, ACFTU officials, and government officials.

○ Support the production and distribution in various formats (print, online, video, etc.) of bilingual English-Chinese "how-to" materials on conducting elections of worker representatives, and on conducting collective bargaining.
○ Fund projects that prioritize the large-scale compilation and analysis of Chinese labor dispute litigation and arbitration cases, leading ultimately to the publication and dissemination of bilingual English-Chinese casebooks that may be used as a common reference resource by workers, arbitrators, judges, lawyers, employers, unions, and law schools in China.
○ Support capacity building programs to strengthen Chinese labor and legal aid organizations involved in defending the rights of workers.

FREEDOM OF EXPRESSION

Findings

• The Chinese government and Communist Party continued to deny Chinese citizens the ability to fully exercise their rights to free expression.
• The government and Party's efforts to project a "positive" image before and during the 2008 Beijing Summer Olympic Games were accompanied by increases in the frequency and extent of official violations of the right to free expression.
• Official censorship and manipulation of the press and Internet for political purposes intensified in connection with both Tibetan protests that began in March 2008 and the Olympics.
• Chinese officials failed to fully implement legal provisions granting press freedom to foreign reporters in accordance with agreements made as a condition of hosting the Olympics, and which the International Olympic Committee requires of all Olympic host cities.
• The government and Party continued to deny Chinese citizens the ability to speak to journalists without fear of intimidation or reprisal.
• Officials continued to use vague laws to punish journalists, writers, rights advocates, publishers, and others for peacefully exercising their right to free expression. Those who criticized China in the context of the Olympics were targeted more intensely. Restraints on publishing remained in place.
• Authorities responsible for implementing a new national regulation on open government information retained broad discretion on the release of government information. Open government information measures enabled officials to promote images of openness, and quickly to provide official versions of events, while officials maintained the ability at the same time to censor unauthorized accounts.

Recommendations

○ Support Federal funding for the study of press and Internet censorship methods, practices, and capacities in China. Promote programs that offer Chinese citizens access to human rights-related and other information currently unavailable to them. Sponsor programs that disseminate through radio, tele-

vision, or the Internet Chinese-language "how-to" information and programming on the use by citizens of open government information provisions on the books.

○ Support the development of "how-to" materials for U.S. citizens, companies, and organizations in China on the use of the Regulations on Open Government Information and other records-access provisions in Chinese central and local-level laws and regulations. Support development of materials that provide guidance to U.S. companies in China on how the Chinese government may require them to support restrictions on freedom of expression and best practices to minimize or avoid such risks.

○ In official correspondence with Chinese counterparts, include statements calling for the release of political prisoners named in this report who have been punished for peaceful expression, including: Yang Chunlin (land rights activist sentenced to five years' imprisonment in March 2008 after organizing a "We Want Human Rights, Not Olympics" petition); Yang Maodong (legal activist and writer whose pen name is Guo Feixiong, sentenced to five years' imprisonment in November 2007 for unauthorized publishing); Lu Gengsong (writer sentenced to four years' imprisonment in February 2008 for his online criticism of the Chinese government); and other prisoners included in this report and in the Commission's Political Prisoner Database.

FREEDOM OF RELIGION

Findings

• The Chinese government and Communist Party continued to deny Chinese citizens the ability to fully exercise their right to freedom of religion. The Chinese government continued in the past year to subject religion to a strict regulatory framework that represses many forms of religious and spiritual activities protected under international human rights law, including in treaties China has signed or ratified. The Chinese government continued its policy of recognizing only select religious communities for limited state protections, and of not protecting the religious and spiritual activities of all individuals and communities within China as required under China's international legal obligations.

• Religious adherents remained subject to tight controls over their religious activities, and some citizens met with harassment, detention, imprisonment, and other abuses because of their religious or spiritual practices.

• The Chinese government and Communist Party sounded alarms against foreign "infiltration" in the name of religion, and took measures to hinder citizens' freedom to engage with foreign co-religionists.

• President and Party General Secretary Hu Jintao called for recognizing a "positive role" for religious communities within Chinese society, but officials also continued to affirm the government and Party's policy of control over religion.

• The central government's "6–10 Office" (established in 1999 to implement the policy that outlaws Falun Gong) issued an internal directive to local governments nationwide mandating propaganda activities to prevent Falun Gong from "interfering with or harming" the 2008 Beijing Olympic Games. Beijing and Shanghai Public Security Bureaus also issued local directives providing rewards for informants who report Falun Gong activities to the police. Stories published in the state-controlled media, as well as statements made by Chinese officials, sought to link Falun Gong with terrorist threats in the lead-up to the Olympics.

Recommendations

○ Include in China-related legislation and statements, calls for the Chinese government to guarantee freedom of religion to all Chinese citizens in accordance with Article 18 of the Universal Declaration of Human Rights.

○ Call for the release of Chinese citizens confined, detained, or imprisoned in retaliation for pursuing their right to freedom of religion (including the right to hold and exercise spiritual beliefs). Such prisoners include Adil Qarim (imam in Xinjiang detained during a security roundup in August); Alimjan Himit (house church leader in detention on charges of subverting state power and endangering national security); Gong Shengliang (founder of unregistered church who continues to serve a life sentence); Jia Zhiguo (unregistered bishop repeatedly detained by Chinese authorities and confined to his home since his most recent release from detention on September 18, 2008); Phurbu Tsering (Tibetan Buddhist teacher and head of a Tibetan Buddhist nunnery whom authorities detained in May 2008); Wang Zhiwen (Falun Gong practitioner who continues to serve a 16-year sentence for alleged crimes related to cults and acquiring state secrets); and other prisoners included in this report and in the Commission's Political Prisoner Database.

○ Support continued funding for non-governmental organizations that collect information on conditions for religious freedom in China and that inform Chinese citizens of how to defend their right to freedom of religion against Chinese government abuses. Encourage U.S. government-funded programs to orient priorities toward expanded coverage of different religious and spiritual communities within China.

ETHNIC MINORITY RIGHTS

Findings

• Authorities continued to repress citizen activism by ethnic minorities in China, especially within Tibetan areas of China, the Xinjiang Uyghur Autonomous Region, and the Inner Mongolia Autonomous Region (IMAR). [See findings for Xinjiang and Tibet for additional information.] In the past year, authorities in the IMAR punished ethnic minority rights advocates as well as citizens perceived to have links with ethnic rights orga-

nizations, intensifying a trend noted by the Commission in 2007.

• The government reported taking steps in the past year to improve economic and social conditions for ethnic minorities. It remains unclear whether such measures have been effectively implemented and include safeguards to protect ethnic minority rights and to solicit input from local communities. Ongoing development efforts in ethnic minority areas have brought mixed results for ethnic minority communities.

• The Chinese government continued in the past year to protect some aspects of ethnic minority rights. However, shortcomings in both the substance and the implementation of Chinese ethnic minority policies prevented ethnic minority citizens from enjoying their rights in line with domestic Chinese law and international legal standards. Ethnic minority citizens of China do not enjoy the "right to administer their internal affairs" as guaranteed to them in Chinese law.

Recommendations

○ China-related legislation should include language that calls on Chinese authorities to formulate and implement China's ethnic minority autonomy system in a manner that respects ethnic minorities' "right to administer their internal affairs" as guaranteed to them in Chinese law.

○ Call for the release of citizens imprisoned for advocating ethnic minority rights, including Mongol activist Hada (serving a 15-year sentence after pursuing activities to promote ethnic minority rights and democracy), as well as other prisoners mentioned in this report and in the Commission's Political Prisoner Database.

○ Fund rule of law programs and exchanges that raise awareness among Chinese leaders of different models for governance that protect ethnic minorities' rights and allow them to exercise meaningful autonomy over their affairs. Support funding for non-governmental organizations to continue or develop programs that address ethnic minority issues within China, including task-oriented training programs that build capacity for sustainable development among ethnic minorities and programs that research rights abuses in the Inner Mongolia Autonomous Region, as well as in other regions. (Also see recommendations for Tibet and Xinjiang.)

○ Support funding for programs at U.S. universities to teach ethnic minority languages used in China, to better preserve these languages as the Chinese government implements programs to strengthen the use of Mandarin within China and to better prepare the international community to study and understand conditions for ethnic minorities in China.

POPULATION PLANNING

Findings

• The Chinese government announced that parents who lost an only child in the May 2008 Sichuan earthquake would be

permitted to have another child if they applied for a government-issued certificate.

• The National Population and Family Planning Commission (NPFPC) issued a directive imposing higher "social compensation fees" levied according to income on couples who violate the one-child rule. Under the directive, urban families who violate the one-child rule risk having officials apply negative marks on financial credit records.

• Reports of forced abortions, forced sterilizations, and police beatings related to population planning policies continued. In some areas, government campaigns to forcibly sterilize women who have more than one female child included government payments to informants.

• A brief public discussion about the continued necessity of the one-child policy reportedly prompted the NPFPC Minister to issue a statement that China would "by no means waver" in its population planning policies for "at least the next decade."

Recommendations

○ Urge Chinese officials to cease all coercive measures, including forced abortion and sterilization, to enforce birth control quotas. Urge the Chinese government to dismantle its system of coercive population controls, while funding programs that inform Chinese officials of the importance of respecting citizens' diverse beliefs.

○ Urge Chinese officials to release promptly Chen Guangcheng, imprisoned in Linyi city, Shandong province, after exposing forced sterilizations, forced abortions, beatings, and other abuses carried out by Linyi population planning officials.

○ Encourage Chinese officials to permit greater public discussion and debate concerning population planning policies and to demonstrate greater responsiveness to public concerns. Impress upon China's leaders the importance of promoting legal aid and training programs that help citizens pursue compensation and other remedies against the state for injury suffered as a result of official abuse related to China's population planning policies. Provisions in China's Law on State Compensation provide for such remedies for citizens subject to abuse and personal injury by administrative officials, including population planning officials. Provide funding and support for the development of programs and international cooperation in this area.

FREEDOM OF RESIDENCE

Findings

• China's household registration (*hukou*) system remains as a foundation for discrimination and the violation of the rights of rural migrants in urban areas. In security preparations for the 2008 Beijing Summer Olympic Games, officials throughout the country intensified inspections of migrants' *hukou* status. The rights of migrants without legal residency status were placed at increased risk, especially in urban areas where employment and social benefits are linked to *hukou* status.

• Recent *hukou* reforms have relaxed restrictions on citizens' choice of permanent place of residence, but implementation at the local level has been uneven. Jiangsu and Yunnan provinces and Shenzhen city implemented major *hukou* reforms. Fiscal pressure associated with the provision of services to rising numbers of *hukou* holders prompted Zhuhai city to suspend its *hukou* application process.

Recommendations

○ Initiate a program of U.S.-China bilateral cooperation that revives sister-city and sister-state/province exchanges as a vehicle for the discussion of ideas on migrant issues among local officials. Engage in international dialogue on migration and *hukou* reform to develop effective models for China's reform efforts.
○ Enlist the support of the business community in encouraging measures to equalize citizens' ability to change their residence, and to eliminate outstanding rules that link *hukou* status to access to public services like healthcare and education. Recognize as good corporate citizens U.S. businesses in China with corporate social responsibility programs that address migrant issues in meaningful ways (e.g., awareness campaigns to eliminate discrimination against migrants and their children, and to reduce migrants' vulnerability to exploitation).

LIBERTY OF MOVEMENT

Findings

• China strictly controlled citizens' movement between the mainland and the special administrative regions (SAR) of Hong Kong and Macau. Officials used the granting and denial of "Home Return Permits" to limit access to the mainland by SAR-based pro-democracy activists.
• The use of extralegal house arrest to control or punish religious adherents, activists, or rights defenders deemed to act outside approved parameters intensified during the past year.
• Chinese authorities continued to use arbitrary restrictions on individual liberty of movement for retaliatory purposes. Authorities placed the family members of rights advocates under house arrest in retaliation for their advocacy activities.
• In the past year, authorities confiscated, revoked, denied entry, or refused to renew or accept the passport applications of several known dissidents.

Recommendations

○ Call for China's granting Home Return Permits to Hong Kong- and Macau-based Chinese advocates.
○ In press statements, letters, and town hall meetings, spotlight the issue of arbitrary restrictions on individual liberty of movement, including limitations on Yuan Weijing and Zeng Jinyan, who have been under house arrest because of their spouses' activism.

○ Urge Chinese officials to consider passport renewals of dissidents and raise the issue of arbitrary denial of entry.

STATUS OF WOMEN

Findings

• Women continued to encounter gender-based discrimination, especially with respect to their exercise of land and property rights, and when attempting to access benefits associated with their village *hukous* (household registration). Chinese women, especially migrant, impoverished, and ethnic minority women, continue to be unaware of their legal options when their rights are violated.
• Coercive population planning policies remain in place in violation of internationally recognized human rights.
• This year marked the first time that a Chinese court mandated criminal punishment in a sexual harassment case. A Chinese court this year issued the first civil protection order in a divorce case involving domestic violence.
• Women have the right to vote and run in village committee elections, but continue to occupy a disproportionately low number of seats, Communist Party posts, government offices, and positions of significant power.
• Reliable statistical information and other data that are disaggregated by sex and region are insufficient, posing challenges for Chinese women's rights advocacy organizations seeking to assess the effectiveness with which the Communist Party and government policies designed to help women are implemented.

Recommendations

○ Initiate new bilateral exchanges between U.S. and Chinese law enforcement, judicial officials, and civil society organizations geared toward expanding comprehensive social services for women, including literacy programs that focus on combating illiteracy among women, longer-term options for sheltering domestic violence survivors, and psychological counseling and suicide prevention programs, especially in rural areas.
○ Urge Chinese counterparts to support initiatives that help raise public awareness of women's issues and rights, especially as they affect migrant women, women from rural communities, and ethnic minority women.
○ Fund non-governmental organizations that provide training to independent Chinese groups that in turn train legal officials and social service providers in women's issues and rights, work on domestic violence and sexual harassment issues, and that strengthen collection and publication of data on issues affecting women.

HUMAN TRAFFICKING

Findings

• The Chinese government lacks a comprehensive anti-trafficking policy to combat all forms of trafficking. The govern-

ment's definition of trafficking is narrow, and focuses on the abduction and selling of women and children. The National Plan of Action on Combating Trafficking in Women and Children (2008–2012), released in December 2007, neglects male adults, who are often targeted for forced labor.

• The Chinese government has not fulfilled its counter-trafficking-related international obligations, and has obstructed the independent operation of non-governmental and international organizations that offer assistance on trafficking issues.

• Incidents this year involving child labor in Guangdong province and forced labor in Heilongjiang reflect legal and administrative weaknesses in China's anti-trafficking enforcement.

Recommendations

○ Urge Chinese government officials to sign and ratify the Trafficking in Persons Protocol, to revise the government's definition of trafficking and reform its anti-trafficking laws to align with international standards, and to abide by its international obligations with regard to North Korean refugees who become trafficking victims.

○ Encourage Chinese embassy officials in the United States to better protect Chinese citizens who have been trafficked here by issuing the necessary travel documents and other documentation to trafficking victims in a timely manner.

○ Fund research on trafficking-related issues in China, including the interplay between population planning policies, trafficking, and adoption.

○ Support bilateral exchanges between U.S. and Chinese law enforcement officials and civil society organizations that work on trafficking.

NORTH KOREAN REFUGEES IN CHINA

Findings

• In the lead-up to the 2008 Beijing Summer Olympic Games, Chinese central and local authorities stepped up efforts to locate and forcibly repatriate North Korean refugees hiding in China. Border surveillance and crackdowns against refugees and the ethnic Korean citizens of China who harbored them intensified.

• Penalties for harboring North Korean refugees reportedly were increased, including higher fines. Searches by public security officials of the homes of ethnic Koreans living in villages and towns near the border intensified.

• The central government ordered provincial religious affairs bureaus to investigate religious communities for signs of involvement with foreign co-religionists. Churches in the Yanbian Korean Autonomous Prefecture in Jilin province that were found to have ties to South Koreans or other foreign nationals were shut down.

• Chinese local authorities near the border with North Korea continued to deny access to education and other public goods for the children of North Korean women married to Chinese

citizens. Chinese government officials contravened guarantees under the PRC Nationality Law (Article 4) and Compulsory Education Law (Article 5) by refusing to register the children of these couples to their father's *hukou* (household registration) without proof of the mother's status.

Recommendations

○ Establish a task force to examine and support the efforts of the United Nations High Commissioner for Refugees to gain unfettered access to North Korean refugees in China, and to recommend a strategy for creating incentives for China to honor its obligations under the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol by desisting from the forced repatriation of North Korean refugees, and terminating the policy of automatically classifying all undocumented North Korean border crossers as "illegal economic migrants."
○ Support U.S. Government legal cooperation funding with China to assist with the drafting of national refugee regulations that provide formal and transparent procedures for the review of North Korean claims to refugee status.

PUBLIC HEALTH

Findings

• China's Minister of Health stated for the first time that all persons have the right to basic healthcare regardless of age, gender, occupation, economic status, or place of residence.
• The effectiveness of central government policies to combat the spread of HIV/AIDS remained limited by Chinese leaders' concerns over uncontrolled citizen activism and foreign-affiliated non-governmental organizations.
• Discrimination against persons with Hepatitis B Virus (HBV) remained widespread.
• HBV carriers, many with the assistance of legal advocacy groups, brought employment discrimination lawsuits under anti-discrimination provisions in China's new Employment Promotion Law that took effect this year. The first such case resulted in a court-ordered settlement and damage award.
• China's first employment discrimination case involving mental depression resulted in a damage award and reinstatement of employment.

Recommendations

○ Call on the Chinese government to ease restrictions on civil society groups and provide more support to U.S. organizations that address HIV/AIDS and HBV. A robust civil society is critical to achieving the government's goal of prevention and treatment of HIV/AIDS and HBV.
○ Urge Chinese officials to focus attention on effective implementation of the Employment Promotion Law and related regulations which prohibit discrimination against persons living

with HIV/AIDS, HBV, and other illnesses in hiring and in the workplace.

ENVIRONMENT

Findings

• Experts encountered difficulties accessing information on pollutants and in charting Beijing's progress toward achieving its environment-related Olympic bid commitments.
• The structure of incentives at the local level in China does not encourage action in favor of greater environmental protection. Penalties for violations remain low, and enforcement capacity remains insufficient.
• As the central government issues legislative and regulatory measures aimed at reducing greenhouse gases, implementation and enforcement at the local level remains a challenge. According to a study released in October 2008 by the Chinese Academy of Sciences, China's emissions of greenhouse gases could double in the next two decades.
• Concerns over environmental degradation and the government's perceived lack of transparency and solicitation of public input have sparked protests in major urban centers. Environmental protesters in urban areas tended to organize protests through the Internet and other forms of electronic communication. Urban protests were relatively peaceful.
• Environmental protests in rural areas more frequently involved violent clashes with public security officers.

Recommendations

○ Support technical assistance programs aimed at enhancing public participation in environmental impact hearings and improving the ability of environmental protection bureaus to respond to information requests from citizens under new open government information regulations.
○ When arranging travel to China, request meetings with officials from the central government to discuss environmental governance best practices. In those meetings, emphasize the importance of enhancing the capacity and power of the Ministry of Environmental Protection (MEP) by providing it with more staff and resources and shifting control of local environmental protection bureaus from local governments to the MEP.
○ Encourage bilateral and exchange programs to identify and catalogue the sources and amount of greenhouse gas emissions. Expand support for the U.S. EPA-China Environmental Law Initiative and for bilateral exchange programs relating to environmental protection and governance.
○ Call attention to China's practice of criminally punishing citizens who peacefully disseminate information relating to environmental hazards and emergencies. Urge Chinese officials to release freelance writer Chen Daojun, who was detained on suspicion of "inciting splittism" under Article 103 of the Criminal Law, after he published an article on a foreign Web site calling for a halt in construction of a chemical plant near

Chengdu, citing environmental concerns. Also urge Chinese officials to release other environmental activists including those whose cases are described in the Commission's Political Prisoner Database.

○ Encourage legal assistance programs aimed to create incentives for government and business to build partnerships that reduce greenhouse gas emissions by deploying renewable energy and developing next generation low carbon technologies. Encourage bilateral cooperation and exchange programs whereby both the United States and China work to develop a roadmap for reducing emissions that is acceptable to both developed and developing countries.

CIVIL SOCIETY

Findings

• There were 387,000 registered civil society organizations (CSOs) in China, including 3,259 legal aid organizations, by the end of 2007, up from 354,000 in 2006 and 154,000 in 2000.

• Chinese authorities strengthened control over civil society and non-governmental organizations (NGOs), especially in the run-up to the 2008 Beijing Summer Olympic Games.

• China has an urgent need for legal reform in the non-profit sector, including in the management and registration of NGOs, in the regulation of charitable activities and donations, and in the provision of social services to victims of human trafficking, forced labor, and natural disasters. These needs became more pronounced following the discovery last spring of another extensive forced labor network in Guangdong province, and after the May Sichuan earthquake.

• The Corporate Income Tax Law, effective on January 1, 2008, encourages public and corporate charitable donations through the provision of tax benefits. Corporate donations and support for NGO activities increased during this year.

Recommendations

○ Facilitate dialogue and consultation among Chinese officials, NGOs, and rights advocates. Increase exchanges between NGO leaders from the United States and China, and bolster program funding to support civil society development and capacity building in China.

○ Encourage U.S. companies operating in China to make in-kind pro bono contributions to the NGO sector (e.g., by reserving places for representatives of Chinese NGOs to participate free of charge in corporate training programs in China that provide organizational and management skills).

INSTITUTIONS OF DEMOCRATIC GOVERNANCE

Findings

• The direct election of government officials by non-Party members remained rare, the range of positions filled through elections narrow in scope and strictly confined to the local level, and mostly in villages.

• Some localities implemented a new pilot project called "open recommendations, direct elections." According to this model of local Party leadership election, the general public participates during the candidate nomination stage only. All local Party members—not just officials—may participate in the final casting of ballots.
• Local leaders in Shenzhen proposed making the city a "special political zone" for the trial of political reforms. The Shenzhen Municipal Party Committee approved a plan for electoral and governance reform.
• The 17th Party Congress in October 2007 failed to produce a sustained program of significant political reform. The Party Congress prepared for a likely leadership transition in 2012 and promoted ideas such as "scientific development" and "inner-party democracy."

Recommendations

○ Support research on recent efforts in China's Special Economic Zones to expand experimentation with democratic models of public participation in local policymaking.
○ Press Chinese officials to revive and expand engagement with international NGOs specializing in election monitoring.

COMMERCIAL RULE OF LAW

Findings

• China continues to deviate in both law and practice from World Trade Organization (WTO) norms and other international economic norms. In a dispute concerning China's legal and administrative measures affecting imports of auto parts, the WTO Dispute Resolution Body (DSB) ruled against China, in China's first legal defeat since its accession to the WTO. In two WTO dispute cases brought against China by the United States and Mexico pertaining to Chinese export and import substitution subsidies prohibited by WTO rules, China agreed in settlements with both countries to eliminate the subsidies.
• China's new Anti-Monopoly Law, which took effect in August 2008, may have a significant impact on the development of commercial rule of law in China, if it can be transparently and fairly implemented.
• China's new National Intellectual Property Strategy does not fully specify plans to address well-documented deficiencies in China's institutions for intellectual property rights (IPR) enforcement.
• Local governments in China are applying the rhetoric and tools of IPR protection to traditional knowledge possessed by China's ethnic minority groups, but it remains unclear whether China's legal and administrative institutions provide ways to accomplish this in a manner that protects the rights of ethnic minorities.
• A food safety crisis in September 2008 involving tainted milk powder illustrated the ineffectiveness of China's "Special War" on product quality, declared in August 2007. China's food safety and product quality problems do not stem from a failure to

legislate on the issue, but rather from duplicative legislation and ineffective implementation.

• New Land Registration Measures implement China's Property Law in part by addressing a deficiency in China's "dual registration system" for land and buildings, and consolidating the registration of both land and buildings under a single local government entity.

Recommendations

○ Convey to the Chinese government that international criticism of China continues because, in spite of what the Chinese government has written into its laws and regulations, China's leaders in practice have failed to abide by their commitments, including commitments to WTO and other international economic norms, to worker rights, and to the free flow of information on which further development of the commercial rule of law depends.

○ Convey to the Chinese government that rapid production of new legislation by itself is not a sign of progress. Rather, new and existing laws and regulations must be coupled with consistent, transparent, and effective implementation that meets international standards and protects individuals' fundamental rights. Failure to do so risks undermining even well-intended law, no matter how well-crafted on paper, and diminishes not only the credibility of China's stated commitments to reform but also the integrity of China's legal and regulatory institutions. Convey to the Chinese government that China's repeated failure to live up to its international commitments has seriously damaged its credibility.

○ Convey to the Chinese government that its increasingly significant role in the international community also requires an increasing respect for and enforcement of its commitments to that community. Monitoring China's compliance with its commitments to the international community is not meddling, but rather is in the interests of all members of the international community.

ACCESS TO JUSTICE

Findings

• The intimidation and harassment of lawyers by government and Party officials in China intensified during the past year. Lawyers were pressured not to take on politically sensitive cases, including the representation of Tibetans charged with crimes in connection with the March protests and parents seeking compensation for injuries their children sustained from drinking melamine-tainted milk. The authorities refused to renew the lawyers' license of renowned human rights lawyer Teng Biao for his involvement in the effort to represent the Tibetans and his work on other human rights cases.

• Stronger Communist Party control over the judiciary was evident during this past year, reflected by the election as president of the Supreme People's Court of Wang Shengjun, who rose to power through the public security and political-legal

committee systems. President Hu Jintao instructed the courts, police, and procuratorates to uphold the "three supremes"—the Party's cause, the people's interests, and the Constitution and laws.

Recommendations

○ Support funding for technical assistance programs on best practices in structuring independent lawyers' associations and self-governance of the bar.

XINJIANG

Findings

• Human rights abuses in the Xinjiang Uyghur Autonomous Region (XUAR) remained severe, and repression increased in the past year. Authorities tightened repression amid preparations for the 2008 Beijing Summer Olympic Games, limited reports of terrorist and criminal activity, and protests among ethnic minorities.
• The Chinese government used anti-terrorism campaigns as a pretext for enforcing repressive security measures, especially among the ethnic Uyghur population, including wide-scale detentions, inspections of households, restrictions on Uyghurs' domestic and international travel, restrictions on peaceful protest, and increased controls over religious activity and religious practitioners.
• Anti-terrorism and anti-crime campaigns have resulted in the imprisonment of Uyghurs for peaceful expressions of dissent, religious practice, and other non-violent activities.
• The government also continued to strengthen policies aimed at diluting Uyghur ethnic identity and promoting assimilation. Policies in areas such as language use, development, and migration have disadvantaged local ethnic minority residents and have positioned the XUAR to undergo broad cultural and demographic shifts in coming decades.
• In the past year, the Commission also observed continuing problems in the XUAR government's treatment of civil society groups, labor policies, population planning practices, judicial capacity, and government policy toward Uyghur refugees and other individuals returned to China under the sway of China's influence in other countries.

Recommendations

○ Support legislation that expands U.S. Government resources for raising awareness of human rights conditions in the Xinjiang Uyghur Autonomous Region (XUAR) and for protecting Uyghur culture.
○ Raise concern about conditions in the XUAR to Chinese officials and stress that protecting the rights of XUAR residents is a crucial step for securing true stability in the region. Condemn the use of the global war on terror as a pretext for suppressing human rights. Call for the release of citizens imprisoned for advocating ethnic minority rights or for their personal

connection to rights advocates, including: Nurmemet Yasin (sentenced in 2005 to 10 years in prison after writing a short story); Abdulghani Memetemin (sentenced in 2003 to 20 years in prison for providing information on government repression to an overseas human rights organization); and Alim and Ablikim Abdureyim (adult children of activist Rebiya Kadeer, sentenced in 2006 and 2007 to 7 and 9 years in prison, respectively, for alleged economic and "secessionist" crimes); and other prisoners mentioned in this report and the Commission's Political Prisoner Database.

○ Support funding for non-governmental organizations that address human rights issues in the XUAR to enable them to continue to gather information on conditions in the region and develop programs to help Uyghurs increase their capacity to defend their rights and protect their culture, language, and heritage.

○ Indicate to Chinese officials that Members of the U.S. Congress and Administration are aware that Chinese authorities themselves have called for improving conditions in the XUAR judiciary. Urge officials to take steps to address problems stemming from the lack of personnel proficient in ethnic minority languages. Call on rule of law programs that operate within China to devote resources to the training of legal personnel who are able to serve the legal needs of ethnic minority communities within the XUAR.

TIBET

Findings

• As a result of the Chinese government crackdown on Tibetan communities, monasteries, nunneries, schools, and workplaces following the wave of Tibetan protests that began on March 10, 2008, Chinese government repression of Tibetans' freedoms of speech, religion, and association has increased to what may be the highest level since approximately 1983, when Tibetans were able to set about reviving Tibetan Buddhist monasteries and nunneries.

• The status of the China-Dalai Lama dialogue deteriorated after the March 2008 protests and may require remedial measures before the dialogue can resume focus on its principal objective—resolving the Tibet issue. China's leadership blamed the Dalai Lama and "the Dalai Clique" for the Tibetan protests and rioting, and did not acknowledge the role of rising Tibetan frustration with Chinese policies that deprive Tibetans of rights and freedoms nominally protected under China's Constitution and legal system. The Party hardened policy toward the Dalai Lama, increased attacks on the Dalai Lama's legitimacy as a religious leader, and asserted that he is a criminal bent on splitting China.

• State repression of Tibetan Buddhism has reached its highest level since the Commission began to report on religious freedom for Tibetan Buddhists in 2002. Chinese government and Party policy toward Tibetan Buddhists' practice of their religion played a central role in stoking frustration that resulted

in the cascade of Tibetan protests that began on March 10, 2008. Reports have identified hundreds of Tibetan Buddhist monks and nuns whom security officials detained for participating in the protests, as well as members of Tibetan secular society who supported them.

- Chinese government interference with the norms of Tibetan Buddhism and unrelenting antagonism toward the Dalai Lama, one of the religion's foremost teachers, serves to deepen division and distrust between Tibetan Buddhists and the government and Communist Party. The government seeks to use legal measures to remold Tibetan Buddhism to suit the state. Authorities in one Tibetan autonomous prefecture have announced unprecedented measures that seek to punish monks, nuns, religious teachers, and monastic officials accused of involvement in political protests in the prefecture.
- The Chinese government undermines the prospects for stability in the Tibetan autonomous areas of China by implementing economic development and educational policy in a manner that results in disadvantages for Tibetans. Weak implementation of the Regional Ethnic Autonomy Law has been a principal factor exacerbating Tibetan frustration by preventing Tibetans from using lawful means to protect their culture, language, and religion.
- At no time since Tibetans resumed political activism in 1987 has the magnitude and severity of consequences to Tibetans (named and unnamed) who protested against the Chinese government been as great as it is now upon the release of the Commission's 2008 Annual Report. Unless Chinese authorities have released without charge a very high proportion of the Tibetans reportedly detained as a result of peaceful activity or expression on or after March 10, 2008, the resulting surge in the number of Tibetan political prisoners may prove to be the largest increase in such prisoners that has occurred under China's current Constitution and Criminal Law.

Recommendations

Members of the U.S. Congress and Administration officials are encouraged to:

○ Convey to the Chinese government the heightened importance and urgency of moving beyond the setback in dialogue with the Dalai Lama or his representatives following the March 2008 protests. A Chinese government decision to engage the Dalai Lama in substantive dialogue can result in a durable and mutually beneficial outcome for Chinese and Tibetans, and improve the outlook for local and regional security in the coming decades.

○ Convey to the Chinese government, in light of the tragic consequences of the Tibetan protests and the continuing tension in Tibetan Buddhist institutions across the Tibetan plateau, the urgent importance of: reducing the level of state antagonism toward the Dalai Lama; ceasing aggressive campaigns of "patriotic education" that can result in further stress to local stability; respecting Tibetan Buddhists' right to freedom of reli-

gion, including to identify and educate religious teachers in a manner consistent with their preferences and traditions; and using state powers such as passing laws and issuing regulations to protect the religious freedom of Tibetans instead of remolding Tibetan Buddhism to suit the state.

○ Continue to urge the Chinese government to allow international observers to visit Gedun Choekyi Nyima, the Panchen Lama whom the Dalai Lama recognized, and his parents.

○ In light of the heightened pressure on Tibetans and their communities following the March protests, increase funding for U.S. non-governmental organizations to develop programs that can assist Tibetans to increase their capacity to peacefully protect and develop their culture, language, and heritage; that can help to improve education, economic, and health conditions of ethnic Tibetans living in Tibetan areas of China; and that create sustainable benefits without encouraging an influx of non-Tibetans into these areas.

○ Convey to the Chinese government the importance of distinguishing between peaceful Tibetan protesters and rioters, honoring the Chinese Constitution's reference to the freedoms of speech and association, and not treating peaceful protest as a crime. Request that the Chinese government provide details about Tibetans detained or charged with protest-related crimes, including: each person's name; the charges (if any) against each person; the name and location of the prosecuting office ("procuratorate") and court handling each case; the availability of legal counsel to each defendant; and the name of each facility where such persons are detained or imprisoned. Request that Chinese authorities allow access by diplomats and other international observers to the trials of such persons.

○ Continue to raise in meetings and correspondence with Chinese officials the cases of Tibetans who are imprisoned as punishment for the peaceful exercise of human rights. Representative examples include: former Tibetan monk Jigme Gyatso (now serving an extended 18-year sentence for printing leaflets, distributing posters, and later shouting pro-Dalai Lama slogans in prison); monk Choeying Khedrub (sentenced to life imprisonment for printing leaflets); reincarnated lama Bangri Chogtrul (serving a sentence of 18 years commuted from life imprisonment for "inciting splittism"); and nomad Ronggyal Adrag (sentenced to 8 years' imprisonment for shouting political slogans at a public festival).

○ The United States should continue to seek a consulate in Lhasa in order to provide services to Americans in Western China. With the closest consulate in Chengdu, a 1,500 mile bus ride from the Tibetan capital of Lhasa, American travelers are largely without assistance in Western China. This was recently underscored during unrest in Lhasa when U.S. citizens could not get out and American diplomats could not enter the Tibetan Autonomous Region.

The Commission adopted this report by a vote of 22 to 1.†

POLITICAL PRISONER DATABASE

Recommendations

When composing correspondence advocating on behalf of a political or religious prisoner, or preparing for official travel to China, Members of Congress and Administration officials are encouraged to:

- Check the Political Prisoner Database (PPD) (*http://ppd.cecc.gov*) for reliable, up-to-date information on one prisoner, or on groups of prisoners. Consult a prisoner's database record for more detailed information about the prisoner's case, including his or her alleged crime, specific human rights that officials have violated, stage in the legal process, and location of detention or imprisonment, if known.
- Advise official and private delegations traveling to China to present Chinese officials with lists of political and religious prisoners compiled from database records.
- Urge U.S. state and local officials and private citizens involved in sister-state and sister-city relationships with China to explore the database, and to advocate for the release of political and religious prisoners in China.

A POWERFUL RESOURCE FOR ADVOCACY

The Commission's Annual Report provides information about Chinese political and religious prisoners[1] in the context of specific human rights and rule of law abuses. Many of the abuses result from the Chinese Communist Party and government's application of policies and laws. The Commission relies on the Political Prisoner Database (PPD), a publicly available online database maintained by the Commission, for its own advocacy and research work, including the preparation of the Annual Report, and routinely uses the database to prepare summaries of information about political and religious prisoners for Members of Congress and Administration officials.

The Commission invites the public to read about issue-specific Chinese political imprisonment in sections of this Annual Report, and to access and make use of the PPD at *http://ppd.cecc.gov*. (Information on how to use the PPD is available at: *http://www.cecc.gov/pages/victims/index.php.*)

The PPD has served, since its launch in November 2004, as a unique and powerful resource for governments, non-governmental organizations (NGOs), educational institutions, and individuals who research political and religious imprisonment in China, or that advocate on behalf of such prisoners. The most important feature of the PPD is that it is structured as a genuine database and uses a powerful query engine. Though completely Web-based, it is not an archive that uses a simple or advanced search tool, nor is it a library of Web pages and files.

The PPD received approximately 23,000 online requests for prisoner information during the 12-month period ending July 31, 2008. During the entire period of PPD operation beginning in late 2004, approximately 36 percent of the requests for information have originated from government (.gov) Internet domains, 17 percent

from network (.net) domains, 10 percent from international domains, 8 percent from commercial (.com) domains, 2 percent from education (.edu) domains, and 2 percent from organization (.org) domains. Approximately 20 percent of the requests have been from numerical Internet addresses that do not provide information about the name of an organization or the type of domain.

POLITICAL PRISONERS

The PPD seeks to provide users with prisoner information that is reliable and up-to-date. Commission staff members work to maintain and update political prisoner records based on their areas of expertise. The staff seek to provide objective analysis of information about individual prisoners, and about events and trends that drive political and religious imprisonment in China.

As of October 31, 2008, the PPD contained information on 4,793 cases of political or religious imprisonment in China. Of those, 1,088 are cases of political and religious prisoners currently known or believed to be detained or imprisoned, and 3,705 are cases of prisoners who are known or believed to have been released, executed or to have escaped. The Commission notes that there are considerably more than 1,088 cases of current political and religious imprisonment in China. The Commission staff works on an ongoing basis to add cases of political and religious imprisonment to the PPD.

During 2008, the Commission for the first time published a series of lists of current religious and political prisoners. The number of prisoners rose unusually steeply from list to list, principally as a result of the Commission's ongoing work creating new case records for the large number of Tibetan protesters detained from March 2008 onward. On June 26, 2008, the Commission published a list of 734 current religious and political prisoners in China.[2] On August 7, 2008, the Commission posted on its Web site a list of 920 political prisoners currently known or believed to be detained or imprisoned in China. The August 7 PPD list was arranged in reverse chronological order by date of detention, placing the most recent detentions first and facilitating a review of detention and imprisonment in the months preceding the 2008 Beijing Olympic Games.

The Dui Hua Foundation, based in San Francisco, and the former Tibet Information Network, based in London, shared their extensive experience and data on political and religious prisoners in China with the Commission to help establish the database.[3] The Dui Hua Foundation continues to do so. The Commission also relies on its own staff research for prisoner information, as well as on information provided by NGOs, other groups that specialize in promoting human rights and opposing political and religious imprisonment, and other public sources of information.

DATABASE TECHNOLOGY

The PPD aims to provide a technology with sufficient power to cope with the scope and complexity of political imprisonment in China. The first component of an upgrade to the database will be available for public use before the end of 2008 and additional upgrade components will be available in 2009. The upgrade will lever-

age the capacity of the Commission's information and technology resources to support research, reporting, and advocacy by the U.S. Congress and Administration, and by the public, on behalf of political and religious prisoners in China.

Upgrading the Database To Leverage Impact

The Commission began work to upgrade the PPD soon after publication of the 2007 Annual Report. The component of the upgrade that will be available for public use before the end of 2008 will increase the number of types of information available from 19 to 40. The upgrade will allow users to query for and retrieve information such as the names and locations of the courts that convicted political and religious prisoners, and the dates of key events in the legal process such as sentencing and decision upon appeal. The users will be able to download PPD information as Microsoft Excel or Adobe PDF files more easily—whether for a single prisoner record, a group of records that satisfies a user's query, or all of the records available in the database. [See image, "CECC PPD: Sample Appearance of a Record Summary Page After Forthcoming Upgrade," below.]

Many records contain a short summary of the case that includes basic details about the political or religious imprisonment and the legal process leading to imprisonment. The upgrade will increase the length of the short summary about a prisoner and enable the PPD to provide Web links in a short summary that can open reports, articles, and texts of laws that are available on the Commission's Web site or on other Web sites. Web links in Commission reports and articles will be able to open a prisoner's PPD record.

Powerful Queries Provide Useful Responses

Each prisoner's record describes the type of human rights violation by Chinese authorities that led to his or her detention. These include violations of the right to peaceful assembly, freedom of religion, freedom of association, and free expression, including the freedom to advocate peaceful social or political change and to criticize government policy or government officials. Users may search for prisoners by name, using either the Latin alphabet or Chinese characters. The PPD allows users to construct queries that include one or more types of data, including personal information or information about imprisonment. [See box, "Tutorial: How to Use the Commission's Political Prisoner Database," below.]

Providing Information to Users While Respecting Their Privacy

The design of the PPD allows anyone with access to the Internet to query the database and download prisoner data without providing personal information to the Commission, and without the PPD downloading any software or Web cookies to a user's computer. Users have the option to create a user account, which allows them to save, edit, and reuse queries, but the PPD does not require a user to provide any personal information to set up such an account. The PPD does not download software or a Web cookie to a user's computer as the result of setting up such an account. Saved queries are not stored on a user's computer. A user-specified ID

(which can be a nickname) and password are the only information required to set up a user account.

CECC PPD: Sample Appearance of a Record Summary Page After Forthcoming Upgrade

Create A New Query | View Saved Queries | View/Edit User Profile | export to: Adobe PDF | Excel 2000 | Excel XP | Help | Sign Out

Search Results Detail for 'Hu Jia'

Back to Results Summary

Personal Details

No Image Available

CECC Record Number:	2004-05295	Ethnic Group	Han
Detention Status:	DET	Sex:	m
Main Name:	Hu Jia	Age at Detention:	34
Chinese Characters (Main Name):	胡佳	Religion:	
Other (or Lay) Name:	胡深	Occupation:	activist
Alternate Name(s):		Affiliation:	
Pinyin Name:	Hu Jia	Residence Province:	Beijing Shi (prov.)
		Residence Prefecture:	Beijing Shi Muni. Urb. Area (pref.)
		Residence County:	

Detention Details

Issue Category:	spch/assp/civil/info
Date of Detention:	2007/12/27
Current Prison:	Chaobai Prison (Qinghe Prison)
Legal Process:	chg/tri-open/sent-open
Sentence Length (Years):	3
Sentence Length (Month):	6
Sentence Length (Weeks):	
Sentence Length (Days):	

Legal Process

Formal Arrest Date:	2007/01/29		
Trial Court:	Beijing No. 2 Intermediate People's Court	Trial Date:	2008/03/18
Sentence Court:	Beijing No. 1 Intermediate People's Court	Sentence Date:	2008/04/03
Appeal Court:		Appeal Date:	
Appeal Ruling Court:		Appeal Ruling Date:	
Sent. Ends Per PRC:		Actual Date Released:	
Charge (Statute):			

Imprisonment Location

Province Where Imprisoned (or detained):	Tianjin Shi (prov.)
Prefecture Where Imprisoned (or detained):	Tianjin Shi Muni. Urb. Area (pref.)
County Where Imprisoned (or detained):	Hangu Dist.

Short Summary

Hu Jia is an activist who has advocated on behalf of HIV/AIDS patients, environmental issues, and other rights defenders. On December 27, 2007, Beijing public security officials detained Hu and formally arrested him on January 29, 2008. The Beijing No. 1 Intermediate People's Court tried him on March 18 and sentenced him on April 3 to three years, six months' imprisonment for "inciting subversion of state power." Officials have previously harassed Hu, including by placing him under surveillance from July 17, 2006 to February 15, 2007 for his support of legal advocate Chen Guangcheng, and holding him incommunicado for 41 days in 2006 after he participated in a hunger strike to protest government abuses. Hu is serving his sentence at Chaobai prison in Tianjin.

Back to Results Summary

Tutorial

How To Use the Commission's Political Prisoner Database (PPD)

Constructing a Query

Detailed PPD query instructions are available on the Commission's Web site at: http://www.cecc.gov/pages/victims/instructions.php

An illustrated PPD User Guide is available as a PDF download from the PPD Web site (http://ppd.cecc.gov) by clicking "Help" and then clicking "User Guide."

Step One: Select the Fields To Query

- Click "Create a New Query."
- Select the "fields" (types of information) to query from the "Available Fields" box (on the left) and use the ">" button to move those fields to the "Selected Fields to Search On" box (on the right).

Example: To search for the prisoners and detainees that the Commission knows or believes are currently imprisoned or detained, select "detention status" from the list of available fields and move it to the list of fields to search.

Step Two: Define Search Criteria

- Click "Next Step."
- For each field that a query will search, a user must specify the search criteria.

Example: Select the status designations that indicate that a prisoner is currently detained or imprisoned. To do so, select all of the following from the "Value(s)" list: DET, DET?, DET/bail, HOUSE, and HOUSE?

(Click "Help" for information about PPD fields.)

Step Three: Define the Sort Order for Query Results

- Click "Next Step."
- Users may choose not to sort query results, or to choose up to three fields by which to arrange the query results.

Example: To arrange the query results by prisoner names in alphabetical order, select "main (or religious) name" from the uppermost "sort by" list.

Or, to arrange the query results in reverse chronological order, with the most recent detentions first, select "date of detention" from the uppermost "sort by" list AND tick the "descending" box.

Step Four: Review and Save or Run the Query

- Click "Next Step."
- Users that have established a CECC PPD login can review the query, name the query, and then save and run the query.
- Users that have not established a CECC PPD login can review the query and run the query, but (at present) cannot save the query.

Example 1: Users that have established a CECC PPD login: Review the summary of Steps 1, 2, and 3. Edit any step by clicking "EDIT" for that step. If desired, type a name such as "Currently detained, imprisoned" into the "Save As" box. Then click "Save" or "Save and Run."

Example 2: Users without a CECC PPD login: Review the summary of Steps 1, 2, and 3. Edit any step by clicking "EDIT" for that step. Then click "Run."

II. Human Rights

RIGHTS OF CRIMINAL SUSPECTS AND DEFENDANTS

INTRODUCTION

The Tibetan protests, the Sichuan earthquake, the unrest in the Xinjiang Uyghur Autonomous Region (XUAR), and a spate of bombings and "mass incidents" across China in 2008 threatened to derail the Chinese leaders' desire for a successful 2008 Beijing Summer Olympic Games. As a result, suppressing dissent and maintaining stability took on an even greater than usual importance in the run-up to the Olympics. Abuse of police power was used to this end, and the rights of criminal suspects and defendants, as well as ordinary citizens, were violated. For example, in the aftermath of the March 14 protests in the Tibetan areas of China, Tibetans were subjected to arbitrary detention and torture, and denied access to counsel; in Sichuan, grieving parents seeking justice for their children who were buried under collapsed schools were arbitrarily detained and beaten by police.[1] In the XUAR, police reportedly detained all non-resident Uyghurs in the city of Korla in mid-August, who were told that they would be confined through the Olympics.[2] In order to maintain the appearance of a "harmonious" Olympics, Beijing Public Security Bureau officers and domestic security protection officers (*guobao*) put numerous human rights activists, lawyers, and intellectuals under illegal house arrest or forced them to leave Beijing for the duration of the Olympics.[3] Moreover, Beijing law enforcement officials arbitrarily detained or sentenced to reeducation through labor (RTL) several citizens who applied to hold peaceful protests in the "protest" parks.[4]

Despite the heightened use of coercive state power and the deteriorating human rights situation in China during the past year, there were several developments with respect to the rights of criminal suspects and defendants in China during 2008. First, since January 1, 2007, when the Supreme People's Court resumed its review of death penalty cases to prevent miscarriages of justice and reduce the number of executions in China, the Chinese government reported a 30 percent decrease in the number of death sentences.[5] Second, the revised Lawyers' Law, which contains provisions aimed at combating some of the difficulties criminal defense lawyers face in representing their clients, took effect on June 1, 2008.[6] It remains to be seen how the revised Lawyers' Law will be implemented, particularly given that several of its provisions conflict with the Criminal Procedure Law.

ABUSE OF POLICE POWER

Suppression of Dissent

The Chinese leadership's desire to ensure a "harmonious" and dissent-free Olympics led to numerous incidents of persecution, illegal detention, and harassment of peaceful activists and petitioners by public security and *guobao* officers. As security in Beijing intensified in the lead-up to the Olympics, prominent Beijing-based public intellectual and activist Liu Xiaobo told Agence France-Presse

that the security crackdown was "partly to prevent terrorism but even more of the public security power is being used to silence political dissent and keep domestic discontent away from the Games."[7] For example, in July, Beijing-based Pastor Zhang Mingxuan, president of the Chinese House Church Alliance, and his wife were arbitrarily forced to leave Beijing because, as Zhang reported, public security officers did not want him to meet with foreigners during the Olympics.[8] Public security officers also forced blogger and activist Zeng Jinyan, the wife of imprisoned human rights activist Hu Jia, to leave Beijing with their child on August 7, the day before the start of the Olympics.[9] Such arbitrary restrictions on personal liberty violate Article 9 of the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR), as well as China's own laws.[10]

Public Protests

As the Commission reported last year, the abuse of police power by local government and Party officials to quell public protests and "mass incidents" is a growing problem in China.[11] Numerous clashes between public security officers and civilians during the spring and summer of 2008 prompted the central government to issue new rules that hold local officials responsible for mishandling grievances and for arbitrary use of police power in dealing with complaints and protests.[12] According to the new rules, officials "who violate laws and regulations in using police force to handle mass incidents" will face punishment.[13] The largest protest-turned-riot, involving at least 10,000 people—some reports had 30,000[14]—occurred in Weng'an, Guizhou province, in late June, and was triggered by a perceived police coverup of an alleged rape and murder of a teenage student.[15] Top local state and Party officials were dismissed for "severe malfeasance," including abuse of police power, in dealing with citizens' underlying grievances that were the root cause of the unrest.[16] In mid-July, police and rubber farmers clashed in Menglian county, Yunnan province, regarding a conflict of economic interests between the farmers and the management of the Menglian rubber company.[17] Top Yunnan officials held local cadres responsible for the protest-turned-riot, which left two farmers dead and more than 50 public security officers and farmers injured, citing poor governance and failure to properly manage the business dispute.[18] The Party official responsible for law enforcement in the area was sacked and other officials were disciplined.[19]

ARBITRARY DETENTION

The UN Working Group on Arbitrary Detention (UNWGAD) defines the deprivation of personal liberty to be "arbitrary" if it meets one of the following criteria: (1) there is clearly no legal basis for the deprivation of liberty; (2) an individual is deprived of his liberty for having exercised rights guaranteed under the Universal Declaration of Human Rights (UDHR) and the International Covenant on Civil and Political Rights (ICCPR); (3) there is grave non-compliance with fair trial standards set forth in the UDHR and other international human rights instruments.[20]

Arbitrary detention, a widespread problem in China, takes several forms, including extralegal detention such as "soft detention" (*ruanjin*)—commonly referred to as "house arrest"[21]—which is most frequently used against petitioners and activists and occurs entirely outside the legal system; detention and imprisonment for the peaceful expression of civil and political rights; and administrative detention for which criminal procedure protections are not available. The Chinese authorities continue combating another form of arbitrary detention the Commission has reported on in previous years, illegal extended detention. Illegal extended detention occurs when suspects and defendants are detained beyond the maximum time periods for detention at a given stage in the criminal process set forth in China's Criminal Procedure Law (CPL). The Supreme People's Procuratorate work report submitted to the National People's Congress in March noted that in 2003 there were 24,921 cases of illegal extended detention and only 85 such cases in 2007.[22]

Extralegal Detention

In contravention of Chinese law and the prohibitions against arbitrary detention contained in the UDHR and the ICCPR, Chinese authorities subjected Chinese citizens to at least three forms of extralegal detention during the past year: (1) arbitrary house arrest and control, (2) detention in "black jails," and (3) *shuanggui* (often translated as "double regulation" or "double designation"), a form of detention used on Party members.[23]

ARBITRARY HOUSE ARREST AND CONTROL

Many rights defense (*weiquan*) activists, lawyers, and their spouses were subjected to arbitrary house arrest, or "soft detention" (*ruanjin,*) during the past year.[24] Extralegal house arrest is frequently accompanied by tight surveillance and monitoring by public security or *guobao* officers, or hired "guards."[25] House arrest was applied unevenly during the past year; in some cases it meant total confinement in one's home and in other cases the "controlled person" could leave his or her home to run errands or go to work, but was strictly surveilled.[26] Hu Jia's wife, blogger and activist Zeng Jinyan, has been under constant surveillance since Hu Jia's detention on December 27, 2007.[27] Yuan Weijing, wife of imprisoned legal advocate and rights defender Chen Guangcheng, along with the couple's young daughter, has been subjected to extralegal house arrest for three years. In early July, she reported that there were more people monitoring her than usual—about 40 people divided into two shifts.[28] Public security officers and private "guards," aided by surveillance cameras, continue to monitor Shanghai-based rights lawyer Zheng Enchong around the clock.[29] In early July, Zheng was reportedly placed under total home confinement and not permitted to leave his apartment.[30]

BLACK JAILS

"Black jails" are illegal detention centers primarily used to hold petitioners who have gone to Beijing to exercise their right under Chinese law to petition against injustices committed by local officials. These secret jails exist entirely outside the legal system.[31]

Detainees in black jails are deprived of their right to be free from arbitrary deprivation of personal liberty guaranteed under China's Constitution, the UDHR, and the ICCPR.[32]

Black jails in Beijing are run by the Beijing liaison offices of local governments. Petitioners are held illegally for days or even months, without adequate food and healthcare, and are frequently beaten by hired "guards."[33] According to the non-governmental organization Chinese Human Rights Defenders, these black jails operate "under the eyes of the Beijing police and often with their cooperation."[34] The petitioners are detained until they are "escorted" back to their hometowns. Local officials in turn have sent many of the forcibly returned petitioners to local black jails.[35] Amnesty International reports that the roundups and detention of petitioners in Beijing is reminiscent of the "custody and repatriation" system—"the abolition of which in 2003 was presented by the authorities as a major human rights improvement."[36]

Shuanggui—Extralegal Detention of Party Members

"*Shuanggui*" (often translated as "double regulation" or "double designation"), refers to the process of summoning a target of investigation to appear at a designated place at a designated time.[37] It is a form of extralegal detention used for investigating Communist Party members.[38] *Shuanggui* was introduced in 1994 and is used by Communist Party commissions for discipline inspection primarily against officials suspected of corruption.[39] *Shuanggui* not only contravenes the right to be free from arbitrary detention guaranteed by the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, but also violates Chinese law.[40] Restrictions on personal liberty can only be authorized pursuant to legislation passed by the National People's Congress or its Standing Committee, but *shuanggui* is supported only by Party documents.[41] *Shuanggui* targets are generally held incommunicado and the protections for criminal suspects contained in the Criminal Procedure Law do not apply.[42]

With *shuanggui*, the Party is able to control corruption investigations. The Party can decide which cases and what evidence gets transferred to the procuratorate, and which cases are handled internally as a matter of Party discipline.[43] As Flora Sapio, a Chinese criminal law and procedure expert, observed: "Were the party to relinquish its dominance over the policing of corrupt officials, it would lose an important component of its legitimacy. By dictating who should be punished and who should not, the Party can avoid the shame that would be caused by a thorough investigation on corruption."[44]

***Shuanggui*—Extralegal Detention of Party Members—Continued**

Several high-ranking officials were subjected to *shuanggui* during 2008. Wang Yi, a former top official at the China Development Bank and former vice-chairman of the China Securities Regulatory Commission, China's stock regulator, was detained by Party discipline inspection officials on corruption charges.[45] A high-ranking official at the Ministry of Commerce, Guo Jingyi, was placed under *shuanggui* for suspected bribery.[46] In October 2008, Huang Songyou, a vice president of the Supreme People's Court, was detained by Party officials in connection with a corruption scandal.[47] In April, Zeng Jinchun, a former top-ranking Party secretary for the discipline inspection commission in Chenzhou, Hunan province, was put on trial for corruption. His case highlighted another problematic aspect of the *shuanggui* system—the virtually unchecked power of high-ranking discipline inspection officials. According to Caijing Magazine, Zeng had used *shuanggui* as a "potent weapon . . . to make money, maintain control, and silenc[e] opponents."[48]

Political Crimes

During the past year, the Chinese government continued to harass, detain, and imprison citizens for the peaceful exercise of fundamental rights guaranteed under the Chinese Constitution, the Universal Declaration of Human Rights, and the International Covenant on Civil and Political Rights. For example, on April 3, human rights defender Hu Jia was convicted of "inciting subversion of state power" and sentenced to three years and six months' imprisonment for expressing dissenting views in essays posted on the Internet and in interviews with foreign media.[49] [See Section II—Freedom of Expression.] The number of arrests for crimes of "endangering state security," which replaced "counterrevolutionary" crimes in the 1997 Criminal Law, continues to rise.[50] Research based on official Chinese statistics conducted by the Dui Hua Foundation found that arrests for "endangering state security" crimes doubled in 2006 over 2005, and that in 2007 the number of such arrests—742—was the highest since 1999.[51]

The Chinese government continues to hold in prison individuals who were sentenced for crimes of "counterrevolution" that were removed from the Criminal Law in 1997 and for charges relating to the 1989 democracy protests. John Kamm of the Dui Hua Foundation estimates that more than 150 "counterrevolutionaries" remain in prison in China.[52] As of 2004, at least 130 people were still serving sentences related to the 1989 democracy protests, according to Human Rights Watch.[53] Hu Shigen, who served 16 years in prison for "counterrevolutionary" crimes relating to his role in establishing the China Freedom and Democracy Party and an independent labor union, was released in August.[54]

Reeducation Through Labor

The reeducation through labor (RTL) system operates outside of the judicial system and the Criminal Procedure Law (CPL); it is an administrative measure that enables Chinese law enforcement offi-

cials to detain Chinese citizens for up to four years.[55] As Professor Jerome Cohen explained recently, RTL enables the police to "punish anyone for virtually anything," without the accused having the benefit of "the modest protections" of the CPL.[56] According to Chinese government statistics, more than 500,000 individuals were serving sentences in 310 RTL centers in 2005.[57] The list of offenses punishable by RTL is vaguely defined, and RTL is frequently used against petitioners, activists, house church leaders, Falun Gong adherents, and others deemed to be "troublemakers."[58] The Chinese authorities used RTL during this past year to punish and silence dissent. For example, Chinese officials in Heilongjiang sentenced Liu Jie, a petitioners' rights activist, to 18 months of RTL in November 2007 after she released a public letter signed by 12,150 petitioners to the 17th Party Congress calling for political and legal reforms.[59] Tianjin-based activist Zheng Mingfang was reportedly sentenced to two years of RTL in April 2008 for collecting signatures for a petition calling for the release of Hu Jia.[60] In June 2008, officials in Sichuan detained and later sentenced Liu Shaokun, a middle school teacher, to one year of reeducation through labor after he posted photos of collapsed schools online and criticized their construction in a media interview.[61]

RTL has long been criticized by the international community as contravening rights set forth in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights as well as China's own laws.[62] Activists and scholars within China continue to call for the abolition of RTL. In November 2007, 69 renowned lawyers, legal scholars, and public intellectuals submitted a proposal to the National People's Congress Standing Committee (NPCSC) requesting that it conduct a constitutional review of the RTL system.[63] In July 2008, over 15,000 Chinese citizens, led by numerous legal scholars and lawyers, signed a petition to abolish RTL and circulated a citizens' draft proposal (*gongmin jianyigao*) of a "Law on the Correction of Unlawful Acts" (*weifa xingwei jiaozhi fa*) to replace RTL.[64]

TORTURE AND ABUSE IN CUSTODY

Torture is illegal in China, and although China's leaders have made some efforts to curb the use of torture by law enforcement officials, reports of widespread torture and abuse continue.[65] Manfred Nowak, the UN Special Rapporteur on Torture, noted in 2006 that China lacked necessary procedural safeguards to make the prohibition on torture effective: these include, among others, the presumption of innocence, the right to remain silent, the right of habeas corpus, and timely access to counsel.[66] During this past year, human rights lawyers and activists, Falun Gong adherents, and Tibetans detained in the wake of the March protests were among those subjected to torture and abuse in custody.[67] The Uyghur Human Rights Project, a U.S.-based non-governmental organization, reported that torture and forced confessions of Uyghurs at the hands of law enforcement officials is commonplace.[68] Legal activist and writer Yang Maodong (also known as Guo Feixiong),[69] has reportedly been subjected repeatedly to shocks from electric batons, and according to Yang's wife, has five or six scars on his body that she called "traces of torture."[70] In late September 2007, after

sending a detailed letter to the U.S. Congress about the "human rights disaster" in China while serving a three-year sentence for "inciting subversion" at his home under residential surveillance, rights lawyer Gao Zhisheng disappeared.[71] During his two-month disappearance, he was reportedly struck repeatedly with electric batons.[72] According to the Falun Dafa Information Center, since the beginning of 2008 at least nine Falun Gong adherents in Beijing have died in police custody.[73] In April, Falun Gong adherent and popular Beijing-based folk singer Yu Zhou died in police custody within two weeks of being detained on his way home from a concert.[74] [See Section II—Freedom of Religion—Falun Gong.] There have been reports of torture of Tibetan detainees in the aftermath of the March protests in the Tibetan areas of China. TibetInfoNet reported, for example, that four Labrang Tashikhyil Monastery monks were beaten so badly in detention that they were unable to walk unaided.[75] Deaths resulting from torture during interrogations have also been reported.[76]

ACCESS TO COUNSEL AND THE RIGHT TO PRESENT A DEFENSE

Most Chinese defendants confront the criminal process and trial without the assistance of an attorney, despite the right to legal assistance provided under Article 14(3)(d) of the International Covenant on Civil and Political Rights.[77] The public security bureaus and procuratorates must notify criminal defendants of their right to apply for legal aid, and lawyers are required to do some pro bono work each year, but because of the intimidation lawyers routinely face in handling criminal cases, many lawyers shy away from taking them.[78] An estimated 70 percent of criminal cases proceed without a defense lawyer's involvement.[79] When lawyers do defend criminal cases, they face substantial obstacles in preparing a defense.[80] The "three difficulties" that the Commission reported on last year—gaining access to detained clients, reviewing the prosecutors' case files, and collecting evidence—are endemic and undermine lawyers' ability to effectively defend their clients.[81] Article 306 of the Criminal Law, the lawyer-perjury statute, makes defense lawyers vulnerable to prosecution for falsifying or tampering with evidence.[82] If a defendant recants an earlier statement, for example, the lawyer may be detained for suborning perjury.[83] Prosecutors have used Article 306 to threaten and intimidate defense lawyers, particularly in sensitive cases.[84] According to Human Rights Watch, lawyers "may decide to defend clients less forcefully than they otherwise would for fear of displeasing the prosecution."[85]

An important development for criminal suspects and defendants and defense lawyers during this past year was the implementation of the revised Lawyers' Law on June 1, which contains several provisions that address the "three difficulties."[86] Most significantly, the revised Lawyers' Law provides that lawyers have an unequivocal right (*you quan*) to meet with detained suspects and defendants.[87] However, this and several other revisions to the Lawyers' Law are inconsistent with the Criminal Procedure Law.[88] There has been much commentary in the Chinese media and on law-related Web sites regarding the conflicts between the two laws, and concern that the revised Lawyers' Law will not be implemented ef-

fectively.[89] Indeed, there were reports after the revised Lawyers' Law took effect of defense lawyers nonetheless being denied access to their clients.[90] In mid-August, the Standing Committee of the National People's Congress (NPCSC), which is authorized to interpret laws, weighed in. In a reply (*dafu*) to a request by a member of the Chinese People's Political Consultative Conference that the NPC unify the content of the two laws, the NPCSC stated that the more recent law (i.e., the Lawyers' Law) takes precedence over the earlier law, and thus the revised Lawyers' Law should be followed if there are conflicts with the CPL.[91]

FAIRNESS OF CRIMINAL TRIALS

Extremely high conviction rates in criminal cases are due in part to the lack of fairness of criminal trials, and the "three difficulties" that hinder criminal defense lawyers' ability to defend their clients, discussed above.[92] Public security officers often deny suspects and defendants access to counsel and use lengthy pre-trial detention to extract confessions under duress or torture.[93] They also use detention and intimidation to obtain statements from "witnesses."[94]

There is a strong presumption of guilt in criminal cases, and a guilty verdict is a virtual certainty in politically sensitive cases.[95] The procedural rights of political dissidents and other targeted groups, such as Falun Gong adherents, house church pastors, and ethnic minority activists, are frequently violated.[96] Hu Jia was subjected to torture and to almost daily interrogations lasting from 6 to 14 hours at a time during his first month of detention.[97] Public security officers used "abduction, detention, and threats" to coerce Hu's friends to become "witnesses."[98] As is the case in the overwhelming majority of trials in China, no witnesses appeared in court during Hu's trial, so the defense attorneys had no opportunity to cross-examine them about their statements.[99]

The little that is known about the trials of 30 Tibetans in Lhasa city in April suggests that they were not fair. Human Rights Watch reported that in mid-March, the Tibet Autonomous Region Communist Party secretary urged that there be "quick arrests, quick hearings, and quick sentencings" of those involved in the protests.[100] Xinhua reported on April 29 that the sentences, ranging from three years to life imprisonment, were pronounced publicly.[101] According to Human Rights Watch, the actual trials were conducted in secret earlier in April.[102] Chinese Human Rights Defenders stated that most of the defendants were reportedly tortured and forced to confess, and that the families of the defendants reportedly were too afraid to contact the rights defense lawyers from Beijing and elsewhere who had offered to assist.[103]

CAPITAL PUNISHMENT

The Commission reported last year about the initial results of the Supreme People's Court (SPC) reassertion of its legal authority to review all death penalty cases in order to limit the use of the death penalty to only the most serious criminal cases and to prevent miscarriages of justice.[104] During 2007, the first year in which the SPC review of death penalty sentences was restored, 30 percent fewer death sentences were meted out, compared with the number of death sentences in 2006.[105] The SPC overturned 15 percent of

all death sentences handed down by lower courts in 2007 and the first half of 2008.[106] Gao Jinghong, presiding judge of the SPC's Third Criminal Law Court, stated that the majority of the death sentences that were overturned in 2008 were due to insufficient evidence or because the death sentence was inappropriate.[107]

Outgoing SPC President Xiao Yang reported at the National People's Congress session in March: "The SPC has been working to ensure that the capital punishment only applies to the very few number of felons who committed extremely serious, atrocious crimes that lead to grave social consequences."[108] As a result of the SPC reasserting its review authority, lower courts have reportedly become more cautious in handing out death sentences.[109] Moreover, the SPC stated that 2007 was the first year that the number of death sentences with a two-year suspension (i.e., if no crime is committed during the first two years of imprisonment, the death sentence is reduced to life imprisonment) exceeded the number of death sentences to be carried out immediately.[110]

China's Criminal Law includes 68 capital offenses, many of which are for non-violent crimes such as drug trafficking, official corruption, and leaking state secrets abroad.[111] The government does not publish official statistics on the number of executions, and this figure remains a state secret.[112] Amnesty International reported in April that of the countries that have capital punishment, China was the leader with at least 470 executions, but indicated that this figure serves as "an absolute minimum" because the number was based on public reports.[113] The Dui Hua Foundation estimates that 5,000 people were executed in 2007.[114]

Wang Shengjun, the new president of the SPC, created a controversy during his first few months in office when he stated that one of the factors that should be weighed in deciding whether a convicted defendant should be sentenced to death is popular will.[115] His statement does not appear to have affected the progress of the death penalty procedural reforms.

WORKER RIGHTS

INTRODUCTION

Workers in China still are not guaranteed either in law or in practice full worker rights in accordance with international standards. China's laws, regulations, and governing practices continue to deny workers fundamental rights, including, but not limited to, the right to organize into independent unions.[1]

Labor disputes and protests became increasingly intense and well-organized across China during 2008. Management's failure to pay wage arrears, overtime, severance pay, or social security contributions, were the most common causes. Social and economic changes, weak legislative frameworks, and ineffective or selective enforcement continue to engender abuses ranging from forced labor and child labor, to violations of health and safety standards, wage arrearages, and loss of job benefits. Residency restrictions continue to present hardships for workers who migrate for jobs in urban areas. Tight controls over civil society organizations hinder the ability of citizen groups to champion for worker rights.

Significant obstacles—and risks—exist for workers in China who attempt to protect their rights.[2] Workers who try to establish independent associations or organize demonstrations continue to risk arrest and imprisonment.[3] Labor rights activist Hu Shigen (Hu Shenglun), was released from Beijing No. 2 prison on August 26, 2008, having served most of a 20-year sentence he received in 1994 for "organizing and leading a counterrevolutionary group" and "engaging in counterrevolutionary propaganda and incitement" after he helped to establish the China Freedom and Democracy Party and the China Free Trade Union Preparatory Committee.[4] As detailed in the Commission's Political Prisoner Database, other independent labor organizers continue to serve long jail terms.

Several high profile incidents during 2008 underscored the inhumane conditions and weak protections under which many Chinese continue to work. The discovery in Dongguan of yet another extensive forced labor network, less than a year after the discovery in 2007 of a massive network in Shanxi province, showed the difficulties even China's paramount leaders face in enforcing the most basic protections for workers against China's powerfully embedded labor trafficking networks.[5] As detailed below [see box titled Forced Labor], it also revealed local officials' stunning defiance of Premier Wen's and President Hu's instructions last year to eradicate forced labor networks. Article 244 of the PRC Criminal Law makes forced labor a crime.[6] Events in 2008 showed the deterrent value of this provision to be woefully inadequate. Some Chinese companies, including firms who manufactured products for the 2008 Beijing Summer Olympic Games, reportedly relied on subcontractors who employed children aged 12 to 13 years.[7]

China's legislative and regulatory landscape for worker rights changed during 2008, as three major national labor-related laws outlining a number of legal protections for workers took effect. The new PRC Labor Contract Law and new PRC Employment Promotion Law took effect on January 1, 2008, and the new PRC Labor Dispute Mediation and Arbitration Law took effect on May 1, 2008.[8]

Some prominent labor advocates suggest that, with the new Labor Contract Law now in effect, China's new legislative framework "is more than sufficient for the development of collective bargaining in China."[9] The biggest obstacle, they claim, "is not the lack of legislation, but the inability of the official trade union to act as a proper representative trade union."[10] The law entrenches the role of the All-China Federation of Trade Unions (ACFTU) in contract negotiations.[11] But the Labor Contract Law does not include provisions to guarantee equal bargaining power between workers and employers. The ACFTU is China's only legal trade union, and it is required by the Trade Union Law to "uphold the leadership of the Communist Party."[12] The vast majority of "trade unions" in enterprises effectively remain under the de facto control of management.[13]

At the same time, some experts caution against dismissing enterprise trade unions set up by the ACFTU as hollow shells. A study by Anita Chan, an expert on Chinese labor issues at the Australian National University, found "workers who take an active interest in their store union, and at least in one case, an elected rank and file trade union chair using the trade union platform to actively defend workers' interests."[14]

> When given the space to struggle against management through existing legal and institutional structures, if competent and committed leadership emerges, [Chinese workers] are willing to rally around it.[15]

At the same time, companies, schools, and other employers—including some government offices—began taking action to evade the Labor Contract Law's provisions even before the law took effect on January 1, 2008, and afterwards.[16] Only in some isolated cases have local courts been effective in invalidating corporate policies and procedures found to contravene the new laws in ways that infringe on worker rights.[17] Model contracts produced by local governments, and purportedly designed to comply with the new legislative framework, have been found by researchers and labor advocates to contain both restrictions on industrial action and provisions that contradict newly legislated protections for workers.[18] The new legislative framework's imprecision limits some provisions that are potentially beneficial to workers. The Implementing Regulations for the PRC Labor Contract Law, which were issued and became effective on September 18, 2008, may address only some of these problems.[19]

Inflation, shortages of skilled labor in particular locales,[20] yuan appreciation, rising taxes, increasingly stringent environmental regulations, rising materials costs, and sunsetting government subsidies were among the many factors besides the new labor legislation that appeared to play significant roles in raising operating costs that, in turn, have prompted some foreign businesses to reevaluate operations in China during 2008.[21] New labor legislation makes ongoing non-compliance with requirements governing benefits, wages, and working conditions more costly. For employers with longstanding non-compliant practices, moving from general non-compliance to general compliance may prove to be an expensive proposition. But employers who have been generally compliant are not expected to experience dramatic cost increases as a result of

the new legislative framework.[22] According to the Hong Kong-based IHLO,[23] one result of the new legislative framework, if implemented,

> will not necessarily be the automatic improvement of workers rights and living conditions but perhaps the shift in industrial relations to a situation where employers no longer routinely flout the laws—as is common now—but instead seek to legally circumvent the new law. Thus we will see rising numbers of companies employing part time workers with working hours just under the amount needed for them to be covered by the new law, or employers ensuring the bare minimum are contained in the new contracts—even if all workers get a copy.[24]

Following the opening of trade union branches in many Wal-Mart stores in China in 2006,[25] Wal-Mart's Shenyang store signed a collective contract with the local trade union in July 2008.[26] (Shenyang city issued Regulations on Collective Contracts in August 2007.[27]) Wal-Mart's collective contract sets employees' wages above the legal minimum, guarantees two years of annual pay increases, and provides for overtime, paid vacations, and social security contributions.[28] Shortly after concluding the Shenyang collective contract, Wal-Mart concluded collective contracts in several other of its stores in China, and indicated its intention to conclude collective labor contracts at all of its stores in China during 2008.[29] ACFTU officials reportedly have stated that 80 percent of the top 500 global corporations operating in China would have unions by the end of September 2008.[30] In July 2008, Nike, Adidas, Speedo, and Umbro among others formed a working group in cooperation with NGOs and trade unions to promote trade unionism and collective bargaining in China.[31] In a posting dated July 2008, the Web site of the All-China Federation of Trade Unions acknowledged collective bargaining as an internationally recognized norm for labor contracting.[32]

NATIONAL LEVEL LEGISLATIVE DEVELOPMENTS

Labor Contract Law

The PRC's new Labor Contract Law took effect on January 1, 2008.[33] In addition to soliciting public comments on multiple draft versions of the law, the Ministry of Labor and Social Security also sought technical assistance from U.S. experts in drafting the law. In 2005 and 2006, a U.S. Department of Labor-funded technical cooperation project sponsored a series of workshops and a study tour for Chinese officials who requested to be briefed on U.S. best practices in employment relationships, termination of contracts, part-time employment, regulation of labor recruitment, U.S. Wage and Hour regulations, the means of protecting worker rights, the means of enhancing compliance, and training for investigations.[34]

The Labor Contract Law governs the contractual relationship between workers and employers from enterprises, individual economic organizations, and private non-enterprise units.[35] The law expands requirements in the PRC's 1994 Labor Law that mandate the signing of labor contracts.[36] It requires workers and employers to establish a written contract in order to begin a labor relation[37]

and creates the presumption of an open-ended contract if the parties have not concluded a written contract within one year from the start of employment.[38] The law also includes provisions that allow certain workers with existing fixed-term contracts to transition to open-ended employment.[39]

The law mandates that contracts specify matters including working hours, compensation, social insurance, and protections against occupational hazards. In addition, the employer and worker may add contractual provisions for probationary periods, training, supplementary benefits, and insurance.[40] The basic provisions on establishing contracts accompany a series of other stipulations within the law that attempt to regularize the status of workers employed through staffing agencies; strengthen protections in the event of job dismissals; and establish a framework for penalizing non-compliance with the law.[41]

Labor Dispute Mediation and Arbitration Law

The PRC's new Labor Dispute Mediation and Arbitration Law took effect on May 1, 2008. During the drafting process, a vice-chair of the Legislative Affairs Commission of the Standing Committee of the National People's Congress described the purpose of the law as "strengthening mediation and improving arbitration so as to help fairly solve labor disputes *without going to court* and thus safeguard employee's legitimate rights and promote social harmony" [emphasis added].[42] As compared with the system of handling labor disputes provided for in the 1993 Regulations on the Handling of Labor Disputes in Enterprises and the 1994 Labor Law, the new law appears to expand the range of cases covered by the legal system.[43] Compared with the previous system, the framework set forth under the new law expands channels available for mediation,[44] makes arbitration committee rulings in routine cases legally binding,[45] modifies the burden of production in favor of employees,[46] revises choice of venue provisions in favor of employees by prioritizing the location where a labor contract is performed over the employer's location as the venue for dispute resolution,[47] abolishes the arbitration application fee,[48] and extends the time limit for filing an arbitration case from 60 days to one year from the date of the alleged infringement while shortening the period of arbitration.[49] When an arbitration committee does not take a case, complaining parties retain the right to file a civil suit.[50] Arbitration committees have found themselves suddenly short-staffed in the wake of a significant spike in the number of labor dispute cases filed following implementation of this law and the Labor Contract Law.[51]

Employment Promotion Law

In August 2007, the Standing Committee of the National People's Congress adopted an Employment Promotion Law, effective January 1, 2008, that stipulates measures relating to the promotion of employment growth and equal access to employment.[52] In addition to containing provisions aimed at prohibiting discrimination based on factors including ethnicity, race, sex, and religious belief,[53] the law addresses the equal right to work for women and ethnic mi-

norities;[54] specifies disabled people's right to work;[55] stipulates that rural workers' access to work should "be equal to" urban workers;[56] and forbids employers from refusing to hire carriers of infectious diseases.[57] The law also allows workers to initiate lawsuits in the event of discrimination.[58] [See Section II—Status of Women for more information.]

Some aspects of the law are potentially problematic. One article provides that "the state encourages workers to develop correct job selection concepts."[59] Another provision carves out a role for Communist Party-controlled organizations like the Communist Youth League to aid in implementation of the law,[60] which may dampen the role of civil society groups that promote implementation in ways that challenge Party policy. Potentially beneficial safeguards also face barriers due to a lack of clearly defined terms. A provision to promote the employment of workers with "employment hardship," for example, defines this category of workers in general terms but leaves precise details to local authorities, introducing the possibility of uneven protections that reduce the law's overall impact.[61] In addition, the law specifies the establishment of an unemployment insurance system, but provides no extensive details on implementation.[62]

The Employment Promotion Law's anti-discrimination provisions received particular attention during 2008. Under the law, "employers can not refuse employment to prospective employees because they have or carry a communicable disease."[63] On January 3—just two days after the law took effect—a court in Dongguan, Guangdong province, announced a court-mediated settlement in the first Hepatitis B Virus (HBV) discrimination case heard in the province. Under the settlement, the Hong Kong-owned Vtech corporation was ordered to pay 24,000 yuan (US$3,494) to a job applicant it had refused to hire on the grounds that he carried HBV.[64] It is worth noting that the plaintiff reportedly sought help during this process from an online HBV support group.[65] Such civil society organizations are playing an increasingly important role in China today, even as official crackdown places many of them, their founders, personnel, and clients at risk of harassment, arrest, detention, or imprisonment. [See Section II—Public Health and Section III—Civil Society.]

On April 2, 2008, another court-mediated civil suit resulted in compensation awarded to an individual in Shanghai whose employment offer was rescinded due to his HBV status.[66] The Shanghai Public Health Bureau reportedly eliminated routine HBV testing for prospective employees the same day.[67] On June 18, 2008, a labor dispute arbitration committee (LDAC) ruled on China's first employment discrimination case involving mental depression.[68] The case involved an employee dismissed from IBM's Shanghai subsidiary, and resulted in a monetary award and reinstatement of employment. The Pudong LDAC ruled according to provisions of the Labor Contract Law and Employment Promotion Law.

LOCAL-LEVEL LEGISLATIVE AND REGULATORY DEVELOPMENTS

A number of localities in China announced initiatives in the areas of collective contracting, labor dispute settlement, and oversight of the business sector during 2008. Guangdong province,

Hebei province, Shenzhen city, and Hangzhou city provide representative examples.[69]

Guangdong

As the rest of the country waited for the State Council to release for public comment its much debated Draft Implementing Regulations for the Labor Contract Law, the Guangdong provincial High People's Court and Labor Dispute Arbitration Commission on June 23, 2008, jointly issued a Guiding Opinion on Implementing the Labor Dispute Mediation and Arbitration Law and Labor Contract Law.[70] The Guiding Opinion includes provisions aimed at unifying judicial and arbitral standards and fostering joint judicial and arbitral announcements in order to reduce inconsistencies between arbitration panels and courts, thereby allowing lawyers and litigants to better anticipate both timing and substance of rulings, thereby increasing the likelihood of informal settlement and reduced litigation and arbitration caseloads,[71] which spiked in Guangdong during 2008.[72] A number of scholars and practitioners have challenged the legal authority of the Guangdong Guiding Opinion to clarify national law. Guangzhou authorities concede that the Guiding Opinion is for "reference" only.[73]

Hebei

China's first provincial-level legislation on collective consultations, Hebei province's Regulations on Enterprise Collective Consultations between Labor and Management took effect on January 1, 2008.[74] The Hebei Regulations stipulate that negotiations between labor and management "should be open and equal, seek consensus, and assign equal weight to the interests of the enterprise and the workers."[75] The Regulations provide for democratic election of workers' representatives in the absence of a union, but, in the presence of a union, workers' representatives are to be recommended by the union, and reviewed by the workers' congress.[76] Provisions stipulate representation in equal numbers for labor and management during negotiations, and a limit on the number of outside parties.[77]

The Regulations address methods and times of wage payment, subsidies and allowances, holidays, sick leave and maternity leave, and length and conditions of renewal of the collective labor contract. The Regulations specify that wages under the collective contract must be at least the local minimum wage, and that wages under individual workers' contracts must be at least that specified in the collective contract. While the Regulations specify that negotiations should be "legal open and on equal terms,"[78] they do not legally require the All China Federation of Trade Unions (ACFTU) to negotiate collectively.[79]

Shenzhen

Shenzhen city issued Implementing Regulations for the Trade Union Law in July 2008. Instead of "collective consultations," the term used in most labor legislation across China,[80] the Shenzhen Regulations use the term "collective bargaining."[81] The Regulations emphasize the role of the trade union in representing workers

in negotiations with management.[82] In a move that could lessen trade union dependence on enterprises, the Regulations require the municipal branch of the trade union to provide local trade union officials with a monthly subsidy.[83] Other provisions in the Shenzhen Regulations place collective bargaining at the center of trade union responsibilities.[84] The "supervision" of grassroots unions by higher level unions remains, however, and mechanisms whereby lower level officials can hold higher level union officials to account are lacking.[85]

Shenzhen also issued a new Regulation on the Promotion of Harmonious Labor Relations, due to take effect in November 2008.[86] Legislation from Singapore, Hong Kong, the United States, and Europe were referred to as models during drafting, and a draft regulation was produced through consultation and collaboration among city labor officials, enterprise managers, and employee representatives. Submitted for public comment on June 2, 2008, the draft was published in all major local newspapers and received nationwide attention.[87] In particular, the Shenzhen draft regulations brought into public discussion the sensitive subject of strike action, prompting one local official openly to speculate that the right to strike in China—a right not contained in China's Constitution—would be "only one step away."[88] Such optimism was reported openly in the official media, as was the characterization of the All-China Federation of Trade Unions' inability to organize workers as "an embarrassing joke."[89]

The Regulation addresses the mediation of labor disputes[90] and includes a chapter on collective consultation.[91] For strikes or stoppages that interrupt the provision of essential public services, place public safety or the economy at risk, the Shenzhen Regulation provides for "return-to-work orders."[92] Under this provision, local government officials may order a 30-day "cooling off" period during which the strike or stoppage is suspended and work resumes with both sides—management and labor—ordered to exercise restraint with respect to any behavior that could aggravate the—ongoing—dispute. At the same time, labor bureaus, trade unions, and management are required to work toward formal resolution of the dispute. Because the draft includes no provisions to limit the government's use of "return-to-work orders," it leaves open the possibility that the orders may be abused by labor officials to suppress strikes and other worker actions summarily.

The Shenzhen Regulation establishes a "labor relations credit rating system."[93] Under this provision, local labor bureaus collect information on specific worker rights violations and, within seven working days after issuing an administrative punishment decision, enter the information into a labor relations rating database. An enterprise whose information appears in the database loses or risks losing government investment and procurement benefits and opportunities. The ultimate impact of this system remains an open question because ratings ultimately are assigned by government labor bureaus and not by employees or their elected representatives.

Hangzhou

Hangzhou city has implemented an "early warning" system for wage payment violations. Under this system, as soon as authorities

determine that a company has failed to pay workers' salaries for one month or more, or that arrears total 50,000 yuan or more and involve 30 or more employees, authorities notify employees to take action to protect their rights and interests.[94] This new system is in the early stages of implementation, and data on its performance and impact as yet are unavailable.

Labor Dispute Cases Increase With New Labor Legislation

Following implementation of the Labor Contract Law and the Employment Promotion Law, both of which took effect on January 1, 2008, and the new Law on the Mediation and Arbitration of Labor Disputes, which took effect May 1, 2008, locales have reported surges in the filing of labor dispute cases.[95] A majority of cases have involved non-payment of salaries and wages in arrears.[96] While implementation of the new legislative framework contributed to the rise in labor disputes during 2008, other factors contributed as well. Yuan appreciation, inflation, and more stringent environmental protection requirements increased operating costs, prompting relocation of some factories to lower cost centers outside of China (e.g., Vietnam). In some cases where firms attempted to liquidate plant assets before settling unpaid wages, workers reportedly have been making use of litigation and arbitration to assert legal claims to plant assets, but success rates in litigation are not known at this time.

The increase in labor dispute caseload has created staffing problems that have contributed in some locales to non-compliance with legally mandated 60-day deadlines for the resolution of disputes.[97] This problem has been exacerbated by methods for setting staffing levels of local labor bureaus. Staffing levels are determined, in part, based on the official census. The official census, in turn, is based on the registered population, and typically excludes the largely unregistered migrant worker population. In many areas, the majority of workers filing labor dispute cases have been migrants, and, as a result, would not be reflected in staffing plans formulated using standard methods.

SIGNIFICANT LABOR ACTIONS DURING 2007—2008

High profile strikes remain rare in China. China's first major pilots' strike occurred during 2008, as did other significant work stoppages and protests over the last 12 months.[98] Officials increasingly and more vocally began calling for legislative and regulatory action to govern, rather than to suppress, strikes and other work stoppages.[99]

March 2008 saw multiple labor actions by civilian airline pilots in China. In early March 2008, pilots from Wuhan East Star Airlines and Shanghai Airlines called in sick en masse. On March 31, pilots from Yunnan Airlines, a subsidiary of China Eastern Airlines, protested low pay by landing at their destinations, but then not permitting passengers to disembark before taking off again and flying back to their points of origin.[100] As reported by Xinhua, the pilots, the oldest of whom had been with the airline since 1995, had complained that workloads were "too heavy and involved immense pressure," and that the "return flights" were protest actions.[101] Shortly thereafter, 13 pilots collectively submitted their resigna-

tions, which the company reportedly rejected immediately.[102] One editorial in the state-controlled Economic Observer Online suggested that the pilots' actions might have been preempted if they had enjoyed the benefit of effective union representation in their dealings with airline management.[103]

Under the terms of contracts each pilot previously had signed with the airline, the airline was permitted to impose fines on pilots for resigning. Most contracts between pilots and state-owned carriers in China impose heavy penalties on pilots for resignation "to prevent them from breaking away from the company," according to a prominent Chinese legal expert, as quoted by Xinhua.[104] Chinese airlines face increasing difficulty recruiting qualified pilots, with a large number of pilot jobs unfilled and resignations on the rise.[105] On September 10, 2008, the Intermediate People's Court in Wuhan city, Hubei province, ordered 10 of the original 13 pilots to pay to the airline fines totaling 8 million yuan (US$1 million). The 8-million-yuan figure reportedly is roughly equivalent to the amount the airline invested in training the 10 pilots.[106] Initially the airline had sought 100 million yuan in compensation claiming it would suffer heavy losses if the pilots resigned.[107] After the judgment was announced, one pilot reportedly "feared the company will not accept the result, and refuse to give back [his] pilot [certificate]."[108]

In April 2008, Students and Scholars Against Corporate Misbehavior (SACOM), a Hong Kong-based NGO,[109] alleged occupational safety and labor law violations at five firms, including Nine Dragons (ND Paper), a major Chinese paper manufacturer. Nine Dragons' CEO was elected in January to the Chinese People's Political Consultative Conference (CPPCC), a central-level leadership organ.[110] Following an investigation, the Guangdong Provincial Federation of Trade Unions issued a report on May 26 that included findings of mistreatment of both managers and workers. In addition to unsafe working conditions—the company reported over 50 industrial accidents, including 2 deaths and 8 serious injuries in the last year—the Union found the company's imposition of excessive penalties on employees to be a serious problem—fines totaling over 1 million yuan were imposed on over 70 percent of the company's workforce last year.[111] The union has received no worker complaints, according to a union official.[112]

Migrant Workers

There are more than 170 million migrant workers in China, according to official statistics.[113] Chinese migrants face numerous obstacles in the protection of their labor rights, and employers have exploited migrant workers' uprooted status to deny them fair working conditions.[114] In February 2008, migrant workers for the first time joined the ranks of China's National People's Congress Deputies.[115] In July 2008, China's Ministry of Human Resources and Social Security established a new Department of Migrant Workers' Affairs. The new department will focus attention on problems that disproportionately affect migrant workers, such as wages arrears, access to social security and pension benefits, and discrimination. The department has announced its intention to focus attention on labor contracts for migrant workers.[116] There were isolated reports during 2008 of migrant workers litigating and winning compensation for workplace injuries.[117]

Non-payment of wages owed to migrant workers is rampant in China. The problem is particularly severe in the construction industry. Rural workers move frequently, and, when injured on the job, often return home, with no choice but to forfeit social insurance benefits. As a result, many migrant workers think of their contributions into the social insurance schemes as moneys they will not recover when needed, and some refuse to pay.[118]

Next to unpaid wages, access to and portability of pension and social security benefits were among the most serious problems migrant workers faced during 2008. Local rules and regulations make it extremely difficult for migrant workers to remit their pension and social security benefits to their hometowns. Many of these same rules severely restrict the portability of pension and social security contributions made by workers and employers in locales in which workers are temporarily employed.[119] Some localities began actively to address this problem during 2008. In Suzhou city, Jiangsu province, for example, migrant workers now are permitted to transfer pensions to their home location if the government department designated to receive the pension in the remote location agrees.[120]

Under the new Labor Contract Law, labor contracts must require social security payments by both the worker and the employer. Local regulations in some locales, however, do not permit migrant workers, who typically reside in localities only for the duration of the project for which they are employed, to reclaim employers' social security and pension contributions when their work is done and they prepare to move on. In such circumstances, the accrued employer contributions remain with the local government. Some migrant workers, therefore, understand a labor contract only as a document requiring the payment by them of contributions for which they will have to expend effort later to recoup. For them, the perceived financial benefits of not signing a labor contract today outweigh the promise of untested legal protections in the future. As a result, some migrant workers, even those who are fully aware they have a legally enforceable right to work under a labor contract, refuse to sign labor contracts nonetheless because provisions originally designed to protect them are perceived to run counter to their short-term interests.

Migrant Workers—Continued

The household registration (*hukou*) system perpetuates much of the discrimination that migrant workers confront. It remains to be seen whether the Department of Migrant Workers' Affairs will be permitted to emerge as a force for the reform or dismantling of the hukou system. A number of bureaucracies, including local public security bureaus, have vested interests in the perpetuation of the hukou system. As a result, the institutional challenges the new department faces are not insignificant.[121]

WORKING CONDITIONS

While migrant workers face disproportionate obstacles and risks in protecting their rights in China, poor working conditions—from insufficient wage guarantees, long working hours and uncompensated overtime, deficiencies in benefits, and workplace accidents, particularly for miners—impact Chinese workers, migrant and nonmigrant alike.

Wages

The 1994 Labor Law guarantees minimum wages for workers, and assigns local governments to set wage standards for each region.[122] The new Labor Contract Law improves formal monitoring requirements to verify workers receive minimum wages. Article 74 requires local labor bureaus to monitor labor practices to ensure rates adhere to minimum wage standards. Article 85 imposes legal liability on employers who pay rates below minimum wage. In addition, Article 72 guarantees minimum hourly wages for part-time workers.[123]

Illegal labor practices have undermined minimum wage guarantees. Wage arrears remain a serious problem, especially for migrant workers. Subcontracting practices within industry exacerbate the problem of wage arrearages. When investors and developers default on their payments to construction companies, workers at the end of the chain of labor subcontractors lack the means to recover wages from the original defaulters. Subcontractors, including companies that operate illegally, neglect their own duties to pay laborers and leave workers without any direct avenue to demand their salaries. In 2007, the Commission reported a steady increase in the number of workers who turned to labor arbitration to settle their disputes with employers.[124] As detailed below, this trend appears to have continued.[125]

Working Hours

Chinese labor law mandates a maximum 8-hour workday and 44-hour average workweek.[126] Forced overtime and workdays much longer than the legally mandated maximum are not uncommon, especially in export sectors, where some employers avoid paying overtime rates by compensating workers on a piece-rate basis with quotas high enough to avoid requirements to pay overtime wages.[127] It has been reported that suppliers in China avoid exposing themselves to claims of requiring illegal, long hours by hiring

firms that help them set up double booking systems for foreign importers who aim to adhere to Chinese rules and regulations. These firms not only help suppliers prepare books to pass audits, but also coach managers and employees on answers to give the auditors.[128]

Benefits

Gaps in social security and labor insurance coverage remain widespread in China. Under Chinese labor law, local governments bear responsibility for providing coverage for retirement, illness or injury, occupational injuries, joblessness, and childbirth.[129] This means that systemic deficiencies in local governance exacerbate shortcomings in the provision of social security benefits. Improved oversight of social security benefits funds has been the focus of attention in some locales, but problems remain.[130]

Mine Accidents

China's mining sector continues to have high accident and death rates. Miners are limited in their ability to promote safer working conditions in part due to legal obstacles to independent worker organizing. Market-oriented reforms since the 1980s led to the privatization of operations at thousands of formerly state-run mines. Facilities operated by private contractors failed to maintain even the minimum mine safety standards and practices that were upheld under state control, and unsafe mines remain in operation.[131] Collusion between mine operators and local government officials reportedly remains widespread; in some cases, miners reportedly may earn higher than average wages for working in unsafe mines.[132]

Media control following accidents remains strong. Central government directives encourage local governments to pressure bereaved families into signing compensation agreements, and to condition out-of-court compensation settlements on forfeiture by bereaved families of their rights to seek further compensation through the court system. There have been reports of local officials preempting class actions by prohibiting contact among members of bereaved families in order to forestall coordination.[133]

CHILD LABOR

In spite of legal measures to prohibit the practice of child labor in China, child labor remains a persistent problem.[134] As a member of the International Labour Organization (ILO), China has ratified the two core conventions on the elimination of child labor.[135] China's Labor Law and related legislation prohibit the employment of minors under 16,[136] and both national and local legal provisions prohibiting child labor stipulate a series of fines for employing children.[137] Under the Criminal Law, employers and supervisors face prison sentences of up to seven years for forcing children to work under conditions of extreme danger.[138] Systemic problems in enforcement, however, have dulled the effects of these legal measures. The overall extent of child labor in China is unclear in part because the government classifies data on the matter as "highly secret."[139]

Child laborers reportedly work in low-skill service sectors as well as small workshops and businesses, including textile, toy, and shoe manufacturing enterprises.[140] Many underage laborers reportedly are in their teens, typically ranging from 13 to 15 years old, a phenomenon exacerbated by problems in the education system and labor shortages of adult workers.[141] Children in detention facilities also have been subjected to forced labor.[142] Events during 2008, especially the Dongguan forced labor scandal, highlighted the existence of what the ILO terms the "worst forms of child labor."[143] Reports of children as young as 12 years old working in the production of merchandise for the 2008 Summer Olympic Games in Beijing only underscored the Chinese government's inability to prevent child labor.[144]

The Chinese government, which has condemned the use of child labor and pledged to take stronger measures to combat it,[145] permits "work-study" programs and activities that in practical terms perpetuate the practice of child labor, and are tantamount to official endorsement of it.[146] Under work-study programs implemented in various parts of China, children who are elementary school students pick crops and engage in other physical labor.[147] [See Section IV—Xinjiang for more information on conditions in the Xinjiang Uyghur Autonomous Region.]

Central government legislation allows this form of child labor. National provisions prohibiting child labor provide that "education practice labor" and vocational skills training labor organized by schools and other educational and vocational institutes do not constitute the use of child labor when such activities do not adversely affect the safety and health of the students.[148] The Education Law supports schools that establish work-study and other programs, provided that the programs do not negatively affect normal studies.[149] A nationwide regulation on work-study programs for elementary and secondary school students outlines the general terms of such programs, which it says are meant to cultivate morals, contribute to production outputs, and generate resources for improving schools.[150] These provisions contravene China's obligations as a Member State to ILO conventions prohibiting child labor.[151] In 2006, the ILO's Committee of Experts on the Applications of Conventions and Recommendations "expresse[d] . . . concern at the situation of children under 18 years performing forced labor not only in the framework of re-educational and reformative measures, but also in regular work programs at school."[152]

Forced Labor

On April 28, 2008, Chinese media reported that more than 1,000 children had been trafficked from Liangshan, Sichuan province, to work in factories across the Pearl River Delta.[153] Local police sources were quoted as saying that, over the course of two days, at least 167 children trafficked from Sichuan had been rescued. Another government official allegedly reported that a team of 20 officials from the Liangshan region had arrived in Dongguan to help repatriate the children.[154] Dongguan's Deputy Mayor, however, told a press conference that the government had investigated over 3,600 companies employing 450,000 people, and that, "in the factories we inspected, we did not come across any large-scale use of child labor. There might be some child labor from Liangshan, but at present we just don't have the evidence."[155]

In part because the scandal was contemporaneous with coverage of the May 2008 Sichuan earthquake and the Olympic torch procession, press coverage was less extensive than that received by the Shanxi brick kiln forced labor scandal of 2007 and similar reported incidents dating back to 2003.[156] The persistence of forced labor networks revealed stunning defiance by local officials of the central leadership's instructions last year, following the Shanxi brick kiln scandal, to investigate and to put an end to forced labor. Following as it did on the heels of last year's events in Shanxi, the Dongguan scandal reveals the weakness even of China's paramount leaders in enforcing the most basic of worker rights against China's powerfully embedded labor trafficking networks.[157]

Article 244 of the PRC's Criminal Law makes forced labor a crime. Events in 2008 showed the deterrent value of this provision to be inadequate at best under current conditions.[158] Current law applies only to legally recognized employers and does not apply to individuals or illegal workplaces. As the Commission noted in its last Annual Report, the All-China Lawyers Association in June 2007 asked the National People's Congress Standing Committee to introduce new legislation making slavery a criminal charge.[159] It is unclear at the time of this writing whether such legislation is in process. However, in March 2008, members of the Chinese People's Political Consultative Conference (CPPCC) recommended to the CPPCC (which is not a lawmaking body) that the Criminal Law be amended to criminalize "violently forcing labor."[160]

The aftermath of these scandals has revealed a more general lack of victims support services in China. Officials regarded wages in arrears as the central issue, not criminal assault and unlawful deprivation of liberty.[161] Under the All China Lawyers Association's Guiding Opinion on the Handling of Collective Cases, lawyers who file collective suits (the Chinese analog of class actions) on behalf of former forced laborers, are required to report all relevant details of the case to local government officials, regardless of whether those officials themselves are the target of the suit. There are no conflict of interest exemptions or provisions. The Opinion stipulates that "after accepting a collective case lawyers must promptly explain the facts through the appropriate channels to the government organizations involved."[162]

Forced Labor—Continued

As reported in the Commission's 2007 Annual Report, in May and June 2007, Chinese media and Internet activists uncovered a network of forced labor in brick kilns in Shanxi and Henan provinces. On April 1, 2008, the Linfen Municipal Intermediate People's Court accepted a civil suit filed by four of the brick kiln workers, against five defendants who had been criminally prosecuted in August 2007 and are currently serving prison terms.[163] Plaintiffs reportedly are seeking damages for lost earnings, physical injury, and mental distress.

The strategy in filing the case, according to their lawyers, is to prompt the Linfen government—not the defendants—to settle directly, to contribute to a court-awarded settlement, or both. Legislators and legal scholars revising the PRC's Law on State Compensation have promoted the establishment by local governments of compensation funds to provide damages to victims in criminal cases in which there is no realistic prospect of damages paid by criminal defendants.[164] To the extent that this case publicizes the utility of such local compensation funds, it may help propel the development of public interest litigation in China.

U.S.-CHINA BILATERAL COOPERATION

Pursuant to Letters of Understanding renewed in 2007 between the United States Department of Labor and two Chinese government agencies, the two countries continued to conduct cooperative activities during 2008 on wage and hour laws, occupational safety and health, mine safety, and pension oversight, with pledges by both sides to continue cooperative activities for three more years. In addition, implementation of two other cooperative agreements signed in 2007 in the areas of unemployment insurance program administration and labor statistics continued apace in 2008.[165]

China's International Worker Rights Commitments

As a member of the International Labour Organization (ILO), China is obligated to respect a basic set of internationally recognized labor rights for workers, including freedom of association and the "effective recognition" of the right to collective bargaining.[166] China is also a permanent member of the ILO's governing body.[167] The ILO's Declaration on the Fundamental Principles and Rights at Work (1998 Declaration) commits ILO members "to respect, to promote and to realize" these fundamental rights based on "the very fact of [ILO] membership."[168]

China's International Worker Rights Commitments—Continued

The ILO's eight core conventions articulate the scope of worker rights and principles enumerated in the 1998 Declaration. Each member is committed to respect the fundamental right or principle addressed in each core convention, even if that member state has not ratified the convention. China has ratified four of the eight ILO core conventions, including two core conventions on the abolition of child labor (No. 138 and No. 182) and two on non-discrimination in employment and occupation (No. 100 and No. 111).[169] The ILO has reported that the Chinese government is preparing to ratify the two core conventions on forced labor (No. 29 and No. 105).[170] Chinese labor law on paper generally incorporates the basic obligations of the ILO's eight core conventions, with the exception of the provisions relating to the freedom of association and the right to collective bargaining,[171] but many of these obligations remain unrealized in practice.

The Chinese government is a state party to the International Covenant on Economic, Social, and Cultural Rights (ICESCR), which guarantees the right of workers to strike, the right of workers to organize independent unions, the right of trade unions to function freely, the right of trade unions to establish national federations or confederations, and the right of the latter to form or join international trade union organizations.[172] In ratifying the ICESCR, the Chinese government made a reservation to Article 8(1)(a), which guarantees workers the right to form free trade unions. The government asserts that application of the article should be consistent with Chinese law, which does not allow for the creation of independent trade unions.[173]

FREEDOM OF EXPRESSION

INTRODUCTION

Over the past year, the Chinese government and Communist Party continued to deny Chinese citizens the ability to fully exercise their rights to free expression. In its 2007 Annual Report, the Commission noted that China lacked a free press and that Chinese officials provided only limited government transparency, practiced pervasive censorship of the Internet and other electronic media, and placed prior restraints on a citizen's ability to freely publish.[1] This past year, the Commission has observed little to no improvement on these issues. To the contrary, censorship and manipulation of the press and Internet for political purposes worsened due to major events, including Tibetan protests that began in March 2008 and China's hosting of the 2008 Beijing Summer Olympic Games. The Chinese government continued to impose prior restraints on the publication of printed and online material. Authorities continued to punish religious practitioners for publishing or distributing religious materials without government permission. [See Section II—Freedom of Religion—Controls Over Religious Publications.] Officials continued to use vague laws to punish journalists, writers, rights advocates, and others for peacefully exercising their right to free expression, particularly those who criticized the government or Party in the context of the Olympics. Officials also continued to restrict the freedom of expression of Uyghurs [see Section IV—Xinjiang—Controls Over Free Expression in Xinjiang] and to harass foreign journalists, despite a pledge to grant them greater press freedom for the Olympics [see Section II—2008 Beijing Summer Olympic Games—Commitment to Foreign Journalists].

Over the past year, the government continued its gradual policy of increasing citizen access to government-held information. Officials, however, maintained broad discretion on the release of government information. Open government information measures enabled officials to promote images of openness, and quickly to provide official versions of events, while officials maintained the ability at the same time to censor unauthorized accounts.

The spread of the Internet and cell phones as mediums for expression continued to pose a challenge to the Party, a trend noted in the Commission's 2007 Annual Report.[2] Internet and cell phone use continues to grow. By the end of June 2008, the number of Internet and cell phone users in China had risen to 253 million[3] and 601 million,[4] respectively, increases of 56 percent and 20 percent over the previous year.[5] As the Commission noted in its 2007 Annual Report, Chinese citizens used these technologies to raise public awareness and protest government policies,[6] a trend that continued this past year.[7] Officials, however, continued to punish citizens who used these technologies to organize protests or to share politically sensitive information.[8]

CHINESE CITIZENS ENTITLED TO FREEDOM OF EXPRESSION, SPEECH, PRESS

Article 19 of the International Covenant on Civil and Political Rights (ICCPR), which China has signed and committed to ratify, provides:

> "1. Everyone shall have the right to hold opinions without interference. 2. Everyone shall have the right to freedom of expression; this right shall include freedom to seek, receive and impart information and ideas of all kinds, regardless of frontiers, either orally, in writing or in print, in the form of art, or through any other media of his choice." [9]

The Universal Declaration of Human Rights includes a similar provision.[10] Article 35 of China's Constitution states: "Citizens of the People's Republic of China enjoy freedom of speech, of the press, of assembly, of association, of procession, and of demonstration." [11]

International human rights standards allow for restrictions on freedom of expression under limited circumstances. Article 19 of the ICCPR provides that such restrictions must be "provided by law" and "necessary" for the "respect of the rights or reputations of others," "protection of national security or of public order (ordre public)," or "of public health or morals." [12] Chinese officials say that their restrictions on freedom of expression are "in accordance with law," [13] and at times cite national security or public safety concerns.[14] Chinese law, however, does not require officials to prove that their actions are "necessary" to protect "national security" or "public order" and only vaguely defines crimes of "endangering national security" or "disturbing public order," allowing officials broad discretion to punish peaceful activity." [15]

GOVERNMENT'S LIMITED STEPS TOWARD OPENNESS

Over the past year, the government continued its gradual policy of increasing citizen access to government-held information. Both President Hu Jintao and Premier Wen Jiabao issued statements endorsing greater government transparency, echoing similar calls in recent years.[16] As noted in the Commission's 2007 Annual Report, the first national Regulations on Open Government Information (OGI regulation) went into effect in May 2008, giving citizens the right to request government information and calling on government agencies at all levels to proactively disclose "vital" information to the public in a timely manner.[17] [See addendum at the end of this section for Commission analysis of the OGI regulation.] The government and Communist Party reportedly increased media access to the 17th Party Congress in October 2007 and the March 2008 meetings of the Chinese People's Political Consultative Conference and National People's Congress (NPC), although official media appeared to exaggerate the actual improvement.[18] In April 2008, the NPC Standing Committee announced that it would begin releasing draft laws to the public for review.[19] The Standing Committee generally does not have the power to draft criminal and civil legislation, however, meaning such important laws are not covered by the new policy.[20]

Systemic obstacles to obtaining information from the Chinese government have limited the impact of the OGI regulation. The Commission noted a few of these obstacles, such as China's state secrets laws and the lack of a free press, in its 2007 Annual Report.[21] As noted in that report, the OGI regulation contains a state secrets exception giving officials broad discretion to withhold infor-

mation.[22] Since the regulation took effect, mainland Chinese and Hong Kong news organizations reported that some officials have been evasive or uncooperative when handling information requests and have cited the "state secrets" exception in refusing to disclose information.[23] The central government issued an opinion in April 2008 imposing a purpose test on information requests, saying that officials could deny requests for information not related to the requesting party's "production, livelihood and scientific and technological research."[24] China's lack of an independent judiciary has further hindered effective implementation of the OGI regulation. Chinese courts have been reluctant to accept disclosure cases and had not ordered any government agencies to release information as of September 2008.[25]

With few checks on their power to withhold information, officials continued to keep critical information from the public. In September 2008, for example, officials in Shijiazhuang city, Hebei province, reportedly waited more than a month before informing provincial officials about complaints of contaminated milk, which resulted in at least four deaths and injuries to thousands of infants.[26] An editor of the Southern Weekend, a Chinese newspaper with a reputation for more independent reporting, revealed on his blog that the paper had discovered cases of sick children in July but were unable to publish the stories because of censorship before the 2008 Olympic Games.[27] In the run-up to the Olympics in August, propaganda officials issued several directives to domestic journalists, one of which warned editors that "all food safety issues . . . is off limits."[28] After the milk scandal broke open, officials ordered journalists to follow the "official" line and banned commentaries and news features about the tainted milk products.[29] At least one Chinese journalist publicly criticized this censorship and called for press freedom.[30] [For more information on the government's handling of the milk crisis, see Section III—Commercial Rule of Law—Food and Product Safety.]

In some cases this past year, officials and the state-controlled media provided information about politically sensitive events more quickly than they might have in the past, but such moves were not necessarily a sign of greater openness. As noted in a Newsweek article by Jonathan Ansfield, Xinhua's English news service reported an attack that killed at least 16 policemen in the Xinjiang Uyghur Autonomous Region on August 4, 2008, more than an hour before the Chinese version and little more than three hours after the event occurred.[31] Ansfield notes, however, that Chinese journalists told him that this unusual speed was "no fluke," but rather the result of a top Party propaganda official ordering journalists at central news organizations to take the initiative to report "major sudden incidents" in order to "get the official scoop on events before overseas media do, particularly around the time of the Olympic Games." One journalist called it a "form of progress" as it allowed them to report sensitive news before receiving specific instructions from propaganda authorities, but it only applied to central media outlets like Xinhua, and journalists were aware that they must still toe the Party line and that not all stories could be covered this way.[32]

In May 2008, foreign observers noted that Chinese officials responded to the devastating Sichuan earthquake with unusual openness.[33] The more open response of China's media, however, was in part due to large numbers of domestic reporters defying an initial ban on traveling to the disaster areas and other factors beyond the government's control.[34] Nevertheless, officials sought to take credit for the "openness" for propaganda purposes. A Xinhua article described the response as showing "unprecedented transparency," gave credit to recent reforms including the OGI regulation, and noted the "positive response from domestic and international observers alike," making no mention of the original ban on travel or subsequent orders by Party and government officials dictating how the media should cover the event.[35] [For more information on Party and government censorship of the media following the May 2008 Sichuan earthquake, see box titled Tibetan Protests, Sichuan Earthquake, Olympics below.]

CENSORSHIP OF THE MEDIA AND INTERNET SERVES THE PARTY AND GOVERNMENT'S INTERESTS

Censorship of Media and Publishing

The Communist Party continues to control what journalists may write or broadcast. In a June 2008 speech, President and Party General Secretary Hu Jintao reiterated the Chinese media's subordinate role to the Party, telling journalists they must "serve socialism" and the Party.[36] The Party's Central Propaganda Department (CPD) issues directives that Chinese journalists must follow. The directives do not meet the international human rights standard requirement that they be "prescribed by law" since they are issued by a Party entity, rather than pursuant to legislation issued by one of the organs authorized to pass legislation under the PRC Legislation Law. Reporters have no legal recourse to challenge such restrictions. Those that cross the line are subject to firing or removal of content. In November 2007, the CPD ordered the dismissal of a journalist who wrote about a major railroad line built with substandard materials.[37] In July 2008, officials pulled the Beijing News from stands after it published a photo of injured protesters at the 1989 Tiananmen Square demonstrations.[38]

The Chinese government relies on prior restraints on publishing, including licensing and other regulatory requirements, to restrict free expression.[39] Anyone wishing to publish a book, newspaper, or magazine, or to work legally as a journalist, must obtain a license from the government's press regulator. The Chinese government forbids private publishing of religious materials and restricts the production of religious publications to state-licensed enterprises. Such restrictions have a chilling effect, and officials use them as a pretext to punish free expression. Shi Weihan, owner of a Christian bookstore in Beijing, was detained in November 2007 and accused of illegally printing and distributing religious literature.[40] In June 2008, authorities detained Ha Jingbo and Jiang Ruoling, two middle school teachers from Dongfeng county in Jilin province, for distributing educational leaflets about Falun Gong.[41] In November 2007, a court in Guangdong province sentenced legal activist and writer Yang Maodong (who uses the pen name Guo Feixiong) to

five years' imprisonment for "illegal operation of a business," for using another book's publication number, the quantity of which the government limits, to publish his own book. Local officials were apparently angry at Guo's book, which concerned a political scandal.[42]

In May 2008, new book publishing regulations went into effect. Similar to other publishing regulations in China, the new regulations require book publishers to "insist on Marxism-Leninism, Mao Zedong Thought" and "the correct guidance of public opinion," to have a government-approved sponsor and meet financial requirements, and to abide by the government's plans for the "number, structure, and distribution" of publishing units.[43] Officials continued to target political and religious publications as part of an ongoing campaign to "clean up" the publishing industry.[44]

Internet Censorship

The Chinese government and Communist Party continue to control the Internet through an effective and pervasive system that relies on government regulation and public officials and Internet companies monitoring and censoring online content. China's measures to control the Internet do not conform to international standards for freedom of expression because they not only address issues of public concern such as pornography, privacy protection, and spam, but also content officials deem politically unacceptable. China's top officials continue to signal that its control over the Internet is motivated by political concerns. In his June 2008 speech, President Hu Jintao reiterated the importance of co-opting the Internet as a "forward position for disseminating socialist advanced culture."[45]

All Web sites hosted in China must either be licensed by or registered with the government,[46] and sites providing news content or audio and video services require additional license or registration.[47]

- In September 2007, the Shanghai Daily reported that officials shut down 9,593 unregistered Web sites, in a move that occurred just before the 17th Party Congress in October.[48]
- In May 2008, officials reportedly ordered a domestic human rights Web site to shut down for failing to have the proper license.[49]

This past year, Chinese officials also targeted audio and video hosting Web sites, whose content is increasingly popular but more difficult to censor, as well as online maps.

- Provisions that went into effect in January 2008 reiterated the licensing requirement for audio and video Web sites and now require them to be state-owned or state-controlled.[50]
- In March 2008, the State Administration of Radio, Film, and Television reported the results of a two-month crackdown, saying that it shut down 25 video Web sites and warned 32 others for, among other things, failing to have the proper license or "endangering the security and interests of the state."[51]
- Following the Tibetan protests that began in March, access to the U.S.-based video sharing Web site YouTube.com was reportedly blocked after dozens of videos about the protests showed up on the site.[52] No footage of the protests was found on the Chinese-based video Web sites 56.com, Youku.com, and Tudou.com.[53]

Internet Censorship—Continued

- In February 2008, the State Bureau of Surveying and Mapping issued an opinion telling online map providers that they must obtain the appropriate licenses and avoid "geographical information that could harm national security."[54]
- In April 2008, officials began a year-long campaign to remove "illegal" maps on the Internet, including those that commit "errors" such as identifying Taiwan as separate from China.[55]

Officials continued to use their control over the connection between China and the global Internet to block access to politically sensitive foreign-based Web sites, while also policing domestic content.[56] Over the past year, media reports and testing done by OpenNet Initiative indicated that access within China to the Web sites for foreign or Hong Kong news organizations such as Guardian, BBC, Deutsche Welle, Hong Kong-based Apple Daily, Radio Free Asia, and Voice of America, human rights organizations such as Amnesty International, Reporters Without Borders, Committee to Protect Journalists, Human Rights in China, and Human Rights Watch, and sites relating to Tibetans, Uyghurs, Taiwan, Chinese activists, and the 1989 Tiananmen democracy protests was blocked at various times.[57] In response to foreign reporters' complaints over blocked Web sites, a Chinese Olympics official publicly acknowledged in late July 2008 that sites relating to Falun Gong were blocked and would remain blocked despite the Olympics. Following those complaints, foreign media reported that some previously blocked sites, including those for Amnesty International, Human Rights Watch, and Radio Free Asia, became accessible at the Olympic village.[58] Domestic Web sites continued to be targeted as well. In the first half of 2008, officials reportedly ordered several HIV/AIDS Web sites to shut down or remove content.[59] In addition, the Commission has received no indication that access to its Web site has become available in China.

The government compels companies providing Internet services in China, including those based in other countries, to monitor and record the online activities of its customers, to filter and delete information the government considers "harmful" or politically sensitive, and to report suspicious activity to authorities.[60] An October 2007 report on Chinese Internet censorship released by Reporters Without Borders and Chinese Human Rights Defenders and written by an unnamed Chinese employee of an Internet company said that there were between 400 and 500 banned key words and that companies censored these words to avoid fines.[61] Internet users in China frequently complain that censors remove their postings or prevent them from appearing at all.[62]

Internet Censorship—Continued

Such censorship is particularly evident before or after events perceived by the Party to be politically sensitive. After Tibetan protests began in March 2008, foreign media reported that searches on the popular Chinese search engine Baidu and Google for news stories on Tibet turned up no protest news in the top results or inaccessible links.[63] In April 2008, Chinese media reported that Baidu, Google, and Yahoo China were censoring searches that contained the word "Carrefour," a French department store, amid public outcry over protests during the Paris leg of the Olympic torch relay.[64] In the run-up to the Olympics, public officials across China ordered hotels to ensure that they had installed Internet security systems capable of monitoring and censoring users' Internet activities.[65] In October 2008, Information Warfare Monitor and ONI Asia issued a report detailing a large-scale surveillance system of Internet text messages sent by customers of Tom-Skype, a joint venture between a Chinese company and eBay, which owns Skype. They found that text messages relating to Falun Gong, Taiwan independence, the Chinese Communist Party, and words such as democracy, earthquake, and milk powder had been censored, and that customers' personal information, text messages, and chat conversations between users in China and outside China had been recorded.[66] Skype's president said that the company was aware that the Chinese government was monitoring chat messages but not that its Chinese partner was storing those messages deemed politically sensitive.[67]

The Communist Party also continued to directly order the removal of content or hire citizens to go online to influence public debate. In September 2008, Party propaganda officials ordered major financial Web sites to remove "negative" reports regarding China's stock markets amid a sharp downturn.[68] According to one expert on Chinese media, the Party has funded training for an estimated 280,000 Web commentators whose task is to promote the Party's views in online chat rooms and forums, and to report "dangerous" content to authorities.[69]

Rebecca Mackinnon, an expert on China's Internet controls, said in August 2008 that Internet users in China now faced a "more targeted and subtle approach to censorship than before."[70] She said blog postings about politically sensitive events were quickly taken down, while controlled reporting in Chinese media was allowed. She said the "strategy seems clear: Give China's professional journalists a longer leash to cover breaking news even if it's not positive—since the news will come out anyway and unlike bloggers, the journalists are still on a leash."

Restrictions Bolster Image of Party and Government

The Chinese government and Communist Party continue to use the media and Internet to project an image of stability and harmony and ensure that the Party and central government are reflected positively. Such measures increase in the run-up to major political meetings and public events and following disasters and incidents of civil unrest or citizen activism. Three events this past year—Tibetan protests that began in March, the devastating Sichuan earthquake in May, and China's preparations for and hosting of the 2008 Olympic Games in August—illustrate the ways

the Party and government restrict free expression in an attempt to manipulate public opinion in their favor.

Tibetan Protests, Sichuan Earthquake, Olympics

Tibetan Protests

Chinese media initially devoted little coverage to a series of protests in Tibetan areas that began in March 2008.[71] Web sites censored searches for news reports and footage of the protests, and some foreign Web sites and foreign satellite news telecasts about the protests were blocked.[72] [See Censorship of the Media and Internet Serves the Party and Government's Interests—Internet Censorship earlier in this section.] When Chinese media stepped up reporting on the protests, they focused on violence committed against the ethnic Han population and denounced the Dalai Lama as a "wolf with the face of a human and the heart of a beast."[73] Chinese media also described U.S. Speaker of the House Nancy Pelosi as a "disgusting figure" and attacked the foreign media for its "biased" coverage.[74] Officials expelled foreign journalists from Tibetan areas where reported protests had occurred and barred them from entering those areas, a move the head of the International Olympic Committee said contravened China's Olympic promise to provide greater press freedom to foreign journalists.[75] Cell phone, landline, and Internet transmissions were also reportedly disrupted in Tibetan areas of western China, adding to the difficulty of accessing information.[76] [See Section V—Tibet for more information on the protests.]

Sichuan Earthquake

Media access in the immediate aftermath of an 8.0 magnitude earthquake that hit Sichuan province on May 12, 2008, and killed nearly 70,000, was more open compared to previous natural disasters. Chinese television aired extensive and graphic live coverage from disaster areas and foreign reporters operated with few restrictions.[77] Propaganda officials, however, had initially ordered most journalists not to travel to disaster areas.[78] After the order was ignored, public officials rescinded the original order, but instructed the domestic media to highlight the government's proactive response, avoid "negative" stories, and promote "national unity" and "stability."[79] Officials later ordered domestic media not to report on protests by grieving parents, forcibly removed parents from protest sites, and briefly detained foreign reporters trying to cover the protests.[80]

Tibetan Protests, Sichuan Earthquake, Olympics—Continued

Beijing Olympics

In his June 2008 speech, President Hu Jintao told journalists to pay special attention to their coverage of the Olympics and said their first priority is to "correctly guide opinion."[81] In a January 2008 speech to propaganda officials, Hu urged them to improve China's international image.[82] From November 2007 to July 2008, propaganda officials issued several directives ordering journalists to avoid numerous topics for the Olympics, including air quality, food safety, protest zones designated for the games, and the performance of Chinese athletes.[83] One directive ordered them to counter the "negative" publicity stemming from protests along the Olympic torch relay by quickly producing reports that toed the Party line, as part of an "unprecedented, ferocious media war against the biased western press."[84] An ongoing campaign to weed out "illegal publications" focused this past year on creating a "positive public opinion environment" for the Olympics.[85]

SELECTIVE USE OF LAWS TO PUNISH POLITICAL OPPONENTS AND HUMAN RIGHTS ACTIVISTS

Officials continued to use vague laws to punish journalists, writers, rights advocates, and others for peacefully exercising their right to free expression, particularly those who criticized the Chinese government and Communist Party in the context of the Olympics. In 2006, the UN Working Group on Arbitrary Detention noted that China's vaguely defined crimes of endangering state security, splittism, subverting state power, and supplying state secrets left "their application open to abuse particularly of the rights to freedom of religion, speech, and assembly," and recommended the abolition of such "political crimes."[86] Among the most popular of these provisions to punish peaceful expression continued to be the "inciting subversion of state power" crime under Article 105(2) of the Criminal Law.[87] Among those punished for this crime included outspoken health and environmental activist Hu Jia and land rights activist Yang Chunlin, after each tied their criticisms of the government and Party to the Olympics, and freelance writer Lu Gengsong, for his online essays. [See box titled Inciting Subversion: Punishment of Activists and Writers below.] Hu and Yang's arrests came despite claims by the Chinese foreign minister in February that it is "impossible" for someone in China to be arrested for saying "human rights are more important than the Olympics." Officials targeted others for criticizing the government's response to the Sichuan earthquake. Sichuan officials detained retired professor Zeng Hongling in June 2008 on charges of "inciting subversion" after she posted articles online alleging corruption and poor living conditions in areas affected by the earthquake.[88]

Inciting Subversion: Punishment of Activists and Writers

Article 105(2) of the PRC Criminal Law reads in part: "[w]hoever incites others by spreading rumors or slanders or any other means to subvert the State power or overthrow the socialist system shall be sentenced to fixed-term imprisonment of not more than five years"[89]

Hu Jia[90]

Background: Well-known HIV/AIDS and environmental activist who for years has been an outspoken advocate for human rights and chronicler of rights abuses and who made extensive use of the Internet in his work. Hu had numerous run-ins with police, including spending more than 200 days under virtual house arrest before his formal detention in December 2007.[91] A month before his January 2008 arrest, Hu provided testimony before the European Parliament and criticized China's human rights record and the Beijing Organizing Committee for the Games of the XXIX Olympiad.[92]

Sentence and Alleged Criminal Activity: On April 3, 2008, the Beijing No. 1 Intermediate People's Court sentenced Hu to three years and six months' imprisonment.[93] Alleged "subversive" activities included posting essays online critical of the government's harassment of rights defenders and approach to governing Hong Kong, and making "subversive" comments to foreign reporters.

Yang Chunlin[94]

Background: Land rights activist who gathered more than 10,000 signatures for a petition titled "We Want Human Rights, Not the Olympics," which was also posted on the Internet. Most of the signatories were farmers seeking redress for land that officials allegedly took from them. Fellow petition organizers Yu Changwu and Wang Guilin were sentenced to reeducation through labor for two years and one-and-a-half years, respectively, for their advocacy on behalf of farmers in Fujin city, Heilongjiang province.[95]

Sentence and Alleged Criminal Activity: On March 24, 2008, the Jiamusi Intermediate People's Court in Heilongjiang sentenced Yang to five years' imprisonment for inciting subversion. Prosecutors accused Yang of writing essays critical of the Communist Party and alleged that the petition received heavy foreign media coverage that harmed China's image abroad. Prosecutors also accused Yang of accepting 10,000 yuan (US$1,430) from a "hostile" foreign group.[96]

Lu Gengsong[97]

Background: Freelance writer who has written about corrupt local officials who seize land in deals with property developers.[98]

Sentence and Alleged Criminal Activity: On February 5, 2008, the Hangzhou Intermediate People's Court affirmed Lu's four-year sentence. Alleged "subversive" activities included publishing on foreign Web sites essays that questioned the legitimacy of the Party-led government and called on activists, intellectuals, and religious activists to join together in opposition. The court made no attempt to determine the actual threat posed by the essays, none of which specifically called for violence.[99]

Officials also relied on vague charges of disturbing public order, inciting a disturbance, possessing state secrets, or inciting splittism, to punish free expression. Officials in Hubei province sentenced petitioner Wang Guilan to 15 months' reeducation

through labor for disturbing social order after she spoke with a foreign reporter during the Olympics.[100] In June 2008, officials in Sichuan province detained and later sentenced Liu Shaokun, a middle school teacher, to one year of reeducation through labor after he posted photos of collapsed schools online and criticized their construction in a media interview.[101] In another earthquake-related case, Sichuan officials arrested Huang Qi in July after he posted an article on his Web site detailing parents' demands for compensation and an investigation into the collapse of schools that took their children's lives.[102] Officials charged Huang, founder of the rights advocacy Web site 64tianwang.com, with illegally possessing state secrets.[103] In another state secrets case, officials released Hong Kong journalist Ching Cheong in February 2008, after he served almost two years of a five-year sentence.[104] Ching was convicted of passing state secrets to a Taiwan foundation in a case that critics said lacked transparency and relied on weak evidence.[105] Officials in Chengdu city, Sichuan province, detained freelance writer and journalist Chen Daojun in May 2008 on charges of inciting splittism,[106] a crime under Article 103 of the Criminal Law,[107] after he published an article on a foreign Web site calling for a halt in construction of a chemical plant, citing environmental concerns.[108]

In its 2007 Annual Report, the Commission noted that Chinese officials' application of Article 25 of the Public Security Administration Punishment Law,[109] which prohibits spreading rumors to disturb public order, threatened the free flow of information.[110] Officials continued to apply this provision broadly to detain citizens for sharing information following emergencies[111] or for organizing protests over the Internet.[112] After a train collision in Shandong province, officials sentenced one citizen to five days of administrative detention for posting another person's Internet message, which contained what turned out to be inaccurate claims about the collision, even though few people viewed the post.[113] Following a May 2008 protest against a chemical plant in Chengdu, officials put three activists under administrative detention pursuant to Article 25 for using the Internet to spread rumors and incite an illegal demonstration.[114] In May, a top editor at Southern Metropolitan Daily wrote an editorial criticizing the Chinese public security's application of "spreading rumors" provisions, saying it had a chilling effect on people's willingness to share information during public emergencies such as the Sichuan earthquake.[115]

Officials also restricted individuals' freedom of expression by placing conditions on their release on bail or suspended sentence. Officials in the Guangxi Zhuang Autonomous Region accused Internet essayist Wang Dejia of "inciting subversion," and released him on bail in January 2008, only after he agreed to stop posting online essays critical of the Chinese government and speaking with foreign journalists.[116] Officials in Hubei province detained essayist Du Daobin in July for allegedly violating the terms of his suspended sentence by publishing articles overseas, days before his sentence was to expire.[117]

HARASSMENT AND INTIMIDATION OF CITIZENS TO PREVENT FREE EXPRESSION

Officials continued to harass citizens and warn them not to express opinions, particularly to foreign journalists and dignitaries. Plainclothes officers seized legal activist and law professor Teng Biao outside his home in Beijing in February 2008, placed a sack over his head, and drove him away to be questioned.[118] They warned him to stop writing articles criticizing China's human rights record and the Olympics or risk losing his university post and going to jail.[119] In May, security personnel warned Zeng Jinyan, rights activist and wife of imprisoned human rights activist Hu Jia, that she would be prevented from leaving her home because "a U.S. delegation wants to meet with you," referring to U.S. officials who had traveled to Beijing for the U.S.-China Human Rights Dialogue.[120] Officials warned two human rights lawyers, Mo Shaoping and Zhang Xingshui, not to attend a May 27 lunch with Assistant Secretary of State David Kramer, who was taking part in the dialogue.[121] In late June, officials detained or put under house arrest a group of human rights lawyers to prevent them from attending a dinner in Beijing with U.S. Representatives Chris Smith and Frank Wolf.[122]

CHINESE GOVERNMENT ASSERTS THAT RESTRICTIONS ON FREE EXPRESSION ARE BASED IN LAW

Officials continued to justify restrictions on freedom of expression with an appeal to laws, without regard to whether such laws or their application violate international human rights standards:

Official Claim	International Human Rights Standards
Internet Censorship: In April 2008, after the International Olympic Committee expressed concern about Internet censorship following the Tibetan protests, a Ministry of Foreign Affairs spokesperson said the Chinese government's regulation of the Internet is "in line with general international practice" and "the main reason for inaccessibility of foreign websites in China is that they spread information prohibited by Chinese law."[123]	The government's Internet regulations prohibit content such as pornography, online gambling, invasions of privacy, and intellectual property violations.[124] Such regulations, however, also allow Chinese officials to censor politically sensitive content through provisions that prohibit information vaguely defined as "harmful to the honor or interests of the nation" or "disrupting the solidarity of peoples."[125] The result is that the government continues to block access to a number of foreign news Web sites and Web sites promoting human rights and, along with Internet companies in China, frequently removes and censors political content.

Official Claim	International Human Rights Standards—Continued
Imprisonment of Critics: In March 2008, Premier Wen Jiabao described as "totally unfounded" the allegation that the government is cracking down on dissidents before the Olympics. He said "China is a country under the rule of law" and that cases such as Hu Jia's would be "dealt with in accordance with the law." [126]	The UN Working Group on Arbitrary Detention, Chinese defense lawyers, and human rights groups have criticized the vagueness of Article 105(2) of the Criminal Law, the criminal provision relied upon in Hu Jia's case, and Chinese officials' frequent reliance on this provision and other vague criminal law provisions to punish peaceful expression without showing that the expression had any actual or imminent subversive effect.[127]
Travel Restrictions on Foreign Reporters: In March 2008, a foreign ministry spokesperson defended a travel ban to Tibetan areas following reported protests as a measure intended to ensure the safety of journalists and added "it is legal and responsible for local governments to take some restrictive measures." [128]	The travel ban to Tibetan areas appeared much broader than necessary to protect foreign journalists. The borders of the closed-off areas extended far beyond reported protest sites.[129] The government's attempts to otherwise censor and manipulate information about the protests on the Internet and in Chinese media strongly suggest that the near total ban on foreign journalists except for a few unsupervised tours was motivated by political rather than safety concerns. Furthermore, officials initially allowed foreign journalists open access to disaster zones following the May 2008 Sichuan earthquake, areas that also posed a threat to the physical safety of the journalists.

CHINESE CITIZENS CONTINUE TO SEEK FREEDOM OF EXPRESSION

Citizens continue to seek ways to freely express their ideas and share information over the Internet and in the press. So many Chinese journalists rushed to the disaster areas following the May 2008 Sichuan earthquake that propaganda officials rescinded an earlier prohibition on such travel.[130] Despite restrictions on reporting the controversy surrounding the collapse of shoddily constructed schools, investigative journalists at Southern Weekend and Caijing continued to report the story.[131] Chinese citizens organized demonstrations against a chemical plant in Chengdu in May and against the proposed extension of the maglev train line in Shanghai using text messages.[132] [For more information on these protests, see Section II—Environment.] Dozens of Chinese lawyers, academics, and writers signed an open letter condemning the arrest of human rights activist Hu Jia.[133] In June 2008, Radio Free Asia reported that dozens of rights lawyers and scholars had begun an online free speech forum.[134]

Citizens and some Chinese media and editorialists continue to question government measures that restrict freedom of expression.[135] A January 2008 Southern Metropolitan Daily editorial criticized the regulations calling for state ownership of audio and video hosting Web sites as "restraining the civil right of social expression in the era of the Internet."[136] At the trial of land rights activist Yang Chunlin, defense lawyers argued that Chinese officials' application of the inciting subversion provision was likely to result in punishing free speech because of its vagueness and that neither the Supreme People's Court nor the National People's Congress Standing Committee had interpreted the law to provide guidance to citizens on the boundaries of free speech.[137] More than 14,000 Chinese citizens signed an open letter released to the public on January 1, 2008, urging the Chinese government to ratify the International Covenant on Civil and Political Rights before the 2008 Olympic Games "without reservations."[138] One of the letter's recommendations called on the Chinese government to allow freedom of speech and to protect the press and publishing.

ADDENDUM

CHINA COMMITS TO "OPEN GOVERNMENT INFORMATION" (OGI) EFFECTIVE MAY 1, 2008

In a move intended to combat corruption, increase public oversight and participation in government, and allow citizens access to government-held information, the State Council on April 5, 2007, issued the first national Regulations on Open Government Information (OGI Regulation), which took effect May 1, 2008.[139] Implementation begins at a time when the need for greater transparency in the areas of environmental health, land disputes, disease, and food, drug, and product safety has become apparent. The time lag between issue and effective date provided citizens and government departments a one-year preparatory period.

The national regulation may alter relations between citizens and traditionally protective government bureaucracies. But it is not entirely a new development. While the overall impact of the national regulation remains unclear, over 30 provincial and city-level governments throughout China as well as central government agencies and departments have adopted OGI rules in the last several years. Guangzhou, which was the first municipality to do so in 2002, and Shanghai, which issued its regulations in 2004, are but two examples. As implementation of the national OGI Regulation proceeds, a number of issues merit attention, the following among them:

Two Main Features of OGI

Government agencies at all levels have an affirmative obligation to disclose certain information, generally within 20 business days. This includes information that "involves the vital interests of citizens," with emphasis on information relating to, among other items, environmental protection, public health, food, drug, and product quality, sudden emergencies, and land appropriation and compensation.

Citizens, legal persons, and other organizations (Requesting Parties) may request information and are entitled to receive a reply

within 15 business days and no later than 30 business days. Requesting Parties can challenge a denial of access to information by filing a report with a higher-level or supervisory agency or designated open government information department or by applying for administrative reconsideration or filing an administrative lawsuit.

Areas To Watch During Implementation

No clear presumption of disclosure. Premier Wen Jiabao urged officials to proceed with implementation "insisting that disclosure be the principle, non-disclosure the exception." Chinese scholars and international experts, however, note that the national OGI Regulation does not set forth a clear presumption of disclosure. On this point it differs from earlier local-level OGI regulations and similar measures in other countries.

Certain provisions may discourage officials from disclosing information. Under the OGI Regulation, officials who withhold information the disclosure of which is required under the Regulation may face both administrative and criminal penalties. At the same time, however, the OGI Regulation stipulates that officials must not disclose information involving "state secrets, commercial secrets, or individual privacy," and must set up mechanisms to examine the secrecy of information requested. This emphasis on safeguarding secrecy and the breadth and vagueness of the definition of "state secrets" under Chinese law may encourage officials to err on the side of non-disclosure. The regulation also prohibits officials from disclosing information that might "endanger state security, public security, economic security, and social stability." Agencies and personnel who fail to "establish and perfect" secrecy examination mechanisms or who disclose information later deemed exempt from disclosure under the OGI Regulation may face administrative or criminal punishment.

Requesting Parties may be denied access if the request fails to meet a recognized purpose. An opinion issued by the State Council General Office on April 29, 2008, states that officials may deny requests if the information has no relation to the Requesting Party's "production, livelihood and scientific and technological research." This reflects language in Article 13 of the OGI Regulation that says Requesting Parties may request information "based on the special needs of such matters as their own production, livelihood and scientific and technological research." This introduction of an apparent purpose test differs from earlier local-level OGI regulations and international practice. Furthermore, another provision in the OGI Regulation which sets forth the information to be included in a request, does not instruct the Requesting Party to indicate the purpose of the request.

Requesting Parties lack an independent review channel to enforce the OGI. Some Chinese scholars have noted that the OGI Regulation's relief provisions constrain citizens from using the courts to challenge decisions that deny requests for information. Because China's courts are subordinate to the National People's Congress Standing Committee and the Communist Party, "it can be anticipated that enforcement of emerging information rights in China, even with the adoption of the State Council OGI Regulations, will

continue to face high hurdles within the existing court system." While it is still too early to tell, one scholar notes that it may be possible, however, to achieve some independent review of non-political cases through creation of tribunals or commissions designed to handle OGI cases.

Sufficiency of funding, preparedness, and public awareness. For many departments, OGI implementation may amount to an unfunded mandate. Many agencies face resource constraints or rely on funding sources predisposed to favor non-disclosure. Local governments may not favor information disclosure that could negatively impact local business. Local environmental protection bureaus, for example, which are funded by local governments, may not receive funding adequate to implement OGI effectively. Already, a number of localities failed to meet a March 2008 deadline to make catalogues and guides intended to assist parties in requesting information available to the public. This resulted in part from inadequate funding and technical expertise. While the government has focused on training officials, it has been less active in raising public awareness.

Access to information may not apply to media, whether foreign or domestic. The national OGI Regulation applies to "citizens, legal persons, and other organizations." This suggests its applicability to foreigners remains open to interpretation during implementation. It also remains unclear whether journalists in general may request access to information under the national regulation. Some Chinese experts argue that the regulation clearly applies to news organizations, which have the status of "legal persons or other organizations," and journalists, who have the status of "citizens," although foreign journalists may not be covered because they are not citizens. Some local-level OGI regulations in existence prior to the national regulation made clear its applicability to foreigners. The Guangzhou regulation, for example, provides that foreigners, stateless persons, and foreign organizations have the same rights and obligations to request information, limited to the extent that the requesting party's country or region of origin imposes restrictions on government information access to Chinese citizens. It remains to be seen whether the national OGI Regulation will be implemented so as to trump local OGI rules that are broader in application or whether the national regulation will be interpreted in a similarly broad fashion.

FREEDOM OF RELIGION

INTRODUCTION

Religious repression and persecution as detailed by the Commission in all previous Annual Reports persisted during this reporting year and intensified in the run-up to and during the 2008 Beijing Summer Olympic Games. In the past year, religious adherents remained subject to tight controls over their religious activities, and some citizens met with harassment, detention, imprisonment, and other abuses because of their religious or spiritual practices. The government sounded alarms against foreign "infiltration" in the name of religion,[1] and took measures to hinder citizens' freedom to engage with foreign co-religionists.[2] Moderate gains in using the legal system to challenge official abuses[3] were offset by the continuation of repressive policies and official harassment of some religious believers.

The Chinese government and Communist Party continued to deny Chinese citizens the ability to fully exercise their rights to freedom of religion.[4] The Chinese government subjects religion to a strict regulatory framework that represses many forms of religious and spiritual activities protected under international human rights law, including in treaties China has signed or ratified.[5] Although some Chinese citizens are able to practice their faith within government confines,[6] where some, but not all, Chinese citizens are allowed to do so, and where members of China's five state-sanctioned religious communities[7] also face tight controls over their religious activities, the Chinese government has failed in its obligation to guarantee citizens freedom of religion.

The government and Communist Party remain hostile toward religion. The government and Party articulate a limited degree of tolerance for religion as a means of mobilizing support for their authority, and not as a commitment to promoting religious freedom. In the past year, President and Party General Secretary Hu Jintao called for recognizing a "positive role" for religious communities within Chinese society,[8] but officials also continued to affirm the government and Party's policy of control over religion. In 2008, Ye Xiaowen, Director of the State Administration for Religious Affairs, stated, "We should not expand religions, but strive to let existing religions do more for the motherland's reunification, national unity, economic development and social stability."[9]

CHINA'S LEGAL FRAMEWORK FOR RELIGION

The Chinese government's legal framework for religion reflects rule by law rather than rule of law. Legal protections for religious activities are limited in scope, condition many activities on government oversight or approval, and apply only to state-sanctioned religious communities. Vague language and inconsistent implementation further hinder the effectiveness of these limited protections.[10] After passing the Regulation on Religious Affairs (RRA)[11] in 2004, the central government issued a series of supplementary regulations between 2005 and 2007 that elaborate on controls stipulated within the RRA. [For more information, see box titled Timeline: Regulation of Religion below.] The central government did not publicize any additional regulations on religion in late 2007

or in 2008, prior to the publication of the Commission's 2008 Annual Report. Based on Commission staff monitoring, the pace of issuing comprehensive regulations on religion at the provincial level slowed in the past year.[12]

Timeline: Regulation of Religion

In 2004, the State Council issued the Regulation on Religious Affairs (RRA), marking the first national-level comprehensive regulation on religion. Since then, the government has not issued one consolidated set of implementing provisions, as some observers anticipated, but rather expanded upon specific articles within the RRA by issuing legal measures (*banfa*) regarding these articles. In addition, the State Administration for Religious Affairs continues to publicize a book of interpretations of the RRA that elaborates on each article of the regulation.[13] The list below provides a brief chronology of the central government's legislative activity in the area of religion since the RRA's promulgation.[14]

- Measures on the Examination, Approval, and Registration of Venues for Religious Activity, issued April 21, 2005.
- Measures for Putting Religious Personnel on File, issued December 29, 2006.
- Measures for Putting on File the Main Religious Personnel of Venues for Religious Activities, issued December 29, 2006.
- Measures on the Management of the Reincarnation of Living Buddhas in Tibetan Buddhism, issued July 18, 2007.
- Measures on Establishing Religious Schools, issued August 1, 2007.
- Measures Regarding Chinese Muslims Registering to Go Abroad on Pilgrimages (Trial Measures), undated (estimated date 2006).

Some local governments have also reported amending or issuing new comprehensive regulations on religious affairs. Provincial-level areas reporting on such developments include:[15]

2005 (Date of issue or amendment)	**2006** (Date of issue or amendment)	**2007** (Date of issue or amendment)	**2008** (Date of issue or amendment)
Shanghai Municipality Regulation on Religious Affairs.	Zhejiang Province Regulation on Religious Affairs.	Anhui Province Regulation on Religious Affairs (amended in 2006 and again in 2007).	Shaanxi Province Regulation on Religious Affairs.
Henan Province Regulation on Religious Affairs.	Anhui Province Regulation on Religious Affairs (amended in 2006 and again in 2007).	Hebei Province Regulation on Religious Affairs.	

2005 (Date of issue or amendment)	**2006** (Date of issue or amendment)	**2007** (Date of issue or amendment)	**2008** (Date of issue or amendment)—Continued
Shanxi Province Regulation on Religious Affairs.	Beijing Municipality Regulation on Religious Affairs.	Jiangxi Province Regulation on Religious Affairs.	
	Chongqing Municipality Regulation on Religious Affairs.		
	Hunan Province Regulation on Religious Affairs.		
	Liaoning Province Regulation on Religious Affairs.		
	Sichuan Province Regulation on Religious Affairs.		
	Tibet Autonomous Region Implementing Measures for the "Regulation on Religious Affairs".		

RESTRICTIONS ON CHILDREN'S FREEDOM OF RELIGION

Children continued in the past year to face restrictions on their right to practice religion. Although a Ministry of Foreign Affairs official said in 2005 that no laws restrict minors from holding religious beliefs and that parents may give their children a religious education,[16] recent legislation has not articulated a guarantee of these rights. In addition, regulations from some provinces penalize acts such as "instigating" minors to believe in religion or accepting them into a religion.[17] In practice, children in some areas of China have been able to participate in religious activities at registered and unregistered venues,[18] but in other areas, they have been restricted from participating in religious services or receiving a religious education.[19] [For information on recently reported restric-

tions in the Xinjiang Uyghur Autonomous Region, see China's Religious Communities—Islam within this section.]

CONTROLS OVER RELIGIOUS PUBLICATIONS

The Chinese government forbids private publishing of religious materials and restricts the production of religious publications to state-licensed enterprises.[20] Controls over the publication of religious materials and restrictions on their sale have led to a reported shortage of Bibles and other publications.[21] Authorities continue to detain or imprison religious adherents who publish or distribute religious materials without permission, in some cases charging people with the crime of "illegal operation of a business." People detained in the past year because of activities or alleged activities receiving, preparing, or distributing religious texts include Dong Yutao, Shi Weihan, Ha Jingbo, and Jiang Ruoling. Wang Zaiqing and Zhou Heng, imprisoned and detained, respectively, on similar grounds in 2006 and 2007, were released in the past year. [See box titled Religious Prisoners below for additional information.]

Authorities also have continued campaigns to restrict "illegal" religious publications. In January 2008, authorities in the Xinjiang Uyghur Autonomous Region (XUAR) announced "illegal" religious and political publications would be the focal point of a censorship campaign in the region.[22] The announcement followed reports in earlier years of broad censorship of various religious and spiritual materials. In 2005, authorities reported confiscating 4.62 million items of Falun Gong and "other cult organization propaganda material" nationwide.[23] Authorities in the Tibet Autonomous Region confiscated 54 items described as "Dalai Lama splittist group reactionary publications."[24] In August 2007, authorities in the XUAR capital of Urumqi reported destroying over 25,000 "illegal" religious books.[25]

CHINA'S RELIGIOUS COMMUNITIES

The government recognizes only Buddhism, Catholicism, Daoism, Islam, and Protestantism for limited state protections[26] and exerts control over the internal affairs of these groups. It uses a variety of methods within and outside its legal system to penalize citizens who practice religion outside of approved parameters.[27] At the same time, variations in government implementation of religious policy have enabled a number of unregistered and unrecognized religious communities to operate in China.[28]

Buddhism

In recent years authorities have reported closing or demolishing unregistered Buddhist and Daoist temples, including temples that incorporate practices the government deems as feudal superstitions.[29] In a 2008 interview, Ye Xiaowen, Director of the State Administration for Religious Affairs, admonished against "build[ing] temples and Buddha statues indiscriminately."[30] In the past year, local authorities also reported suspending the operations of registered temples for failure to adhere to the national Regulation on Religious Affairs[31] and confiscating "illegal" Buddhist compact discs.[32]

Buddhist leaders and practitioners continue to face sanctions for expressing their opinions outside government-approved parameters. In late 2007, authorities prevented Buddhist monk Shengguan from attending a human rights conference in another province. Authorities had dismissed Shengguan from his temple directorship in 2006 for leading a religious ceremony commemorating victims of the Tiananmen crackdown and for challenging corruption among government officials and the Buddhist Association.[33]

Tibetan Buddhism

State repression of Tibetan Buddhism has reached its highest level since the Commission began to report on religious freedom for Tibetan Buddhists in 2002.[34] Chinese government and Party policy toward Tibetan Buddhists' practice of their religion played a central role in stoking frustration that resulted in the cascade of Tibetan protests that began on March 10, 2008. Chinese government interference with the norms of Tibetan Buddhism and unrelenting antagonism toward the Dalai Lama, one of the religion's foremost teachers, serve to deepen division and distrust between Tibetan Buddhists and the government and Communist Party. The government seeks to use legal measures to remold Tibetan Buddhism to suit the state. Authorities in one Tibetan autonomous prefecture have announced unprecedented measures that seek to punish monks, nuns, religious teachers, and monastic officials accused of involvement in political protests in the prefecture. [For more information, see Section V—Tibet.]

Catholicism

The state-controlled Chinese Catholic church continues to deny its members the freedom to pursue full communion and free communications with the Holy See and other Catholic institutions outside of China. In the past year, the Commission observed ongoing harassment and detention of Catholics in China, especially unregistered bishops and priests; further restrictions on access to pilgrimage sites; continuing negotiations and disputes over the return of confiscated church property; and ongoing tensions with the Holy See, despite a shift toward re-accommodating discreet Holy See involvement in the appointment of bishops for the state-controlled church.

HARASSMENT, DETENTION, AND OTHER ABUSES

Catholics who choose not to join the state-controlled church, as well as registered church members or leaders who run afoul of the state-controlled church's policies, remain subject to harassment, detention, and other abuses. The Commission noted an increase in harassment and detention of unregistered Catholics in 2005, after the Regulation on Religious Affairs entered into force.[35] The government targets unregistered bishops in particular. The bishops, approximately 40 in total, are reported to remain in detention, confinement in their homes, in hiding, or under strict surveillance by the government.[36] In the past year, authorities continued their pattern of detention and harassment of Jia Zhiguo, the unregistered bishop of Zhengding diocese in Hebei province. [For more information, see box titled Religious Prisoners below.] The condition of

some unregistered bishops, such as Su Zhimin, who was detained in 1997, remains unknown.[37] In the run-up to the 2008 Beijing Summer Olympic Games, authorities reportedly restricted the activities of other unregistered bishops and priests and placed some under confinement.[38] A court in Hebei province sentenced unregistered priest Wang Zhong to three years' imprisonment in November 2007 after he organized a ceremony in July to consecrate a new church registered with the government.[39] Reports indicate that other priests, such as Lu Genjun, remain in custody from detentions in past years.[40]

ACCESS TO RELIGIOUS SITES AND RETURN OF RELIGIOUS PROPERTY

In the past year, authorities continued to restrict Catholics' access to sites of religious significance. Authorities in Shanghai implemented measures to prevent Catholic pilgrims from visiting the Marian Shrine of Sheshan in May 2008.[41] Authorities also detained some unregistered leaders to prevent them from visiting the shrine.[42] The restrictions accompany longstanding limits on Catholics' freedom to visit the Marian Shrine of Donglu, in Hebei province, following a crackdown on pilgrimages there in the mid-1990s.[43]

The return of church property confiscated in previous decades remained a contentious issue. In the past year, authorities returned church property to the registered diocese of Shanghai, but officials in Shanxi province refused to return property to Catholics there, some of whom met with physical attack while protesting.[44]

BISHOP APPOINTMENT AND CHINA-HOLY SEE RELATIONS

The state-controlled Catholic Patriotic Association (CPA) exercises influence over the selection of bishops for the registered church in China, including through coercion of bishops to officiate ordinations, but in recent years the CPA has tolerated discreet involvement by the Holy See in the selection of some bishops.[45] The CPA directed the ordination of a total of five bishops in 2007 all of whom had Holy See approval, after breaking with the practice of selecting Holy See-approved bishops for some appointments in 2006.[46]

In late 2007, authorities again took steps to block Catholics' access to an open letter sent to them by Pope Benedict XVI and subjected local Catholic leaders to political reeducation for their distribution of the text.[47] The letter, originally released in June 2007, had urged reconciliation between registered and unregistered Catholic communities in China.[48]

The Chinese government does not maintain diplomatic relations with the Vatican. Chinese officials visited Vatican City in May 2008 during a performance there by Chinese musicians, but the visit did not result in concrete steps toward establishing relations.[49] In August, overseas media reported that in an interview with Italian television, Beijing Bishop Li Shan "said relations with the Vatican are improving and that [Li] would welcome a papal visit to China."[50] Travel to the region, by both registered and unregistered bishops, has been a sensitive issue. While organizers of the October 2008 12th General Assembly of the Synod of Bishops did not invite mainland bishops to attend this year, mainland bishops invited to the event in 2005 were denied permission to par-

ticipate by the CPA.[51] In recent years authorities have punished unregistered bishops for their travel to the region.[52]

Daoism

In recent years authorities have reported closing or demolishing unregistered Buddhist and Daoist temples, including temples that incorporate practices the government deems as feudal superstitions.[53] Daoist leaders remain subject to state control and scrutiny over internal doctrine.[54] In 2008, the national Daoist Association of China implemented measures for confirming Daoist personnel that require them to support the leadership of the Communist Party and subject personnel to penalties for engaging in activities deemed to involve "feudal superstition" or "cults."[55] The government co-opts Daoist communities to support Party propaganda campaigns. In 2008, the head of the national Daoist Association declared Daoists' opposition to the "splittist" policies of the Dalai Lama and said that Daoists call on "hoodwinked" Tibetans to "repent" their ways.[56]

Folk Beliefs

Local governments in China have continued to take steps that provide some recognition for folk beliefs, but that also subject such practices to formal government scrutiny.[57] In 2007, Hunan province passed a set of provisional measures marking China's first provincial-level legislation on venues for folk beliefs. The measures provide a degree of legal status to some venues for folk belief activities, which may signify a broader trend in accommodating some folk belief practices, but also give authorities the discretion to deny state sanction to those venues deemed to support cults or superstitions. Although the State Administration for Religious Affairs maintains an office that carries out research and formulates policy positions on folk beliefs and religious communities outside the five recognized groups, neither this national office nor the adoption of the Hunan measures indicate that government officials have officially expanded the definition of protected forms of religious expression to fully encompass folk belief practices.[58] [See box titled Regulation of Folk Beliefs below.]

Regulation of Folk Beliefs

The Hunan Province Provisional Measures for the Management of Venues for Folk Belief Activities (Provisional Measures), issued by the Hunan province Religious Affairs Bureau (RAB) in August 2007, mark China's first comprehensive provincial-level legal measures dedicated solely to activities related to folk beliefs.[59] The Provisional Measures articulate some protection for venues for folk belief activities, but also subject such sites to requirements that are stricter than those imposed on general venues for religious activities. Key features of the Provisional Measures include:

Regulation of Folk Beliefs—Continued

- *Defining Venues for Folk Belief Activities.* The measures define venues for folk belief activities to mean temples with "the characteristics of primitiveness, localism, diversity, historical tradition, and primordial religions." They also extend the definition to temples for ethnic minority beliefs. They exclude the "religious activity venues" of China's five recognized religions, as well as Confucian temples and ancestral halls. Venues for folk belief activities are forbidden from carrying out such "feudal superstitious" activities as rites to expel illness and exorcise demons [*qubing gangui*], "spreading rumors to deceive people," performing trance dances [*tiaoshen fangyin*], and other "illegal" activities.
- *Registering Venues.* The Provisional Measures provide for the registration of existing folk belief activity venues, but do not establish a mechanism to allow for the construction and subsequent registration of new sites. The measures state that "in principle," no new venues for folk belief activities may be built, and "in general," no venues that have been destroyed may be rebuilt. The measures allow for the rebuilding of venues of "historical stature" and "great influence" upon consent of the provincial RAB. The requirements are stricter than those provided for in the national Regulation on Religious Affairs and related measures on registering religious venues, as well as those in provincial regulations.
- *Registering Communities.* Unlike regulations that apply to Buddhists, Catholics, Daoists, Muslims, and Protestants, the Provisional Measures do not provide a framework for organizing and registering communities of people who practice folk beliefs.
- *Government and Party Control.* Although all national and local regulations on religion establish active state control over religious organizations and venues, the Provisional Measures are more explicit in providing for direct state control. The measures state that members of a venue's management committee must endorse the leadership of the Communist Party, as well as submit to the administrative management of the government.

Islam

Authorities increased repression of Islam in the Xinjiang Uyghur Autonomous Region (XUAR) in the past year, while the government and Party continued to strictly control the practice of Islam in other parts of the country. The Commission observed broad measures implemented in the XUAR to increase monitoring and control over religious communities and leaders; steps to restrict pilgrimages and the observance of religious holidays and customs; and continued measures to restrict children's freedom of religion. Throughout China, Muslims remained subject to state-sanctioned interpretations of their faith and to tight state control over their pilgrimage activities.

INCREASED REPRESSION IN XINJIANG

Authorities increased repression in the XUAR amid preparations for the 2008 Beijing Summer Olympic Games, protests in Uyghur and Tibetan areas of China, and government reports of terrorist

and criminal activity in the region. During the year, local governments throughout the XUAR reported on measures to tighten control over religion, including measures to increase surveillance of mosques, religious leaders, and practitioners; gather information on practitioners' religious activities; curb "illegal" scripture readings; and increase accountability among implementing officials. Authorities connected control of religious affairs with measures to promote "social stability" and continued longstanding campaigns to link Islam to "extremism" and the threat of terrorism.[60] [See box titled Religious Prisoners below for information on religion-related detentions from the past year and Section IV—Xinjiang—box titled Increased Repression in Xinjiang During the Olympics for more information.] In September 2008, XUAR chair Nur Bekri called for strengthening controls over religion and for increasing political training of religious leaders.[61] Amid preparations in the XUAR for the Olympics, overseas media reported in June that authorities in Aqsu district razed a privately built mosque for refusing to post pro-Olympics posters.[62]

Local authorities and educational institutions in the XUAR continued in 2007 and 2008 to impose restrictions on the observance of the holiday of Ramadan, including restrictions on state employees' observance of the holiday and prohibitions on closing restaurants during periods of fasting.[63] Overseas media reported on the detention of two Muslim restaurant managers for failing to abide by instructions to keep restaurants open.[64] Authorities intensified limits on the observance of Ramadan with measures to curb broader religious and cultural practices.[65] Some local governments reported on measures to prevent women from wearing head coverings.[66] In March, women in Hoten district who demonstrated against various human rights abuses in the region protested admonishments against such apparel issued during a government campaign to promote stability.[67]

The XUAR government continues to maintain the harshest legal restrictions on children's right to practice religion. Regionwide legal measures forbid parents and guardians from allowing minors to engage in religious activity.[68] In August 2008, authorities reportedly forced the return of Uyghur children studying religion in another province and detained them in the XUAR for engaging in "illegal religious activities."[69] Local governments continued to implement restrictions on children's freedom of religion, taking steps including monitoring students' eating habits during Ramadan and strengthening education in atheism, as part of broader controls over religion implemented in the past year.[70] Overseas sources have reported that some local governments have enforced restrictions on mosque entry by minors, as well as other populations.[71]

[For more information on conditions in the XUAR, see Section IV—Xinjiang.]

RESTRICTIONS ON THE FREEDOM TO MAKE OVERSEAS PILGRIMAGES

XUAR authorities continued in the past year to support measures to prevent Muslims from making pilgrimages outside of state channels, following the confiscation of Muslims' passports in summer 2007 to restrict private pilgrimages.[72] Officials also reportedly imposed extra restrictions on Uyghurs' participation in state-sanc-

tioned pilgrimages.[73] According to overseas media, authorities reportedly gave prison sentences to five Uyghur clerics for arranging pilgrimages without government permission.[74]

The central government continued to maintain limits on all Muslims' pilgrimage activities, after intensifying state controls over the hajj in 2006.[75] While the government permitted more than 10,000 Muslims to make the pilgrimage to Mecca under official auspices in 2007,[76] pilgrims had to abide by state controls over the trip. Among various controls, participants have been subject to "patriotic education" prior to departure[77] and to restrictions on their activities within Mecca in a stated effort to guard against contact with "East Turkistan forces" and other "enemy forces."[78]

CONTINUING CONTROLS OVER INTERNAL AFFAIRS AND DOCTRINE

The government continued to tightly control the internal affairs of Muslim communities. The state-controlled Islamic Association of China aligns Muslim practice to government and Party goals by directing the confirmation and ongoing political indoctrination of religious leaders, publication of religious texts, and content of sermons.[79] In the past year, authorities called for continued measures to control religious doctrine. In a 2008 interview, Ye Xiaowen, head of the State Administration for Religious Affairs, justified state interference in the interpretation of Islamic doctrine on the grounds of "public interests."[80] According to a 2008 report from the Ningxia Hui Autonomous Region, a Communist Party official who took part in leading "study classes" for Muslim personnel in the region called for "creatively interpreting and improving" religious doctrine.[81]

Protestantism

Members of China's state-controlled Protestant church remain subject to controls over their internal affairs and doctrine, while members of unregistered church communities and members of registered churches who run afoul of state policy remain subject to arbitrary harassment, detention, and imprisonment, as well as closure of churches and confiscation of church property. In the past year, the Commission noted increased repression of unregistered church leaders and members in the run-up to the Olympics, including an increase in the number of reported detentions; increased reports of repercussions for Chinese Protestants who interact with foreign co-religionists or foreign visitors; and ongoing efforts to control Protestant doctrine and co-opt church members to meet government and Communist Party goals.

HARASSMENT, DETENTION, AND OTHER ABUSES

Unregistered Protestant groups and registered churches that run afoul of Communist Party policy remain vulnerable to government crackdowns, as evidenced by reports of disruptions of church services and hundreds of detentions of Protestants in the past year. At the same time, variations in implementation of government policy have enabled some unregistered house churches to meet openly. Unregistered groups include those estimated to be in over 300 networks of house churches.[82] China Aid Association (CAA), a U.S.-based organization that monitors freedom of religion for Chinese Protestants, marked a rise in the reported number of Protestants

detained in 2007, up to 693 people compared to 650 in 2006, with reported total detentions near or above 100 people in Beijing, Henan province, and Shandong province.[83] Unregistered church members who followed practices the government deemed "cults" were among groups vulnerable to detention.[84] [An extrajudicial security apparatus called the 6–10 Office monitors and leads the suppression of groups that the government deems to be "cult organizations," including groups that self-identify as Christian. See Falun Gong—Background: Anti-"Cult" Institutions—6–10 Office in this section for more information.] The CAA also noted an increase in the number of people subjected to abuse while in detention, including "beating, torture and psychological abuse."[85] Detentions were accompanied by damage to property, including two reported church demolitions in 2007 in Heilongjiang province and one in Hubei province.[86] During raids on house churches, authorities confiscated property including Bibles and other religious materials.[87] In January 2008, authorities beat house church members in Yunnan province who asked for the return of confiscated property.[88]

In 2008 the CAA described a "significant deterioration" in conditions for house church Protestants in the run-up to the 2008 Beijing Summer Olympic Games, including "significant measures taken against key unregistered churches in Beijing," and a campaign against house churches in the Xinjiang Uyghur Autonomous Region.[89] It reported in August that some house church leaders were forced to sign an agreement restricting their religious activities in the period surrounding the Olympics.[90] Harassment of at least one prominent leader of unregistered Protestants, Chinese House Church Alliance president Zhang Mingxuan, persisted until the conclusion of the Paralympic Games in mid-September.[91] While many reported detentions have not been long-term or resulted in formal legal charges,[92] authorities also continued in the past year to pursue formal criminal charges against some Protestant house church leaders and members, and also sentenced some people to re-education through labor.[93] [See box titled Religious Prisoners below.]

House church members made limited gains in using the legal system to challenge official abuses. In November 2007, house church members in Shandong province secured the return of their property after filing suit against the local public security bureau, following public security officers' confiscation of Bibles, computers, and other goods during a raid earlier in the year.[94] In September 2008, a house church in Chengdu filed suit against a county-level religious affairs bureau (RAB), reportedly the first case of its kind, for shutting down church services earlier in the year.[95] The Chengdu RAB reportedly later issued a decision condemning the county bureau's actions.[96]

FREEDOM TO INTERACT WITH FOREIGN CO-RELIGIONISTS AND FOREIGN VISITORS

In late 2007 and 2008, authorities targeted and detained Chinese Protestants with ties to foreign co-religionists and targeted foreign Protestants for penalties or expulsion from China.[97] [For additional information, see box titled Religious Prisoners below.] The actions came as officials warned foreign groups throughout 2007 to abide

by Chinese restrictions on religion and pledged harsh measures to "strike hard" against communities including "hostile" religious groups in the run-up to the Olympics and the 17th Party Congress.[98]

Authorities also took steps in the past year to limit religious activists' and rights defenders' interaction with visiting overseas government delegations. Beijing officials detained Hua Huiqi and his brother in August as the two planned to visit a church that was scheduled to host U.S. President George W. Bush. Hua, who was also harassed by authorities earlier in the summer, escaped detention and reportedly remains in hiding.[99] Officials harassed or detained rights defense lawyers, including those active in religion cases, to prevent them from meeting with Members of the U.S. Congress in late June.[100] While Chinese House Church Alliance president Zhang Mingxuan met with the delegation, authorities placed him under surveillance after the event. Authorities later forcibly moved Zhang from Beijing until permitting him to return in September. Zhang was able to briefly resume house church services afterward, but Zhang and his wife were subsequently detained in October and his sons beaten. In June Beijing public security officers detained Zhang for two days for attempting to meet with a European Union representative.[101] Authorities placed under surveillance a number of Beijing activists, including religious rights activists, during the U.S.-China Human Rights Dialogue in late May.[102]

CONTROLS OVER DOCTRINE

China's state-controlled Protestant church continued to interfere in internal church doctrine and to co-opt registered religious communities to meet Party goals. The state-controlled Three-Self Patriotic Movement (TSPM), which leads the registered Protestant church in China, suppresses denominational differences among Protestants and imposes a Communist Party-defined theology, called "theological construction," on registered seminaries that, according to one TSPM official, will "weaken those aspects within Christian faith that do not conform with the socialist society."[103] In 2008, Ye Xiaowen, Director of the State Administration for Religious Affairs, said the government should support theological studies by the Protestant church aimed at "resist[ing] foreigners making use of religion to engage in infiltration."[104] In an October 2007 interview, Cao Shengjie, head of the state-controlled China Christian Council, expressed concern about "social problems" that she said stemmed from a lack of properly trained preachers and resulting "misinterpretations" of doctrine.[105]

Other Religious Communities

In the past year, the Chinese government did not make progress in removing its framework of recognizing only select religious communities for limited state protections, nor did it formally approve any additional communities. Chinese government regulations permit foreign religious communities, including communities not recognized as domestic religions by the government, to hold services for expatriates, but Chinese citizens are not allowed to participate.[106] Variations in implementation have enabled some Chinese

citizens affiliated with non-recognized religious communities to gather for worship, including a report in 2006 that Chinese members of the Church of Jesus Christ of Latter-day Saints met for services in Beijing.[107] In addition, while the central government does not recognize the Orthodox Church, some local governments permit the church to operate, in a limited number of cases recognizing the church within regulations on religion.[108] In 2008, authorities allowed Chinese Orthodox Christians in Beijing to hold Easter celebrations at a local church.[109]

Religious Prisoners

Authorities continue to detain, formally arrest, and in some cases imprison Chinese citizens because of their religious activities or for protesting Chinese policies on religion.[110] Known cases from the past year and new developments in previously reported cases include:

- Adil Qarim, an imam at a mosque in Kucha county, Xinjiang Uyghur Autonomous Region (XUAR), whom authorities detained during a security roundup in the aftermath of a reported series of bomb attacks in the county on August 10. An individual accused of involvement in the August 10 incident had attended the mosque. Adil Qarim denied having any links to the attacks. His current whereabouts are unknown.
- Alimjan Himit (Alimujiang Yimiti), a house church leader in the XUAR detained on January 12, 2008, and charged with subverting state power and endangering national security. Alimjan Himit had previously worked as the branch manager of a foreign-owned company shut down for "engaging in illegal religious infiltration activities." A court in Kashgar tried the case on May 27, 2008, and returned it to the procuratorate due to "insufficient evidence," but authorities have kept Alimjan Himit in detention.
- Ha Jingbo and Jiang Ruoling, two middle school teachers from Dongfeng county in Jilin province, whom authorities detained in June 2008 for distributing educational leaflets about Falun Gong. After taking the two women to the Dayang Public Security Bureau, male officers severely beat them in an attempt to coerce confessions. The women are currently held in Dongfeng County Detention Center on unknown charges.
- Jia Zhiguo, the unregistered bishop of Zhengding diocese, Hebei province, who was imprisoned for approximately 20 years and since 2004 has been detained multiple times, often over religious holidays. Authorities detained Jia in August 2007 because he removed a sign authorities placed on his church, identifying it as affiliated with the state-controlled Catholic Patriotic Association. Authorities released him from detention on December 14, 2007, but placed him under confinement in his home. Authorities detained him again on August 24, 2008, and released him into residential surveillance on September 18.

Religious Prisoners—Continued

- Mutellip (Mutallip) Hajim, a jade merchant and father of eight detained by XUAR authorities in January 2008 in apparent retribution for his activities helping underground Muslim schools, as well as for supporting the families of prisoners and for violating population planning requirements. Mutellip Hajim reportedly died in detention after being subjected to torture, and his corpse was returned to his family on March 3, 2008, with orders not to publicize his death.
- Phurbu Tsering, a Tibetan Buddhist trulku (a teacher that Tibetan Buddhists believe is a reincarnation) who founded and headed a Tibetan Buddhist nunnery in Ganzi Tibetan Autonomous Prefecture, Sichuan province, and whom public security officials detained on May 18 or 19, 2008. A few days earlier security forces detained more than 50 of the nuns he taught after they staged a political demonstration. The nuns were angry because patriotic education teams had attempted to force them to denounce the Dalai Lama and their teacher, Phurbu Tsering.
- Shi Weihan, owner of a Christian bookstore in Beijing, whom authorities detained on November 28, 2007, accusing him of illegally printing and distributing religious literature. Because of "insufficient evidence," authorities released Shi on bail on January 4, 2008, but detained him again on March 19, 2008.
- Tagpa Rigsang, a 26-year-old Tibetan Buddhist trulku from a Qinghai province monastery who was studying at Sera Monastery in Lhasa, and one of approximately 16 monks detained on March 10, 2008, for staging a political protest near Lhasa's Jokhang Temple. On March 24, the Lhasa procuratorate approved the formal arrest of 13 of the monks, including Tagpa Rigsang, on charges of "illegal assembly."
- Wang Zaiqing, a house church pastor first detained on April 28, 2006, in Huainan city, Anhui province, for printing and distributing Bibles and other religious materials without government authorization. Authorities charged Wang with "illegal operation of a business," a crime under Article 225 of the Criminal Law. On October 9, 2006, the Tianjia'an District People's Court in Huainan sentenced him to two years' imprisonment. Wang is presumed to have been released from prison at the expiration of his sentence on April 27, 2008.
- Yang Xiyao, a 68-year-old resident of Yanshan county in Hebei province, whom authorities detained on May 20, 2008, after raiding his home and confiscating Falun Gong publications. Yang served 6 years of a 10-year prison sentence in Baoding Prison from 2000 to 2006 for professing belief in Falun Gong. Officials released him in 2006 to receive medical treatment for heart palpitations and injuries reportedly caused by torture. Yang is once again in Baoding Prison. It is unclear whether he is continuing to serve his existing sentence, or if officials extended his sentence as a result of new criminal charges.

Religious Prisoners—Continued

- Zhang Jianlin and Zhang Li, Catholic priests affiliated with an unregistered church in Hebei province whom authorities detained in May 2008 as they intended to travel to the Marian Shrine of Sheshan in Shanghai. As of July 2008, overseas organizations reported that the two remained in detention.
- Zhou Heng, a house church leader and bookstore manager in the XUAR detained on August 3, 2007, while he was picking up a shipment of books reported to be Bibles donated by overseas churches for free distribution in China. Zhou was charged with "illegal operation of a business." Procuratorate authorities returned the case to the public security bureau in November due to "insufficient evidence" but continued to hold Zhou Heng in custody until dropping the charges against him and releasing him on February 19, 2008.

SOCIAL WELFARE ACTIVITIES BY RELIGIOUS COMMUNITIES

The Chinese government permits, and in some cases, sponsors, the social welfare activities of recognized religious communities where such activities do not conflict with Party goals.[111] State-sanctioned religious groups took part in relief efforts for victims of the May 2008 Sichuan earthquake,[112] but authorities reportedly detained some members of non-registered religious communities to prevent them from providing aid.[113] In 2008, the government permitted a Taiwan-based Buddhist civil society organization to establish an office on the mainland, the first time authorities have allowed a group headed by a non-resident legal representative to operate in this capacity.[114]

Falun Gong

On June 10, 1999, former President Jiang Zemin and Politburo member Luo Gan established an extrajudicial security apparatus called the "6–10 Office."[115] This entity was charged with the mission of enforcing a ban on Falun Gong and carrying out a crackdown against its practitioners, which commenced on July 22, 1999, when the government formally outlawed the movement.[116] Falun Gong practitioners describe it as a "traditional Chinese spiritual discipline that is Buddhist in nature," which consists of "moral teachings, a meditation, and four gentle exercises that resemble tai-chi and are known in Chinese culture as '*qigong*.'"[117] Tens of millions of Chinese citizens practiced Falun Gong in the 1990s and adherents to the spiritual movement inside of China are estimated to still number in the hundreds of thousands despite the government's ongoing crackdown.[118]

The central government intensified its nine-year campaign of persecution against Falun Gong practitioners in the months leading up to the 2008 Beijing Summer Olympic Games. Chinese security forces continued to detain and imprison Falun Gong practitioners and subjected some who refused to disavow the practice to torture and other forms of abuse in reeducation through labor (RTL) camps and other detention facilities.[119] In September 2007, Zhou Yongkang, then-Minister of Public Security and current member of

the Politburo Standing Committee, ordered that all police and public security forces "strike hard on overseas and domestic hostile forces, ethnic splittists, religious extremists, violent terrorists, and the Falun Gong cult" to safeguard "social stability" for the 17th Party Congress and the Olympics.[120] Official accounts of the crackdown were publicly available on Web sites for all 31 of China's provincial-level jurisdictions in 2007–2008.[121]

Since the government outlawed Falun Gong in July 1999, it has detained thousands—most likely hundreds of thousands—of practitioners.[122] Chinese government Web sites regularly report detentions of Falun Gong "criminal suspects" and some provincial and local authorities offer rewards as high as 5,000 yuan (US$732) to informants who report Falun Gong "escaped criminals."[123] In July, Chinese state media reported the arrest of 25 Falun Gong practitioners and the destruction of 7 Falun Gong publishing operations in the Xinjiang Uyghur Autonomous Region.[124] In 2007, Yingshang county government in Anhui province revealed that it had detained 13 "Falun Gong and other cult criminals," held another in "public security detention," and "reeducated and reprimanded" more than 1,600.[125] During the same period, Miyi county in Sichuan province recorded detentions of 62 practitioners as part of its "strike hard" campaign and claimed to have "transformed" 14 of them.[126] Relying on reports from practitioners and their families in China, sources outside of China, not all of whom are themselves Falun Gong practitioners, estimate that Chinese authorities detained "at least 8,037" practitioners between December 2007 and the end of June 2008 in a nationwide pre-Olympics crackdown.[127] International observers believe that Falun Gong practitioners constitute a large percentage—some say as many as half—of the total number of Chinese imprisoned in RTL camps.[128] Falun Gong sources report that at least 200,000 practitioners are being held in RTL and other forms of detention.[129] As of April 2008, Falun Gong sources in the United States had documented over 3,000 deaths of practitioners as a result of government persecution as well as over 63,000 cases of torture since 1999.[130] From 2000 to 2005, Falun Gong practitioners accounted for 66 percent of all cases of alleged torture by Chinese authorities reported to the UN Special Rapporteur on Torture.[131]

As this Commission reported in 2006, Chinese government persecution of Falun Gong practitioners contravenes the standards in Article 18 of the International Covenant on Civil and Political Rights, which China has signed but not ratified.[132] The Chinese government asserts its anti-Falun Gong campaign is necessary to protect public safety, order, and morals in accordance with Article 36 of the Constitution.[133] The UN Working Group on Arbitrary Detention, however, has rejected this argument.[134]

BACKGROUND: ANTI-"CULT" INSTITUTIONS

6–10 Office

Publicly available government documents detail the central role of the 6–10 Office in the persecution of Falun Gong. Since its inception, the 6–10 Office has also expanded its targets to include other religious and *qigong* groups that the central government deems "harmful."[135] According to Nanjing City Public Security provisions

published in June 2008, the 6–10 Office is at the forefront of "organizing and leading the struggle against Falun Gong." Its responsibilities include "directing investigations into significant cases," "digging deep to uncover covert plots and organizers," "gathering intelligence," and "organizing and coordinating the prevention, control, and punishment of Falun Gong and other harmful *qigong* organizations by municipal public security forces." [136] A notice posted on a Yunnan provincial government Web site in March 2008 declares that the government must "sternly guard against" Falun Gong, calling it a "cultic, anti-Communist Party, anti-socialist organization." It warns government workers that "if [you] hear of Falun Gong reactionary propaganda immediately notify your unit leader and the public security '610' Office." [137]

An April 2008 notice posted on the Gutian county government Web site in Fujian province describes the central government's "basic policy" outlawing the practice of Falun Gong and outlines five primary tasks to implement: (1) "explicitly order the dissemination of information regarding the ban [on Falun Gong]," (2) "carry out comprehensive administration [of the policy]," (3) "fully utilize all legal weapons, sternly punish the criminal activities of cult ringleaders and key members," (4) "do a good job at transformation through reeducation for the great majority of practitioners," and (5) "prevent external cults from seeping into the area, reduce the conditions that allow cults to propagate." [138]

Several reports mention "three zeroes" that security officials should aim to achieve. An official report from the Communist Party Political-Legal Committee of Wuling district in the city of Changde in Hunan province urges cadres to "resolutely achieve the 'three zeroes goal' in 6–10 management work," which is defined as "no petitions in Beijing, zero incidents of local assemblies and protests, zero incidents of interference with television broadcasts." [139] The same report also stresses the need to carry out four tasks to this end: (1) "strengthen the prevention, control, and management [of Falun Gong] and conscientiously keep an unflinching eye on Falun Gong practitioners," (2) "strengthen the use of transformation through reeducation as a line of attack against their fortifications, use all your might to transform obstinate Falun Gong elements," (3) "strengthen strikes against and punishment of [Falun Gong], give the 'Falun Gong' underground gang a forceful scare," and (4) "strengthen anti-cult cautionary education, reinforce the people's ability to recognize, prevent, and oppose cults." [140]

Aggressive surveillance is a key aspect of the 6–10 Office's work. The Wuling Party Political-Legal Committee describes having implemented a set of three "responsibility measures" to ensure that "more than 600 Falun Gong practitioners" are closely monitored by the district police, neighborhood committee, and their own relatives.[141] The Committee also instructs security officials to organize an "inspect and control" system whereby local police are to conduct home "visits" of Falun Gong practitioners three times per day.[142] In order to monitor more "die-hard" practitioners, public security forces are to form an "inspection and control small group" to carry out "24-hour surveillance." [143] A county report from Jiangxi province also stresses the need to "dispatch inspection and control personnel" during "important periods of time" in order to ascertain

a practitioner's "movement 24 hours a day," and report "unusual situations" in a timely manner to the 6–10 Office.[144] In addition to surveillance, the 6–10 Office is also required to develop broad "intelligence channels" that allow them to "know whenever the enemy moves."[145]

6–10 Offices throughout China maintain extrajudicial "transformation through reeducation" facilities that are used specifically to detain Falun Gong practitioners who have completed terms in reeducation through labor (RTL) camps but whom authorities refuse to release.[146] The term "transformation through reeducation" (*jiaoyu zhuanhua*) describes a process of ideological reprogramming whereby practitioners are subjected to various methods of physical and psychological coercion until they recant their belief in Falun Gong.[147] In 2002, local officials in Hunan joined with the 6–10 Office to establish a "transformation through reeducation camp" for Falun Gong practitioners where "management methods" such as solitary confinement are employed. Four years after opening, the camp claimed a "transformation rate" of 70 percent for the 77 detainees in custody.[148] In reporting on a transformation camp in Weifang city in 2000, Pulitzer Prize winner Ian Johnson writes that it was "at these unofficial prisons that the killings [of Falun Gong practitioners] occurred."[149]

Chinese government sources contain many references to the 6–10 Office calling for the "punishment" (*chengzhi*) of Falun Gong practitioners.[150] In Hunan's Changde city, Wuling district officials boast of having "cracked" 31 Falun Gong cases that produced 33 "public security detentions," 19 "reeducation through labor sentences," 29 "criminal detentions," 20 "arrests," as well as the "destruction of 12 underground nests" between 2002 and 2006.[151] A city government Web site in the Inner Mongolia Autonomous Region lauded a security official for his role in "striking against" and "disposing of" over 1,000 cases involving "core members" of Falun Gong and the Disciples sect.[152] A report to the 9th CCP Representative Assembly in Guandu District of Kunming City in Yunnan province acknowledges the capture of "26 Falun Gong criminal suspects" in 2005. Eleven of these "suspects" were formally arrested and six were sentenced to RTL camps.[153] Officials from a township in Anhui province posted a report stating that after several years of "strikes against and cleansing" (*daji qingli*) of Falun Gong, the majority of local practitioners had "realized their errors and mended their ways."[154]

Gao Zhisheng, a lawyer who has defended various Chinese activists, exposed numerous forms of torture and violence employed by the 6–10 Office against Falun Gong practitioners.[155] Gao describes the 6–10 Office as a "Gestapo-like organization" with "powers that no civilized state in the world would even consider trying to obtain." He further notes that "of all the true accounts of incredible violence that I have heard, of all the records of the government's inhuman torture of its own people, what has shaken me most is the routine practice on the part of the 6–10 Office and the police of assaulting women's genitals."[156] Gao went missing in September 2007 following the public release of a letter he sent to the U.S. Congress and remains in detention at an undisclosed location.[157]

Anti-Cult Associations

Working in concert with the 6–10 Office to undermine Chinese citizens' right to believe in and practice Falun Gong and other banned religious sects is a national network of "anti-cult associations" (*fanxiejiao xiehui*).[158] Local anti-cult associations can be found at the provincial, county, municipal, and neighborhood level.[159] Such associations have emerged as a prominent information channel for the government's campaign against Falun Gong, as they widely disseminate anti-Falun Gong propaganda by holding study sessions and other community activities to raise "anti-cult awareness."[160] The Beijing-based China Anti-Cult Association was founded in November 2000 and claims to be a "non-profit, social welfare organization" that was "voluntarily formed" and "registered according to the law."[161] The government's hand, however, can be clearly discerned in the publications and activities of anti-cult associations. An anti-cult association in Guizhou province admitted in one report that it was founded "under the leadership of the Party and government."[162] Anti-cult association publications often expose connections with the 6–10 Office.[163] A May 2007 report from Changchun revealed that the Jilin Provincial Anti-Cult Association partnered with provincial and municipal 6–10 Offices to "jointly organize and launch" anti-cult activities at 87 middle schools throughout the provincial capital.[164]

DIRECTIVES AND MEASURES RELATED TO FALUN GONG AND THE OLYMPICS

In April 2008, the central government 6–10 Office issued an internal directive to local governments nationwide mandating propaganda activities to prevent Falun Gong from "interfering with or harming" the Olympics.[165] References to the directive appear on official Web sites in every province and at every level of government.[166] Most official reports focus on demonstrating that local authorities have stepped up security and fulfilled the requirement to "educate" target audiences on the directive's content.[167] Local authorities distributed the directive widely in an effort to raise public awareness. References can be found on various Web sites ranging from public entities with indirect relations with the state (state-run enterprises, public schools, universities, parks, TV stations, meteorological bureaus, etc.) to commercial and social entities with no obvious ties to the state.[168] Anti-cult associations also actively circulated and promoted the 6–10 Office's Olympic directive.[169]

Olympic and municipal officials in Shanghai and Beijing also issued directives pertaining to Falun Gong in the lead-up to the 2008 Olympic Games. The Shanghai Public Security Bureau sent a warning to Falun Gong practitioners and other dissidents in April 2008 demanding that they remain in the city during the Olympics and report to the public security office at least once a week until the end of October. The notice threatened to detain or punish anyone who violates the order.[170] In November 2007, Beijing Olympic organizers reminded visitors to the games that possession of Falun Gong writings is strictly forbidden and that no exceptions would be made for international visitors.[171] The Beijing Public Security Bureau issued a public notice offering a reward of up to 500,000 yuan (US$73,100) for informants who report Falun

Gong plans to "sabotage" the Olympics.[172] From January to June 2008, public security agents reportedly arrested at least 208 practitioners from all 18 districts and counties in Beijing municipality. Falun Gong sources have documented the names and other information for 141 of the 208 practitioners who were detained in Beijing, 30 of whom are now reportedly being held in reeducation through labor camps with sentences as long as two-and-a-half years.[173]

Chinese security officials made statements prior to the Olympics that sought to link Falun Gong with terrorist threats, but produced no evidence to substantiate these claims.[174] Tian Yixiang, the head of the Military Affairs Department of the Beijing Olympics Protection Group, listed Falun Gong among the groups that might "use various means, even extreme violence, to interfere with or harm the smooth execution of the Olympic Games."[175] Li Wei, Chairman of the Center for Counterterrorism Studies at the quasi-official China Institute of Contemporary International Relations, categorized Falun Gong as among the top five terrorist threats to the 2008 Olympic Games.[176]

DOMESTIC INSTITUTIONAL SOURCES OF ANTI-FALUN GONG ACTIVITY

The PRC Constitution stipulates that the state "protects the legitimate rights and interests of Chinese nationals residing abroad and protects the lawful rights and interests of returned Chinese and of the family members of Chinese nationals residing abroad."[177] The primary government institution to which the Constitution assigns this role is the State Council—the executive body at the pinnacle of state power and administration.[178] Within the State Council, the office responsible for implementing this mandate is the State Council's Overseas Chinese Affairs Office (OCAO).

In 2001, then OCAO director, Guo Dongpo, urged cadres to "wake up and see that the struggle with the 'Falun Gong' cult is a serious political struggle."[179] Guo called for marshalling OCAO resources to "unite all powers that can be united . . . make them understand and support the Chinese government's position and policy of handling the 'Falun Gong' problem according to the law." Guo also called for "striking against the overseas forces of the 'Falun Gong' cult, stop them from spreading, and eliminate their bad influence."[180] An official report on the January 2007 OCAO directors' meeting, in which OCAO provincial and municipal leaders gathered with the national leadership in Beijing, stated that the "OCAO also coordinates the launching of anti 'Falun Gong' struggles overseas by relevant departments."[181]

A 2005 OCAO report urges overseas Chinese and returned overseas Chinese to "firmly establish the concept of 'greater overseas Chinese affairs,'" and to "aggressively expand domestic Chinese and overseas Chinese friendship ties." Specifically, overseas Chinese should "aggressively expand the struggle with Taiwanese independence forces, the Falun Gong cult, ethnic separatism and other enemy forces in order to contribute to the defense of state security."[182] A similar provincial report published on the OCAO Web site devotes a section to "resolutely implementing and executing the Party line, the Party's guiding principles, and the Party's policies." Within this section, OCAO cadres are called to "attach a high

degree of importance to launching struggles to oppose the 'Falun Gong' cult and to the work of 'safeguarding stability.'"[183] In an OCAO online research journal, a cadre from the Xinjiang Uyghur Autonomous Region (XUAR) discusses the formation of an "Overseas Chinese Work Corps." The cadre writes that within the XUAR Overseas Chinese Work Corps system, "more than 30,000 overseas Chinese" operate under the "correct leadership of the Party Work Corps," and are charged with "resolutely implementing and executing each and every policy task in the Party's and nation's overseas Chinese work." One such policy task is defined as "launching a resolute struggle against enemy forces, ethnic separatists, Taiwanese independence forces, and the Falun Gong cult organization."[184]

In 2006, Chen Yujie, the Director of the OCAO, "expressed his admiration" to a visiting delegation of overseas Chinese and Chinese-Americans from Chicago for their "positive contributions" in the "struggle against 'Falun Gong' and other enemy forces."[185] Reports of similar appeals to take action against Falun Gong have appeared in Europe, with the China Anti-Cult Association taking a leading role in spreading anti-Falun Gong propaganda there.[186] In September 2008, the OCAO Web site reported that the Chinese Ambassador to Argentina attended an award ceremony in which a local Chinese man was honored for "organizing members of the China Peaceful Unification Promotion Association of Argentina to aggressively struggle against 'Falun Gong' elements and Tibetan independence" during the Olympic torch relay.[187]

In July 2008, the OCAO held a meeting in Beijing to discuss their "integrated preparations and deployment during the Olympic period." A high-ranking official used this occasion to stress to OCAO cadres that "inviting overseas Chinese to attend the opening and closing ceremonies is a heavy task for our office. We must adopt strict organizational measures, thorough security services, and good security defense." Immediately thereafter, the official reminded his audience to "strengthen network security protections and the security of internal office secrets" because "the activities of Falun Gong elements grow wilder by the day."[188]

ETHNIC MINORITY RIGHTS

Ethnic minority citizens of China do not enjoy the "right to administer their internal affairs" as guaranteed to them in law.[1] In 2008, Tibetans and Uyghurs in China demonstrated against government policy toward their communities, underscoring the failures of the government to provide meaningful autonomy in designated ethnic minority regions and to safeguard the rights of ethnic minorities throughout China.[2] Although the Chinese government protects some aspects of ethnic minority rights and is more tolerant of ethnic minority communities that do not overtly challenge state policies, shortcomings in both the substance and the implementation of Chinese ethnic minority policies prevent ethnic minority citizens from enjoying their rights in line with domestic Chinese law and international legal standards.[3]

Authorities continued in 2008 to repress citizen activism by ethnic minorities in China. [For more information on government responses to protests in Tibetan and Uyghur areas, see Section II—Rights of Criminal Suspects and Defendants, Section II—Freedom of Expression, Section IV—Xinjiang, and Section V—Tibet. For information on ethnic Koreans, see Section II—North Korean Refugees in China.] In the past year, authorities in the Inner Mongolia Autonomous Region (IMAR) punished ethnic minority rights advocates as well as citizens perceived to have links with ethnic rights organizations, intensifying a trend noted by the Commission in its 2007 Annual Report.[4] In July, authorities in the IMAR detained businessman Burildguun for alleged ties to an overseas Mongolian political group.[5] In March, authorities detained writer Naranbilig for 20 days in connection with his plans to attend the UN Permanent Forum on Indigenous Issues and with his broader activities advocating for the rights of ethnic Mongols. The same month, authorities also detained activist Tsebegjab for his alleged ties to overseas Mongolian activists. Authorities later placed both Naranbilig and Tsebegjab under confinement in their homes.[6] In January, authorities at the Beijing airport detained Jiranbayariin Soyolt, a native of the IMAR and citizen of Mongolia who had been active in promoting ethnic minority rights in the IMAR. Chinese officials released him in June and returned him to Mongolia.[7] Some of the activists had drawn attention to Chinese government practices infringing on the rights of ethnic Mongols. Longstanding government policies in the IMAR have disrupted traditional pastoralist livelihoods, forced resettlement and assimilation, and reduced the use of the Mongolian language.[8] IMAR authorities have taken steps in recent years to spur the use of Mongolian, including through legislation implemented in 2005,[9] but officials found in 2007 that "serious problems" remained in promoting the language.[10]

The government reported taking steps in the past year to improve economic and social conditions for ethnic minorities. It remains unclear, however, whether the new measures have been effectively implemented and include safeguards to protect ethnic minority rights and to solicit input from local communities. As the Commission noted in past reports, development efforts have brought mixed results for ethnic minority communities.[11] In 2008

Premier Wen Jiabao announced more support for rural ethnic minority regions, but also tied economic improvement to the resettlement of villages.[12] Officials reported in the past year continuing efforts to promote compulsory education in ethnic minority areas[13] and taking steps to cultivate more ethnic minority cadres.[14] The Guizhou provincial government continued efforts in 2008 to apply intellectual property protection to traditional knowledge used by ethnic minority communities. [See Section III—Commercial Rule of Law for an analysis of this development.] In 2008, authorities reported positively on implementation of a five-year development program for ethnic minorities and ethnic minority regions that was issued in 2007 and first reported on by the Commission in its 2007 Annual Report.[15] Although the program supports potentially beneficial reforms, it also includes measures designed to monitor and report on ethnic relations and perceived threats to stability.[16] In 2007, central government authorities reported on researching strategies to monitor and report on ethnic relations.[17]

Prisoner Profile: Hada

The 2008 detentions of Burildguun, Naranbilig, Tsebegjab, and Jiranbayariin Soyolt underscore the repercussions ethnic Mongols have faced for advocating ethnic minority rights and challenging Chinese policy in the Inner Mongolia Autonomous Region (IMAR). Bookstore owner Hada continues to serve a 15-year sentence for his activities promoting ethnic minority rights and democracy. A brief chronology of his case follows.[18]

- 1992: Hada founds the Southern Mongolian Democratic Alliance to promote self-determination and democracy in Inner Mongolia.
- 1995: Authorities detain Hada on December 11 after he organizes peaceful protests for ethnic rights in the IMAR capital of Hohhot.
- 1996: The Hohhot Intermediate People's Court sentences Hada on November 11 to 15 years' imprisonment for "splittism" and "espionage." Fellow activist Tegexi receives a 10-year sentence at the same trial for "splittism" and is released in early December 2002.
- 1997: The Inner Mongolia High People's Court rejects Hada's appeal.
- 2006: Authorities detain Hada's wife Xinna and son Uiles while the two attend the trial of ethnic Mongol physician Naguunbilig and his spouse Daguulaa. Authorities reportedly beat Uiles for over 20 minutes while holding him in custody. Authorities release Xinna after 3 hours in custody, but order Uiles to spend 13 days in detention at the Hohhot City Detention Center.
- 2008: Hada remains in the Inner Mongolia No. 4 Prison in Chifeng, where he is reported to be in poor health, has been denied proper medical treatment, and has been subjected to routine physical abuse. He is due for release from prison on December 10, 2010.

POPULATION PLANNING

INTRODUCTION

China's population planning policies in both their nature and implementation constitute human rights violations according to international standards. During 2008, the central government ruled out change to the policy for at least a decade. Population planning policies limit most women in urban areas to bearing one child, while permitting slightly more than half of women in rural areas to bear a second child if their first child is female.[1] In the past year, the National Population and Family Planning Commission (NPFPC) retired some of its more strident slogans (e.g., "one more baby means one more tomb") in an effort to soften the public presentation of its policies, but no corresponding steps were taken to end or change the coercive nature of these policies.[2] Central and local authorities continued to strictly control the reproductive lives of Chinese women through an all-encompassing system of family planning regulations in which the state is directly involved in the reproductive decisions of its citizens. Local officials and state-run work units monitor women's reproductive cycles in order to prevent unauthorized births. The government requires married couples to obtain a birth permit before they can lawfully bear a child and forces them to use contraception at other times. Violators of the policy are routinely punished with exorbitant fines, and in some cases, subjected to forced sterilization, forced abortion, arbitrary detention, and torture.[3]

Although implementation tends to vary across localities, the government's population planning laws and regulations contravene international human rights standards by limiting the number of children that women may bear and by coercing compliance with population targets through heavy fines.[4] For example, the Population and Family Planning Law, which became effective in 2002, is not consistent with the standards set by the 1995 Beijing Declaration and the 1994 Programme of Action of the Cairo International Conference on Population and Development.[5] Controls imposed on Chinese women and their families, and additional abuses engendered by the system, from forced abortion to discriminatory policies against "out-of-plan" children, also violate standards in the Convention on the Elimination of All Forms of Discrimination Against Women,[6] Convention on the Rights of the Child,[7] and the International Covenant on Economic, Social, and Cultural Rights.[8] As a state party to these treaties, China is bound to uphold their terms.

"SOCIAL COMPENSATION FEES"

The NPFPC issued a directive in September 2007 calling for "social compensation fees" to be levied at higher levels according to income in order to discourage affluent Chinese from having more children than the law allows. It also warned urban residents that violations of the population planning regulations would now result in negative marks taken against their financial credit records.[9] "Social compensation fees" (*shehui baoyang fei*) are penalties or fines that local governments assess against couples who give birth to an unapproved child. For certain couples, these fines pose a dilemma

between undergoing an unwanted abortion and incurring devastating financial costs. Often with court approval, family planning officials are allowed to take "forcible" action against families who are not willing or able to pay the fines. These "forcible" actions include the confiscation of family belongings and the destruction of the violators' homes.[10]

Provincial governments have also introduced new punitive measures—including the threat of job loss or demotion, denial of promotion, expulsion from the Party, and destruction of personal property—as a supplement to standard fines for all violators, regardless of their economic status.[11] Hunan, Shaanxi, and Guangdong were among the first provinces to immediately target "elite" segments of the population with new penalties.[12] Less than a month after the NPFPC directive was issued, Hunan adopted a new penalty standard equal to two to six times the violator's income for the previous year for each "illegal conception." For each child conceived after the first "unauthorized birth," a fine equal to three times the violator's income is imposed, which is in addition to the standard penalty. For children conceived out of wedlock, violators face a fine of six to eight times their income from the previous year.[13]

Following suit in 2008, the Beijing Population and Family Planning Commission began drafting a proposal to penalize more affluent and socially prominent violators of the policy by placing their names on a financial blacklist and by banning them from receiving civic awards or honors.[14] Other provinces are widely publicizing "unlawful" births in an effort to shame violators into compliance. Henan and Zhejiang provinces, for example, have adopted measures to "expose celebrities and high-income people who violate the family planning policy" and thereby tarnish their reputations.[15] In January 2008, the Hubei Provincial Party Committee and government issued a three-year ban on government employment and called for revocation of Party membership for violators of the population planning policies.[16] In 2007, Hubei expelled 500 Party cadres and dismissed 395 government officials, including 3 provincial lawmakers and 4 members of the local Chinese People's Political Consultative Conference (CPPCC), for having "unauthorized" children.[17] At least one county in Hubei has also begun to deny retirement benefits to teachers who violate birth quotas.[18] Hunan disqualified 31 candidates for the local People's Congresses and CPPCC in November 2007, while Liaoning province barred 21 lawmakers from parliamentary duties in 2008.[19] One former CPPCC member and owner of a cement company in Hubei was fined 765,500 yuan (US$105,000) for fathering a second child without the government's permission.[20] In 2007, Hubei punished 93,000 violators of population regulations and collected a total of 230 million yuan (US$33.5 million) in "social compensation fees."[21] Local authorities often use legal action and coercive measures to collect money from poor citizens who cannot afford to pay the fees.[22]

IMPLEMENTATION

The use of coercive measures in the enforcement of population planning policies remains commonplace despite provisions for the punishment of abuses perpetrated by officials outlined in the Popu-

lation and Family Planning Law.[23] The same law requires that local family planning bureaus conduct regular pregnancy tests on married women and administer unspecified "follow-up" services.[24] The population planning regulations of at least 18 of China's 31 provincial-level jurisdictions permit officials to take steps to ensure that birth quotas are not exceeded; these steps include forced abortion.[25] In some cases, local officials coerce abortions even in the third trimester.[26] "Termination of pregnancy" is explicitly required if a pregnancy does not conform with provincial population planning regulations in Anhui, Hebei, Heilongjiang, Hubei, Hunan, Jilin, Liaoning, and Ningxia provinces. In 10 other provinces—Fujian, Guizhou, Guangdong, Gansu, Jiangxi, Qinghai, Sichuan, Shanxi, Shaanxi, and Yunnan—population planning officials are authorized to take "remedial measures" to deal with "unlawful" births.[27]

In April 2008, population planning officials in the town of Zhubao in Shandong province "detained and beat" the sister of a woman who had illegally conceived a second child, in an attempt to compel the pregnant woman to undergo an abortion.[28] Chen Guangcheng, a legal advocate and rights defender from nearby Linyi city, was sentenced to more than four years in prison in 2006 for exposing widespread abuses by local family planning officials. In April 2008, Chen filed a lawsuit alleging that Linyi officials had "trumped up charges" against him in "retaliation" for his efforts to expose their misdeeds. Chen also wrote a detailed letter to the president of the Supreme People's Court and the procurator-general at the Supreme People's Procuratorate to protest his imprisonment and petition for release.[29] In 2007 and 2008, prison authorities prevented Chen from communicating with his family, refused a request for medical parole, and accused him of having "illicit relations with a foreign country."[30] Chen's wife, Yuan Weijing, confirmed that cases of forced abortion and other abuses have resurfaced in Shandong in 2008. She remains under constant police surveillance because of her husband's prior advocacy.[31] In March 2008, family planning officials in Zhengzhou city, the capital of Henan province, forcibly detained a 23-year-old unmarried woman who was seven months pregnant. Officials reportedly tied her to a bed, induced labor, and killed the newborn upon delivery.[32] Regulations in most provinces forbid a single woman to have a child and residency permit regulations often deny registry to children born out of wedlock.[33] "Out-of-plan" children in China, those whose birth violated population planning regulations, are frequently denied access to education and face hurdles to finding legitimate employment.[34]

Recent reports indicate many localities continue to use forced sterilization to enforce population planning rules. One report describes lessons learned by Gansu provincial family planning officials from a recent visit to Shanxi province. It emphasizes the importance of "firmly grasping the long-term implementation of effective contraception, especially persevering to the end with the sterilization of households with two female children."[35] In spring 2008, in a reported effort to meet local targets for sterilization, authorities in Tongwei county in Gansu province allegedly forcibly sterilized and detained for two months a Tibetan woman who had

abided by local population planning requirements.[36] Most ethnic minorities in rural areas, such as Tibetans, are officially permitted to have more than one child under population planning regulations. In some localities, officials impose restrictions nevertheless. According to overseas Uyghur rights observers, Chinese authorities have carried out forced sterilizations and abortions against Uyghur women.[37] In the aforementioned case of forced sterilization of a Tibetan woman in Gansu province, local officials were reportedly motivated by the promise of promotion and a monetary reward equal to three months' pay for performing a set number of sterilization procedures within their locality.[38]

The linking of job promotion with an official's ability to meet or exceed such targets occurs in many provinces and provides a powerful structural incentive for officials to employ coercive measures in order to meet population goals.[39] In a July 2006 speech, a Tongwei county official highlighted the county's failure to reach sterilization quotas and admonished local family planning workers to "continue to keep the sterilization of households with two girls . . . as your focus."[40] The official urged his subordinates to do the following:

> From the beginning to the end, each village and town must give the highest priority to the tubal ligation of women who have given birth to two girls, especially within those villages where these women have not yet had their tubes tied. We must demonstrate dogged determination and break the normal procedures. We should solder this assignment to the bodies of every cadre. Set the time and set the assignment. On multiple levels and using different channels, we should obtain information on spouses who are attempting to flee the county. By hook or crook, we must carry out contraceptive measures and every village must meet at least one of its target assignments.[41]

The Tongwei official's reference to demonstrating "dogged determination" and breaking the "normal procedures" signals official tolerance of abuses perpetuated by family planning cadres against violators of population planning regulations. As noted in the Commission's last report, for example, large-scale protests erupted in Guangxi Zhuang Autonomous Region in 2007 after local officials carried out forced abortions, sterilizations, and the looting of homes to punish violators of the policy.[42]

Local governments often offer monetary incentives and other benefits to informants who report violations of population planning regulations. The Tongwei county government named 2008 the "year of fundamental construction" for population planning and unveiled a "peaceful life project" of various social welfare initiatives for sterilized rural women with two female children.[43] In September 2007, the Tongwei County Population Bureau began to give monetary incentives to informants who report unsterilized households with two female children and to women who voluntarily undergo tubal ligation.[44] According to the announcement, informants are guaranteed "strict secrecy" and a "one-time payment of 3,000 yuan (US$438)." Women who voluntarily take the initiative to arrange for a sterilization procedure with the local government are promised the same reward given to informants as well as a "social secu-

rity deposit" of 1,000 yuan (US$146) and an additional one-time reward of 10,000 yuan (US$1,459).[45] At least three localities in Henan province have also adopted monetary incentives for compliance with population planning regulations, providing a "one-time reward of 3,000–5,000 yuan [US$438 to US$729] for [couples who abandon] plans to have a second child."[46]

The utilization of positive incentives for compliance with birth quotas and sterilization policies in Henan and Gansu provinces reflects an emerging national pattern, but thus far incentives for compliance have only been implemented in addition to, rather than in place of, longstanding coercive measures. In November 2007, the central government issued a directive to encourage this "benefit-oriented mechanism" in population planning, which offers financial rewards in the areas of housing, healthcare, education, and poverty alleviation to compliant couples in rural areas.[47] Examples of these benefits include government-provided insurance for compliant families and education subsidies for girls who are their families' only child.[48] Some provinces have also eased restrictions to allow younger couples who come from single-child families to give birth to two children. The National Population and Family Planning Commission's (NPFPC) original directive indicated that couples from one-child families in 27 provinces would enjoy this exemption, but in 2007, a NPFPC spokesman claimed that the exemption applied to all such couples nationwide with the sole exception of Henan province.[49] Like other population policies, implementation is likely uneven across provinces.

DEMOGRAPHIC AND SOCIAL CRISES

The government's aim in relaxing birth quotas for couples from one-child families is to address a rising demographic crisis caused by three decades of restrictive population planning, but experts believe these efforts can only mitigate, not solve, trends that are already set in motion.[50] China now faces two emerging demographic trends caused by population planning that could start to undermine its economic growth within the next decade: (1) a "graying" society in which the elderly population increases disproportionately to the working age population and creates pressure on young adults who must support a larger number of elderly dependents with no assistance from siblings, and (2) an artificially low fertility rate that will reduce the number of potential workers.[51]

Another demographic challenge that China presently confronts is a severely skewed sex ratio. In 2000, the most recent year for which national census data is available, the male-to-female sex ratio for the infant-to-four year old age group was reportedly 120.8 males for every 100 females. This is far above the global norm of roughly 105 males for every 100 females.[52] At least five provinces—Jiangsu, Guangdong, Hainan, Anhui, and Henan—reported ratios over 130 in 2005.[53] In 2007, the central government estimated that China has 37 million more males than females.[54] By 2020, the Chinese government estimates that there will be at least 30 million men of marriageable age that may be unable to find a spouse.[55] Such a situation could fuel petty crime, prostitution, human trafficking, drug abuse, and HIV/STD transmission.[56] Some political scientists argue that large numbers of "surplus males"

could create social conditions that the Chinese government may choose to address by expanding military enlistment.[57]

In response to strict birth limits imposed by the government, Chinese couples often engage in sex-selective abortion to ensure that they have a son, especially rural couples whose first child is a girl.[58] For this reason, China's skewed sex ratio is largely attributable to its population planning policies and a traditional cultural preference for sons. Comparing China's skewed sex ratio with global averages, one economist estimates that more than 12 million girls were unaccounted for by the 2000 census, many of whom may have been aborted upon discovery of the sex of the fetus.[59] A UN expert based in Beijing estimates that by 2014 the number of "missing women" in China will reach between 40 to 60 million.[60] In 2006, the National People's Congress Standing Committee considered, but did not pass, a proposed amendment to the Criminal Law that would have criminalized sex-selective abortion.[61] While at least one provincial government has passed regulations imposing fines on women who undergo sex-selective abortions and on the health organizations that perform them,[62] the central government has taken no other action at the national level.

In July 2008, Chinese authorities admitted that the country now has more than 100 million people with no siblings, which critics charge has deleterious effects on the social development of Chinese youth who are treated like "little emperors" within their homes.[63] Many Chinese blame the population policies for social problems as diverse as rising crime among young men, obesity and selfishness among urban youth, and the growing prevalence of divorce among young couples from single-child families.[64]

SIGNS OF DISAGREEMENT AMONG OFFICIALS

Population planning has been largely off-limits as a topic for public debate, but some officials began to speak out on the issue over the past year.[65] In March 2007, 29 delegates to the Chinese People's Political Consultative Conference called for eliminating the one-child policy entirely because of the developmental and social problems that it caused China's youth.[66] In February 2008, Zhao Baige, Vice-Minister of the National Population and Family Planning Commission (NPFPC), told reporters that the government was considering changing the population planning policy "incrementally."[67] Shortly thereafter, a deputy to the National People's Congress called for replacing the current policy with a new formula that encourages all couples to have one child, allows them to have two, prohibits them from having three, and rewards them for having none.[68] Zhang Weiqing, the Minister of the NPFPC, moved quickly to quell the discussion by issuing an emphatic statement that China would "by no means waver" in its population planning policies for "at least the next decade."[69] The emergence of different views from Chinese official circles suggests the existence of previously unobserved debates within the Party regarding the future of the population planning policy. Restrictions on the public expression of dissent by ordinary citizens continue to obscure outsiders' ability to discern trends in the relative support and opposition to such regulations among the general Chinese populace. The Com-

mission will continue to monitor and investigate these trends as greater information becomes available.

Sichuan Earthquake

On May 12, 2008, a powerful earthquake struck Sichuan province leading to the death of more than 80,000 people. Among the dead were thousands of children who lost their lives when school buildings collapsed. Many parents were left to face an uncertain future without the support system traditionally provided by one's offspring. This natural disaster exposed the deep resentment that many Chinese citizens harbor toward the nation's population planning policies as manifested in the emotional protests against the shoddy construction of public schools and local authorities who failed to rapidly rescue trapped schoolchildren.[70]

- The Sichuan Population and Family Planning Commission estimates that at least 7,000 children from one-child families were killed and more than 16,000 were injured. More precise statistics are still being compiled.[71]
- In May 2008, the government announced that parents who lost their only children in the earthquake would be permitted to have another child if they applied for a certificate from the Chengdu Population and Family Planning Commission.[72]
- In June 2008, the National Population and Family Planning Commission sent a team of medical personnel to the earthquake zone to perform operations to reverse sterilization procedures for parents who lost their only child and want to have another.[73] In-vitro fertilization was also offered to eligible couples.[74]

FREEDOM OF RESIDENCE

INTRODUCTION

The Chinese government continues to enforce the household registration (*hukou*) system to limit the rights of Chinese citizens to choose their permanent place of residence. Since the enforcement of the Regulations on Household Registration in 1958,[1] the division between rural and urban *hukous* has prevented rural residents who migrate to cities from accessing healthcare, education, ownership of property, legal compensation, and other social welfare programs.[2] Consequently, the *hukou* system has become a foundation of discrimination and violation of the right to equality for Chinese citizens who hope to change their residence.[3] Security preparations for the 2008 Beijing Summer Olympic Games resulted in heightened scrutiny of the *hukou* status of migrants throughout China. In January, Beijing officials ordered public security bureaus to intensify inspections of migrants without a Beijing *hukou* to ensure security during the Olympics.[4] In July, authorities in the Xinjiang Uyghur Autonomous Region launched a house-to-house search campaign reportedly targeting the migrant population and other groups on the eve of the Olympics.[5] Some migrants reportedly believe that the government's intensified checks are aimed at preventing protests and incidents that Chinese authorities think could mar the government's and Communist Party's image.[6]

The government's restriction on residence is inconsistent with the right to freedom of residence and the right to equality as defined by international human rights standards.[7] Therefore, some have pursued legal action to challenge the system. A lawyer, Cheng Hai, filed a lawsuit against Beijing Public Security Bureau on February 25, 2008, requesting that the Beijing Changping People's Court revoke his temporary resident permit registration at the Changping district police station.[8] Cheng said Beijing Public Security Bureau's requirement of a temporary permit conflicts with more than 10 superior laws, including a citizen's right to equal treatment stipulated in the Constitution.[9]

RECENT HUKOU REFORMS

Since the economic reform period in the late 1970s, former farmers and laid-off state-owned business employees without urban *hukou* began relocating to cities in search of higher earnings, becoming the so-called "floating population."[10] To accommodate the surplus of rural labor and the labor demand in urban areas, national and local authorities implemented reforms to enhance the mobility of rural residents.[11] However, recent reforms only allow migrants to change *hukou* if they meet criteria that generally favor senior Communist Party officials, as well as the wealthy and educated.[12] Those without a stable job, a stable place of residence, or family connections to urban *hukou* holders still face obstacles to obtaining city *hukou*.

[Addendum: Recent Hukou Reforms is a representative, non-comprehensive survey of local Chinese government *hukou* reforms enacted from 2005 through August 2008.]

Generally, these reforms require that rural migrants have (1) a "stable job or source of income" and (2) lived in a "stable place of

residence for a specified period of time" as conditions for obtaining local *hukou*. Some also require a college education. Most of the reforms still exclude the vast majority of Chinese migrants who often work as manual laborers and live in temporary accommodations.

Most recently, Jiangsu province loosened its *hukou* application requirements, allowing migrants with special skills and contributions as well as their family members to relocate, even if they do not own local property.[13] Yunnan province issued an opinion on September 3, 2007, replacing the two-tier agriculture and non-agriculture system with one unified resident permit. The opinion states that individuals with a legal permanent residence, long-term employment contract, and stable source of income are eligible to apply for a *hukou*.[14] Shenzhen city began a new residency card system on August 1, 2008,[15] abolishing the city's temporary resident card system in place since 1984.[16] The measures stipulate that all citizens between 16 and 60 years old can register for a residency permit if they have been working in Shenzhen for more than 30 days without permanent residency status. Individuals over 60 are permitted to apply if they own property, invest in, or work for local enterprise, or bring technical expertise to the city. New permit holders will be entitled to a range of free public services. Children of permit holders will have access to local schools.[17]

REMAINING CHALLENGES

Since 1984, the central government has sanctioned a locally based migrant registration system.[18] Nevertheless, uneven implementation of *hukou* reform at the local level has dulled the impact of national calls for change. Some recent instances highlight remaining challenges.

- In January 2008, a high school girl in Beijing attempted suicide after learning that she was unable to register for the college entrance examination without a Beijing *hukou*, prompting public outcry over the slow pace of *hukou* reform.[19]
- In April 2008, Zhuhai city, Guangdong province, suspended its *hukou* application process due to increased fiscal pressure of providing services to *hukou* holders, raising doubts over migrant integration with limited resources.[20]

Addendum: Recent Hukou Reforms

This table provides a representative sample of local Chinese government *hukou* reforms enacted between 2005 and August 2008. The first two pages of the table provide examples of *hukou* reforms at the provincial level; the remaining pages provide examples at the level of municipality, autonomous region, special economic zones and non-provincial-level city. Reforms are categorized according to two sets of key features. The first set includes three common eligibility requirements (income, residence and education or skill level). The second set includes two main policies discussed in the main body of this section (the elimination of agricultural/non-agricultural distinction, and the provision of benefits to new *hukou* holders). An "X" under "income," "residence" or "education or skill" indicates that the *hukou* reform in question demands that *hukou* applicants meet eligibility requirements in these areas respectively. An "X" under "Eliminate Agricultural/Non-Agricultural Distinction" indicates that the reform includes provisions that address the elimination of the agricultural/non-agricultural distinction. An "X" under "Benefits" indicates that the reform includes the provision of benefits to new *hukou* holders.

			Key Reform Features					
			Eligibility Requirements			Policy		
Province	**Date**	**Sources**	**Income**	**Residence**	**Education or Skill**	**Eliminate Agricultural/ Non-Agricultural Distinction**	**Benefits**	**Description and Past Reforms**
Zhejiang	5/3/2006 (Reported)	Reform Reported in Xinhua[21]	X	X	X	X	X	The provisions abolish the agricultural/ non-agricultural classification system. In order to apply for a *hukou*, individuals must possess a lawful permanent residence and be stably employed. Urban public employment agencies at all levels should provide career guidance, job recommendations, and legal advice free of charge to migrant workers from rural areas seeking employment. The 2006 reforms build on reforms instituted in 2002[22] at the county and small city levels to grant a *hukou* to individuals with a fixed place of residence, a stable source of income, or those holding advanced degrees.

Addendum: Recent Hukou Reforms—Continued

This table provides a representative sample of local Chinese government *hukou* reforms enacted between 2005 and August 2008. The first two pages of the table provide examples of *hukou* reforms at the provincial level; the remaining pages provide examples at the level of municipality, autonomous region, special economic zones and non-provincial-level city. Reforms are categorized according to two sets of key features. The first set includes three common eligibility requirements (income, residence and education or skill level). The second set includes two main policies discussed in the main body of this section (the elimination of agricultural/non-agricultural distinction, and the provision of benefits to new *hukou* holders). An "X" under "income," "residence" or "education or skill" indicates that the *hukou* reform in question demands that *hukou* applicants meet eligibility requirements in these areas respectively. An "X" under "Eliminate Agricultural/Non-Agricultural Distinction" indicates that the reform includes provisions that address the elimination of the agricultural/non-agricultural distinction. An "X" under "Benefits" indicates that the reform includes the provision of benefits to new *hukou* holders.

			Key Reform Features					
			Eligibility Requirements			Policy		
Province	**Date**	**Sources**	**Income**	**Residence**	**Education or Skill**	**Eliminate Agricultural/ Non-Agricultural Distinction**	**Benefits**	**Description and Past Reforms**
Liaoning	4/20/2007 (Reported)	Reform Reported in Liaoning Provincial Population and Family Planning Commission News[23]		X		X		The provisions abolish the agricultural/ non-agricultural classification system. The provisions only require that an individual have a legal, permanent residence in a city to be eligible for a *hukou*.
Yunnan	1/1/2008 (Effective)	Yunnan Government Opinion[24]	X	X		X		The opinion abolishes the agricultural/non-agricultural system. The opinion states that individuals with a legal permanent residence, long-term employment contract, and stable source of income are eligible to apply for a *hukou*.

Municipality	Date	Sources	Key Reform Features					Description and Past Reforms
			Eligibility Requirements			Policy		
			Income	Residence	Education or Skill	Eliminate Agricultural/ Non-Agricultural Distinction	Benefits	
Beijing	4/19/2007 (Effective)	Reform Reported in Sina[25]	X	X	X		X	The new measures relax restrictions for a *hukou* registration in Beijing. Children are permitted to adopt the household registration of their father. Age restrictions for *hukou* are eliminated. Previous regulations provided migrant workers with medical insurance and gave their children equal access to schooling. Earlier city regulations directed county-level governments to grant a *hukou* to individuals with a fixed place of residence or a stable source of income. Under past reforms,[26] citizens who meet professional, educational, or investment requirements are eligible to apply for a *hukou*.
Chongqing	10/19/2007 (Reported)	Reform Reported in Xinhua[27]	X	X	X	X	X	The five-year plan aims to abolish Chongqing's agricultural/non-agricultural registration system, replacing it with a single "Chongqing Residency Permit" scheme. It also provides government support for job skills training, migrant education, sanitation, housing, and social security. Past reforms[28] mandated that nine districts pilot the *hukou* reform. Individuals with purchased property (30 sq/m per person), a college level of education, or a stable income can apply for a *hukou*.

Autonomous Region	Date	Sources	Key Reform Features					Description and Past Reforms
			Eligibility Requirements			Policy		
			In-come	Resi-dence	Edu-cation or Skill	Eliminate Agricultural/ Non-Agricul-tural Distinc-tion	Benefits	
Guangxi Zhuang Autono-mous Region	4/6/2005 (Issued)	Guangxi Government Circular[29]	X	X	X	X		The circular abolishes the agricultural/ non-agricultural classification system, re-placing it with a unified "residency per-mit system." Individuals who have their own residences are eligible to apply. Science and technology workers are eligi-ble for a *hukou*. Migrant workers with a stable labor contract or a long-term lease can also establish a *hukou*.

Special Economic Zone	Date	Sources	Key Reform Features					Description and Past Reforms
			Eligibility Requirements			Policy		
			Income	Residence	Education or Skill	Eliminate Agricultural/ Non-Agricultural Distinction	Benefits	
Zhuhai	4/9/2008 (Suspended)	Reform Reported in Xinhua[30]		X			X	Zhuhai suspended the application process for residency on April 9, 2008. Government officials cited increased fiscal pressure on the municipality as the primary reason for withdrawing its *hukou* reforms. In recent years, the Zhuhai government had introduced a number of measures to improve living and welfare conditions for migrants, including 12 years of free education for children, medical insurance, and free bus travel for the elderly. People buying new apartments of no less than 75 sq/m in Zhuhai were allowed to apply for a *hukou*.

Special Economic Zone	Date	Sources	Key Reform Features					Description and Past Reforms
			Eligibility Requirements			Policy		
			Income	Residence	Education or Skill	Eliminate Agricultural/ Non-Agricultural Distinction	Benefits	
Shenzhen	8/1/2008 (Effective)	Shenzhen City Temporary Measures on Resident Permits[31]	X	X	X	X	X	The measures stipulate that individuals aged 16 to 60 who have been working in Shenzhen for more than 30 days are eligible to apply for a *hukou* at their local police station. Individuals over 60 are permitted to apply if they own property, invest in or work for a local enterprise, or bring technical expertise to the city. New permit holders will be entitled to a range of free public services. Children of permit holders will also be entitled to the same compulsory education as their permanent peers, and families will be able to apply for low-cost housing. Under previous reforms, six categories of people, including those working, investing, or starting up a business in Shenzhen, or who had a lawful residence in Shenzhen, were permitted to apply for a *hukou*. In 2006, Shenzhen decided to include new residents in the city's retirement pension plan.

Non-Provincial-Level City	Date	Sources	Key Reform Features					Description and Past Reforms
			Eligibility Requirements			Policy		
			Income	Residence	Education or Skill	Eliminate Agricultural/ Non-Agricultural Distinction	Benefits	
Zhengzhou, Henan	11/2/2005 (Reported)	Reform Reported in China Daily[32]		X			X	In November 2001, the city provided a *hukou* to people who had relatives living in Zhengzhou. However, increased pressure on transportation, education, and healthcare as well as a rise in crime forced the city to cancel the measure three years later.
Xi'an, Shaanxi	2/27/2006 (Effective)	Xi'an City Temporary Provisions[33]	X	X	X	X		The provisions abolish the agricultural/non-agricultural classification system, replacing it with a "residency permit system." Scientists, engineers, and PhD recipients are encouraged to apply for a *hukou*. Individuals with a stable income and permanent housing are eligible to apply. The government announced plans to implement the management system in three districts and expand it citywide within three years.

Non-Provincial-Level City	Date	Sources	Key Reform Features					Description and Past Reforms
			Eligibility Requirements			Policy		
			Income	Residence	Education or Skill	Eliminate Agricultural/ Non-Agricultural Distinction	Benefits	
Chengdu, Sichuan	10/20/2006 (Effective)	Chengdu City Public Security Bureau Regulations[34]	X	X	X	X		The opinion abolishes the agricultural/non-agricultural system. Individuals who have purchased property or investors who have committed over 2 million yuan to an industry are eligible to apply for a *hukou*. The opinion stipulates that individuals who hold a bachelor's degree or higher may also establish a *hukou* in Chengdu. Individuals who have lived in the city temporarily for three years, have a legal permanent residence, and a working contract are eligible to apply for a *hukou*.
Qingdao, Shandong	8/1/2007 (Effective)	Qingdao City Government Circular[35]	X	X	X	X		The circular abolishes the agricultural/non-agricultural classification system. Individuals with a PhD or who possess technical skills may apply for a Qingdao *hukou*, as may individuals who pay 10,000 yuan in taxes for one year. Individuals with a residence and a steady source of income also are eligible to apply for a *hukou*.

LIBERTY OF MOVEMENT

INTRODUCTION

The Chinese government continues to enforce restrictions on citizens' liberty of movement within the country, in violation of international human rights standards.[1] Chinese citizens who are mainland residents must obtain travel permits from their local government to leave the mainland, including to enter into the special administrative regions (SAR) of Hong Kong and Macau.[2] SAR residents are required to have a "Home Return Permit" (HRP) to visit the mainland.[3] The Chinese government for two decades has denied the issuance of HRPs to 12 pro-democracy members of the Legislative Council of Hong Kong because of their support for protesters at Tiananmen Square in 1989, criticism of the Chinese government and Communist Party, or other reasons.[4] Officials also arbitrarily confiscate HRPs to deny entry of citizens deemed to act outside permitted limits. On July 1, Norman Choy, a reporter covering the 2008 Beijing Summer Olympic Games for the Hong Kong-based pro-democracy Chinese-language newspaper Apple Daily, was denied entry at the Beijing airport. Authorities confiscated Choy's HRP and repatriated him, citing the national security law.[5]

RESTRICTIONS ON RELIGIOUS CITIZENS AND ACTIVISTS

The Chinese government controls or punishes religious adherents, activists, or rights defenders deemed to act outside approved parameters by restricting their liberty of movement. The authorities use methods such as extralegal house arrest (see Section II—Rights of Criminal Suspects and Defendants—Arbitrary Detention—Arbitrary House Arrest and Control for a more detailed analysis of extralegal house arrest), detention, and surveillance. Recent cases include:

- Zeng Jinyan, blogger and spouse of imprisoned human rights activist Hu Jia, has been placed under house arrest and heightened surveillance with limited Internet connectivity since Hu's detention on December 27, 2007.[6] During the 2008 Beijing Summer Olympic Games, the authorities forced Zeng and her infant daughter to leave Beijing for Dalian, and confined them in a hotel for 16 days with limited communications with family.[7]
- The Uyghur community in the Xinjiang Uyghur Autonomous Region has reported restrictions on air travel within the country in the run-up to and during the 2008 Olympic Games.[8]
- During the U.S.-China Human Rights Dialogue in late May, authorities placed under surveillance a number of Beijing activists, including a member of the China Democracy Party, religious rights activists, and veterans of the 1989 Tiananmen democracy protests.[9]
- During an official visit by Members of the U.S. Congress in late June, eight Beijing-based human rights lawyers were placed under house arrest apparently to prevent them from meeting.[10]
- In April, authorities in the Inner Mongolia Autonomous Region placed Mongolian rights activist and journalist Naranbilig

under house arrest after detaining him for 20 days in March and April.[11]

• Yuan Weijing, spouse of imprisoned legal advocate and rights defender Chen Guangcheng, has been under house arrest since August 2005.[12]

[See Section II—Freedom of Religion and Ethnic Minority Rights for more information.]

FREE ENTRY/EXIT FROM CHINA

The Chinese government continues to restrict citizens' right to entry into and exit from the country, contravening international human rights standards.[13] In the past year, authorities arbitrarily issued, confiscated, revoked, or denied the application for passports to activists deemed to pose a "possible threat to state security or national interests,"[14] which is inconsistent with Article 2 of the Passport Law.[15]

During the 2008 Beijing Summer Olympic Games, a number of dissidents including Wang Dan,[16] Yang Jianli,[17] and Zhou Jian,[18] were barred from entry into Hong Kong. Chinese authorities have refused to renew Wang's passport since 2003 and Yang has a valid passport.[19] Tsering Woeser, a well-known Tibetan writer, filed a lawsuit against the Chinese government in July for denying her a passport for over three years.[20]

The Chaoyang People's Court in Beijing on May 14, 2008, upheld an administrative decision that barred Yuan Weijing, the spouse of jailed blind activist and barefoot lawyer Chen Guangcheng, from leaving the country in August 2007 to receive an award on her husband's behalf in the Philippines.[21] Teng Biao, a prominent human rights lawyer, told reporters in March 2008 that the authorities had seized his passport. Around the same time, the police warned him of potential detention unless he stopped talking to foreign media and writing about human rights abuses.[22]Authorities in the Xinjiang Uyghur Autonomous Region authorities continued to support measures to prevent Muslims from making pilgrimages outside of state channels, following the confiscation of Muslims' passports in summer 2007 to restrict private pilgrimages.[23]

[See Section II—Rights of Criminal Suspects and Defendants, Freedom of Expression, Freedom of Religion, and Section V—Tibet for more information.]

STATUS OF WOMEN

INTRODUCTION

The Commission's 2007 Annual Report noted that discrimination against women in China remained widespread, equal access to justice has been slow to develop, and that Chinese women, especially migrant, impoverished, and ethnic minority women, tended to be unaware of their legal options when their rights are violated, in spite of considerable efforts by Chinese officials and women's organizations to build protections for women into the law.[1] The Commission notes that the past year marked the first time that Chinese courts mandated criminal punishment in a sexual harassment case and issued a civil protection order in a divorce case involving domestic violence.

GOVERNMENT RESPONSE TO SEXUAL HARASSMENT AND DOMESTIC VIOLENCE

State protections against sexual harassment remain limited. The number of sexual harassment complaints, however, increased since the Law on the Protection of Women's Rights and Interests (LPWRI) was amended in 2005.[2] The LPWRI prohibits sexual harassment and domestic violence and requires state government assistance to women to assert their rights in court.[3]

At least one court case from the past year issued criminal penalties for sexual harassment. In June 2008, the Gaoxin People's Court in Chengdu, citing the Criminal Law rather than the LPWRI, sentenced a human resources manager at a high-tech firm to five months' criminal detention, which marks the first time someone has been criminally punished for sexual harassment in China.[4]

While the Chengdu case is an important development, significant obstacles remain for plaintiffs in winning sexual harassment cases. Before the Chengdu case, almost all plaintiffs who lost their cases did so for "lack of evidence."[5] In addition, courts in China often view sexual harassment as a moral issue and therefore defendants receive lenient legal punishment that involves issuing an apology and paying limited compensation.[6] Victims fear retaliation for reporting cases of sexual harassment, especially since companies and government agencies in China are not required to have a sexual harassment policy and companies are not held responsible for the sexual harassment of their staff.[7]

Domestic violence remains a significant problem in China, with 29.7 to 35.5 percent of Chinese families reportedly experiencing some form of violence, and women making up 90 percent of the victims.[8] Some local officials have taken positive steps to enhance legal protections for domestic violence victims. In July 2008, the Chong'an People's Court in Wuxi city, Jiangsu province, announced a pilot project that designated a panel of judges, including a representative from the local women's federation, to handle all domestic violence-related divorce cases.[9] In August 2008, that same court issued the first protective order to a domestic violence victim in a civil proceeding.[10]

To overcome victims' difficulty in obtaining adequate evidence of their abuse, judicial agencies and women's federations in at least

21 provinces have established domestic violence injury appraisal centers.[11] The number of shelters for domestic violence victims has also increased.[12]

GENDER DISPARITIES

Political Participation and Decisionmaking

While the government has supported women's right to vote and run in village committee elections, few women hold positions with decisionmaking power in the upper echelons of the Communist Party or government. Women make up just 20 percent of the Party and hold some 40 percent of government posts.[13] Less than 8 percent of the Central Communist Party Committee (CCPC) is comprised of women; only one woman is a member of the CCPC's Politburo, and no women sit on the Politburo Standing Committee.[14] During the past year women headed 2 of the country's 28 ministries, and one woman is the governor of a province.[15]

Health

The government announced an action plan to boost women's health by providing basic healthcare services to women in urban and rural areas, as part of a package of initiatives known as "Healthy China 2020." Maternity deaths in rural areas in 2006 were almost double the number in urban areas, with the disparity even greater between eastern provinces and other areas.[16] The government has pledged by 2015 to improve healthcare services so that all women can give birth in hospitals and maternal and infant mortality rates are cut.[17]

Access to Rural Land Allocation and Compensation

Women continue to experience gender-based discrimination when attempting to access benefits associated with their village *hukous* (household registration), including their right to land and property. In many of these cases, village rules contravene national laws and regulations, yet they are still enforced by village officials.[18]

Women who are especially vulnerable to discrimination include "married-out women," widowed women, but also women who come from a "two-daughter household," and women who remarry after divorce or who marry a divorced man.[19] "Married-out women" are women who have either married men from other villages, but whose *hukous* remain in their birthplace, whose *hukous* are transferred from one place back to their birthplace, or whose *hukous* are transferred to their husbands' village.[20] For more information on cases that were resolved, both judicially and extrajudicially, in the woman's favor, see box titled "Results for Women: Two Hukou Cases" below.

Results for Women: Two Hukou Cases

Heilongjiang Province

A Heilongjiang province village leader told a woman who had married someone with a Sichuan *hukou* (household registration) that their son could only have a local village *hukou* if she signed an agreement to never seek land in the village. After the woman sought their assistance, the county women's federation, along with other local officials, worked with the village committee to reach a solution. The women's federation pointed out to village members that such action violated the PRC Law on Land Contracts in Rural Areas and the Law on the Protection of Women's Rights and Interests (LPWRI). Finally, the village committee and village representatives agreed to give the woman's son local *hukou* status and consideration for land allocation.[21]

Henan Province

A village in Dengzhou city, Henan province, issued rules stipulating that women who were not married and did not reside in the village would have to verify their single status in order to receive land compensation. After two female migrant workers from the village filed a suit, the Dengzhou People's Court ruled that the village's rules were void and that the group must provide the two women with 750 yuan (US$110) each for land compensation within five days. If the group did not do so, they would have to pay double the amount in accordance with Article 232 of the PRC Civil Procedure Law.[22]

HUMAN TRAFFICKING

INTRODUCTION

The Chinese government faces lingering challenges in its efforts to eliminate human trafficking, despite making significant strides to combat the problem. The Commission's 2007 Annual Report noted that the Chinese government has taken steps to increase public awareness, expand the availability of social services, and improve international cooperation.[1] The government needs to do more, however, to detect and protect victims, including victims trafficked for labor exploitation and Chinese citizens trafficked abroad. The lack of a comprehensive anti-trafficking policy to combat all forms of trafficking continues to hamper China's effort to combat trafficking.

The government has not fulfilled its international obligations to combat trafficking and it obstructs the independent operation of non-governmental and international organizations that offer assistance on trafficking issues. At the same time, recent statements from central government officials, as well as the State Council's release of the National Plan of Action on Combating Trafficking in Women and Children (2008–2012), indicate high-level support for—and more focus on—proactive ways to address trafficking.

SCOPE OF HUMAN TRAFFICKING IN CHINA

China is a country of origin, transit, and destination for human trafficking. Domestic trafficking for sexual exploitation, forced labor, and forced marriage comprise the majority of trafficking cases.[2] Women and children, who make up 90 percent of these cases, are often trafficked from poorer or more remote areas to more prosperous locations, such as provinces along China's east coast.[3] The Ministry of Public Security estimates that 10,000 women and children are abducted and sold each year, and the International Labour Organization (ILO) estimates that 10,000 to 20,000 people are trafficked annually.[4]

Chinese citizens are trafficked to other countries in Asia and other parts of the world for commercial sexual exploitation or exploitative labor.[5] Foreign victims are trafficked into China from Burma, North Korea, Mongolia, Vietnam, and Russia. Many of these victims are women trafficked for commercial sexual exploitation, forced marriage, or forced labor.[6]

Root Causes of Human Trafficking in China

• **Economic Disparity and Migration:** Economic development, the liberalization of some *hukou* (household registration) requirements, and increasing inequality among localities create incentives for people to migrate for work and marriage, but these opportunities also leave men, women, and children vulnerable to trafficking.[7] There are an estimated 170 million migrant workers in China, with official data indicating that 60 percent of labor migration among and within provinces occurs through irregular channels.[8] Of women who migrate, an estimated 30 percent do so for marriage. Some of these women end up being "bought" and "sold" as wives by men who want to bypass the high costs of dowries for marriage in rural areas.[9]

• **Gender Imbalance Linked to Population Planning Policies and the Preference for Sons:** Population planning policies and a preference for sons exacerbate imbalanced sex ratios in China, which contributes to the trafficking of women and children for forced or abusive marriages and false adoptions.[10]

• **Population Planning Policies and the Preference for Sons:** Since the early 1980s, the government's population planning policy has limited most women in urban areas to bearing one child, while permitting many women in rural China, among other exceptions, to bear a second child if their first child is female.[11] Officials have enforced compliance with the policy through a system marked by pervasive propaganda, mandatory monitoring of women's reproductive cycles, mandatory contraception, mandatory birth permits, coercive fines for failure to comply, and in some cases, forced sterilization and abortion.[12] A preference for sons is especially strong in certain areas[13] and is tied to conceptions of gender inequality and traditional gender roles.

• **Impact on Marriage:** Men seeking to marry, especially in areas with severely unbalanced sex ratios, may try to "purchase" a wife.[14] It is unclear what percentage of the women in this situation has been trafficked. However, this practice provides incentives for traffickers to abduct and "sell" women. It is also exacerbated by population planning policies. While experts consider a normal male-female birth ratio to be between 103 and 107:100, ratios in China stand at roughly 118 male births to 100 female births, with higher rates in some parts of the country and for second births.[15] Some experts believe the gender imbalance contributes to the trafficking of women into China as brides from neighboring countries such as Mongolia, North Korea, Russia, and countries in Southeast Asia.[16]

• **Impact on Adoption:** Individuals or families who cannot have a child or son of their own due to biological reasons, population planning policies, the Adoption Law, or other reasons may sometimes attempt to "purchase" a child. When force, fraud, or coercion is involved, these become child trafficking cases. In some cases, traffickers presented the child as their own so that the buyers did not know the child has been trafficked.[17]

CHINA'S NATIONAL PLAN OF ACTION

The State Council issued the National Plan of Action on Combating Trafficking in Women and Children (2008–2012) on December 13, 2007. This first and long-awaited national plan formalizes

cooperation among agencies and establishes a national information and reporting system.[18] The plan sets specific targets and outlines measures for the prevention of trafficking, prosecution of traffickers, protection of victims, and strengthening of international cooperation. The plan designates the Ministry of Public Security as the lead agency in implementing the plan, and calls for coordination among 28 agencies. The plan, with a focus on women and children, neglects male adults, who are often targeted for forced labor.[19] Several localities, including Guizhou, Hainan, and Fujian provinces, and Hanzhong city, Shaanxi province, have issued their own plans to implement the National Plan.[20] Various government agencies have also hosted training workshops on implementing the plan, often in collaboration with international organizations.[21] It is unclear, however, if there are funds allocated to support implementation by local and provincial governments.[22]

INTERNATIONAL COOPERATION

The release of its national plan fulfills an obligation made by the Chinese government to the Coordinated Mekong Ministerial Initiative Against Trafficking (COMMIT), and coincided with China's hosting of the COMMIT Second Inter-Ministerial Meeting on December 12–14, 2007.[23] COMMIT is a regional government initiative, supported by the United Nations Inter-Agency Project on Human Trafficking (UNIAP), to foster cooperation between countries in the Greater Mekong Sub-region, including China, Thailand, Cambodia, Vietnam, Laos, and Burma.[24] The joint declaration signed at the meeting reaffirmed cooperation between the countries and pledged for the first time to include "civil society groups" in future anti-trafficking efforts.[25] It is unclear, however, to what extent civil society groups will be included in future anti-trafficking efforts in China.

The Chinese government has not signed the Protocol to Prevent, Suppress, and Punish Trafficking In Persons, Especially Women and Children (the TIP Protocol), which supplements the United Nations Convention Against Transnational Organized Crime.[26] The TIP Protocol contains the first legally binding global definition of trafficking and obligates state parties to criminalize trafficking-related offenses mentioned in the protocol.[27] The Chinese government has been "considering" the signing and ratification of the TIP Protocol for the past few years, and one of the work items for the State Council's National Working Committee on Children and Women in 2007 was to research the feasibility of ratifying the protocol.[28] At an August 2007 conference in Yunnan province, participants noted that even though there is limited overlap between the TIP Protocol's definition and China's definition of trafficking, China's laws and regulations already include more than 95 percent of the protocol's contents. Experts stated that the time was ripe for China to sign the TIP Protocol, and to consider how to align the two definitions so that China can more easily engage in international cooperation.[29] UNIAP and the Ministry of Foreign Affairs hosted an international seminar on the TIP Protocol in October 2008.[30]

The Chinese government has ratified earlier UN conventions that relate to human trafficking, including the Convention to

Eliminate All Forms of Discrimination Against Women, the Convention on the Rights of the Child, and the Worst Forms of Child Labour Convention, which legally bind the government to prohibit, prevent, and eliminate the trafficking of women and children.[31] The Chinese government's forcible return of refugees to North Korea, however, contravenes its obligations under the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol. The government classifies all North Koreans who enter China without documentation as illegal economic migrants and forcibly repatriates them to North Korea, even though they meet the definition of refugees under international law.[32] The practice leaves trafficked North Korean refugees in China without legal alternatives besides repatriation to North Korea, where they face retribution or hardship. Trafficking of North Korean women remains pervasive. Women comprise two-thirds of the tens of thousands of North Korean refugees hiding in China.[33] Although many North Korean women initially enter China voluntarily, it is estimated that up to 70 to 80 percent of these undocumented women become victims of trafficking.[34] Traffickers sell them into forced marriage, commercial sexual exploitation, or exploitative labor.[35] [For more information, see Section II—North Korean Refugees in China.]

PREVENTION AND PROTECTION

The Chinese government has made noticeable trafficking prevention efforts by raising public awareness and providing training for officials on certain forms of trafficking.[36] They are often tied to other awareness-raising programs, including those aimed at keeping children in school, and programs providing vocational training, awareness of legal rights, gender equality training, and poverty alleviation assistance.[37] In addition, the Chinese government, in cooperation with international organizations and the All China Women's Federation (ACWF), has conducted training for law enforcement and border officials on identifying and assisting victims.[38]

While China has made efforts since 2001 to offer victim services, these services remain limited in scope and funding. Law enforcement officials previously had returned trafficked victims who escaped to those who trafficked them, and local officials issued marriage licenses despite evidence that a bride had been trafficked into forced marriage.[39] The government provides some funds for the protection of Chinese victims who are trafficked internally.[40] The Ministry of Public Security, the Ministry of Civil Affairs, and the ACWF have opened shelters and rehabilitation centers.[41] Victim care remains insufficient, however, as existing shelters tend to be temporary, not exclusively for trafficking victims, and provide little or no care to returned victims.[42] Chinese authorities reportedly punish returned Chinese citizens who were trafficked abroad, for acts committed as a direct result of being trafficked, including violation of immigration controls.[43] As for, or in terms of, victim repatriation and protection, while the Chinese government has created programs to increase cross-border collaboration, these efforts remain inadequate to address victims' needs.[44]

PROSECUTION AND PUNISHMENT

The Chinese government punishes traffickers who engage in the crimes of trafficking in women and children. It investigates and prosecutes trafficking crimes, especially domestic cases, and those involving the abduction of women for forced marriage or commercial sexual exploitation.[45] Article 240 of the Criminal Law allows punishment up to death for the crime of human trafficking.[46]

Public security officials launched a nationwide campaign focused on the problem of forced labor and involuntary servitude following incidents of trafficking for forced labor in brick kilns in Shanxi and Henan provinces in 2007.[47] The problem persisted in 2008, however, as illustrated by cases of trafficking for forced labor in Heilongjiang province and for child labor in Guangdong factories in 2008.[48] Authorities have taken limited actions against trafficking-related corruption. Officials were reportedly convicted of commercial sexual exploitation and "issuing visas to facilitate trafficking" in 2004 and 2005.[49] Official reports state that no government officials have been involved in trafficking cases handled by the Ministry of Public Security (MPS) up to 2006.[50]

Public security officials resolved more than 27,280 trafficking cases, rescued more than 54,121 victims, and arrested more than 25,000 traffickers from 2001 to 2005.[51] Data suggests that the MPS resolves between 80 to 90 percent of the cases it registers annually.[52] The MPS referred 3,144 out of 5,043 individuals, or 62.3 percent, for prosecution in 2004.[53] In 2000, the courts sentenced more than 11,000 out of 19,000 individuals, or about 58 percent of those arrested, to punishment that included the death penalty.[54] Between 2006 and March 2007, officials rescued at least 371 victims and arrested 415 traffickers.[55]

Chinese regulatory documents and official statistics do not reflect China's current trafficking situation. This disconnect has important implications for China's anti-trafficking work, including prosecution efforts, protection of victims, and funding. Observers note that MPS data on trafficking are sometimes conflated with smuggling figures and reflect a continued lack of understanding by officials on the issue of trafficking.[56] It is also unclear to what extent the rights of criminal defendants were upheld.

The Chinese government in recent years has announced a decrease in the number of trafficking cases registered by the MPS, a decrease in the number of trafficking cases adjudicated by the courts, and a reduction in the number of cross-border cases.[57] Although the MPS stated that trafficking-related crimes in parts of China have been effectively contained based on the decreasing number of trafficking cases,[58] the decrease is in fact due to fewer cases of abduction and selling of women and children.[59] The MPS has also confirmed an increasing number of forced labor, commercial sexual exploitation, illegal adoption, gang-related, and cross-border trafficking cases in recent years.[60]

There have been legislative proposals in recent years calling for the revision of Articles 241 and 244 of the Criminal Law to increase punishment for those who "purchase" trafficked women and children and those who directly force others to work by restricting their personal freedom.[61] Party officials, scholars, and media arti-

cles have called for the revision of the Criminal Law, replacing the "trafficking of women and children" with the broader "trafficking of persons."[62]

TRANSPARENCY

Key information regarding the government's anti-trafficking efforts is not readily available. The U.S. Department of State has noted that "Chinese government data is difficult to verify," and government funding for anti-trafficking efforts and conviction data is not easily obtainable.[63] The lack of key information makes it difficult for the public and other individuals to assess the government's efforts in combating trafficking.

In an effort to increase public oversight and participation in government, and allow citizens access to government-held information, the State Council issued the first national Regulations on Open Government Information, which became effective on May 1, 2008. These regulations may allow individuals to request trafficking figures from the Ministry of Public Security (MPS) and local public security bureaus, but officials may use exceptions in the regulations to refuse the release of this information.[64] Local government proposals to increase budget transparency may also provide accessible information to the public on the amount of government funding available for anti-trafficking efforts.[65]

NORTH KOREAN REFUGEES IN CHINA

INTRODUCTION

In the year leading up to the 2008 Beijing Summer Olympic Games, Chinese central and local authorities stepped up efforts to locate and forcibly repatriate North Korean refugees hiding in China in violation of their commitments to these refugees under international law.[1] The Chinese government intensified border surveillance, called on the North Korean government to tighten border security, and carried out periodic crackdowns against refugees and Chinese citizens who harbor them. The government routinely fines and imprisons Chinese citizens who provide material assistance or refuge to North Koreans.

BORDER CRACKDOWN: INSPECTIONS, SURVEILLANCE, AND FINES

In April 2008, Chinese public security agents conducted daily inspections of the homes of Chinese citizens of Korean descent living in villages and towns near the border.[2] One resident reported that penalties for harboring refugees now include imprisonment and fines ranging from 8,000 to 10,000 yuan (US$1,150–1,445).[3] A U.S.-based NGO that works along the border estimates on the basis of eyewitness reports that 30 percent of refugees have been caught and repatriated as a result of the recent house inspections.[4] Recent interviews conducted with residents of the Yanbian Korean Autonomous Prefecture (YKAP) in Jilin province found that local authorities were repatriating "several hundred" refugees per month.[5] Chinese border agents have installed electronic sensors along the river to detect incoming refugees while reports of executions of outgoing and repatriated refugees by North Korean security agents have risen in 2008.[6] In 2007, North Korea began construction of a 10-kilometer wire-mesh fence near the Chinese city of Dandong to deter would-be refugees, not far from where a fence was erected by Chinese authorities in late 2006.[7] One Christian activist working along the border indicated that North Korea may have raised the salaries of border guards and installed senior guards along the border in an apparent effort to stop them from accepting bribes from refugees.[8] At least one refugee account supports this claim by attesting to a recent tripling of the rate required to bribe border guards from 500 yuan (US$72) to 1,500 yuan (US$216).[9]

The intensified crackdown against North Korean refugees by Chinese authorities has reportedly extended to harassment of religious communities along the border. The central government reportedly has ordered provincial religious affairs bureaus to investigate religious communities for signs of involvement with foreign co-religionists. In Yanbian, this campaign has resulted in the shutting down of churches found to have ties to South Koreans or other foreign nationals.[10] Shelters for refugees set up to look like commercial lodging have also been raided and closed.[11] To further persuade Chinese citizens to shun refugees, the government provides financial incentives to informants who disclose the locations of refugees. The YKAP government ordered in spring 2008 that the local departments of public security and religious affairs raise the incentive pay given to informants by 16-fold from 500 yuan to at least

8,000 yuan (US$1,171), which is more than half the average annual income in China.[12]

The State Department reports that Chinese authorities continue to detain humanitarian activists who attempt to transport North Korean asylum seekers to third countries, and in many cases, charge them with human smuggling.[13] Multiple checkpoints were set up in 2008 along the road from the border crossing at Tumen to Longjing and security agents have blocked the "underground railroads" that refugees use to travel from the border region to seek shelter at embassies in Beijing.[14] Not only are Chinese authorities taking measures to prevent citizens from helping refugees who have crossed the border into China, but they reportedly are now placing restrictions on citizens who attempt to provide food to malnourished relatives and associates in North Korea. Chinese authorities have reportedly imposed strict limits on the quantity of food (200 kg) that Chinese citizens can transport to North Korea when they visit relatives or do business there.[15]

UNLAWFUL REPATRIATION

In the past year, China's unlawful repatriation of North Korean refugees continued.[16] Plainclothes Chinese security agents carried out a massive raid in the city of Shenyang in Liaoning province on March 17, leading to the detention of around 40 North Korean refugees. Chinese authorities also detained four North Korean refugees on March 5 at a local restaurant in Shenyang and two others attempting to cross the Tumen River along the border.[17] Researchers have found that the constant fear of arrest and deportation in China coupled with the experience of persecution and hunger in North Korea cause enormous psychological hardship for North Korean refugees. A recent large-scale survey concluded that many North Korean refugees "suffer severe psychological stress akin to post-traumatic stress disorder." When asked which factors most fuel their anxiety, 67 percent of refugees answered "arrest."[18] Repatriated refugees routinely face the threat of arbitrary imprisonment, torture, and capital punishment upon return to North Korea.[19]

As reported by the U.S. Commission on International Religious Freedom, North Korean refugees face a dual threat of arrest by Chinese security agents and abduction by North Korean agents operating clandestinely on the Chinese side of the border.[20] According to three former North Korean agents who defected to South Korea, North Korean authorities have instructed public security agents to infiltrate ethnic Korean churches in China and to capture refugees by posing as religious leaders or converts. These former agents also described how repatriated refugees are "brutally interrogated" by the counterintelligence department of the National Security Agency (*bowibu*), North Korea's political police.[21] Interrogations aim to determine if refugees had contact with South Korean churches or other Christian groups in China. Belief in Christianity is targeted as a political offense in North Korea, punishable by execution or an extended stay in a prison labor camp.[22]

TRAFFICKING AND DENIAL OF EDUCATION

Female refugees must elude human traffickers in addition to Chinese and North Korean security agents.[23] Lacking legal status or economic opportunities, North Korean women who cross the border are frequently picked up by traffickers and sold into marriage with Chinese nationals. In some cases, traffickers arrange for women to cross the border on the pretense that food and legitimate work awaits, but upon arrival in China, they are forced into prostitution or underground labor markets.[24] Although the central government has taken some minor steps to address the trafficking problem along its borders with Vietnam and Burma, it continues to ignore North Korean trafficking victims and refuses to provide them with legal alternatives to repatriation.[25] [See Section II—Human Trafficking.]

Another problem that stems from China's unlawful repatriation policy is the denial of education and other public goods for the children of North Korean women married to Chinese citizens.[26] Chinese law guarantees that all children born in China to at least one parent of Chinese nationality are afforded citizenship.[27] It also decrees that all children who are six years old shall enroll in school and receive nine years of compulsory and free education, regardless of sex, nationality, or race.[28] Chinese citizens married to women from North Korea cannot exercise this right on behalf of their children because the child must be added to the father's household registration (*hukou*) in order to enroll for school. Some local authorities along the border reportedly refuse to perform hukou registration for the children without seeing documentation that the mother is either a citizen, has been repatriated, or has run away.[29] This extralegal requirement imposed exclusively on the children of one Chinese and one North Korean parent by local authorities contravenes Chinese law and violates China's commitments under international law.[30]

REEMERGENCE OF FAMINE CONDITIONS

North Koreans who enter China do so for diverse reasons, which include fleeing from political oppression in some cases. Chief among these reasons is the pursuit of the basic necessities to survive, as North Korea suffers from chronic food shortages.[31] Recent reports suggest that widespread hunger has reemerged as the food supply in North Korea has rapidly deteriorated to a level that could cause numerous hunger-related deaths if left unchecked.[32] It is important to note that hunger and poverty as motivating factors for refugees are intrinsically linked to the prevailing political system in North Korea. Central authorities control food availability, and food distribution is carried out in accordance with the recipient's perceived loyalty and utility to the ruling party.[33] The fact that food deprivation is mandated by the North Korean political system, along with its treatment of repatriated refugees as criminals and traitors, undercuts China's assertion that North Koreans who cross the border are "illegal economic migrants" and obligates China to provide North Koreans with unfettered access to the United Nations High Commissioner for Refugees (UNHCR) for adjudication of their refugee status and swift resettlement.[34] In 2008, however,

China not only continued to refuse to recognize the refugee status of North Koreans, it also pressured the UNHCR to deny assistance to North Korean refugees who reached Beijing in the lead-up to or during the Olympics.[35]

PUBLIC HEALTH

INTRODUCTION

Minister of Health Chen Zhu acknowledged for the first time in January 2008 that all persons had the right to basic healthcare regardless of age, gender, occupation, economic status, or place of residence. Chen also acknowledged that the allocation of funds had been "skewed" to favor large urban hospitals.[1] Statistics for 2007 show that 16.7 percent of medical workers provide care in rural areas where 60 percent of China's population lives.[2]

Access to healthcare continues to be a significant challenge for the Chinese government. The government's policy of fiscal decentralization and requiring hospitals to generate their own revenue has led to a drop in government funding of healthcare and a focus on generating sales profits by over-prescribing drugs.[3]

Demographic changes in the last two decades, including an aging population and mass migration from rural to urban areas, have heightened strain on the healthcare system.[4] Healthcare costs have soared and an increasing number of people cannot access medical care.[5]

A survey conducted by China's National Bureau of Statistics, released in January 2008, revealed that medical costs are the Chinese people's top concern.[6] Quality of care varies significantly among regions and income groups. Urban-rural gaps remain in health indicators such as life expectancy and maternal and infant mortality rates.[7] Individuals in Guizhou province, for example, live on average 13 years less than persons living in Shanghai.[8] Health insurance coverage varies widely between rural and urban areas.[9] Participation in China's Rural Cooperative Medical System (RCMS) does not guarantee affordable or quality healthcare because a low reimbursement rate, a lack of coverage for preventative or outpatient care, and inadequate medical resources present additional hurdles to adequate healthcare.[10]

HEALTHCARE REFORM

China's central government allocated 83.2 billion yuan (US$11.7 billion) in 2008 to "reform and develop" the health sector, with a particular emphasis on modernizing facilities at the urban community and village level.[11] The 2008 funding level represented an increase from the 66.5 billion yuan allocated in 2007. The boost in expenditure followed the 2007 government announcement of plans to release a new national medical reform plan, and comes at a time of rising healthcare costs and a shortage of affordable healthcare.[12] The government has not posted the draft plan for public comment, but held a meeting in April to hear opinions from selected individuals.[13]

According to Vice Health Minister Gao Qiang, "the aim [of the plan] is to provide safe, effective, convenient, and low-cost public health and basic medical service to both rural and urban citizens."[14]

Goals mentioned in the reform plan include:

- Enroll all rural residents in the rural cooperative medical system by the end of 2008.

- Enroll all urban residents in the basic health insurance scheme by the end of 2010.
- Continue to improve medical services at the county, township, and village levels.
- Control drug prices and ensure their supply.
- Expand free immunization programs.[15]

RURAL HEALTHCARE

The Chinese central government has announced plans to increase public spending on healthcare in rural and remote areas, with particular attention to China's western and interior areas.[16]

Rural Cooperative Medical System (RCMS) coverage increased by the end of 2007 to 730 million individuals, or 86 percent of the rural population, an increase of 35 percent over February 2007.[17] Central and local governments planned to increase their 2008 RCMS contributions from 40 yuan to 80 yuan (US$11.52) per participant in an effort to attract more participants.[18] Under the scheme, individuals will likely increase their contribution from 10 to as much as 20 yuan.[19] The central government allocated 10.1 billion yuan for RCMS in 2007, an increase of 5.8 billion yuan from 2006.[20]

URBAN HEALTHCARE

The Chinese government mandates employers to provide Basic Health Insurance (BHI).[21] The government announced a plan to expand coverage to all urban residents on a trial basis in 2007.[22] The plan is to enroll all urban residents in BHI by 2010. The plan would emphasize coverage of major illnesses for persons known to have greater need along with greater difficulty accessing healthcare services, including minors and the elderly.[23]

The government established pilot BHI programs in 88 cities in 2007 and is implementing nearly triple that number in 2008 with the aim of expanding the total coverage area to 317 cities by the end of 2008.[24] The official goal is to cover another 30 million non-working urban residents by the end of 2008.[25] The Chinese government reports that 223 million of 500 million urban residents (44.6 percent) received BHI coverage in 2007, including 40.68 million non-working urban residents, an overall increase of 63 million from 2006.[26] The average annual premium is 236 yuan for adults and 97 yuan for children.[27]

A recent survey reportedly found that between October and December 2007, the number of patients who refused medical treatment out of fear of high costs decreased by 10 percent.[28] The Chinese government reportedly provides financial assistance to those living in poverty.[29]

HIV/AIDS

Chinese leaders' concerns about uncontrolled citizen activism and foreign-affiliated non-governmental organizations (NGOs) limit the effectiveness of central government policies to combat the spread of HIV/AIDS. Official figures estimate that in 2007 there were 700,000 people in China with HIV, including 85,000 with AIDS, an increase over 2005 of 50,000 people with HIV.[30]

Discrimination and social stigma against people living with HIV/AIDS (PLWH) remain rampant.[31] For example, 55 percent of private sector survey respondents "strongly believed" PLWH should be segregated.[32] A lack of trust between some local officials and PLWH and their advocates hinders cooperative efforts to reduce stigma.[33] This is especially true in Henan province, the focal point of media attention surrounding unsanitary blood collection centers in the 1990s that were reportedly fueled by official complicity. While Henan officials have made free treatment available to PLWH, some officials remain hesitant and even hostile to working with NGOs.[34]

The Chinese government continues to place restrictions on travel for persons who have or are suspected of having HIV/AIDS. Chinese citizens who live abroad for more than a year or work in the international transportation sector are required to take an HIV test.[35] Foreigners planning to live in China for more than a year must also take an HIV test and present the results to a local public security bureau along with the rest of their application for a residency permit.[36] The government has pledged to remove legal prohibitions preventing HIV carriers from entering China in 2009.[37]

In spite of cooperative partnerships with international organizations and the private sector, the Chinese government continues to harass HIV/AIDS-related organizations, Web sites, and activists that it deems to be a threat. In the past year, officials cited legal measures and pressured third parties, such as Internet service providers, to block access to Web sites and restrict the rights of activists. Some examples include:

- In May 2008, the local public security bureau's Internet surveillance division reportedly ordered the closure of the Web site of AIDS Museum run by HIV/AIDS activist Chang Kun because it contained information about "firearms and ammunition." Shaanxi province officials shut down another of Chang's Web sites, AIDS Wikipedia, from February 20 to March 12, 2008, reportedly because of an article about farmland confiscation on the site.
- Beijing Public Security Bureau's Internet surveillance division asked Aizhixing Center in March 2008 to remove "illegal information," specifically sensitive information about HIV/AIDS. The "illegal information" was an Aizhixing statement on human rights activist and HIV/AIDS advocate Hu Jia's disappearance two years ago. Officials subsequently blocked access to the Web site for a period of time, and put Wan Yanhai, founder of Aizhixing, under 24-hour surveillance for four days.
- Officials ordered the cancellation of a conference scheduled for late July and early August 2007 in Guangzhou on the legal rights of those affected by HIV/AIDS. The conference would have brought together 50 Chinese and international HIV/AIDS activists and experts. Authorities reportedly thought the subject matter and the involvement of foreigners was "too sensitive."[38] [For more information, see Section III—Civil Society.]

HEPATITIS B

China has approximately 120 million Hepatitis B Virus (HBV) carriers and some 300,000 people die annually from Hepatitis B-re-

lated diseases.[39] Discrimination against HBV carriers remains widespread.[40] Recent laws and regulations explicitly forbid employment discrimination against persons with infectious diseases, including HBV, and mandate a fine for violating employers. The Employment Promotion Law, which went into effect on January 1, 2008, prohibits employers from refusing to hire applicants on the grounds that they carry infectious diseases and allows workers to file a lawsuit against employers.[41] The Regulations on Employment Services and Employment Management, which also went into effect on January 1, state that employers cannot reject applicants due to their HBV status or force employees or applicants to take an HBV test. Violating employers can be fined up to 1,000 yuan and sued.[42]

HBV activists praised the Regulations on Employment Services and Employment Management.[43] These new initiatives build on policy since 2004 that forbid discrimination against persons with infectious diseases.[44] Legal prohibitions remain, however, that forbid HBV carriers from working in certain sectors such as the food industry.[45]

HBV carriers, often working with legal advocacy groups, have brought employment discrimination lawsuits. Laws such as the Employment Promotion Law, which prohibits discrimination in employment, have played a role in the court's decision in at least one case.[46] Many of these cases have resulted in court-ordered settlements or have brought about changes in policy and public awareness. In October 2007, China held its first national conference on HBV discrimination in Zhengzhou city, Henan province, which brought together over 50 civil rights activists and people living with HBV.[47] [For more information on legal advocacy efforts and the results of several HBV discrimination cases in the past year, see box below.]

Anti-HBV Discrimination Cases and Advocacy Efforts in the Past Year
November 2007: A Foshan-based subsidiary of a Taiwanese company dropped its plan to test all its employees for Hepatitis B Virus (HBV) after Yirenping, a legal advocacy and support group, made the company's HBV testing plan public. Yirenping distributed fliers explaining that the mandatory testing was illegal and encouraged the company's employees "to protect their rights." Local officials sent health inspectors to the company on the designated testing day, and issued a circular mandating punishment for any company that forced its employees to take an HBV test. The subsidiary agreed to forgo mandatory HBV testing in the future.[48] **January 2008:** In a court-mediated settlement, the Dongguan Municipal People's Court ordered the Vtech Corporation to pay 24,000 yuan (US$3,494) to a job applicant denied employment on the basis of his HBV status. The applicant, a university graduate, applied for a job in 2006 and passed the company's recruitment exams, but was refused an offer of a position after his medical test showed he was HBV positive. This was the first HBV discrimination case heard in a Guangdong province court.[49]

Anti-HBV Discrimination Cases and Advocacy Efforts in the Past Year—Continued
April 2008: The Shanghai Intermediate People's Court mediated a settlement in favor of a job applicant whose employment offer was withdrawn due to his HBV status. The applicant had sued the Shanghai-based subsidiary of a Taiwanese company in February 2007 for 12,800 yuan (US$1,863) in potential earning losses and 50,000 yuan (US$7,277) in emotional damages. In October 2007, the Nanhui District Court awarded the applicant 5,000 yuan in compensation. Rejecting the award, the applicant appealed to the Shanghai Intermediate People's Court, which heard the case in December. The Shanghai Health Bureau mandated that HBV testing no longer be routine for job applicants, adding that applicants can only be tested per their own request or if the employer can prove that the job is legally prohibited for HBV carriers.[50]

While there have been successful anti-HBV discrimination cases, the Chinese government continues to control HBV-related rights activism. In November 2007, Beijing authorities closed the largest online forum for HBV carriers, Gandan Xiangzhao ("In the Hepatitis B Camp"), citing the forum's failure to apply for and set up a record with the Beijing Communication Administration (BCA).[51] Web sites that provide medical treatment and health information services are required to seek approval from the Beijing Health Bureau and then submit an application with the BCA.[52] An official reportedly told Lu Jun, the forum's operator, that the forum was blocked because of the Olympics. People could access the site for a brief period after Lu changed the host to an overseas server but authorities blocked it again in May 2008.[53]

MENTAL HEALTH

Beijing's Regulation on Mental Health, which took effect in March 2007, requires that reviews of involuntary admissions be completed "within three months."[54] In its 2007 Annual Report, the Commission noted that the three-month provision would enable security officials to remove individuals from the streets of Beijing to mental health facilities for the duration of the 2008 Olympic Games, or longer, and still be within the letter of the law.[55] Chinese leaders expanded state supervision of mental health patients in Beijing and other cities during the Olympics. Patients staying in open-style wards were allowed to leave only at certain times under supervision.[56]

Other recent developments signal some improvement for the rights of persons with mental illness. In June 2008, a Shanghai labor dispute arbitration committee ordered IBM to pay 57,000 yuan in compensation for firing an employee after he was diagnosed with depression. The committee also ordered IBM to reactivate its contract with the employee.[57] A Ministry of Health (MOH) circular released in April 2008 stipulates that hospitals must obtain approval from MOH before conducting neurosurgical operations to treat mental disorders or starting clinical research. In addition, each operation should be approved by the hospital's ethical committee, with hospitals and doctors subject to punishment if they violate the circular.[58]

ENVIRONMENT

During the past year, the central government and Communist Party leadership have paid increasing attention to environmental protection. For example, the State Environmental Protection Administration (SEPA) was upgraded to ministerial status in March.[1] The number of staff of the newly renamed Ministry of Environmental Protection's (MEP) office in Beijing increased from 250 to 300,[2] and three departments were added in July to monitor pollution, control total emissions, and conduct educational outreach.[3] Although it is not yet clear if the status upgrade will lead to heightened decisionmaking and enforcement power for the historically weak and resource-challenged environmental protection agency, the MEP's "bark" is getting louder.[4] In mid-September, the MEP warned the leaders of the 21 provincial-level governments that they would be held personally responsible for failing to clean up China's major rivers and lakes.[5]

Creating an incentive structure at the local level that encourages environmental protection has been a challenge for the central government.[6] The central government stipulated last year, however, that 60 percent of all local officials' career prospects will be tied to their environmental protection efforts on a five-year basis.[7] Local officials who fail to meet their targets will become ineligible to receive promotions.[8] MEP and other agencies also released a 35-billion-yuan five-year plan in 2008 to improve the enforcement capacity of environmental bureaus, including upgrades in existing monitoring and emergency response systems.[9]

China's environmental crisis has emerged in recent years as one of the country's most rapidly growing causes of citizen activism. Last year, the Commission noted that participation in environmental protests has risen in recent years, particularly among urban middle-class residents; this trend continued in 2008. Official responses to environment-related activism included suppression of citizen protests, as well as limited steps to increase public access to information. Urban middle-class residents showed an increased willingness to protest injustice and malfeasance, as demonstrated by the protests against a chemical plant in Xiamen, the Shanghai maglev train extension, and a Chengdu chemical plant. [For more information on the Xiamen, Shanghai and Chengdu protests, see box below.]

GOVERNMENT TRANSPARENCY AND THE "GREEN OLYMPICS"

The Beijing Organizing Committee for the Games of the XXIX Olympiad pledged to make preparations for the 2008 Olympic Games transparent; however, observers voiced concerns over the difficulty in accessing information on pollutants and charting Beijing's progress toward achieving its bid commitments.[10] Beijing promised in its Olympic bid to achieve objectives in the city's environmental master plan three years ahead of schedule, with the completion of 20 major projects by 2007.[11] Beijing's bid also promised that air quality would meet World Health Organization (WHO) standards and that the city's drinking water, which it said met WHO standards, would continue to be protected.[12] While Beijing fulfilled many of its commitments, Chinese academics and other ex-

perts questioned the completeness and accuracy of the government's air pollution data.[13] For example, one analyst contends that the Beijing Environmental Protection Bureau (EPB) dropped monitoring sites in locations with poor air quality in order to boost its overall air quality figures.[14]

It remains to be seen whether the Chinese government's efforts to meet the environmental targets for the Olympics will lead to long-term improvements in environmental protection. Amid criticism that Beijing's air pollution data did not include ozone and $PM_{2.5}$ (i.e., particulate matter that is 2.5 micrometers or smaller in diameter), the Beijing EPB announced in August 2008 that it may begin monitoring the two pollutants next year.[15]

PUBLIC PARTICIPATION AND PROTESTS RELATED TO THE ENVIRONMENT

This past year, the government took limited steps to increase public access to environmental information. In May 2008, the Measures on Open Environmental Information (Measures) became effective, along with national open government information (OGI) regulations.[16] The Measures standardize the disclosure of environmental information by government agencies and enterprises, and provide the public with the right to request government information.[17] The Measures also encourage enterprises to voluntarily disclose information and require EPBs to compile lists of enterprises whose pollution discharge exceeds standards.[18] Citizens have already begun making information requests to EPBs, but how responsive officials will be remains to be seen.[19] Incentives for local governments to attract investment could hinder EPBs from receiving the funding they need to implement the Measures. The Measures also prohibit EPBs from disclosing information that involves state secrets, an exception that gives the government broad latitude to withhold information from the public.[20] In terms of implementation, the ministry appears understaffed, with only three staff responsible for open government information.[21]

Public protests over environmental degradation have increased in recent years. An official noted in 2006 that there were more than 51,000 disputes relating to environmental pollution in 2005, and that mass protests involving pollution issues had risen 29 percent per year in recent years.[22] Urban middle-class residents have shown an increased willingness to protest environmental injustice and malfeasance.[23] These protests have largely not involved environmental non-governmental organizations (NGOs), but rather groups formed ad hoc through blogs, text messaging, and Internet chat rooms.[24] In contrast with protests in urban areas, rural protests are more likely to end in violent clashes with public security officials.[25] The public has succeeded in several protests, such as the protest against the Xiamen plant, to halt construction of a project. In cases where citizen activists succeeded, local or higher-level officials also opposed the project.[26] In most cases, participants initially sought other ways to resolve their grievances, such as through petitions or requests for more information from the government.[27] When these methods failed to elicit a response, participants took to the streets to protest.

Environmental Protests

Hazardous Chemical Plant Protest in Xiamen

Officials in the southeastern port city of Xiamen, Fujian province, planned to build and operate a 300-acre 10.8-billion-yuan (then US$1.4 billion) hazardous chemical (paraxylene or "PX") plant.[28] In March 2007, central government officials criticized the project's safety.[29] Officials in Xiamen did not publicize these concerns, however, and made sure local media touted the project's economic benefits. A local resident who became aware of the concerns used his blog to organize opposition to the PX plant, telling readers the plant would hurt the local property market and tourism industry. Word spread quickly over the Internet.[30] In a city of less than three million people, individuals sent out approximately one million text messages in May 2007 objecting to the plant's construction.[31] Real estate prices in the Haicang district began to fall as public concern increased.[32]

On May 29, Xiamen leaders briefed the Fujian provincial party committee about the project's status and public concern surrounding the project. On May 30, a Xiamen official announced that construction on the project would be halted.[33] Demonstrations, nonetheless, still occurred on June 1 and 2 that involved thousands of people "taking a stroll," demanding that government stop the project completely rather than simply suspend it.[34]

The State Environmental Protection Administration (SEPA) announced on June 7, 2007, that an expert committee would carry out environmental impact assessments (EIA) for key regions and industries to ensure that development in these areas took environmental factors into consideration.[35] Acting on SEPA's recommendation, the Xiamen government announced on the same day that the project's construction would depend on a planning EIA of Haicang district.[36] In response to the experience in Xiamen and other places, SEPA announced in March 2008 that the draft Planning EIA Regulation would be reviewed and released possibly at the end of 2008.[37] The planning EIA, in contrast to a project EIA, would consider the environmental impact of major projects on a larger area.[38]

The Chinese Research Academy of Environmental Sciences, charged with performing the EIA, published its report on December 5, which concluded that the Haicang district was "too small . . . for the diffusion of atmospheric pollution."[39] An abridged version was posted for public comment and citizens were allowed to send their comments via Internet, mail, and telephone over the next 10 days.[40] Two government-organized public forums were held on December 13 and 14. Nearly 90 percent of the 107 public citizens and 14 out of 15 of the local people's congress and CPPCC members who attended the forums voiced their disapproval of the PX plant project.[41] The citizens were randomly selected during a live drawing on TV from a pool of 624 people who had signed up to participate. Critics were allowed to observe the selection process. An online poll on the Xiamen government's Web site on whether the plant should be built was disabled after the first day due to "technical difficulties." A Xiamen official noted that the poll was disabled because the technical setup allowed people to vote more than once. Voting from the first day indicated that over 90 percent of the 58,000 votes were against the plant's location in Xiamen.[42]

Environmental Protests—Continued

A Xiamen deputy secretary-general noted that the transparency during the selection process was a first for Xiamen, and that public participation would probably continue in the future for important projects but not for lesser ones.[43] An environmentalist noted that: "This is the first time public opinion was properly expressed through official channels and had an impact on government policies."[44]

Fujian provincial and Xiamen municipal governments agreed at the end of 2007 to relocate the plant to Fujian's Gulei Peninsula, near Zhangzhou city, pending approval from the central government and the project's investor.[45] Xiamen Mayor Liu Cigui confirmed in March 2008 that a relocation of the plant is "likely."[46]

Shortly thereafter, rumors circulated that the PX plant would be moved to Gulei Peninsula, and local environmental activists started passing out fliers documenting risks associated with the plant. These developments reportedly led to decreases in real estate prices and an increase in citizen concern over their health and livelihoods, since many in the area depended on fishing for their income.[47] From February 29 to March 3, 2008, initially peaceful protests involving thousands of people took place in several fishing towns,[48] but at times the protests turned violent as protesters clashed with public security officials. Several people were injured and public security officers took approximately 15 people into custody.[49] No official announcement has been made regarding the plant's status at the time of writing. A Guangzhou Daily writer noted, however, that "any victory has its cost, and this triumph by Xiamen residents merely transfers the cost of victory to the Gulei Peninsula, to Zhangpu county farmers who lack a strong public voice."[50]

Shanghai Residents Protest Maglev Extension

Suburban Shanghai residents publicly objected to the proposed extension of Shanghai's high-speed magnetic levitation (maglev) train. The Shanghai government planned to extend the line by 20 miles through Shanghai.[51] During the first half of 2007, homeowners close to the proposed route demonstrated, hung banners, and signed petitions protesting the plan, expressing concern about electromagnetic radiation, noise pollution, and the adverse effect of the rail line on their home property values.[52] Protesters earned a temporary reprieve in May 2007 when the local government announced that the project would be suspended. A Shanghai People's Congress official was reported as saying that the public's concern about radiation was one of the reasons the project had been stopped.[53] In December 2007, the government posted a new route proposal on an obscure Web site.[54] In January 2008, thousands of residents gathered in Shanghai's People's Square, many carrying signs and chanting slogans against the maglev extension.[55]

Environmental Protests—Continued

Like protesters in Xiamen, the loosely organized Shanghai residents preferred to call their gathering a "collective walk" rather than a protest.[56] Their grievances included concerns about not only radiation, noise, and threatened property values, but also the lack of public consultation regarding the project proposal.[57] The project appears to be on hold at the moment. It was not included on Shanghai's list of projects for 2008, and its ultimate fate remains unclear.[58] The maglev extension is reportedly being reviewed by central government regulators.[59]

Protest in Chengdu: Taking a "Stroll"

About 200 people "strolled" the streets of Chengdu, the capital of Sichuan province, on May 4, 2008, to protest the operation of a nearby ethylene plant and crude oil refinery.[60] The peaceful two-hour protest arose out of concern that the factories would pollute Chengdu's air and water and would affect the health of residents.[61] Construction had not yet started on one plant, while the other plant had already been built.[62] Some individuals noted that the plants would bring jobs and development to the area, and would boost ethylene-related production. Others expressed concern that the project had not passed proper environmental procedures, such as an environmental impact assessment and a public hearing.[63] The building of the crude oil refinery was approved by the National Development and Reform Commission on April 21, 2008.[64] In the aftermath of the earthquake that hit Sichuan on May 12, officials have reportedly decided to review the project after factories in the area experienced chemical leaks.[65]

Protesters organized through Web sites, blogs, e-mails, and cell phone text messaging.[66] They called the event a "stroll" to avoid having to apply for a permit, which officials rarely grant. Dozens of public security officials accompanied the protesters, photographing and videorecording the protest.[67] Following the protest, officials detained one organizer for using the Internet to start rumors and incite a disturbance and two more people for participating in an illegal demonstration. They warned others for disseminating harmful information on the Internet. Authorities detained Chen Daojun on May 9 for suspicion of inciting "splittism," a crime under Article 103 of the Criminal Law, after he published an article on a foreign Web site calling for a halt in construction of the chemical plant, citing environmental concerns.[68] Officials brought other individuals into police custody for questioning and beat at least one person.[69] They also deleted some of the protesters' online articles.[70]

ENVIRONMENTAL TOLL OF THE SICHUAN EARTHQUAKE

Although it is too early to assess the full environmental consequences of the May 2008 Sichuan earthquake, some of the environmental effects and challenges were apparent shortly after the earthquake hit. According to the World Resources Institute, the most pressing concerns are disposal of debris from buildings destroyed by the earthquake, ecosystem and habitat loss, water contamination, and destruction of arable land.[71]

Moreover, numerous chemical factories, as well as nuclear facilities and research sites, are located in the quake region. As of late May, experts reportedly identified 50 buried radioactive "sources,"

apparently primarily from materials used in hospitals, factories, and laboratories.[72] While 35 of the 50 "sources" had been moved to safe areas, the remaining 15 were inaccessible.[73] Although Chinese officials assured the public that the nuclear facilities in the quake region were all safe, and a global network of sensors supported by the United Nations detected no radioactive leaks in the quake region, some nuclear scientists expressed doubts, because Beijing was silent with respect to details about specific facilities.[74] More than 100 chemical plants are located in the quake zone, and according to the Ministry of Environmental Protection (MEP) approximately 75 percent of the plants stopped production because of damage after the earthquake.[75] The environmental and health consequences of several accidental leaks and spills reported as of late May remain unclear.[76] Chinese officials and others have also voiced concerns about weakened and cracked dams in the quake region.[77] Furthermore, the MEP reported that the environmental monitoring system in the quake region was severely damaged, further complicating the task of protecting the local environment.[78]

In late June, the MEP reported that the drinking water and air in Sichuan and other areas affected by the quake had been tested and found to be safe.[79] In light of the earthquake, the National Development and Reform Commission is rethinking a plan to expand Sichuan's nuclear industry, which had included construction of a nuclear power station 200 kilometers from the epicenter of the earthquake.[80]

2008 Beijing Summer Olympic Games

CHINA'S OLYMPIC COMMITMENTS AND PLEDGES

In bidding for the 2008 Summer Olympic Games, China explicitly tied its hosting of the event with human rights. Hours before the International Olympic Committee (IOC) announced in July 2001 that it would award the Olympics to China, Beijing Mayor and Beijing Organizing Committee for the Games of the XXIX Olympiad President Liu Qi told IOC members that the Olympics "will help promote our economic and social progress and will also benefit the further development of our human rights cause."[1] As winner of the bid, Chinese officials agreed to be bound by Olympic documents that included commitments relating to press freedom for foreign journalists, the environment in Beijing, and protection of Olympic intellectual property.[2] [See Section II—Environment—Government Transparency and the "Green Olympics" for more information on the environmental commitments.] In 2002, Chinese officials issued an Olympic Action Plan, which though not binding, made broad claims about how China would prepare for the Olympics, including that it would be "open in every aspect to the rest of the country and the whole world."[3]

DETERIORATION IN HUMAN RIGHTS BEFORE AND DURING OLYMPICS

The Chinese government and Communist Party's determination to host a successful Olympics and ensure a "positive" image before the event led to an overall deterioration in freedom of expression, freedom of religion, and other human rights, particularly this past year. Restrictions on domestic media increased in order to create a "positive" public opinion environment for the Olympics.[4] Officials detained and harassed vocal critics of the government and Party, targeting individuals who had tied their criticism with China's hosting of the Olympics, made critical comments to foreign reporters or foreign officials, or sought to defend groups out of favor with the government.[5] [See Section II—Freedom of Expression.]

In the period just before the Olympics, officials sought to ensure that persons they deemed to be potential "troublemakers" left Beijing, remained in their homes, or were kept under closer watch. In July 2008, Radio Free Asia reported that security officials had ordered activists Qi Zhiyong and Jiang Qisheng, and legal scholar Zhang Zuhua, to leave Beijing for the Olympics, tightened surveillance of rights defense lawyers Li Fangping and Zheng Enchong, former China Democracy Party member Zha Jianguo, and Yuan Weijing, wife of imprisoned legal advocate and rights defender Chen Guangcheng, and kept Jia Jianying, wife of imprisoned democracy activist He Depu, confined to her home.[6] Beijing public security officials detained thousands of petitioners, while local and provincial officials reportedly sent personnel to the capital to repatriate, sometimes forcefully, residents who had come to Beijing to petition the government.[7] Shanghai public security officials reportedly barred dissidents from leaving Shanghai and banned them from speaking to foreign reporters.[8] In September 2006, Beijing officials dismissed allegations that the city was proposing to expel one million migrant workers during the Olympics, but migrant workers reported in July 2008 that authorities were ordering them

to leave Beijing.[9] In February 2008, Beijing officials said that no one had been forcibly relocated due to construction of Olympic venues, but residents and non-governmental organizations reported forced relocations, allegations of embezzled compensation, and lack of notice and public participation in the relocation process.[10]

Officials targeted religious practitioners and ethnic minorities. To prevent any disruption of the Olympic torch relay as it passed through parts of the Xinjiang Uyghur Autonomous Region in June 2008, officials reportedly detained thousands of citizens and required Muslim religious officials to receive "political education" on "protecting" the Olympics.[11] [See Increased Repression in Xinjiang During the Olympics in this section.] Unregistered religious communities reported increased harassment and abuse in the run-up to the Olympics. Officials expelled Pastor Zhang Mingxuan, president of the Chinese House Church Alliance, from Beijing in July, then detained him for 23 days and barred him from returning to Beijing until after the Paralympics ended in September.[12] Security officials also implemented a widespread campaign to round up and intimidate Falun Gong practitioners nationwide.[13] [See Directives and Measures Related to Falun Gong and the Olympics in this section.]

China announced in July 2008 that it would set up protest zones for the Olympics but Beijing's Public Security Bureau reported on August 18 that of the 77 applications received, 74 had been withdrawn and none had been approved.[14] Officials reportedly harassed or detained several citizens who had applied to protest.[15] After two women in their late seventies applied to protest the government's alleged failure to compensate them for demolishing their homes, officials sentenced them to one year of reeducation through labor for disturbing public order.[16] Human Rights in China reported in late August that officials later rescinded the decision.[17]

COMMITMENT TO FOREIGN JOURNALISTS

Chinese officials failed to fully implement temporary regulations granting foreign journalists greater freedoms before and during the Olympics. Officials had issued the regulations, effective from January 2007 to October 2008, promising there would be "no restrictions" on foreign journalists reporting on the Olympics.[18] In its 2007 Annual Report, the Commission recommended that Members urge Chinese officials to live up to this commitment, and noted at the time that fulfillment had been "incomplete at best."[19] Over the past year, foreign journalists reported occasions where access improved, most notably just after the May 2008 Sichuan earthquake, but overall, harassment appeared to worsen.[20] Officials barred foreign journalists from covering the Tibetan protests that began in March 2008, and also prevented them from covering protests by grieving parents after the earthquake.[21]

In July 2008, the Foreign Correspondents Club of China (FCCC) stated that the Chinese government "has not yet lived up to its Olympic promise."[22] As of September 11, FCCC had reported 176 incidents of "reporting interference" against foreign journalists in 2008, (including 60 cases during the Olympic period that began with the opening of the Olympic media center on July 25), more than the total reported for all of 2007.[23] FCCC and Human Rights

Watch also noted intimidation of journalists' sources and Chinese colleagues.[24] As the Olympics approached, authorities took other measures to limit the activities of foreign journalists, including tightening control over the selection of Chinese citizens who work for foreign journalists, proposing limits on live coverage from Tiananmen Square and the Forbidden City, and blocking access to Web sites in press facilities for foreign journalists at Olympic venues.[25]

On October 17, 2008, a Chinese foreign ministry spokesperson announced the State Council's issuance of the Regulations of the People's Republic of China on News Covering Activities of the Permanent Offices of Foreign News Agencies and Foreign Journalists, which make permanent freedoms introduced under the temporary Olympic regulations.[26] Prior to the Olympic regulations, rules from 1990 required foreign reporters to obtain the approval of a local foreign affairs office before reporting outside of Beijing, a process that sometimes took days.[27] Like the Olympic regulations, the new regulations allow journalists to travel to much of China for reporting without prior approval and require that they only obtain the consent of the individual or organization to be interviewed.[28] The spokesperson noted, however, that government approval would still be required for travel to the Tibet Autonomous Region and other areas closed to foreign reporters.[29] The new regulations do not affect the status of domestic journalists, who continue to be subject to the same restrictions as in the past, with no sign that officials are considering any measures to grant them greater freedom. [See Section II—Freedom of Expression.]

INCREASED REPRESSION IN XINJIANG DURING THE OLYMPICS

Officials in the Xinjiang Uyghur Autonomous Region (XUAR) reiterated a pledge in August 2008 to use harsh security measures to crack down against the government-designated "three forces" of terrorism, separatism, and extremism.[30] On August 13, Wang Lequan, XUAR Communist Party Chair, described the battle against the "three forces" as a "life or death struggle" and pledged to "strike hard" against their activities. XUAR Party Committee Standing Committee member Zhu Hailun reiterated the call to "strike hard" at an August 18 meeting. The announcements followed the release of limited information on terrorist and criminal activity in the region and came amid a series of measures that increased repression in the XUAR. The measures build off of earlier campaigns to tighten repression in the region, including efforts to tighten control as the Olympic torch passed through the region in June. Reported measures implemented in the run-up to and during the Olympics include:

- *Wide-scale Detentions.* Authorities have carried out wide-scale detentions as part of security campaigns in cities throughout the XUAR, according to a report from the Uyghur Human Rights Project. Reported measures include "security sweeps" resulting in mass detentions in the Kashgar area and Kucha county, including blanket detentions in Kucha of young people who have been abroad; the detention of non-resident Uyghurs in Korla city; the forced return of Uyghur children studying religion in another province and their detention in

the XUAR for engaging in "illegal religious activities"; and the detention of family members or associates of people suspected to be involved in terrorist activity.

• *Restrictions on Uyghurs' Domestic and International Travel.* Authorities reportedly continued to hold Uyghurs' passports over the summer, building off of a campaign in 2007 to confiscate Muslims' passports and prevent them from making overseas pilgrimages, according to reports from overseas media. Authorities also coupled restrictions on overseas travel with reported measures to limit Uyghurs' travel within China.

• *Controls Over Religion.* XUAR officials have enforced a series of measures that ratchet up control over religious practice in the region, according to reports from Chinese and overseas sources. Authorities in Yéngisheher county in Kashgar district issued accountability measures on August 5 to hold local officials responsible for high-level surveillance of religious activity in the region. Also in August, authorities in Peyziwat county, Kashgar district, called for "enhancing management" of groups including religious figures as part of broader government and Party measures of "prevention" and "attack." The previous month, authorities in Mongghulküre county, Ili Kazakh Autonomous Prefecture, called for strengthening management of religious affairs; inspecting all mosques and venues for religious activity; curbing "illegal" recitations of scripture and non-government-approved pilgrimages; and "penetrating" groups of religious believers to understand their ways of thinking. Authorities in Lop county, Hoten district, have been forcing women to remove head coverings in a stated effort to promote "women for the new era." Authorities have also continued to enforce measures to restrict observance of the Muslim holiday of Ramadan, which, in 2008, took place in September.[31]

• *Controls Over Free Expression.* Authorities in the XUAR ordered some Uyghur Web sites to shut down their bulletin board services (BBS) during the Olympics, according to Radio Free Asia. In a review of Uyghur Web sites carried out during the Olympics, Commission staff found that BBS on the Web sites Diyarim, Orkhun, and Alkuyi had been suspended. The BBS Web page on Diyarim contained the message, "[L]et's protect stability with full strength and create a peaceful environment for the Olympic Games[!] Please visit other Diyarim pages[.]" The message on the BBS Web page on Orkhun stated, "Based on the requirements of the work units concerned, the Orkhun Uyghur history Web site has been closed until August 25 because of the Olympic Games."

• *Inspections of Households in Ghulja.* Authorities in the predominantly ethnic minority city of Ghulja searched homes in the area in July in a campaign described by a Chinese official as aimed at rooting out "illegal activities" and finding residents living without proper documentation, according to Radio Free Asia.

DIRECTIVES AND MEASURES RELATED TO FALUN GONG AND THE OLYMPICS

In April 2008, the central government 6–10 Office issued an internal directive to local governments nationwide mandating propaganda activities to prevent Falun Gong from "interfering with or harming" the Olympics.[32] References to the directive appear on official Web sites in every province and at every level of government.[33] Most official reports focus on demonstrating that local authorities have stepped up security and fulfilled the requirement to "educate" target audiences on the directive's content.[34] Local authorities distributed the directive widely in an effort to raise public awareness. References can be found on various Web sites ranging from public entities with indirect relations with the state (state-run enterprises, public schools, universities, parks, TV stations, meteorological bureaus, etc.) to commercial and social entities with no obvious ties to the state.[35] Anti-Cult Associations also actively circulated and promoted the 6–10 Office's Olympic directive.[36]

Olympic and municipal officials in Shanghai and Beijing also issued directives pertaining to Falun Gong in the lead-up to the Olympics. The Shanghai Public Security Bureau sent a warning to Falun Gong practitioners and other dissidents in April 2008 demanding that they remain in the city during the Olympics and report to the public security office at least once a week until the end of October. The notice threatened to detain or punish anyone who violates the order.[37] In November 2007, Beijing Olympic organizers reminded visitors to the games that possession of Falun Gong writings is strictly forbidden and that no exceptions would be made for international visitors.[38] The Beijing Public Security Bureau issued a public notice offering a reward of up to 500,000 yuan (US$73,100) for informants who report Falun Gong plans to "sabotage" the Olympics.[39] From January to June 2008, public security agents reportedly arrested at least 208 practitioners from all 18 districts and counties in Beijing municipality. Falun Gong sources have documented the names and other information for 141 of the 208 practitioners who were detained in Beijing, 30 of whom are now reportedly being held in reeducation through labor camps with sentences as long as two-and-a-half years.[40]

Chinese security officials made statements prior to the Olympics that sought to link Falun Gong with terrorist threats, but produced no evidence to substantiate these claims.[41] Tian Yixiang, head of the Military Affairs Department of the Beijing Olympics Protection Group, listed Falun Gong among the groups that might "use various means, even extreme violence, to interfere with or harm the smooth execution of the Olympic Games."[42] Li Wei, Chairman of the Center for Counterterrorism Studies at the quasi-official China Institute of Contemporary International Relations, categorized Falun Gong as among the top five terrorist threats to the Games.[43]

[See Section VI—Developments in Hong Kong for coverage of protest and dissent in Hong Kong during the 2008 Olympic Games.]

III. Development of the Rule of Law

CIVIL SOCIETY

INTRODUCTION

The Chinese government has strengthened control over civil society and non-governmental organizations (NGOs),[1] especially in the run-up to the 2008 Beijing Summer Olympic Games.[2] Although the government has acknowledged the contributions of civil society organizations (CSOs),[3] especially in the aftermath of the May 2008 Sichuan earthquake,[4] legal constraints and heightened surveillance continue to limit civil society activities in China.

LEGAL CONSTRAINTS

Political and economic reforms since the late 1970s have created more space for citizen participation in society.[5] Chinese citizens, often unsatisfied with government response to rising social problems, have learned to pursue justice through self-help and self-organizing.[6]

There were 387,000 registered civil society organizations (CSOs) in China, including 3,259 legal aid organizations[7] by the end of 2007, up from 354,000 in 2006 and 154,000 in 2000.[8] To obtain NGO status, organizations must have a sponsor organization, i.e., a government or a Communist Party organization, to support the initial registration, and apply to a government department for review and approval.[9] Although the government controls registered organizations to some degree, some NGOs are still able to operate with certain independence.[10]

The constraints on NGO registration are inconsistent with the right to freedom of association as defined by Article 22 of the International Covenant on Civil and Political Rights (ICCPR), of which China is a signatory.[11] They also lead many organizations to operate without formal legal status.[12] Some grassroots NGOs have had to register as commercial entities and have been unable to solicit funding or receive donations.[13]

The majority of NGOs in China, regardless of their registration status, cannot engage in fundraising activities because charity-related laws only allow a small number of government-approved foundations to collect and distribute donations.[14] This restriction has posed significant challenges in the aftermath of the May 2008 Sichuan earthquake when unprecedented donations[15] overwhelmed the government. The small number of government-approved foundations and the government's limited capacity to manage funds have obstructed relief operations and resulted in public outcry for charity reform.[16]

For years, the Ministry of Civil Affairs has considered legal reforms to regulate the civil society sector, including the management and registration of NGOs as well as their charity activities.[17] In 2008, officials reportedly held consultative meetings to draft amendments to the 1998 Regulations on the Registration and Management of Social Organizations.[18] Nevertheless, the government remains wary that stronger NGOs and civil society will reduce its control over society.[19]

INTOLERANCE OF NGO ACTIVISM

The Chinese government systematically restricts the development of civil society. It has heightened surveillance of NGO advocates since a series of democratic revolutions in other parts of the world in 2005.[20] The government's crackdown on civil society organizations intensified in the lead-up to the 2008 Beijing Summer Olympic Games,[21] silencing voices of dissent in the name of national security and social stability.[22]

The Chinese government and Communist Party ban activities of certain CSOs, such as political parties and religious groups independent of government control, and cracks down on their leaders.[23]

- Authorities reportedly have harassed non-Communist political party leaders such as Guo Quan, the Acting Chair of the New People's Party and a former scholar in Nanjing,[24] and members of the China Democracy Party including Yue Tianxiang,[25] Xie Changfa,[26] and Huang Xiaoqin.[27]
- In July, China Aid Association reported that Beijing police forced Zhang Mingxuan, president of the Chinese House Church Alliance, and his wife to live on the streets after Zhang met with a U.S. Congressional delegation.[28] Authorities later detained Zhang and his wife two days before the opening of the Olympics.[29]
- Officials ordered China Development Brief, a Beijing-based non-profit online publication that reports on civil society news and connects NGOs in China, to discontinue its Chinese edition in July 2007.[30] Later in September 2007, officials denied the re-entry of Nick Young, founder of the publication, citing Article 12 of the Immigration Law.[31]
- In the area of HIV/AIDS, officials curbed the activities of organizations and activists.[32]
    - The Xincai People's Court convicted Wang Xiaoqiao, an AIDS activist from Henan province, of "extortion" and sentenced her to one year in prison on August 12.[33] Wang had been detained since November 27, 2007, when petitioning to the Henan government for her husband, who contracted HIV/AIDS through a blood transfusion.[34]
    - In May, authorities reportedly ordered the closure of the "AIDS Museum" Web site, www.aidsmuseum.cn, a platform for HIV/AIDS information exchange.[35]
    - Police reportedly harassed HIV/AIDS activist Wan Yanhai in May during the U.S.-China Human Rights Dialogue. Wan was put under 24-hour police surveillance for four days. Several other human rights activists reportedly had similar experiences during the same time.[36]
    - Public security officials sentenced human rights activist Hu Jia, who has advocated on behalf of people living with HIV/AIDS, to three years and six months in prison for "inciting subversion of state power" on April 3. [See Section II—Rights of Criminal Suspects and Defendants for more detailed information about Hu Jia.[37]]
    - Officials banned a conference scheduled for late July and early August 2007 in Guangzhou on the legal rights of those infected with HIV. The conference would have

brought together 50 Chinese and international HIV/AIDS activists and experts. One of the conference organizers, the New York-based Asia Catalyst, suggested that authorities canceled the conference because the subject matter and the involvement of foreigners were "too sensitive."[38]

○ Leading HIV/AIDS experts and advocates from around the world submitted an open letter dated September 27, 2007, to the Joint United Nations Programme on HIV/AIDS (UNAIDS) expressing concern over Chinese government actions against the AIDS work of Chinese NGOs and advocates, including Li Dan. State security officials held Li, founder of the China Orchid AIDS Project and winner of the 2005 Reebok Human Rights Award, in custody in Beijing for 24 hours on July 26, 2007. The China Orchid AIDS Project was the co-organizer of the canceled conference in August.[39]

[See Section II—Worker Rights, Freedom of Religion, Status of Women, and Environment for more information.]

ROLE OF BUSINESS SECTOR

China encourages the business sector to engage in civil society activities and to support NGOs. The Public Welfare Donations Law and the Corporate Income Tax Law encourage public and corporate donations by providing tax benefits.[40] As a result, international and domestic companies made significant contributions to relief efforts in the aftermath of the Sichuan earthquake.[41] In addition to charitable giving, China also sets policy guidelines to encourage corporate social responsibility.[42] Since 2005, President Hu Jintao's "Harmonious Society"[43] vision had promoted the widespread adoption of corporate social responsibility initiatives in China.[44] While Chinese companies recognize certain human rights, they reflect government positions more explicitly in their human rights policies.[45] Chinese government also compels corporations, including the Internet and media companies, to assist in censorship to restrict freedom of expression.

[See Section II—Freedom of Expression for more information.]

INSTITUTIONS OF DEMOCRATIC GOVERNANCE

INTRODUCTION

During 2008, China implemented some limited reforms to increase public participation, including greater public involvement in the selection of officials in some localities. However, the Chinese Communist Party's monopoly on political power remains firmly intact. Reforms have not removed barriers to the formation of competing political parties or an independent judiciary. Thirty years after the launch of the reform era and nearly 60 years after the founding of the People's Republic of China, the basic structure of China's government—an authoritarian political system controlled by the top leaders of the Communist Party—remains unchanged.

The Communist Party exercises control over government and society through networks of Party committees, which exist at all levels in government, legislative, judicial, and security organs; major social groups (including unions); enterprises; and the People's Liberation Army. Party committees formulate all major state policies before the government implements them. Party secretaries who chair Party committees simultaneously hold corresponding government positions, retaining final decisionmaking authority on most issues.[1] The vast majority of government leadership positions remain the exclusive domain of Party members, with a few token non-Communist officials relegated to mostly symbolic positions.[2]

FORMAL GOVERNMENT ELECTIONS: "GRASSROOTS DEMOCRACY"

In the 20 years that have now passed since the Chinese government introduced direct elections at the village level, the gradual expansion of elections to higher levels of government has largely stalled. The direct election of officials by ordinary Chinese citizens remains narrow in scope and strictly confined to the local level. None of the Party or government officials at the municipal, provincial, or national level are directly elected by Chinese citizens. Chinese citizens are formally permitted to directly elect officials for just three types of local governing institutions: villagers committees in rural areas, residents committees in urban areas, and local legislatures—known as People's Congresses—at the township and county levels.[3] In 2001, the Central Committee of the Chinese Communist Party declared that directly electing a township head was unconstitutional.[4]

In light of the restrictions imposed from the center, some townships have experimented with models of indirect elections that provide for a limited degree of public participation and a greater degree of rank-and-file party participation in the selection of township leaders. Elections of villagers committees occur regularly every three years, and in 2008, elections were scheduled to be held for about half of the more than 620,000 villagers committees across China.[5] Since 1995, the Party has experimented with reforms that allow a limited degree of citizen participation in the selection of local Party cadres, but the Party retains tight control over the candidate pool and the selection process. For example, by 2002, a few thousand townships had participated in a model of indirect elections known as "open recommendation and selection" (*gongtui gongxuan*). This approach to township elections allows any adult

resident in a community to declare his or her candidacy for township head, but direct participation in the process essentially stops there for the general public. The residents committee is responsible for narrowing the pool of candidates to two finalists from whom the local People's Congress chooses the winner in a caucus.[6] In total, approximately 200–300 people typically participate in the selection process under "open recommendation and selection."[7]

Following the 17th Party Congress in October 2007, a number of localities have utilized the notion of "inner-party democracy" to promote movement toward a more participatory model of local Party leadership election. The most prominent of these efforts is a new pilot project called "open recommendations, direct elections" (*gongtui zhixuan*). This method of conducting elections is characterized by the adoption of "three recommendations, two announcements, and one election."[8] Candidates are first recommended by rank-and-file Party members, the local Party organization, and most importantly, the general public. Second, the residents committee evaluates the qualifications of the recommended candidates and publicly announces the candidates they have approved to run in the "election." Finally, at the local Party convention, all Party members in attendance—not just Party leaders or representatives—cast ballots to determine the final winner(s).[9]

In 2007–2008, reports of localities introducing the "open recommendations, direct elections" pilot project surfaced from provinces ranging from the relatively affluent (Shanghai, Guangdong) to the generally underdeveloped (Guangxi).[10] In Guizhou province, the Party Committee Secretary for a small township was directly elected by 234 local Party members who attended an election rally in April 2008. The secretary was chosen among two final candidates who were selected from a pool of 35 total candidates through "such procedures as eligibility screening, theory examinations, open recommendation rallies, and focal-point inspections."[11] In September 2007, direct election of township officials was administered for the first time in seven townships simultaneously in Yunnan province.[12] In January 2008, Ningbo city in Zhejiang province became the first city in the nation in which all of the city's neighborhoods practice "direct elections" of residents committees.[13] A village in Hunan's Xiangxi Autonomous Prefecture held that area's first "no-candidate direct election" for five village leadership positions in May 2008.[14] The Ministry of Civil Affairs defines a "no-candidate" election as one in which no candidates are predetermined prior to election day and any individual villager can nominate himself or herself for consideration.[15]

Some localities have also established mechanisms aimed at soliciting the views of the general public on issues of governance. A village in Anhui province instituted a "villager discussion system" in which the second weekend of every month is designated as a time when villagers meet to "discuss, deliberate, and evaluate" current issues before the community in the presence of leaders from the villagers committee. The county of which this township is a part has also opened a "villager discussion room" in each of its 120 administrative villages where villagers can meet with leaders at times outside of the designated weekend.[16] A similar "villager deliberation system" exists in a small mountain village in Jiangxi in which

elected villager representatives can introduce proposals and make critiques of village affairs and cadre performance.[17] Since 2004, another county in Jiangxi has gradually expanded an inner-party voting system in which town and village authorities discuss "matters of great concern within the party" and put them to a vote by secret ballot among all Party members and some villager representatives. In 2007, such votes were reportedly held on 1,128 matters throughout the county with 1,017 of the ballot decisions fully adopted and executed by the authorities.[18]

Although to a lesser extent than many counties and townships, some municipal governments also rolled out new initiatives aimed at broadening civic participation in governance. The Nanjing city government, in particular, took two steps that were largely unprecedented. First, 16 candidates vying for 4 positions in the city government—directors of the labor, drug surveillance, tourism, and government administration bureaus—participated in the country's first televised debate in April 2008. The candidates each gave a five-minute speech and answered questions. The studio audience of more than 240 people, reportedly from diverse backgrounds, was allowed to comment and vote on the candidates. Three candidates with the most votes for each position were then "recommended" to the Nanjing Party Committee and its Standing Committee for final selection.[19] Second, Nanjing authorities decided in late 2007 to allow migrant workers to stand for election as deputies to the county and township people's congresses for the first time.[20]

TAKING A "SPECIAL ECONOMIC ZONE" TO THE NEXT LEVEL: "SPECIAL POLITICAL ZONES?"

In recent years, the city of Shenzhen in Guangdong province, a bustling metropolis of 10 million people bordering Hong Kong, has proven to be a dynamic center of political experimentalism. The Shenzhen municipal government has been proactive in promoting the "open recommendation, direct elections" model throughout every district in the city with direct elections occurring in 80 percent of resident committees.[21] In 2005, Yantian district became the first in the nation to directly elect residents committees that were legally defined as grassroots autonomous mass organizations.[22] Luohu district has also distinguished itself by conducting so-called "double elections" whereby Party rank-and-file members are allowed to directly elect representatives to the district Party branch as well as its secretary and deputy secretary.[23]

A number of Shenzhen city officials and academics have called for the transformation of Shenzhen into a "special political zone" that would serve as a democratic laboratory in the same way that it served as a capitalist laboratory in the beginning of the reform era.[24] In March 2008, the Guangdong Party Secretary rejected that proposal as too radical and instead encouraged Shenzhen to focus on building "socialist democracy"—the Party's watchword for allowing marginal public participation in politics while preserving its monopoly on power.[25] Undeterred, the Shenzhen Municipal Party Committee approved a "breakthrough" reform plan three months later, which if implemented, could require that multiple candidates for mayor be presented for a vote before the local People's Congress, introduce competitive elections for members of that body,

expand its supervisory powers over the executive, and promote judicial independence.[26] Shenzhen's reform plan did not include a timetable for implementation and it is unclear if central authorities will permit reforms to go as far as the proposal recommends. The Commission will monitor closely and assess the progress that Shenzhen achieves toward this end.

THE 17TH PARTY CONGRESS

A sustained program of significant political reform was absent from the agenda of the 17th Party Congress in October 2007. Instead, the Party focused largely on setting the stage for a likely leadership transition in 2012 and reaffirming the importance of pursuing sustainable economic growth through Party General Secretary Hu Jintao's "scientific development concept."[27] "Inner-party democracy," a recurring idea in the rhetoric of the current Chinese leadership, dominated the statements regarding political reform at the Congress. Hu appeared to open the door for incremental political reforms at the local level when he declared that the Party would "spread the practice in which candidates for leading positions in primary party organizations are recommended both by party members and the public in an open manner and by the party organization at the next higher level, gradually extend direct election of leading members in grass-roots party organizations to more places, and explore various ways to expand inner-party democracy at the primary level."[28]

Any chance that the Party might allow movement toward true political pluralism or show greater tolerance for organized political dissent was lost by Hu's call to "firmly uphold the centralized and unified leadership of the party."[29] Less than a month after the Party Congress, Hu's message was echoed in the text of a White Paper published by the State Council entitled "China's Political Party System." The document praised China's "multi-party cooperation system" that preserves the Communist Party's absolute dominance and "replaces confrontation and contention with cooperation and consultation" so as to safeguard "social and political stability and solidarity." It concludes with a final assessment that the "multi-party cooperation system" is "inevitable, innovative, and superior."[30] The so-called "multi-party cooperation system" refers to seven nominal political parties that the Communist Party permits to exist in a subordinate role at the margins of the political process. The Communist Party has strongly repressed attempts to organize independent parties outside of these seven, such as the China Democracy Party.[31] Another State Council White Paper, the first ever on the rule of law, was published in February 2008. It also emphasizes that the Communist Party is "always" the "core" leadership, which has "consolidated" its "ruling position" through promoting and adhering to the law.[32] To the extent that the 17th Party Congress appeared to approve of greater political participation at the local level, the available evidence suggests that it aims to make China's authoritarian system more sustainable rather than creating space for a potential challenger to the Party's legitimacy.[33]

PUBLIC PARTICIPATION IN LAWMAKING

In his report at the 17th Party Congress in October 2007, President and Party General Secretary Hu Jintao said the Party must "expand the citizens' orderly participation in political affairs at each level and in every field" and that "in principle, public hearings must be held for the formulation of laws, regulations and policies that bear closely on the interests of the public."[34] In April 2008, the National People's Congress Standing Committee (NPCSC) announced that draft laws under its consideration would "in general" all be made public for review.[35] The State Council issued an opinion in May calling on city and county governments to solicit the public's input in formulating policies that "have a close relationship to interests directly affecting the people."[36] Local governments continued to pass measures establishing procedures for public participation at hearings.[37] According to a central government news organization in January, more than 70 percent of county-level governments had set up procedures for holding public hearings or panel discussions to solicit input on proposed laws.[38] The official China Daily reported in October a proposal in Gansu province to allow citizens to directly propose legislation.[39] Official media cast these initiatives in a positive light.[40]

At the national level, the NPCSC's decision to make draft laws public has led to publication of some major laws. Xinhua reported that on the same day NPC officials announced the new policy, a draft of a new food safety law was made public.[41] Chinese law, however, grants the NPCSC the power to draft only certain laws, while the NPC itself has the direct power to enact and amend basic laws such as important criminal or civil legislation.[42] Thus, much anticipated amendments to the PRC Criminal Procedure Law, which officials have been considering revising for several years, would not have to be made public in draft form under the policy introduced in April.[43]

One new regulation that authorities never released in draft form for public comment, according to one observer, is the new open government information (OGI) regulation that took effect in May 2008.[44] The OGI regulation is intended to increase public access to government information, but lacks a clear presumption of disclosure.[45] The regulation's "state secrets" exception and penalties for failure to "establish and perfect" procedures for making secrecy determinations may encourage officials to err on the side of non-disclosure instead of open government information. Furthermore, on the eve of OGI's effective date, the central government further broadened officials' discretion to withhold information when it issued an opinion saying officials could deny requests for information not related to the requesting party's "production, livelihood and scientific and technological research."[46] This introduction of an apparent purpose test differs from earlier local-level OGI regulations and international practice.[47] Initial reports from Mainland Chinese and Hong Kong media indicated that some officials were being evasive or uncooperative in handling requests for information.[48]

Local measures providing for public hearings empower local officials to decide which members of the public may attend or offer tes-

timony at hearings.[49] Xiong Lei, a former editor at Xinhua, wrote in the July 2008 issue of the China Society for Human Rights Studies' magazine that this created problems since the government sponsor's "independence is questionable."[50] She also said that provisions for public participation had been "sporadically written" into some laws and that "public participation is mostly witnessed in hearings on pricing, legislation and some administrative moves, but is absent in many projects immediately affecting people's life, like land leasing, neighborhood renovation and city renewal projects." Local measures also provide little guidance on what weight to give input from hearings. One local measure stipulated that hearing summaries, which are prepared by the government sponsor, should be an "important reference" for policymaking.[51] According to mainland Chinese and Hong Kong media reports, at two public hearings in December 2007 concerning public opposition to the construction of a chemical plant in Xiamen [see Section II—Environment], officials selected citizens randomly during a live drawing on television from a pool of 624 people who had signed up to participate. Officials also allowed observers to monitor the selection process.[52] Following the hearings, officials decided to move the plant, and the China Daily admonished local officials in January 2008, saying that if they had "invited local residents to weigh in on the matter before the plan had been approved, all the troubles might have been avoided."[53]

COMMERCIAL RULE OF LAW

INTRODUCTION

As a member of the World Trade Organization (WTO), China is bound by commitments outlined under both the WTO agreements and China's accession documents.[1] These commitments require that the Chinese government ensure non-discrimination in the administration of trade-related measures, and prompt publication of all laws, regulations, judicial decisions, and administrative rulings relating to trade. Over the past year, concerns have persisted over China's continued deviation from WTO norms in both law and practice. China's uneven implementation of its WTO commitments pursuant to its obligations as a member of the WTO have led to multiple WTO challenges against China.[2] [See box at the end of this section.]

The new PRC Anti-Monopoly Law, which took effect in August 2008, heralds the potential for structural change that may have a significant impact on the development of commercial rule of law in China. China's new National Strategy for Intellectual Property, on the other hand, is similar to China's past approaches to the enforcement of intellectual property protection, which have been largely unsuccessful. Implementing measures related to land and property rights, and enterprise income tax also had an impact on China's development of the commercial rule of law in the last year. Tightened visa restrictions in the period around the 2008 Beijing Summer Olympic Games impacted operations across commercial sectors significantly.[3]

China has taken steps over the last year to increase opportunities for interested parties to become aware of and engaged in the development of new laws and regulations, and the formulation of amendments to existing laws and regulations. The National People's Congress (NPC) and China's State Council Legislative Affairs Office (SCLAO) separately took steps to establish public notice-and-comment systems for proposed laws and regulations. On April 21, 2008, the NPC announced that in principle the NPC Standing Committee would release the full text of draft laws, on its Web site, for public comment.[4] [See Section III—Institutions of Democratic Governance, Public Participation in Lawmaking.] This announcement helped to formalize a process that the NPC had practiced on select laws over the last year (for instance, on a new draft Food Safety Law in March, and on the latest draft of the proposed new patent law, which the NPC posted on its Web site with an invitation to comment on September 8, 2008; in a similar vein, the Supreme People's Court released a draft interpretation of the PRC Property Law for public comment on June 16, 2008[5]). In addition, the SCLAO committed, as part of ongoing work on transparency under the U.S./China Strategic Economic Dialogue (SED), to publish on its Web site all trade- and economic-related administrative regulations and departmental rules that are proposed for adoption, and to provide a public comment period of not less than 30 days from the date of publication.[6] Comment procedures are intended to afford interested parties, including both foreign and domestic firms and trade associations, some limited opportunities to offer input prior to implementation. China must ensure full and consistent im-

plementation and institute additional efforts to fully develop strong rule of law before these steps may be deemed positive.

ANTI-MONOPOLY

The new PRC Anti-Monopoly Law (AML) took effect on August 1, 2008,[7] but the text of the law did not fully specify who would be responsible for its enforcement.[8] The law created an Anti-Monopoly Commission under the State Council but the government did not announce until earlier this year that three government entities would share responsibility for enforcement: the Ministry of Commerce, the National Development and Reform Commission (NDRC), and the State Administration for Industry and Commerce (SAIC). The Anti-Monopoly Commission's role is to coordinate the enforcement activities of these three entities.[9] Competition matters previously were dealt with under provisions in China's 1993 Anti-Unfair Competition Law[10] and 1997 Price Law.[11] The AML codifies doctrines of state action that have prompted some experts, both in China and outside, to liken it to a "new Economic Constitution."[12]

There appear to have been several motivations for issuing the AML. One main motivation appears to have been to strengthen the legal foundation for China's transition to a market economy. Some legislators reportedly perceived a need to curb government power and combat local protectionism.[13] The AML has an entire chapter devoted to "Abuse of Administrative Powers to Eliminate or Restrict Competition."[14] At the same time, the AML also contains a provision that seemingly grants privileges to state-owned enterprises (SOEs) operating in sectors important to national security and the economy.[15] Other Chinese legislators reportedly feared that superior access to capital might enable foreign firms to attain dominant positions in specific industries in China.[16] However, this concern does not appear to have been the main motivation for the law.[17]

Within a month after the AML took effect, there were reports of at least four antitrust cases filed (though not necessarily accepted), including cases that targeted a state agency,[18] and also a petition filed asking the government to open an investigation against Microsoft.[19] In addition, a number of implementing rules and regulations remain in the pipeline. The United States has provided technical assistance funding to the American Chamber of Commerce in China to increase dialogue and cooperation with Chinese enforcement officials during the law's implementation.[20]

The AML includes a national security provision as follows:

> If the merger with or acquisition of domestic enterprises by foreign investors or other forms of concentration involving foreign investors concerns national security, in addition to the review of concentration of undertakings in accordance with the provisions of this Law, it shall be examined for national security review in accordance with relevant regulations of the State.[21]

The ultimate impact of this provision, whether negative or positive, remains unclear. Attorneys practicing in China are watching to see whether the approval of some mergers may be conditioned on commitments to licensing.[22] Guidelines issued by the Supreme

People's Court at the time the AML took effect indicated that anti-monopoly civil cases would be decided by the intellectual property divisions of people's courts. This was motivated in part to take advantage of these divisions' relative professionalism and sophistication compared with other courts, specifically their familiarity with complex legal, technical and economic matters.[23]

INTELLECTUAL PROPERTY

The State Council issued its Outline of the National Intellectual Property Strategy (National Strategy) on June 5, 2008.[24] The National Strategy calls for the establishment of mechanisms to coordinate bureaucracies with overlapping responsibilities, but does not fully specify plans to achieve those goals.[25] There is little that addresses the need for coordination between administrative authorities, who handle most intellectual property (IP) enforcement in China, and public security bureaus—a need that was highlighted in this year's United States Trade Representative Special 301 Report.[26] Finally, the National Strategy's call for "innovation" appears at odds with its rhetoric of "self-reliance." Its introduction of the new concept of "self-reliant innovation" may suggest tensions at the top over the future direction of China's IP policy. If such tensions are more pronounced than before, they may have negative implications for China's ability to perform on its stated commitments to improve IP enforcement going forward.

The language in which the National Strategy presents China's commitments on matters related to intellectual property rights (IPR) enforcement is excessively vague. Vague pledges by themselves will not achieve the objective of fulfilling IPR commitments. Pledges to "strengthen" the system, and make it "sound" and "effective" do not lend themselves well to objective assessment of China's performance in fulfilling (or failing to fulfill) its commitments to enforce IPR. For instance, the National Strategy mentions the protection of trade secrets, stating that "the behavior of stealing trade secrets should be severely punished in accordance with law."[27] However, it says little else to specify in detail how this objective is to be implemented or achieved effectively. As a result, to protect trade secrets, firms must rely heavily on provisions governing employee non-competition agreements in the new PRC Labor Contract Law, which has been in effect only since January 2008, and implementing regulations which were issued only in September.[28]

The National Strategy is the work of the National Working Group for Intellectual Property Rights Protection, which was established in 2005 for the purpose of coordinating IP policies among 12 government agencies and ministries that make IP-related policy. The Working Group has 13 members, including officials from the Ministry of Commerce, State Intellectual Property Office, Customs, Supreme People's Court, and State Administration for Industry and Commerce. In addition to promising amendments to China's patent,[29] trademark, and copyright laws, the National Strategy proposes to investigate the possible establishment of specialized IP courts, including a central IP court in Beijing for cases involving highly technical matters, and a special court for IP appeals.[30]

The Office of the United States Trade Representative (USTR) concluded in April that "rampant counterfeiting and piracy prob-

lems have continued to plague China," noting that the "goal of significantly reducing IPR infringement throughout China has not yet been achieved."[31] The World Trade Organization's (WTO) Trade Policy Review noted that, "(q)uestions remain about the sufficiency of fines and criminal penalties to deter IPR violations."[32] USTR has argued that, under China's criminal IPR thresholds, its prosecutors and judges cannot, as a matter of law, act in ways that allow China to meet its obligations under the WTO's Trade-Related Aspects of Intellectual Property Rights (TRIPS) Agreement.[33] USTR also has argued that China's customs regulations do not grant Chinese customs officials the authority or discretion to act in accordance with the TRIPS Agreement, and China's Copyright Law conflicts with China's obligations under the TRIPS Agreement.[34] In material submitted before a WTO panel in April 2008, USTR argued that "the safe harbors from criminal liability created by China's high thresholds for criminal liability (i.e., minimum values or volumes required to initiate criminal prosecution, normally calculated on the basis of the infringer's actual or marked price) continue to be a major reason for the lack of an effective criminal deterrent. These safe harbors are among the matters for which the United States has requested WTO dispute settlement with China."[35]

Most IPR enforcement in China is handled by administrative authorities, not courts, and, because administrative fines are low, they amount to no more than a cost of doing business for IPR infringers, instead of as deterrents to infringing activity. Difficulties in initiating and transferring cases for criminal prosecution and low civil damages also contribute significantly to inadequate IPR enforcement, and also offer little to deter infringement. IPR enforcement at the local level in China also is hampered by poor coordination among government departments, local protectionism, lack of training, non-transparent processes, and corruption. As a result, piracy and counterfeiting levels in China remain high even as the number of IPR cases in Chinese courts increases. USTR notes, for example, that China's May 2006 Regulations on the Protection of Copyright Over Information Networks, fail to implement fully the World Intellectual Property Organization Internet Treaties to which China acceded last year.[36] According to USTR, "(u)nauthorized retransmission of live sports telecasts over the Internet is reportedly becoming an increasing problem internationally, particularly in China."[37]

IPR and Ethnic Minority Economic Development

In Guizhou province, authorities are drafting legislation that treats the indigenous knowledge possessed by ethnic minority citizens as intellectual property.[38] The Guizhou provincial Intellectual Property Office has been developing an IPR-based regulatory system for traditional know-how related to the cultivation of special forms of rice, medicinal plants, and other knowledge, such as embroidery techniques, for which there is known market potential. Officials have publicized the effort as part of China's national efforts to strengthen and align IPR enforcement in China with international standards and with China's international obligations. They also have cast it as development policy for the benefit of ethnic minority citizens.[39]

Specialists in sustainable development note that the most recent (August 2008) draft of China's proposed new patent law is silent on traditional knowledge. "As it stands, the draft provides no safeguards, no restrictions, against outright 'biopiracy' in terms of traditional knowledge."[40] To the extent that the ability to patent inventions based on traditional knowledge appeals to investors, and their prohibition may turn potential investors away, the Chinese government may not wish to prohibit patents on traditional knowledge. Moreover, some development specialists note that, "a lot of groups, especially indigenous peoples, don't want to see patent law extended to traditional knowledge."[41]

The application of IP to traditional knowledge may give farmers leverage over companies wishing to market local products produced with traditional know-how. At the same time, it is not clear whether Chinese law does or can effectively address methods for deciding whether IP rights and royalties must be shared among communities or collectives in a manner that protects the rights of ethnic minorities.[42] It remains to be seen whether the "protection" of ethnic minorities' traditional knowledge in the long-run will safeguard ethnic minority rights.[43]

FOOD AND PRODUCT SAFETY

In August 2007, after a series of safety scares involving Chinese products worldwide, China's Commerce Minister called for a "Special War" against unsafe food and inferior product quality.[44] A food safety crisis in September 2008 involving tainted milk products (milk, milk powder, infant formula, cake, candy, and chocolate) that have killed at least four children and sickened more than 60,000 others, illustrated the ineffectiveness of China's "Special War." The Commission's 2007 Annual Report included extended coverage of the significant challenges China faces in the area of food and product safety.[45] Regulatory fragmentation, insufficient oversight, and the censorship practices of the Chinese government and Communist Party have contributed to a sharp rise in domestic and international concern over food safety and product quality problems in China.

On September 15, 2008, Xinhua announced the arrest of individuals involved in the contamination, sale, and distribution of tainted milk products on charges of "producing and selling toxic and hazardous food" under the PRC Food Hygiene Law.[46] In addition, Xinhua reported on September 22 that the director of China's General Administration of Quality Supervision, Inspection and Quar-

antine had stepped down, and that the Communist Party chief and mayor of Shijiazhuang, Hebei province were sacked.[47] (Hebei is the headquarters of the Sanlu Group, the dairy producer implicated in the scandal.) The Party chief reportedly "was removed for delaying the reporting of the issue to higher authorities and incompetence" in accordance with the PRC Civil Servants Law[48] and the State Council Regulation on the Punishment of Civil Servants of Administrative Organs.[49] These measures provide that administrative officials who fail to fulfill their duties and cause avoidable severe accidents as a result face removal and punishment.

The government reportedly said that Sanlu "had first received complaints about its powder in March 2008 and had recalled some products but delayed reporting the problems to the government or the public."[50] A Central Propaganda Department directive reportedly sent to newspaper editors in June included restrictions on coverage of politically sensitive topics during the Olympics, saying that coverage of "all food safety issues . . . is off-limits."[51]

China's food safety and product quality problems do not stem from a failure to legislate on the issue, but rather from duplicative legislation and ineffective implementation. China's legislation on the issue includes, for example, the Food Hygiene Law, Product Quality Law, Agricultural Product Quality Safety Law, Consumer Rights Protection Law, State Council Rules on Strengthening Supervision and Management of Food Safety, and National Plan for Major Food Safety Emergencies. These laws and regulations create overlapping portfolios and less than clear lines of responsibility among multiple regulatory actors, including the State Administration for Industry and Commerce, the State Food and Drug Administration, the General Administration of Quality Supervision, Inspection and Quarantine, the Standardization Administration, the Ministry of Health, the Ministry of Agriculture, and the Ministry of Commerce. A new draft Food Safety Law that aims to consolidate the regulatory and legislative landscape governing food safety and product quality, and that provides for penalties up to life imprisonment, was released for comment in April 2008,[52] and debated in August 2008.[53] It is now reportedly being revisited in light of the present food safety crisis.

LAND AND PROPERTY

Arable land is perhaps China's most important non-renewable resource. But it is rapidly shrinking as a result of urbanization and the conversion of farmland to industrial use. Land-use efficiency and the conservation of undeveloped land have motivated the government's efforts in the last year to clarify procedures concerning interests in land and related property. The PRC Property Law, which took effect on October 1, 2007, consolidated China's various laws affecting both public and private property. Property in China heretofore had been governed by a diffuse network of legal provisions distributed across several laws (primarily the General Principles of Civil Law, the Land Administration Law, the Urban Real Estate Administration Law, the Law on Rural Land Contracting, and the Securities Law). [See the Commission's 2007 Annual Report for discussion of the Property Law.[54]]

New Land Registration Measures,[55] which were issued in December 2007, and took effect February 1, 2008, effectively serve as implementation rules for key provisions in the Property Law.[56] Under Land Registration Rules issued in 1995, there were separate registration systems, at separate government departments for buildings and the land on which they were built. Property disputes and illegal property transfers have been attributed to the confusion caused by this dual-registration system. The new Land Registration Measures address the confusion prompted by the dual-registration system by requiring that registration of both buildings and land now be handled by a single local government authority.[57] This is significant in part because, under Article 16 of the Property Law, registration is the method through which interests in land are created.[58] Another significant related development in the last year was the implementation of the PRC Urban and Rural Planning Law, issued in October 2007, and effective January 1, 2008,[59] replacing the PRC Urban Planning Law.[60] The new Urban and Rural Planning Law brings rural land within China's land planning system, such that all rural land use now must comply with official government planning department plans. Finally, in June, the Supreme People's Court published a draft judicial interpretation of the PRC Property Law for public comment.[61]

EXCHANGE RATE POLICY

The Articles of Agreement of the International Monetary Fund (IMF) state that "each member shall . . . avoid manipulating exchange rates or the international monetary system in order to prevent effective balance of payments adjustment or to gain an unfair competitive advantage over other members."[62] While the yuan has appreciated against the dollar since mid-2005, it remains significantly undervalued. The United States and other IMF members have continued to urge China to change its exchange rate policy. Some prominent economists and former IMF officials have taken the view that "China's exchange rate and related policies are in clear violation of Article IV Section 1(iii) [of the IMF Articles of Agreement]."[63] The Deputy Director of the Asia and Pacific Department of the IMF has concluded that, "[b]ecause China has persisted in heavily managing its exchange rate, it has created for itself a major problem with macroeconomic control."[64] China's regular intervention in the exchange market to resist appreciation of the yuan has been "persistent, one-way, and growing in size," according to leading economists who gathered in Washington, DC, to debate China's exchange rate policy in October 2007.[65]

ENTERPRISE INCOME TAX

The new PRC Enterprise Income Tax Law, issued in March 2007, and Implementing Regulations issued in December 2007, both took effect on January 1, 2008. The new law consolidates the two tax regimes set forth under the PRC Foreign Investment Enterprise and Foreign Enterprise Law (1991) and the Interim Measures of Enterprise Income Tax (1993).[66] Until now, separate tax regimes for domestic and foreign invested enterprises had been an important part of China's overall scheme for attracting foreign investment. The new Enterprise Income Tax Law's regime is more indus-

try focused. Industry-based incentives favor companies engaged in advanced technology, environmental protection, agriculture, utilities, water conservation, high technology, forestry, animal husbandry, fisheries and infrastructure construction, venture capital, and enterprises supporting disadvantaged groups.[67]

WTO Disputes

To date, China has been respondent in 11 World Trade Organization (WTO) dispute cases, and complainant in 3 cases.[68] The following provides an overview of ongoing WTO disputes filed against China.

Automobile Parts

On July 18, 2008, following complaints by the European Communities, the United States, and Canada regarding China's legal and administrative measures affecting imports of automobile parts, the WTO Dispute Resolution Body (DSB) ruled against China, in its first legal defeat since its accession to the WTO.[69] The panel found that Chinese measures "accord imported auto parts less favorable treatment than like domestic auto parts."[70] Specifically, Chinese tax measures on imported auto parts were found to result in unfair competition and violated international trade rules. China appealed the ruling in September 2008.[71]

Publications and Audiovisual Entertainment Products

In March 2008, the WTO Director-General composed a dispute-settlement panel in relation to a dispute in which the United States challenged legal and administrative measures issued by the Chinese government that "restrict trading rights with respect to imported films for theatrical release, audiovisual home entertainment products (e.g., video cassettes and DVDs), sound recordings and publications (e.g., books, magazines, newspapers, and electronic publications)"; and "certain measures that restrict market access for, or discriminate against, foreign suppliers of distribution services for publications and foreign suppliers of audiovisual services (including distribution services) for audiovisual home entertainment products."[72] The panel announced on September 22, 2008, that it expects to issue its final report in February 2009.[73]

WTO Disputes—Continued

Financial Information Services

Also in March 2008, the United States and European Union requested consultations in a dispute pertaining to several legal and administrative measures issued by the Chinese government that empower China's state-run Xinhua News Agency to act as the regulatory and approval authority for foreign news agencies and for foreign financial information providers in China.[74] Xinhua requires foreign suppliers to operate in China only through agents designated by Xinhua, and does not permit them directly to solicit subscriptions for their services in China.[75] The measures in dispute have permitted Xinhua to designate a branch of Xinhua as the only agent, and to make the renewal of foreign financial information suppliers' licenses conditional upon the signature of agent agreements with the Xinhua branch. The measures also have permitted Xinhua to require, as a condition of license renewal, the release by foreign suppliers of detailed and confidential information concerning their financial information services and their customers and detailed information regarding their financial information services contracts with foreign suppliers.

The United States, European Union, and Canada contend that individuals within Xinhua appear to be participants in Xinhua's commercial activities that compete with foreign service suppliers, and that "China thus appears to have failed to provide a regulatory authority that is separate from and not accountable to a service supplier that authority regulates." Because the Chinese measures impose market access restrictions and discriminatory requirements on foreign firms in China, the United States contends China has failed to live up to its commitments under various provisions of the General Agreement on Trade in Services, the WTO's Trade-Related Aspects of Intellectual Property Rights Agreement, and China's Protocol of Accession.[76] Canada requested consultations in a similar dispute in June 2008,[77] which the United States requested to join in July 2008.[78]

Intellectual Property

In December 2007, the WTO Director-General composed a panel in relation to a dispute in which the United States challenged deficiencies in China's intellectual property rights (IPR) protection and enforcement regime attributable to weaknesses in China's legal institutions and systems of policy implementation.[79] The DSB expects to issue a Panel Report in this dispute in November 2008.[80] [See Intellectual Property in this section above.]

WTO Disputes—Continued

Subsidies

In July 2007, the United States and Mexico requested the establishment of a panel to review Chinese export and import-substitution subsidies prohibited by WTO rules.[81] The United States and Mexico alleged that a number of legal and administrative measures issued by the Chinese government provide refunds, reductions, or exemptions to enterprises in China on the condition that those enterprises purchase domestic over imported goods, or on the condition that those enterprises meet certain export performance criteria.[82] In December 2007, China and the United States informed the WTO's Dispute Settlement Body (DSB) that they had reached an agreement in this dispute, in the form of a memorandum of understanding.[83] In February 2008, China and Mexico informed the DSB that they also had reached an agreement in a similar dispute.[84]

ADDENDUM: U.S. JOINT COMMISSION ON COMMERCE AND TRADE

On September 15–16, 2008, U.S. Commerce Secretary Carlos M. Gutierrez and U.S. Trade Representative Susan C. Schwab, together with Chinese Vice Premier Wang Qishan, held the 19th U.S.-China Joint Commission on Commerce and Trade (JCCT) at the Richard M. Nixon Presidential Library and Museum in Yorba Linda, California. U.S. Secretary of Agriculture Ed Schafer also participated. This meeting marked the 25th anniversary of the founding of the JCCT in 1983. The JCCT is a high-level government-to-government forum for addressing trade and investment issues. At the 19th JCCT, a number of agreements were reached on issues of concern to American businesses in several areas including intellectual property rights (IPR) protection, healthcare, agriculture, and information security, among others. On IPR protection, China and the United States agreed to continue pursuing cooperative activities on such issues as: IPR and innovation, including China's development of guidelines on IPR and standards; public-private discussions on copyright and Internet piracy challenges, including infringement on user-generated content sites; reducing the sale of pirated and counterfeit goods at wholesale and retail markets; and other issues of mutual interest. On healthcare, China agreed to remove remaining redundancies in testing and certifying imported medical devices, and the United States and China agreed to continue cooperation to close loopholes that allow the sale of bulk chemicals to downstream drug counterfeiters. On agriculture, China lifted avian influenza-related bans on poultry imports from six U.S. states—Connecticut, Nebraska, New York, Pennsylvania, Rhode Island, and West Virginia—and agreed to work jointly to address remaining bans on poultry from Virginia and Arkansas; and China agreed to immediately allow seven U.S. poultry processing plants to resume exports to China. On information security, China announced that it will delay publication of final rules on information security certification that would have potentially barred several types of U.S. products from China's market, pending further mutual discussion of issues related to information security.[85]

ACCESS TO JUSTICE

INTRODUCTION

Chinese citizens continue to face obstacles in seeking remedies to government actions that violate their legal rights. External government and Communist Party controls continue to limit the independence of the judiciary. During the past year, local government and Party officials have stepped up the intimidation and harassment of human rights lawyers and advocates, and lawyers have been pressured not to take on "sensitive" cases.

Chinese law includes judicial and administrative mechanisms that allow citizens to challenge government actions, including administrative litigation in courts and administrative reconsideration in government agencies. Chinese law also permits citizens to petition the government through the *xinfang* ("letters and visits") system. Chinese authorities, however, impose punishments on local officials based on the mere existence of petitions in their jurisdiction. Local officials face heavier punishments for petitions involving greater numbers of people and petitions directed at higher levels, creating an incentive for petitioners to organize large-scale petitions to pressure local officials to act. At the same time, it gives local authorities an interest in suppressing mass petitions and preventing petitioners from approaching higher authorities.[1]

INTERNATIONAL HUMAN RIGHTS STANDARDS AND ACCESS TO JUSTICE

International human rights standards require effective remedies for official violations of citizen rights. Article 8 of the Universal Declaration of Human Rights provides: "Everyone has the right to an effective remedy by the competent national tribunals for acts violating the fundamental rights granted him by the constitution or by law."[2] Article 2 of the International Covenant on Civil and Political Rights (ICCPR) requires that all parties to the ICCPR ensure that persons whose rights or freedoms are violated "have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity."[3]

ACCESS TO LEGAL REPRESENTATION AND HARASSMENT OF LAWYERS

China's Measures on the Payment of Litigation Costs[4] lowered litigation fees, and the Measures for the Administration of Lawyers' Fees[5] helped to regulate price gouging by attorneys. At the same time that China has promoted efforts to expand legal assistance to citizens, however, the government also has harassed, intimidated, or detained lawyers and other human rights defenders who challenge government abuses. As shown by an extensive study conducted by Human Rights Watch, violence and intimidation by the Chinese government and Communist Party directed against lawyers has become extreme.[6]

Criminal defense lawyers are vulnerable to prosecution for the crime of "falsifying evidence" under Article 306 of the Criminal Law, which Human Rights Watch observes has been used to intimidate and threaten lawyers.[7] Criminal defense lawyers also face significant obstacles in representing their clients, including lack of access to detained suspects and defendants, lack of access to case

files, and limitations on their ability to collect evidence.[8] [See Section II—Rights of Criminal Suspects and Defendants.] The legal profession is not independent, and the Ministry of Justice has authority over lawyers, law firms, and bar associations.[9] Government authorities have used their control over the annual renewal of lawyers' licenses to punish and intimidate lawyers who take on sensitive cases.[10]

For example, according to Chinese Human Rights Defenders (CHRD), 30 Tibetans who were detained and tried in April 2008 after the March protests were denied their right to have legal assistance of their own choosing.[11] Twenty-one lawyers who, in an open letter posted on the Internet, had volunteered free legal representation to detained Tibetans, received warnings from Chinese authorities not to take on such cases.[12] The Tibetan defendants were reportedly represented by government-appointed attorneys at trial.[13] Teng Biao, a well-known legal activist and law professor, told the South China Morning Post, "The relatives of the defendants [were] under even bigger pressure than us. They didn't dare to come to us."[14] CHRD reported that most of the 21 lawyers were summoned by authorities for questioning and threatened with punishment if they persisted in attempting to represent the Tibetans.[15] Many were placed under police surveillance, and the process for annual renewal of their lawyers' licenses (usually completed by the end of May) was suspended.[16] All of the lawyers except Teng Biao eventually had their licenses renewed.[17] Teng Biao told Agence France-Presse in early June that he believed the authorities refused to renew his license not only because of his role in the offer to provide free legal representation to the Tibetans but also for his other human rights defense work.[18]

Lawyers Told Not To Take Tainted Milk Cases

Chinese authorities are preventing citizens with grievances related to tainted milk products from using the judicial system to seek redress. They have invoked the importance of "maintaining social stability" in seeking to thwart efforts to organize large groups of angry citizens through collective lawsuits.[19]

By early October, more than 100 lawyers nationwide had joined forces to offer free legal aid to the parents of babies who had fallen sick from tainted milk.[20] Many of the lawyers have been pressured to withdraw from the group.[21] Judicial authorities in Henan, for example, have pressured more than 20 Henan lawyers to rescind their offers to assist the parents.[22] One of the lawyers, Chang Boyang, told the Associated Press that he was informed that if he did not withdraw, he and his firm would be "dealt with."[23] Judicial authorities in some provinces have told volunteer lawyers that litigation could lead to "social unrest."[24]

Lawyers Told Not To Take Tainted Milk Cases—Continued

Li Fangping, one of the lead attorneys organizing the effort, told the Chinese financial magazine Caijing that because courts are permitted not to accept lawsuits on "social stability" grounds, filing a lawsuit for damages relating to public incidents presents a challenge.[25] Li was urged by the government-controlled Beijing Lawyers' Association "to put faith in the party and government."[26] By the middle of October, three individual lawsuits had been filed separately on behalf of infants who had become sick or died from being fed melamine-tainted milk in Guangdong, Gansu, and Henan provinces.[27] The Guangzhou Intermediate People's Court refused to receive the lawsuit, and instead treated it as a petition.[28] The court in Gansu province stated that it could not accept the case until it had further direction from above.[29] The first lawsuit against Sanlu, the Chinese dairy products company at the center of the tainted milk powder crisis, was filed on September 22 in Henan province; a month later the court still had not announced whether it would accept the case, exceeding the seven-day time limit set forth in the PRC Civil Procedure Law for determining whether to accept or reject a case.[30] Parents and lawyers have reportedly been informed by government authorities that the parents' claims can be handled through out-of-court compensation.[31]

JUDICIAL AND ADMINISTRATIVE REVIEW OF STATE ACTION

Chinese law provides methods for citizens to seek a remedy when they believe the government has violated their rights. These methods allow Chinese citizens limited legal recourse against individual officials or local governments who exceed their authority.[32] Under the Administrative Reconsideration Law (ARL), Chinese citizens may submit an application to an administrative agency for administrative review of specific government actions.[33] Under the Administrative Litigation Law (ALL), citizens may file a lawsuit in a people's court to challenge certain government actions.[34] The State Compensation Law authorizes citizens to seek compensation for illegal government acts along with an ARL or ALL action, or present their claims directly to the relevant government bureau.[35] Citizens face obstacles, however, in filing suits against local officials or government entities, particularly in "sensitive" cases. Earlier this year, courts in Sichuan refused to hear cases against local officials brought by parents of children who were killed in school collapses during the May 12 Sichuan earthquake.[36]

CITIZEN PETITIONING

Since the 1950s, *xinfang* ("letters and visits") offices have been an avenue outside the judicial system for citizens to present their grievances.[37] Under the 2005 National Regulations on Letters and Visits, citizens may "give information, make comments or suggestions, or lodge complaints" to *xinfang* bureaus of local governments and their departments.[38] Although Chinese citizens have a legal right to petition and there is an extensive "letters and visits" bureaucracy to handle petitions, the reality is that "officials at all levels of government have a vested interest in preventing petitioners

from speaking up about mistreatment and injustices they have suffered."[39]

In its last Annual Report, the Commission noted the large "clean-up" operation of petitioners in Beijing, which resulted in the detention of over 700 individuals, in advance of the annual March meeting of the National People's Congress.[40] As Human Rights Watch suggested, this roundup of petitioners was a "grand rehearsal" for the 2008 Beijing Summer Olympic Games.[41] Chinese Human Rights Defenders concluded in March 2008 that "illegal interception and arbitrary detention of petitioners" had become "more systematic and extensive" during the past year, particularly in Beijing in the run-up to the Olympics.[42] [See Section II—Rights of Criminal Suspects and Defendants, for a discussion of the "black jails" used in Beijing and elsewhere to detain petitioners.]

PROSPECTS

Prospects for improved access to justice in China have dimmed during the last year due to the Chinese government's failure to afford basic legal protections to protesters, the Beijing Olympic Games organizers' decision to bar petitioners from Beijing,[43] the politicization of the courts and continuing problems with corruption,[44] and ongoing harassment and intimidation of lawyers.[45]

After the earthquake in Sichuan, the Supreme People's Court (SPC) quickly issued a "Circular on Completing Judicial Work During the Earthquake Disaster Relief Period to Earnestly Safeguard Social Stability in the Disaster Area."[46] The Circular calls on judges to "make best efforts to use mediation or reconciliation through the withdrawal of charges as the method to resolve disputes."[47] Like the Emergency Response Law that took effect in November 2007,[48] the emphasis appears to be on preventing isolated events from blossoming into national problems.

During the past year, Hu Jintao's administration appears to have enhanced the Communist Party's control over the judiciary.[49] President Hu has ordered the courts, procuratorates, and public security bureaus to uphold the "three supremes"—the Party's cause, the people's interest, and the constitution and laws.[50] Wang Shengjun, the new president of the Supreme People's Court (SPC), has instructed courts to study the "three supremes." Wang—who did not attend law school and has no experience as a judge, prosecutor, lawyer, or legal scholar—appears to have been selected not for his law credentials, but because he is a "trusted party functionary."[51] Where Wang Shengjun's predecessor Xiao Yang was a distinguished legal scholar and prosecutor before becoming president of the SPC, Wang rose to his new position through the public security and political-legal affairs apparatus.[52] Wang previously was the head of the Anhui provincial public security department and was promoted to the Central Political and Legal Affairs Committee in 1993.[53]

In February, the PRC State Council issued a white paper titled, "China's Efforts and Achievements in Promoting the Rule of Law," which noted the damage that official corruption has caused to the development of China's legal system.[54] The conclusion of the rule of law white paper states in part:

> China's legal construction is still facing some problems: The development of democracy and the rule of law still falls short of the needs of economic and social development; the legal framework . . . calls for further improvement; in some regions and departments, laws are not observed, or strictly enforced, violators are not brought to justice; local protectionism, departmental protectionism and difficulties in law enforcement occur from time to time; some government functionaries take bribes and bend the law, abuse their power when executing the law, abuse their authority to override the law, and substitute their words for the law, thus bringing damage to the socialist rule of law. . . .[55]

During the past year, the Chinese leadership has stepped up its efforts to rein in official corruption. In September 2007, the government established its first National Bureau of Corruption Prevention.[56] The Web site of the new anticorruption bureau reportedly crashed only a day or two after its roll-out, overwhelmed by the large number of people attempting to log on to register complaints.[57] This June, the Party announced its first five-year plan to prevent and punish corruption.[58]

The outgoing top prosecutor told the National People's Congress (NPC) this March that during the past five years nearly 14,000 officials at or above the county level were investigated for embezzlement, bribery, or misappropriation of public funds—of these, 35 officials were at the provincial or ministerial level and 930 at the municipal level.[59] Xiao Yang, the former president of the Supreme People's Court, told the NPC this March that court trials involving corruption cases during the past five years were up more than 12 percent compared with the previous five years.[60] Moreover, during 2008, there was a spate of high-profile corruption investigations and trials, including the conviction in April of former Shanghai Party chief and Politburo member Chen Liangyu, who was sentenced to 18 years in prison for bribery and abuse of power in connection with the Shanghai pension fund scandal.[61]

At the March 2007 NPC session, Xiao Yang stated that he had continuing fears about the "grave situation" of judicial corruption.[62] In March 2008, Xiao Yang reported that during the previous year 218 judges had been punished for abuse of judicial power and corruption.[63] In October 2008, a vice president of the Supreme People's Court, Huang Songyou, was placed under Party "double regulation" (*shuanggui*) for his alleged role in a corruption scandal involving a former top official at the Guangdong High People's Court.[64] [See Section II—Rights of Criminal Suspects and Defendants—*Shuanggui:* Extralegal Detention of Party Members.]

IV. Xinjiang

HUMAN RIGHTS ABUSES IN THE XINJIANG UYGHUR AUTONOMOUS REGION

INTRODUCTION

Human rights abuses in the Xinjiang Uyghur Autonomous Region (XUAR) remain severe, and repression increased in the past year. As detailed by the Commission in past Annual Reports,[1] the government uses anti-terrorism campaigns as a pretext for enforcing repressive security measures and for controlling expressions of religious and ethnic identity, especially among the ethnic Uyghur population, within which it alleges the presence of separatist activity. It enforces "strike hard" anti-crime campaigns against the government-designated "three forces" of terrorism, separatism, and extremism to imprison Uyghurs for peaceful expressions of dissent, religious practice, and other non-violent activities. In the past year, the government used these longstanding campaigns as a springboard to increase repressive practices amid preparations for the 2008 Beijing Summer Olympic Games, reports of terrorist activity, and protests among ethnic minorities. In the past year, the government also continued to strengthen policies aimed at diluting Uyghur ethnic identity and promoting assimilation. Policies in areas such as language use, development, and migration have disadvantaged local ethnic minority residents and have positioned the XUAR to undergo broad cultural and demographic shifts in coming decades.

Government policy in the XUAR violates China's own laws and contravenes China's international obligations to safeguard the human rights of XUAR residents. The government has failed to implement its legally stipulated "regional ethnic autonomy" system in a manner that provides XUAR residents with meaningful control over their own affairs. Instead, authorities exert central and local government control at a level antithetical to regional autonomy. Government policies violate the basic human rights of XUAR residents and have a disparate impact on ethnic minorities.[2]

ANTI-TERRORISM POLICIES, ANTI-CRIME CAMPAIGNS, AND SECURITY MEASURES

The Chinese government uses anti-terrorism campaigns as a pretext for enforcing harsh security policies in the XUAR. In the past year the government used security preparations for the 2008 Beijing Summer Olympic Games, reports of terrorist activity, and protests in Tibetan areas of China and within the XUAR as platforms for advancing repressive security measures in the region. In spring 2008, the Chinese government claimed it had broken up three terrorist plots to disrupt the Olympics, as well as an attempted terrorist attack on an aircraft. As in the past,[3] however, the government provided scant evidence to back up its claims and continued to enforce restrictions on free press that hindered efforts to report on the region.[4] During the same period, local governments implemented a series of measures to tighten security, restrict religious activity, and hinder citizen activism.[5] In March 2008, authorities in Hoten district suppressed demonstrations by Uyghurs calling for

human rights and detained protesters.[6] The government continued to implement repressive security measures throughout the summer, during which time the Olympic torch passed through the XUAR in June[7] and as the government provided limited reports of terrorist and criminal activity in the region in August.[8] Measures reported by Chinese government sources or overseas observers included wide-scale detentions, inspections of households, restrictions on Uyghurs' domestic and international travel, controls over Uyghur Web sites, and increased surveillance over XUAR religious personnel, mosques, and religious practitioners, as well as increased monitoring of other populations.[9] [For more information, see box titled Increased Repression in Xinjiang During the Olympics below.] Authorities in cities outside of the XUAR also increased controls over Uyghur residents leading up to and during the Olympics.[10] In the aftermath of the Olympics, XUAR chair Nur Bekri outlined increased measures to "strike hard" against perceived threats in the region, casting blame on U.S.-based Uyghur rights activist Rebiya Kadeer and "western hostile forces."[11] Local governments and other authorities reported carrying out propaganda education campaigns, and in September, XUAR Communist Party Secretary Wang Lequan described plans to launch region-wide anti-separatism education later in the year.[12]

"Strike hard" anti-crime campaigns in the region have resulted in high rates of incarceration of Uyghurs in the XUAR.[13] Statistics from official Chinese sources indicate that cases of endangering state security from the region account for a significant percentage of the nationwide total, in some years possibly comprising most of the cases in China.[14] In 2007, the head of the Xinjiang High People's Court said that the region bears an "extremely strenuous" caseload for crimes involving endangering state security.[15] In August 2008, Chinese media reported that XUAR courts would "regard ensuring [state] security and social stability [as] their primary task."[16]

Increased Repression in Xinjiang During the Olympics

Officials in the Xinjiang Uyghur Autonomous Region (XUAR) reiterated a pledge in August 2008 to use harsh security measures to crack down against the government-designated "three forces" of terrorism, separatism, and extremism.[17] On August 13, Wang Lequan, XUAR Communist Party Chair, described the battle against the "three forces" as a "life or death struggle" and pledged to "strike hard" against their activities. XUAR Party Committee Standing Committee member Zhu Hailun reiterated the call to "strike hard" at an August 18 meeting. The announcements followed the release of limited information on terrorist and criminal activity in the region and came amid a series of measures that increased repression in the XUAR. The measures build off of earlier campaigns to tighten repression in the region, including efforts to tighten control as the Olympic torch passed through the region in June. Reported measures implemented in the run-up to and during the 2008 Beijing Summer Olympic Games include:

Increased Repression in Xinjiang During the Olympics—Continued

- *Wide-scale Detentions.* Authorities have carried out wide-scale detentions as part of security campaigns in cities throughout the XUAR, according to a report from the Uyghur Human Rights Project. Reported measures include "security sweeps" resulting in mass detentions in the Kashgar area and Kucha county, including blanket detentions in Kucha of young people who have been abroad; the detention of non-resident Uyghurs in Korla city; the forced return of Uyghur children studying religion in another province and their detention in the XUAR for engaging in "illegal religious activities"; and the detention of family members or associates of people suspected to be involved in terrorist activity.
- *Restrictions on Uyghurs' Domestic and International Travel.* Authorities reportedly continued to hold Uyghurs' passports over the summer, building off of a campaign in 2007 to confiscate Muslims' passports and prevent them from making overseas pilgrimages, according to reports from overseas media. Authorities also coupled restrictions on overseas travel with reported measures to limit Uyghurs' travel within China.
- *Controls Over Religion.* XUAR officials have enforced a series of measures that ratchet up control over religious practice in the region, according to reports from Chinese and overseas sources. Authorities in Yéngisheher county in Kashgar district issued accountability measures on August 5 to hold local officials responsible for high-level surveillance of religious activity in the region. Also in August, authorities in Peyziwat county, Kashgar district, called for "enhancing management" of groups including religious figures as part of broader government and Party measures of "prevention" and "attack." The previous month, authorities in Mongghulküre county, Ili Kazakh Autonomous Prefecture, called for strengthening management of religious affairs; inspecting all mosques and venues for religious activity; curbing "illegal" recitations of scripture and non-government-approved pilgrimages; and "penetrating" groups of religious believers to understand their ways of thinking. Authorities in Lop county, Hoten district, have been forcing women to remove head coverings in a stated effort to promote "women for the new era." Authorities have also continued to enforce measures to restrict observance of the Muslim holiday of Ramadan, which, in 2008, took place in September.[18]
- *Controls Over Free Expression.* Authorities in the XUAR ordered some Uyghur Web sites to shut down their bulletin board services (BBS) during the Olympics, according to Radio Free Asia. In a review of Uyghur Web sites carried out during the Olympics, Commission staff found that BBSs on the Web sites Diyarim, Orkhun, and Alkuyi had been suspended. The BBS Web page on Diyarim contained the message, "[L]et's protect stability with full strength and create a peaceful environment for the Olympic Games[!] Please visit other Diyarim pages[.]" The message on the BBS Web page on Orkhun stated, "Based on the requirements of the work units concerned, the Orkhun Uyghur history Web site has been closed until August 25 because of the Olympic Games."

Increased Repression in Xinjiang During the Olympics—Continued

• *Inspections of Households in Ghulja.* Authorities in the predominantly ethnic minority city of Ghulja searched homes in the area in July in a campaign described by a Chinese official as aimed at rooting out "illegal activities" and finding residents living without proper documentation, according to Radio Free Asia.

FREEDOM OF RELIGION IN XINJIANG

The government imposes harsh restrictions over religious practice in the XUAR. [For detailed information, see Section II—Freedom of Religion—China's Religious Communities—Islam.]

CONTROLS OVER FREE EXPRESSION IN XINJIANG

Authorities in the XUAR repress free speech. Authorities have levied prison sentences on individuals for forms of expression ranging from conducting historical research to writing literature. [For more information on these cases, see box titled Speaking Out: Uyghurs Punished for Free Speech in Xinjiang below.] In August 2008, Mehbube Ablesh, an employee in the advertising department at the Xinjiang People's Radio Station was fired from her job and detained in apparent connection to her writings on the Internet that were critical of the government.[19] The government engages in broad censorship of political and religious materials. In 2008, the XUAR Propaganda Bureau announced it would make "illegal" political and religious publications the focal point of its campaign to "Sweep Away Pornography and Strike Down Illegal Publications."[20] The focus on religious and political materials builds off of earlier campaigns to root out such publications.[21] Also in 2008, officials in Atush city reported finding "illegal" portraits of Uyghur activist Rebiya Kadeer and pictures with religious content.[22] [For more information on Rebiya Kadeer, see box titled The Chinese Government Campaign Against Rebiya Kadeer below.] In addition, authorities closed some Uyghur-language Internet discussion forums during the period of the 2008 Beijing Summer Olympic Games.[23]

Central and local authorities further regulate religious expression by controlling the contents of materials published by the Islamic Association of China, a Communist Party "mass organization" that, along with local branches, controls Muslim practice in China.[24] Authorities have detained individuals for their possession of unauthorized religious texts.[25]

LANGUAGE POLICY AND "BILINGUAL" EDUCATION IN XINJIANG

In recent years the XUAR government has taken steps to diminish the use of ethnic minority languages in XUAR schools via "bilingual" and other educational policies that place primacy on Mandarin, such as by eliminating ethnic minority language instruction or relegating it solely to language arts classes.[26] The policies contravene provisions in Chinese law to protect ethnic minority languages and promote their use as regional *lingua franca.*[27] According to reports from official Chinese media, by 2006, the number

of students receiving "bilingual" education in the XUAR had expanded 50-fold within six years.[28] Although the long-term impact remains unclear, sustained implementation of Mandarin-focused "bilingual" education and other language policies increases the risk that Uyghur and other ethnic minority languages are eventually reduced to cultural relics rather than actively used languages in the XUAR. [For more information on "bilingual" education, see Addendum: "Bilingual" Education in Xinjiang at the end of this section.]

Speaking Out: Uyghurs Punished for Free Speech in Xinjiang

As detailed by the Commission in past Annual Reports,[29] Chinese authorities have detained or imprisoned ethnic Uyghurs for various forms of peaceful expression, including non-violent dissent. Such cases include:

- Tohti Tunyaz, a Uyghur historian living in Japan whom Chinese authorities detained in 1998 while he was visiting the Xinjiang Uyghur Autonomous Region (XUAR) to conduct research. He received an 11-year sentence in 1999 for "stealing state secrets" and "inciting splittism," based on a list of documents he had collected from official sources during the course of his research, and on a "separatist" book he had allegedly published.[30]
- Abduhelil Zunun, who received a 20-year sentence in November 2001 after translating the Universal Declaration of Human Rights into the Uyghur language.[31]
- Abdulghani Memetemin, a journalist sentenced to nine years' imprisonment in 2003 after providing information on government repression against Uyghurs to an overseas organization. Authorities characterized this act as "supplying state secrets to an organization outside the country."
- Abdulla Jamal, a teacher arrested in 2005 for writing a manuscript that authorities claimed incited separatism.[32]
- Nurmemet Yasin, a writer who received a 10-year sentence in 2005 for "inciting splittism" after he wrote a story about a caged bird who commits suicide rather than live without freedom.[33]
- Korash Huseyin, chief editor of the journal that published Yasin's story, who received a three-year sentence in 2005 for "dereliction of duty." Huseyin's sentence expired in February 2008, and he is presumed to have since been released from prison.[34]
- Mehbube Ablesh, an employee in the advertising department at the Xinjiang People's Radio Station, who was fired from her job in August 2008 and detained in apparent connection to her writings on the Internet that were critical of government policies, including bilingual education.[35]

CIVIL SOCIETY IN XINJIANG

XUAR government policy hinders the growth of civil society in the region. Authorities have banned gatherings of private Islam-centered social groups, which had aimed at addressing social problems like drug use and alcoholism.[36] Fears of citizen activism have prompted the suppression of locally led political movements, including demonstrations in Hoten district in March led by women protesting repressive policies in the region.[37] Government policy in the

XUAR also affects the work of non-governmental organizations (NGOs) that aim to research conditions in the region. In July 2007, authorities in Beijing ordered the Beijing-based foreign NGO publication China Development Brief to stop publishing its Chinese-language edition and accused the English-language editor of having ties to Xinjiang "separatist" groups.[38] Though the charge of contact with these groups may have served as a cover for other motivations for barring the publication,[39] that authorities wield contact with overseas Uyghur organizations as such a pretext presents a chilling effect on organizations that research the XUAR.[40] [For more information, see Section III—Civil Society.]

MIGRATION AND POPULATION PLANNING POLICIES IN XINJIANG

While the Commission supports Chinese government liberalizations that give citizens more choices to determine their places of residence,[41] the Commission remains concerned about government policies that use economic and social benefits[42] to channel migration to the XUAR and engineer demographic changes in the region.[43] The government has touted migration policies as a means to promote development and ensure "stability" and "ethnic unity."[44] Demographic shifts have skewed employment prospects in favor of Han Chinese and funneled resources in their favor.[45] In addition, migration also has created heavy social and linguistic pressures on local ethnic minority residents.[46]

The Commission also remains concerned that while the government promotes migration to the region,[47] it implements policies that target birth rates among local ethnic minority groups to reduce population increases.[48] In 2008, the government reported that the XUAR had achieved 65,000 fewer births in 2007 under policies of providing rewards to families who had fewer children than legally permitted.[49] Overseas Uyghur rights advocates have reported that authorities have carried out forced sterilizations and forced abortions to implement population planning policies.[50]

The Chinese Government Campaign Against Rebiya Kadeer

The government has waged a longstanding campaign against Uyghur rights activist Rebiya Kadeer. Authorities sentenced her in 2000 to eight years in prison for "supplying state secrets or intelligence to entities outside China," after she sent newspaper clippings to her husband in the United States. Kadeer has reported that before her release on medical parole in 2005, Chinese authorities threatened repercussions against her family members and business interests if she discussed Uyghur human rights issues in exile. Soon after Kadeer moved to the United States, authorities began a campaign of harassment against her family members remaining in the Xinjiang Uyghur Autonomous Region (XUAR), culminating in the imprisonment of two of her sons in 2006 and 2007.[51]

The Chinese Government Campaign Against Rebiya Kadeer—Continued

- In May 2005, authorities detained Aysham Kerim and Ruzi Mamat, two employees at Kadeer's trading company in the XUAR, and attempted to take her son, Ablikim Abdureyim, into detention. Authorities ransacked the company offices at the same time and confiscated documents. Authorities released Aysham Kerim and Ruzi Mamat in December 2005, after detaining them for seven months without charges.[52]
- In August 2005, Radio Free Asia reported that authorities in the XUAR had formed a special office to monitor Kadeer's relatives and business ties in the XUAR. Around the same time, authorities detained two of Kadeer's relatives to pressure them to turn in their passports.[53]
- In April 2006, authorities held Kadeer's son, Alim Abdureyim, in custody and informed him that he was under suspicion for evading taxes.[54]
- Authorities held Alim in custody again in late May 2006, along with his brother, Ablikim, and sister, Roshengul, and authorities later placed Alim and Ablikim in criminal detention and Roshengul under house arrest. Authorities beat Alim and Ablikim while in custody. In June, authorities took their brother Kahar into custody as well and charged him with tax evasion, Alim with tax evasion and splittism, and Ablikim with subversion of state power. Alim reportedly confessed to the charges against him after being tortured. During the same period, authorities placed Kadeer's brother under house arrest and other family members under surveillance, including grandchildren whom authorities prevented from leaving home to attend school.[55]
- On November 27, 2006, an Urumqi court sentenced Alim to seven years in prison and fined him 500,000 yuan (US$62,500) for tax evasion. The court imposed a 100,000 yuan (US$12,500) fine on Kahar, also for tax evasion. Kadeer described the cases against her sons as a "vendetta" against her. Sources had informed her that authorities would offer leniency to her children if she refrained from participating in a November 26 election for presidency of the World Uyghur Congress.[56]
- An Urumqi court sentenced Ablikim to nine years in prison and three years' deprivation of political rights on April 17, 2007, for "instigating and engaging in secessionist activities," alleging he disseminated pro-secession articles, planned to incite anti-government protest, and wrote an essay misrepresenting human rights conditions in the XUAR.[57] Both Alim and Ablikim remain in prison, where they are reported to have been tortured and abused, and where Ablikim is reported to be in poor physical health without adequate medical care.[58]

DEVELOPMENT POLICY IN XINJIANG

Development policies in the XUAR have brought mixed results for ethnic minority residents. While economic reforms and development projects have raised living standards in the region,[59] they also have spurred migration,[60] strained local resources,[61] and dis-

proportionately benefited Han Chinese.[62] Han benefit through development projects focused on Han-majority regions and development-related employment prospects that privilege Han areas and Han employees.[63] Development policies in the XUAR reflect tight central government control over the region[64] and are intertwined with policies to promote "social stability."[65] In the past year, the government reported on development projects directed at improving conditions for ethnic minority residents, but the overall impact remains unclear.[66]

LABOR CONDITIONS IN XINJIANG

The government enforces repressive labor policies, including measures that have a disproportionate negative impact on ethnic minorities. While the Chinese government continues to fill local jobs in the XUAR with migrant labor, it also maintains programs that send young ethnic minorities to work in factories in China's interior.[67] Authorities reportedly have coerced participation and subjected workers to abusive labor practices.[68] In addition, in 2007 and 2008, overseas media reported that authorities in the XUAR continued to impose forced labor on area farmers in predominantly ethnic minority regions.[69] The XUAR government also continues to impose forced labor on local students to meet yearly harvesting quotas. In 2007, Chinese media reported that work-study programs requiring students to pick cotton have decreased in recent years, but also reported that some 1 million students picked cotton in the region that year.[70] In addition, both public and private employers continue to enforce discriminatory job hiring practices that limit job prospects for ethnic minorities.[71] [For more information on labor conditions, see Addendum: Labor Conditions in Xinjiang at the end of this section.]

ACCESS TO JUSTICE IN XINJIANG

Ethnic minority residents in the XUAR face special barriers to accessing China's legal system. In addition to financial shortfalls and general personnel shortages, the XUAR judicial system lacks a sufficient number of legal personnel and translators who speak ethnic minority languages, entrenching systemic procedural irregularities into the judicial process and undercutting legal bases that guarantee the use of ethnic minority languages in judicial proceedings.[72] [For detailed information, see Addendum: Access to Justice in Xinjiang.]

Spotlight: Uyghur Refugees and Migrants

Chinese government repression in the Xinjiang Uyghur Autonomous Region (XUAR) has forced some Uyghurs into exile, where, depending on their destination or transit country, they face an uncertain legal status, barriers to local asylum proceedings, and risk of refoulement to China under the sway of Chinese influence and in violation of international protections. Uyghur migrants outside the refugee and asylum-seeker population also face dangers, as China's increasing influence in neighboring countries has made Uyghur migrant communities there vulnerable to harassment and to deportation proceedings without adequate safeguards. A summary of key concerns follows:[73]

China's Increasing Influence[74]

- China has exerted a strong influence on neighboring countries through mechanisms including bilateral agreements and the multi-country Shanghai Cooperation Organization (SCO).
- Under the SCO, member countries agree to cooperate in anti-terrorism activities. China has been a key player in advancing cooperation and promoting campaigns that use the fight against terrorism as a pretext for repressive policies against Uyghurs both inside and outside China.

Vulnerabilities Outside China

- In some neighboring countries, Uyghurs are unable to apply for asylum locally, increasing their vulnerability as they seek other forms of protection, such as by applying for refugee status through the UN High Commissioner for Refugees (UNHCR) and resettling in a third country.[75]
    - In one neighboring country, Chinese influence reportedly has swayed authorities to block Uyghurs' access to local asylum proceedings, while letting asylum seekers of most other nationalities apply.
    - Access to local asylum proceedings would increase the likelihood that authorities safeguard the rights of asylum seekers during the refugee status determination process. In one of China's neighboring countries, for example, extradition proceedings are suspended for individuals who seek asylum locally.
- Some countries have extradited Uyghurs with UNHCR refugee status to China, where they have faced abuse, imprisonment, and risk of execution.[76] In other cases, the UNHCR has been unable to gain access to individuals who want to initiate asylum proceedings, including some people who reportedly have been deported to China without adequate safeguards.

Spotlight: Uyghur Refugees and Migrants—Continued

Violations of International Law

- The 1951 Convention Relating to the Status of Refugees[77] forbids the return of refugees to "the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion."
- Under the Convention Against Torture,[78] "No State Party shall expel, return ('refouler') or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture."
- China violates international protections for freedom of movement[79] by denying travel documents to family members of refugees who are entitled to derivative refugee status.

ADDENDUM: "BILINGUAL" EDUCATION IN XINJIANG

In recent years the XUAR government has taken steps to diminish the use of ethnic minority languages via "bilingual" and other educational policies that place primacy on Mandarin, such as by eliminating ethnic minority language instruction or relegating it solely to language arts classes.[80] Authorities justify "bilingual" education as a way of "raising the quality" of ethnic minority students and tie knowledge of Mandarin to campaigns promoting patriotism and ethnic unity.[81] XUAR Communist Party Secretary Wang Lequan noted in 2005 that XUAR authorities are "resolutely determined" to promote Mandarin language use, which he found "an extremely serious political issue."[82] He has also stated that ethnic minority languages lack the content to express complex concepts.[83]

XUAR language policies violate Chinese laws that protect and promote the use of ethnic minority languages, which form part of broader legal guarantees to protect ethnic minority rights and allow autonomy in ethnic minority regions. For example, Article 4 of the Chinese Constitution and Article 10 of the Regional Ethnic Autonomy Law (REAL) guarantee that ethnic minorities have "the freedom to use and develop" their languages.[84] In the area of education, Article 37 of the REAL stipulates that "[s]chools (classes) and other educational organizations recruiting mostly ethnic minority students should, whenever possible, use textbooks in their own languages and use these languages as the media of instruction."[85] While educational programs that diminish the use of ethnic minority languages respond to a growing need for fluency in Mandarin to achieve educational and professional advancement, XUAR officials do not acknowledge that the need stems from official failures to implement autonomy in ethnic minority regions as provided for in Chinese law.[86]

Government efforts to limit minority language use have intensified in recent years, through both "bilingual" programs and other efforts. In 2004, the XUAR government issued a directive to accelerate the development of "bilingual" education.[87] According to a 2005 Xinjiang Daily article, many "bilingual" programs have moved from offering only math and science classes in Mandarin to teaching the entire curriculum in Mandarin, except in classes devoted

specifically to minority-language study.[88] In 2006, authorities in the predominantly Uyghur city of Atush announced that all first-grade elementary school classes would teach in Mandarin Chinese beginning in September 2006 and that all primary and secondary schools would be required to teach exclusively in Mandarin by 2012.[89] According to a report from official Chinese media, by 2006, the number of students receiving "bilingual" education in the XUAR had expanded 50-fold within six years.[90] According to 2007 figures reported by the Xinjiang Education Department, more than 474,500 ethnic minority students in preschool, elementary school, and secondary school programs, including vocational programs, took classes that employed "bilingual education." According to the Xinjiang Education Department, the figure accounts for almost 20 percent of the ethnic minority student population and excludes those students studying in longstanding programs that track ethnic minority students into Mandarin Chinese schooling.[91] In contrast, in 1999, experimental "bilingual" classes reportedly reach 2,629 students through 27 secondary schools.[92] The government prepared a draft opinion in 2008 that details steps to further expand "bilingual" education.[93]

Authorities also have limited opportunities for XUAR residents to obtain higher education and vocational education in ethnic minority languages, thereby diminishing the value of ethnic minority languages in XUAR schooling and creating an incentive for younger students to study in Mandarin instead of ethnic minority languages. In May 2002, the XUAR government announced that Xinjiang University would change its medium of instruction to Mandarin Chinese in first- and second-year classes.[94] In 2005, authorities announced plans to offer two-year vocational degrees through programs that offer instruction entirely in Mandarin Chinese.[95] Recruitment materials for 2007 for the Xinjiang Preschool Teachers College stated that all classes offered would be taught in Mandarin.[96]

XUAR authorities also have expanded "bilingual" education policies to the preschool level, and provide material incentives to attract students. Authorities issued an opinion in 2005 to bolster "bilingual" education in XUAR preschools and prepared a draft opinion on further expanding "bilingual" education, including preschool education, in 2008.[97] In 2006, official media reported the government would invest 430 million yuan (US$59.76 million) over five years to support "bilingual" preschool programs in seven prefectures and would aim to reach a target rate of over 85 percent of rural ethnic minority children in all counties and municipalities able to enroll in two years of "bilingual" preschool education by 2010.[98] The following year, the XUAR Department of Finance allotted 70.39 million yuan (US$9.78 million) to cover material subsidies for both students and teachers in "bilingual" preschool programs.[99] In February 2007, authorities in the XUAR implemented a program to send student-teachers from the Xinjiang Preschool Teachers College to preschools in Kashgar prefecture to supplement the area's shortage of "bilingual" teaching staff, providing financial and other incentives to the student-teachers in the program.[100] In 2008, the government appeared to have pushed back its timeline for reaching target enrollment rates, while invest-

ing more money to bring this goal to fruition, perhaps signifying a firmer and more realistic commitment to promoting "bilingual" preschool education. The government pledged 3.75 billion yuan (US$549 million) in 2008 for "bilingual" preschool education and called for achieving a target rate of over 85 percent of ethnic minority children in rural areas receiving "bilingual" education by 2012.[101] While the current scope of the program's coverage varies by locality, news from local governments indicates that "bilingual" preschool programs are already widespread in some areas.[102] According to 2007 figures from the Xinjiang Education Department, 180,458 ethnic minority children received "bilingual" preschool education.[103]

The government's language policies have impacted ethnic minority teachers' job prospects. Ethnic minority teachers who do not speak Mandarin must face additional language requirements that are not imposed on monolingual Mandarin-speaking teachers. Teachers have reportedly faced dismissal or transfers to non-teaching positions for failure to conform to new language requirements.[104]

The Chinese government's current stance on "bilingual" education hinders productive dialogue on ways to carry forward policies in a manner to protect ethnic minority languages. In March 2008, XUAR Chair Nur Bekri described criticisms of "bilingual" education as an attack from the "three forces" of terrorism, separatism, and extremism operating outside China. He also claimed that "bilingual" education in the region equally valued ethnic minority languages and Mandarin, despite evidence of the focus on Mandarin from sources including official Chinese media.[105] Although the long-term impact remains unclear, sustained implementation of Mandarin-focused "bilingual" education and other language policies increases the risk that Uyghur and other ethnic minority languages are eventually reduced to cultural relics rather than actively used languages in the XUAR.

ADDENDUM: LABOR CONDITIONS IN XINJIANG

Labor Transfers

While the Chinese government continues to fill local jobs in the XUAR with migrant labor, it also maintains programs that send young ethnic minorities to work in factories in China's interior under conditions reported to be abusive. Overseas sources indicate that local authorities have coerced participation and mistreated workers. According to a 2008 report issued by an overseas human rights organization, local officials, following direction from higher levels of government, have used "deception, pressure, and threats" toward young women and their families to gain recruits into the labor transfer program. Women interviewed for the report described working under abusive labor conditions after being transferred to interior factories through the state-sponsored programs.[106] In 2007, Radio Free Asia (RFA) reported on local authorities who recruited women under false pretenses to work in Shandong province.[107]

Forced Labor

In 2007 and 2008, overseas media reported that authorities in the XUAR continued to impose forced labor on area farmers. According to reports from RFA, based on official Chinese sources and on information provided through interviews with officials and residents in the XUAR, in 2007 authorities in Yeken (Yarkand) county required 100,000 farmers to turn uncultivated land into a nut production base. The farmers, whose work included building roadways, forest belts, and irrigation canals, reportedly received no pay for their work. One resident interviewed by RFA said that residents who refused to do the work were fined for each day of labor missed.[108] The Kashgar district government, which publicized information about the land cultivation project, including the scope of labor involved and the projects completed, did not describe how the labor force was recruited or compensated.[109] Authorities reportedly continued to carry out forced labor in 2008, requiring local residents in the southern XUAR to plant trees and build irrigation works.[110]

"Work-Study" Programs

The XUAR government imposes forced labor on local students to meet yearly harvesting quotas. Acting under central government authority bolstered by local legal directives, XUAR authorities implement the use of student labor, including labor by young children, via work-study programs to harvest crops and do other work. Students work under arduous conditions and do not receive pay for their work. While "work-study" programs exist elsewhere in China, the XUAR work-study program also reflects features unique to the region. The central government holds close control over both the general XUAR economy and through its directly administered Xinjiang Production and Construction Corps farms, where some of the region's cotton is harvested. The central government placed special focus on supporting the XUAR's cotton industry during its 11th Five-Year Program, and central, rather than local, authorities reportedly made the decision to launch the comprehensive work-study program to pick cotton in the XUAR. In 2007, Chinese media reported that work-study programs requiring students to pick cotton have decreased in recent years, but also reported that some 1 million students picked cotton in the region that year.[111]

ADDENDUM: ACCESS TO JUSTICE IN XINJIANG

Ethnic minority residents in the XUAR face special barriers to accessing China's legal system. In addition to financial shortfalls and general personnel shortages, the XUAR judicial system lacks a sufficient number of legal personnel and translators who speak ethnic minority languages, entrenching systemic procedural irregularities into the judicial process and presenting barriers to citizens' right to have legal proceedings conducted in their native language.[112] According to 2007 reports from the Chinese media, 1,948 of 4,552 judges in the XUAR were ethnic minorities, and as of September of that year, 380 lawyers, or 17 percent of the region's total, were ethnic minorities. The reports did not identify the language

capabilities of these groups.[113] A law office reported as China's first bilingual operation opened in the XUAR in 2006.[114]

Recent measures to address shortcomings in the XUAR judicial system may have mixed results in meeting the needs of ethnic minority residents. Efforts to dispatch legal workers to rural areas may strengthen privilege for Mandarin Chinese if new personnel are not required to speak ethnic minority languages.[115] Other steps may bring improvements. In 2007, the Ili Lawyers Association in the Ili Kazakh Autonomous Prefecture, for example, reportedly encouraged law offices to increase efforts to recruit ethnic minority graduates who majored in law in college or other higher education programs.[116] In September 2007, the government announced a program to train 200 native Mandarin-speaking college students each year in ethnic minority languages, with the goal of addressing general shortages of interpreters.[117]

The government ties some judicial reform efforts to government campaigns to promote "stability" and fight the government-designated "three forces" of terrorism, separatism, and extremism. In August 2007, the Supreme People's Court (SPC) announced it had launched a work program to have judicial institutions nationwide aid XUAR courts, describing having stability in the region as part of its strategy for the project.[118] Jiang Xingchang, vice president of the SPC, said that China continued to face plots by "hostile forces in the West" to westernize and divide China, and that "religious extremism" and "international terrorism" remain "fully active" in the XUAR, while ethnic separatists inside and outside the country continue "sabotage activities."[119] Jiang also stated that personnel of the appropriate political mindset should be selected for judicial exchange programs in the XUAR.[120] In August 2008, Chinese media reported that XUAR courts would "regard ensuring [state] security and social stability [as] their primary task."[121]

V. Tibet

Findings

- As a result of the Chinese government crackdown on Tibetan communities, monasteries, nunneries, schools, and workplaces following the wave of Tibetan protests that began on March 10, 2008, Chinese government repression of Tibetans' freedoms of speech, religion, and association has increased to what may be the highest level since approximately 1983, when Tibetans were able to set about reviving Tibetan Buddhist monasteries and nunneries.
- The status of the China-Dalai Lama dialogue deteriorated after the March 2008 protests and may require remedial measures before the dialogue can resume focus on its principal objective—resolving the Tibet issue. China's leadership blamed the Dalai Lama and "the Dalai Clique" for the Tibetan protests and rioting, and did not acknowledge the role of rising Tibetan frustration with Chinese policies that deprive Tibetans of rights and freedoms nominally protected under China's Constitution and legal system. The Party hardened policy toward the Dalai Lama, increased attacks on the Dalai Lama's legitimacy as a religious leader, and asserted that he is a criminal bent on splitting China.
- State repression of Tibetan Buddhism has reached its highest level since the Commission began to report on religious freedom for Tibetan Buddhists in 2002. Chinese government and Party policy toward Tibetan Buddhists' practice of their religion played a central role in stoking frustration that resulted in the cascade of Tibetan protests that began on March 10, 2008. Reports have identified hundreds of Tibetan Buddhist monks and nuns whom security officials detained for participating in the protests, as well as members of Tibetan secular society who supported them.
- Chinese government interference with the norms of Tibetan Buddhism and unrelenting antagonism toward the Dalai Lama, one of the religion's foremost teachers, serves to deepen division and distrust between Tibetan Buddhists and the government and Communist Party. The government seeks to use legal measures to remold Tibetan Buddhism to suit the state. Authorities in one Tibetan autonomous prefecture have announced unprecedented measures that seek to punish monks, nuns, religious teachers, and monastic officials accused of involvement in political protests in the prefecture.
- The Chinese government undermines the prospects for stability in the Tibetan autonomous areas of China by implementing economic development and educational policy in a manner that results in disadvantages for Tibetans. Weak implementation of the Regional Ethnic Autonomy Law has been a principal factor exacerbating Tibetan frustration by preventing Tibetans from using lawful means to protect their culture, language, and religion.
- At no time since Tibetans resumed political activism in 1987 has the magnitude and severity of consequences to Tibetans (named and unnamed) who protested against the Chinese gov-

ernment been as great as it is now upon the release of the Commission's 2008 Annual Report. Unless Chinese authorities have released without charge a very high proportion of the Tibetans reportedly detained as a result of peaceful activity or expression on or after March 10, 2008, the resulting surge in the number of Tibetan political prisoners may prove to be the largest increase in such prisoners that has occurred under China's current Constitution and Criminal Law.

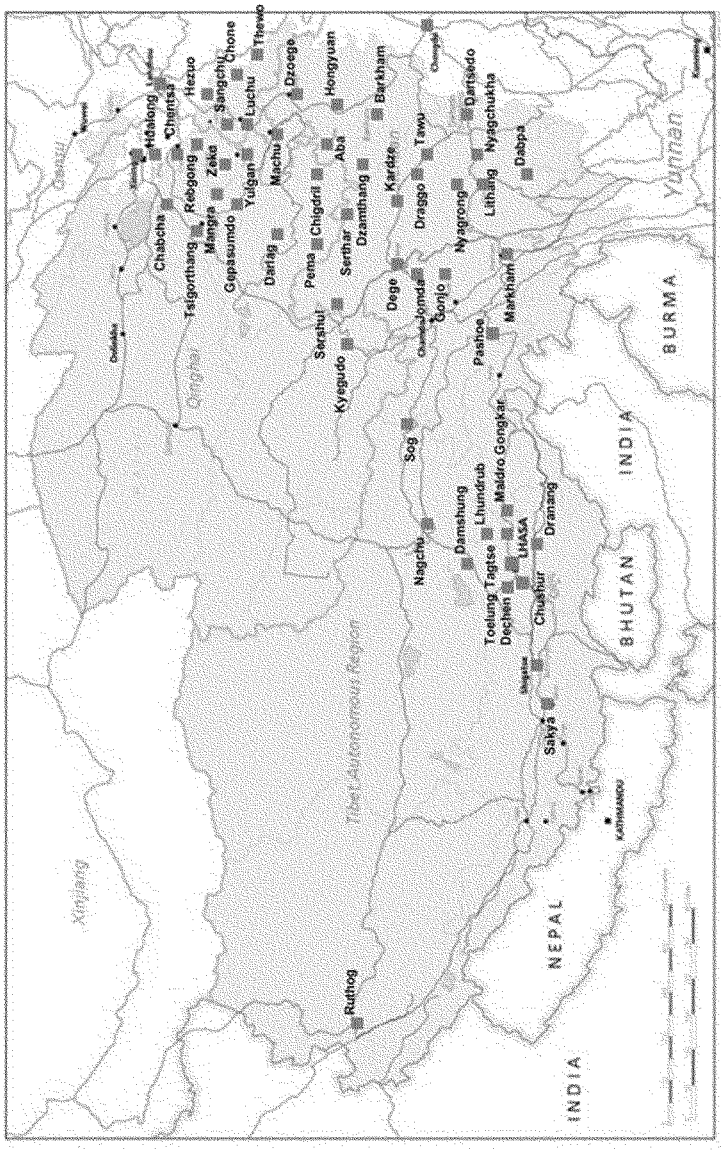
INTRODUCTION: TIBETAN PROTESTS ON AN UNPRECEDENTED SCALE

The Tibet section of the 2008 Annual Report focuses on the unprecedented cascade of Tibetan protests that began in Lhasa on March 10, 2008,[1] and by the end of March had swept across much of the ethnic Tibetan areas of China.[2] No peacetime Chinese government[3] has been confronted by expressions of Tibetan discontent as widely dispersed and sustained since the Chinese Communist Party established the People's Republic of China in 1949. Two key factors distinguish the current protests from the March 10, 1959, Lhasa uprising that followed the Dalai Lama's escape from Tibet, and the March 5–7, 1989, protests and rioting that led to the imposition of martial law in Lhasa. First, the 2008 protests spread far beyond Lhasa and the Tibet Autonomous Region (TAR). Second, protests continued to occur even after Chinese security forces established and maintained lockdowns.

As a result of the Chinese government crackdown beginning in March 2008 on Tibetan communities, monasteries, nunneries, schools, and workplaces, the repression of the freedoms of speech, religion, and association has increased to what may be the highest level since approximately 1983, when Tibetans were able to set about reviving Tibetan Buddhist monasteries and nunneries.[4] The Commission has reported since releasing its first Annual Report in 2002 on underlying human rights issues that played important roles in the 2008 Tibetan protests.[5] The Commission's 2007 Annual Report observed that then-declining numbers of political detentions of monks and nuns showed that state repression of Tibetan Buddhism may have resulted in a more subdued monastic community—and that such a decline concurrent with a high level of monastic resentment against Chinese policies suggested that the potential for resurgent political protest exists.

Tibetan protesters resorted to rioting in a total of 12 county-level areas, according to official Chinese media reports,[6] but Tibetan protests (generally peaceful) took place in more than 40 additional county-level areas.[7] China's state-run media generally reported only the protests during which some Tibetans turned to violence, and characterized all of the participants linked to such events as "rioters." Rioting took place in Lhasa city on March 14,[8] in Aba (Ngaba) county, Aba Tibetan and Qiang Autonomous Prefecture, Sichuan province, on March 16,[9] and in six counties in Gannan (Kanlho) Tibetan Autonomous Prefecture, Gansu province, from March 14–19.[10] International media and non-governmental organization reports noted that Tibetans attacked ethnic Han and Hui individuals and businesses.[11] The Lhasa rioting resulted in substantial property damage and at least 19 deaths, according to official reports; the actual death toll could be much higher (see Con-

sequences of the Protests: Death, Detention, Patriotic Education, Isolation in this section).[12] [See figure titled Map of Tibetan Protest Sites, County-level Areas below and Addendum: List of Tibetan Protest Sites, County-level Areas at the end of this section.]



Markers indicate county-level areas and cities where peaceful Tibetan protests (and in some cases, riots) reportedly took place from March 10, 2008, through the end of April. Multiple protests took place in several counties.

Peaceful Tibetan protesters called for Tibetan independence, the Dalai Lama's return to Tibet,[13] the release of the Panchen Lama,[14] and freedom of religion generally.[15] Many, but not all, of the protests began at Tibetan Buddhist monasteries and nunneries,[16] the institutions impacted most negatively by Chinese government regu-

lation of Tibetan Buddhism and Party policy toward the Dalai Lama, whom most Tibetan Buddhists regard as their spiritual leader.[17] Monastic protests gained support from members of Tibetan secular society.[18] The large scale of Tibetan participation in the protests—at substantial peril to the protesters—reflects the urgency of the underlying issues and the imperative for Chinese authorities and Tibetans to work together to resolve them.

TIBETAN FRUSTRATION: FACTORS UNDERLYING THE PROTESTS

China's leadership blamed the Dalai Lama and "the Dalai Clique" for the Tibetan protests and rioting in the run-up to the 2008 Beijing Summer Olympic Games,[19] and did not acknowledge the role of rising Tibetan frustration with Chinese policies toward Tibetans. A senior TAR Party official used language that attributed directly to the Dalai Lama violent activity during rioting such as "beating, smashing, looting, and burning."[20]

Chinese government policies that deprive Tibetans of rights and freedoms nominally protected under China's Constitution and legal system have been the root cause of the protests and riots. Party control over China's legislative, governmental, and policymaking process, as well as contradictory provisions in Chinese laws and regulations, support the government's unrestricted ability to implement unpopular programs among Tibetans. Heightened state interference with Tibetan Buddhist norms since 2005 has left the religion especially hard-hit.[21] [See Heightened Repression of Tibetan Buddhism in this section.] The unproductive dialogue between Chinese officials and the Dalai Lama's representatives, along with the lurid invective of the Party's anti-Dalai campaign, frustrate Tibetan hopes for improved relations with the Chinese government, and strike at Tibetan sensibilities.

Policy Toward the Dalai Lama

The Party hardened policy toward the Dalai Lama in the wake of the Tibetan protests, increasing attacks on the Dalai Lama's legitimacy as a religious leader, and asserting that he is a criminal bent on splitting China.[22] "Even the Lord Buddha will definitely not tolerate this honey-mouthed and dagger-hearted Dalai Lama, the scum of Buddhism, an insane ruffian and a beast in a human shape!" said the Party-run Tibet Daily.[23] Tibet Autonomous Region Party Secretary Zhang Qingli likened the Dalai Lama to "a jackal and wolf cloaked in a [monk's robe]" and called for a "people's war" against threats to stability and unity that he blamed on "the Dalai Clique."[24] Officials launched aggressive reimplementation of political indoctrination campaigns[25] across the Tibetan autonomous areas of China, and sought to compel Tibetans to denounce the Dalai Lama[26] and sometimes to state that he was responsible for the protest and riot activity.[27]

Chinese government officials have intensified their campaign to discredit the Dalai Lama by holding him directly responsible for Tibetan violence committed during rioting, and seeking to tie him to allegations of Tibetan "terrorist" objectives and activity. A Ministry of Public Security (MPS) spokesman claimed on April 1,[28] but provided no credible evidence to prove, that the Dalai Lama is respon-

sible for the objectives and activities of two Tibetan NGOs based in India—the Tibetan Youth Congress (TYC) and the Tibetan People's Uprising Movement (TPUM). TPUM[29] and the TYC,[30] according to their Web sites, seek Tibetan independence, thereby rejecting the Dalai Lama's autonomy-based Middle Way Approach.[31] TPUM's "Declaration" states, "The Tibetan People's Uprising Movement is a global movement of Tibetans inside and outside of Tibet taking control of our political destiny by engaging in direct action to end China's illegal and brutal occupation of our country. Through unified and strategic campaigns we will seize the Olympic spotlight and shine it on China's shameful repression inside Tibet, thereby denying China the international acceptance and approval it so fervently desires."[32]

The MPS claimed, but did not substantiate, that the TYC and other unnamed groups provided two classes on how to carry out terrorist activities.[33] According to China's state-run media, after monks in the eastern TAR allegedly carried out a series of small bombings in April, the alleged bombers confessed that—by listening to radio broadcasts—they "were following separatist propaganda from the Dalai Lama."[34] A Chinese security official told a Western media organization in October that on September 23, 2008, the Changdu (Chamdo) Intermediate People's Court sentenced several of the monks to terms of imprisonment for "terrorist actions."[35] According to an international media agency report, in December 2005 then-TYC President Kalsang Phuntsok said: "[We] have a youth section which is not so much influenced by the Buddhist philosophy. They are very much attracted by the movements which are going on all over the world, mostly violence-infested movements, and people see they are achieving results. They look around everywhere, whether it's Israel or Palestine or the Middle East—these give them every reason to believe in every [violent] movement that is being waged on this Earth."[36] According to a Tibetan media report, former TYC President Lhasang Tsering told about 200 young Tibetans gathered at a public forum in India in February 2007 that the 2008 Beijing Olympics provide "an amazing opportunity as we can fight them when they would be most needed to be 'well-behaved.'" He told the audience, "For a committed activist you don't need CIA's support to cut a telephone line in Beijing or throw an iron rod on the power cables in Shanghai. These kinds of sabotages can be done by any ordinary person, and can weaken the power from inside. Sometimes the whole city goes dark by one simple but technically correct act."[37]

The Dalai Lama, however, has expressed no support for the political objectives or methods of TPUM or the TYC, and has maintained his consistently pacifist counsel to Tibetans—wherever they live. In an April 6 statement, the Dalai Lama appealed to Tibetans to "practice non-violence and not waver from this path, however serious the situation might be." He urged Tibetans living in exile to "not engage in any action that could be even remotely interpreted as violent."[38] He continued to reiterate his explicit support for China's role as the Olympics host throughout the period of the protests and their aftermath.[39]

Status of Negotiations Between the Chinese Government and the Dalai Lama or His Representatives

U.S. government policy recognizes the Tibet Autonomous Region (TAR) and Tibetan autonomous prefectures and counties in other provinces to be a part of China.[40] The U.S. State Department's 2008 Report on Tibet Negotiations observed that the Dalai Lama "represents the views of the vast majority of Tibetans and his moral and spiritual authority helps to unite the Tibetan community inside and outside of China." President George W. Bush met in September 2007 with President Hu Jintao at the Asia Pacific Economic Cooperation Forum in Sydney, Australia, and told Hu that if Chinese leaders "were to sit down with the Dalai Lama they would find him a man of peace and reconciliation."[41] The Report on Tibet Negotiations stated:

> The United States encourages China and the Dalai Lama to hold direct and substantive discussions aimed at resolution of differences at an early date, without preconditions. The Administration believes that dialogue between China and the Dalai Lama or his representatives will alleviate tensions in Tibetan areas and contribute to the overall stability of China.[42]

The U.S. Congress awarded the Congressional Gold Medal to the Dalai Lama on October 17, 2007.[43] The congressional act providing for the award found that the Dalai Lama "is the unrivaled spiritual and cultural leader of the Tibetan people, and has used his leadership to promote democracy, freedom, and peace for the Tibetan people through a negotiated settlement of the Tibet issue, based on autonomy within the People's Republic of China."[44]

The status of the China-Dalai Lama dialogue, which resumed in 2002,[45] deteriorated after the March 2008 protests from a condition characterized by the absence of evident progress, to one that may require remedial measures before the dialogue can resume focus on its principal objective—resolving the Tibet issue. The Chinese government and the Dalai Lama continue to maintain their fundamental positions toward the dialogue. [See CECC 2007 Annual Report, Section IV—Tibet: Special Focus for 2007, for additional information.]

The Dalai Lama's Special Envoy Lodi Gyari and Envoy Kelsang Gyaltsen met on May 4, 2008, in Shenzhen city, Guangdong province, for an "informal meeting"[46] with Communist Party United Front Work Department (UFWD) Executive Deputy Head Zhu Weiqun and Deputy Head Sita (Sithar).[47] The purpose of the meeting, Gyari said on May 8, was to discuss the "critical situation in Tibet" and to reach a decision to continue formal discussions.[48] The envoys called on Chinese authorities to release prisoners (Tibetan protesters), allow injured persons (protesters) to receive adequate medical treatment, and allow "unfettered access" to Tibetan areas by tourists and media organizations.[49] The Dalai Lama included similar points in an April 6 statement that he addressed to Tibetans worldwide[50] and reiterated them as his priorities in a May 25 interview with a Western newspaper.[51] President Hu Jintao said on May 7, soon after the Shenzhen meeting, "We hope that the Dalai Lama side take[s] concrete actions to show its sincerity by

earnestly stopping activities involving splitting the motherland, instigating violence and disrupting the Beijing Olympics so as to create conditions for next consultation."[52]

On July 1 and 2, 2008, the Dalai Lama's envoys met in Beijing with UFWD officials, including UFWD Head Du Qinglin, for the seventh round of formal dialogue.[53] The Chinese team presented the envoys a set of new preconditions (the "four no supports")[54] that intensify the Chinese government and Party campaign to hold the Dalai Lama personally accountable for Tibetan views and activities that he does not support and that contradict his policies and guidance.[55] A UFWD spokesman described the four types of activity that the Dalai Lama must not support as: (1) attempting to disrupt the 2008 Beijing Summer Olympic Games; (2) inciting violence (during Tibetan protests); (3) alleged "terrorist activities" by a Tibetan NGO; and (4) seeking Tibetan independence.[56] Du Qinglin demanded that the Dalai Lama "should openly and explicitly promise" to fulfill the requirements of the "four no supports" and "prove it in his actions."[57] The demands pressure the Dalai Lama to serve as an active proponent of Chinese government political objectives as a precondition to continuing a dialogue that seeks to resolve political issues, and to take action to alter the political positions and activities of Tibetans within China and internationally.[58]

After the Beijing talks, Chinese officials and the Dalai Lama's envoys both stated that continuing the dialogue is in jeopardy and depends on measures that the other side should undertake. A UFWD official said that if "the Dalai side" could not "materialize" the "four no supports," then "there would hardly be the atmosphere and conditions required for the contacts and discussions between the two sides."[59] Special Envoy Lodi Gyari said that the Tibetan delegation had been "compelled to candidly convey to our counterparts that in the absence of serious and sincere commitment on their part the continuation of the present dialogue process would serve no purpose."[60]

Heightened Repression of Tibetan Buddhism

State repression of Tibetan Buddhism in 2008 has reached the highest level since the Commission began to report on religious freedom for Tibetan Buddhists in 2002. Chinese government and Party policy toward Tibetan Buddhists' practice of their religion played a central role in stoking frustration that resulted in the cascade of Tibetan protests that started on March 10, 2008, when approximately 300 Drepung Monastery monks attempted a protest march in Lhasa.[61] The protests spread quickly across the Tibetan plateau and involved a large but undetermined number of Tibetan Buddhist monastic institutions and thousands of monks and nuns.[62] [See figure titled Map of Tibetan Protest Sites, County-level Areas above and Addendum: List of Tibetan Protest Sites, County-level Areas at the end of this section.]

Reports have identified hundreds of Tibetan Buddhist monks and nuns whom security officials detained for participating in the protests,[63] as well as members of Tibetan secular society who supported them. Peaceful protesters raised Tibetan Buddhist issues by calling for the return of the Dalai Lama,[64] the release of the Pan-

chen Lama (Gedun Choekyi Nyima),[65] and freedom of religion generally.[66] [See box titled The Panchen Lama and the Golden Urn: China's Model for Selecting the Next Dalai Lama.] Details about the detainees' well-being and status under the Chinese legal system are few. Armed security forces maintained heightened security at some monasteries and nunneries after the protests as authorities conducted aggressive campaigns of patriotic education ("love the country, love religion").[67] Demands that monks and nuns sign statements denouncing the Dalai Lama angered monks and nuns and prompted a second wave of protests and detentions.[68]

The Panchen Lama and the Golden Urn: China's Model for Selecting the Next Dalai Lama

Gedun Choekyi Nyima, the boy the Dalai Lama recognized as the Panchen Lama in May 1995, turned 19 years old in April 2008. Chinese authorities have held him and his parents incommunicado in an unknown location since May 17, 1995,[69] three days after the Dalai Lama announced his recognition of Gedun Choekyi Nyima.[70] The Chinese government told the UN Special Rapporteur on Freedom of Religion in September 2005 that Gedun Choekyi Nyima is leading a "normal, happy life and receiving a good cultural education."[71] A TAR official described Gedun Choekyi Nyima in July 2007 as a "patriotic" boy who is "living a normal life in Tibet" and "studying at a senior high school" and "does not want his life to be disturbed."[72] The Chinese government has provided no information to support the statement that Gedun Choekyi Nyima is in the TAR or any other Tibetan area of China.

The State Council declared the Dalai Lama's 1995 announcement "illegal and invalid"[73] and installed Gyaltsen Norbu, whose appointment continues to stir widespread resentment among Tibetans—evidenced by Tibetan protesters' calls in March 2008 for Chinese authorities to "release" Gedun Choekyi Nyima.[74] Party officials assert that the next Dalai Lama will be selected in the same manner as Gyaltsen Norbu: by drawing a name from a golden urn. Ye Xiaowen, Director of the State Administration for Religious Affairs (SARA), and an alternate member of the Communist Party Central Committee,[75] said in an interview published on March 13, 2008, that SARA would "take control" of identifying the next Dalai Lama using "historical conventions." One of those conventions would be drawing a lot from an urn containing the names of three government-approved candidates to be the "soul boy" (reincarnated lama).[76]

Ye's reference to "historical conventions" refers to a 1792 Qing Dynasty edict demanding that the Tibetan government in Lhasa reform religious, administrative, economic, and military practices to suit the Qing court.[77] The first of the edict's 29 articles directed that the Dalai Lama and Panchen Lama be selected by drawing lots from a golden urn, and that a high-ranking imperial official must be present to confirm the result.[78]

THE NORM FOR TIBETAN BUDDHISM: SYSTEMATIC STATE INTERFERENCE

Chinese government interference with the norms of Tibetan Buddhism and unrelenting antagonism toward the Dalai Lama, one of

the religion's foremost teachers, serves to deepen division and distrust between Tibetan Buddhists and the government and Communist Party. As the Commission's 2007 Annual Report documented, law, regulation, and policy that seek to prevent or punish Tibetan Buddhist devotion to the Dalai Lama, categorize him as a "splittist" (a criminal under Chinese law[79]), and that set aside centuries of religious tradition[80] create obstacles of profound implications for Tibetan Buddhists.[81] Legal and regulatory interference with Tibetan Buddhism antagonizes Tibetans in general, but it is especially harmful to Tibetans who regard the Dalai Lama (in his capacity as the spiritual leader of the Gelug tradition of Tibetan Buddhism[82]) as their guide on what Buddhists believe is the path toward enlightenment.

The function and legitimacy of Tibetan Buddhism—the core of Tibetan culture—has been especially hard-hit since 2005. Legal measures closely regulating monastic life in the TAR took effect in January 2007.[83] Nationwide measures establishing state supervision of the centuries-old Tibetan tradition of identifying, seating, and educating boys whom Tibetans believe are reincarnations of Buddhist teachers took effect in September 2007.[84] The government seeks to use such legal measures to remold Tibetan Buddhism to suit the state, and to use legal pressure to compel Tibetan acceptance of such measures. For example, a February 2008 Tibet Daily report provided information about conditions in TAR monasteries and nunneries less than one month before the protests erupted.[85] The TAR procuratorate reported that it had "targeted monks and nuns" with campaigns on "'love the country and love religion' thinking" (patriotic education), and implemented measures linked to the government and Party's "integrated management of the temples."[86]

THE GANZI MEASURES: PUNISHING "MONK AND NUN TROUBLEMAKERS"

The government of Ganzi (Kardze) Tibetan Autonomous Prefecture (TAP), Sichuan province, issued on June 28, 2008, with immediate effect, unprecedented measures that seek to punish or eliminate from the prefecture's Tibetan Buddhist institution those monks, nuns, religious teachers, and monastic officials whom public security officials accuse of involvement in political protests in the prefecture.[87] Of 125 documented Tibetan protests across the Tibetan plateau from March 10 to June 22, at least 44 took place in Ganzi TAP according to an August 5 advocacy group report.[88] Protesters at 40 of the 44 documented protests included Tibetan monks or nuns.[89] Nearly 38,000 Tibetan Buddhist monks and nuns were residents of 515 monasteries and nunneries in Ganzi TAP as of 2005, according to the Sichuan Daily.[90] Ganzi TAP has been the site of more known political detentions of Tibetans by Chinese authorities than any other TAP outside the TAR since the current period of Tibetan political activism began in 1987,[91] based on data available in the Commission's Political Prisoner Database (PPD).[92]

The "Measures for Dealing Strictly With Rebellious Monasteries and Individual Monks and Nuns" (the Ganzi Measures) took effect on the date they were issued and punish speech and association, not violent activity:

> In order to defend social stability, socialist law and the basic interests of the people, the measures listed below have been resolutely drafted for dealing clearly with participants in illegal activities aimed at inciting the division of nationalities, such as shouting reactionary slogans, distributing reactionary writings, flying and popularizing the "snow lion flag" and holding illegal demonstrations.[93]

The Ganzi Measures appear to apply some punishments that may be without precedent in post-Mao Zedong China and that, based on Commission staff analysis, do not appear to have a clear basis in national legal measures that establish central government regulatory power over religious activity in China. Such measures include the 2004 Regulation on Religious Affairs[94] and the 2007 Management Measures for the Reincarnation of Living Buddhas in Tibetan Buddhism.[95] For example, punishments in some cases can include the partial destruction or closure of a monastery or nunnery.[96] In other cases, authorities may punish a trulku (a teacher that Tibetan Buddhists believe is a reincarnation) by stripping the trulku of his religious position and function.[97] [See Addendum: The June 2008 Ganzi Measures: Dealing Strictly With Troublemaking Monks, Nuns, and Monasteries.]

Weak Implementation of Regional Ethnic Autonomy

Tibetan protesters, in their widespread calls for Tibetan independence, provided an unprecedented de facto referendum rejecting China's implementation of its constitutionally enshrined regional ethnic autonomy system.[98] The Regional Ethnic Autonomy Law[99] (REAL) is the state's principal legal instrument for managing the affairs of ethnic minorities. Its weak implementation has prevented Tibetans from using lawful means to protect their culture, language, and religion. This has exacerbated Tibetan frustration. The Chinese leadership's refusal to recognize the REAL's failure to fulfill the law's premise that it guarantees ethnic minorities the "right to administer their internal affairs" could expose the leadership to further increases in Tibetan resentment, continued calls for Tibetan independence, and the risk of local instability. [See box titled Impediments to Regional Ethnic Autonomy: Conflicts Within and Between Laws below.]

Impediments to Regional Ethnic Autonomy: Conflicts Within and Between Laws

The Premise of Autonomy

The REAL's Preamble asserts that the regional ethnic autonomy system "reflects the state's full respect for and guarantee of ethnic minorities' right to administer their internal affairs," and "has played an enormous role in giving full play to ethnic minorities' enthusiasm for being masters over their own affairs."[100]

Impediments to Regional Ethnic Autonomy: Conflicts Within and Between Laws—Continued

Conflicts That Impede Autonomy

- Article 3 obligates ethnic autonomous governments to apply the decisions of higher-level authorities under "the principle of democratic centralism"—a system that is more consultative than democratic. A Chinese government White Paper said that democratic centralism "requires that the majority be respected while the minority is protected." [101]
- Article 7 sets aside ethnic minority rights to "administer their internal affairs" by subordinating ethnic autonomous governments to every higher level of government authority.[102]
- Article 12 provides a basis for establishing boundaries of ethnic autonomous areas that can reflect factors such as "historical background" and "the relationship among the various nationalities"—but it is Beijing's view of history and ethnic relations that determines whether the REAL unites—or divides—territory where ethnic minority groups live.[103]
- Article 19 (and Constitution Article 116) provide ethnic autonomous congresses the power to enact autonomy or self-governing regulations "in the light of the political, economic, and cultural characteristics" of the relevant ethnic group(s)[104]—but China's Legislation Law intrudes upon the right of ethnic minority people's congresses to issue such regulations.[105]
- Article 20 provides ethnic autonomous governments the right to apply to a higher-level state agency to alter or cancel the implementation of a "resolution, decision, order, or instruction" if it does not "suit the actual conditions in an ethnic autonomous area" [106]—but the Legislation Law bars ethnic autonomous governments from enacting any variance to the laws and regulations that matter the most: those that are "dedicated to matters concerning ethnic autonomous areas." [107]

Economic Development vs. Ethnic Minorities' Autonomous Rights

The Chinese government undermines the prospects for stability in Tibetan autonomous areas of China by implementing economic development and educational policy in a manner that results in disadvantages for Tibetans. In a November 2007 academic thesis, Dr. Andrew Fischer analyzed the relationship in Tibetan areas of China between "economic polarisation, social exclusion, and social conflict." [108] "The exclusionary experiences of Tibetans in different tiers of the labor market are interlinked through polarisation," he said, "and operate along educational or cultural axes of disadvantage"—with the result that "class grievances mutate into cross-class collective grievances." [109] The relevance of the point is evident in the social and professional range of Tibetan protesters who were not monks and nuns: business operators, workers, university graduates, junior high school students, farmers, and nomads.

The Chinese government facilitates resentment among non-monastic Tibetans against the increasing Han dominance in economic and cultural spheres principally by failing to empower local Tibetan autonomous governments to protect Tibetan interests. Among the consequences are the decline of the use[110] and teaching[111] of Tibetan language, and educational and training programs

that leave Tibetans poorly prepared to compete in a Han-dominated job market.[112] Fischer observes in a forthcoming paper that preferential policies toward Tibetans are not as important in "dealing with disjunctures across changing educational and employment systems" as achieving "holistic political representation and decision making of minority groups."[113]

The Qinghai-Tibet railway, a premier project of the Great Western Development program[114] that entered service in July 2006,[115] is an example of how Chinese policies prioritize accelerating economic development over protecting ethnic minorities' rights of autonomy. The impact of the Qinghai-Tibet railway could overwhelm Tibetans and sharply increase pressure on the Tibetan culture. Based on Commission analysis of fragmentary and sometimes contradictory information, more than a half million passengers, most of whom are likely to be ethnic Han, may have traveled during the first 18 months of railway operation (July 2006 through December 2007) to the TAR to seek work, trade, and business opportunities.[116]

The Chinese government announced in January 2008 steps toward building a new railway that will open up the eastern TAR and Ganzi (Kardze) TAP—areas where Tibetan protesters have been active—to population influx from one of China's most populous provinces.[117] The railway will originate in Chengdu city, the capital of Sichuan province, and traverse Kangding (Dartsedo), Yajiang (Nyagchukha), Litang (Lithang), and Batang (Bathang) counties in Ganzi TAP before entering the TAR near Mangkang (Markham) county in Changdu (Chamdo) prefecture, based on a China Daily sketch.[118]

A Ministry of Railways spokesman said in August 2008 that the government expects to complete construction by 2020 of six rail lines feeding the Qinghai-Tibet railway.[119] Authorities had announced two of the rail lines (Lhasa-Rikaze and Lhasa-Linzhi) previously.[120] The spokesman did not provide any information about the railway route between Golmud city and Chengdu city. Depending on the government's economic, political, and geographic objectives, the route could traverse a number of Tibetan autonomous areas, including one or both of Yushu and Guoluo (Golog) TAPs in Qinghai province, and one or both of Ganzi TAP and Aba (Ngaba) Tibetan and Qiang Autonomous Prefecture in Sichuan province.[121] Such a route would pass through some of the most remote Tibetan autonomous areas—areas where remoteness and the unavailability of high-capacity transportation links have helped the proportion of Tibetan population to remain relatively high.[122]

A five-year TAR government economic development program announced in the aftermath of the Tibetan protests indicates that government policy will prioritize and accelerate industrial expansion and resource extraction.[123] TAR economic commission director Li Xia said that the government "will pool 21.17 billion yuan (about 3 billion U.S. dollars) for 10 mining projects, four construction and building material enterprises, three medicine and food plants, and five industrial development zones in five years."[124] The government expects the projects to be operational by 2013, Li said.[125] The report did not disclose details about the source of the funding for the projects, the location of the industrial development zones, or

the extent to which authorities expect the new projects to attract non-Tibetans to the TAR to seek employment. The total cost of the 22 projects will be equal to approximately two-thirds of the 33 billion yuan cost of constructing the Qinghai-Tibet railway.[126]

Another state-run program that prioritizes economic development by settling Tibetan nomads into compact communities is nearing completion throughout Tibetan areas, disrupting an important sector of the Tibetan culture and economy.[127] Nomads participated in the wave of protests following March 10 in substantial numbers, placing some Tibetan counties on the protest map for the first time[128] since the current period of Tibetan political activism began in 1987.[129]

Consequences of the Protests: Death, Detention, Patriotic Education, Isolation

At no time since Tibetans resumed political activism in 1987 has the magnitude and severity of consequences to Tibetans (named and unnamed) who protested against the Chinese government been as great as it is now upon the release of the Commission's 2008 Annual Report. Few details are available about the thousands of Tibetans whom Chinese security officials detained, beat, fired on, or otherwise harmed as armed forces suppressed protests or riots and maintained security lockdowns. China's state-run media reported extensively on personal injury and property damage that Tibetan rioters caused from March 14 to 19 in locations such as Lhasa city, Aba county, and Gannan TAP, but authorities provided few details about the thousands of Tibetans whom they acknowledge detaining as a result of the incidents. Moreover, officials have provided little information about the suppression of peaceful Tibetan protests that took place over a period of weeks in more than 40 counties where Chinese state media did not report rioting, and where security officials reportedly detained thousands more Tibetans.[130] [See Section II—Rights of Criminal Suspects and Defendants for more information about legal process and abuse of Tibetan detainees.]

DEATH

At least 218 Tibetans had died by June as the result of Chinese security forces using lethal force (such as gunfire) against Tibetan protesters, or from severe abuse (such as beating and torture), according to an August 21 Tibetan government-in-exile (TGiE) report.[131] The Tibetan Centre for Human Rights and Democracy reported on June 20 that "more than 100" Tibetans had died.[132] Neither organization commented publicly on the substantial difference between the estimates. If a report is accurate that, on March 28, authorities cremated near Lhasa more than 80 (apparently unidentified) bodies of Tibetans killed in connection with protest (or riot) activity, then a full accounting of all of the casualties may never occur.[133]

The March 14 Lhasa protests and rioting resulted in the largest number of Tibetan fatalities reported for a single incident. On March 16, the TGiE reported that "at least 80 people were killed" on March 14 in Lhasa.[134] Jampa Phuntsog (Xiangba Pingcuo), Chairman of the TAR government, denied at a March 17 press conference, however, that security forces carried or used "any destruc-

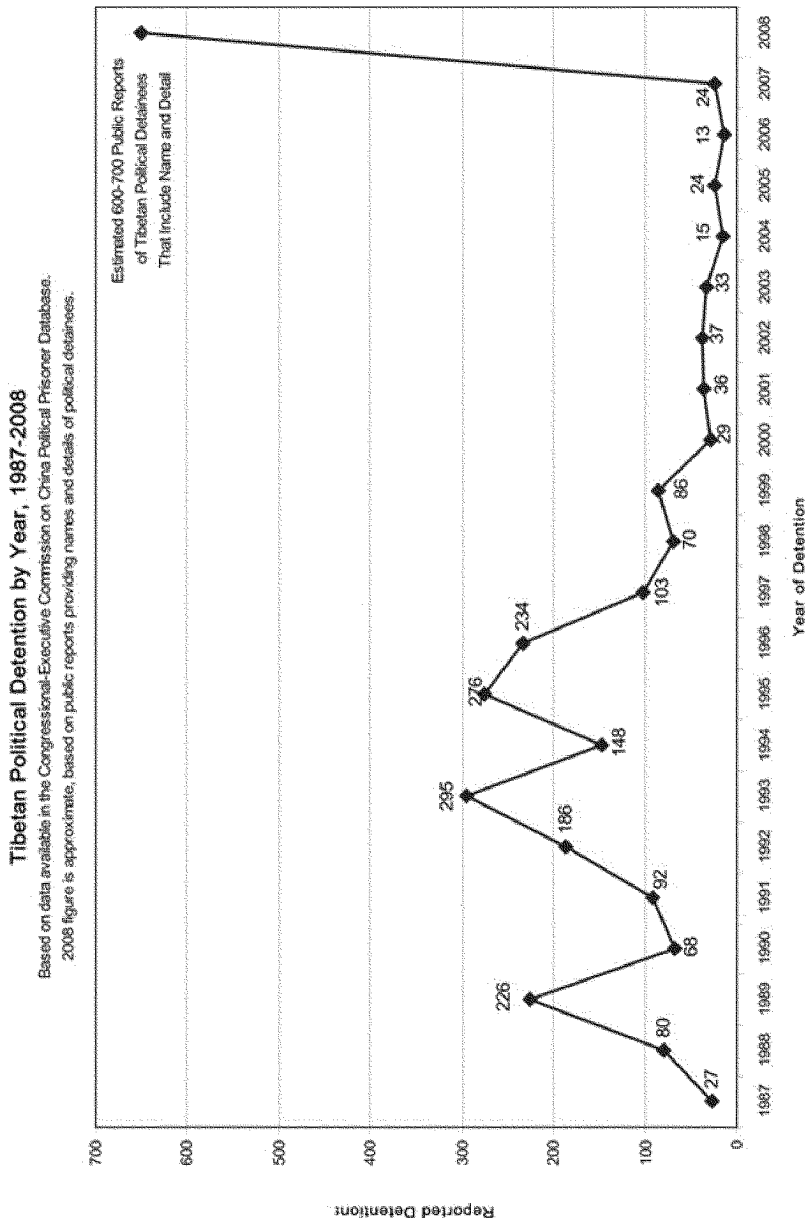
tive weapons" as they suppressed the March 14 riot.[135] Additional incidents of lethal weapons fire against Tibetan protesters took place on at least six occasions outside the TAR, according to NGO and media reports: on March 11 in Daocheng (Dabpa) county, Ganzi TAP, Sichuan province;[136] March 16 in Aba county, Aba prefecture, Sichuan province;[137] March 16 (or March 18) in Maqu county, Gannan TAP, Gansu province;[138] March 18 in Ganzi county, Ganzi TAP;[139] March 24 in Luhuo (Draggo) county, Ganzi TAP;[140] and on April 3 in Ganzi county.[141] Up to 15 Tibetans were reportedly wounded by weapons fire on April 5 in Daofu (Dawu) county, Ganzi TAP, but no fatalities were reported.[142] The Dalai Lama issued statements on March 18[143] and April 6[144] appealing to Tibetans to refrain from violent activity.

Chinese officials have not acknowledged the deaths of Tibetan protesters as the result of lethal force used by Chinese security forces.[145] Instead, state-run media has emphasized the consequences of Tibetan violence, especially the deaths of 18 civilians and 1 policeman in the March 14 Lhasa riot.[146] International media and non-governmental organizations also reported Tibetan violence, sometimes resulting in death, against ethnic Han and Hui individuals in Lhasa.[147]

DETENTION

Unless Chinese authorities have released without charge a very high proportion of the Tibetans reportedly detained as a result of peaceful activity or expression on or after March 10, 2008, the resulting surge in the number of Tibetan political prisoners may prove to be the largest increase in such prisoners[148] that has occurred under China's current Constitution[149] and Criminal Law.[150] The current period of Tibetan political activism began in 1987. [See chart titled Tibetan Political Detention by Year, 1987–2008 below.]

Chinese security officials detained thousands of Tibetans, first in connection with the cascade of protests (and sometimes rioting) followed by the imposition of security lockdowns at protest locations, and then as monks, nuns, and other Tibetans expressed anger at the aggressive reimplementation of political indoctrination campaigns, including patriotic education. China's state-run media acknowledged in reports in March and April 2008 that a total of 4,434 persons characterized as "rioters" had either surrendered to security forces or were detained by them in nine counties where rioting reportedly took place between March 14 and 19.[151] The nine counties were located in Lhasa municipality and Gannan TAP. The reports did not name or provide detailed information about any of the detainees. Two official reports on April 9[152] and one report on June 21[153] disclosed the release of a total of 3,027 of the 4,434 persons who reportedly surrendered or were detained. The June 21 report (on Lhasa) noted that the persons released had "expressed regret for conducting minor crimes."[154] Based on the April 9 and June 21 reports, the status of more than 1,200 of the persons who had surrendered or been detained remained unknown.[155] [For detailed information, see table titled Official Chinese Sources: Detention, Surrender, and Release of Alleged "Rioters" below.]


Tibetan Political Detention by Year, 1987-2008
Based on data available in the Congressional-Executive Commission on China Political Prisoner Database.
2008 figure is approximate, based on public reports providing names and details of political detainees.
Estimated 600-700 Public Reports of Tibetan Political Detainees That Include Name and Detail
Reported Detentions
Year of Detention
0
100
200
300
400
500
600
700
1987
1988
1989
1990
1991
1992
1993
1994
1995
1996
1997
1998
1999
2000
2001
2002
2003
2004
2005
2006
2007
2008
27
80
226
68
92
186
295
148
276
234
103
70
86
29
36
37
33
15
24
13
24

OFFICIAL CHINESE SOURCES: DETENTION, SURRENDER, AND RELEASE OF ALLEGED "RIOTERS"

	Lhasa city, March 14 rioting Xinhua, April 9[156]	Gannan TAP, March 14–19 rioting Xinhua, April 9[157]	Linzhou county, March 14 rioting Tibet Daily, March 19[158]	Aba county, March 18 rioting Xinhua, March 25[159]	Total
Surrender: Total	362	2,204 (incl. 519 monks)	94	381	3,041
Surrender: Released	328	1,870 (incl. 413 monks)			
Surrender: Formal arrest					
Surrender: Remain detained	34	334 (incl. 106 monks)			
Police detention: Total	953	440 (incl. 170 monks)			1,393
Police detention: Released					
Police detention: Formal arrest	403	8			
Police detention: Remain detained					
Total: Surrendered or detained	1,315	2,644	94	381	4,434
Total: Remain detained	116				116
(Reports as of June)	China Daily, June 21[160]				
Total: Sentenced	42				42
(Reports as of June)	China Daily, June 21				
Total: Released	1,157	1,870			3,027
(Reports as of June)	China Daily, June 21	Xinhua, April 9			
Total: Status unknown	0	774	94	381	1,249
(Reports as of June)					

Chinese authorities had by late June provided detailed legal process information about only a few dozen of the protest- and riot-related cases that may have reached trial in the Lhasa area, and no information about a possibly greater number of prosecutions that could take place in other locations across the Tibetan protest area. All but 14[161] of the individual cases known to the Commission about which China disclosed criminal charge information involved charges of violent or ordinary crime committed during activity characterized as rioting.

The largest such disclosure of official information was on the Lhasa Intermediate People's Court April 29, 2008, sentencing of 30 Tibetans to imprisonment for periods ranging from three years to life.[162] The court convicted the defendants for crimes described as "arson, looting, picking quarrels and provoking troubles, assembling a crowd to storm state organs, disrupting public service, and theft."[163] A Lhasa court convicted an additional 12 persons on similar charges on June 19 and 20, bringing to 42 the total of officially acknowledged convictions linked to alleged riot-related activity in Lhasa municipality, according to an official report.[164] An additional 116 persons were awaiting trial.[165] A Party-run Web site disclosed on March 30 a reshuffling of TAR court and procuratorate personnel that could have facilitated an increase in case handling capacity by the two intermediate people's courts located nearest to Lhasa.[166] An official Chinese report disclosed on July 11 that on June 19 and 20 four local courts in Lhasa and Shannan (Lhoka) Prefecture sentenced an additional 12 persons to imprisonment for alleged involvement in the Lhasa rioting.[167] The same report disclosed that courts had not yet sentenced anyone to death in connection with alleged rioting, but that 116 persons "were on trial" and that Chinese law would determine whether some of the persons tried would be sentenced to execution.[168]

The most extensive NGO compilation of detailed information about the detention of Tibetans resulting from the protests has been an April 25, 2008, Tibetan Centre for Human Rights and Democracy (TCHRD) list of 518 Tibetans.[169] Media organizations and NGOs continued to report additional detentions during the months preceding publication of the Commission's Annual Report. Two reports released in August by different Tibetan reporting agencies placed the total number of Tibetan detentions since March 10 at 6,705 and "over 6,500" respectively.[170] Neither report provided any information about the number of detainees who had been released or remain detained, or who had been sentenced to imprisonment or reeducation through labor (RTL). Security officials in the TAR "deported" on April 25 to Qinghai province 675 monks, including 405 monks studying at Drepung Monastery and 205 monks studying at Sera Monastery, according to an August 28 media organization report.[171] Many of the monks were originally from Qinghai; others were from Tibetan autonomous areas of Sichuan province.[172] "All" of the monks from Qinghai remained detained in their hometowns, according to the report, which did not name any of the detainees and provided few details about detainees' current locations.[173] The 610 Drepung and Sera monks removed from the TAR were among a total of approximately 950 monks authorities detained from the

two monasteries on April 10 and April 14, according to the same report.[174]

PATRIOTIC EDUCATION

The Party responded to the Tibetan protests with further escalation of the very political indoctrination campaigns, such as patriotic education ("love the country, love religion"), that helped to provoke Tibetans into protesting in the first place.[175] Party Secretary Zhang Qingli issued an order on April 3 that officials across the TAR must conduct patriotic education programs at monastic institutions, workplaces, businesses, and schools, and require participants to sign denunciations of the Dalai Lama, according to a media report.[176] The Tibet Daily reported that the Party had organized a teleconference to warn cadres against "war-weariness" and to conduct educational activities that would "remove the scales" from the eyes of the "vast masses" so that they would "see clearly what Dalai really wants and what he has already done."[177] According to another Tibet Daily report, the Lhasa city school system trained nearly 3,700 patriotic education "core instructors" who lectured a total of nearly 180,000 persons who attended a total of more than 1,000 lectures.[178] Officials in Tibetan autonomous areas outside the TAR launched political indoctrination campaigns[179] in prefectures where protests took place,[180] as well as in locations where protests were not reported.[181]

The aggressive new patriotic education campaigns fueled a second wave of protests and detentions that began in April and continued as the Commission prepared the 2008 Annual Report. Authorities may have detained hundreds of monks, nuns, and other Tibetans as the result of incidents arising from Tibetan refusals to fulfill the demands of patriotic education instructors.[182] Government measures to prevent information from reaching international observers have hindered an accurate assessment of the full impact of patriotic education and other political indoctrination programs on Tibetan communities. In addition to the standard demand that monks and nuns denounce the Dalai Lama, officials sought to pressure senior Tibetan Buddhist figures[183] and ordinary monks, nuns, and villagers[184] to affirm support for the Chinese government assertion that the Dalai Lama was responsible for the protests and rioting. Authorities in some cases vandalized or destroyed images of the Dalai Lama, offending monks and nuns and prompting comparisons with the Cultural Revolution.[185] Security forces responded to an April 3 protest resulting from patriotic education in Ganzi county with lethal weapons fire.[186]

ISOLATION

Chinese security officials imposed and maintained measures that isolated Tibetan communities from each other and from the outside world as the Tibetan protests spread and the Chinese government response gathered momentum. Authorities confiscated cell phones and computers, turned off cellular transmission facilities, and interfered with Internet access, according to accounts.[187] Authorities threatened Tibetans with punishment if they shared information about Tibetan fatalities or detentions.[188]

The Chinese government continued to deny international journalists and foreign tourists access to the TAR after dropping plans to

reopen the region to such visitors on May 1.[189] Ministry of Foreign Affairs Spokesman Qin Gang confirmed on June 12, 2008, that the TAR remained temporarily closed to foreign journalists and blamed the closure on "the Dalai Clique."[190] The level of access by foreign journalists and tourists to Tibetan autonomous areas located in other provinces—which unlike the TAR do not require special permits of foreigners for entry—varied during the post-March 10 period. [See Section II—Freedom of Expression—Restrictions Bolster Image of Party and Government.] The Dalai Lama stated in a May 25 interview that the most important gesture he would like to see from the Chinese government would be to permit international journalists to travel to the Tibetan areas of China to "look, investigate, so the picture becomes clear."[191]

Long-term Implications of the Tibetan Protests

Chinese government decisions guiding recovery from the wave of protests (and rioting) could alter the outlook for the Tibetan culture, religion, language, and heritage. Continuing with the current mix of policy, law, and implementation, and waiting for the Dalai Lama to pass away so that Chinese officials can supervise the installation of a Dalai Lama whom Tibetans are unlikely to accept, could result in heightened risks to local and regional security for decades to come.

A Chinese government decision to fulfill the Constitution's guarantees of the freedoms of speech, religion, and association; to ensure that laws and regulations on regional ethnic autonomy deliver to Tibetans the right to "administer their internal affairs"; and to engage the Dalai Lama in substantive dialogue on the Tibet issue, can result in a durable and mutually beneficial outcome for Chinese and Tibetans.

Tibetan Political Imprisonment: No News of Early Release, Sentence Reduction

The Commission is not aware of any reports of Tibetan political prisoners to whom Chinese authorities granted a sentence reduction or an early release from imprisonment during the past year. The Dui Hua Foundation noted in a June 17, 2008, report that it had not seen any such developments recently, and that cases involving the charge of splittism[192] are being "strictly handled."[193] Officials rarely grant clemency to Tibetan or Uyghur political prisoners, who are typically charged with splittism, Dui Hua said.[194]

The Commission is not aware of new developments in the cases of Tibetan monk Jigme Gyatso[195] (detained in 1996 and serving an extended 18-year sentence for printing leaflets, distributing posters, and later shouting pro-Dalai Lama slogans in prison); monk Choeying Khedrub[196] (sentenced in 2000 to life imprisonment for printing leaflets); reincarnated lama Bangri Chogtrul[197] (detained in 1999 and serving a sentence of 18 years commuted from life imprisonment for "inciting splittism"); or nomad Ronggyal Adrag (sentenced in November 2007 to 8 years' imprisonment for shouting political slogans at a public festival).

ADDENDUM: LIST OF TIBETAN PROTEST SITES, COUNTY-LEVEL AREAS

County-level areas and cities where peaceful Tibetan protests (and in some cases, riots) reportedly took place from March 10, 2008, through the end of April. Multiple protests took place in several counties.

Beijing municipality (1)

Beijing municipality (1): Beijing city.

Tibet Autonomous Region (17)

- *Lhasa municipality (7):* Lasa (Lhasa) city, Linzhou (Lhundrub) county, Dangxiong (Damshung) county, Qushui (Chushur) county, Duilongdeqing (Toelung Dechen) county, Dazi (Tagtse) county, Mozhugongka (Maldro Gongkar) county.
- *Changdu (Chamdo) prefecture (4):* Jiangda (Jomda) county, Gongjue (Gonjo) county, Basu (Pashoe) county, Mangkang (Markham) county.
- *Shannan (Lhoka) prefecture (1):* Zhanang (Dranang) county.
- *Rikaze (Shigatse) prefecture (2):* Rikaze city, Sajia (Sakya) county.
- *Naqu (Nagchu) prefecture (2):* Naqu county, Suo (Sog) county.
- *Ali (Ngari) prefecture (1):* Ritu (Ruthog) county.

Qinghai province (13)

- *Xining municipality (1):* Xining city.
- *Haidong prefecture (1):* Hualong Hui Autonomous County.
- *Huangnan (Malho) Tibetan Autonomous Prefecture (TAP) (3):* Tongren (Rebgong) county, Jianzha (Chentsa) county, Zeku (Tsekhog) county, Henan (Yulgan) Mongol Autonomous county.
- *Hainan TAP (4):* Gonghe (Chabcha) county, Tongde (Gepasumdo) county, Xinghai (Tsigorthang) county, Guinan (Mangra) county.
- *Guoluo (Golog) TAP (3):* Banma (Pema) county, Dari (Darlag) county, Jiuzhi (Chigdril) county.
- *Yushu (Yulshul) TAP (1):* Yushu (Kyegudo) county.

Gansu province (7)

- *Lanzhou municipality (1):* Lanzhou city.
- *Gannan (Kanlho) TAP (6):* Hezuo (Tsoe) city, Xiahe (Sangchu) county, Luqu (Luchu) county, Maqu (Machu) county, Diebu (Thewo) county, Zhuoni (Chone) county.

Sichuan province (17)

- *Chengdu municipality (1):* Chengdu city.
- *Aba (Ngaba) Tibetan and Qiang Autonomous Prefecture (5):* Ma'erkang (Barkham) county, Songpan (Zungchu) county, Ruo'ergai (Dzoege) county, Aba county, Rangtang (Dzamthang) county.
- *Ganzi (Kardze) TAP (11):* Kangding (Dartsedo) county, Daocheng (Dabpa) county, Yajiang (Nyagchukha) county, Litang (Lithang) county, Xinlong (Nyagrong) county, Daofu (Tawu) county, Luhuo (Draggo) county, Ganzi county, Dege county, Shiqu (Sershul) county, Seda (Serthar) county.

ADDENDUM

THE JUNE 2008 GANZI MEASURES: DEALING STRICTLY WITH TROUBLEMAKING MONKS, NUNS, AND MONASTERIES

The government of Ganzi (Kardze) Tibetan Autonomous Prefecture (TAP), located in Sichuan province, issued with immediate effect on June 28, 2008, the "Measures for Dealing Strictly With Rebellious Monasteries and Individual Monks and Nuns" (Ganzi Measures).[198] The Ganzi Measures are divided into three groups: Articles 1 to 4 deal with "monk and nun troublemakers"; Articles 5 to 9 address "troublemaking monasteries"; Articles 10 to 12 seek to punish management officials of monasteries and nunneries who failed to "fulfill their responsibilities."

Based on Commission staff analysis, some punishments do not appear to have a clear basis in national legal measures that establish central government regulatory power over religious activity in China. Three examples are:

- The punitive demolition of lawfully constructed monastic residences;
- The punitive reduction of the number of lawfully registered monks or nuns entitled to reside at a monastery or nunnery; and
- The punitive removal from a reincarnated Tibetan Buddhist teacher of his religious position and function.

MONKS AND NUNS: REEDUCATION, CRIMINAL CHARGES, EXPULSION

Articles 1 to 4 divide punishment for monks and nuns into four levels of severity. Determinants include official assessment of whether an alleged offense is "minor" or "serious," whether or not a monk or nun is cooperative and provides a written statement of guilt, and whether a monk or nun is "stubborn."

Articles 1 to 3 impose "reeducation." Article 1 applies the least level of punishment and allows a monk or nun to undergo reeducation in a family household if the head of household serves as guarantor that the monk or nun will remain inside the house and "strictly follow reeducation." Articles 2 and 3 require that reeducation take place "in custody," but the measures do not specify the type of facility in which the monk or nun will be confined while under custody.

Article 4 provides for punishment "according to law" for activities such as "instigating splittism and disturbances" (e.g., prosecution in a court on charges such as Article 103 of China's Criminal Law (inciting "splittism"), or Article 293 ("creating disturbances")). Other activities punishable by law are "hatching conspiracies," "forming organizations," and "taking a leading role."

Articles 3 and 4 include expulsion of a monk or nun from a monastery or nunnery and permanent revocation of official status as a monk or nun.

MONASTERIES AND NUNNERIES: SHRINKING SOME, CLOSING OTHERS

Articles 5 to 9 describe "cleansing and rectification" of monasteries and nunneries, a process that penalizes the institution of Tibetan Buddhism.

Article 5 provides rectification for monasteries and nunneries where 10 percent to 30 percent of monks and nuns participated in "disturbances." The monastery or nunnery will be sealed off, searched, religious activity suspended, and "suspect persons detained according to law."

Article 6 provides for rectification of Democratic Management Committees (DMCs) at monasteries and nunneries where DMC members "participated in disturbances." Local government officials may take over the management of a monastery or nunnery if they deem "suitable personnel" to be unavailable. Normal management functions of monasteries and nunneries will be suspended while a DMC undergoes rectification.

Article 7 provides for expelling monks and nuns from monasteries and nunneries and annulling their official status as "religious practitioners" if they do not "assist" officials conducting rectification, refuse to be photographed and registered, leave a monastery or nunnery without permission, or fail to "correct themselves" during reeducation.

Article 7 provides for the demolition of monastic residences that were occupied by monks or nuns that officials expel. (The Commission is not aware of a national or provincial legal measure that provides for the demolition of monastic residences as punishment for offenses such as those listed in Article 7. Based on information available to the Commission, monasteries and nunneries apply for and receive permission from local government officials to renovate or construct monastic residences.[199] The Ganzi Measures do not make clear whether the residences of monks and nuns expelled under Articles 3 and 4 will also be demolished.)

Article 8 requires re-registration of all monks and nuns resident at monasteries and nunneries involved in "disturbances."

Article 8 reduces the total number of monks and nuns permitted to reside at monasteries and nunneries involved in "disturbances" by the number of monks or nuns who are expelled from each monastery or nunnery. (Once officials reduce the number of monks and nuns permitted to reside at a monastery or nunnery, restoring the number of monks and nuns to its previous level would require coordination between a monastery or nunnery's Democratic Management Committee,[200] a state-controlled Buddhist association, and the local government.[201])

Article 9 provides for the investigation, loss of status as a "registered religious institution," and closure of a monastery or nunnery if officials determine that a DMC does not improve after rectification, or if monks or nuns "go out again and make trouble." (Once a monastery or nunnery is de-registered and closed, provisions of the Regulation on Religious Affairs would require provincial-level approval before the monastery or nunnery could be re-established.[202])

MONASTIC OFFICIALS, TEACHERS, AND TRULKUS: PUBLIC HUMILIATION, LOSS OF POSITION

Articles 10 to 12 punish members of a monastery or nunnery's DMC that do not maintain control of monks and nuns and "take a clear stand on the issue" (e.g., uphold government and Party policy). All three measures refer to DMC officials including monks,

khenpos (abbots), geshes (teachers who have attained the most advanced degree of monastic education), and trulkus (teachers that Tibetan Buddhists believe are reincarnated).

Article 10 provides for "careful scrutiny" of mistakes, criticism, and reeducation of DMC members that were "not directly involved in disturbances," but that failed to "take a clear stand on the issue," investigate and discipline monks and nuns that protested, or that were "lax" or deemed to have committed "instances of poor management."

Article 11 provides for television and newspaper coverage of "detailed examination" of DMC members before a monastic assembly if DMC members are "two-faced" or fail to "make their attitude clear." Such DMC members must submit a "written guarantee" (presumably of correct behavior) at the publicized event.

Article 12 provides for punishment under China's Criminal Law as well as loss of government, consultative, and religious positions for DMC members that "collude with foreign separatists" (a probable reference to the Dalai Lama and the Tibetan Buddhist monastic community in other countries), "assist" protests, "tolerate" protests, or "incite" others to protest. Officials will strip trulkus accused of such behavior of "the right to hold the incarnation lineage." (The Commission is not aware of a legal basis in China's national regulations on religion for stripping a trulku of "the right" to be a trulku. The 2007 Management Measures for the Reincarnation of Living Buddhas in Tibetan Buddhism (MMR) provide detailed regulation of the process of identifying, seating, and educating a reincarnated Tibetan Buddhist teacher—including regulation of whether or not a reincarnated teacher is entitled to reincarnate once again.[203] The MMR does not, however, provide a process whereby the state may "strip" a trulku of his religious position and function.)

VI. Developments in Hong Kong

INTRODUCTION

The United States supports a stable, autonomous Hong Kong under the "one country, two systems" formula articulated in the Sino-U.K. Joint Declaration and the Basic Law.[1] The people of Hong Kong enjoy the benefits of an independent judiciary[2] and an open society in which the freedoms of religion, speech, and assembly are respected. The Commission notes, however, that full democracy in Hong Kong has been delayed again at least until 2017 by the Chinese central government. The Commission strongly supports the provisions of the Basic Law that provide for the election of the Chief Executive and the entire Legislative Council through universal suffrage, and highlights the importance of the central government's obligation to give Hong Kong the "high degree of autonomy" promised in the Basic Law.

UNIVERSAL SUFFRAGE

Although the Basic Law promises democracy through universal suffrage to the people of Hong Kong,[3] the central government continued to obstruct progress toward the fulfillment of that promise by refusing to allow constitutional and electoral reforms to proceed in the near term. The National People's Congress Standing Committee (NPCSC) issued a decision in December 2007 prohibiting the people of the Hong Kong Special Administrative Region (HKSAR) from directly electing both the Chief Executive and the entire Legislative Council (LegCo) in 2012.[4] This decision marked the second time in less than four years that the NPCSC has issued a formal ruling to delay the commencement of universal suffrage in Hong Kong.[5]

The NPCSC's decision to further postpone electoral reforms came despite public polling that demonstrated widespread popular support for 2012 as the start date for universal suffrage in Hong Kong.[6] Three short weeks before the NPCSC made its position known, Anson Chan, a candidate who ran on a platform that called for universal suffrage in 2012, won a directly elected seat in the LegCo. Chan won the support of 54.6 percent of voters in the Hong Kong Island district, defeating her main opponent, Regina Ip, who advocated 2017 as a possible date for direct election.[7] In July 2007, the HKSAR government issued a Green Paper on Constitutional Development to consult the public on plans for implementing universal suffrage for the Chief Executive.[8] The public's views were consolidated into a report and submitted to the NPCSC more than two weeks before it issued its decision in December 2007. The HKSAR report stated that "implementing universal suffrage for the Chief Executive first in 2012 is the expectation of more than half of the public, as reflected in the opinion polls; this expectation should be taken seriously and given consideration."[9] In spite of these indications of broad support for universal suffrage, the NPCSC ruled out that possibility for 2012 without offering a justification for its decision.[10]

The NPCSC decision, however, stated that the election of the fifth Chief Executive in 2017 "may be implemented by the method of universal suffrage." Thereafter, all members of the Legislative

Council may be elected by universal suffrage in 2020 at the earliest.[11] On the day that the NPCSC released its decision, Qiao Xiaoyang, Deputy Secretary General of the NPCSC, personally conveyed its message to a symposium on the future of Hong Kong's political development. Qiao said that the decision "made clear" the "timetable for universal elections" and that it indicated that "the Chief Executive can be elected through universal suffrage in 2017."[12] The Chief Executive is currently selected by an 800-member Election Committee that includes representatives from Hong Kong's functional constituencies, ex-officio members (members of the Legislative Council, Hong Kong deputies to the National People's Congress, and Hong Kong representatives to the Chinese People's Political Consultative Conference), and religious representatives. Only half of the Legislative Council's 60 seats are currently returned by direct elections. The remaining seats are chosen by functional constituency voters, who are largely comprised of representatives of business interests that are pro-status quo and unwilling to challenge the central government.[13] In September 2008, the lack of electoral reform depressed voter enthusiasm, as turnout for the LegCo election fell more than 10 percentage points from 2004. Advocates for greater democracy retained roughly the same level of support (24 seats in the 60-member Legislature—a loss of 2 seats) despite the retirement of several prominent senior leaders, while pro-business leaders struggled amidst a climate that favored bread-and-butter economic issues.[14]

Several remaining hurdles must be removed before universal suffrage can be achieved in Hong Kong, including the future of functional constituency seats and the method of candidate selection. The NPCSC's decision stipulated that any proposal to change the current selection methods to direct election by universal suffrage must originate from the HKSAR government, be approved by a two-thirds majority of the Legislative Council, and be subjected to final approval by the NPCSC.[15] Proponents of democracy in Hong Kong are concerned that the ultimate proposal introduced by the government could fall short of genuine democracy. Zhang Xiaoming, a Deputy Director of the State Council's Hong Kong and Macau Affairs Office, fueled concern in Hong Kong when he stated earlier this year that the functional constituency seats are not necessarily in conflict with universal suffrage.[16] Zhang's comments were later echoed by Chief Executive Donald Tsang, who said during a May 2008 LegCo session, "I believe under some kind of arrangements, functional constituencies can achieve the principles of equal and universal suffrage."[17] Some lawmakers also expressed concerns that restrictions on candidacy might be imposed to screen out or otherwise exclude certain figures from consideration in the nomination process for the Chief Executive.[18] The NPCSC's December 2007 decision insisted that candidates for Chief Executive shall continue to be nominated by an Election Committee after universal suffrage is implemented.[19]

THE 2008 OLYMPICS: PROTEST & DISSENT IN HONG KONG

In 2008, the HKSAR government denied entry into the territory to human rights activists planning to protest during Olympic events, giving rise to concern that Hong Kong's autonomy has erod-

ed in the 10 years since its handover to the People's Republic of China. During the April torch relay, the government denied entry into Hong Kong to three Danish human rights activists who intended to protest. The Immigration Department declined to comment on the case but reiterated that the department had a duty to "uphold effective immigration controls."[20] Some sources also alleged that a Tibetan monk traveling to Hong Kong for a religious seminar at the same time was stopped on arrival at the airport and forced to fly to another destination.[21] In addition to these incidents, the government barred at least four other activists from Hong Kong prior to the torch relay.[22] The HKSAR Security Bureau submitted a report to the Legislative Counsel in May that defended its policy barring activists and warned that the government would not welcome "any person (who) seeks to damage the solemnity of the Olympics."[23]

In August, obstruction of protests and barring of activists continued as Hong Kong served as the host city for the 2008 Olympic equestrian events. Hong Kong immigration officers deported Yang Jianli, a prominent Chinese pro-democracy activist who lives in exile in the United States, upon his arrival in Hong Kong. The Hong Kong Falun Dafa Association also said that three Falun Gong practitioners—two Taiwanese and one American—were denied entry to the city in August.[24] Local activists complained that the designated protest zones were too far from the Olympic venue, and two protesters who entered the venue were quickly removed by security when they attempted to display a Tibetan flag.[25] Security officials also evicted Leung Kwok-hung, a pro-democracy lawmaker in Hong Kong, and his friend from an Olympic event for shouting slogans and holding up a banner promoting human rights.[26]

Two weeks after the Olympic closing ceremony, the HKSAR government called for public consultation regarding the city's human rights situation. The results of this consultation are to be included in a larger report that the central government will submit to the UN Human Rights Council.[27] The Commission is concerned that efforts to prevent protest during the Olympic period represent a compromise of Hong Kong's political autonomy, and over the coming year will monitor the government's response to these concerns as expressed by the people of Hong Kong.

[See Section II—2008 Beijing Summer Olympic Games.]

APPENDIX: CHINA'S INTERNATIONAL HUMAN RIGHTS COMMITMENTS

The Universal Declaration enshrines a core set of rights and freedoms that individuals everywhere enjoy. China voted to adopt the Universal Declaration in 1948, and the current Chinese government has continued to commit itself to upholding human rights through international agreements and its own domestic law. In March 2008, Premier Wen Jiabao reiterated China's commitment to ratify the International Covenant on Civil and Political Rights, saying it would do so "as soon as possible."[1] The chart below lists what action China has taken on major human rights treaties and protocols to the treaties.

Convention or Protocol	Ratification Status	Reservations
International Covenant on Economic, Social and Cultural Rights	Ratified March 27, 2001.	The application of article 8.1(a) of the Covenant to the People's Republic of China shall be consistent with the relevant provisions of the Constitution of the People's Republic of China, Trade Union Law of the People's Republic of China and Labor Law of the People's Republic of China.
International Covenant on Civil and Political Rights	Signed October 5, 1998; not yet ratified.	
Optional Protocol to the International Covenant on Civil and Political Rights	Neither signed nor ratified.	
Second Optional Protocol to the International Covenant on Civil and Political Rights	Neither signed nor ratified.	
International Convention on the Elimination of All Forms of Racial Discrimination	Acceded to December 29, 1981.	The People's Republic of China has reservations on the provisions of article 22 of the Convention and will not be bound by it.

Convention or Protocol	Ratification Status	Reservations
Convention on the Elimination of All Forms of Discrimination Against Women	Ratified November 18, 1980.	The People's Republic of China does not consider itself bound by paragraph 1 of article 29 of the Convention.
Optional Protocol to the Convention on the Elimination of All Forms of Discrimination Against Women	Neither signed nor ratified.	
Convention on the Rights of the Child	Ratified March 3, 1992.	The People's Republic of China shall fulfill its obligations provided by article 6 of the Convention under the prerequisite that the Convention accords with the provisions of article 25 concerning family planning of the Constitution of the People's Republic of China and in conformity with the provisions of article 2 of the Law of Minor Children of the People's Republic of China.
Optional Protocol to the Convention on the Rights of the Child on the Involvement of Children in Armed Conflict	Ratified February 20, 2008.	
Optional Protocol to the Convention on the Rights of the Child on the Sale of Children, Child Prostitution and Child Pornography	Ratified December 3, 2002.	

Convention or Protocol	Ratification Status	Reservations
Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	Ratified October 4, 1988.	1. The Chinese Government does not recognize the competence of the Committee Against Torture as provided for in article 20 of the Convention. 2. The Chinese Government does not consider itself bound by paragraph 1 of article 30 of the Convention.
Optional Protocol to the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment	Neither signed nor ratified.	
Convention Relating to the Status of Refugees	Acceded to September 24, 1982.	[Subject to] reservations on the following articles: 1. The latter half of article 14, which reads "In the territory of any other Contracting State, he shall be accorded the same protection as is accorded in that territory to nationals of the country in which he has his habitual residence." 2. Article 16 (3).
Protocol Relating to the Status of Refugees	Acceded to September 24, 1982.	
Convention on the Prevention and Punishment of the Crime of Genocide	Ratified April 18, 1983.	
Convention Against Transnational Organized Crime	Ratified September 23, 2003.	

Convention or Protocol	Ratification Status	Reservations
Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention Against Transnational Organized Crime	Neither signed nor ratified.	
Protocol Against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention Against Transnational Organized Crime	Neither signed nor ratified.	
Convention on the Protection of the Rights of All Migrant Workers and Members of Their Families	Neither signed nor ratified.	
Convention on the Rights of Persons With Disabilities	Ratified August 1, 2008.	
Optional Protocol to the Convention on the Rights of Persons With Disabilities	Neither signed nor ratified.	

RATIFICATION OF THE INTERNATIONAL LABOUR ORGANIZATION FUNDAMENTAL CONVENTIONS

Forced Labor		Freedom of Association		Discrimination		Child Labor	
C. 29	C. 105	C. 87	C. 98	C. 100	C. 111	C. 138	C. 182
Not ratified.	Not ratified.	Not ratified.	Not ratified.	Ratified November 2, 1990.	Ratified January 12, 2006.	Ratified April 28, 1999.	Ratified August 8, 2002.

VII. Endnotes

† Voted to adopt: Representatives Levin, Kaptur, Udall, Honda, Walz, Smith, Manzullo, Royce, and Pitts; Senators Dorgan, Baucus, Levin, Feinstein, Brown, Hagel, Smith, and Martinez; Under Secretary Dobriansky, Assistant Secretary Hill, Deputy Secretary Radzely, Under Secretary Padilla, and Assistant Secretary Kramer.

Voted not to adopt: Senator Brownback.

Notes to Section I—Executive Summary and Recommendations

[1] The Commission treats as a political prisoner an individual detained or imprisoned for exercising his or her human rights under international law, such as peaceful assembly, freedom of religion, freedom of association, free expression, including the freedom to advocate peaceful social or political change, and to criticize government policy or government officials. (This list is illustrative, not exhaustive.) In most cases, prisoners in the PPD were detained or imprisoned for attempting to exercise rights guaranteed to them by China's law and Constitution, or by international law, or both.

[2] CECC Commissioner Christopher Smith and former Commissioner Frank Wolf handed this list to former Foreign Minister Li Zhaoxing during a visit to Beijing at the end of June, 2008. It was the first time that Members of the U.S. Congress provided to Chinese officials a prisoner list derived from the PPD. Jim Yardley, "China Blocks U.S. Legislators' Meeting," New York Times (Online), 2 July 08.

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[3] See, e.g., "Under Olympics House Arrest," Radio Free Asia (Online), 28 July 08; Dan Martin, "Beijing Goes Into 'Fortress Mode' with Tightened Security Prior to Olympics," Agence France-Presse, 22 July 08 (Open Source Center, 22 July 08).

[4] "Grannies Vow to Fight on After Punishment for Olympic Protests," Agence France-Presse (Online), reprinted in Yahoo!, 22 August 08.

[5] Dui Hua Foundation (Online), "Welcome Reduction in Use of Capital Punishment in China," 27 June 08.

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[8] Kristine Kwok, "Police Force Pastor to Leave Beijing," South China Morning Post (Online), 20 July 08.

[9] Chinese Human Rights Defenders (Online), "Update on Imprisoned Activist Hu Jia and His Wife Zeng Jinyan," 25 August 08; Audra Ang, "Detained Chinese Activist Returns to Beijing," Associated Press, reprinted in Washington Post (Online), 26 August 08.

[10] Universal Declaration of Human Rights, adopted and proclaimed by General Assembly resolution 217 A (III) of 10 December 48, art. 9 [hereinafter UDHR]; International Covenant on Civil and Political Rights, adopted by General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 23 March 76, art. 9 [hereinafter ICCPR].

[11] CECC, 2007 Annual Report, 10 October 07, 45–47.

[12] Chris Buckley, "China Vows to Punish Officials Who Fuel Unrest," Reuters, reprinted in Guardian (Online), 25 July 08.

In addition to the unrest in Weng'an, Guizhou province and Menglian county, Yunnan province, the following are representative examples of other clashes between police and civilians that occurred during the summer of 2008: (1) hundreds of supporters and relatives of a high school boy who was beaten to death at school in Qianjiang city, Hubei province, clashed with police in late June (Ding Xiao, "Hubei Clashes Over Dead Boy," Radio Free Asia (Online), 26 June 08); (2) in mid-July, after a worker was reportedly beaten by a police officer and subsequently detained while attempting to obtain a residence permit in the town of Kanmen, Yuhuan county, Zhejiang province, hundreds of migrant workers attacked the police station (Hong Kong Information Center for Human Rights and Democracy, "PRC Hebei Villagers Said Set Off Explosion at Country Police Station on 9 Jul," 20 July 08 (Open Source Center, 20 July 08)) .

[13] Buckley, "China Vows to Punish Officials Who Fuel Unrest."

[14] Simon Elegant, "China Protests: A New Approach," Time (Online), 4 July 08; "China Focus: Police Attacked in South China Over Controversial Death of Motorcyclist," Xinhua (Online), 18 July 08 (Open Source Center, 18 July 08).

[15] Li Datong, "The Weng'an Model: China's Fix-it Governance," openDemocracy (Online), 30 July 08.

[16] Elegant, "China Protests: A New Approach"; Li Datong, "The Weng'an Model: China's Fix-it Governance."

[17] See, e.g., Chow Chung-yan, "City Leaders Disciplined Over Fatal Yunnan Riots," South China Morning Post (Online), 5 September 08; "Summary: Yunnan Provincial Party Committee Punishes Cadres Over Menglian Incident," China News Agency, 4 September 08 (Open Source Center, 4 September 08); "Two Killed in Yunnan Mass Action," China Daily (Online), 21 July 08.

[18] Chow Chung-yan, "City Leaders Disciplined Over Fatal Yunnan Riots"; Li Hanyong, "Yunnan Province Adopts Effective Measures to Channel the Masses' Emotions and Appropriately Handle the Menglian Clash Incident to Maintain Stability in the Border Area," 21 July 08 (Open Source Center, 21 July 08).

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[20] Office of the United Nations High Commissioner for Human Rights (Online), Working Group on Arbitrary Detention, Fact Sheet No. 26. Examples of the first category include individ-

uals who are kept in detention after the completion of their prison sentences or despite an amnesty law applicable to them, or in violation of domestic law or relevant international instruments. The rights and freedoms protected under the second category include those in Articles 7, 10, 13, 14, 18, 19, and 21 of the UDHR and in Articles 12, 18, 19, 21, 22, and 27 of the ICCPR. The ICCPR provides that the deprivation of an individual's liberty is permissible only "on such grounds and in accordance with such procedure as are established by law," and that an individual must be promptly informed of the reasons for his detention and any charges against him or her.

[21] Brad Adams, "Hard Facts on 'Soft Arrests' in China," Wall Street Journal (Online), 25 May 07. Adams translates *ruanjin* as "soft arrest"; Chinese Human Rights Defenders translates the term as "soft detention." See Chinese Human Rights Defenders (Online), Dancing in Shackles: A Report on the Situation of Human Rights Defenders, May 2008 [hereinafter Dancing in Shackles].

[22] Supreme People's Procuratorate Work Report, 10 March 08, 5 (Open Source Center, 22 March 08).

[23] Flora Sapio, "Shuanggui and Extralegal Detention in China," China Information, 2008, 26, note 1 (noting that *shuanggui* has been translated as "double regulation" or "double designation") [hereinafter *Shuanggui*]; Shen Hu, "Quiet Factory Buzzes with Graft Scandals," Caijing (Online), 26 August 08 (translating *shuanggui* as "double regulation").

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[34] Chinese Human Rights Defenders, China Human Rights Yearbook, 4.

[35] Amnesty International, Crackdown on Activists; Chinese Human Rights Defenders, China Human Rights Yearbook, 8.

[36] Amnesty International, Crackdown on Activists.

[37] Human Rights and the Rule of Law in China, Hearing of the Congressional-Executive Commission on China, 20 September 06, Written Statement Submitted by Jerome A. Cohen, Professor of Law, NYU Law School.

[38] Sapio, "Shuanggui," 7; Human Rights and the Rule of Law in China, Written Statement Submitted by Jerome A. Cohen.

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[40] See Universal Declaration of Human Rights, adopted and proclaimed by General Assembly resolution 217 A (III) of 10 December 48, art. 9; International Covenant on Civil and Political Rights, adopted by General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 23 March 76, art. 9.

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[1] China Labour Bulletin (Online), "Are Trade Union and Labour Officials in Guangdong Beginning To Take Their Responsibilities Seriously?" 28 February 08. See also, for example, "Shuangyashan City of Heilongjiang Province Dispatches Troops to Stop Nearly 10,000 Laid-off Workers from Taking Their Petition to Beijing," Radio Free Asia (Online), 24 June 08. "Migrant Workers Beaten for Asking for Back Pay" [Mingong tao xin zao bao'an bao da, yu yi tiao lou xiang weixie], People's Picture Net, reprinted in news163.com (Online), 22 July 08.

[2] See, for example, "Shuangyashan City of Heilongjiang Province Dispatches Troops to Stop Nearly 10,000 Laid-off Workers from Taking Their Petition to Beijing" [Heilongjiang sheng shuangyashan shi chudong quanbu jingli jiezhi jin wan ming maiduan gongren shangfang], Radio Free Asia (Online), 24 June 08. "Migrant Workers Beaten for Asking for Back Pay," People's Picture Net.

[3] See, for example, International Trade Union Confederation (Online), "China: Workers Arrested While Participating in Collective Protest Action," 6 March 08; "Shuangyashan City of Heilongjiang Province Dispatches Troops to Stop Nearly 10,000 Laid-off Workers from Taking Their Petition to Beijing," Radio Free Asia.

[4] See the CECC Political Prisoner Database for more details.

[5] Russell Hsiao, "Child Labor Ring Exposed in Guangdong," China Brief, Volume 8, Issue 10, Jamestown Foundation (Online), 13 May 08.

[6] PRC Criminal Law, enacted 1 July 79, amended 14 March 97, 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, art. 244 ("Where an employer, in violation of the laws and regulations on labor administration, compels its employees to work by restricting their personal freedom, if the circumstances are serious, the persons who are directly responsible for the offence shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention and shall also, or shall only, be fined.")

[7] See, e.g., Michael Bristow, "Olympic Firm Admits Child Labor," BBC (Online), 13 June 07. On the use of child labor in Africa in the manufacture of Olympic medals for the Beijing Olympic Summer Games, see, for example, "Child Labor; Seeking Social Harmony; Expanding Alliances," International Herald Tribune (Online), 14 August 08.

[8] Other legislative and regulatory activity occurred at both the central and local levels. See for example, Implementing Regulations for the PRC Labor Contract Law [Zhonghua renmin gongheguo laodong hetong fa shishi tiaoli], issued and effective 18 September 08. In an effort to clarify provisions in the Employment Promotion Law before it took effect, the Ministry of Labor and Social Security issued new Regulations on Employment Services and Employment Management (Jiuye fuwu yu jiuye guanli guiding) on November 5, 2008, which took effect on January 1, 2008. China Labour Bulletin (Online), "Ministry of Labour Tightens Controls on Employment Discrimination," 19 June 08; The Ministry of Labor and Social Security's Decision on Abolishing Some Regulations Concerning Labor and Social Security [Laodong he shehui baozhang bu guanyu feizhi bufen laodong he shehui baozhang guizhang de jueding], issued 9 November 07. A number of local regulations took effect during 2008, as detailed in the main body of this section. See subsections below on Collective Contracting and Local-level Legislative and Regulatory Developments. See also China Labour Bulletin, "Are Trade Union and Labour Officials in Guangdong Beginning to Take Their Responsibilities Seriously?"

[9] China Labour Bulletin, "Are Trade Union and Labour Officials in Guangdong Beginning to Take Their Responsibilities Seriously?"

[10] Ibid.

[11] See the discussion of the "Labor Contract Law," infra, for more information.

[12] PRC Trade Union Law, enacted 3 April 92, amended 27 October 01, art. 2, 4.

[13] See, for example, China Labour Bulletin Research Report No. 4 (Online), "Breaking the Impasse: Promoting Worker Involvement in the Collective Bargaining and Contracts Process," 4, November 2007.

[14] Anita Chan, "The Emergence of Real Trade Unionism in Wal-Mart Stores," China Labor News Translations (Online), 4 May 08.

[15] Ibid.

[16] "Sichuan Post Office Evades New Labor Law Provisions for Long-Term Employees by Requiring Them To Resign and Sign New Contract" [Sichuan youzhengju feifa jie pin daliang yuangong], Radio Free Asia (Online), 14 December 07. "Mass Layoffs? In Booming China?" Forbes (Online), 13 November 07. China Labor Bulletin (Online), "Employers Sacking Workers Before the Labor Contract Law Is Implemented," 14 September 07. See also China Labor Bulletin (Online), "Is Corporate 'Wolf-culture' Devouring China's Over-worked Employees?" 27 May 08, for an account of how Huawei, a telecom company with 60,000 employees, reportedly bribed 7,000 employees to resign and then re-hired them on short-term contracts. See also "Chinese Workers in Coca-Cola Dispute," Radio Free Asia (Online), 12 September 08.

[17] See, for example, "Internal Regulations Infringe on Workers Rights, Not Given Support," China Women's News (Online), 15 July 08.

[18] ICFTU/GUF/HKCTU/HKTUC Hong Kong Liaison Office (henceforth IHLO) (Online), "The New Contract Law of China—Opportunities and Threats," December 2007.

[19] Implementing Regulations for the PRC Labor Contract Law [Zhonghua renmin gongheguo laodong hetong fa shishi tiaoli], issued and effective 18 September 08.

[20] "Surplus Labor Pool Shrinking," Xinhua (Online), 14 August 08.

[21] Ariana Eunjung Cha, "New Law Gives Chinese Workers Power, Gives Businesses Nightmares," Washington Post (Online), 14 April 08.

[22] "New Labour Contract Law: Myth and Reality Six Months After Implementation," IHLO (Online), June 2008.

[23] The Hong Kong Liaison Office (HLO) of the international trade union movement (hence "IHLO") was founded in 1997 following reunification of Hong Kong with the PRC. Its Board comprises representatives of the International Confederation of Free Trade Unions (ICFTU), Global Union Federations (GUF), Hong Kong Confederation of Trade Unions (HKCTU), and the Hong Kong Trades Union Council (HKTUC).

[24] New Labour Contract Law: Myth and Reality Six Months After Implementation." IHLO.

[25] "Six Unions Formed in Walmart in Six Months, Walmart Executives Say This is Related to a Shift In Recognition About Chinese Unions" [Banyue nei liu jia fendian lian jian gonghui, wo'erma gaoceng chen ci zhuanbian yu dui zhongguo gonghui de renshi youguan], Beijing News (Online), 15 August 06; "Number of Unions in Walmart Branches Up To 19" [Zhongguo wo'erma fendian gonghui zeng zhi 19 jia], Beijing News (Online), 19 August 06; "Wal-Mart Gets Communist Branch in China," Associated Press (Online), 25 August 06; "Commentary: Enter the Fire-breathing Dragon?" South China Morning Post (Online), 30 September 06; The ACFTU hoped foreign invested enterprises would be encouraged to sign collective labor contracts. Some labor activists have been skeptical of the ACFTU's apparent "trickle down" approach to collective contracting. China Labour Bulletin (Online), "Wal-Mart to Sign Collective Contracts at All China Stores," 4 August 08.

[26] "Wal-Mart in Pay Deals With Chinese Unions," Financial Times (Online), 24 July 08. "Trade Unions in China: Membership Required," Economist (Online), 31 July 08.

[27] Shenyang City Regulation on Collective Contracts [Shenyang shi jiti hetong guiding], effective 1 August 07. Shenyang's Regulations stipulate that a company may be fined up to 20,000 yuan for a variety of enumerated reasons, including rejecting a request for collective consultations, for failing to provide relevant documentation, for impeding the consultation process and for obstructing the conclusion or implementation of a collective labor contract (Article 17). The Shenyang Regulations include provisions that mandate collective consultations and collective contracts on remuneration, work safety and health issues for workers (Article 4), including migrant workers (Article 7). Explicit reference is made to the Liaoning United Migrant Workers' Union (Articles 7–9, 13). For further background, see China Labour Bulletin (Online), "Wal-Mart Signs Its First Collective Wage Agreement With Employees in China," 16 July 08. (The mandated involvement Migrant Workers' Union in collective consultations and contracting expanded the Union's role, which heretofore had been limited to providing legal aid and assistance in accessing social services. The union was established in 2006 for the purpose of bringing migrant workers into the ACFTU. The implementation of Shenyang's Regulations on Collective Contracts appear to be a move in furtherance of that objective.)

[28] China Labour Bulletin, "Wal-Mart Signs Its First Collective Wage Agreement With Employees in China."

[29] China Labour Bulletin (Online), "Wal-Mart to Sign Collective Contracts at All China Stores," 4 August 08.

[30] David Barbosa, "China Tells Businesses To Unionize," New York Times (Online), 12 September 08.

[31] "Leading Sports Brands, Unions, NGOs Form Working Group," Playfair 2008 (Online), 2 July 08.

[32] "Walmart Signs a Collective Contract—a Review" [Wo'ermaduo fendian qianding jiti hetong shiping] All China Federation of Trade Unions (ACFTU) (Online), 31 July 08.

[33] According to information from the ACFTU reported by CSR Asia Weekly, the government enacted its first comprehensive labor law in 1994, and officials first proposed supplementing it with a labor contract law in 1996. After drafting of the law stalled in 1998, work on a new labor contract law began in 2004. "Labor Contract Law of the PRC," CSR Asia Weekly (Online), 4 July 07. "China's Legislature Adopts Labor Contract Law," Xinhua (Online), 29 June 07. The government claimed that more than 65 percent of the comments were from Chinese workers. "Chinese Public Makes Over 190,000 Suggestions on Draft Labor Contract Law," Xinhua, 21 April 06 (Open Source Center, 21 April 06).

[34] CECC Staff Interviews

[35] PRC Labor Contract Law, enacted 29 June 07, art. 2.

[36] PRC Labor Law, enacted 5 July 94, art. 16, 19.

[37] PRC Labor Contract Law, art. 10. If no contract exists at the time the relationship starts, it must be signed within one month.
[38] Ibid., art. 14.
[39] Ibid., art. 14.
[40] Ibid., art. 17.
[41] Ibid., arts. 36–50 (on terminations generally); 57–67 (on workers employed through staffing firms); and 80–95 (on legal liability). See also discussion infra.
[42] "Law to Deal with Rising Number of Labor Disputes to Be Enacted," Xinhua, 27 August 07, reprinted on the National People's Congress Web site.
[43] Labor Dispute Mediation and Arbitration Law [Zhonghua renmin gongheguo laodong zhengyi tiaojie zhongcai fa], enacted 29 December 07, arts. 2, 52.
[44] Ibid., arts. 3, 10.
[45] Ibid., art. 47. See also articles 14 and 16 with respect to mediated outcomes. Previously, final arbitration awards were not legally binding. Article 47 of the new law, however, changes that ("(u)nless otherwise specified herein, the written arbitration award in any of the following employment disputes shall be final and become legally effective on the date it is rendered: (1) disputes involving recovery of labor remuneration, medical bills for a work-related injury, severance pay or damages, in an amount not exceeding the equivalent of twelve months of the local minimum wage rate; (2) disputes over working hours, rest, leave, social insurance, etc. arising from the implementation of state labor standards.)
[46] Labor Dispute Mediation and Arbitration Law, arts. 6, 39, and 49.
[47] Ibid., art. 21.
[48] Ibid., art. 53.
[49] Ibid., arts. 27, 29, and 43.
[50] Ibid., art. 29.
[51] Fiona Tam, "Caseloads Surge as Labourers Air Gripes," South China Morning Post (Online), 9 July 08. "300 Construction Workers Demonstrate for Shirked Back Pay," Radio Free Asia (Online), 29 October 07. "Yunnan Peasants Owed 100 Million Yuan in Back Wages" [Yunnan tuoqian nongmingong gongzi yiyi yuan], Radio Free Asia (Online), 3 December 07. "Labor Arbitration Cases in Guangzhou Have Increased Dramatically: The Haizhu Region Witnessed a 15-fold Increase" [Guangzhou laodong zhongcai anjian meng zeng, Haizhuqu zeng fuda shiwu bei], Radio Free Asia (Online), 26 March 08. See also, "HK Companies in PRD Embroiled in Labor Disputes," NewsGD.com, 10 June 08. Apart from the overwhelming caseloads with which arbitration committees now must contend, the new law itself also displays other deficiencies. See, for example, China Labour Bulletin (Online) Research Reports "Help or Hindrance to Workers: China's Institutions of Public Redress," 23 April 08.
[52] PRC Employment Promotion Law, enacted 30 August 07, art. 28. In an effort to clarify provisions in the Employment Promotion Law before it took effect, the Ministry of Labor and Social Security issued Regulations on Employment Services and Employment Management [Jiuye fuwu yu jiuye guanli guiding] on October 30, 2007, which took effect on January 1, 2008. China Labour Bulletin (Online), "Ministry of Labour Tightens Controls on Employment Discrimination," 19 June 08.
[53] PRC Employment Promotion Law, art. 3. Other laws have also included this provision. See, e.g., PRC Labor Law, art. 12.
[54] PRC Employment Promotion Law, arts. 27, 28.
[55] Ibid., art. 29. Interestingly, reference to the new law was conspicuously absent in some coverage of discrimination in the official media. See, for example, "Disabled Yunnan Student Questions School's Employment Discrimination [Yunnan canji daxuesheng yingpin jiaoshi zaoju: zhiyi xiaofang jiuye qishi]," Chuncheng Evening News, reprinted in Xinhua (Online), 11 March 08.
[56] PRC Employment Promotion Law, art. 31.
[57] Ibid., art. 30.
[58] Ibid., art. 62.
[59] Ibid., art. 7.
[60] Ibid., art. 9.
[61] Ibid., art. 52.
[62] Ibid., art. 16.
[63] Ibid., art. 30.
[64] "Dongguan Court Orders Vtech to Pay Plaintiff 24,000 Yuan in Compensation for HBV Discrimination," China Labour Bulletin (Online), 7 January 08.
[65] Ibid.
[66] Beijing Yirenping Center (Online), "Mediation in the Second Trial in the First Shanghai HBV Discrimination Case is Successful: The Plaintiff Receives Satisfactory Compensation" [Shanghai yigan qishi di yi an ershen tiaojie chenggong yuangao huo manyi buchang], 9 April 08, citing Shanghai Intermediate Court, civil ruling No. 4302. See also, China Labour Bulletin (Online), "Shanghai HBV Discrimination Case Reaches 'Satisfactory' Conclusion," 24 April 08.
[67] What Will Drive China's Future Legal Development? Reports from the Field. Hearing of the Congressional-Executive Commission on China, 18 June 08 Testimony of Han Dongfang.
[68] China Labour Bulletin (Online), "IBM Case Highlights Work Pressures in China's Hi-tech Industries," 30 June 08.
[69] For additional examples, see also "Zhejiang to Promote Collective Wage Negotiation," CSR Asia (online), Vol. 4, Week 37, 10 September 2008. ("The Zhejiang Provincial Party Committee and Zhejiang Provincial Government have jointly announced a document promoting collective wage negotiations. They aim to ensure that 70% of all enterprises and 100% of state-owned and collective enterprises adopt the system by the end of 2010.") Shanghai also has seen noteworthy regulatory developments, including issuance of new Regulations on Collective Contracting (Shanghai shi jiti hetong tiaoli) which took effect on January 1, 2008. See also U.S.-China Business Council (USCBC) (Online), "Human Resources Update, China's Evolving Labor Law Regime," 18 September 07.

[70] Guangdong Province High People's Court and Guangdong Province Labor Dispute Arbitration Commission Guiding Opinion on Implementing the Labor Dispute Mediation and Arbitration Law and Labor Contract Law [Guangdong sheng zuigao renmin fayuan, Guangdong sheng laodong zhengyi zhongcai weiyuanhui "Guanyu shiyong 'laodong zhengyi tiaojie zhongcai fa,' 'laodong hetong fa' ruogan wenti de zhidao yijian'"], issued 23 June 08.

[71] "Labour Law: State Council Delays, as Guangdong Makes it Better," China Law and Practice (Online), September 2008. Earlier, in December 2007, Guangzhou city issued an Urgent Circular on Strengthening the Administration of Mass Layoffs by Employers [Guangzhou shi guanyu jiaqiang dui yongren danwei guimoxing caiyuan guanli de jinji tongzhi], issued 16 December 07.

[72] Tam, "Caseloads Surge as Labourers Air Gripes"; "Yunnan Peasants Owed 100 million Yuan in Back Wages, Radio Free Asia. "Labor arbitration Cases in Guangzhou have Increased Dramatically: The Haizhu Region Witnessed a 15-fold Increase," Radio Free Asia. See also, "HK Companies in PRD Embroiled in Labor Disputes," NewsGD.com.

[73] "Labour Law: State Council Delays, as Guangdong Makes It Better," China Law and Practice. Earlier, in December 2007, Guangzhou city issued an Urgent Circular on Strengthening the Administration of Mass Layoffs by Employers.

[74] "Hebei Province Regulations on Enterprise Collective Consultations between Labor and Management" [Hebei sheng qiye zhigong gongzi jiti xieshang tiaoli], issued 21 September 07. See also, China Labour bulletin (Online), "Hebei Takes the Lead in Implementing Legislation on Collective Consultations," 30 January 08.

[75] Ibid.

[76] Ibid.

[77] Ibid., art. 8.

[78] Ibid., art. 4.

[79] Ibid.

[80] China Labour Bulletin (Online), "A Turning Point for China's Trade Unions," 21 August 08; PRC Trade Union Law, art. 27. ("In case of a work-stoppage or slow-down in an enterprise or institution, the trade union shall, on behalf of the workers and staff members, hold consultations with the enterprise or institution or the parties concerned.")

[81] China Labour Bulletin, "A Turning Point for China's Trade Unions"; Shenzhen City Implementing Regulations for the Trade Union Law, [Shenzhen shi shishi "zhonghua renmin gongheguo gonghui fa" banfa], art. 47.

[82] China Labour Bulletin, "A Turning Point for China's Trade Unions"; Shenzhen City Implementing Regulations for the Trade Union Law, [shenzhen shi shishi "shonghua renmin gongheguo gonghui fa" banfa], issued 31 July 08, Chapter 3, "Trade Union Rights and Obligations" ("Gonghui de quanli he yiwu"). The Trade Union Law of 2001 refers to the trade union's role in helping the enterprise to restore normal production in the event of a work stoppage or slowdown. The Shenzhen regulations contain no references to such a role.

[83] Shenzhen City Implementing Regulations for the Trade Union Law, art. 36. See also, China Labour Bulletin, "A Turning Point for China's Trade Unions."

[84] Shenzhen City Implementing Regulations for the Trade Union Law. See especially arts. 18(3), 27–31, 44 and 45.

[85] China Labour Bulletin (Online), "A Turning Point for China's Trade Unions," 21 August 08. The Regulations require union committees to submit candidate lists to the union at the next level up for approval before holding elections for workplace union officials. See Shenzhen City Implementing Regulations for the Trade Union Law, art. 11.

[86] China Labour Bulletin (Online), "New Shenzhen Labor Regulations Offer Hope for the Future," 13 Aug 08. Draft Regulations on the Growth and Development of Harmonious Labor Relations in the Shenzhen Special Economic Zone [Shenzhen jingji tequ goujian he fazhan hexie laodong guanxi ruogan guiding (cao an)]. The Draft Regulations were approved by the Shenzhen Municipal People's Congress on 23 September 2008 as the Shenzhen Special Economic Zone Regulations on Promotion of Harmonious Labor Relations [Shenzhen jingji tequ hexie laodong guanxi cujin tiaoli], effective 1 November 2008. See China Labour Bulletin (Online), "Shenzhen Labour Regulations Modified With Some Gains and Some Losses for Workers," 8 October 2008. Commission analysis of the final Regulations, including comparison with the Draft Regulations discussed herein, will be published during the Commission's 2009 reporting cycle.

[87] China Labour Bulletin, "New Shenzhen Labor Regulations Offer Hope for the Future."

[88] Chen Yu, "Shenzhen is One Step Away from the Right to Strike," New Express, 5 June 08, reprinted in China Labour Bulletin, 17 June 08. China Labour Bulletin, "New Shenzhen Labor Regulations Offer Hope for the Future."

[89] Chen Yu, "Shenzhen is One Step Away from the Right to Strike."

[90] China Labour Bulletin, "New Shenzhen Labor Regulations Offer Hope for the Future"; Draft Regulations on the Growth and Development of Harmonious Labor Relations in the Shenzhen Special Economic Zone, art. 45. Article 45 stipulates that, in the event of major labor disputes, members of the municipal or district labor relations committee may organize mediation proceedings according to a "special mediation" system. As written, this system perpetuates the direct involvement of government in labor dispute resolution.

[91] China Labour Bulletin, "New Shenzhen Labor Regulations Offer Hope for the Future"; Draft Regulations on the Growth and Development of Harmonious Labor Relations in the Shenzhen Special Economic Zone, chapter 3. Under Article 20 of the Shenzhen Draft regulations, "If production and business operations make it necessary to prolong working hours, the employer may decide or agree to do so by means of collective consultation or a collective contract in accordance with the law, provided that the workers give their free consent and their health is ensured." This stands in contrast with Article 41 of the Labor Law, under which employers may, after consulting with the trade union and workers, temporarily prolong working hours as production or businesses operations require.

[92] China Labour Bulletin, "New Shenzhen Labor Regulations Offer Hope for the Future"; Draft Regulations on the Growth and Development of Harmonious Labor Relations in the Shenzhen Special Economic Zone, art. 47.

[93] Shenzhen Special Economic Zone Regulations on Promotion of Harmonious Labor Relations [Shenzhen jingji tequ hexie laodong guanxi cujin tiaoli], art. 39. China Labour Bulletin, "New Shenzhen Labor Regulations Offer Hope for the Future"; Draft Regulations on the Growth and Development of Harmonious Labor Relations in the Shenzhen Special Economic Zone, art. 35.

[94] "Hangzhou Arranges Back Pay Early Warning Mechanism," CSR China (Online), 26 August 08.

[95] Tam, "Caseloads Surge as Labourers Air Gripes."

[96] Tam, "Caseloads Surge as Labourers Air Gripes;" "Labor Arbitration Cases in Guangzhou have Increased Dramatically: The Haizhu Region Witnessed a 15-fold Increase," Radio Free Asia. See also, "HK Companies in PRD Embroiled in Labor Disputes," NewsGD.com; "300 Construction Workers Demonstrate for Shirked Back Pay," Radio Free Asia; "Yunnan Peasants Owed 100 million Yuan in Back Wages," Radio Free Asia.

[97] "Labor Arbitration Cases in Guangzhou Have Increased Dramatically: The Haizhu Region Witnessed a 15-fold Increase," Radio Free Asia. See also, "HK Companies in PRD Embroiled in Labor Disputes," NewsGD.com.

[98] See, for example, "Multinationals Face Chinese Labor Clout," Caijing (Online), 12 June 08; "Behind the Defiance in the Skies" [Fanhang shijian zhong de zhidu quexian], Economic Observer Online (Online), 15 April 08 (English version published 22 April 08); "China Pay Row Pilots 'Turn Back,'" BBC (Online), 3 April 08; "Pilots Set to Win Deal After Strike," South China Morning Post (Online), 3 April 08; "China Eastern Airlines Suspends Two Officials Over Flight Disruptions," CSR Asia (Online), 9 April 08; "Licenses of Protest Pilots Cancelled," South China Morning Post (Online), 3 July 08; "Thousands Strike Over Pay Deductions At South China Factory," Radio Free Asia (Online), 28 November 07; "Shanghai's Korean Invested Chongming Enterprises Wage Disputes: 600 Workers Stage Sit In" [Shanghai chongming han zi qiye qianxin jiufen liubai duo gongren reng zai jing zuo], Radio Free Asia (Online), 29 November 07; Fiona Tam, "Shenzhen Strike Strands Thousands," South China Morning Post (Online), 30 August 08; "Migrant Workers Riot in Eastern China [Zhejiang]," Associated Press, reprinted in International Herald Tribune (Online), 14 July 08. Hong Kong Information Center for Human Rights and Democracy, "PRC: 10,000 Peasant Workers Clash With Police in Zhejiang's Ningbo, Some Nabbed," 5 September 08 (Open Source Center, 5 September 08); "Masseurs in Shenzhen Protest Against Layoffs," South China Morning Post (Online), 25 December 2007.

[99] Chen Yu, "Shenzhen is One Step Away from the Right to Strike." See also China Labour Bulletin (Online), "Shenzhen Trade Union Sees Strikes as a Natural Phenomenon," 15 April 08.

[100] "China Eastern Airlines Pilots Accept Verdict on Contract Dispute," Xinhua (Online), 12 September 08. "Chinese Pilots Ordered to Pay Compensation for Resignation," Agence France-Presse (Online), 12 September 08. Sun Liping, "Behind the Defiance in the Skies," Economic Observer Online (Online), 15 April 08; "China Pay Row Pilots 'Turn Back,'" BBC (Online), 3 April 08; "Pilots Set to Win Deal After Strike," South China Morning Post (Online), 3 April 08; "China Eastern Airlines Suspends Two Officials Over Flight Disruptions," CSR Asia (Online), 9 April 08; "Licenses of Protest Pilots Cancelled," South China Morning Post (Online), 3 July 08.

[101] Ibid.

[102] Ibid.

[103] Sun Liping, "Behind the Defiance in the Skies."

[104] "China Eastern Airlines Pilots Accept Verdict on Contract Dispute," Xinhua. "Chinese Pilots Ordered to Pay Compensation for Resignation," Agence France-Presse. Some pilots, however, have prevailed in court. On August 27, 2008, the Shunyi District Court in Beijing ruled that a pilot with Xinhua Airlines could resign without compensating the airline. A local labor arbitration committee had ruled in April in the pilot's favor on the question of termination, but the committee made no decision on compensation claimed by both sides. Both the airline and the pilot pursued their claims in court. The Shunyi District Court ruled that, under China's Labor Law, the pilot had a right to resign without fine or penalty. The court rejected the pilot's claims for seniority and bonus payments, but awarded him 7,800 yuan in back pay and overtime. See "Chinese Pilot Wins Landmark Labor Suit," Xinhua (Online), 28 August 08.

[105] See "Chinese Pilot Wins Landmark Labor Suit," Xinhua.

[106] "China Eastern Airlines Pilots Accept Verdict on Contract Dispute," Xinhua. "Chinese Pilots Ordered to Pay Compensation for Resignation." Agence France-Presse.

[107] Ibid.

[108] Ibid.

[109] "Nine Dragons Paper: Sweatshop Paper," Students and Scholars Against Corporate Misbehavior (SACOM) (Online), 18 June 08.

[110] The point is worth noting because another firm (Topstar Lighting Co. Ltd, a General Electric supplier), with a similar record of violations, received relatively less favorable treatment. See "Guangdong Provincial ACFTU Finds Itself in Muddy Waters," IHLO (Online), May 08.

[111] Fu Yanyan, "Papermaker's Labor Tension Sparks Debate," Caijing (Online), 28 May 08.

[112] Ibid.

[113] This figure has been confirmed by Chinese Ministry of Labor officials; CECC Staff Interview.

[114] See, for example, Human Rights Watch (Online), "'One Year of My Blood'—Exploitation of Migrant Construction Workers in Beijing" 12 March 08. In addition, a 2006 report from the State Council Research Office found that wages for migrant workers are "universally low;" workplaces lack "the most basic labor protection[s];" migrant workers "engage in overly intensive labor for excessively long hours," without a guaranteed right to rest; and migrant workers are "unable to obtain . . . employment rights and public employment services" on a par with permanent urban residents. Translated portions of the study, conducted by the State Council Research

Office Study Group and originally published as the book China Peasant Worker Research Report in April 2006, is available at "PRC: Excerpts of State Council Research Report on Migrant Workers" (Open Source Center, 12 September 07).

[115] "Three Rural Migrant Workers Enter China's Top Legislature," Xinhua (Online), 28 February 08.

[116] "State Council Migrant Workers Office: Migrant Workers Labor Contract Handbook to Be Published" [Guowuyuan nonggongban: nongmingong jianyi laodong hetong wenben youwang chutai], People's Daily (Online), 12 August 08.

[117] China Labour Bulletin (Online), "Migrant Workers Start To Win Significant Compensation Awards in the Courts," 8 January 08.

[118] Li Bingqin and Peng Huamin, "The Social Protection of Rural Workers in the Construction Industry in Urban China," LSE Research Paper No. 113, November 2006.

[119] See, for example, Anita Chan, "Systematic Government Theft of Migrant Workers' Retirement Pensions," China Labor News Translations (Online), 13 July 08.

[120] China Labour Bulletin (Online), "New Migrant Worker Department Faces a Daunting Task," 22 July 08.

[121] Ibid.

[122] PRC Labor Law, art. 48.

[123] PRC Labor Contract Law, arts. 72, 74, 85.

[124] CECC, 2007 Annual Report, 66; See also, Ministry of Labor and Social Security (Online), "2006 Statistical Communiqué on the Development of Labor and Social Security Affairs" [2006 niandu laodong he shehui baozhang shiye fazhan tongji gongbu], last visited 10 October 07. For statistics by year, see data from the National Bureau of Statistics of China Web site. See also Guan Xiaofeng, "Labor Disputes Threaten Stability," China Daily, 30 January 07 (Open Source Center, 30 January 07); "China To Enact Law To Deal With Rising Number of Labor Disputes," Xinhua, 26 August 07 (Open Source Center, 26 August 07).

[125] China Labour Bulletin, "Help or Hindrance to Workers: China's Institutions of Public Redress," 2.

[126] PRC Labor Law, art. 36.

[127] China Labor Bulletin (Online), "Falling Through the Floor: Migrant Women Workers' Quest for Decent Work in Dongguan, China," September 2006, 6, 10, 15.

[128] Dexter Roberts and Pete Engardio, "Secrets, Lies, and Sweatshops," Business Week (Online), 27 November 06.

[129] PRC Labor Law, art. 73.

[130] See, for example, "Guangxi Labor Security Supervision Approach Implemented In September," China CSR (Online), 28 August 08. "Hubei Tieshu Group Retired Workers Demand Court Action on Judicial Decision" [Hubei tieshu jituan tuixiu zhigong yaoqiu fayuan zhixing laodong panjue], Civil Rights and Livelihood Watch (Minzhu Guancha) (Online), 12 June 08.

[131] "China Mine Explosion 'Kills 20,'" BBC Asia (Online), 22 January 08; France-Presse (Online), 8 September 08; Mine Collapse Kills 9, Injures 11," China Daily (Online), 6 June 08.

[132] "Why Chinese Coal Miners Are Willing to Risk Their Lives," CSR Asia (Online), 12 December 07; Deaths in Coal Mine Explosion [Shanxi yuxian meikuang fasheng meichen baozha 5 ren siwang], Chinanews.com (Online), 22 May 08;" Scramble Continues in Coal Country," New York Times (Online), 9 February 08; Leak Kills 29 Chinese Miners," BBC Asia (Online), 9 November 07; Mine Blast Death Toll Rises to 104," Reuters (Online), 7 December 07. The second worst coal mine disaster in the history of contemporary China occurred in August 2007, when 172 miners drowned underground after the Wenhe River flooded and poured 12 million cubic meters of water into the Huayuan coal mine in Shandong province. With 3,786 miners killed in 2007, according to official figures, China's coal mines are the world's deadliest—in spite of the fact that mining accident and death rates have declined over the last five years. In February 2008, nine miners were killed in a gas explosion at a mine in Shaanxi province. "China Mine Blast Kills 9 Amid New Drive for Coal," Reuters, 3 February 08. The accident came three days after President Hu personally visited mines in a neighboring province and paid tribute to miners who worked through the Spring Festival in order to maximize coal production levels. On January 31, 2008, President Hu Jintao visited coal fields in Datong, Shanxi Province and inspected Qinhuangdao Port, Hebei province, a major transportation hub for much of Shanxi's coal. According to Chinese media reports, at the time of President Hu's visit, which followed major snow storms in many parts of China, "miners at the Datangtashan coal mine in Datong had been working overtime in temperatures of minus 20 degrees Celsius to increase supply." According to official reports, "[President Hu] asked the miners to produce as much coal as they could safely to provide more fuel for generating electricity amid a nation-wide shortage. 'Disaster-hit areas need coal and the power plants need coal,' Hu told administrators and workers of the mine, saying that coal supply had been a crucial part in fighting the snow disaster. 'I pay an early new year call here to those miners who will not go back home to celebrate the Spring Festival for the coal production.'" "Hu Urges Coal Mines, Ports to Safeguard Supplies," Xinhua (Online), 31 January 08;

[133] China Labour Bulletin Research Report (Online), "Bone and Blood: The Price of Coal in China," No. 6, 17 March 08.

[134] See, for example, "Enterprises Were Found to Use Child Workers without Employment Contracts and Workers' Insurance in Zhaoqing, Guangdong" [Zhaoqing bufen qiye yong tonggong wu hetong que baoxian], Xinhua (Online), 6 August 08.

[135] ILO Convention (No. 138) concerning Minimum Age for Admission to Employment, 26 June 73; ILO Convention (No. 182) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labor, 17 June 99.

[136] PRC Labor Law, art. 15. See also Law on the Protection of Minors, enacted 4 September 91, art. 28. See generally Provisions on Prohibiting the Use of Child Labor [Jinzhi shiyong tonggong guiding], issued 1 October 02.

[137] Provisions on Prohibiting the Use of Child Labor, art. 6. See also, for example, "Legal Announcement—Zhejiang Determines Four Circumstances that Define Use of Child Labor" [Fazhi bobao: Zhejiang jieding shiyong tonggong si zhong qingxing], China Woman (Online), 26 July 08.

[138] This provision was added into the fourth amendment to the Criminal Law in 2002. Fourth Amendment to the Criminal Law of the People's Republic of China [Zhonghua renmin gonghe guo xingfa xiuzheng an (si)], issued 28 December 02. See also PRC Criminal Law, art. 244.

[139] China Labour Bulletin (Online), "Small Hands: A Survey Report on Child Labor in China," September 07, 3.

[140] Ibid., 8.

[141] Ibid., 15, 22, 25–32.

[142] For more information on this phenomenon, see International Labour Organization (Online), Report of the Committee of Experts on the Application of Conventions and Recommendations Worst Forms of Child Labor Convention, 1999 (No. 182) China (ratification: 2002) Observation, CEACR 2006/77th Session, 2006.

[143] See, e.g., ILO Convention (No. 182) concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour, art. 3, defining such labor to include forced or compulsory labor.

[144] See, e.g., "Olympic Firm Admits Child Labor," BBC. On the use of child labor in Africa in the manufacture of Olympic medals for the Beijing Olympic Summer Games, see, for example, "Child Labor; Seeking Social Harmony; Expanding Alliances," International Herald Tribune.

[145] For the government response to forced labor in brick kilns, including child labor, see, e.g., Zhang Pinghui, "Crackdown on Slave Labor Nationwide—State Council Vows To End Enslavement," South China Morning Post (Online), 21 June 07.

[146] "China Urged to End 'Child Labor' in Schools," Reuters (Online), 3 December 07; Human Rights Watch (Online), "China: End Child Labor in State Schools," 3 December 07.

[147] Ibid.

[148] Provisions on Prohibiting the Use of Child Labor, art. 13.

[149] PRC Education Law, issued 18 March 95, art. 58.

[150] See generally "Regulation on Nationwide Temporary Work-Study Labor for Secondary and Elementary Schools" [Quanguo zhong xiaoxue qingongjianxue zanxing gongzuo tiaoli], issued 20 February 83.

[151] ILO Convention 138 permits vocational education for underage minors only where it is an "integral part" of a course of study or training course. ILO Convention 182 obligates Member States to eliminate the "worst forms of child labor," including "forced or compulsory labor." ILO Convention (No. 138) Concerning Minimum Age for Admission to Employment; ILO Convention (No. 182) Concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour.

[152] Report of the Committee of Experts on the Application of Conventions and Recommendations Worst Forms of Child Labour Convention, 1999 (No. 182) China (ratification: 2002) Observation, CEACR 2006/77th Session, International Labour Organization, 2006.

[153] "Large Numbers 'Kidnapped' from the Mountains into the Pearl River Delta" [Zouchu dashan dapi bei 'guai' zhusanjiao], Southern Metropolitan Daily, 28 April 08; "Police Find Sichuan Children Sold as Workers," South China Morning Post (Online), 1 May 08; "Investigation into Child Slavery Launched," South China Morning Post (Online), 1 May 08. See also David Barboza, "Child Labor Rings Reach China's Distant Villages," New York Times (Online), 10 May 08.

[154] "Large Numbers "Kidnapped" from the Mountains into the Pearl River Delta,", Southern Metropolitan Daily; "Police Find Sichuan Children Sold as Workers," South China Morning Post; "Investigation into Child Slavery Launched," South China Morning Post (Online).

[155] Li Aoxue, "Investigation Confirms Use of Child Labor," China Daily (Online), 2 May 08. "Guangdong Denies Child Slave Reports," South China Morning Post (Online), 7 May 08; "Dongguan: Inspection of 3,629 Enterprises Reveals No Child Labor So far" [Dongguan: Paicha 3,629 jia zhiye zanwei faxian Sichuan Liangzhou tonggong], Guangzhou Daily, 1 May 08; China Labour Bulletin (Online), "Authorities Attempt to Play-down Dongguan Child Labor Scandal," 2 May 08.

[156] For a fully hyperlinked compilation of Chinese press stories on the Shanxi forced labor scandal of 2007 and its aftermath, see China Labour Bulletin (Online), "From Shanxi to Dongguan, Slave Labor is Still in Business," 21 May 08. See also, CECC, 2007 Annual Report, Section on Worker Rights, 56–72.

[157] "Commentary: Liu Hongbo: Reappearance of Brick Kiln Official Is not Necessarily Strange" [Liu hongbo: heiyao guanyuan fuchu bubi cheng qiqiao], Southern Metropolitan Daily (Online), 16 April 08; "Editorial: Brick Kiln Official's Reappearance Uncovers a Scar that has not Fully Healed" [She hei zhuanyao guanyuan fuchu, jiekai shangwei guanyu de shangba], Southern Metropolitan Daily (Online), 16 April 08; "Female Official Removed After Brick Kiln Incident Reappears; It Has not yet been Made Public that She Was Appointed as Assistant District Head for Yaodu County" [Hei zhuanyao shijian bei che guanyuan fuchu weijing gongshi ji bei renming yaodu qu quzhang zhuli], Southern Metropolitan Daily (Online), 15 April 08.

[158] PRC Criminal Law, art. 244. ("Where an employer, in violation of the laws and regulations on labor administration, compels its employees to work by restricting their personal freedom, if the circumstances are serious, the persons who are directly responsible for the offence shall be sentenced to fixed-term imprisonment of not more than three years or criminal detention and shall also, or shall only, be fined.")

[159] CECC, 2007 Annual Report, 72, citing Ng Tze-wei, "Lawyers' Group Calls for Anti-Slavery Law," South China Morning Post (Online), 10 July 07.

[160] "Chinese People's Political Consultative Conference Proposes Making the Violent Forcing of Someone to Work a Crime in Response to Brick Kiln Cases" [Zhengxie weiyuan zhendui hei zhuanyao an tiyi she baoli qiangpo laodong zui], Procuratorial Daily (Online), 11 March 08;

"Commentary: This Is Slavery, but There Is no Slavery Charge" [Zhe shi nuyi, que meiyou nuli zuiming], Southern Metropolitan Daily (Online) 9 April 08.

[161] The local government paid victims in Hongdong wages in arrears and "sympathy" money (weiwenjin). China Labour Bulletin, "From Shanxi to Dongguan, Slave Labor is Still in Business."

[162] All China Lawyers Association's Guiding Opinion on the Handling of Collective Cases [Zhonghua quanguo lushi xiehui guanyu lushi banli quntixing anjian zhidao yijian], issued 20 March 06. The Opinion stipulates that, "after a lawyer agrees to take on a collective case they must enter into prompt and full communication with the judicial authorities, and give a factual account of the situation, highlighting points needing attention." The Opinion also stipulates that "after accepting a collective case lawyers must promptly explain the facts through the appropriate channels to the government organizations involved."

[163] "Official Defends Response to Forced Labor Scandal," CECC China Human Rights and Rule of Law Update, January 2008. China Labour Bulletin (Online), "Former Slave Labourers File Civil Suit against Their Oppressors," 11 April 2008.

[164] CECC Staff Interview.

[165] Ibid.

[166] These other rights are "the elimination of all forms of forced or compulsory labor; the effective abolition of child labor; and the elimination of discrimination in respect of employment and occupation." ILO Declaration on Fundamental Principles and Rights at Work, 18 June 98, International Labour Organization (Online), art. 2 [hereinafter ILO Declaration].

[167] See "ILO Tripartite Constituents in China," International Labour Organization (Online), viewed September 27, 2007.

[168] ILO Declaration, art. 2. China has been a member of the ILO since its founding in 1919. For more information, see the country profile on China in the ILO database of labor, social security and human rights legislation (NATLEX) (Online).

[169] International Labour Organization (Online), "Ratifications of the Fundamental Human Rights Conventions by Country," 11 September 07.

[170] International Labour Organization, Committee on Legal Issues and International Labour Standards (Online), "Ratification and Promotion of Fundamental ILO Conventions," 300th Session Governing Body, Geneva, November 2007. Item 20: "China has not yet ratified Conventions Nos 29, 87, 98 and 105. In September 2007, the Government indicated that cooperation with the ILO was continuing regarding the ratification of Conventions Nos 29 and 105, which would be ratified when effective implementation was ensured. With regard to Conventions Nos 87 and 98, the Government indicated that it continued to promote capacity building for workers' and employers' organizations as well as collective bargaining. It expressed interest in continued collaboration with the ILO on these Conventions."

[171] See generally PRC Labor Law, art. 12.

[172] International Covenant on Economic, Social, and Cultural Rights adopted by General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 3 January 76, art. 8.

[173] Declarations and Reservations, United Nations Treaty Collection (Online), 5 February 02. Article 10 of China's Trade Union Law establishes the All China Federation of Trade Unions (ACFTU) as the "unified national trade union federation," and Article 11 mandates that all unions must be approved by the next higher-level union body, giving the ACFTU an absolute veto over the establishment of any local union and the legal authority to block independent labor associations. PRC Trade Union Law, art. 10, 11.

Notes to Section II—Freedom of Expression

[1] CECC, 2007 Annual Report, 10 October 07, 73, 74.

[2] Ibid., 85–87.

[3] China Internet Network Information Center (Online) [hereinafter CNNIC], "CNNIC Releases the 22nd Statistical Report on the Internet Development in China," 31 July 08.

[4] Ministry of Industry and Information Technology (Online), "Nation's Cell Phone Users Breaks 600 Million, Telecommunications Industry Increases by 25.9%" [Wo guo yidong dianhua yonghu tupo liuyi hu dianxin yewu zongliang tongbi zengzhang 25.9%], 23 July 08.

[5] In June 2007, the number of Internet users in China reached 162 million. CNNIC, "The 20th CNNIC Statistical Survey Report on the Internet Development in China," July 2007, 9. The change from 162 million to 253 million is a 56 percent increase. In June 2007, the number of cell phone users in China was 501 million. Ministry of Industry and Information Technology (Online), "June 2007 Telecommunications Industry Statistics Monthly Report" [2007 nian 6 yue tongxin hangye tongji yuebao], 25 July 07. The change from 501 million to 601 million is a 20 percent increase.

[6] CECC, 2007 Annual Report, 86.

[7] David Eimer, "Mobile Dissent," South China Morning Post (Online), 14 May 08; Quentin Sommerville, "Well-Heeled Protests Hit Shanghai," BBC (Online), 14 January 08.

[8] See, e.g., Chinese Human Rights Defenders (Online), "Cyber Activists Detained for 'Inciting' Anti-Pollution March in Chengdu," 12 May 08; Zhang Dongfeng, "Shandong Top Secret: Netizen Who Forwarded Inaccurate Post About Jiaoji Railway Train Collision Is Detained by Police" [Shandong gaomi yi wangyou zhuanfa jiaoji tielu huoche xiangzhuang shishi tiezi bei jingfang juliu], Southern Metropolitan Daily (Online), 5 May 08.

[9] International Covenant on Civil and Political Rights, adopted by General Assembly resolution 2200A(XXI) of 16 December 66, entry into force 23 March 76, art. 19 [hereinafter ICCPR]. In March 2008, Premier Wen Jiabao reiterated China's commitment to ratify the ICCPR, saying "we are conducting inter-agency coordination to address the issue of compatibility between China's domestic laws and international law so as to ratify the Covenant as soon as possible." Ministry of Foreign Affairs (Online), "Premier Wen Jiabao Answered Questions at Press Conference," 18 March 08.

[10] Universal Declaration of Human Rights, adopted and proclaimed by General Assembly resolution 217A(III) of 10 December 48, art. 19 [hereinafter UDHR].

[11] PRC Constitution, art. 35. Article 51, however, states: "The exercise by citizens of the People's Republic of China of their freedoms and rights may not infringe upon the interests of the state, of society and of the collective, or upon the lawful freedoms and rights of other citizens." PRC Constitution, art. 51.

[12] ICCPR, art. 19. Article 29 of the UDHR states the following: "everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society."

[13] See, e.g., Ministry of Foreign Affairs, "Premier Wen Jiabao Answered Questions at Press Conference."

[14] See, e.g., Ministry of Foreign Affairs (Online), "Foreign Ministry Spokesperson Qin Gang's Regular Press Conference on March 25, 2008," 26 March 08.

[15] Following its 2005 visit to China, the UN Working Group on Arbitrary Detention noted that the vague definition of crimes of endangering national security, splitting the state, subverting state power, and supplying state secrets "leaves their application open to abuse particularly of the rights to freedom of religion, speech, and assembly." It recommended that political crimes "that leave large discretion to law enforcement and prosecution authorities such as 'endangering national security,' 'subverting State power,' 'undermining the unity of the country,' 'supplying of State secrets to individuals abroad,' etc. should be abolished." Manfred Nowak, Report of the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Mission to China, 10 March 06, para. 34, 82(s). In a January 2008 report, Chinese Human Rights Defenders studied 41 cases from 2000 to 2007 in which officials used the "inciting subversion" provision of the Criminal Law (Article 105(2)) to punish Chinese citizens for exercising their right to freedom of expression. It found that in such cases "[t]he 'evidence' often consists of no more than the writings of an individual or simply shows that he/she circulated certain articles containing dissenting views, without any effort to show that the expression had any potential or real subversive effect. That is to say, speech in and of itself is interpreted as constituting incitement of subversion. . . ." Chinese Human Rights Defenders (Online), "Inciting Subversion of State Power: A Legal Tool for Prosecuting Free Speech in China," 8 January 08.

[16] "Analysis: PRC—Despite Claims, Limited Transparency Seen at 'Two Sessions,'" Open Source Center, 26 March 08 (Open Source Center, 26 March 08); "Full Text: Report on the Work of the Government," Xinhua (Online), 19 March 08; "Full Text of Hu Jintao's Report at 17th Party Congress" [Hu jintao zai dang de shiqi da shang de baogao], Xinhua (Online), 24 October 07.

[17] CECC, 2007 Annual Report, 75; "China Commits to 'Open Government Information' Effective May 1, 2008," CECC China Human Rights and Rule of Law Update, May 2008, 2.

[18] "Analysis: Limited Transparency Seen at 'Two Sessions,'" Open Source Center; "CPC Promises Broader Information Access to Media During Crucial Congress," Xinhua (Online), 14 October 07.

[19] "New Measures To Promote Scientific Issuance of Laws, Democratic Issuance of Laws" [Tuijin kexue lifa, minzhu lifa de xin jucuo], Xinhua (Online), 19 April 08.

[20] PRC Legislation Law, enacted 15 March 00, art. 7.

[21] CECC, 2007 Annual Report, 73.

[22] Ibid., 75.

[23] David Bandurski, "China Newsweekly: Government 'Cold' on 'Information Openness,'" China Media Project (Online), 31 July 08; Han Yong, "Open Information: Citizens' 'Hot' and the Government's 'Cold' Stand in Stark Contrast" [Xinxi gongkai: gongmin "re" he zhengfu "leng" xingcheng xianming dui bi], China News.com, reprinted in Xinhua Baoye Net (Online), 22 July 08; Owen Fletcher, "China's Transparency Is Just Thin Air," Asia Times (Online), 12 September 08.

[24] Opinions on Several Questions Regarding the People's Republic of China Regulations on Open Government Information [Zhonghua renmin gongheguo zhengfu xinxi gongkai tiaoli ruogan wenti de yijian], issued 30 April 08, art. 14. This apparent purpose test differs from international practice. Jamie P. Horsley, "China Adopts First Nationwide Open Government Information Regulations," Freedominfo.org (Online), 9 May 07.

[25] Fletcher, "China's Transparency Is Just Thin Air."

[26] Edward Wong, "Mayor in China Fired in Milk Scandal," 18 September 08.

[27] Jim Yardley and David Barboza, "Despite Warnings, China's Regulators Failed to Stop Tainted Milk," New York Times (Online), 26 September 08.

[28] "Propaganda Officials Issue 21 Restrictions on Domestic Coverage of Olympics," Congressional-Executive Commission on China (Online), 22 August 08.

[29] Raymond Li, "Censorship Hammer Comes Down Over Scandal," South China Morning Post (Online), 16 September 08.

[30] Xin Yu, "Ling Cangzhou Writes Essay Criticizing Toxic Milk Powder Scandal and Calling for Press Freedom," Radio Free Asia (Online), 18 September 08.

[31] Jonathan Ansfield, "Even the Propaganda Dept Wants Records Broken," Newsweek (Online), 4 August 08. For an English article from Xinhua on the day of the incident, see "Police Station Raided in West China, Terrorists Suspected," Xinhua (Online), 4 August 08.

[32] Ansfield, "Even Propaganda Dept Wants Records Broken."

[33] See, e.g., Ching-Ching Ni, "China Saw New Freedoms With TV Quake Coverage," Los Angeles Times (Online), 23 May 08.

[34] Howard W. French, "Earthquake Opens Gap in Controls on Media," New York Times (Online), 18 May 08; "China's Earthquake Coverage More Open But Not Uncensored," CECC China Human Rights and Rule of Law Update, June 2008, 2.

[35] Meng Na, Lu Chuanzhong, "Gov't Transparency in Quake Relief."

[36] "Speech by Hu Jintao Delivered While Inspecting the Work of Renmin Ribao" [Zai renmin ribao she kaocha gongzuo shi de jianghua], People's Daily (Online), 21 June 08.

[37] Edward Cody, "Chinese Muckraking a High-Stakes Gamble," Washington Post (Online), 12 November 07.

[38] "China Paper Censored for Breach," BBC (Online), 25 July 08.

[39] As noted in the Commission's 2006 Annual Report: "The Chinese government imposes a strict licensing scheme on news and information media that includes oversight by government agencies with discretion to grant, deny, and rescind licenses based on political and economic criteria." CECC, 2006 Annual Report, 20 September 06, 25.

[40] See Section II—Freedom of Religion—Religious Prisoners and the CECC Political Prisoner Database for more information about Shi's case.

[41] See Section II—Freedom of Religion—Religious Prisoners and the CECC Political Prisoner Database for more information about these cases.

[42] "Guo Feixiong Sentenced to Five Years for Illegal Business Operation," CECC China Human Rights and Rule of Law Update, January 2008, 5.

[43] Provisions on the Administration of Book Publishing [Tushu chuban guanli guiding], issued 21 February 08, arts. 3, 9.

[44] See, e.g., "Institutional Structure Has New Breakthrough, Great Achievement for 2007 'Anti-Pornography, Illegal Material' Campaign, Noticeable Change in Market Practices" [Gongzuo jizhi qude xin tupo yanli chachu yi pi da'an yanan 2007 nian "shaohuang dafei" chengxiao xianzhe shichang mingxian gaiguan], Sweep Away Pornography and Strike Down Illegal Publications Task Force (Online), 14 January 08.

[45] "Speech by Hu Jintao While Inspecting Renmin Ribao," People's Daily.

[46] All commercial Web sites must obtain a government license. Measures for the Administration of Internet Information Services [Hulianwang xinxi fuwu guanli banfa], issued 20 September 00. All non-commercial Web site operators must register. Registration Administration Measures for Non-Commercial Internet Information Services [Fei jingyingxing hulianwang xinxi fuwu bei'an guanli banfa], issued 28 January 05. Because the MII's registration system gives the government discretion to reject an application based on content (i.e., whether the Web site operator intends to post "news," and if so, whether it is authorized to do so), it is qualitatively different from registration which all Web site operators must undertake with a domain registrar, and constitutes a de facto licensing scheme.

[47] Provisions on the Administration of Internet News Information Services [Hulianwang xinwen xinxi fuwu guanli guiding], issued 25 September 05, arts. 5, 11, 12; Provisions on the Administration of Internet Video and Audio Programming Services [Hulianwang shiting jiemu fuwu guanli guiding], issued 20 December 07, art. 7.

[48] Lydia Chen, "China Disconnects 18,400 Illegal Websites," Shanghai Daily (Online), 11 September 07.

[49] "Mainland's 'China Rights Defense' Shut Down" [Dalu "weiquan zhongguo" zao guanbi], Boxun (Online), 11 May 08.

[50] "New Internet Regulations Tighten State Control Over Audio and Video Content," CECC China Human Rights and Rule of Law Update, March/April 2008, 3.

[51] Ibid.

[52] "Censorship of Internet and Foreign News Broadcasts Following Tibetan Protests," CECC China Human Rights and Rule of Law Update, May 2008, 2.

[53] Ibid.

[54] Opinion Regarding Strengthening Monitoring of Internet Maps and Geographic Information Services Web Sites [Guanyu jiaqiang hulianwang ditu he dili xinxi fuwu wangzhan jianguan de yijian], issued 25 February 08, art. 5.

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[56] OpenNet Initiative (Online), "Internet Filtering in China in 2004–2005: A Country Study," 14 April 05; "Censorship of Internet and Foreign News Broadcasts Following Tibetan Protests," CECC China Human Rights and Rule of Law Update, May 2008, 2.

[57] Andrew Jacobs, "Restrictions on Net Access in China Seem Relaxed," New York Times (Online), 1 August 08; "Censorship of Internet and Foreign News Broadcasts Following Tibetan Protests," CECC China Human Rights and Rule of Law Update, May 2008, 2; OpenNet Initiative (Online), "ONI Analysis of Internet Filtering During Beijing Olympic Games: Week 1," 19 August 08. OpenNet Initiative comprises researchers at the Citizen Lab at the Munk Centre for International Studies, University of Toronto, Berkman Center for Internet & Society at Harvard Law School, the Advanced Network Research Group at the Cambridge Security Programme, University of Cambridge, and the Oxford Internet Institute, Oxford University.

[58] "The Human Toll of the Olympics," CECC China Human Rights and Rule of Law Update, August 2008, 2.

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[60] See, e.g., Provisions on the Administration of Internet News Information Services, arts. 19, 20, 21; "Officials Order Hotels To Step Up Monitoring and Censorship of Internet," Congressional-Executive Commission on China (Online), 1 August 08.

[61] Reporters Without Borders and China Human Rights Defenders (Online), Journey to the Heart of Internet Censorship, October 2007; "Censor's Grip Tightening on Internet in China," Reuters (Online), 10 October 08.

[62] "PRC Netizens on Major BBS Complain of Censorship," Open Source Center, 20 August 08 (Open Source Center, 20 August 08).

[63] "Censorship of Internet and Foreign News Broadcasts Following Tibetan Protests," CECC China Human Rights and Rule of Law Update, May 2008, 2.

[64] "A Number of Search Engine Web Sites Screen 'Carrefour'" [Duojia wangluo sousuo yinqing pingbi "jialefu"], Southern Metropolitan Daily (Online), 30 April 08.

[65] "Officials Order Hotels To Step Up Monitoring and Censorship of Internet," Congressional-Executive Commission on China (Online), 1 August 08.

[66] John Markoff, "Surveillance of Skype Messages Found in China," New York Times (Online), 2 October 08; Nart Villeneuve, Information Warfare Monitor and ONI Asia (Online), Breaching Trust: An Analysis of Surveillance and Security Practices on China's Tom-Skype Platform, 1 October 08.

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[72] "Censorship of Internet and Foreign News Broadcasts Following Tibetan Protests," CECC China Human Rights and Rule of Law Update, May 2008, 2.

[73] Ibid.

[74] Ibid. See also, "China's Propaganda on Tibet a Verbal Blast from the Past," Agence France-Presse (Online), 16 April 08; "Commentary: On Hypocricy of Pelosi's Double Standards," Xinhua (Online), 13 April 08.

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[81] "Speech by Hu Jintao While Inspecting Renmin Ribao," People's Daily.

[82] Christopher Bodeen, "China Calls for Stepped-Up Propaganda," Associated Press (Online), 23 January 08; "Hu Jintao's Speech Before National Propaganda and Ideological Work Meeting of Representatives" [Hu jintao tong quanguo xuanchuan sixiang gongzuo huiyi daibiao zuotan], Xinhua (Online), 22 January 08.

[83] "Central Propaganda Department Restricts Reporting on Air Quality, Food Safety," CECC China Human Rights and Rule of Law Update, January 2008, 3; "Propaganda Officials Issue 21 Restrictions," Congressional-Executive Commission on China.

[84] Peter Simpson, "Screws Tighten on Mainland Journalists," South China Morning Post (Online), 12 August 08.

[85] Sweep Away Pornography and Strike Down Illegal Publications Task Force (Online), "Continue the Spirit of the Rescue Effort, For the Olympics Create a Wonderful Cultural Environment and Promote Positive Public Opinion" [Dali fayang kangzhen jiuzai jingshen wei Beijing aoyunhui chenggong juban chuangzao lianghao shichang wenhua huanjing he yulun fenwei], 29 May 08.

[86] Manfred Nowak, Report of the Special Rapporteur on Torture, para. 34, 82(s).

[87] PRC Criminal Law, enacted 1 July 79, amended 14 March 97, 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, art. 105.

[88] Minnie Chan, "Activist Held for Subversion After Accusing Officials of Graft," South China Morning Post (Online), 19 June 08.

[89] PRC Criminal Law, art. 105.

[90] "Beijing Court Sentences Hu Jia to 3 Years 6 Months' Imprisonment," CECC China Human Rights and Rule of Law Update, March/April 2008, 1.

[91] Dui Hua Human Rights Journal, "Hu Jia Formally Arrested: Human Rights in Olympic Spotlight," 31 January 08.

[92] Ibid.

[93] "CECC Translation: Hu Jia's Criminal Judgment," CECC China Human Rights and Rule of Law Update, June 2008, 2.

[94] "Land Rights Activist Yang Chunlin Sentenced to Five Years," CECC China Human Rights and Rule of Law Update, March/April 2008, 1.

[95] Ibid.
[96] Ibid.
[97] "Zhejiang Court Affirms Lu Gengsong Sentence; CECC Translation of Decision," CECC China Human Rights and Rule of Law Update, June 2008, 5.
[98] Evan Osnos, "In China, Uncovering Crime Is Also One, As It Cracks Down on Corruption, Nation also Rounds Up a Writer Who Condemned the Offense," Chicago Tribune (Online), 30 January 08.
[99] "Zhejiang Court Affirms Lu Gengsong Sentence; CECC Translation of Decision," CECC China Human Rights and Rule of Law Update, June 2008, 5.
[100] Chinese Human Rights Defenders (Online), "Olympics Crackdown Continues as Another Activist is Sent to Labor Camp," 31 August 08.
[101] Human Rights in China (Online), "Press Release: Family Visits Still Denied to Sichuan School Teacher Punished after Quake-Zone Visit," 29 July 08. In September 2008, Human Rights in China reported that Liu was released on September 24 and allowed to serve his sentence outside of the labor camp. Human Rights in China (Online), "Sichuan Teacher, Liu Shaokun, Was Released To Serve His Reeducation-Through-Labor Sentence Outside of Labor Camp," 26 September 08.
[102] Jake Hooker, "Voice Seeking Answers for Parents About a School Collapse is Silenced," New York Times (Online), 11 July 08.
[103] Chinese Human Rights Defenders (Online), "Human Rights Defender Huang Qi Formally Charged with Illegally Possessing State Secrets," 18 July 08.
[104] David Lague, "China Frees Hong Kong Journalist," New York Times (Online), 6 February 08.
[105] "Beijing Court Rejects Ching Cheong's Appeal, Affirms Five-Year Sentence," CECC China Human Rights and Rule of Law Update, December 2006, 4–5.
[106] "Chengdu Police Punish Those Using Internet To Spread Rumors About Sichuan Petrochemical Project" [Chengdu jingfang chufa liyong Sichuan shihua xiangmu wangshang sanbu yaoyanzhe], Sichuan Daily (Online), 10 May 08; Chinese Human Rights Defenders, "Cyber Activists Detained."
[107] PRC Criminal Law, enacted 1 July 79, amended 14 March 97, 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, art. 103.
[108] Pen American Center (Online), "Chen Daojun Detained as Crackdown Intensifies in China During Olympic Torch Relay," 12 May 08; Chen Daojun, "Quickly Together, People of Chengdu Facing Extinction" [Gankuai qilai, mianlin juezhong de chengde ren], China EWeekly (Online), 5 May 08.
[109] Article 25 of the Public Security Administration Punishment Law provides for detention of five to 10 days for, among other things, "spreading rumors; making false reports of dangerous conditions, epidemics, or police situations; or using other means to intentionally disturb public order." PRC Public Security Administration Punishment Law, enacted 28 August 05, art. 25.
[110] CECC, 2007 Annual Report, 76.
[111] "Chongqing Police Detain Two for Spreading Rumors About Earthquake Disaster Conditions" [Chongqing jingfang juliu liangming sanbuo dizhenqing yaoyan renyuan], Xinhua (Online), 14 May 08.
[112] "Chengdu Police Punish Those Using Internet To Spread Rumors About Sichuan Petrochemical Project" [Chengdu jingfang chufa liyong Sichuan shihua xiangmu wangshang sanbu yaoyanzhe], Sichuan Daily (Online), 10 May 08; Chinese Human Rights Defenders, "Cyber Activists Detained."
[113] Zhang Dongfeng, "Shandong Top Secret."
[114] "Chengdu Police Punish Those Using Internet," Sichuan Daily; Chinese Human Rights Defenders, "Cyber Activists Detained."
[115] Chang Ping, "When Encountering a Strong Shock, Please Make Allowances for the Masses' Demand for Information" [Zaofeng qiangzhen, qing tiliang minzhong de xinxi keqiu], Southern Metropolitan Daily (Online), 13 May 08.
[116] "Wang Dejia, Shi Weihan Released on Bail," CECC China Human Rights and Rule of Law Update, January 2008, 5.
[117] "Dissident Jailed Ahead of Olympics," Radio Free Asia (Online), 22 July 08.
[118] "Foreign Minister 'Freedom of Speech' Comments At Odds With Arrests, Detentions," CECC China Human Rights and Rule of Law Update, March/April 2008, 2–3.
[119] Ibid. In September, Teng and Hu co-wrote a letter titled "The Real China Before the Olympics," which criticized Beijing for failing to live up to its promise to improve human rights for the Olympics.
[120] "Harassment of Beijing-based Activists During the U.S.-China Human Rights Dialogue," CECC China Human Rights and Rule of Law Update, June 2008, 3.
[121] Ibid.
[122] Jill Drew and Edward Cody, "Chinese Lawyers Arrested Before Meeting with Congressmen," Washington Post (Online), 1 July 08.
[123] Ministry of Foreign Affairs (Online), "Foreign Ministry Spokesperson Jiang Yu's Regular Press Conference on April 1, 2008," 2 April 08.
[124] See, e.g., Measures for the Administration of Internet Information Services, art. 15.
[125] Ibid.
[126] Ministry of Foreign Affairs, "Premier Wen Jiabao Answered Questions at Press Conference."
[127] "Zhejiang Court Affirms Lu Gengsong Sentence; CECC Translation of Decision," CECC China Human Rights and Rule of Law Update, June 2008, 5.
[128] Ministry of Foreign Affairs, "Spokesperson Qin Gang's Press Conference on March 25, 2008."
[129] "China Blocks Foreign Reporters From Covering Tibetan Protests," CECC China Human Rights and Rule of Law Update, May 2008, 2–3.

[130] French, "Earthquake Opens Gap in Controls on Media."

[131] Yang Binbin, Zhao Hejuan, Li Zhigang, Chang Hongxiao, Zhang Yingguang, Chenzhong, Xiaolu, and Zhang Bolin, "Why Did So Many Sichuan Schools Collapse?" Caijing (Online), 17 June 08; York, "Beijing Can't Muzzle Outrage."

[132] Eimer, "Mobile Dissent"; Sommerville, "Well-Heeled Protests Hit Shanghai."

[133] Lindsay Beck, "China Hits Back at Critics of Activists' Arrest," Reuters (Online), 8 January 08; "Statement on the Criminal Detention of Hu Jia," Boxun (Online), 7 January 08. Also, six prominent activists and writers spoke candidly of the problems they faced in a July 6 interview with the Observer. Lijia Zhang, "China's New Freedom Fighters," Observer (Online), 6 July 08.

[134] "Tens of Beijing Rights Lawyers and Scholars Start Online Discussion on the Freedom of Speech" [Shushiwei beijing weiquan lüshi ji xuezhe zhaokai wanglu yanlun ziyou taolunhui], Radio Free Asia (Online), 23 June 08.

[135] See, e.g., "Chinese Journalist Calls for Press Freedom on Release from Jail," Radio Free Asia (Online), 16 April 08. (New York Times researcher calls for greater press freedom upon release from three-year sentence.)

[136] "Editorial: Cold Wind Blows On the Internet, Regulation Mistakenly Targets Competition" [Shelun: lengfeng chuixiang wangluo jianguan mowu jingzheng], Southern Metropolitan Daily (Online), 4 January 08.

[137] Chinese Human Rights Defenders (Online), "Yang Chunlin Inciting Subversion of State Power Criminal Defense Pleading" [Yang chunlin Shandong dianfu guojia zhengquan zui bianhu ci], 19 February 08.

[138] "Thousands of Chinese Citizens Call for Ratification of ICCPR Before Olympics," CECC China Human Rights and Rule of Law Update, February 2008, 3.

[139] Information in this addendum is drawn from "China Commits to 'Open Government Information' Effective May 1, 2008," CECC China Human Rights and Rule of Law Update, May 2008, 2.

Notes to Section II—Freedom of Religion

[1] See discussion infra, as well as, e.g., "Ye Xiaowen: It Is Necessary to Firmly Resist Those Outside Our Borders Using Religion to Carry Out Infiltration" [Ye Xiaowen: bixu jianjue diyu jingwai liyong zongjiao jinxing de shentou], Yaoshi Magazine, reprinted in China News Net (Online), 3 June 08.

[2] See discussion infra, especially China's Religious Communities—Catholicism, China's Religious Communities—Islam, and China's Religious Communities—Protestantism in this section.

[3] See China's Religious Communities—Protestantism—Harassment, Detention, and Other Abuses in this section for additional information.

[4] This section of the Commission's Annual Report primarily uses the expression "freedom of religion" but encompasses within this term reference to the more broadly articulated freedom of "thought, conscience, and religion" (see, e.g., the Universal Declaration of Human Rights (UDHR), adopted and proclaimed by General Assembly resolution 217A (III) of 10 December 48, art. 18).

[5] For protections in international law, see, e.g., UDHR, art. 18; International Covenant on Civil and Political Rights (ICCPR), adopted by General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 23 March 76, art. 18; International Covenant on Economic, Social, and Cultural Rights (ICESCR), adopted by General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 3 January 76, art. 13(3) (requiring States Parties to "ensure the religious and moral education of . . . children in conformity with [the parents'] own convictions"); Convention on the Rights of the Child (CRC), adopted and opened for signature, ratification, and accession by General Assembly resolution 44/25 of 20 November 89, entry into force 2 September 90, art. 14; Declaration on the Elimination of All Forms of Intolerance and of Discrimination Based on Religion or Belief, General Assembly resolution 36/55 of 25 November 81. See General Comment No. 22 to Article 18 of the ICCPR for an official interpretation of freedom of religion as articulated in the ICCPR. General Comment No. 22: The Right to Freedom of Thought, Conscience, and Religion (Art. 18), 30 July 93, para. 1. China is a party to the ICESCR and the CRC, and a signatory to the ICCPR. The Chinese government has committed itself to ratifying, and thus bringing its laws into conformity with, the ICCPR and reaffirmed its commitment on April 13, 2006, in its application for membership in the UN Human Rights Council. China's top leaders have also stated on other occasions that they are preparing for ratification of the ICCPR, including in March 18, 2008, press conference remarks by Chinese Premier Wen Jiabao, in a September 6, 2005, statement by Politburo member and State Councilor Luo Gan at the 22nd World Congress on Law, in statements by Wen Jiabao during his May 2005 Europe tour, and in a January 27, 2004, speech by Chinese President Hu Jintao before the French National Assembly.

[6] See generally Bureau of Democracy, Human Rights, and Labor, U.S. Department of State (Online), International Religious Freedom Report—2008, China (includes Tibet, Hong Kong, and Macau), 19 September 08. According to the U.S. Commission on International Religious Freedom, a "zone of toleration" exists within China for registered religious communities acting within the parameters set by the government. U.S. Commission on International Religious Freedom, "Policy Focus: China," 9 November 05, 4.

[7] As discussed infra, the Chinese government recognizes only Buddhism, Catholicism, Daoism, Islam, and Protestantism for limited state protections.

[8] See State Administration for Religious Affairs (Online), "Presiding Over Political Bureau's Second Collective Study, Hu Jintao Stresses Doing Religious Work Well" [Hu Jintao zhuchi zhengzhiju di er ci jiti xuexi qiangdiao zuohao zongjiao gongzuo], 20 December 07; "Politburo Study Session Calls for Uniting Religious Communities Around Party," CECC China Human Rights and Rule of Law Update, January 2008, 3.

[9] Wen Ping, "How Was the Problem Between Religion and Socialism Cracked—Exclusive Interview With Religious Affairs Administration Director Ye Xiaowen," Southern Weekend (On-

line), 13 March 08 (Open Source Center, 10 April 08). For more information on Ye's remarks, see "Government Official Reaffirms State Controls Over Religion," CECC China Human Rights and Rule of Law Update, May 2008, 3.

[10] For a general overview of China's legislative framework for religion, see the CECC, 2007 Annual Report, 10 October 07, 93 and accompanying footnotes.

[11] Regulation on Religious Affairs [Zongjiao shiwu tiaoli], issued 30 November 04.

[12] Lack of transparency in the legislative process and lags in reporting time make it difficult to determine with precision and timeliness when new legislation is adopted. (For example, the Web site of the State Administration for Religious Affairs links to only one 2005 provincial-level regulation on religion under the category of "regional laws and regulations," thus providing no information on recent legislative activity in the area of religion.) Based on ongoing searches of legislation on the Beijing University Legal Information Net Web site (Beida falu xinxi wang, www.chinalawinfo.com) and on central and local government religious affairs bureau Web sites and other Internet sites, the Commission did not find information on the passage of new central government legislation on religion. Although some provincial-level governments reported passing legislation on specific aspects of the management of religious affairs, as of August 2008, the Commission did not locate any provinces that had issued a new comprehensive regulation on religious affairs [zongjiao shiwu tiaoli] in the past reporting year. The Commission found only one province that had amended an older regulation. Shaanxi Province Regulation on Religious Affairs [Shanxisheng zongjiao shiwu tiaoli], adopted 23 September 00, amended 30 July 08. During the period covered by the 2007 CECC Annual Report, Jiangxi province issued a regulation on religious affairs, but this information was not included in the 2007 CECC Annual Report. Jiangxi Province Regulation on Religious Affairs [Jiangxisheng zongjiao shiwu tiaoli], issued 29 March 07. For more information on recently issued regulations, see the box, inset, "Timeline: Regulation of Religion."

[13] Shuai Feng and Li Jian, Interpretation of the Regulation on Religious Affairs [Zongjiao shiwu tiaoli shiyi], (Beijing: Beijing Religious Culture Press, 2005).

[14] Full citations are as follows. Measures on the Examination, Approval, and Registration of Venues for Religious Activity [Zongjiao huodong changsuo sheli shenpi he dengji banfa], issued 21 April 05; Measures on the Management of the Reincarnation of Living Buddhas in Tibetan Buddhism [Cangchuan fojiao huofo zhuanshi guanli banfa], issued 18 July 07; Measures on Establishing Religious Schools [Zongjiao yuanxiao sheli banfa], issued 1 August 07; Measures for Putting on File the Main Religious Personnel of Venues for Religious Activities [Zongjiao huodong changsuo zhuyao jiaozhi renzhi bei'an banfa], issued 29 December 06; Measures for Putting on File Religious Personnel [Zongjiao jiaozhi renyuan bei'an banfa], issued 29 December 06; Measures Regarding Chinese Muslims Signing Up To Go Abroad on Pilgrimages (Trial Measures) [Zhongguo musilin chuguo chaojin baoming paidui banfa (shixing)], undated (estimated date 2006), available on the State Administration for Religious Affairs Web site.

[15] Full citations are as follows. Shanghai Municipality Regulation on Religious Affairs [Shanghaishi zongjiao shiwu tiaoli], adopted 30 November 95, amended 21 April 05; Henan Province Regulation on Religious Affairs [Henansheng zongjiao shiwu tiaoli], issued 30 July 05; Shanxi Province Regulation on Religious Affairs [Shanxisheng zongjiao shiwu tiaoli], issued 29 July 05; Zhejiang Province Regulation on Religious Affairs [Zhejiangsheng zongjiao shiwu tiaoli], issued 6 December 97, amended 29 March 06; Anhui Province Regulation on Religious Affairs [Anhuisheng zongjiao shiwu tiaoli], issued 15 October 99, amended 29 June 06 and 28 February 07; Beijing Municipality Regulation on Religious Affairs [Beijingshi zongjiao shiwu tiaoli], issued 18 July 02, amended 28 July 06; Chongqing Municipality Regulation on Religious Affairs [Chongqingshi zongjiao shiwu tiaoli], issued 29 September 06; Hunan Province Regulation on Religious Affairs [Hunansheng zongjiao shiwu tiaoli], issued 30 September 06; Liaoning Province People's Congress Standing Committee Decision on Amending the Liaoning Province Regulation on Religious Affairs [Liaoningsheng renmin daibiao dahui changwu weiyuanhui guanyu xiugai "Liaoningsheng zongjiao shiwu tiaoli" de jueding], issued on 28 November 98 as the Liaoning Province Regulation on the Management of Religious Affairs, amended and name changed on 1 December 06; Sichuan Province Regulation on Religious Affairs [Sichuansheng zongjiao shiwu tiaoli], issued on 9 May 00 as the Sichuan Province Regulation on the Management of Religious Affairs, amended and name changed on 30 November 06; Tibet Autonomous Region Implementing Measures for the "Regulation on Religious Affairs" (Trial Measures) [Zizang zizhiqu shishi "zongjiao shiwu tiaoli" banfa (shixing)], issued 19 September 06; Hebei Province Regulation on Religious Affairs [Hebeisheng xongjiao shiwu tiaoli], issued 18 July 03, amended 14 January 07; Jiangxi Province Regulation on Religious Affairs [Jiangxisheng zongjiao shiwu tiaoli], issued 29 March 07; Shaanxi Province Regulation on Religious Affairs [Shanxi zongjiao shiwu tiaoli], issued 23 September 00, amended 30 July 08.

[16] Ministry of Foreign Affairs (Online), "MFA Spokesperson Liu Jianchao Answers Reporters Questions" [Waijiaobu fayanren liu jianchao huida jizhe tiwen], 16 March 05.

[17] See, e.g., Fujian Province Implementing Measures on the Law on the Protection of Minors [Fujiansheng shishi "Zhonghua renmin gongheguo weichengnianren baohufa" banfa], issued 21 November 94, amended 25 October 97, art. 33; Inner Mongolia Autonomous Region (IMAR) Implementing Measures on the Management of Venues for Religious Activity [Neimenggu zizhiqu zongjiao huodong changsuo guanli shishi banfa], issued 23 January 96, art. 13. While the national regulation addressed in the IMAR measures was annulled in 2005, the IMAR measures appear to remain in force.

[18] Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, International Religious Freedom Report—2006, China (includes Tibet, Hong Kong, and Macau), 15 September 06.

[19] Ibid.; U.S. Department of State, International Religious Freedom Report—2008, China. See China's Religious Communities—Islam within this subsection for information on restrictions in the Xinjiang Uyghur Autonomous Region.

[20] For more information, see "Prior Restraints on Religious Publishing in China," Congressional-Executive Commission on China (Online), last visited 8 October 08.

[21] U.S. Department of State, International Religious Freedom Report—2008, China.

[22] "Xinjiang Government Strengthens Campaign Against Political and Religious Publications," CECC China Human Rights and Rule of Law Update, February 2008, 4.

[23] Sui Xiaofei and Qu Zhihong, "China's Publishing Sector's Glorious Development Must Move From Being a Great Country to a Powerful Country" [Woguo chubanye fanrong fazhan yao cong chuban daguo zouxiang qiangguo], People's Daily (Online), 25 March 06.

[24] "Tibet 'Sweep Away Pornography and Strike Down Illegal Publications' Campaign Has Clear Results" [Xizang "saohuang dafei" gongzuo chengxiao xianzhu], Xinhua (Online), 18 January 06.

[25] "Over 70,000 Illegal Publications 'Smashed to Dust'" [7 wan duo ce feifa chubanwu "fenshensuigu"], Xinjiang Legal Daily (Online), 6 August 07.

[26] The central government has referred to the five religions as China's main religions, but in practice the state has created a regulatory system that institutionalizes only these five religions for recognition and legal protection. See, e.g., State Council Information Office, White Paper on Freedom of Religious Belief in China [Zhongguo de zongjiao xinyang ziyou zhuangkuang], 1 October 97 (stating that the religions citizens "mainly" follow are Buddhism, Daoism, Islam, Catholicism, and Protestantism). Wording from this White Paper is posted as a statement of current policy on the Web sites of the United Front Work Department, the agency that oversees religious affairs within the Communist Party, and the State Administration for Religious Affairs. Some local regulations on religious affairs define religion in China to mean only these five categories. See, e.g., Guangdong Province Regulation on the Administration of Religious Affairs [Guangdongsheng zongjiao shiwu guanli tiaoli], adopted 26 May 00, art. 3, and Henan Province Regulation on Religious Affairs, art. 2. There is some limited formal tolerance outside this framework for some ethnic minority and "folk" religious practices. See text infra and see also Kim-Kwong Chan and Eric R. Carlson, Religious Freedom in China: Policy, Administration, and Regulation (Santa Barbara: Institute for the Study of American Religion, 2005), 9–10, 15–16.

[27] For more information, see "Head of Religious Association: Religious Adherents Not Arrested Due to Their Faith," Congressional-Executive Commission on China (Online), 26 June 06.

[28] See discussion infra and, e.g., U.S. Department of State, International Religious Freedom Report—2008, China.

[29] See, e.g., Ningdu County People's Government (Online), "Proposal Regarding Curbing the Illegal Construction of Temples" [Guanyu dali zhizhi feifa luan jian simiao de ti'an], 24 March 08; Shanghai Baoshan Ethnic and Religious Affairs Office (Online), "Dachang Demolishes Illegal Small Temple According to Law" [Dachang zhen yifa chaichu yichu feifa xiao miao], 1 September 06; Beilun District People's Government Xiaogang Neighborhood Committee Office (Online), "Investigative Report on the Situation of Unregistered Small Temples and Convents" [Weijing zhengfu dengji de xiao miao xiao an qingkuang de diaoyan baogao], 12 September 06. Yixing United Front Work Department (Online), "Some Reflections on Rural Religious Work in a New Period" [Xin shiqi nogcun zongjiao gongzuo de jidian sikao], 13 June 05.

[30] Wen Ping, "How Was the Problem Between Religion and Socialism Cracked—Exclusive Interview With Religious Affairs Administration Director Ye Xiaowen." For additional information on this interview, see "Government Official Reaffirms State Controls Over Religion," CECC China Human Rights and Rule of Law Update.

[31] Ningbo City Ethnic and Religious Affairs Bureau (Online), "Yinzhou District Ethnic and Religious Affairs Bureau Implements Rectification and Reform Toward Two Venues for Religious Activities" [Yinzhouqu minzongju dui liang chu zongjiao huodong changsuo shixing xianqi zhenggai], 26 November 07.

[32] Minhou County People's Government (Online), "Ethnicity and Religious Work" [Minzu yu zongjiao gongzuo], 17 September 07.

[33] Human Rights in China (Online), "Case Update: Buddhist Monk Shengguan Prevented From Attending Human Rights Conference," 10 December 07; "Jiangxi Buddhist Master Accused of Being a Womanizer and Driven out of Temple," Sing Tao Jih Pao, 25 August 06 (Open Source Center, 27 August 06).

[34] See Section V—Tibet, for more information on Tibetan Buddhism, including detailed citations.

[35] CECC, 2005 Annual Report, 11 October 05, 49.

[36] Cardinal Kung Foundation (Online), "Prisoners of Religious Conscience for the Underground Roman Catholic Church in China," 9 July 08. For numbers of unregistered bishops, see U.S. Department of State (Online), International Religious Freedom Report—2008, China.

[37] See the CECC Political Prisoner Database for more information.

[38] "Restrictions Placed On 'Underground' Priests As Olympics Loom," Union of Catholic Asian News (Online), 7 August 08; "Catholics Attend Mass Despite Warnings, Priests Taken To Guesthouses," Union of Catholic Asian News (Online), 20 August 08.

[39] See the CECC Political Prisoner Database for more information.

[40] Ibid.

[41] May is the period during which Catholics observe Marian month, and in 2007, in an open letter to Catholics in China, Pope Benedict XVI mentioned the significance of the Sheshan Shrine to the occasion. In addition, he called for May 24 to serve as a day for Catholics throughout the world "to be united in prayer" with Catholics in China. "Authorities Take Measures to Prevent Pilgrimage to Catholic Shrine," CECC China Human Rights and Rule of Law Update, June 2008, 4.

[42] Zhang Yiming, "Pope's Prayer for Church in China Banned in Some Dioceses," AsiaNews (Online), 31 May 08; Wang Zhicheng, "Even in Persecution We Pray to Our Lady of Sheshan," AsiaNews (Online), 24 May 08.

[43] For background, see "China's Marian Shrines," AsiaNews (Online), 27 May 04.

[44] "Shanghai's Byzantine Church Reopens, Attracts Catholics And Others," Union of Catholic Asian News (Online), 24 June 08; "Catholics Beaten, Threatened Over Disputed Church Property," Union of Catholic Asian News (Online), 11 July 08.

[45] See CECC, 2007 Annual Report, 96–97, for information on coercion to participate in bishop appointments in previous years.

[46] "Bishop Ordinations in 2007 Return to Holy See Involvement," CECC China Human Rights and Rule of Law Update, January 2008, 3.

[47] "Guangxi: Stop the Pope's Letter, Even by Brain Washing," AsiaNews (Online), 9 October 07. For more information on the letter, see the CECC, 2007 Annual Report, 97.

[48] "Letter of the Holy Father Pope Benedict XVI to the Bishops, Priests, Consecrated Persons and Lay Faithful of the Catholic Church in the People's Republic of China," Vatican Web site, 27 May 07. Though dated May 27, the Holy See released the letter on June 30. "More on Pope's Letter to China Over Religious Freedom, Appointment of Bishops," Agence France-Presse, 30 June 07 (Open Source Center, 30 June 07).

[49] For more information on the visit of Chinese musicians to Vatican City and attendance by Chinese officials, see "Pope Praises Chinese Artists For Historic Musical Performance," Union of Catholic Asian News (Online), 8 May 08. For Chinese reporting on the performance, see, e.g., State Administration for Religious Affairs, (Online), "Great Success for China Philharmonic Performance in Vatican City" [Zhongguo aiyue yuetuan fandigangcheng yanchu qude chenggong], 12 May 08.

[50] Mike O'Sullivan, "Divided Chinese Catholic Church Looks for Reconciliation," Voice of America (Online), 23 August 08.

[51] "Three Chinese Bishops To Attend October Synod On Bible, No Mainlanders Named," Union of Catholic Asian News (Online), 12 September 08; "Catholic Patriotic Association Leaders Deny Bishops Permission to Attend Synod in Rome," CECC China Human Rights and Rule of Law Update, October 05, 7.

[52] In 2006, authorities detained two leaders of the unregistered Wenzhou diocese, Peter Shao Zhumin and Paul Jiang Surang, after they returned from a pilgrimage to Rome. Six months after their detention, Shao and Jiang received prison sentences of 9 and 11 months, respectively, after authorities accused them of falsifying their passports and charged them with illegally exiting the country. "Two Priests Detained in Wenzhou After Arrest on Return from Europe," Union of Catholic Asian News, 3 October 06; '"Underground' Chinese Catholic Priests Charged, Likely To Face Trial," Union of Catholic Asian News (Online), 26 October 06; "Two Underground Priests from Wenzhou Soon To Be Freed," AsiaNews, 17 May 07; "Two Underground Priests, Arrested After Pilgrimage, Sentenced Six Months After Arrest," Union of Catholic Asian News (Online), 16 May 07. Authorities released Shao from prison in May 2007 to obtain medical treatment. "Jailed Wenzhou Priest Released Provisionally for Medical Treatment," Union of Catholic Asian News, 30 May 07. Authorities released Jiang in August. "Second Of Two Jailed Wenzhou Priests Released, Diagnosed With Heart Conditions," Union of Catholic Asian News (Online), 29 August 07. See the CECC Political Prisoner Database for more information. Jiang Surang is also known by the name Jiang Sunian.

[53] See, e.g., Ningdu County People's Government, "Proposal Regarding Curbing the Illegal Construction of Temples"; Shanghai Baoshan Ethnic and Religious Affairs Office, "Dachang Demolishes Illegal Small Temple According to Law"; Beilun District People's Government Xiaogang Neighborhood Committee Office, "Investigative Report on the Situation of Unregistered Small Temples and Convents"; Yixing United Front Work Department, "Some Reflections on Rural Religious Work in a New Period."

[54] Jiangxi Province Ethnic and Religious Affairs Bureau (Online), "Xinjian County Daoist Association Holds Third-Term Training Class for Religious Personnel" [Xinjianxian daojiao xiehui juban di san qi jiaozhi renyuan peixunban], 21 March 08. Chengdu Ethnic and Religious Affairs Bureau (Online), "Comrade Zhao Lu Lectures on the Party's Basic Policy on Religious Work for Our City's Daoist Circles" [Zhao lu tongzhi wei wo shi daojiao jie jiangshou dang de zongjiao gongzuo jiben fangzhen], 10 April 08. On control over internal doctrine, see generally "Government Official Reaffirms State Controls Over Religion," CECC China Human Rights and Rule of Law Update; "SARA Director Calls for Continued Controls on Religion," CECC China Human Rights and Rule of Law Update, September 2006, 8.

[55] Measures for Confirming Daoist Personnel [Daojiao jiaozhi renyuan rending banfa], issued 4 March 08, art. 3(1), 11(2), (3).

[56] State Administration for Religious Affairs (Online), "Chinese Daoist Circles Firmly Oppose the Evil Act of Waving the Banner of Religion to Try to Split Motherland" [Zhongguo daojiao jie jianjue fandui da zongjiao qihao fenlie zuguo de zui'e xingjing], 8 April 08.

[57] In addition to the provincial regulation passed in Hunan, discussed infra, lower-level governments also reported passing legislation on folk beliefs or issuing guidance on the regulation of folk beliefs. See, e.g., Hebei Province Ethnic and Religious Affairs Department (Online), "Xingtai City, Pingxiang County Puts Forth Our Province's First 'Provisional Measures on the Management of Folk Belief Affairs'" [Xingtaishi piangxiangxian qutai wo sheng shoubu "Minjian xinyang shiwu guanli zanxing banfa"], 16 October 07; Ningbo City Ethnicity and Religious Affairs Bureau (Online), "Yinzhou District Standardizes Management of Venues for Folk Belief Activities" [Yinzhouqu guifan minjian xinyang huodong changsuo guanli], 22 January 08. Authorities in Pingxiang county cited concerns about "instability," inadequate management, and "hidden dangers" as reasons for establishing the first legal measures in the province on the management of folk beliefs, even as they also cited "protecting citizens' freedom of religious belief" as another motivation for the legislation.

[58] "Hunan Authorities Issue New Legal Measures To Regulate Folk Belief Venues," Congressional-Executive Commission on China (Online), 14 December 07.

[59] The Chinese term used is *minjian xinyang huodong*. For additional information on these legal measures, see "Hunan Authorities Issue New Legal Measures To Regulate Folk Belief Venues," Congressional-Executive Commission on China.

[60] The government describes religious extremism as one of the "three forces" against which it has launched a "strike-hard" campaign. The other forces are separatism and terrorism. Local government reported maintaining surveillance of religious practice through a "two-point system," which has been in force in recent years and is described by local government sources as a mechanism for maintaining regular contact with mosques and carrying out "chats" with religious figures. For a basic description of the two-point system, see Aqsu Party Building (Online), "32nd Installment" [Di 32 qi], 18 January 05; Onsu Party Building, "United Front Embraces the 2 Systems, Perfects the 3 Kinds of Mechanisms" [Tongzhanbu weirao liang xiang zhidu gaishan sanzhong jizhi], 5 April 06. For reports from the past year on the two-point system and other measures to control religious practice in the region, including via increased controls over mosques and religious leaders, see, e.g., Kashgar District Government (Online), "Yengisar County Speech on Its Current Stance" [Yingjishaxian biaotai fayan], 5 January 08; Qumul District Government (Online), "Gülshat Abduhadir Stresses at District Education Work Meeting, Enlarge Investments for Optimal Environment" [Gulixiati Abudouhade'er zai diqu jiaoyu gongzuo huiyishang qiangdiao jiada touru youhua huanjing], 9 March 08; Yeken [Yarkand] County Government (Online), "Yeken County Almaty Village Implements '8 Acts' To Establish Safe and Sound Village" [Shachexian alamaitixiang shishi "baxiang jucuo" chuangjian pingan xiangzhen], 16 October 07; Kashgar District Government (Online), "Let Society Be Stable and Harmonious, For the People To Be Without Fear—Work Report on Poskam County Striving to Establish a Region-Level Quiet and Stable County" [Rang shehui wending hexie wei baixing anjuleye—zepuxian zheng chuang zizhiquji ping'an xian gongzuo jishi], 3 December 07; "Crackdown on Xinjiang Mosques, Religion," Radio Free Asia (Online), 14 August 08; "Mongghulküre County 'Protect Olympics, Protect Stability' Supervision Group Reports Work to Ili Prefecture" [Zhaosuxian shang yili zhou "bao ao yun cu wending" dudao xiaozu huibao gongzuo], Ili Peace Net (Online), 16 July 08; Monghulküre County Promptly Arranges Implementation of Spirit of Ili 7.13 Stability Meeting [Zhaosuxian xunsu anpai luoshi yilizhou "7.13" wending huiyi jingshen], Ili Peace Net (Online), 16 July 08; Kashgar District Government, "Usher in the Olympics and Ensure Stability; Jiashi People Are of One Heart and Mind," 8 August 08 (Open Source Center, 8 August 08).

[61] "Nur Bekri's Speech at Autonomous Region Cadre Plenary Session" [Nu'er Baikeli zai zizhiqu ganbu dahui shang de jianghua], Tianshan Net (Online), 11 September 08.

[62] "Uyghur Mosque Demolished," Radio Free Asia (Online), 23 June 08; Jüme, "Mosque in Kelpin County Destroyed by the Government" [Kelpin nahiyisi tewesidiki bir meschit hökümet teripidin chéqiwétildi], Radio Free Asia (Online), 23 June 08. In response to a question about the demolition, China's Ministry of Foreign Affairs spokesperson described the mosque as part of two "unlawfully built structures" used "without authorization" for religious activity and said that local residents tore down the structures on their own after learning their construction violated Chinese law. Lin Liping and Rong Yan, "Foreign Ministry Spokesman Says the Report Alleging the 'Demolition of a Mosque in Xinjiang' Grossly Untrue," Xinhua, 8 July 08 (Open Source Center, 8 July 08). See also "AFP Reporters Barred From China Village Where Mosque Was Razed," Agence France-Presse, 30 July 08 (Open Source Center, 30 July 08).

[63] For examples of reported measures, see, e.g., "Religious Repression in Xinjiang Continues During Ramadan," CECC China Human Rights and Rule of Law Update, January 2008, 3; Shayar County Government (Online), "Town of Yengi Mehelle in Shayar County Xinjiang Adopts Nine Measures to Strengthen Management During Ramadan" [Shayaxian yingmaili zhen caiqu jiu xiang cuoshijiaqiang "zhaiyue" qijian guanli], 28 August 08; "Five Measures from Mongghulküre County Ensure Ramadan Management and Olympics Security" [Zhaosuxian wu cuoshi tiqian zuohao zhaiyue guanli bao ao yun wending], Fazhi Xinjiang (Online), 23 August 08; "Toqsu County Deploys Work to Safeguard Stability During Ramadan" [Xinhexian bushu zhaiyue qijian weiwen gongzuo], Xinjiang Peace Net (Online), 2 September 08; Yopurgha County Government (Online), "Our County Carries Out Plans for Work on Management of Religious Affairs During Ramadan" [Wo qu dui zhaiyue qijian zongjiao shiwu guanli gongzuo jinxing anpai], 1 September 08; Küytun City Government (Online), "Küytun City Convenes Meeting on Work to Safeguard Stability, Carries Out Plans on Safety Work During Paralympics, Ramadan, and National Day" [Kuitunshi zhaokai wei wen gongzuo huiyi dui can'aohui, zhaiyue he guoqingjie qijian anquan gongzuo jinxing anpai], 3 September 08; "Ramadan Curbs on China's Muslims," Radio Free Asia (Online), 6 September 08.

[64] "Xinjiang Uyghurs Committed to Ramadan Are Detained, Retired Han Official Criticizes Corruption" [Xinjiang weizuren jianchi fengzhai beiju hanren tuixiu guan pi zhengfu tanfu], Radio Free Asia (Online), 16 September 08.

[65] See generally Shayar County Government, "Town of Yengi Mehelle in Shayar County Xinjiang Adopts Nine Measures to Strengthen Management During Ramadan"; "Five Measures from Mongghulküre County Ensure Ramadan Management and Olympics Security," Fazhi Xinjiang; "Toqsu County Deploys Work to Safeguard Stability During Ramadan," Xinjiang Peace Net; Yopurgha County Government, "Our County Carries Out Plans for Work on Management of Religious Affairs During Ramadan"; Küytun City Government, "Küytun City Convenes Meeting on Work to Safeguard Stability, Carries Out Plans on Safety Work During Paralympics, Ramadan, and National Day"; "Ramadan Curbs on China's Muslims," Radio Free Asia.

[66] Shayar County Government, "Town of Yengi Mehelle in Shayar County Xinjiang Adopts Nine Measures to Strengthen Management During Ramadan"; "Five Measures from Mongghulküre County Ensure Ramadan Management and Olympics Security," Fazhi Xinjiang; "Ramadan Curbs on China's Muslims," Radio Free Asia; Weli, "Chinese Government Now Forcing Women in Xoten to Expose Their Faces" [Xitay hökümiti hazir xotende ayallarni yüzini échiwétishqa mejburlimaqta], Radio Free Asia (Online), 27 August 08.

[67] "Authorities Block Uighur Protest in Xinjiang, Detain Protesters," CECC China Human Rights and Rule of Law Update, May 2008, 3.

[68] Xinjiang Uyghur Autonomous Region Implementing Measures of the Law on the Protection of Minors [Xinjiang weiwuer zizhiqu shishi "Weichengnianren baohufa" banfa], issued 25 Sep-

tember 93, art. 14. No other provincial or national regulation on minors or on religion contains this precise provision. Human Rights Watch and Human Rights in China (Online), "Devastating Blows: Religious Repression of Uighurs in Xinjiang," April 2005, 58 (pagination follows "text-only" pdf download of this report).

[69] Uyghur Human Rights Project (Online), "A Life or Death Struggle in East Turkestan; Uyghurs Face Unprecedented Persecution in post-Olympic Period," 4 September 08, 4.

[70] See, e.g., Shayar County Government, "Town of Yengi Mehelle in Shayar County Xinjiang Adopts Nine Measures to Strengthen Management During Ramadan"; Yopurgha County Government, "Our County Carries Out Plans for Work on Management of Religious Affairs During Ramadan"; Küytun City Government, "Küytun City Convenes Meeting on Work to Safeguard Stability, Carries Out Plans on Safety Work During Paralympics, Ramadan, and National Day"; Kashgar District Government (Online), "Maralbéshi Launches Activities for Developing and Cultivating National Spirit in Elementary and Secondary Schools Month" [Bachu kaizhan zhongxiaoxue hongyang he peiyu minzu jingshen yue huodong], 26 September 08; "Qorghas County Langan Village 'Attaches Importance, Propagates, Arranges, Examines, Protects, Strikes, and Prevents' to Do Various Work Regarding Muslim Population During Ramadan" [Huochengxian langan xiang "zhong, xuan, pai, cha, bao, yan, fang" zuo hao musilin qunzhong zhaiyue qijian ge xiang gongzuo], Qorghas Peace Net (Online), 27 August 08; "Religious Repression in Xinjiang Continues During Ramadan," CECC China Human Rights and Rule of Law Update, January 2008, 3; "Ramadan Curbs on China's Muslims," Radio Free Asia.

[71] See, e.g., "Xinjiang Government Continues Restrictions on Mosque Attendance," CECC China Human Rights and Rule of Law Update, March 2006, 8; U.S. Department of State, International Religious Freedom Report—2008, China.

[72] See, e.g., Xinjiang Uyghur Autonomous Region Government (Online), "Nur Bekri's Work Report at First Session of the 11th Xinjiang Autonomous Regional People's Congress" [Zai zizhiqu shiyi jie renda yi ci huiyi shang nu'er baikeli suo zuo zhengfu gongzuo bao], 16 January 08; Yeken County Government, "Yeken County Almaty Village Implements '8 Acts' To Establish Safe and Sound Village." For information on the 2007 passport restrictions, see the CECC, 2007 Annual Report, 10 October 07, 99.

[73] U.S. Department of State, International Religious Freedom Report—2008, China.

[74] "China Jails Clerics for Planning Mecca Trips, Group Says," Deutsche Presse-Agentur (DPA), reprinted in Taipei Times (Online), 25 June 08. According to the DPA article, authorities also reportedly punished the group for distributing copies of the Quran at a criminal sentencing rally.

[75] For more information on recent controls, see CECC 2007 Annual Report, 99.

[76] "Record Number of Chinese Muslims To Make Mecca Pilgrimage," Xinhua, 14 November 07 (Open Source Center, 14 November 07).

[77] Islamic Association of China, ed., Practical Pilgrimage Handbook for Chinese Muslims [Zhongguo musilin chaojin shiyong shouce], (Ningxia People's Publishing Company), 121.

[78] Ibid., 106–107.

[79] For more information on recent controls imposed on Muslim communities across China, see CECC, 2006 Annual Report, 20 September 06, 89–91, and CECC, 2007 Annual Report, 98–100.

[80] Wen Ping, "How Was the Problem Between Religion and Socialism Cracked—Exclusive Interview With Religious Affairs Administration Director Ye Xiaowen."

[81] United Front Work Department (Online), "Ningxia's '2008 First-Term Study Class for Muslim Personnel' Opens" [Ningxia "2008 nian di yi qi yisilanjiao jiaozhi renyuan dushuban" kaixue], 14 March 08.

[82] U.S. Department of State, International Religious Freedom Report—2008, China.

[83] China Aid Association (CAA) (Online), "Annual Report of Persecution by the Government on Christian House Churches within Mainland China," February 2008, 2–3, 21, 22 (noting detentions of roughly 100 people in each of these areas except Shandong, where the recorded number was 334). The CAA report provides a synthesis of reported cases annually involving harassment of Protestants and closures of house churches. For an example of reporting from a local government on measures against Protestants, see, e.g., Minhou County People's Government (Online), "Ethnicity and Religious Work."

[84] For a case from the last year of house church members accused of cult involvement, see China Aid Association (Online), "Henan Christian Brother Bai Cheng and his Coworker Sister Zhang Yu Released," 7 March 08.

[85] China Aid Association, "Annual Report of Persecution by the Government on Christian House Churches within Mainland China," 3. For additional information on treatment toward Protestant groups deemed cults, see U.S. Department of State, International Religious Freedom Report—2008, China. For more information on general government policy toward cults, see Section II—Freedom of Religion—Falun Gong.

[86] See, e.g., China Aid Association, "Annual Report of Persecution by the Government on Christian House Churches within Mainland China," 7, 15.

[87] See, e.g., China Aid Association, "Annual Report of Persecution by the Government on Christian House Churches within Mainland China," 9–13, 15; China Aid Association (Online), "Shandong House Church Raided, Hymnals and Cross Confiscated," 1 October 08; U.S. Department of State, International Religious Freedom Report—2008, China.

[88] China Aid Association (Online), "House Church Members Beaten After Demanding Officials to Account for the Burning of Bibles," 30 January 08.

[89] Christian Solidarity Worldwide and China Aid Association (Online), "China: Persecution of Protestant Christians in the Approach to the Beijing 2008 Olympic Games," June 2008, 3, 4, 6.

[90] China Aid Association (Online), "Beijing House Churches Forced to Sign Document Pledging Not to Meet During the Olympic Games," 13 August 08.

[91] China Aid Association (Online), "Pastor Bike Mingxuan and Wife Released from Detention but Prohibited From Returning to Beijing," 29 August 08. See the CECC Political Prisoner Data-

base for more information on Zhang, as well as discussions of his case in Freedom to Interact with Foreign Co-Religionists and Foreign Visitors, in this section, and Section II—Rights of Criminal Suspects and Defendants, Section II—Olympics, and Section III—Civil Society.

[92] For example, in 2006, fewer than one-sixth of reported detentions exceeded 10 days. China Aid Association (Online), "Annual Report on Persecution of Chinese House Churches by Province from January 2006 to December 2006," January 2007, 19.

[93] In 2007, overseas observers recorded 16 cases of people given criminal sentences or sentences to RTL, compared to 17 cases noted in 2006. China Aid Association (Online), "Annual Report of Persecution by the Government on Christian House Churches within Mainland China," 22.

[94] China Aid Association (Online), "Senior House Church Leader Issued Open Letter to Chinese Communist Party Leader for Religious Freedom; Shandong House Church Christians Won Legal Battle Against PSB After Being Raided," 28 November 07. For more information on challenges to government abuses, see, e.g., China Aid Association (Online), "4 House Church Leaders Released from Labor Camp in Hubei Province after Unprecedented Legal Victory; Three Female Leaders Still Held," 18 January 08. For more information see also the CECC, 2007 Annual Report, 10 October 07, 102.

[95] Human Rights in China (Online), "Chengdu House Church Files First Suit in China Against Government Religious Authority," 18 September 08.

[96] "Turn of Events in Suit Lodged Against Chengdu Religious Affairs Bureau by Autumn Rain Blessings Church" [Qiuyu zhi fu jiaohui qisu chengdu shi zongjiaoju yi an chuxian zhuanzhexing bianhua], Radio Free Asia (Online), 2 October 08.

[97] See, e.g., "Xinjiang Authorities Target Christian-Owned Businesses for Closure," Congressional-Executive Commission on China (Online), 16 November 07. China Aid Association (Online), "Annual Report of Persecution by the Government on Christian House Churches within Mainland China," 3–4; China Aid Association (Online), "Business License of Australia Company in China Revoked; Three Chinese Employee [sic] Arrested; Company Founders Issued Urgent Open Letter to the Chinese President," 21 November 07. For information on cases of Chinese citizens targeted for their connection to foreign groups, see also the box titled Religious Prisoners, and see the CECC 2007 Annual Report, 94–95, for information on similar trends in early and mid-2007.

[98] "Xinjiang Authorities Target Christian-Owned Businesses for Closure," Congressional-Executive Commission on China; Michael Bristow, "China Tightens Grip Ahead of Congress," BBC (Online), 14 September 07. Kristine Kwok, "Olympic Missionaries Warned To Follow Rules," South China Morning Post (Online), 29 May 07.

[99] Human Rights in China (Online), "In Hiding, Beijing House Church Activist Hua Huiqi Appeals for Help," 11 August 08; China Aid Association (Online), "Eviction of Christian Rights Activist Hua Huiqi and Family/Behind the Scenes Surprises During U.S. Congressional Delegation Visit in Beijing," 2 July 08.

[100] China Aid Association, "Eviction of Christian Rights Activist Hua Huiqi and Family/Behind the Scenes Surprises During U.S. Congressional Delegation Visit in Beijing."

[101] Ibid.; Kristine Kwok, "Police Force Pastor To Leave Beijing," South China Morning Post (Online), 20 July 08; China Aid Association (Online), "Pastor Zhang Mingxuan Given Permission to Conduct House Church Services," 1 October 08; China Aid Association (Online), "Son of Pastor Bike Zhang in Critical Condition After Severe Beating From PSB Officials," 16 October 08; China Aid Association (Online), "Zhang Mingxuan and Son Jian's Conditions Updated," 22 October 08. See the CECC Political Prisoner Database for more information.

[102] "Harassment of Beijing-based Activists During the U.S.-China Human Rights Dialogue," Congressional-Executive Commission on China (Online), 8 July 08.

[103] See CECC, 2006 Annual Report, 93 for more information.

[104] Wen Ping, "How Was the Problem Between Religion and Socialism Cracked—Exclusive Interview With Religious Affairs Administration Director Ye Xiaowen." For more information on Ye's remarks, see "Government Official Reaffirms State Controls Over Religion," CECC China Human Rights and Rule of Law Update.

[105] "Cao Shengjie: Independent Development for Chinese Religions Not To Change" [Cao Shengjie: Zhongguo zongjiao jianchi dulizizhu fazhan buhui gaibian], Xinhua (Online), 14 October 07. See also "Xinjiang Authorities Target Christian-Owned Businesses for Closure," Congressional-Executive Commission on China.

[106] Only Chinese religious personnel affiliated with recognized registered religious communities may attend such services upon invitation to do so. Provisions on the Management of the Religious Activities of Foreigners within the PRC [Zhonghua renmin gongheguo jingnei waiguoren zongjiao huodong guanli guiding], issued 31 January 94, art. 4; Detailed Implementing Rules for the Provisions on the Management of the Religious Activities of Foreigners within the PRC [Zhonghua renmin gongheguo jingnei waiguoren zongjiao huodong guanli guiding shishi xize], issued 26 September 00, arts. 7, 17(5).

[107] The members met at a facility used by foreign members of the church, but at a different time from the foreign church members. U.S. Department of State, International Religious Freedom Report—2006, China.

[108] U.S. Department of State, International Religious Freedom Report—2008, China; Heilongjiang Regulation on the Management of Religious Affairs [Heilongjiangsheng zongjiao shiwu guanli tiaoli], issued 12 June 97, art. 2; Inner Mongolia Autonomous Region Implementing Measures for the Management of Venues for Religious Activity [Nei menggu zizhiqu zongjiao huodong changsuo guanli shishi banfa], issued 23 January 96, art. 2.

[109] Nailene Chou, "Orthodox Christians Celebrate Easter with Prayers and Music," South China Morning Post (Online), 1 May 08.

[110] See the CECC Political Prisoner Database for more information about these cases.

[111] For general information, see CECC, 2007 Annual Report, 95–96.

[112] See, e.g., State Administration for Religious Affairs (Online), "China Protestant Circles' Contributions for Sichuan Earthquake Disaster Area Already Exceeds 100 Million Yuan" [Zhongguo jidujiao jie wei sichuan dizhen zaiqu jiankuan yi chao yi yuan], 6 June 08; State Administration for Religious Affairs (Online), "Hebei Province Buddhist Association Rushes to Sichuan Earthquake Disaster Area to Provide Disaster Relief" [Hebeisheng fojiao xiehui jinji fu sichuan dizhen zaiqu zhenzai], 23 May 08.

[113] China Aid Association (Online), "House Church Members Detained in Guizhou Province/ Government Officials Arrest Volunteer House Church Earthquake Aid Workers," 20 May 08.

[114] "Tzu Chi Gets Nod to Set Up Charity in China," Central News Agency, reprinted in China Post (Online), 28 February 08. For an analysis of this development, see Carl Minzner, "Mainland Authorities Support Operations of Taiwan-Based Buddhist Civil Society Organization," Chinese Law and Politics Blog (Online), 22 May 08.

[115] The name "6–10" comes from the date that the office was founded. Maria Hsia Chang, "Falun Gong: the End of Days" (New Haven: Yale University Press, 2004), 9; Minnie Chan, "Lawyer's Conviction 'Sign of Tyranny,'" South China Morning Post (Open Source Center, 23 December 06); Human Rights Watch, "Dangerous Meditation: China's Campaign Against Falun Gong," January 2002, 36.

[116] PRC Ministry of Civil Affairs' Decision Concerning the Ban on Falun Dafa Research Association [Zhonghua renmin gongheguo minzhengbu guanyu qudi falun dafa yanjiuhui de jueding], issued 22 July 99. For further information, see National People's Congress Standing Committee, Decision Regarding the Ban on Cult Organizations and the Prevention and Punishment of Cult Activities [Quanguo renda changweihui guanyu qudi xiejiao zuzhi, fangfan he chengzhi xiejiao huodong de jueding], issued 30 October 99; CCP Central Committee Circular on the Forbidding of Party Members from Practicing Falun Dafa [Zhonggong zhongyang guanyu gongchandangyuan buzhun xiulian 'falun dafa' de tongzhi], issued 19 July 99; Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, International Religious Freedom Report—2007, China (includes Tibet, Hong Kong, and Macau), September 2007, 1.

[117] Falun Dafa Information Center (Online), "Overview of Falun Gong," 30 April 08.

[118] Official estimates placed the number of adherents inside China at 30 million prior to the crackdown. Falun Gong sources estimate that there was twice that number. Chang, Falun Gong, 2; U.S. Department of State, International Religious Freedom Report—2007, China, 2.

[119] RTL camps are an extrajudicial system of detention without trial in which sentences are handed down at police discretion. According to 2005 official statistics, a total of 500,000 inmates were held in 310 RTL camps throughout China. For RTL figure, see Bureau of Democracy, Human Rights and Labor, U.S. Department of State, Country Reports on Human Rights Practices—2007, China (includes Tibet, Hong Kong, and Macau), 11 March 08, 4. For information on Falun Gong detainees, see U.S. Department of State, International Religious Freedom Report—2007, China, 1; Margot O'Neill and Hamish Fitzsimmons, "Spy Claims Terrify Falun Gong Followers," Australian Broadcasting Corporation (Online), 8 June 05; Michael Sheridan, "Yu Zhou Dies as China Launches pre-Olympic Purge of Falun Gong," Times of London (Online), 20 April 08.

[120] Michael Bristow, "China Tightens Grip Ahead of Congress," BBC (Online), 14 September 07.

[121] The availability of these reports was determined by a Chinese-language search performed by CECC staff from June 2008 to August 2008. Search terms included 'Falun Gong' and targeted searches of each of China's 31 provincial-level governments.

[122] U.S. Department of State, Country Reports on Human Rights Practices—2007, China, 18–19; Chang, Falun Gong, 10; Falun Dafa Information Center (Online), "Arbitrary Imprisonment and Slavery," 17 May 08.

[123] Liaoyang Municipal Public Security Bureau (Online), "Procedures for 'Rewarded Reports' at the Liaoyang Municipal Public Security Bureau's Criminal Report Center" [Liaoyang shi gonganju xingshi fanzui jubao zhongxin 'youjiang jubao' chengxu], 11 December 06; Panjin Municipal Government Administration Public Network of China (Online), "Put into Practice Harmonious Ideas, Promote Social Stability, Make an Active Contribution to the Construction of a Harmonious Homeland: Vice Mayor Yang Zhenfu's 2007 Policy Speech" [Jianxing hexie linian, cujin shehui wending, wei jianshe hexie jiayuan zuo chu jiji gongxian—fushizhang Yang Zhenfu 2007 shizheng baogao], 22 March 07.

[124] Cao Zhiheng, "Urumqi Police Destroy Five Violent Terrorist Gangs Plotting To Damage the Olympics" [Wulumuqi jingfang dadiao wuge yumou pohuai aoyun de baoli kongbu tuanhuo], Xinhua (Online), 11 July 08; Matthew Weaver, "China Kills Five Muslim 'Militants' in Olympic Crackdown," Guardian (Online), 10 July 08.

[125] Yingshang County Government (Online), "2007 Yingshang County Political and Legal Work Summary and 2008 Work Plan" [2007 Nian yingshang xian zhengfa gongzuo zongjie ji 2008 nian gongzuo jihua], 7 January 08.

[126] Miyi County (Online), "Miyi County 2007 Public Order Comprehensive Administration Safety Work" [Miyi xian 2007 niandu shehui zhian zonghe zhili pingan chuangjian gongzuo], 9 December 07.

[127] Falun Dafa Information Center (Online), "Thousands of Falun Gong Adherents Arrested throughout China in Run up to Olympics," 7 July 08.

[128] U.S. Department of State, International Religious Freedom Report—2007, China, 10.

[129] Falun Dafa Information Center, "Arbitrary Imprisonment and Slavery."

[130] Falun Dafa Information Center (Online), "Falun Gong Deaths Escalate as Olympics Approach," 8 April 08; Falun Dafa Information Center (Online), "Overview of Persecution," 4 May 08.

[131] UN Commission on Human Rights, "Report of the Special Rapporteur on Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, Manfred Nowak: Mission to China," 10 March 06, 15.

[132] CECC, 2006 Annual Report, 20 September 06, 95. Article 18(1) of the ICCPR guarantees everyone "the right to freedom of thought, conscience, and religion [and] to manifest his religion or belief in teaching, practice, worship, and observance." International Covenant on Civil and Political Rights, adopted by General Assembly resolution 2200A(XXI) of 16 December 66, entry into force 23 March 76, art. 18. The official General Comment 22 to Article 18 states, "The right to freedom of thought, conscience and religion (which includes the freedom to hold beliefs) in article 18(1) is far-reaching and profound; it encompasses freedom of thought on all matters, personal conviction, and the commitment to religion or belief, whether manifested individually or in community with others." General Comment No. 22: The Right to Freedom of Thought, Conscience, and Religion (Art. 18), 30 July 93, para. 1.

[133] CECC, 2006 Annual Report, 20 September 06, 95; UN Commission on Human Rights, Opinions Adopted by the Working Group on Arbitrary Detention, Opinion No. 32/2005, 2 September 05 [hereafter UNWGAD Opinions]; "Student Imprisoned for Falun Gong Activities Becomes Eligible for Parole," CECC China Human Rights and Rule of Law Update, July 2006, 5; PRC Constitution, art. 36.

[134] UNWGAD Opinions, Opinion No. 32/2005.

[135] "Countless Spies Sent Overseas," South China Morning Post (Open Source Center, 10 June 05); Joseph Kahn, "Competing for Souls: Violence Taints Religion's Solace for China's Poor," New York Times (Online), 25 November 04. For a Chinese source, refer to statement that 6–10 Office "strikes against illegal activities of 'Falun Gong' and other cult organizations," in Yichun Municipal Government (Online), "Shixi Township's Implementation Plan for Rural Anti-Cult Warning and Education Activities" [Shixi banshichu nongcun fanxiejiao jingshi jiaoyu huodong shishi fangan], 9 January 04.

[136] Notice Concerning Provisions for Nanjing City Public Security Departments' Functional Deployment, Internal Mechanisms, and Force Size [Shizhengfu bangongting guanyu yinfa nanjing shi gonganju zhineng peizhi, neishe jigou he renyuan bianzhi guiding], issued 23 June 08, art. 2(20).

[137] Yunnan Provincial State Taxation Administration (Online), "Suijiang County State Taxation Bureau Carries Out Stability Work Using the 'Three Upgrades' and 'Two Implementations'" [Suijiang xian guoshuiju yi 'san ge tigao' 'liang ge luoshi' qieshi zuohao zongzhi he weiwen gongzuo], 28 March 08.

[138] Gutian County Government (Online), "2008 Propaganda Materials for Prevention, Warning, and Education against Cults" [2008 Nian fangfan xiejiao jingshi jiaoyu xuanchuan cailiao], 3 April 08.

[139] People's Government of Chengmai County (Online), "Wang Hanmin: Work Report on Constructing a 'Peaceful Chengmai'" [Jianshe 'pingan chengmai' gongzuo baogao: Wang Hanmin], 10 March 05; CCP Political-Legal Committee of Wuling District (Online), "Political and Legal Work, This Term's Basic Situation, and Next Term's Basic Plan" [Zhengfa gongzuo benjie jiben qingkuang ji xiajie jiben guihua], 1 October 07; Xiamen Municipal Office for the Prevention of Cults, reprinted in Office of the Xiamen Municipal Leading Work Group for Private Enterprise (Online), "Preventing and Handling Cults: the General Situation" [Fangfan he chuli xiejiao gongzuo: gaikuang], 4 February 06.

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[142] CCP Political-Legal Committee of Wuling District, "Political and Legal Work."

[143] Ibid.

[144] Shanggao County Government (Online), Report on the County Trade and Economic Commission's Education and Transformation of 'Falun Gong' Personnel [Xian jingmaowei 'Falun Gong' renyuan jiaoyu zhuanhua gongzuo huibao], 29 July 08.

[145] Lancang Lanhu Ethnic Minority Autonomous County (Online), "Regarding the Printing & Distribution of the Notice on Lancang Lanhu Ethnic Minority Autonomous County Provisions on the Internal Functional Deployment and Distribution of Personnel" [Guanyu yinfa lancang lanhuzu zizhixian renmin zhengfu bangongshi zhineng peizhi neishe jigou he renyuan bianzhi guiding de tongzhi], 24 December 02; "Second Chinese Defector Backs Chen's Claims," Australian Broadcasting Corporation (Online), 7 June 05.

[146] U.S. Department of State, Country Reports on Human Rights Practices—2007, China, 5.

[147] Ian Johnson, "Death Trap: How One Chinese City Resorted to Atrocities to Control Falun Dafa," Wall Street Journal, reprinted in Pulitzer Prizes (Online), 26 December 00. For discussion of "transformation" in Chinese sources, see Shaanxi Anti-Cult Association, "Thoughts on Current Transformation through Education Work" [Dangqian jiaoyu zhuanhua gongzuo de sikao], Kaifeng Web, 25 July 08; Cao Huaxia and Liang Haijun, "Our Perspective on the Transformation through Reeducation of Falun Gong Criminals" [Jiaoyu zhuanhua falun gong zuifan zhi wo jian], Journal of the Shanxi Cadres School of Coal Management, March 2007; Nanjing City Gulou District Anti-Cult Association and Jiangsu Provincial Academy of Social Sciences, reprinted in China Anti-Cult Web (Online), "An Exploration of Two Rules for Transformation through Reeducation Work" [Dui jiaoyu zhuanhua gongzuo zhong liangge guilu de tantao], 15 July 08. For English sources that describe general methods used against Falun Gong in RTL camps and other detention facilities (which are similar to those employed at transformation centers), see Human Rights Watch, "Dangerous Meditation," 93; Margot O'Neill and Hamish Fitzsimmons, "Spy Claims Terrify Falun Gong Followers," Australian Broadcasting Corporation (Online), 8 June 05; Sheridan, "Yu Zhou Dies."

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[149] Johnson, "Death Trap."

[150] National People's Congress Standing Committee, Decision Regarding the Ban on Cult Organizations and the Prevention and Punishment of Cult Activities; Yueyang Municipal Government (Online), "Never Tire in the Punishment of Cults" [Chengzhi xiejiao changzhua buxie], 5 September 07.

[151] CCP Political-Legal Committee of Wuling, "District Political and Legal Work."

[152] Aohan Banner Municipality, Chifeng Prefecture, IMAR (Online), "A Brave Man Who Has Struggled Against Cults" [Yu xiejiao douzheng de yongshi], 5 December 07; The Disciples Sect, or *Mentuhui* (also known as Narrow Gate), is an indigenous Chinese sect founded by a man named Ji Sanbao in Shaanxi province in 1989. Its teachings are based on Christianity, but the sect embraces an unorthodox view of its leader as "living Christ." It was banned as a "cult" in 1990. Chang, Falun Gong, 148.

[153] Guandu District Government (Online), Report to the Ninth CCP Representative Assembly in the Guandu District of Kunming City: 2006 Guandu District Yearbook [Zai zhongguo gongchandang kunming shi guandu qu dijiuci daibiao dahui shang de baogao: 2006 nian guandu nianjian], 6 June 06.

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[156] Gao Zhisheng, A China More Just (San Diego: Broad Press, 2007), 136–137; Chan, "Lawyer's Conviction 'Sign of Tyranny.'"

[157] Amnesty International (Online), "China: Fear for Safety, Possible Incommunicado Detention: Gao Zhisheng," 28 September 07.

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[160] Dushan County Travel Bureau, "Strengthen our Studies, Strengthen and Increase Anti-Cult Awareness" [Jiaqiang xuexi, zengqiang fanxiejiao yishi], Dushan Party Committee and Dushan County Government (Online), 6 June 08; Laigang Anti-Cult Association, reprinted in Zhengqi Web (Online), "Laigang Anti-Cult Association Propaganda Activities Yield Results" [Laigang Fanxiejiao Xiehui Xuanjiang Huodong Qude Chengxiao], 31 July 08.

[161] "China Anti-Cult Associations Established in Beijing" [Zhongguo fanxiejiao xiehui zai beijing chengli), People's Daily (Online), 13 November 00; China Anti-Cult Association (Online), "General Survey of the China Anti-Cult Association" [Zhongguo Fanxiejiao Xiehui Gaikuang], 20 August 08. The Association's Web site suggests independence from the government by insisting that the organization was founded by concerned citizens from the "fields of technology, social science, religion, law, and media."

[162] Anti-Cult Association of Qiandong Neighborhood, "Implement Comprehensive Administration."

[163] Shandong Province Civil Organizations Information Web (Online), "Liaocheng City Office of the Anti-Cult Association 2006 Work Summary and 2007 Work Plan" [Liaocheng shi fanxiejiao xiehui bangongshi 2006 nian gongzuo zongjie, 2007 nian gongzuo jihua), 19 April 08.

[164] Luyuan District Government Information Center (Online), "Seeking Truth & Pragmatism, Seizing the Moment: My District's Anti-Cult Warning Education Work Surges Again" [Qiuzhen wushi, qiangzhua shiji: woqu fanxiejiao jingshi jiaoyu gongzuo zai xian gaochao], 29 May 07.

[165] The directive is entitled "A Propaganda Outline Regarding the Prevention of 'Falun Gong' Interference with and Harming of the Beijing Olympics," or in Chinese "Guanyu Fangfan 'Falun Gong' Ganrao Pohuai Beijing Aoyunhui de Xuanjiang Tigang." While references to this directive are abundant and easy to locate on the Chinese web, the full text does not appear to be publicly available.

[166] Examples include: Urumqi Municipal Government, Shayibake District, Xinjiang Uighur Autonomous Region (Online), "The Olympic Security Work Implementation Scheme for the Friendly South District" [Youhao nan diqu aoyun anbao gongzuo shishi fang'an], 3 April 08; Ge'Ermu City Economic and Trade Commission (Online), "Municipal Economic and Trade Commission Launches Activities and Discussions Focusing on 'A Propaganda Outline Regarding the Prevention of "Falun Gong" Interference with and Harming of the Beijing Olympics'" [Shi jingmaowei kaizhan xuanjiang 'guanyu fangfan "falun gong" ganrao pohuai beijing aoyunhui de xuanjiang tigang'], 4 June 08; Weining Yi Hui Miao Ethnic Autonomous County Government (Online), "Xiaohai Township Launches Guarding Against 'Falun Gong' Interference and Destruction of Beijing Olympics Discussion Activities" [Xiaohai zhen kaizhan "falun gong" ganrao pohuai beijing aoyunhui xuanjiang huodong], 8 July 08; Tibetan Science and Technology Committee (Online), "The District S&T Office Studies 'A Propaganda Outline Regarding the Prevention of "Falun Gong" Interference with and Harming of the Beijing Olympics'" [Qu kejiting xuexi xuanchuan 'guanyu fangfan "falun gong' ganrao pohuai beijing aoyunhui de xuanjiang tigang], 13 June 08; Political and Legal Committee of Huocheng County, Ili Kazakh Autonomous Prefecture, Xinjiang Uyghur Autonomous Region (Online), "Huocheng County Bureau of Public

Health Seriously Studies Anti-Cult Discussion Outline" [Huocheng xian weishengju renzhen xuexi fanxiejiao xuanjiang tigang], 2 June 08.

[167] Er'lianhaote City Law Enforcement Department, Xilinguole League (Online), "Law Enforcement Department Launches Activities to Publicize Efforts to Guard Against 'Falun Gong' Interference with Beijing Olympics" [Xingzheng zhifaju kaizhan fangfan "falun gong" ganrao pohuai beijing aoyunhui xuanjiang huodong], 19 June 08; Luxi City Department of National Resources (Online), "Luxi City National Resources Department Launches Guarding Against 'Falun Gong' Interference and Destruction of Beijing Olympics Discussion Activities" [Luxi shi guotu ziyuan ju jiji kaizhan fangfan "falun gong" ganrao pohuai beijing aoyunhui xuanjiang huodong], 26 June 08; Qianjiang District Government (Online), "Zhengyang Township Steadily Carries Out Prevention and Punishment of Cults" [Zhengyang zhen zhashi zuohao fangchu xiejiao gongzuo], 14 June 08.

[168] Chengdu Dayi County Adolescent Ideology and Morality Development Network (Online), "Propaganda and Education Activities to Guard Against 'Falun Gong' Interference with and Destruction of the Beijing Olympics" [Fangfan "falun gong" ganrao pohuai beijing aoyunhui xuanjiang jiaoyu huodong], 13 June 08; International Cargo Transport Limited of China (Online), "International Cargo Transport of China, Hangzhou Headquarters Convenes Plenary Meeting on Situation" [Zhongguo guoji huoyun hangkong hangzhou yunying jidi zhaokai xingshi dahui], 24 June 08; Chinese Academy of Social Sciences, South China Sea Institute of Oceanology (Online), "Our Institute Convenes Meeting to Discuss Protecting Stability and Defending Security Work" [Wosuo zhaokai weihu wending, anquan baowei yu anquan chansheng gongzuo huiyi], 19 June 08.

[169] Laigang Anti-Cult Association, "Laigang Anti-Cult Association Propaganda Activities."

[170] "Shanghai To Restrict Dissidents During Olympics," Associated Press (Online), 24 June 08.

[171] "Religious Texts Allowed at Beijing Olympics, But for Personal Use; Falun Gong Excluded," Associated Press, reprinted in International Herald Tribune (Online), 7 November 07.

[172] "Beijing Offers Hefty Rewards for Security Threat Information During Olympics," Xinhua (Online), 11 July 08.

[173] Falun Dafa Information Center, "Thousands of Falun Gong Adherents Arrested." The list of 141 practitioners detained in Beijing from January 2008 to June 2008 can be accessed at the Falun Dafa Information Center's Web site.

[174] Chinese public security officials also used supposed security concerns to justify a request made to the government of Japan in which they solicited information on Falun Gong practitioners residing in Japan who might attend the Olympic Games. The Japanese government refused to cooperate. "China Asks Japan for Information on Falun Gong Members Ahead of Olympics," Kyodo World Service (Online), 17 July 08; Timothy Chui, "More Games Security to Come, Says Expert," Hong Kong Standard (Online), 19 May 08; Edward Cody, "China Set to Protect Olympics," Washington Post (Online), 25 July 08.

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[178] PRC Constitution, art. 89(12).

[179] "Guo Dongpo: Tap Into Overseas Compatriots to Expose the False Reasoning and Heresies of 'Falun Gong,'" [Guo dongpo: fahui haiwai tongbao zuoyong jielu "falun gong" waili xieshuo], China Central Television (Online), 2 February 01.

[180] Ibid.

[181] Chongqing Municipal Overseas Chinese Affairs Office (Online), "Outline on the Transmission of the Spirit of the Director's Meeting of the National Office of Overseas Chinese Affairs" [Quanguo qiaoban zhuren huiyi jingshen chuanda tigang], 5 April 07.

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[184] Liu Chengxuan, "Seeking Truth and Pragmatism, Diligently Forge Ahead With the New Dimensions of Starting Overseas Chinese Work Corps" [Qiuzhen wushi nuli jinqu, kaizhan bingtuan qiaowu gongzuo xin jumian], 4 Journal of Overseas Chinese Affairs Work Research (Online), 2004.

[185] Overseas Chinese Affairs Office of the State Council (Online), "Director Chen Yujie Meets with the Metro Chicago Area United Federation of Overseas Chinese & Chinese Americans" [Chen yujie zhuren zai beijing huijian da zhijiage diqu hualianhui fanghuatuan], 14 June 06.

[186] "Delegation from China Anti-Cult Association Holds Public Lecture in Geneva" [Zhongguo fanxiejiao xiehui daibiaotuan zai rineiwa juxing baogao hui], Xinhua (Online), 16 November 07; "Delegation from China Anti-Cult Association Holds Talks with Overseas Chinese in Switzerland" [Zhongguo fanxiejiao xiehui daibiaotuan tonglu rei huaren huaqiao zuotan], Xinhua (Online), 25 March 02; "Spain Establishes 'World Chinese and Overseas Chinese Anti-Cult Association'" [Xibanya chengli 'shijie huaqiao huaren fanxiejiao xiehui'], People's Daily (Online), 16 October 02.

[187] Overseas Chinese Affairs Office of the State Council (Online), "Commending All of the Contributions, Chinese Immigrants Select Argentina's 'Outstanding Immigrant'" [Zhang suozuo gongxian, zhongguo yimin dangxuan a'genting 'jiechu yimin'], 11 September 08.

[188] Overseas Chinese Affairs Office of the State Council (Online), "Ma Rupei Attends Meeting Held by the Overseas Chinese Affairs Office of the State Council To Address Integrated Preparations & Deployment Work During the Olympic Period" [Ma Rupei chuxi guoqiaoban aoyun qijian zonghe zhengzhi gongzuo bushu huiyi], 14 July 08.

Notes to Section II—Ethnic Minority Rights

[1] Regional Ethnic Autonomy Law (REAL), enacted 31 May 84, amended 28 February 01, preamble.

[2] For more information on the protests, see Section IV—Xinjiang and Section V—Tibet.

[3] For additional background on ethnic minority rights, see the "Special Focus for 2005: China's Minorities and Government Implementation of the Regional Ethnic Autonomy Law," CECC, 2005 Annual Report, 11 October 05, 13–23. Regarding international human rights standards, see, e.g., the Universal Declaration of Human Rights, adopted and proclaimed by General Assembly resolution 217 A (III) of 10 December 48, arts. 2, 7; International Covenant on Civil and Political Rights (ICCPR), adopted by General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 23 March 76, arts. 2(1), 26, 27; International Covenant on Economic, Social, and Cultural Rights (ICESCR), adopted by General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 3 January 76, art. 2(2); Convention on the Rights of the Child (CRC), adopted and opened for signature, ratification, and accession by General Assembly resolution 44/25 of 20 November 89, entry into force 2 September 90, arts. 2(1), 30. See generally, International Convention on the Elimination of All Forms of Racial Discrimination (CERD), adopted and opened for signature and ratification by General Assembly resolution 2106 (XX) of 21 December 65, entry into force 4 January 69. Article 1(1) of CERD defines racial discrimination to mean "any distinction, exclusion, restriction or preference based on race, colour, descent, or national or ethnic origin which has the purpose or effect of nullifying or impairing the recognition, enjoyment or exercise, on an equal footing, of human rights and fundamental freedoms in the political, economic, social, cultural or any other field of public life."

China is a party to the ICESCR, CRC, and CERD, and a signatory to the ICCPR. The Chinese government has committed itself to ratifying, and thus bringing its laws into conformity with, the ICCPR and reaffirmed its commitment on April 13, 2006, in its application for membership in the UN Human Rights Council. China's top leaders have also stated on other occasions that they are preparing for ratification of the ICCPR, including in March 18, 2008, press conference remarks by Chinese Premier Wen Jiabao, in a September 6, 2005, statement by Politburo member and State Councilor Luo Gan at the 22nd World Congress on Law, in statements by Wen Jiabao during his May 2005 Europe tour, and in a January 27, 2004, speech by Chinese President Hu Jintao before the French National Assembly.

[4] CECC, 2007 Annual Report, 10 October 07, 105–106.

[5] Southern Mongolian Human Rights Information Center (Online), "Another Mongolian Arrested for Alleged Links with 'Separatists,'" 2 August 08.

[6] Southern Mongolian Human Rights Information Center (Online), "Well-known Journalist Naranbilig under House Arrest following 20 Days Detention," 28 April 08; Southern Mongolian Human Rights Information Center (Online), "Statement of the Southern Mongolian Human Rights Information Center to the United Nations Permanent Forum on Indigenous Issues 7th Session," 2 May 08; Southern Mongolian Human Rights Information Center (Online), "Jaranbayariin Soyolt Released and Deported Back to Mongolia," 19 June 08.

[7] Southern Mongolian Human Rights Information Center (Online), "Mongolian Dissident Arrested in Beijing," 27 February 08; Southern Mongolian Human Rights Information Center (Online), "China's Official Response to Mongolia on J. Soyolt's Case," 4 June 08; Southern Mongolian Human Rights Information Center, "Jaranbayariin Soyolt Released and Deported Back to Mongolia." According to the Southern Mongolian Human Rights Information Center, Jiranbayariin Soyolt was a leader of a Mongolian student movement in the early 1980s. He left China in 1992 and gained refugee status in Mongolia.

[8] For more information on Chinese policies in the IMAR, see, e.g., China's Ethnic Regional Autonomy Law: Does it Protect Minority Rights?, Staff Roundtable of the Congressional-Executive Commission on China, 11 April 05, Testimony of Christopher P. Atwood, Associate Professor, Department of Central Eurasian Studies, Indiana University; Uradyn E. Bulag, "Inner Mongolia: The Dialectics of Colonization and Ethnicity Building," in Governing China's Multiethnic Frontiers, ed. Morris Rossabi (Seattle: University of Washington Press, 2004), 100–107; Naran Bilik, "Language Education, Intellectuals and Symbolic Representation: Being an Urban Mongolian in a New Configuration of Social Evolution," in Nationalism and Ethnoregional Identities in China, ed. William Safran (London: Frank Cass, 1998).

[9] "Regulation on Inner Mongolia Autonomous Region Mongolian Language Work" [Neimenggu zizhiqu menggu yuyan wenzi gongzuo tiaoli], issued 26 November 04. See also "Inner Mongolia Government Promotes Mongolian Language," CECC China Human Rights and Rule of Law Update, September 2006, 10–11. For recent examples of steps to promote Mongolian language use, see, e.g., State Ethnic Affairs Commission (SEAC) (Online), "Inner Mongolia Gives Priority to Students of Teacher's Colleges [Majoring in] Teaching Classes in Mongolian by Implementing Free Education" [Neimenggu youxian dui mengguyu shouke shifansheng shixing mianfei jiaoyu], 26 November 07; Inner Mongolia Autonomous Region Ethnic and Religious Affairs Commission (Online), "Inner Mongolia Increases 170 Million Yuan in Educational Expenditures to Subsidize Lodging for Students in Classes Taught in Mongolian" [Neimenggu xin zeng 1.7 yi yuan jiaoyu zhichu buzhu mengyu shouke jisu xuesheng], 1 March 08.

[10] "31st Standing Committee Meeting of 10th Inner Mongolia Autonomous Region People's Congress Holds Group Deliberation" [Neimenggu shi jie renda changweihui di 31 ci huiyi juxing fenzu shenyi], Inner Mongolia News Net (Online), 29 November 07.

[11] CECC, 2007 Annual Report, 106; CECC, 2005 Annual Report, 17–18.
[12] "Chinese Premier Pledges More Support to Poor Minority Areas," Xinhua, 2 April 08 (Open Source Center, 2 April 08).
[13] "China's 9–Year Compulsory Education To Cover Most of Western Areas by Year-End," Xinhua, 27 November 07 (Open Source Center, 27 November 07).
[14] "China Vows To Foster More Professional Cadres From Minorities," Xinhua, 26 October 07 (Open Source Center, 26 October 07).
[15] State Ethnic Affairs Commission (Online), "Summary of One-Year Implementation of 11th 5-Year Program for Ethnic Minority Undertakings" [Shaoshu minzu shiye "shi yi wu" guihua shishi yinian zongshu], 29 February 08; State Council General Office Circular on Printing and Issuing the 11th 5-Year Program for Ethnic Minority Undertakings [Guowuyuan bangongting guanyu yinfa shaoshu minzu shiye 'shiyiwu' guihua de tongzhi], issued 27 February 07. For earlier CECC reporting on this program, see CECC, 2007 Annual Report, 106.
[16] State Council General Office Circular on Printing and Issuing the 11th 5-Year Program for Ethnic Minority Undertakings, item 2(11).
[17] State Ethnic Affairs Commission (Online), "State Ethnic Affairs Commission Organizes and Launches Research on Ethnic Relations Evaluation System and Early Warning Mechanism" [Guojia minwei zuzhi kaizhan minzu guanxi pinggu tixi he yujing jizhi yanjiu], 9 August 07.
[18] Information based on the CECC Political Prisoner Database and "Authorities Try Mongol Couple, Assault Son of Imprisoned Mongol Activist," CECC China Human Rights and Rule of Law Update, August 2006, 2.

Notes to Section II—Population Planning

[1] The population planning policy was first launched in 1979, canonized as a "fundamental state policy" in 1982, and codified as national law in 2002. As of 2007, 19 of China's 31 provinces—accounting for 53.6 percent of China's population—allow rural dwellers to have a second child if their first child is a girl. Gu Baochang, et al., "China's Local and National Fertility Policies at the End of the Twentieth Century," 33 Population and Development Review 133, 138 (2007).
[2] "China Changes Family Planning Slogans from 'Coarse' to 'Amiable,'" Xinhua (Online), 11 October 07; Shan Juan, "Family Planning Posters Toned Down," China Daily (Online), 12 October 07.
[3] CECC, 2006 Annual Report, 20 September 06, 109.
[4] CECC, 2007 Annual Report, 10 October 07, 108.
[5] Beijing Declaration and Platform for Action (1995), para. 17; Cairo International Conference on Population and Development, para. 7.2. On the concept of "illegal pregnancy" and its use in practice, see Elina Hemminki, et al., "Illegal Births and Legal Abortions—The Case of China," Reproductive Health 2, no. 5 (2005).
[6] Convention on the Elimination of All Forms of Discrimination Against Women, adopted and opened for signature, ratification, and accession by General Assembly resolution 34/180 of 18 December 79, entry into force 2 September 81, art. 2, 3, 16(1)(e).
[7] Convention on the Rights of the Child, adopted and opened for signature, ratification, and accession by General Assembly resolution 44/25 of 20 November 89, entry into force 2 September 90, art. 2, 3, 4, 6, 26.
[8] International Covenant on Economic, Social, and Cultural Rights (ICESCR), adopted by General Assembly resolution 2200 A (XXI) of 16 December 66, entry into force 3 January 76, art. 10 (3).
[9] "Family Planning Rules Tightened," China Daily (Online), 14 September 07; "China Cracks Down on One-Child Violators," Associated Press (Online), 14 September 07.
[10] Bureau of Democracy, Human Rights and Labor, U.S. Department of State, Country Reports on Human Rights Practices—2007, China (includes Tibet, Hong Kong, and Macau), 11 March 08, 9.
[11] Ibid., 9.
[12] Ma Lie and Chen Hong, "New Family Policy Attacks Elites' Egos," China Daily (Online), 19 September 07.
[13] "Chinese Province Raises Fines on Wealthy Flouters of Family Planning Laws," Xinhua (Online), 29 September 07; "Hunan Writes Local Legislation To Hold Back the Number of Wealthy Families Having More Than One Child" [Hunan ba ezhi furen chaosheng xinjin difang fagui], Xinhua (Online), 14 January 08.
[14] Tania Branigan, "China's Celebrities 'Buy' Extra Children," The Guardian (Online), 22 January 08; "Hunan: Famous, Rich People Who Violate the One Child Policy will be Entered into a Bad Credit Blacklist" [Hunan: Mingren furen chaosheng jiangshang xinyong heimingdan], China Youth Daily (Online), 26 March 2007; "Beijing to Fine Celebrities Who Break Family Planning Rule," Xinhua (Online), 21 January 08.
[15] "Chinese Province Raises Fines," Xinhua.
[16] "Hubei Releases New Family Planning Rule: Violators Banned from Government Service for 3 Years" [Hubei chutai jisheng xingui: chaosheng zhe sannian nei bude luwei gongwuyuan], Wuhan Hubei Daily (Online), 5 January 08; Maureen Fan, "Officials Violating 'One-Child' Policy Forced Out in China," Washington Post (Online), 8 January 08.
[17] "Last Year More than 90,000 in Hubei Exceeded One-Child Policy, Paid 230 Million in Social Compensation Fees" [Hubei qunian 9 wanyu ren 'chaosheng' jiaona shehui fuyang fei 2.3yi yuan], Wuhan Hubei Daily (Online), 6 January 08; "Hubei Luminaries Fined for Flouting Family Rules," China Daily (Online), 2 January 08.
[18] "Private Teachers Who Violate One-Child Policy Will Not Receive Retirement Wages" [Minban jiaoshi weifan jisheng zhengce bu neng xiangshou tuixiu daiyu], Radio Free Asia (Online), 26 April 07.
[19] "Nominations for Local People's Congress and CPPCC in Henan Blocked Due to One-Child Policy Violations" [Renda zhengxie weiyuan houxuanren yin weifan jihua shengyu bei foujue],

Radio Free Asia (Online), 3 November 07; "Lawmakers Barred for Breaking One-Child Rule," Xinhua (Online), 4 April 08.

[20] "Hubei Luminaries Fined," China Daily.

[21] "Last Year More than 90,000 in Hubei Exceeded 1 Child Policy," Wuhan Hubei Daily.

[22] Under Article 41 of the Population and Family Planning Law, when a citizen does not pay the social compensation fee, the "administrative department for family planning that makes the decision on collection of the fees shall, in accordance with the law, apply to the People's Court for enforcement." PRC Population and Family Planning Law, enacted 29 December 01, art. 41; U.S. Department of State, Country Reports on Human Rights Practices—2007, China, 9; CECC Staff Interview.

[23] PRC Population and Family Planning Law, art. 39.

[24] Ibid., art. 33.

[25] U.S. Department of State, Country Reports on Human Rights Practices—2007, China, 9.

[26] "Henan Family Planning Office Forcibly Induces Labor and Kills Infant" [Henan jishengban qiangxing yinchan bing shasi yinger], Radio Free Asia (Online), 6 May 08.

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[14] The purchase of a wife is also influenced by other reasons, such as the health condition or age of the man. Bu Wei, "Looking for 'the Insider's Perspective:' Human Trafficking in Sichuan," in Doing Fieldwork in China, Maria Heimer and Stig Thogersen, eds. (Honolulu, Hawai'i: University of Hawai'i Press, 2006), 213.

[15] CECC, 2007 Annual Report, 110–111.

[16] U.S. Department of State, Trafficking in Persons Report 2008, 92.

[17] See, e.g. "'Uncle' Sentenced to Five Years in Prison for Trafficking Colleague's Child" [Guaimai gongyou xiaohai "shushu" huo xing wu nian], Urumqi Evening News, reprinted in Tianshan Net (Online), 19 November 07; "Criminal Gang Trafficked 38 Children in Three Years from Dongguan, Ringleader Sentenced to Death" [Fanzui tuanhuo zai dongguan 3 nian guaimai 38 ming ertong shoufan bei pan sixing], Southern Metropolitan Daily, reprinted in Sina.com (Online), 25 November 05.

[18] "China's Long-Awaited Action Plan on Trafficking Aims To Provide 'Sustainable' Solutions," CECC China Human Rights and Rule of Law Update, March/April 2008, 3.

[19] Ibid.

[20] "Guizhou People's Government General Office Circular Regarding the Printing and Distribution of Fujian Province's Anti-Trafficking Implementation Plan" [Guizhou sheng renmin zhengfu bangongting guanyu yinfa guizhou sheng fandui guaimai funü ertong xingdong jihua 2008–2012 nien shishe fangan de tongzhi], China Law Education (Online), 4 May 08; The People's Government of Hainan Province (Online), "Hainan People's Government General Office Circular Regarding the Printing and Distribution of Hainan Province's Working Plan To Combat the Trafficking of Women and Children" [Hainan sheng renmin zhengfu bangongting guanyu yinfa hainan sheng fandui guaimai funü ertong gongzuo jihua de tongzhi], 6 June 08; The People's Government of Fujian Province (Online), "Fujian People's Government Circular Regarding the Printing and Distribution of Fujian Province's Anti-Trafficking Implementation Plan (2008–2012)" [Fujian sheng renmin zhengfu bangongting guanyu yinfa fujian sheng fandui guimai funu ertong xingdong shishi jihua de tongzhi], 11 June 08; The People's Government of Hanzhong City (Online), "Hanzhong City People's Government General Office Circular Regarding the Printing and Distribution of Hanzhong Plan of Action To Combat the Trafficking of Women and Children (2008–2012)" [Hanzhong shi renmin zhengfu bangongshi guanyu yinfa hanzhong shi fandui guaimai funü ertong xingdong jihua (2008–2012) de tongzhi], 26 March 08.

[21] "UNIAP China Office Held An Inter-Agency Meeting," UNIAP China Latest News Digest (Online), 1 August 08, 1.

[22] U.S. Department of State, Trafficking in Persons Report 2008, 92.

[23] "China's Long-Awaited Action Plan on Trafficking Aims To Provide 'Sustainable' Solutions," CECC China Human Rights and Rule of Law Update, March/April 2008, 3.

[24] Ibid.

[25] Ibid.

[26] United Nations Office on Drugs and Crime (Online), "The United Nations Convention against Transnational Organized Crime and Its Protocols," last visited 17 March 08; UN Convention Against Transnational Organized Crime, adopted by General Assembly resolution 55/25 of 15 November 2000, entry into force 29 September 03; Protocol To Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, adopted by General Assembly resolution 55/25 of 15 November 2000, entry into force 25 December 03.

[27] Ibid., arts 3, 5. The TIP protocol also establishes that trafficked persons are victims of a crime, and contains provisions on law enforcement, protection, and assistance. United Nations Office on Drugs and Crime, "The United Nations Convention against Transnational Organized Crime and Its Protocols"; United Nations Global Initiative To Fight Human Trafficking, "What Is the Importance of the Trafficking Protocol?" last visited 21 April 08; The Vienna Forum To Fight Human Trafficking, Background Paper: The Effectiveness of Legal Frameworks and Anti-Trafficking Legislation, February 2008.

[28] Combating Human Trafficking in China, Hearing of the Congressional-Executive Commission on China, 6 March 06, Testimony of Ambassador John R. Miller, Director, Office to Monitor and Combat Trafficking in Persons, U.S. Department of State; Office of the National Working Committee on Children and Women under the State Council, "National Working Committee on

Women and Children's Report on the Work Situation in 2006 and Work Items for 2007," undated.

[29] "Synopsis of UNIAP's National-Level Training Workshop" [Lianheguo fandui guaimai renkou guojiaji peixun ban jianjie], UNIAP China Office, reprinted in China Jiangsu Net (Online), 13 September 07.

[30] Wang Zhuoqiong, "China Set To Ratify UN Trafficking Protocol," China Daily (Online), 24 October 08.

[31] Convention on the Elimination of All Forms of Discrimination against Women, adopted by General Assembly resolution 34/180 of 18 December 79, entry into force 3 September 81, art. 6; Convention on the Rights of the Child, adopted by the General Assembly resolution 44/25 of 20 November 1989, entry into force 2 September 90, art. 35; Convention concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour (Convention), adopted by the 87th Session of the General Conference of the International Labour Organization of 17 June 99, entry into force 19 November 00, art. 3. Worst forms of child labor mentioned in the Convention include but are not limited to the "sale and trafficking of children," debt bondage, and forced labor.

[32] Ministry of Foreign Affairs (Online), "Foreign Ministry Spokesperson Qin Gang's Regular Press Conference on 19 June, 2007," 20 June 07; CECC, 2006 Annual Report, 173. Under the 1951 Convention and its Protocol "no Contracting State shall expel or return ('refouler') a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion." The government derives its policy of repatriating North Koreans on a 1961 treaty and border management protocol with North Korea signed in 1968 and 1998. Yet the 1951 Convention, its Protocol, and the Convention Against Torture, which China has ratified, supersedes the government's bilateral commitments with North Korea regarding refugees. Convention relating to the Status of Refugees, 28 July 51 by the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons convened under General Assembly resolution 429 (V) of 14 December 50, art. 33. China acceded to the Convention on September 24, 1982; CECC, 2007 Annual Report, 125, endnote 10–12.

[33] A Struggle for Survival: Trafficking of North Korean Women, Remarks by Mark P. Lagon, Ambassador-at-Large and Director, Office to Monitor and Combat Trafficking in Persons, U.S. Department of State, at the Woodrow Wilson International Center for Scholars, 3 March 08; Mikyoung Kim, "Beijing's Hot Potato: North Korean Refugees and Human Rights Debates," Jamestown Foundation (Online), 16 March 05; CECC, 2006 Annual Report, 20 September 06, 174.

[34] A Struggle for Survival: Trafficking of North Korean Women, Remarks by Mark P. Lagon; Combating Human Trafficking in China, Hearing of the Congressional-Executive Commission on China, 6 March 06, Written Statement of Abraham Lee, Director of Public Relations, Crossing Borders.

[35] Office to Monitor and Combat Trafficking in Persons, U.S. Department of State, Trafficking in Persons Interim Assessment—China, 19 January 07; U.S. Department of State, Country Reports on Human Rights Practices—2007, China, sec. 5.

[36] Recent campaigns to raise public awareness use posters, videos, pamphlets, and other forms of communication, and are directed at women, youth, rural farmers, migrant workers, journalists, and public officials, among others. See, e.g., Office to Monitor and Combat Trafficking in Persons, U.S. Department of State, Trafficking in Persons Report—China, 12 June 07, 81; U.S. Department of State, Trafficking in Persons Report—China, 14 June 04, 84; U.S. Department of State, Trafficking in Persons Report—China, 3 June 05, 83; U.S. Department of State, Trafficking in Persons Report—China, 11 June 03, 47; U.S. Department of State, Trafficking in Persons Report 2006, 91.

[37] Office to Monitor and Combat Trafficking in Persons, U.S. Department of State, Trafficking in Persons Report—China, 5 June 02, 39; Office to Monitor and Combat Trafficking in Persons, U.S. Department of State, Trafficking in Persons Interim Assessment—China, 1 February 06; Office to Monitor and Combat Trafficking in Persons, U.S. Department of State, Trafficking in Persons Interim Assessment—China, 28 February 08; U.S. Department of State, Trafficking in Persons Report 2003, 47; U.S. Department of State, Trafficking in Persons Report 2005, 84; U.S. Department of State, Trafficking in Persons Report 2006, 93; First Hand Knowledge—Voices Across the Mekong: Community Action Against Trafficking of Children and Women, (Bangkok: International Labour Office, 2005), 62.

[38] U.S. Department of State, Trafficking in Persons Report 2002, 39; U.S. Department of State, Trafficking in Persons Interim Assessment 2006; Office to Monitor and Combat Trafficking in Persons, U.S. Department of State, Trafficking in Persons Report Interim Assessment—China, 28 February 08.

[39] Xin Ren, "Violence against Women under China's Economic Modernisation: Resurgence of Women Trafficking in China," International Victimology, 69–73, 71 (1996).

[40] U.S. Department of State, Trafficking in Persons Report 2005, 84.

[41] U.S. Department of State, Trafficking in Persons Report 2006, 92–3; U.S. Department of State, Trafficking in Persons Interim Assessment 2008.

[42] Ibid.; U.S. Department of State, Trafficking in Persons Report 2007, 81.

[43] U.S. Department of State, Trafficking in Persons Report 2006, 92–3.

[44] U.S. Department of State, Trafficking in Persons Report 2008, 92.

[45] U.S. Department of State, Trafficking in Persons Interim Assessment 2006.

[46] Criminals convicted of abducting and trafficking women and children face between five to ten years or a minimum of ten years of fixed-term imprisonment depending on severity, a 10,000 yuan (US$1,412) fine or confiscation of personal property, and in "especially serious" cases, the death sentence and confiscation of property. Decision of the Standing Committee of the National People's Congress Regarding the Severe Punishment of Criminals Who Abduct and Traffic in or Kidnap Women or Children [Quanguo renmin daibiao dahui changwu weihuanhui guanyu

yancheng guaimai bangjia funü ertong de fanzui fenzi de jueding], issued and effective 4 September 91; PRC Criminal Law, enacted 1 July 79, amended 14 March 97, 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, art. 240.

[47] John Ruwitch, "Child Labor Scandal Highlights Worrying Trend in China," Reuters (Online), 1 May 08.

[48] Ibid.; "Dozens of Slave Workers Freed in China: Report," Reuters (Online), 20 March 08.

[49] U.S. Department of State, Trafficking in Persons Report 2005, 84.

[50] A Ministry of Public Security representative said that there was no local official, including public security official, involvement in the more than 2,500 trafficking cases that were registered in 2006. "The Crime of Trafficking Women and Children Does Not Have a Protective Umbrella in Our Country" [Woguo guaimai funü ertong fanzui meiyou baohusan], Beijing Youth Daily (Online), 15 December 07. Convention on the Elimination of All Forms of Discrimination against Women (Online), "Responses to the List of Issues and Questions for Consideration of the Combined Fifth and Sixth Periodic Report of China," 8 June 06, 8.

[51] U.S. Department of State, Trafficking in Persons Report 2007, 80; U.S. Department of State, Country Reports on Human Rights Practices—2007, China, sec. 5.

[52] "The Crime of Trafficking Women and Children Does Not Have a Protective Umbrella in Our Country," Beijing Youth Daily.

[53] U.S. Department of State, Country Reports on Human Rights Practices—2005, China, sec. 5.

[54] U.S. Department of State, Country Reports on Human Rights Practices—2003, China, sec. 6.f.

[55] U.S. Department of State, Trafficking in Persons Report 2007, 80; U.S. Department of State, Country Reports on Human Rights Practices—2007, China, sec. 5.

[56] U.S. Department of State, Trafficking in Persons Report 2007, 80.

[57] Ministry of Public Security (Online), "Public Security Agencies Adopt 'Strike Hard' Measures against Criminal Acts of Trafficking in Women and Children" [Gong'an jiguan caiqu jiji cuoshi yanli daji guaimai funü ertong fanzui xingwei], 12 December 07; Convention on the Elimination of All Forms of Discrimination against Women (Online), "Responses to the List of Issues and Questions for Consideration of the Combined Fifth and Sixth Periodic Report of China," 8 June 06, 10; U.S. Department of State, Country Reports on Human Rights Practices—2007, China, sec. 5.

[58] An August 31, 2005, statement posted on the PRC Embassy in the United Kingdom's Web site notes that "more concerted efforts by the government and local communities as well as increasing social awareness have led to a gradual decline in China's women trafficking cases." Ministry of Public Security, "Public Security Agencies Adopt 'Strike Hard' Measures against Criminal Acts of Trafficking in Women and Children." See also, "China's Long-Awaited Action Plan on Trafficking Aims To Provide 'Sustainable' Solutions," CECC China Human Rights and Rule of Law Update, March/April 2008.

[59] Ibid.

[60] Wang Zhuoqiong "More Forced into Labor, Prostitution," China Daily (Online), 27 July 07. The U.S. State Department noted an increase in child trafficking in its 2007 Human Rights Report. U.S. Department of State, Country Reports on Human Rights Practices—2007, China, sec. 5.

[61] See, e.g., "Representative Zhou Jianyuan Proposes Amending the Criminal Law To Severely Punish Buyers of Trafficked Women [Zhou Jianyuan daibiao jianyi gai xingfa yancheng shoumai bei guaimai funü zhe]," Legal Daily (Online), 10 March 08; "Representative Yuan Jinghua: Amend the Criminal Law To Strike Hard on Crimes of Trafficking Women and Children [Yuan Jinghua daibiao: xiugai xingfa yanda guaimai funü ertong fanzui]," Legal Daily (Online), 14 March 07; "Hubei Group's Proposal To Amend the Criminal Law: Severe Punishments for the Crime of Trafficking Women and Children [Hubei tuan ti'an xiugai xingfa: guaimai funü ertong zui yao zhongpan]," Chutian City Paper (Online), 13 March 08; "CPPCC Members Propose Establishing the Crime of Forced Labor through the Use of Violence as a Result of the Brick Kiln Case" [Zhengxie weiyuan zhendui hei zhuanyao an tiyi she baoli qiangpo laodong zui], Yanzi Dushi Bao, reprinted in Xinhua (Online), 11 March 08.

[62] Shi Zhuanfei, "Brief Talk on Limitations in China's Criminal Law Regarding Crimes of Trafficking in Persons," 2 Seeking Truth 219, 220 (2005); Liu Xianquan, "On Perfecting China's Punishment for Trafficking in Persons Crimes in the Criminal Law" [Lun woguo chengzhi guaimai renkou fanzui de xingfa wanshan], 5 Legal Studies 93, 100 (2003). "China Plans Cross-Province Cooperation To Attack Human Trafficking for Forced Labor," China Youth Daily. As a reflection of the government's definition of trafficking, MPS figures for trafficking are usually labeled under "abducting women or children" and may be conflated with smuggling cases. "China's Long-Awaited Action Plan on Trafficking Aims To Provide 'Sustainable' Solutions," CECC China Human Rights and Rule of Law Update, March/April 2008; U.S. Department of State, Trafficking in Persons Report 2007, 80.

[63] Ibid.; U.S. Department of State, Trafficking in Persons Report 2006, 92.

[64] "China Commits to 'Open Government Information' Effective May 1, 2008," CECC China Human Rights and Rule of Law Update, May 2008.

[65] The challenge here will be if the budget provided to the public will be broken down at a level that would provide information on anti-trafficking funds. For example, anti-trafficking funds for public security bureaus come out of the criminal investigation unit's budget for handling cases. While having systematic information on the amount of this budget allocation will be helpful, the information may need to be broken down into smaller components in order to shed light on how much funds were used for anti-trafficking efforts. See, e.g., Convention on the Elimination of All Forms of Discrimination against Women, "Responses to the List of Issues and Questions for Consideration of the Combined Fifth and Sixth Periodic Report of China," 8 June 06, 10; "Letting the Government's Money Box Become More Transparent—Liaoning Province Constructs 'Sunshine Financial Administration' (Series of Reports Number 1)" [Rang

zhengfu de qiangui gengjia touming—liaoning sheng jianshe 'yangguang caizheng' xilie baodao zhiyi], Caijing (Online), 12 October 07; "Shanghai People's Congress Issues Notice Regarding How Representatives Should Examine Government Budgets" [Shanghai renda chushu jiao daibiao ruhe shencha zhengfu yusuan], Nanfeng Chuang, reprinted in NetEase (Online), 24 February 08; "Promoting Sunshine Financial Administration, Shanghai Will Implement Real-Time Supervision of Budgets" [Tuidong yangguang caizheng, shanghai jiang shishi yusuan zaixian shishi jiandu], Diyi Caijing Ribao, reprinted in Sohu (Online), 31 January 08; Su Yongtong and Zhao Lei, "The Operation of the New Open Information Regulations Test the Government's Ability To Reveal the Truth," Southern Weekend, 8 May 08 (Open Source Center, 29 July 08).

Notes to Section II—North Korean Refugees in China

[1] The Chinese government's repatriation of North Korean refugees contravenes its obligations under the 1951 Convention Relating to the Status of Refugees and its 1967 Protocol. The 1951 Convention and its Protocol mandate that "[n]o Contracting State shall expel or return ('refouler') a refugee in any manner whatsoever to the frontiers of territories where his life or freedom would be threatened on account of his race, religion, nationality, membership of a particular social group or political opinion." Convention relating to the Status of Refugees, 28 July 51 by the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons convened under General Assembly resolution 429 (V) of 14 December 50, art. 33. China acceded to the Convention on September 24, 1982.

[2] Life Funds for North Korean Refugees (Online), "North Korea Defectors Report on Current Border Situation," 19 June 08; "North Korean Defectors: China Urged To Provide Shelter to Those in Plight," Korea Times (Online), 26 May 08.

[3] Prior to 2008, fines imposed on Chinese citizens who shelter North Koreans were typically 1,000 yuan (US$125). CECC, 2006 Annual Report, 20 September 06, 175. Life Funds for North Korean Refugees, "North Korea Defectors Report"; Michael Sheridan, "Refugees Shot Fleeing North Korea," Times of London (Online), 29 June 2008.

[4] "North Korean Defectors: China Urged To Provide Shelter," Korea Times.

[5] Sheridan, "Refugees Shot Fleeing North Korea."

[6] Ibid. Good Friends (Online), North Korea Today, 114th Edition, March 2008, 1–2.

[7] "North Korea Erects 10km Wire-Mesh Fence to Prevent Refugees from Fleeing to China" [Chaoxian jian shi gongli tiesi wangjia, fangzhi nanmin taowang zhongguo], SingTao Net (Online), 27 August 07. The fence construction may have been a response to pressure from Beijing to halt the flow of refugees before the Olympics. See Bill Powell, "North Korea's Deadly Exit," Time (Online), 6 March 08.

[8] Powell, "North Korea's Deadly Exit."

[9] Life Funds for North Korean Refugees, "North Korea Defectors Report."

[10] Life Funds for North Korean Refugees (Online), "China Raises Bounty on North Korean Refugees 1600 Percent," 10 April 08.

[11] Sunny Lee, "China's 'Olympic Approach' to Refugees," Asia Times (Online), 26 January 08.

[12] Life Funds for North Korean Refugees, "China Raises Bounty." In 2006, China's national per capita income reached US$1,740, according to the PRC National Bureau of Statistics. "China's National Per Capita Income Reaches $1,740," People's Daily (Online), 18 August 06.

[13] Bureau of Democracy, Human Rights and Labor, U.S. Department of State, Country Reports on Human Rights Practices—2007, China (includes Tibet, Hong Kong, and Macau), 11 March 08, 21.

[14] Border guards are stopping all vehicles along this road and searching their trunks, checking ID cards, and questioning passengers about their destination and purpose of visit. Life Funds for North Korean Refugees, "North Korea Defectors Report"; Lee, "China's 'Olympic Approach' to Refugees."

[15] Life Funds for North Korean Refugees, "North Korea Defectors Report."

[16] For more information on how China's repatriation policy violates the 1951 UN Convention Relating to the Status of Refugees and its 1967 Protocol, please see the section on "North Korean Refugees in China" from the CECC 2006 and 2007 Annual Reports.

[17] "Chinese Stage Sweep, Arrest 40 North Koreans," Radio Free Asia (Online), 21 March 08.

[18] 1,319 refugees participated in the survey. Yoonok Chang, Stephan Haggard, and Marcus Noland, Peterson Institute for International Economics, Working Paper, Migration Experiences of North Korean Refugees: Survey Evidence from China, March 2008, 2, 9.

[19] "North Korea Executes 15 Attempting Escape, China Arrests 40 Refugees," CECC China Human Rights and Rule of Law Update, June 2008, 3; International Crisis Group (Online), "Perilous Journeys: The Plight of North Koreans in China and Beyond," 26 October 06; United States Commission on International Religious Freedom, "A Prison Without Bars: Refugee and Defector Testimonies of Severe Violations of Freedom of Religion or Belief in North Korea," March 2008.

[20] U.S. Commission on International Religious Freedom, "A Prison Without Bars," preface.

[21] Ibid., preface, 4–5.

[22] Ibid., 11, 21–22, 28.

[23] "Human Trafficking Thrives Across North Korea-China Border," Chosun Ilbo (Online), 2 March 08; Kang Shin-who, "Korea's Cited as Source of Sex Trafficking," Korea Times (Online), 5 June 08; "U.S. Blames China on NK Human Trafficking," Yonhap News Agency (Online), 8 March 08.

[24] Office to Monitor and Combat Trafficking in Persons, U.S. Department of State, Trafficking in Persons Report—China, 4 June 08, 198–199.

[25] Ibid., 7.

[26] Human Rights Watch (Online), "Denied Status, Denied Education: Children of North Korean Women in China," April 2008.

[27] PRC Nationality Law, effective 10 September 80, art. 4.

[28] PRC Compulsory Education Law, enacted 12 April 86, art. 5.

[29] Human Rights Watch, "Denied Status, Denied Education," 3.
[30] Convention Relating to the Status of Refugees, 189 U.N.T.S. 150, effective 22 April 1954, art. 22; PRC Nationality Law, art. 4; PRC Compulsory Education Law, art. 5.
[31] A survey conducted from August 2004 to September 2005 found that most refugees crossed the border for "economic" reasons. Yoonok Chang, with Stephan Haggard and Marcus Noland, "North Korean Refugees in China: Evidence from a Survey," in The North Korean Refugee Crisis: Human Rights and International Response, eds. Stephan Haggard and Marcus Noland (Washington, DC: U.S. Committee for Human Rights in North Korea, 2006), 19.
[32] Stephan Haggard, Marcus Noland, and Erik Weeks, "North Korea: the Emergence of Pre-Famine Conditions," Vox (Online), 7 June 08; Good Friends (Online), North Korea Today, 108th edition, January 2008, 1–3; Good Friends (Online), North Korea Today, 109th edition, January 2008, 2; Good Friends (Online), North Korea Today, 114th edition, March 2008, 2, 4.
[33] Joshua Kurlantzick and Jana Mason, "North Korean Refugees: The Chinese Dimension," in The North Korean Refugee Crisis: Human Rights and International Response, eds. Stephan Haggard and Marcus Noland (Washington, DC: U.S. Committee for Human Rights in North Korea, 2006), 43.
[34] The central authorities categorize the entire North Korean population into three classes—core, wavering, and hostile—by which access to food and other public goods is determined. Members of the hostile class, an estimated 27 percent of the total population, are the last to receive food and their inferior political status is transferable from generation to generation. Joel R. Charny, Acts of Betrayal: The Challenge of Protecting North Koreans in China (Washington, DC: Refugees International, 2005), 13–14.
[35] "Government Grants Exit Visas to Seven North Koreans, Pressures UNHCR in Pre-Olympic Crackdown," CECC China Human Rights and Rule of Law Update, June 2008, 3; "China Threatens U.N. Agency over North Korean Refugees," Kyodo News (Online), 20 March 08.

Notes to Section II—Public Health

[1] "Gov't Promises Equitable Healthcare for All," China Daily, reprinted in PRC Central People's Government (Online), 8 January 08.
[2] Ibid.
[3] Jonathan Watts, "China's Health Reforms Tilt Away from the Market," 371 Lancet 292, 292 (2008). See also, Gerald Bloom and Shenglan Tang, eds., Health Care Transition in Urban China (Hants, England: Ashgate Publishing Limited, 2004).
[4] Xie Chuanjiao, "Aging Population a Major Challenge," China Daily (Online), 12 March 07; United Nations Development Programme (Online), "Bridging Development Gaps in Today's China," 23 September 06. See also, Bloom and Shenglan Tang, eds., Health Care Transition in Urban China.
[5] Catharine Paddock, "China Puts Healthcare at the Top of the Agenda," Medical News Today (Online), 10 January 08.
[6] "Medical Service Becomes China's Most Topical Social Issue" [Yiliao fuwu chengwei zhongguo minzhong zui guanzhu wenti], Radio Free Asia (Online), 10 January 08.
[7] Watts, "China's Health Reforms Tilt Away from the Market," 292–293.
[8] The maternal mortality rate in Guizhou province is ten times higher than the rate in Shanghai, while the child mortality rate before the age of five is five times higher in Guizhou than in Shanghai. Watts, "China's Health Reforms Tilt Away from the Market," 292–293.
[9] "Gov't Promises Equitable Healthcare for All," China Daily.
[10] Anna Lora-Wainwright, China Environmental Health Project, "A Village Perspective of Rural Healthcare in China," January 2008, 3; "Gov't Under Pressure To Make Rural Healthcare System Work," Xinhua, reprinted in China.org.cn (Online), 21 April 07.
[11] "China To Solicit Public Opinions on Health Care Reform," Xinhua, reprinted in PRC Central People's Government (Online), 5 March 08.
[12] "Healthcare for All," China Daily (Online), 28 December 07; "China To Solicit Public Opinions on Health Care Reform," Xinhua.
[13] "Wen: China's Health Care Reform Focuses on Public Service," Xinhua, reprinted in China Daily (Online), 15 April 08.
[14] "Looking Forward: China's Major Events in 2008," Xinhua, reprinted in PRC Central People's Government (Online), 2 January 08; Paddock, "China Puts Healthcare at Top of Agenda."
[15] "China To Expand Rural Healthcare System with Increased Fund, Full Coverage," Xinhua (Online), 15 February 08; "Looking Forward: China's Major Events in 2008," Xinhua; 08; "In 2008, China's Rural Cooperative Medical System Subsidies Will Double, Scope to Increase" [2008 nian woguo xin nong he buzhu biaozhun fanfan fanwei kuoda], Xinhua (Online), 15 February 08; Josephine Ma, "Experts Doubt Financing of Public Hospitals," South China Morning Post (Online), 6 March 08.
[16] Ministry of Health (Online), "Circular Regarding the Completion of Rural Cooperative Medical System Work in 2008" [Guanyu zuohao 2008 nian xinxing nongcun hezuo yiliao gongzuo de tongzhi], 13 March 08.
[17] "Insurers Eyeing Rural Medical Care," Xinhua, reprinted in China Daily (Online), 27 March 08; CECC, 2007 Annual Report, 10 October 07, 132.
[18] "China's Rural Cooperative Medical System Subsidies Will Double," Xinhua.
[19] "China To Increase Subsidies for Rural Co-op Medical Scheme," Xinhua (Online), 7 January 08.
[20] "China To Provide Basic Medical Care for All Rural Residents by 2010," Xinhua (Online), 2 November 07.
[21] Dong Zhixin, "China Expands Basic Health Insurance," China Daily (Online), 5 April 07.
[22] Ibid.
[23] Watts, "China's Health Reforms Tilt Away from the Market," 292–293; Shan Juan, "Medicare Scheme To Go Nationwide," China Daily (Online), 27 February 08.
[24] Shan Juan, "Medicare Scheme To Go Nationwide," China Daily (Online), 27 February 08.

[25] "Gov't Promises Equitable Healthcare for All," China Daily.

[26] "Basic Urban Medical Insurance Covers More People," Xinhua, reprinted in China Daily (Online), 21 May 08; CECC, 2007 Annual Report, 132; Shan Juan, "Medicare Scheme To Go Nationwide"; "More Urban Chinese Receive Healthcare Benefits," Xinhua, reprinted in PRC Central People's Government (Online), 13 December 07.

[27] Shan Juan, "Medicare Scheme To Go Nationwide."

[28] Ibid.

[29] "Basic Urban Medical Insurance Covers More People," Xinhua, reprinted in China Daily (Online), 21 May 08; CECC, 2007 Annual Report, 132; Shan Juan, "Medicare Scheme To Go Nationwide"; "More Urban Chinese Receive Healthcare Benefits," Xinhua, reprinted in PRC Central People's Government (Online), 13 December 07.

[30] Of the 50,000 new cases, 44.7 percent were passed through heterosexual sex, 42 percent from intravenous drug use, 11.2 percent from men having sex with men, and 1.1 percent from mother to infant transmission. China has 223,501 registered HIV/AIDS victims as of 2007. United Nations General Assembly Special Session on HIV/AIDS, UNGASS Country Progress Report, P.R. China, January 2008, 4–5; "China Launches Nationwide AIDS Prevention, Care Program," Xinhua (Online), 28 March 08; Jonathan Watts, "Sex, Drugs, and HIV/AIDS in China," 371 Lancet 103, 104 (2008).

[31] "HIV/AIDS Discrimination Widespread in China—U.N.," Reuters (Online), 28 November 07; United Nations General Assembly Special Session on HIV/AIDS, UNGASS Country Progress Report, P.R. China, January 2008, 8–9.

[32] Wen Chihua, "China's Market Supervisor Joins War Against AIDS," Xinhua (Online), 8 April 08.

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[31] Information in this bulleted item, other than information on Ramadan, is drawn from "Authorities Increase Repression in Xinjiang During Olympics," Congressional-Executive Commission on China (Online), forthcoming. For information on controls over Ramadan, see, e.g., Shayar County Government (Online), "Town of Yengi Mehelle in Shayar County Xinjiang Adopts Nine Measures To Strengthen Management During Ramadan" [Shaya xian yingmaili zhen caiqu jiu xiang cuoshijiaqiang "zhaiyue" qijian guanli], 28 August 08; "Five Measures from Mongghulküre County Ensure Ramadan Management and Olympics Security" [Zhaosu xian wu cuoshi tiqian zuohao zhaiyue guanli bao ao yun wending], Fazhi Xinjiang (Online), 23 August 08; "Toqsu County Deploys Work to Safeguard Stability During Ramadan" [Xinhe xian bushu zhaiyue qijian weiwen gongzuo], Xinjiang Peace Net (Online), 2 September 08.

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[35] Chengdu Dayi County Adolescent Ideology and Morality Development Network (Online), "Propaganda and Education Activities to Guard Against 'Falun Gong' Interference with and Destruction of the Beijing Olympics" [Fangfan "falun gong" ganrao pohuai beijing aoyunhui xuanjiang jiaoyu huodong], 13 June 08; International Cargo Transport Limited of China (Online), "International Cargo Transport of China, Hangzhou Headquarters Convenes Plenary Meeting on Situation" [Zhongguo guoji huoyun hangkong hangzhou yunying jidi zhaokai xingshi dahui], 24 June 08; Chinese Academy of Social Sciences, South China Sea Institute of Oceanology (Online), "Our Institute Convenes Meeting to Discuss Protecting Stability and Defending Security Work" [Wosuo zhaokai weihu wending, anquan baowei yu anquan chansheng gongzuo huiyi], 19 June 08.

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[39] "Beijing Offers Hefty Rewards for Security Threat Information During Olympics," Xinhua (Online), 11 July 08.

[40] Falun Dafa Information Center (Online), "Thousands of Falun Gong Adherents Arrested Throughout China in Run Up to Olympics," 7 July 08. The list of 141 practitioners detained in Beijing from January 2008 to June 2008 can be accessed at http://faluninfo.net/media/doc/2008/07/141-new-cases.pdf.

[41] Chinese public security officials also used supposed security concerns to justify a request made to the government of Japan in which they solicited information on Falun Gong practitioners based in Japan who might attend the Games. The Japanese government refused to cooperate. "China Asks Japan for Information on Falun Gong Members Ahead of Olympics," Kyodo World Service (Online), 17 July 08; Timothy Chui, "More Games Security To Come, Says Expert," Hong Kong Standard (Online), 19 May 08; Edward Cody, "China Set to Protect Olympics," Washington Post (Online), 25 July 08.

[42] "Interview with Tian Yixiang, Head of the Military Affairs Department of the Beijing Olympics Protection Leading Group" [Zhuanfang aoyun anbao xietiao gongzuo xiaozu jundui bu tian yixiang], Outlook Weekly (Online), 8 July 08; "PLA Has Finalized Plans to Deal With Sudden Contingencies During Olympic Games" [Jiefangjun aoyun anbao budui yi zhiding chongfen cuoshi yingdui tufa shijian], China News (Online), 8 May 08.

[43] "Olympic Counterterrorism Warning: Major Threats are Eastern Turkestan, Tibetan Independence, and Falun Gong" [Aoyun laxiang fankong jingbao: zhuyao fangfan dongtu zangdu xiejiao falungong], ChinaGo (Online), 24 July 08.

Notes to Section III—Civil Society

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[3] Xiong Lei, Worldwatch Institute, ″Civil Society Emerging Around Calls for Sustainable Urbanization,″ 26 April 07.

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[5] Liu Xiaobo, "The Rise of Civil Society in China," 3 China Rights Forum, 16, 16–17 (2003).

[6] See, e.g., Zhang Ye, Brookings Institute (Online), "China's Emerging Civil Society,″ June 2003, 9–11; Guobin Yang, "Environmental NGOs and Institutional Dynamics in China," 181 China Quarterly 46, 54–55 (2005); Huang An, "Workers' 'Self-Help' Efforts Under Globalization," South Wind Window [Nanfengchuang], translated by China Labor News Translation, 16 November 07.

[7] "Nearly 2.37 Million Chinese Receive Legal Aid in Past Five Years," Xinhua (Online), 4 September 08. Since the adoption of the Regulation on Legal Aid in 2003, 2.37 million people have received legal assistance in 1.35 million cases. The government spent 76 million U.S. dollars on legal aid in 2007. There were 12,285 full-time legal aid personnel, including 5,927 lawyers and 76,890 registered volunteers, in 3,239 legal aid organizations by the end of 2007.

[8] Ministry of Civil Affairs (Online), 2007 Civil Affairs Development Statistics Report (Civil Society Organizations), June 2008. According to this report, there were 212,000 social organizations (*shehui tuanti*), 174,000 non-governmental and non-commercial enterprises (*minban feiqiye*), and 1,340 foundations (jijinhui) at the end of 2007.

[9] Regulations on the Management of Foundations [Jijin hui guanli tiaoli], issued 8 March 04, effective 1 June 04; Regulations on the Registration and Management of Social Organizations [Shehui tuanti dengji guanli tiaoli], issued and effective 25 October 98; Temporary Regulations on the Registration and Management of Non-Governmental, Non-Commercial Enterprises [Minban feiqiye danwei dengji guanli zanxing tiaoli], issued and effective 25 October 98.

[10] Bureau of Democracy, Human Rights, and Labor, U.S. Department of State (Online), Country Reports on Human Rights Practices—2007, China (includes Tibet, Hong Kong, and Macau), 11 March 08.

[11] Everyone shall have the right to freedom of association with others, including the right to form and join trade unions for the protection of his interests, art. 22, International Covenant on Civil and Political Rights (ICCPR), adopted by General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 23 March 79.

[12] Many NGOs encounter difficulty in securing a sponsor organization and have to struggle for legitimacy. U.S. Embassy in Beijing (Online), "Chinese NGOs—Carving A Niche within Constraints," 20 January 03.

[13] Ibid.

[14] Only organizations registered for "public fundraising" purposes can collect donations, and only registered public welfare organizations can receive donations. As a result, the government monopolizes domestic philanthropy through the Red Cross Society of China and China Charity Federation. Regulations on the Management of Foundations [Jijinhui guanli tiaoli], issued 8 March 04, arts. 3, 25, 40; Public Welfare Donations Law [Zhonghuarenmin gongheguo gongyishiye juanzengfa], enacted 28 June 99, arts. 3, 10. The Ministry of Civil Affairs issued a public notice (No. 108) on June 10, 2008, stating that organizations without registered purpose for public fundraising can apply for approval to solicit funding and goods for quake relief. Ministry of Civil Affairs Public Announcement: Number 108 [Minzheng bu gong gao di 108 hao], issued 10 June 08.

[15] "Management of Earthquake Donation Tests the Chinese Government," ChinaStakes.com, 3 June 08.

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[17] Winny Wang, "China's First Charity Law Under Discussion," Shanghai Daily (Online), 22 August 07.

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[19] See, e.g., Mary-Anne Toy, "China Fears the Power of Its Society," Sydney Morning Herald (Online), 10 June 08; China Development Brief (Online), "Full Steam Ahead for 'Charity' Even as Brakes Are Applied to NGOs," 20 October 07.

[20] Yongding, "China's Color-Coded Crackdown," Foreign Policy (Online), 18 October 05.

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[23] Human Rights Watch (Online), "Essential Background: Overview of Human Rights Issues in China," 1 January 04.

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[26] "Hunan China Democracy Party's Xie Changfa Detained for 'Inciting Subversion'" [Hunan minzhudang renshi xie changfa beiyi shexian dianfu guojia zhengquanzui juyi], Boxun (Online), 19 July 08.

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[28] See, e.g., Ethan Cole, "Chinese House Church Head Forced to Live on Streets," Christian Post, reprinted in Christian Today (Online), 21 July 08; China Aid Association (Online), "President of Chinese House Church Alliance Forced to Live on Streets," 18 July 08.

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[30] Nick Young, China Development Brief (Online), "Message from the Editor," 12 July 07. Later in October of 2007, the editor decided to discontinue the entire publication.

[31] Ibid., 10 October 07. An alien considered a potential threat to China's national security and public order shall not be permitted to enter China. Law of the People's Republic of China on Control of the Entry and Exit of Aliens [Zhonghuarenmin gongheguo waiguoren rujing chujing guanlifa], enacted 22 November 85, art. 12.

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[35] Gao Shan, "China AIDS Museum Website Shut Down by Authorities" [Zhongguo aizibing buowuguan wangzhan zaodao guanbi], Radio Free Asia (Online), 7 May 08.

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[3] CECC, 2007 Annual Report, 144.

[4] Li Lianjiang, "The Politics of Introducing Direct Township Elections in China," 171 China Quarterly 704 (2002).

[5] "Backgrounder: Key Facts and Figures about Rural Democracy," Xinhua (Online), 31 January 08.

[6] John L. Thornton, "Long Time Coming: the Prospects for Democracy in China," Foreign Affairs, January/February 2008.

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[8] Liu Zhaoyang, "Highlights from 'Open Recommendations, Direct Elections' Held for Party Organizations in 7 Eastern Communities in Jinan" [Jinan qi dong shequ dang zuzhi 'gongtui zhixuan' ceji], Xinhua, reprinted in Dazhong Ribao (Online), 17 April 08.

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'yantian moshi' liangci zhixuan zhong riqu chengshou], Southern Metropolitan Daily (Online), 29 May 08.

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[37] See, e.g., Qianxinan Prefecture Temporary Measures on Hearings on Major Administrative Policies [Qianxi'nanzhou zhongda xingzheng juece tingzheng zhanxing banfa], issued 4 March 08.

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[39] "Residents Try Their Hands at Lawmaking," China Daily (Online), 10 October 07.

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[42] PRC Legislation Law, enacted 15 March 00, art. 7.

[43] In September 2005, Xinhua reported that Chinese officials were considering revisions to the PRC Criminal Procedure Law in preparation for ratifying the International Covenant on Civil and Political Rights. "Amendments to Criminal Procedure Law Likely," Xinhua (Online), 8 September 05.

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Notes to Section III—Commercial Rule of Law

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[5] "Supreme People's Court Publishes Draft Judicial Interpretation of the Property Law for Public Comment," Supreme People's Court (Online), 6 June 08.

[6] U.S. Department of Treasury (Online), "Joint U.S.-China Fact Sheet, Fourth U.S.-China Strategic Economic Dialogue," 18 June 08.

[7] PRC Anti-Monopoly Law (AML), issued 30 August 07, effective 1 August 08. See also "Anti-Monopoly Law Enforcement: Rough Road Ahead" [Fan longduan zhifa qianlu qiqu], Caijing (Online), 21 July 08. For commentary in English on the AML and an unofficial English translation, see Nathan Bush, "The PRC Antimonopoly Law: Unanswered Questions and Challenges Ahead," Antitrust Source (Online), October 2007. See also Xiaoye Wang, "Highlights of China's New Anti-Monopoly Law," 75 Antitrust Law Journal, no. 1, 133 (2008). A number of implementing rules and regulations are in the pipeline, but some were issued around the time the AML took effect, including: Rules of the State Council on Notification Thresholds for Concentrations of Undertakings [Guowuyuan guanyu jingyingzhe jizhong shenbao biaozhun de guiding], adopted 1 August 08, issued and effective 3 August 08, and Supreme People's Court Notice on Serious Study and Implementation of the PRC Anti-Monopoly Law [Zuigao renmin fayuan guanyu renzhen xuexi he guanche zhonghua renmin gongheguo fanlongduan fa de tongzhi], issued and effective 28 July 08. See also Chen Yonghui, "Circular of the Supreme People's Court Requires Conscientiously Hearing All Kinds of Anti-Monopoly Cases According to Law" [Zuigao renmin fayuan tongzhi yaoqiu qieshi yifa shenlihao gelei fanlongduan anjian], Supreme People's Court (Online), 31 July 08.

[8] "Anti-Monopoly Law Commission in Force," China Daily (Online), 16 July 08.

[9] Andrew Batson, "China Creates Antitrust Commission," Wall Street Journal (Online), 15 September 08.

[10] PRC Anti-Unfair Competition Law, issued 2 September 93, effective 1 December 93. Specifically, Articles 6 (exclusive dealing by firms in a dominant market position), 11 (predatory pricing,), 12 (tied selling), and 15 (bid rigging).

[11] PRC Price Law, issued 29 December 97, effective 1 May 98. Specifically, Articles 14(1) (price-fixing) and 14(2) (predatory pricing).

[12] Guo Xiaoyu, "'The Economic Constitution' A Sword Pointing at Monopoly Behavior" ["Jingji xianfa" jian zhi longduan xingwei], Legal Daily (Online), 26 August 07. See also Paul Jones, "China's New Anti-Monopoly Law: An Economic Constitution for the New Market Economy?" 3 China Law Reporter 5 (September 2007), 3.

[13] Jones, "China's New Anti-Monopoly Law."

[14] AML, art. 5.

[15] AML, art. 7. (Article 7 provides that, "in industries that implicate national economic vitality and national security, which are controlled by state-owned enterprises, and in industries in which there are legal monopolies, the state shall protect the lawful business activities of those enterprises, supervise and control their conducts and prices for the products and services pursuant to law, protect the interests of consumers, and promote technological progress.") SOEs account for 35 percent of China's GDP and enjoy monopoly positions in some sectors. World Trade Organization (Online), Trade Policy Review Report by the Secretariat China, 16 April 08, xi–xii.

[16] See, for example: Yang Fan, "Are M&As Suffocating Chinese Businesses?" Beijing Review (Online), 4 June 07; "Chinese Lawmakers Call for Cautious Handling of Foreign Mergers," Xinhua, reprinted in People's Daily (Online), 4 March 07; "Improved Laws Sought on M&A by Foreign Firms," Shanghai Daily, 5 March 07; Wang Jun, "A Law To Curb Monopoly-Finally," Beijing Review, 13 July 06. Previously existing regulations on mergers and acquisitions by foreign firms include Regulations on Acquisitions of Domestic Enterprises by Foreign Investors, issued on 6 August 06, effective 8 September 06 (issued jointly by the Ministry of Commerce, the State Assets Supervision and Administration Commission, the State Taxation Administration, the State Administration for Industry and Commerce, the China Securities Regulatory Commission, and the State Administration of Foreign Exchange), superseding Temporary Regulations on Mergers and Acquisitions of Domestic Enterprises by Foreign Investors, issued 7 March 03.

[17] Jones, "China's New Anti-Monopoly Law, 10.

[18] Zhu Tao, "Antitrust Claim Puts State Agency on Trial," Caijing (Online), 27 August 08; CECC Staff Interviews.

[19] "Microsoft Faces an Antitrust Investigation," Caijing (Online), 26 August 08.

[20] United States Trade and Development Agency, "USTDA Initiative Promotes U.S.-China Cooperation Towards Effective Anti-Monopoly Law Implementation," 7 March 08.

[21] AML, art. 31.

[22] See Steve Dickinson, "National Security Review Under China's New Anti-Monopoly Law," China Law Blog (Online), 29 August 08; Jason Subler, "China's Landmark Antimonopoly Law Finally Taking Effect," Reuters, reprinted in International Herald Tribune (Online), 31 July 08. For a useful compilation of quotes expressing concern, see "PRC's Anti-Monopoly Law: Well-known Trademarks and Traditional Chinese Brands Are Part of National Security," IP Dragon, 1 September 08. See also "Anti-Monopoly Civil Cases To Be Decided by Intellectual Property Courts" [Fan longduan minshi an guikou zhishichanquanting shenpan], Caijing (Online), 31 July 08.

[23] Supreme People's Court Notice on Serious Study and Implementation of the PRC Anti-Monopoly Law; "Anti-Monopoly Civil Cases," Caijing.

[24] State Council, Outline of the National Intellectual Property Strategy, 5 June 08; China's State Intellectual Property Office, Fully Implement the National Intellectual Property Strategy, 13 June 08; Ministry of Commerce, National Office of Rectification and Standardization of Market Economic Order, and State Intellectual Property Office, China's Action Plan on IPR Protection 2008, 18 March 08.

[25] State Council, Outline of the National Intellectual Property Strategy. Paragraphs 16, 53, 59, 61, 63, for example.

[26] Office of the United States Trade Representative, 2008 Special 301 Report, 21, 25, 30, 31.

[27] Section 4, paragraph 29 constitutes the entire section on trade secrets, quoted here in its entirety: "Guide market entities in establishing a trade secret management system in accordance with law. The behavior of stealing trade secret should be severely punished in accordance with law. Properly balance the need for protecting trade secret and the freedom to choose employment and balance non-competition undertaken by insiders and the need for normal personnel flow to safeguard employees' lawful rights and interests." State Council, Outline of the National Intellectual Property Strategy.

[28] The PRC Labor Contract Law (articles 23, 24) restricts the use of non-competition agreements. Only senior managers and employees with access to trade secrets can be required to sign. Moreover, agreements may not remain valid for more than two years, may apply only within a reasonably limited geographic area and employers must compensate the employee for being bound by the agreement during the time it is in effect. PRC Labor Contract Law, adopted 29 June 07, arts. 23, 24.

[29] The NPC published proposed amendments to the patent law on its Web site asking for comments on September 8, 2008.

[30] State Council, Outline of the National Intellectual Property Strategy, Section V(iv), paragraph 45.

[31] Office of the United States Trade Representative, 2008 Special 301 Report, 2, 10, 19.

[32] World Trade Organization, Trade Policy Review Report.

[33] Office of the United States Trade Representative Closing Statement of the United States of America at the First Substantive Meeting of the Panel, China —Measures Affecting The Protection And Enforcement Of Intellectual Property Rights, WT/DS362, 16 April 08, paragraph 16.

[34] Ibid., paragraph 17, 23.

[35] Office of the United States Trade Representative, 2008 Special 301 Report, 21.

[36] Ibid., 22; CECC, 2007 Annual Report, 155.

[37] Office of the United States Trade Representative, 2008 Special 301 Report, 10.

[38] Guizhou Province Intellectual Property Rights Highlights for 2008 [2008 Nian guizhou zhishi chanquan gongzuo yaodian], State Intellectual Property Office (Online), 6 June 08, referring to Guizhou Province Regulations on the Protection of Intellectual Property Rights Over Traditional Knowledge [Guizhou sheng chuantong zhishi zhishichanquan baohu tiaoli]. See also Guizhou Province Intellectual Property Strategy Outline (2006–2015) [Guizhou sheng zhishi chanquan zhanlue gangyao (2006–2015)] issued 29 August 2006; "Prospects for the Development of Protection of Intellectual Property Rights Over Traditional Knowledge in Guizhou" [Guizhou kaizhan chuantong zhishi chanquan baohu difang lifa de kexing xing] Guizhou Province Intellectual Property Office (Online), no date; "Guizhou Province Officially Launches Legislative Research on the Protection of Intellectual Property Rights Over Traditional Knowledge" [Guizhou zhengshi hudongsheng chuantong zhishi zhishi chanquan baohu lifa diaoyan gongzuo] China Biodiversity IP News Online. 23 Feb 06; "Protecting Traditions," Xinhua, reprinted in State Intellectual Property Office (Online), 7 January 08; Richard Stone, "Chinese Province Crafts Pioneering Law To Thwart Biopiracy," Science, 9 May 08; "Guizhou Province Drafts Regulation To Protect Traditional Knowledge," IP Dragon (Online), 8 March 07; "China Moves To Protect Traditional Knowledge," Xinhua, 3 March 07; "Province Crafts New Law To Protect Traditional Arts, Medicine," Xinhua (Online), 24 December 07.

[39] "Guizhou is regarded as an undeveloped province. Its scientific level is relatively low, but it's rich in traditional knowledge. Because we lack the means to turn knowledge into innovation, we have to protect the knowledge for future development," Guizhou Intellectual Property Office Deputy Director quoted in Stone, "Chinese Province Crafts Pioneering Law."

[40] "China's New Draft Patent Law: Comment from GRAIN," GRAIN (Online), 25 September 08. ("As it stands, the draft provides no safeguards, no restrictions, against outright 'biopiracy' in terms of traditional knowledge.") "GRAIN is an international non-governmental organisation which promotes the sustainable management and use of agricultural biodiversity based on people's control over genetic resources and local knowledge." (www.grain.org/about/).

[41] Ibid. (". . . as soon as these laws start talking about traditional knowledge, for example based on trade agreements, it can mean the government is starting to treat traditional knowledge as intellectual property. But the reality is that the Chinese government is keen to convert the nation's wealth of traditional medicinal knowledge into tangible 'benefits.' ").

[42] According to environmental lawyer Shalini Bhutani, "[a]n IP system inherently based on private rights may not have solutions for the 'protection' of traditional knowledge, which is a shared heritage." Quoted by Stone, "Chinese Province Crafts Pioneering Law."

[43] "(T)raditional knowledge only means traditional scientific knowledge. But our understanding is that it also includes traditional culture," the Guizhou Intellectual Property Office Deputy Director is reported to have said. See Ibid.

[44] "MOFCOM Minister Calls for 'Special War' on Product Quality," China Daily, 27 August 07; "'Special War' Launched To Raise Quality in China," China Daily, 24 August 07.

[45] CECC, 2007 Annual Report, 168–179.

[46] PRC Food Hygiene Law, issued 30 October 95; "China's Chief Quality Supervisor Resigns Amid Public Grumbles Over Tainted Milk," Xinhua (Online), 22 September 08.

[47] "China's Chief Quality Supervisor Resigns," Xinhua.

[48] PRC Civil Servant Law, issued 27 April 05, effective 1 January 06.

[49] Regulations on the Punishment of Civil Servants of Administrative Organs [Xingzheng jiguan gongwuyuan chufen tiaoli], issued 22 April 07, effective 6 January 07.

[50] See, e.g., David Barboza, "China Detains 19 as Toxic Formula Sickens Hundreds of Infants," New York Times (Online), 14 September 08; Joe McDonald, "Chinese Dairy Knew Milk Fault Weeks Before Recall," 13 September 08; "China Dairy Firm Knew of Toxic Milk for Months: State Media," Agence France-Presse, 23 September 08.

[51] "Propaganda Officials Issue 21 Restrictions on Domestic Coverage of Olympics," Congressional-Executive Commission on China (Online), 22 August 08.

[52] See, e.g., "China Food Safety Law To Allow for Life in Jail," Reuters (Online), 20 April 08; Henry Sanderson, "China Proposes Food Safety Laws," Christian Science Monitor (Online), 23 April 08; "China Publishes Draft Regulation on Food Safety to Solicit Public Opinion," Xinhua (Online), 21 April 08; "China's Top Legislator Promises More Public Participation in Food Safety Legislation," Xinhua, 8 March 08.

[53] "China's Top Lawmakers To Review Food Safety Law: State Media," Agence France-Presse (Online), 18 August 08.

[54] CECC, 2007 Annual Report, 165.

[55] Ministry of Land and Resources, Land Registration Measures [Tudi dengji banfa], issued 30 December 07, effective 1 February 08.

[56] Ashley Howlett and Li Hong, "New Registration Measures Provide Clarity for China Land Owners," China Law and Practice (Online), May 2008.

[57] Land Registration Measures, art. 75.

[58] Another noteworthy land and property-related regulation that took effect during 2008 is the State Council's Circular on Promoting Land Conservation and Improving the Efficiency of Land Use [Guanyu cujin jieyue jiyue yong di de tongzhi], January 3, 2008. See Paul D. McKenzie, Gregory Sin Oon Tan, "'New' Regulations on Land Conservation in the Peoples' Republic of China," Morrison & Foerster LLP (Online), 25 August 08.

[59] PRC Urban and Rural Planning Law, issued 28 October 07, effective 1 January 08.

[60] PRC Urban Planning Law [Chengshi guihua fa], issued 26 December 89, effective 1 April 90, replaced as of 1 January 08 by the new PRC Urban and Rural Planning Law [Cheng xiang guihua fa] (see note 59).

[61] "Supreme People's Court Publishes Draft Judicial Interpretation of the Property Law," Supreme People's Court.

[62] Articles of Agreement of the International Monetary Fund, July 22, 1944, art. IV— Obligations Regarding Exchange Arrangements, Section 1—General Obligations of Members, subsection (iii), International Monetary Fund (Online).

[63] Michael Mussa, "IMF Surveillance over China's Exchange Rate Policy," in Debating China's Exchange Rate Policy, eds. Morris Goldstein and Nicholas R. Lardy, (Washington D.C.: Peterson Institute for International Economics, April 2008), 62.

[64] "Comments by Steven Dunaway, Deputy Director, Asia and Pacific Department of the International Monetary Fund, on a paper: IMF Surveillance Over China's Exchange Rate by Michael Mussa, at the Peterson Institute Conference on China's Exchange Rate Policy," International Monetary Fund (Online), 19 October 07.

[65] Goldstein, "China's Exchange Rate Policy," 17; Mussa, "IMF Surveillance over China's Exchange Rate Policy," 71.

[66] CECC, 2007 Annual Report, 163–164.

[67] Arculli Fong & Ng/King and Wood, "China: New Implementing Regulations and Notice in Respect of the PRC Enterprise Income Tax Law," International Tax Review (Online), February 08; Stephen Nelson, "The PRC Enterprise Income Tax Law and its Impact on Foreign Investments," 3 China Law Reporter, May 2007.

[68] World Trade Organization (Online), Member Information, "China and the WTO," www.wto.org/english/thewto—e/countries—e/china—e.htm, last visited 9 October 08.

[69] World Trade Organization (Online), Disputes DS339 (European Communities) DS340 (United States) and DS342 (Canada), China—Measures Affecting Imports of Automobile Parts WTO Doc. Nos. 08–3275, 08–3276 and 08–3277, 18 July 08.

[70] Ibid.

[71] World Trade Organization (Online), Disputes DS339 (European Communities) DS340 (United States) and DS342 (Canada), China—Measures Affecting Imports of Automobile Parts, Notification of an Appeal by the People's Republic of China, WTO Doc. No. 08–4387, 22 September 08.

[72] World Trade Organization (Online), Dispute DS363, China—Measures Affecting Trading Rights and Distribution Services for Certain Publications and Audiovisual Entertainment Products, Constitution of the Panel Established at the Request of the United States, WTO Doc. No.08–1380, 28 March 08; Request for the Establishment of a Panel by the United States, WTO Doc. No. 07–4406, 11 October 07.

[73] World Trade Organization (Online), Dispute DS363, China—Measures Affecting Trading Rights and Distribution Services for Certain Publications and Audiovisual Entertainment Products, Communication from the Chairman of the Panel, WTO Doc. No. 08–4453, 23 September 08.

[74] World Trade Organization (Online), China—Measures Affecting Financial Information Services and Foreign Financial Information Suppliers., Disputes DS372 and DS373, Request for Consultations by the European Communities, WTO Doc. No. 08–0979, 5 March 08, Request for Consultations by the United States, WTO Doc. No. 08–0981, 5 March 08.

[75] World Trade Organization (Online), Dispute DS373, China—Measures Affecting Financial Information Services and Foreign Financial Information Suppliers, Request for Consultations by the United States, WTO Doc. No. 08–0981, 5 March 08.

[76] Ibid.

[77] World Trade Organization (Online), Dispute DS378, China—Measures Affecting Financial Information Services and Foreign Financial Information Suppliers, Request for Consultations by the Canada, WTO Doc. No. 08–2985, 23 June 08.

[78] World Trade Organization (Online), Dispute DS378, China—Measures Affecting Financial Information Services and Foreign Financial Information Suppliers, Request to Join Consultations, Communication from the United States, WTO Doc. No. 08–3221, 4 July 08.

[79] See, e.g., World Trade Organization (Online), Dispute DS362, "China — Measures Affecting the Protection and Enforcement of Intellectual Property Rights," Constitution of the Panel Established at the Request of the United States, Note by the Secretariat, WTO Doc. No. 07–5564. 13 December 07; United States Trade Representative (USTR) (Online), "WTO Case Challenging Weaknesses in China's Legal Regime for Protection and Enforcement of Copyrights and Trademarks," Trade Delivers, April 2007; USTR (Online), "United States Files WTO Cases Against China Over Deficiencies in China's Intellectual Property Rights Laws and Market Access Barriers to Copyright-Based Industries," 9 April 07.

[80] World Trade Organization (Online), Dispute DS362, "China — Measures Affecting the Protection and Enforcement of Intellectual Property Rights," Communication from the Chairman of the Panel, WTO Doc. No. 08–3478, 18 July 08.

[81] World Trade Organization (Online), Dispute DS358, China — Certain Measures Granting Refunds, Reductions or Exemptions from Taxes and Other Payments, Request for the Establishment of a Panel by the United States, WTO Doc. No. 07–2980, 13 July 2007; Request for the Establishment of a Panel by Mexico, WTO Doc. No., 07–3005, 13 July 2007. See also USTR (Online), "United States Requests WTO Panel in Challenge to China's Prohibited Subsidies," 12 July 07; USTR (Online), "United States Files WTO Case Against China Over Prohibited Subsidies," 2 February 07.

[82] World Trade Organization (Online), Dispute DS358, China — Certain Measures Granting Refunds, Reductions or Exemptions from Taxes and Other Payments, Request for the Establishment of a Panel by the United States. World Trade Organization Document Number 07–2980, 13 July 07; World Trade Organization (Online), Dispute DS359, China — Certain Measures Granting Refunds, Reductions or Exemptions from Taxes and Other Payments, Request for the Establishment of a Panel by Mexico, WTO Doc. No. 07–3005, 13 July 07. See also Frances Williams, "WTO Probes China's Export Subsidy Claims," Financial Times (Online), 31 August 07.

[83] World Trade Organization (Online), Dispute DS358, China — Certain Measures Granting Refunds, Reductions or Exemptions from Taxes and Other Payments, Communication from China and the United States, WTO Doc. No. 08–0025, 4 January 08.

[84] World Trade Organization, Dispute DS359, China — Certain Measures Granting Refunds, Reductions or Exemptions from Taxes and Other Payments. Communication from China and Mexico, WTO Doc. No. 08–0639, 13 February 08.

[85] A full list of outcomes from the 19th JCCT may be found at: http://www.commerce.gov/NewsRoom/PressReleases—FactSheets/PROD01—007242.

Notes to Section III—Access to Justice

[1] See Carl Minzner, "Xinfang: An Alternative to Formal Chinese Legal Institutions," 42 Stanford Journal of International Law 103, 151–57 (2006).

[2] Universal Declaration of Human Rights, adopted and proclaimed by General Assembly resolution 217 A (III) of 10 December 48, art. 8 [hereinafter UDHR]; International Covenant on Civil and Political Rights, adopted by General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 23 March 76, art. 9 [hereinafter ICCPR].

[3] ICCPR, art. 2.

China has signed, but has not yet ratified, the ICCPR. The Chinese government has committed itself to ratifying, and thus bringing its laws into conformity with the ICCPR and reaffirmed its commitment as recently as March 18, 2008, when Premier Wen Jiabao told a press conference that China is "conducting interagency coordination to address the issue of compatibility between China's domestic laws and international law so as to ratify the [ICCPR] as soon as possible." Ministry of Foreign Affairs (Online), "Premier Wen Jiabao Answered Questions at Press Conference," 18 March 08. China's top leaders have previously stated on at least four separate occasions that they are preparing for ratification of the ICCPR, including on April 13, 2006, in China's application for membership in the UN Human Rights Council in a September 6, 2005, statement by Politburo member and State Councilor Luo Gan at the 22nd World Congress on Law, in statements by Premier Wen during his May 2005 Europe tour, and in a January 27, 2004 speech by Chinese President Hu Jintao before the French National Assembly.

[4] Measures on the Payment of Litigation Costs [Susong feiyong jiaona banfa], issued 19 December 06, effective 4 January 07.

[5] Measures for the Administration of Lawyers' Fees [Lüshi fuwu shoufei guanli banfa], issued 13 April 06, effective 1 December 06.

[6] Human Rights Watch (Online), "Walking on Thin Ice": Control, Intimidation and Harassment of Lawyers in China, April 2008.

[7] Ibid., 55.
[8] Ibid., 62.
[9] Ibid., 13–14.
[10] Ibid., 87–88.
[11] Chinese Human Rights Defenders (Online), "Tibetans Sentenced without Fair Trial; Lawyers Offering Aid Face Punishment," 2 May 08.
[12] See, e.g., "Human Rights in China (Online), "Chinese Authorities Target Lawyers Offering Legal Assistance to Tibetans," 9 April 08; Cheng Hai, "21 Mainland Lawyers Willing to Offer Legal Assistance to Detained Tibetans" [21 ming dalu lüshi yuanyi wei bei bu zangmin tigong falü bangzhu], Canyu, reprinted in Boxun (Online), 8 April 08.
[13] "Lawyers Face Loss of Licenses After Offer to Tibetans," South China Morning Post (Online), 10 May 08; Human Rights Watch (Online), "Tibetan Protestors Denied Fair Trial: Sentenced in Secret After Party Urges 'Quick Hearings,'" 30 April 08; "Judges and Lawyers: Rioters in Lhasa Unrest Receive Fair Trial," Xinhua (Online), 1 May 08.
[14] "Lawyers Face Loss of Licenses After Offer to Tibetans," South China Morning Post.
[15] Chinese Human Rights Defenders, "Tibetans Sentenced without Fair Trial"; Human Rights Watch, "Walking on Thin Ice," 62 (quoting a Beijing lawyer who had volunteered to represent Tibetans detained in the wake of protests in Lhasa: "We were warned not to represent Tibetans.").
[16] Chinese Human Rights Defenders, "Tibetans Sentenced Without Fair Trial."
[17] Jiang Tianyong, China Human Rights Lawyers Concern Group (Online), "Victory for Rule of Law—My Lawyer's License Has Been Renewed" [Fazhi de shengli—wo yi tongguo lüshi zhiyezheng nianjian zhuce], 30 June 08.
[18] "China Slaps Ban on Lawyers Who Offered Legal Aid to Tibetans," Agence France-Presse (Online), 4 June 08.
[19] See, e.g., "Milk Scandal: Government Fears Social Protests, Threatens Lawyers," AsiaNews.it, 23 September 08; Peter Ford, "What China's Tainted Milk May Not Bring: Lawsuits," Christian Science Monitor (Online), 22 September 08.
[20] Edward Wong, "Courts Compound Pain of China's Tainted Milk," New York Times (Online), 16 October 08.
[21] "Milk Parents May Sue in U.S.," Radio Free Asia (Online), 22 October 08; Ye Doudou, "When Calamity Strikes, Who Should Pay?" Caijing (Online), 7 October 08.
[22] Minnie Chan, "Don't Aid Milk-Scandal Victims, Lawyers Urged," South China Morning Post (Online), 8 October 08.
[23] Gillian Wong, "Chinese Lawyers Face Pressure To Drop Milk Cases," Associated Press (Online), 7 October 08.
[24] Ng Tze-wei, "Lawyers Warned to Shun Milk Suits," South China Morning Post (Online), 23 September 08.
[25] Ye Doudou, "When Calamity Strikes, Who Should Pay?"
[26] Ng Tze-wei, "Lawyers Warned to Shun Milk Suits."
[27] See, e.g., Chan, "Don't Aid Milk-Scandal Victims"; Ng Tze-wei, "Sanlu Court Action Put on Hold," South China Morning Post (Online), 16 October 08.
[28] "Sanlu Suit Gets Cool Reception in Court," South China Morning Post (Online), 9 October 08.
[29] Ng Tze-wei, "Sanlu Court Action Put on Hold."
[30] Ng Tze-wei, "Sanlu Court Action Put on Hold"; PRC Civil Procedure Law, enacted 9 April 91, amended 28 October 07, art. 112.
[31] See, e.g.,Wong, "Courts Compound Pain of China's Tainted Milk"; Ford, "What China's Tainted Milk May Not Bring: Lawsuits."
[32] Under the national Regulations on Letters and Visits, citizens may "give information, make comments or suggestions, or lodge complaints" to *xinfang* (letters and visits) bureaus of local governments and their departments. Regulations on Letters and Visits [Xinfang tiaoli], issued 10 January 05, arts. 3, 6.
[33] PRC Administrative Reconsideration Law, enacted 29 April 99, arts. 6, 14.
[34] PRC Administrative Litigation Law, enacted 4 April 89, arts. 11, 12.
[35] PRC State Compensation Law, enacted 12 May 94, art. 9.
[36] Parents in Dujiangyan, for example, tried to file a lawsuit in which they sought compensation and an apology from the government. The court refused to accept their suit. One parent told the Associated Press, "We tried the law, and if the law can't solve the problem, how do we solve it?" Cara Anna, "China Cordons Off Schools Collapsed by Quake," Associated Press (Online), reprinted in Yahoo!, 4 June 08. Some parents who engaged in protests outside local government buildings were beaten up, and others were detained. See "Police Detain Parents After China Quake City Protest," Reuters (Online), 21 June 08.
[37] Minzner, "Xinfang: An Alternative to Formal Chinese Legal Institutions," 115–16.
[38] Regulations on Letters and Visits, arts. 3, 6.
[39] Chinese Human Rights Defenders, China Human Rights Yearbook 2007–2008 (August 2008), 40.
[40] CECC, 2007 Annual Report, 38.
[41] Ibid.
[42] Chinese Human Rights Defenders, China Human Rights Yearbook 2007–2008, 40 (reproducing report titled "Silencing Complaints: Human Rights Abuses Against Petitioners in China," 14 March 08).
[43] See, e.g., Mark Magnier, "Fun May Be a Casualty of Beijing's Effort at Perfect Olympic Games," Los Angeles Times (Online), 26 July 08; Willy Lam, "China Tries to Put Its Best Face Forward," Asia Times (Online), 6 August 08.
[44] See, e.g., Willy Lam, "The CCP Strengthens Control Over the Judiciary," China Brief (Online), 3 July 08; Jerome Cohen, "Body Blow for the Judiciary," South China Morning Post (Online), 18 October 08.

[45] Human Rights Watch, "Walking on Thin Ice."
[46] Supreme People's Court Circular on Completing Trial Work During the Earthquake Disaster Relief Period to Earnestly Safeguard Social Stability in the Disaster Area [Zuigao renmin fayuan guanyu yifa zuohao kangzhen jiu zaiqijian shenpan gongzuo qieshi weihu zai qu shehui wending de tongzhi], issued 26 May 2008.
[47] Ibid.
[48] PRC Emergency Response Law, issued 30 August 2007.
[49] Lam, "The CCP Strengthens Control Over the Judiciary"; Cohen, "Body Blow for the Judiciary."
[50] Lam, "The CCP Strengthens Control Over the Judiciary."
[51] Ibid.
[52] "Wang Shengjun Elected China's Top Judge," Xinhua, reprinted in China Legal Publicity (Online), 16 March 08.
[53] Lam, "The CCP Strengthens Control Over the Judiciary."
[54] State Council Information Office, White Paper on China's Efforts and Achievements In Promoting the Rule of Law, Xinhua (Online), 28 February 08.
[55] Ibid.
[56] "New Plan To Improve Anti-corruption System," Xinhua (Online), 14 December 07.
[57] "Chinese Premier Pledges Renewed Fight Against Corruption, Singles Out Government Officials," Associated Press, reprinted in International Herald Tribune (Online), 1 May 08.
[58] "CPC Publicizes Five-year Anti-Corruption Plan," Xinhua (Online), 23 June 08.
[59] "China Vows No Mercy to Corruption," Xinhua, reprinted in PRC Central Government (Online), 10 March 08.
[60] Ibid.
[61] See, e.g., Xie Chuanjiao, "Corruption Prosecution A New High," China Daily (Online), 10 July 08; "Former Shanghai Party Chief Gets 18-Year Term for Bribery," Xinhua, 11 April 08 (Open Source Center, 11 April 08); Wang Heyan, et al., "End of the Line for a Shanghai Scandal," Caijing (Online), 1 April 08.
[62] Xie Chuanjiao, "Chief Judge Pledges to Fight Judicial Corruption," China Daily (Online), 24 March 07.
[63] "(Two Sessions Authorized Release) Supreme People's Court Report," Xinhua, 22 March 08 (Open Source Center, 22 March 08).
[64] Vivian Wu, "High Court Judge Placed Under Party Investigation," South China Morning Post (Online), 18 October 08; Zhang Lisheng, "Court Director Investigated: Report," China Daily (Online), 11 July 08.

Notes to Section IV—Xinjiang

[1] See, e.g., CECC, 2007 Annual Report, 10 October 07, 106–108; CECC, 2006 Annual Report, 20 September 06, 90–91; CECC, 2005 Annual Report, 11 October 05, 21–23.
[2] For detailed information, including information on China's domestic and international obligations toward ethnic minorities, see Section II—Ethnic Minority Rights, as well as the section on "Ethnic Minority Rights" in CECC, 2007 Annual Report, 105–108 and "Special Focus for 2005: China's Minorities and Government Implementation of the Regional Ethnic Autonomy Law," CECC, 2005 Annual Report, 13–23.
[3] The government has long claimed the continued existence of terrorist and separatist threats through spurious statistics and shoddy factual support. For an analysis of Chinese reporting on terrorist activity, see "Uighurs Face Extreme Security Measures; Official Statements on Terrorism Conflict," CECC China Human Rights and Rule of Law Update, May 2006, 12.
[4] For an analysis of Chinese reporting on one of the alleged terrorist plots and on the aircraft attack, see "Xinjiang Authorities Pledge Crackdown Against 'Three Forces,'" CECC China Human Rights and Rule of Law Update, March/April 2008, 2. For more information on two of the alleged terrorist plots, see "Ministry of Public Security Circulates Notice on Recently Cracking 2 Cases of Plots To Carry Out Terrorist Activity" [Gong'anbu tongbao jinqi pohuo de liangqi cehua shishi baoli kongbu huodong anjian], Tianshan Net (Online), 10 March 08.
[5] For reporting from local Xinjiang government Web sites, see, e.g., Kashgar District Government (Online), "Let Society Be Stable and Harmonious, For the People To Be Without Fear—Work Report on Poskam County Striving To Establish a Region-Level Quiet and Stable County" [Rang shehui wending hexie wei baixing anjuleye—zepuxian zheng chuang zizhiquji ping'an xian gongzuo jishi], 3 December 07; Qumul District Government (Online), "Gülshat Abduhadir Stresses at District Education Work Meeting, Enlarge Investments for Optimal Environment" [Gulixiati Abudouhade'er zai diqu jiaoyu gongzuo huiyishang qiangdiao jiada touru youhua huanjing], 9 March 08; Kashgar District Government (Online), "Yengi Sheher County Takes Forceful Measures to Strengthen Carrying Out of Current Stability Work" [Shulexian caiqu youli cuoshi jiaqiang zuohao dangqian wending gongzuo], 31 March 08; Kashgar District Government (Online), "Firmly Grasp Stability Work without Slackening, Protect Smooth Carrying Out of the Olympics" [Hen zhua wei wen gongzuobuxiedai bao aoyunhui shunli juban], 31 March 08; Kashgar District Government (Online), "122 Members of 'Work Team Dispatched to Rural Posts for Olympics Safety and Security' Go to Countryside in Yorpugha County" [Yuepuhuxian 122 ming "ao yun an bao paizhu xiangcun gongzuo duiyuan" xiacun], 28 March 08. For an example of a security measure aimed at XUAR residents living in other parts of China, see "Kashgar District Ethnic and Religious Affairs Commission Enters into Friendly Cooperation with Wuhan City Ethnic and Religious Affairs Commission" [Kashi diqu minzongwei yu wuhanshi minzongwei jiewei youhao xiezuo danwei], China Ethnicities News (Online), 28 February 08. Overseas organizations reported on the imposition of martial order within Ghulja in late March and April and on curfews in multiple cities. Local government Web sites within China appear not to have publicized the curfews. International Campaign for Tibet (Online), "Tibetan Students Hold Vigil in Beijing; Curfew Imposed in Xinjiang Towns," 17 March 08; "FYI—Kashgar, Xinjiang PRC Media Not Observed To Report Alleged Curfew," Open Source Center, 19 March

08; "FYI—Hotan, Xinjiang PRC Media Not Observed To Report Alleged Curfew," Open Source Center, 19 March 08; "Chinese Government Exercises Martial Alert in Ghulja" [Xitay hökümiti ghuljida herbiy halet yürgüzüwatidu], Radio Free Asia (Online), 10 April 08; "Curfew in Xinjiang Town After Police Raids," Radio Free Asia (Online), 10 March 08.

[6] "Authorities Block Uighur Protest in Xinjiang, Detain Protesters," CECC China Human Rights and Rule of Law Update, May 2008, 3.

[7] "The Human Toll of the Olympics," CECC China Human Rights and Rule of Law Update, August 2008, 2–8.

[8] For information on these attacks as reported by official Chinese media, see, e.g., "Police Station Raided in West China's Xinjiang, Terrorist Plot Suspected," Xinhua, 4 August 08 (Open Source Center, 4 August 08); "Xinjiang Official Calls Monday's Raid on Border Police a Terrorist Attack," Xinhua, 5 August 08 (Open Source Center, 5 August 08); "Bombings Kill Eight, Injure Four in China's Xinjiang," Xinhua, 10 August 08 (Open Source Center, 12 August 08); Mao Yong and Zhao Chunhui, "(Explosions in Xinjiang's Kuqa) Violent Terrorism in Kuqa County, Xinjiang, Effectively Dealt With," Xinhua, 10 August 08 (Open Source Center, 10 August 08); "Three Security Staff Killed in Attack at Road Checkpoint in Xinjiang," Xinhua (Online), 12 August 08. For an updated report by foreign media on one of the events, see Edward Wong, "Doubt Arises in Account of an Attack in China," New York Times (Online), 28 September 08.

[9] For an overview of these reported measures, see box titled Increased Repression in Xinjiang During the Olympics in this section, which is drawn from "Authorities Increase Repression in Xinjiang in Lead-up To and During Olympics," Congressional-Executive Commission on China (Online), 7 October 08. See specific sources at, e.g., Uyghur Human Rights Project (Online), "A Life or Death Struggle in East Turkestan; Uyghurs Face Unprecedented Persecution in post-Olympic Period," 4 September 08, 4–7; "Homes Raided in Xinjiang," Radio Free Asia (Online), 23 July 08; Jüme, "Public Security Office Police in Ghulja City Ransack Uyghurs' Homes" [Ghulja shehiri j x idarisi saqchiliri uyghurlarning öylirini axturmaqta], Radio Free Asia (Online), 17 July 08; "The Human Toll of the Olympics," CECC China Human Rights and Rule of Law Update; Dan Martin, "Uyghurs Discouraged From Air Travel Amid China's Olympic Security Clampdown," Agence France-Presse, 31 July 08 (Open Source Center, 31 July 08); Malcom Moore, "China Tightens Grip on Western Province Xinjiang," Telegraph (Online), 8 August 08; Gülchehre, "Chinese Authorities Close Some Uyghur Discussion Web Sites During Olympics" [Xitay dairiliri olimpik mezgilide bir qisim uyghur munazire tor betlirini taqidi], Radio Free Asia (Online), 14 August 08; "Crackdown on Xinjiang Mosques, Religion," Radio Free Asia (Online), 14 August 08; "Mongghulküre County 'Protect Olympics, Protect Stability' Supervision Group Reports Work to Ili Prefecture" [Zhaosuxian shang yili zhou "bao ao yun cu wending" dudao xiaozu huibao gongzuo], Ili Peace Net (Online), 16 July 08; "Mongghulküre County Promptly Arranges Implementation of Spirit of Ili 7.13 Stability Meeting" [Zhaosuxian xunsu anpai luoshi yili zhou "7.13" wending huiyi jingshen], Ili Peace Net (Online), 16 July 08; Kashgar District Government, "Usher in the Olympics and Ensure Stability; Jiashi People Are of One Heart and Mind," 8 August 08 (Open Source Center, 8 August 08). See also Controls over Free Expression in Xinjiang in this section for more information on controls over Web sites.

[10] Jake Hooker, "China Steps Up Scrutiny of a Minority in Beijing," New York Times (Online), 13 August 08; Josephine Ma, "Beijing Security Already High, With More Police Checks on Uygurs And," [sic] South China Morning Post, 5 August 08 (Open Source Center, 5 August 08); "Hotels in All Locations Must Report Tibetans, Uyghurs and Other Ethnic Minority Guests" [Gedi luguan dei tongbao jiangzang deng shaoshu minzu zhuke], Radio Free Asia (Online), 30 July 08; "Beijing and Shanghai Strengthen Inspection and Control of Uyghurs and Tibetans on Eve of Olympics" [Ao yun qianxi jing hu jiaqiang dui weizu zangzuren de jiankong], Radio Free Asia (Online), 27 July 08; "Olympic Terror Clampdown Targets Beijing Uighurs After Attacks," Bloomberg (Online), 18 August 08.

[11] "Nur Bekri's Speech at Autonomous Region Cadre Plenary Session" [Nu'er Baikeli zai zizhiqu ganbu dahui shang de jianghua], Tianshan Net (Online), 11 September 08. For an example of mention of Rebiya Kadeer in local government reports, see "Firmly Grasp the Overall Situation, Unite the Masses, Conscientiously Forge Firm Foundation to Protect Stability" [Bawo daju tuanjie qunzhong qieshi da lao weiwen jichu], Ili News Net (Online), 21 September 08.

[12] For reports from local offices and governments, see, e.g., "Zhang Yun Stresses: Make Firm Push To Deepen Educational Activities" [Zhang yun qiangdiao: zhashi ba zhuti jiaoyu huodong tuixiang shenru], Ili News Net (Online), 25 September 08; "Must Have Vigorous Education Propaganda" [Zhuti jiaoyu xuanchuan bixu honghonglielie], Ili Daily News reprinted in Ili News Net (Online), 16 September 08; "Autonomous Region Youth League Committee Launches Ethnic Unity Education Practicum Activities" [Zizhiqu tuanwei kaizhan minzu tuanjie jiaoyu shijian huodong], Xinjiang Daily (Online), 12 September 08. For Wang's comments, see "Autonomous Region Convenes Cadre Plenary Session on Making Concerted Efforts to Safeguard Xinjiang's Social and Political Stability" [Zizhiqu zhaokai ganbu dahui qixinxieli weihu xinjiang shehui zhengzhi wending], Tianshan Net (Online), 11 September 08; "Wang Lequan's Speech at Autonomous Region 5th Commendation Meeting on Advancement of Ethnic Unity" [Wang Lequan zai zizhiqu di wu ci minzu tuanjie jinbu biaozhang dahui shang de jianghua], Tianshan Net (Online), 16 September 08.

[13] For an overview of incarceration trends from the mid-1990s onward, see CECC, 2007 Annual Report, 107 and accompanying footnotes.

[14] According to the head of the XUAR High People's Court, since 2003, XUAR courts have accepted a yearly average of roughly 150 cases involving endangering state security. "Work Regarding Courts Nationwide Assisting Xinjiang Courts is Launched" [Quanguo fayuan duikou zhiyuan xinjiang fayuan gongzuo qidong], Xinhua (Online), 14 August 07. Nationwide, the number of arrests between 2003 and 2006 for endangering state security numbered 336, 426, 296, and 604 respectively, and the number of such cases that authorities began to prosecute in 2005 and 2006 were 185 and 258 respectively, indicating that cases from the XUAR constituted a significant total percentage both of arrests and prosecutions for endangering state security. The

Dui Hua Foundation (Online), "New Statistics Point to Dramatic Increase in Chinese Political Arrests in 2006," 27 November 07; The Dui Hua Foundation (Online), "'Endangering State Security' Arrests Rise More than 25% in 2004," Dialogue Newsletter, Winter 2006.

[15] "Work Regarding Courts Nationwide Assisting Xinjiang Courts is Launched," Xinhua.

[16] Yan Wenlu, "Xinjiang Higher People's Court To Sternly Crack Down on Crimes of the 'Three Forces' in Accordance With the Law," China News Agency, 15 August 08 (Open Source Center, 15 August 08).

[17] Except where otherwise noted, information in this boxed subsection is drawn from "Authorities Increase Repression in Xinjiang in Lead-up To and During Olympics," Congressional-Executive Commission on China.

[18] Information in this bulleted item, other than information on Ramadan, is drawn from "Authorities Increase Repression in Xinjiang in Lead-up To and During Olympics," Congressional-Executive Commission on China. For information on controls over Ramadan, see, e.g., Shayar County Government (Online), "Town of Yengi Mehelle in Shayar County Xinjiang Adopts Nine Measures To Strengthen Management During Ramadan" [Shayaxian yingmaili zhen caiqu jiu xiang cuoshijiaqiang "zhaiyue" qijian guanli], 28 August 08; "Five Measures from Mongghulküre County Ensure Ramadan Management and Olympics Security" [Zhaosuxian wu cuoshi tiqian zuohao zhaiyue guanli bao ao yun wending], Fazhi Xinjiang (Online), 23 August 08; "Toqsu County Deploys Work to Safeguard Stability During Ramadan" [Xinhexian bushu zhaiyue qijian weiwen gongzuo], Xinjiang Peace Net (Online), 2 September 08. See also Section II—Freedom of Religion—China's Religious Communities—Islam.

[19] "Uyghur Radio Worker Sacked, Detained," Radio Free Asia (Online), 8 September 08; "Supplementary Information on Prisoner Mehbube Ablesh" [Tutqun mehbube ablesh heqqide toluqlima melumatlar], Radio Free Asia (Online), 8 September 08; "Uyghur Staff Member in Xinjiang Criticizes Government, Is Arrested" [Xinjiang weizu yuangong piping zhengfu bei jubu], Radio Free Asia (Online), 9 September 08.

[20] While "Sweep Away Pornography and Strike Down Illegal Publications" campaigns targeting a range of materials exist throughout China, authorities in the XUAR target religious and political materials also as part of broader controls in the region over Islamic practice and other expressions of ethnic identity among the Uyghur population. "Xinjiang Government Strengthens Campaign Against Political and Religious Publications," CECC China Human Rights and Rule of Law Update, February 2008, 4.

[21] In May 2006, for example, XUAR authorities launched a month-long campaign aimed at rooting out "illegal" political and religious publications in which they reported finding "'the existence of books with seriously harmful religious inclinations," and Uyghur-language religious materials with "unhealthy content." "Xinjiang Government Seizes, Confiscates Political and Religious Publications," CECC China Human Rights and Rule of Law Update, July 2006, 7–8. In February 2006, authorities confiscated "illegal" religious materials during a surprise inspection of the ethnic minority language publishing market, as part of a campaign that included focus on materials of an "illegal" political nature, those that propagate ethnic separatism, or those of a religious nature. "Xinjiang Cracks Down on 'Illegal' Religious Publications," CECC China Human Rights and Rule of Law Update, April 2006, 9.

[22] "Atush Launches Clean-up Operation in Publishing Market" [Atushi shi kaizhan chubanwu shichang zhuanxiang zhili xingdong], Qizilsu Kyrgyz Autonomous Prefecture Peace Net (Online), 11 July 08; Jüme, "Chinese Government Starts Urgent Search Activities on Streets of Atush" [Xitay hökümiti atush shehiridiki dukan-restilerde jiddiy axturush herikiti bashlidi], Radio Free Asia (Online), 17 July 08.

[23] Gülchéhre, "Chinese Authorities Close Some Uyghur Discussion Web Sites During Olympics" [Xitay dairiliri olimpik mezgilide bir qisim uyghur munazire tor betlirini taqidi], Radio Free Asia (Online), 14 August 08. In a review of Uyghur Web sites carried out on August 18 and 19, 2008, Commission staff found that the bulletin board services (BBS) on the Web sites www.diyarim.com, www.orkhun.com, and www.alkuyi.com blocked normal message-posting functions and carried messages calling for stability during the Olympics games or noting the closure of the site's BBS. In June, 2008, overseas media noted the closure of the Web site Uyghur Online due to perceived ties with overseas "extremists." See "Uyghur Web Site Shut Down," Radio Free Asia (Online), 12 June 08. See also "Notice Concerning the Closure of Uyghur Online" [Guanyu weiwuer zai xian bei guanbi de tongzhi], available at http://www.uighuronline.cn/ (last visited 19 May 2008). As of September 11, 2008, Commission staff observed that the site was in operation again.

[24] For information on the Islamic Association of China's publishing activities and state controls over the interpretation of religious texts, see "SARA Director Calls for Continued Controls on Religion," CECC China Human Rights and Rule of Law Update, September 2006, 8, and "Islamic Congress Establishes Hajj Office, Issues New Rules," CECC China Human Rights and Rule of Law Update, June 2006, 12–13.

[25] "Teacher and 37 Students Detained for Sudying [sic] Koran in China: Rights Group" Agence France-Presse, 15 August 05 (Open Source Center, 15 August 05); "Three Detained in East Turkistan for 'Illegal' Religious Text," Uyghur Human Rights Project (Online), 3 August 05; Human Rights Watch and Human Rights in China (Online), "Devastating Blows: Religious Repression of Uighurs in Xinjiang," April 2005, 70 (pagination follows "text-only" pdf download of this report).

[26] See, e.g., "Xinjiang Government Promotes Mandarin Chinese Use Through Bilingual Education," CECC China Human Rights and Rule of Law Update, January 2006, 17–18; Xinjiang Uyghur Autonomous Region Ethnic Affairs Commission (Online), "This Fall Ethnic Minority Language-Track Middle Schools in Urumchi, Xinjiang, Try 'Bilingual' Education" [Jin qiu xinjiang wulumuqishi minyuxi chuzhong changshi "shuangyu" jiaoyu], reprinted on the State Ethnic Affairs Commission Web site, 9 May 08.

[27] See, e.g., PRC Constitution, art. 4, 121, and Regional Ethnic Autonomy Law (REAL), enacted 31 May 84, amended 28 February 01, art. 10, 21. Chinese law also promotes education

in ethnic minority languages. See REAL, art. 37. 2005 Implementing Provisions for the REAL affirm the freedom to use and develop minority languages, but also place emphasis on the use of Mandarin by promoting "bilingual" education and bilingual teaching staff. State Council Provisions on Implementing the PRC Regional Ethnic Autonomy Law (REAL Implementing Provisions) [Guowuyuan shishi "Zhonghua renmin gongheguo minzu quyu zizhifa" ruogan guiding], issued 19 May 05, art. 22.

[28] "Xinjiang Bilingual Education Students Increase 50-fold in 6 Years" [Xinjiang shuangyu xuesheng liu nien zengzhang 50 bei], Xinjiang Economic News, via Tianshan Net (Online), 31 October 06.

[29] See, e.g., CECC, 2007 Annual Report, 107; CECC, 2006 Annual Report, 91; CECC, 2005 Annual Report, 22–23.

[30] The Xinjiang High People's Court rejected his appeal in February 2000, but changed the "stealing" state secrets charge to "unlawfully obtaining" them. In 2001, the UN Working Group on Arbitrary Detention found his imprisonment arbitrary and in violation of his right to freedom of thought, expression, and opinion. See the CECC Political Prisoner Database for more information on Tohti Tunyaz's case and the other cases cited in this section.

[31] The precise charges levied against Abduhelil Zunun are unavailable, but Human Rights Watch reported that his sentence took place at a mass sentencing rally to punish terrorist and separatist activities. Human Rights Watch (Online), "China Human Rights Update," 15 February 02. See also the CECC Political Prisoner Database.

[32] See the CECC Political Prisoner Database for more details. Sentencing information on the case and Abdulla Jamal's current whereabouts are not known.

[33] See the CECC Political Prisoner Database for more details.

[34] Ibid.

[35] "Uyghur Radio Worker Sacked, Detained," Radio Free Asia; "Supplementary Information on Prisoner Mehbube Ablesh," Radio Free Asia; "Uyghur Staff Member in Xinjiang Criticizes Government, Is Arrested," Radio Free Asia. See the CECC Political Prisoner Database for more details.

[36] For a discussion of these groups, known as *meshrep* in Uyghur, see, e.g., Jay Dautcher, "Public Health and Social Pathologies in Xinjiang," in Xinjiang: China's Muslim Borderland, ed. S. Frederick Starr (Armonk, New York: M.E. Sharpe, 2004), 285–6.

[37] "Authorities Block Uighur Protest in Xinjiang, Detain Protesters," CECC China Human Rights and Rule of Law Update.

[38] The editor has surmised that the charge may have been based on e-mail correspondence the China Development Brief initiated with a Uyghur diaspora organization while conducting research. Nick Young, "Message from the Editor," China Development Brief (Online), 12 July 07; Nick Young, "Why China Cracked Down on My Nonprofit," Christian Science Monitor (Online), 4 December 07.

[39] Authorities also accused the publication's English-language editor of conducting "unauthorized surveys" and forced the publication's closing during a period of heightened scrutiny over local and foreign civil society organizations throughout China. Nick Young, "Message from the Editor," China Development Brief (Online), Nick Young, "Why China Cracked Down on My Nonprofit." For more information on civil society groups in China, see Section III—Civil Society as well as CECC, 2007 Annual Report, 141–143.

[40] In the course of an interview with Chinese officials, the editor of the China Development Brief (CDB) critiqued repressive policies in the XUAR, comments which he believes might have shut down further negotiations with authorities on ways to salvage CDB. Nick Young, "Why China Cracked Down on My Nonprofit."

[41] While the government continues to impose *hukou*, or household registration requirements, that place restrictions on citizens' ability to formally change their place of residence and receive social services and other benefits in their new homes, limited *hukou* reforms and other policies have nonetheless given citizens more leeway to migrate internally within China than in previous decades. For more information on freedom of residence, see Section II—Freedom of Residence and CECC, 2007 Annual Report, 111–113.

[42] See, e.g., REAL Implementing Provisions, art. 29. For additional information, see, e.g., Gardner Bovingdon, "Autonomy in Xinjiang: Han Nationalist Imperatives and Uyghur Discontent," East-West Center Washington 2004, Policy Studies 11, 24–26.

[43] Earlier government policies, including forced resettlement to the region, have already resulted in broad demographic shifts in the XUAR. According to an official government census, in 1953, Han Chinese constituted 6 percent of the XUAR's population of 4.87 million, while Uyghurs made up 75 percent. In contrast, the 2000 census listed the Han population at 40.57 percent and Uyghurs at 45.21 percent of a total population of 18.46 million. Scholar Stanley Toops has noted that Han migration since the 1950s is responsible for the "bulk" of the XUAR's high population growth in the past half century. Stanley Toops, "Demographics and Development in Xinjiang after 1949," East-West Center Washington Working Papers No. 1, May 04, 1. See also "Xinjiang Focuses on Reducing Births in Minority Areas to Curb Population Growth," CECC China Human Rights and Rule of Law Update, April 2006, 15–16; "Xinjiang Reports High Rate of Population Increase," CECC China Human Rights and Rule of Law Update, March 2006, 16–17.

[44] State Administration for Ethnic Affairs (Online), "Important Meaning" [Zhongyao yiyi], 13 July 04.

[45] See Development Policy in Xinjiang in this section for more information.

[46] Scholar Gardner Bovingdon notes that "Han immigration and state policies have dramatically increased the pressure on Uyghurs to assimilate linguistically and culturally, seemingly contradicting the explicit protections of the constitution and the laws on autonomy[.]" Bovingdon, "Autonomy in Xinjiang: Han Nationalist Imperatives and Uyghur Discontent," 47.

[47] As noted above, Han migration has resulted in high population growth in the region. Stanley Toops, "Demographics and Development in Xinjiang after 1949," 1.

[48] "Xinjiang Focuses on Reducing Births in Minority Areas to Curb Population Growth," CECC China Human Rights and Rule of Law Update.

[49] "Last Year, 65,000 Fewer People Were Born in Xinjiang" [Qunian xinjiang shao chusheng 6.5 wan ren], Xinjiang Metropolitan News, reprinted in Tianshan Net, 28 February 08. Although the government has implemented policies throughout China to reward families who comply with various population planning dictates, it also continues to punish non-compliance. See Section II—Population Planning, for more information. The XUAR regulation on population planning allows urban Han Chinese couples to have one child, urban ethnic minority couples and rural Han Chinese couples to have two, and rural ethnic minority couples to have three. Xinjiang Uyghur Autonomous Region Regulation on Population and Family Planning [Xinjiang weiwu'er zizhiqu renkou yu jihua shengyu tiaoli], issued 28 November 02, amended 26 November 04 and 25 May 06, art. 15. While this legislation indicates some flexibility to adapt national legislation to suit "local conditions," as stipulated in the Regional Ethnic Autonomy Law, XUAR residents nonetheless lack the autonomy to choose not to implement any limits at all on childbearing. REAL, art. 4, 44. For information on the limits of the legal framework for autonomy, see, e.g., CECC, 2005 Annual Report, 15–17. Scholar Gardner Bovingdon discusses the role of population planning requirements within the context of the regional ethnic autonomy system in Bovingdon, "Autonomy in Xinjiang: Han Nationalist Imperatives and Uyghur Discontent," 26.

[50] See, e.g., Uyghur Human Rights Project (Online), "Rural East Turkistan To Be 'Focus' of China's Family Planning Policies," 15 February 06; Human Rights in China: Improving or Deteriorating Conditions? Hearing of the Subcommittee on Africa, Global Human Rights, and International Operations, Committee on International Relations, U.S. House of Representatives, 19 April 06, Testimony of Rebiya Kadeer.

[51] For more details, see the CECC Political Prisoner Database as well as the sources cited below.

[52] "Chinese Police Attempt to Take into Custody Son of Uighur Activist Rebiya Kadeer," CECC China Human Rights and Rule of Law Update, June 2005, 10; "Rebiya Kadeer's Employees Released After Seven-Month Detention," CECC China Human Rights and Rule of Law Update, February 2006, 4–5.

[53] "Xinjiang Police Form Special Unit To Investigate Exiled Activist Rebiya Kadeer," CECC China Human Rights and Rule of Law Update, October 2005, 7–8.

[54] "Xinjiang Authorities Question Rebiya Kadeer's Son, Name Him a Criminal Suspect," CECC China Human Rights and Rule of Law Update, May 2006, 5–6.

[55] "Rebiya Kadeer's Sons Charged With State Security and Economic Crimes," CECC China Human Rights and Rule of Law Update, July 2006, 3–4.

[56] "Rebiya Kadeer's Sons Receive Prison Sentence, Fines, for Alleged Economic Crimes," CECC China Human Rights and Rule of Law Update, December 2006, 15–16.

[57] Uyghur American Association (Online), "Son of Rebiya Kadeer Sentenced to Nine Years in Prison on Charges of 'Secessionism,'" 17 April 07.

[58] Uyghur American Association (Online), "Rebiya Kadeer's Imprisoned Son in Urgent Need of Medical Treatment," 11 December 07.

[59] See, e.g., Calla Weimer, "The Economy of Xinjiang," in Xinjiang: China's Muslim Borderland, 188 (noting improvements in transport and communications that have produced "broad benefits" in the region.); Bovingdon, "Autonomy in Xinjiang: Han Nationalist Imperatives and Uyghur Discontent," 38.

[60] State Administration for Ethnic Affairs (Online), "Important Meaning."

[61] Stanley W. Toops, "The Ecology of Xinjiang: A Focus on Water," in Xinjiang: China's Muslim Borderland, 270–271.

[62] Although the Chinese government does not aggregate economic data by ethnic group, scholars who have looked at other indicators have noted that the most prosperous regions in the XUAR are those with majority Han populations. Areas in the XUAR with overwhelmingly ethnic minority populations remain the region's poorest. Weimer, "The Economy of Xinjiang," 177–180; David Bachman, "Making Xinjiang Safe for the Han?" in Governing China's Multiethnic Frontiers, ed. Morris Rossabi (Seattle: University of Washington Press, 2004), 165–168.

[63] Weimer, "The Economy of Xinjiang," 179–180; Bachman, "Making Xinjiang Safe for the Han?" 167–168; Ildikó Bellér-Hann, "Temperamental Neighbors: Uighur-Han Relations in Xinjiang, Northwest China," in Günther Schlee, ed., Imagined Differences: Hatred and the Construction of Identity (New York: Palgrave, 2002), 65.

[64] See Weimer, "The Economy of Xinjiang," 163 (noting strong government control over both oil and gas reserves and over the general economy).

[65] Scholar Calla Weimer has noted that "in an effort to ensure stability in a frontier area," the central government "has more actively asserted its control over development in Xinjiang than in any other region." Weimer, "The Economy of Xinjiang," 164. For statements connecting development projects to stability, see, e.g., "While Joining NPC Deputies From Xinjiang in Discussing and Examining the Government's Work Report, General Hu Jintao Stresses That It Is Necessary To Firmly Grasp the Opportunity To Carry out the Large-Scale Development of the Western Region and Continuously Create a New Situation in the Development of Various Undertakings in Xinjiang," Xinjiang Daily, 9 March 08 (Open Source Center, 15 March 08); "State Council Made Major Strategic Plans To Further Promote Xinjiang's Economic, Social Development," Xinjiang Daily, 3 October 07 (Open Source Center, 3 October 07); Kashgar District Ethnic and Religious Affairs Commission (Online), "Xinjiang Uyghur Autonomous Region Chair Ismail Tiliwaldi Attends Ceremony for Laying Foundation for Kashgar-Hoten Highway" [Xinjiang weiwuer zizhiqu zhuxi simayi tieliwaerdi chuxi kashi zhi hetian gaodengji gonglu dianji yishi], reprinted on the State Ethnic Affairs Commission Web site, 20 November 07.

[66] In 2007, the government announced that it had invested over 231 million yuan from 2001–2006 in funds to support ethnic minority development, using the money for healthcare, education, cultural undertakings, and broadcast communications. It also announced plans to increase funds for 2007. "State Invests 300 Million Yuan in 7 Years to Support Xinjiang Ethnic

Minority Economic Development" [Guojia 7 nian tou 3 yi yuan fuchi xinjiang shaoshu minzu jingji fazhan], Xinjiang Daily (Online), 17 September 07.

[67] For Chinese media reports on the programs, see, e.g., "Money From Our Kids Has Come" [Zan haizi jiqian laile], Tianshan Net (Online), 25 June 07; Qarghiliq County Government (Online), "Leaving Home for the Wide World, Qarghiliq County's Second Batch of 313 Young Girls Go to Tianjian To Start Their Undertakings" [Zouchu jiamen tiandi kuan yecheng xian di er pi 313 ming nu qingnian fu tianjin chuangye], 17 April 07. For statistics on the makeup of the labor force and number of people transferred from Kashgar district, see "160 Rural Women from Kashgar Go to Tianjin To Apply Their Labor" [Xinjiang kashi 160 ming nongcun funu fu tianjin wugong], Urumqi Evening News, reprinted in Tianshan Net, 19 March 07.

[68] Uyghur Human Rights Project (Online), "Deception, Pressure, and Threats: The Transfer of Young Uyghur Women to Eastern China," 8 February 08; Trafficking in China, Briefing of the Congressional Human Rights Caucus, U.S. House of Representatives, 31 October 07, Testimony of Rebiya Kadeer, President of the Uyghur American Association; "Uyghur Girls Forced Into Labor Far From Home By Local Chinese Officials," Radio Free Asia (Online), 11 July 07.

[69] For information on forced labor (*hashar,* also sometimes translated as "corvée labor") in English, see Radio Free Asia's blog "RFA Unplugged." "Forced, Unpaid Labor for Uyghurs in China's Almond Groves," RFA Unplugged (Online), 9 April 07. For Uyghur-language reporting on the topic, see Gülchéhre, "Forced Labor Started Once Again in Kashgar Countryside" [Qeshqer yézilirida hashar yene bashlandi], Radio Free Asia (Online), 7 February 07; Gülchéhre, "100,000 Farmers in Yeken [Yarkand] Caught Up in Wide-Scale Forced Labor" [Yekende yüz ming déhqan keng kölemlik hashargha tutuldi], Radio Free Asia (Online), 11 March 07; Gülchéhre, "Wide-Scale Forced Labor Started Again in Kashgar Countryside" [Qeshqer yézilirida keng kölemlik hashar yene bashlandi], Radio Free Asia (Online), 20 March 08. For Chinese government reporting on the topic, see Kashgar District Government (Online), "Yeken [Yarkand] County Starts Springtime Wave to Cultivate Desert Land" [Shachexian xianqi chunji gebi kaihuang zaotian rechao], 9 March 07; Kashgar District Government (Online), "100,000 Rural Laborers Build Pistachio Base in Yeken [Yarkand] County" [Shachexian shi wan nongmingong jianshe kaixinguo jidi], 20 March 07.

[70] "Work-Study Programs Using Child Labor Continue in Xinjiang," CECC China Human Rights and Rule of Law Update, January 2008, 5. See also "Xinjiang Government Continues Controversial 'Work-Study' Program," CECC China Human Rights and Rule of Law Update, November 2006, 11.

[71] "Civil Servant Recruitment in Xinjiang Favors Han Chinese," CECC China Human Rights and Rule of Law Update, August 2006, 6; "Xinjiang Government Says Ethnic Han Chinese Will Get 500 of 700 New Civil Service Appointments," Congressional-Executive Commission on China (Online), 7 April 05; CECC Staff Interviews. In addition, new requirements imposed through the government's "bilingual" education policies disadvantage the job prospects of ethnic minority teachers. For more information, see Addendum: "Bilingual" Education in Xinjiang at the end of this section.

[72] According to one report, personnel shortcomings have meant that "there is no way to guarantee the use of ethnic minority languages to carry out litigation." "Meticulously Picking Talent: Problem of Faultline in Xinjiang Courts Makes First Steps at Improvement" [Jingxin linxuan rencai xinjiang faguan duanceng wenti chubu huanjie], Tianshan Net (Online), 7 February 06. See also "Lack of Ethnic Minority Judges in Xinjiang Basic-Level Courts Especially Prominent" [Xinjiang jiceng fayuan shaoshu minzu faguan buzu youwei tuchu], Xinhua (Online), 22 November 07; "Courts throughout Country to Join Forces to Help Xinjiang" [Quanguo fayuan jiang heli yuan jiang], Tianshan Net (Online), 20 August 07. The shortage of legal personnel and interpreters who speak ethnic minority languages also impacts legal proceedings outside the XUAR, especially since the Supreme People's Court returned to the process of reviewing all death sentences levied within China. See "China Exclusive: More Ethnic Judges, Translators Needed To Cope With Stricter Death Penalty," Xinhua, 13 March 07 (Open Source Center, 13 March 07). For legal bases to have judicial proceedings conducted in one's native language, see, e.g., PRC Constitution, art. 134; REAL, art. 47; Criminal Procedure Law, enacted 1 January 79, amended 17 March 96, art. 9; Administrative Procedure Law, enacted 4 April 89, art. 8; Civil Procedure Law, enacted 9 April 91, amended 28 October 07, art. 11; Xinjiang Uyghur Autonomous Region Regulation on Spoken and Written Language Work [Xinjiang weiwu'er zizhiqu yuyan wenzi gongzuo tiaoli], adopted 25 September 93, amended 20 September 02, art. 12.

[73] Information within is based on CECC Staff Interviews except where otherwise noted.

[74] For background information, including reports from China and neighboring countries along with reports from overseas observers, see, e.g., Li Zhongfa, "Hu Jintao Holds Talks With Kyrgyz President Bakiyev," Xinhua, 9 June 06 (Open Source Center, 11 June 06); "Cooperation With China Strengthened: Uzbek President," Xinhua, 19 June 06 (Open Source Center, 10 June 06); "China's 'Uyghur Problem' and the Shanghai Cooperation Organization," Hearing on China's Role in the World: Is China a Responsible Stakeholder?, U.S.-China Economic and Security Review Commission, 3–4 August 06, Testimony of Dru Gladney, Professor of Asian Studies, University of Hawaii at Manoa; "China Tightly Controls the Cradles of the 'Xinjiang Independence' Forces," Ta Kung Pao, 25 August 06 (Open Source Center, 26 August 06); "China To Urge Tougher Counter-Terrorism Measures at SCO 22 Sep Session," Agence France-Presse, 21 September 06 (Open Source Center, 21 September 06); Tao Shelan, "Xinjiang Uyghur Autonomous Region Chairman Ismail Tiliwaldi: Clamping Down On Terrorism Is Common Aspiration of Peace-Loving People," China News Agency, 16 May 07 (Open Source Center, 19 May 07); "SCO Nations End Consultations on Anti-Terrorism Military Exercise," Xinhua, 19 May 07 (Open Source Center, 19 May 07); Yu Sui, "Hu's Visit Set To Boost Regional Cooperation," China Daily, 14 August 07 (Open Source Center, 14 August 07); Erica Marat, "Chinese Migrants Face Discrimination in Kyrgyzstan," Jamestown Foundation (Online), 28 February 08; Robert Sutter, "Durability in China's Strategy Toward Central Asia—Reasons for Optimism," China and Eur-

asia Forum Quarterly, Volume 6, No. 1, 2008, 3–10. See also the Shanghai Cooperation Organization Web site at www.setsco.org.

[75] CECC Staff Interviews. Barriers to local asylum proceedings have resulted in problems including statelessness. For more information, see, e.g., Refugees International (Online), "Kazakhstan: Neglecting Refugees, Engendering Statelessness," 21 December 07; Refugees International (Online), "Kyrgyz Republic: Powerful Neighbors Imperil Protection and Create Statelessness," 20 December 07; Refugees International (Online), "Refugee Voices: Uighurs in Kyrgyz Republic," 9 January 08.

[76] CECC Staff Interviews; Amnesty International (Online), "Central Asia Summary of Human Rights Concerns January 2006–March 2007," 2007; Human Rights Watch and Human Rights in China (Online), "Devastating Blows: Religious Repression of Uighurs in Xinjiang," 24; Bureau of Democracy, Human Rights, and Labor, U.S. Department of State (Online), Country Reports on Human Rights Practices—2005, China (includes Tibet, Hong Kong, and Macau), 8 March 06.

[77] Convention Relating to the Status of Refugees, adopted 28 July 51 by the United Nations Conference of Plenipotentiaries on the Status of Refugees and Stateless Persons convened under General Assembly resolution 429 (V) of 14 December 50, art. 33.

[78] Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by General Assembly resolution 39/46 of 10 December 84, art. 3(1).

[79] International Covenant on Civil and Political Rights, adopted by General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 23 March 76, art. 12(2).

[80] See, e.g., "Xinjiang Government Promotes Mandarin Chinese Use Through Bilingual Education," CECC China Human Rights and Rule of Law Update, January 2006, 17–18; Xinjiang Uyghur Autonomous Region Ethnic Affairs Commission, "This Fall Ethnic Minority Language-Track Middle Schools in Urumchi, Xinjiang, Try 'Bilingual' Education" [Jin qiu xinjiang wulumuqishi minyuxi chuzhong changshi "shuangyu" jiaoyu], reprinted on the State Ethnic Affairs Commission Web site, 9 May 08.

[81] See, e.g., "Xinjiang's First Round of Love My China Ethnic Minority Youth Bilingual Oral Speech Contest Opens" [Xinjiang shoujie ai wo zhonghua shaoshu minzu shao'er shuangyu kouyu dasai qimu], Tianshan Net (Online), 15 September 06; Kashgar District Government (Online), "Love My China Bilingual Speech Contest Enters Semi-Finals" [Ai wo zhonghua shuangyu dasai jinru fusai], 31 October 06.

[82] "Wang Lequan Stresses: Firmly Implement the Principle of Politicians Managing Education" [Wang Lequan qiangdiao: jianding luoshi zhengzhijia ban jiaoyu yuanze], Xinhua Economic News, reprinted in Xinhua, 26 April 05.

[83] Cited in Arienne M. Dwyer, "The Xinjiang Conflict: Uyghur Identity, Language Policy, and Political Discourse," East-West Center Washington 2005, Policy Studies 15, 37.

[84] For these and other protections, see, e.g., PRC Constitution, arts. 4, 121 and Regional Ethnic Autonomy Law (REAL), enacted 31 May 84, amended 28 February 01, arts. 10, 21.

[85] REAL, art. 37. 2005 Implementing Provisions for the REAL affirm the freedom to use and develop minority languages, but also place emphasis on the use of Mandarin by promoting "bilingual" education and bilingual teaching staff. State Council Provisions on Implementing the PRC Regional Ethnic Autonomy Law (REAL Implementing Provisions) [Guowuyuan shishi "Zhonghua renmin gongheguo minzu quyu zizhifa" ruogan guiding], issued 19 May 05, art. 22.

[86] "'Bilingual' Policy Reduces Use of Ethnic Minority Languages in Xinjiang Preschools," CECC China Human Rights and Rule of Law Update, March/April 2008, 3; "Xinjiang Official Describes Plan to Expand Use of Mandarin in Minority Schools," CECC China Human Rights and Rule of Law Update, March 2006, 13.

[87] "Decision Concerning the Vigorous Promotion of 'Bilingual' Education Work" [Guanyu dali tuijin "shuangyu" jiaoxue gongzuo de jueding], cited in e.g., "'Eight Questions' About Xinjiang 'Bilingual' Education Work" [Xinjiang "shuangyu" jiaoxue gongzuo "ba wen"], Tianshan Net (Online), 7 March 08.

[88] "Results of Xinjiang's Promotion of 'Bilingual Education' Remarkable" [Xinjiang tuijin "shuangyu jiaoxue" chengxiao xianzhu], Xinjiang Daily, reprinted in Tianshan Net (Online), 7 December 05.

[89] "City in Xinjiang Mandates Exclusive Use of Mandarin Chinese in Schools," CECC China Human Rights and Rule of Law Update, September 2006, 9–10.

[90] "Xinjiang Bilingual Education Students Increase 50-fold in 6 Years" [Xinjiang shuangyu xuesheng liu nian zengzhang 50 bei], Xinjiang Economic News, reprinted in Tianshan Net (Online), 31 October 06.

[91] Xinjiang Education Department (Online), "Notice Concerning Soliciting Opinions on 'Opinion Concerning the Vigorous and Reliable Promotion of Ethnic Minority Preschool and Elementary and Secondary "Bilingual" Education Work (Draft for Soliciting Opinions)'" [Guanyu zhengqiu "guanyu jiji, wentuode tuijin shaoshu minzu xueqian he zhongxiaoxue 'shuangyu' jiaoxue gongzuo de yijian (zhengqiu yijian)" yijian de tongzhi], 5 May 08.

[92] "Results of Xinjiang's Promotion of 'Bilingual Education' Remarkable," Xinjiang Daily.

[93] Xinjiang Education Department, "Notice Concerning Soliciting Opinions on 'Opinion Concerning the Vigorous and Reliable Promotion of Ethnic Minority Preschool and Elementary and Secondary "Bilingual" Education Work (Draft for Soliciting Opinions).'"

[94] Rupert Wingfield-Hayes, "Language Blow for China's Muslims," BBC (Online), 1 June 2002.

[95] "Xinjiang Vocational Schools To Implement Two-Year Education System, Basic Courses Taught in Mandarin" [Xinjiang zhiye yuanxiao jiang shixing liang nian zhi jiaoyu jichuke shiyong hanyu jiangke], Urumqi Evening News, reprinted in Tianshan Net (Online), 27 July 2005.

[96] In contrast, an undated description of the college, available on the XUAR Personnel Department Web site, describes the institution as a combined ethnic minority-Han school that teaches in Mandarin, Uyghur, and Kazakh. "'Bilingual' Policy Reduces Use of Ethnic Minority Languages in Xinjiang Preschools," CECC China Human Rights and Rule of Law Update.

[97] Opinion Concerning the Strengthening of Ethnic Minority Preschool "Bilingual" Education [Guanyu jiaqiang shaoshu minzu xueqian "shuangyu" jiaoyu de yijian], issued 2005, as cited in "'Eight Questions' About Xinjiang 'Bilingual' Education Work," Tianshan Net. Commission staff was unable to locate the original text of this opinion. See also Xinjiang Education Department, "Notice Concerning Soliciting Opinions on 'Opinion Concerning the Vigorous and Reliable Promotion of Ethnic Minority Preschool and Elementary and Secondary "Bilingual" Education Work (Draft for Soliciting Opinions).'"

[98] "Xinjiang Makes 5-Year 430 Million Yuan Investment To Develop Rural Preschool 'Bilingual' Education" [Xinjiang 5 nian touru 4.3 yi fazhan nongcun xueqian "shuangyu" jiaoyu], Xinjiang Economic News, reprinted in Tianshan Net (Online), 10 October 06; "'Bilingual' Policy Reduces Use of Ethnic Minority Languages in Xinjiang Preschools," CECC China Human Rights and Rule of Law Update. These plans may have stemmed from direction in the 2005 opinion on preschool "bilingual" education. See Opinion Concerning the Strengthening of Ethnic Minority Preschool "Bilingual" Education [Guanyu jiaqiang shaoshu minzu xueqian "shuangyu" jiaoyu de yijian], issued 2005, as cited in "'Eight Questions' About Xinjiang 'Bilingual' Education Work," Tianshan Net. Commission staff was unable to locate the original text of this opinion.

[99] "[XUAR] Department of Finance Allocates 70.39 Million Yuan To Support Preschool 'Bilingual' Education" [Caizhengting xiabo 7039 wan yuan zhichi xueqian "shuangyu" jiaoyu], Xinjiang Daily (Online), 12 November 07; "'Bilingual' Policy Reduces Use of Ethnic Minority Languages in Xinjiang Preschools," CECC China Human Rights and Rule of Law Update. The subsidies include 1.5 yuan each day per child for daily expenses, 20 yuan yearly per child for teaching materials, and a 400 yuan monthly subsidy per teacher. The government had announced subsidies for "bilingual" preschool education at least as early as 2005. "Xinjiang Official Describes Plan to Expand Use of Mandarin in Minority Schools," CECC China Human Rights and Rule of Law Update.

[100] "105 Teachers College Students Go to Kashgar, Xinjiang To Support Educational Undertakings" [105 ming shifansheng fu xinjiang kashi zhijiao], Urumqi Evening News, reprinted in Tianshan Net (Online), 28 February 08; "'Bilingual' Policy Reduces Use of Ethnic Minority Languages in Xinjiang Preschools," CECC China Human Rights and Rule of Law Update.

[101] "State To Invest 3.75 Billion Yuan To Support Xinjiang 'Bilingual' Preschool Education" [Guojia jiang touru 37.5 yi yuan zhichi xinjiang xueqian "shuangyu" jiaoyu], Xinjiang Daily, reprinted in Tianshan Net (Online), 12 September 08.

[102] In June 2007, official media reported that 42.8 percent of rural preschool-age children in Yéngisheher county, Kashgar district, were enrolled in "bilingual" preschool programs. "40 Percent of Rural Youngsters of Appropriate Age Attend 'Bilingual' Preschools, 'Bilingual' Preschool Education Welcomed by the Farmers of Yengisheher" [Si cheng nongcun shiling ertong jiudu "shuangyu" you'eryuan xueqian "shuangyu" jiaoyu shou shule nongmin huanying], Xinjiang Daily (Online), 22 June 07. In December 2007, official media reported that in 2008, all urban ethnic minority children and 90 percent of rural preschool-age ethnic minority children in Bayin'gholin Mongol Autonomous Prefecture—which has a predominantly Uyghur ethnic minority population—would receive "bilingual" education. "Ethnic Minority Youngsters of the Appropriate Age Receive 'Bilingual' Education" [Shaoshu minzu shiling ertong jieshou "shuangyu" jiaoxue], Tianshan Net (Online), 26 December 07. The article also noted that all urban elementary school students in first grade and higher would receive "bilingual" education, as would over 80 percent of their rural counterparts. For statistics on the ethnic minority population within the prefecture, see "Introduction to the General Situation in the Bayin'gholin Mongol Autonomous Prefecture" [Bayinguoleng menggu zizhizhou gaikuang jianjie], Xinjiang Investment Net (Online), 24 December 07.

[103] Xinjiang Education Department, "Notice Concerning Soliciting Opinions on 'Opinion Concerning the Vigorous and Reliable Promotion of Ethnic Minority Preschool and Elementary and Secondary "Bilingual" Education Work (Draft for Soliciting Opinions).'"

[104] See, e.g., Uyghur Human Rights Project (Online), "Uyghur Language Under Attack: The Myth of 'Bilingual' Education in the People's Republic of China," 24 July 07, 8–9; "Atush Starts Mandarin Chinese-Strengthening Training Class in Shenyang" [Atushi kaiban fu shenyang jiaoshi hanyu qianghua peixunban], Qizilsu News, reprinted on the Qizilsu Kyrgyz Autonomous Prefecture Government Web site, 16 August 06; "China Imposes Chinese Language on Uyghur Schools," Radio Free Asia (Online), 16 March 04. See also Xinjiang Education Department, "Notice Concerning Soliciting Opinions on 'Opinion Concerning the Vigorous and Reliable Promotion of Ethnic Minority Preschool and Elementary and Secondary "Bilingual" Education Work (Draft for Soliciting Opinions).'" The opinion calls for giving "appropriate placements" to older teachers with poor Mandarin skills.

[105] "Autonomous Region Chair Nur Bekri Responds to Separatists' Attack on Bilingual Education" [Zizhiqu zhuxi nu'er baikeli huiying fenlie fenzi dui shuangyu jiaoyu gongji], Xinjiang Metropolitan News, reprinted in Xinhua (Online), 5 March 08; "'Bilingual' Policy Reduces Use of Ethnic Minority Languages in Xinjiang Preschools," CECC China Human Rights and Rule of Law Update.

[106] Uyghur Human Rights Project (Online), "Deception, Pressure, and Threats: The Transfer of Young Uyghur Women to Eastern China," 8 February 08, 4–6.

[107] "Uyghur Girls Forced Into Labor Far From Home By Local Chinese Officials," Radio Free Asia (Online), 11 July 07.

[108] Radio Free Asia (RFA) reported that the government announced in 2004 that all forced labor (*hashar,* sometimes also translated as "corvée labor") would be abolished by the end of 2005. While one government official whom RFA broadcasters contacted said that workers were paid and would become owners of the base, another official contacted by RFA said that the laborers would not be paid. The spouse of a third official, who answered a telephone call from RFA, surmised that workers would not be paid. A farmer contacted by RFA reported that 20 laborers per small village were required to work at the site without pay, and were required to pay a fine if they refused. For information in English, see RFA's blog "RFA Unplugged." "Forced,

Unpaid Labor for Uyghurs in China's Almond Groves," RFA Unplugged (Online), 9 April 07. For Uyghur-language reporting on the topic, see, e.g., Gülchéhre, "Forced Labor Started Once Again in Kashgar Villages" [Qeshqer yézilirida hashar yene bashlandi], Radio Free Asia (Online), 7 February 07; Gülchéhre, "100,000 Farmers in Yeken [County] Involved in Wide-Scale Forced Labor" [Yekende yüz ming déhqan keng kölemlik hashargha tutuldi], Radio Free Asia (Online), 11 March 07.

[109] Kashgar District Government (Online), "Yeken [Yarkand] County Starts Springtime Wave To Cultivate Desert Land" [Shachexian xianqi chunji gebi kaihuang zaotian rechao], 9 March 07; Kashgar District Government (Online), "100,000 Rural Laborers Build Pistachio Base in Yeken [Yarkand] County" [Shachexian 10 wan nongmingong jianshe kaixinguo jidi], 20 March 07.

[110] Gülchéhre, "Forced Labor Begins Again on Wide Scale in Kashgar Villages" [Qeshqer yézilirida keng kölemlik hashar yene bashlandi], Radio Free Asia (Online), 20 March 08.

[111] "Work-Study Programs Using Child Labor Continue in Xinjiang," CECC China Human Rights and Rule of Law Update, January 2008, 5; "Xinjiang Government Continues Controversial 'Work-Study' Program," CECC China Human Rights and Rule of Law Update, November 2006, 11.

[112] According to one report, personnel shortcomings have meant that "there is no way to guarantee the use of ethnic minority languages to carry out litigation." "Meticulously Picking Talent: Problem of Faultline in Xinjiang Courts Makes First Steps at Improvement" [Jingxin linxuan rencai xinjiang faguan duanceng wenti chubu huanjie], Tianshan Net (Online), 7 February 06. See also "Lack of Ethnic Minority Judges in Xinjiang Basic-Level Courts Especially Prominent" [Xinjiang jiceng fayuan shaoshu minzu faguan buzu youwei tuchu], Xinhua (Online), 22 November 07; "Courts Throughout Country To Join Forces To Help Xinjiang" [Quanguo fayuan jiang heli yuan jiang], Tianshan Net (Online), 20 August 07. The shortage of legal personnel and interpreters who speak ethnic minority languages also impacts legal proceedings outside the XUAR, especially since the Supreme People's Court returned to the process of reviewing all death sentences levied within China. See "China Exclusive: More Ethnic Judges, Translators Needed To Cope With Stricter Death Penalty," Xinhua, 13 March 07 (Open Source Center, 13 March 07). For legal bases to have judicial proceedings conducted in one's native language, see, e.g., PRC Constitution, art. 134; Regional Ethnic Autonomy Law, enacted 31 May 84, amended 28 February 01, art. 47; Criminal Procedure Law, enacted 1 January 79, amended 17 March 96, art. 9; Administrative Procedure Law, enacted 4 April 89, art. 8; Civil Procedure Law, enacted 9 April 91, amended 28 October 07, art. 11; Xinjiang Uyghur Autonomous Region Regulation on Spoken and Written Language Work [Xinjiang weiwu'er zizhiqu yuyan wenzi gongzuo tiaoli], issued 25 September 93, amended 20 September 02, art. 12.

[113] "Work Regarding Courts Nationwide Assisting Xinjiang Courts Is Launched" [Quanguo fayuan duikou zhiyuan xinjiang fayuan gongzuo qidong], Xinhua (Online), 14 August 07; "Xinjiang Actively Constructs Troops of Ethnic Minority Lawyers" [Xinjiang jiji jianshe shaoshu minzu lüshi duiwu], Xinhua, reprinted in Tianshan Net (Online), 15 October 07. There were 316 ethnic minority lawyers, or 15 percent of the total population, in 2006. "Xinjiang Bilingual Lawyers and Courts Develop with Grace" [Xinjiang shuangyu lüshi fating zhan fengcai], Tianshan Net (Online), 19 May 2006. For information on conditions in an individual prefecture, see a description of the Ili Kazakh Autonomous Prefecture, which has 23 ethnic minority lawyers out of a total of 163, in "Xinjiang Uyghur Autonomous Region Sorely Lacks Ethnic Minority Lawyers" [Xinjiang weiwuer zizhiqu shaoshu minzu lüshi qique], Uyghur Online, 20 April 07.

[114] "First Bilingual Law Firm in China Hangs Out Its Shingle" [Guonei shoujia shuangyu lüshisuo jiepai], Xinjiang Legal Daily (Online), 30 March 06.

[115] For an example of efforts to promote staffing in underserved areas, see, e.g., "Meticulously Picking Talent: Problem of Faultline in Xinjiang Courts Makes First Steps at Improvement," Tianshan Net.

[116] "Xinjiang Uyghur Autonomous Region Sorely Lacks Ethnic Minority Lawyers," Uyghur Online.

[117] "Our Region Acts to Train Minority-Han High-Level Bilingual Talent" [Woqu chutai jucuo peiyang minhan jiantong gao cengci shuangyu rencai], Xinjiang Daily (Online), 27 September 07.

[118] "Work Regarding Courts Nationwide Assisting Xinjiang Courts Is Launched," Xinhua.

[119] Ibid.

[120] Supreme People's Court, "National Forum Opens To Discuss Courts' Work To Assist Their Counterparts in Xinjiang—Jiang Xingchang Calls For Forming a Long-Term Mechanism To Assist Xinjiang and Raise the Judicial Capability of Its Courts," 14 August 07 (Open Source Center, 20 August 07).

[121] Yan Wenlu, "Xinjiang Higher People's Court To Sternly Crack Down on Crimes of the 'Three Forces' in Accordance With the Law," China News Agency, 15 August 08 (Open Source Center, 15 August 08).

Notes to Section V—Tibet

[1] "China Detains Tibetan Monks Protesting on Key Anniversary," Radio Free Asia (Online), 10 March 08.

[2] See The Crisis in Tibet: Finding a Path to Peace, Hearing of the Committee on Foreign Relations, U.S. Senate, 23 April 08, Written Statement Submitted by Steven Marshall, Senior Advisor, Congressional-Executive Commission on China. See also, "Protests Fueled by Patriotic Education Continue Amidst Lockdowns," Congressional-Executive Commission on China (Online), 10 April 08.

[3] Intermittent armed conflict between Tibetans and the People's Liberation Army (PLA) took place at various times and locations following establishment of the People's Republic of China on October 1, 1949, and continued through the 1950s as the PLA cemented political control in ethnic Tibetan areas that today comprise the Tibet Autonomous Region (TAR), the 10 Tibetan

Autonomous Prefectures (TAPs), and 2 Tibetan Autonomous Counties (TACs) located in Qinghai, Gansu, Sichuan, and Yunnan provinces.

[4] The past 25 years (since approximately 1983) in the Tibetan areas of China have been characterized by factors including the Tibetan rebuilding of the Tibetan Buddhist monastic institution and the resumption of Tibetan Buddhism as a central (though constrained) feature in the lives of most Tibetans. See, e.g., Tibetan Centre for Human Rights and Democracy (TCHRD) (Online), "Human Rights Situation in Tibet: Annual Report 2005," 118. TCHRD notes in note 72 that the period from 1983 to 1987 "was one of rapid growth for monasteries and nunneries." Tibet Information Network, "News Review No. 26: Reports From Tibet, 1997," April 1998, 4. The news summary notes, "Until 1983 some 70 monks at Drepung monastery were married men with families."

[5] CECC, 2007 Annual Report, 10 October 07, Section IV. "Tibet: Special Focus for 2007" provides an overview of Commission Annual Report coverage since 2002 of key Tibetan issues.

[6] The 12 county-level areas are: Lhasa city, Duilongdeqing (Toelung Dechen), Linzhou (Lhundrub), and Dazi (Tagtse) counties, located in Lhasa municipality in the TAR; Aba (Ngaba) and Ruo'ergai (Dzoege) counties, located in Aba Tibetan and Qiang Autonomous Prefecture in Sichuan province; and Xiahe (Sangchu), Maqu (Machu), Luqu (Luchu), Zhuoni (Chone), and Diebu (Thewo) counties, and Hezuo (Tsoe) city, located in Gannan (Kanlho) TAP in Gansu province. "Judgments Pronounced Publicly on Some Defendants Involved in Lhasa's '14 March' Incident," Xinhua, 29 April 08 (Open Source Center, 30 April 08). The Xinhua article refers to five monks sentenced for rioting in Dechen township of Duilongdeqing county. "94 Criminal Suspects in Linzhou County Surrender Themselves to Justice," Tibet Daily, 19 March 08 (Open Source Center, 19 March 08). The Tibet Daily article reports the surrender of persons allegedly involved in "serious incidents of beating, smashing, looting, and burning" in Linzhou county. "Tibet Issues Arrest Warrants for 16 Suspects In Riot," Xinhua (Online), 5 April 08. According to the April article in Xinhua, the 16 suspects allegedly took part in a March 15 riot in Dechen township, located in Dazi county. "Police: Four Rioters Wounded Sunday in Aba of SW China," Xinhua (Online), 20 March 08. The Xinhua article from March reports Tibetan rioting in Aba (Ngaba) county, Aba Tibetan and Qiang Autonomous Prefecture, Sichuan province. Security forces reportedly shot and wounded four Tibetans. (The Tibetan Centre for Human Rights and Democracy reported on March 18 that security forces shot and killed at least 18 Tibetans.) "Lies Cannot Conceal Evil Nature," Sichuan Daily, 10 April 08 (Open Source Center, 16 April 08). The Sichuan Daily article alleges that on March 15, Lhamo Kirti (Tagtsang Lhamo) Monastery monks attacked government offices, police stations, and shops. Similar incidents reportedly took place elsewhere in Ruo'ergai. "Media Tour in Gansu Interrupted, Resumes Soon," Xinhua (Online), 9 April 08. According to this Xinhua article: "From March 14 to 19, assaults, vandalism, looting and arson occurred in the Xiahe, Maqu, Luqu, Jone, Hezuo and Diebu areas of Gannan . . . ."

[7] "Protests Fueled by Patriotic Education Continue Amidst Lockdowns," Congressional-Executive Commission on China (Online), 10 April 08.

[8] "Dalai-Backed Violence Scars Lhasa," Xinhua (Online), 15 March 08; "China Clamps Down on Tibetan Protests As Many Deaths, Injuries Reported," Radio Free Asia (Online), 14 March 08; Jim Yardley, "Chinese Police Clash With Tibet Protesters," New York Times (Online), 15 March 08.

[9] "Police, Officials Hurt in Sichuan Riots," Xinhua (Online), 20 March 08; "Violence, Protests Spread From Tibet to Western China," Radio Free Asia (Online), 16 March 08; Benjamin Kang Lim and Chris Buckley, "Tibetan Riots Spread, Security Lockdown in Lhasa," Reuters (Online), 16 March 08.

[10] "Media Tour in Gansu Interrupted, Resumes Soon," Xinhua; TibetInfoNet (Online), "'The World Will Not Look Away.' Demonstrations in Amdo Machu and Region," 17 March 08.

[11] Jill Drew, "Tibet Protests Turn Violent, Shops Burn in Lhasa," Washington Post (Online), 14 March 08. According to the report, "The confrontations, initially led by monks, were joined Friday by hundreds of Tibetan civilians, who began attacking shops owned by ethnic Han and Hui Chinese. Street fights between Tibetans and Chinese continued into the night, according to reports from the region." International Campaign for Tibet (Online), "Tibet at a Turning Point: The Spring Uprising and China's New Crackdown," 5 August 08, 54. The report quotes an eyewitness description of activity on March 14 near Ramoche Temple in Lhasa: "Then they poured into Tromsikhang [the market at the corner of Barkhor Street] from Ramoche Temple. On the way, many shops owned by Chinese and Chinese Muslims (Hui) were destroyed."

[12] "Number of Rioters Surrendering to Police Tops 280 in Lhasa," Xinhua (Online), 26 March 08 ("Rioters [in Lhasa] . . . attacked schools, banks, hospitals, shops, government offices, utilities and state media offices. Damage is estimated at more than 244 million yuan (34.4 million U.S. dollars)."); "More Than 200 Injured, Shops Set Alight in Aba Riot," Xinhua, reprinted in China Daily (Online), 3 April 08 ("More than 200 people were injured and 24 shops and 81 vehicles were set alight in the March 16 riot in the Aba Tibetan and Qiang Autonomous Prefecture of southwestern China, an official said Thursday."); "Media Tour in Gansu Interrupted, Resumes Soon," Xinhua ("From March 14 to 19, assaults, vandalism, looting and arson occurred in the Xiahe, Maqu, Luqu, Jone, Hezuo and Diebu areas of Gannan, leaving 94 people injured and incurring 230 million yuan (32.8 million U.S. dollars) in damages.")

[13] See, e.g., Jim Yardley, "Tibetans Clash With Chinese Police in 2nd City," New York Times (Online), 16 March 08. The New York Times reported that according to a Tibetan in India who spoke by phone to Tibetan protesters in Xiahe county, Gansu province, thousands of protesters on March 16 shouted slogans including, "The Dalai Lama must return to Tibet." Tibetan Centre for Human Rights and Democracy (Online), "Scores of Tibetans Arrested for Peaceful Protest in Lhasa," 11 March 08. On March 10 in Guinan (Mangra) county, Qinghai province, a few hundred protesters shouted slogans calling for the Dalai Lama to return to Tibet. Tibetan Centre for Human Rights and Democracy (Online), "Around 40 Middle School Students Arrested in Marthang," 17 March 08. Approximately 100 Tibetan middle school students in Hongyuan

(Kakhog, or Marthang) county, Sichuan province, demonstrated inside the school compound, calling for the return of the Dalai Lama to Tibet.

[14] See, e.g., Tibetan Centre for Human Rights and Democracy (Online), "Protest Erupts After Prayer for Deceased in Drango County," 25 March 08. More than 400 monks in Luhuo (Draggo) county, Ganzi TAP, Sichuan province, shouted slogans on March 25 including, "Release [the] Panchen Lama." Tibetan Centre for Human Rights and Democracy (Online), "Hundreds of Tibetans Protested in Chentsa, Malho 'TAP,' Qinghai Province," 25 March 08. Hundreds of Tibetans protesting on March 22 in Jianza (Chentsa) county, Huangnan (Malho) TAP, Qinghai province, carried photographs of the Dalai Lama and Panchen Lama, and shouted slogans including, "Release the eleventh Panchen Lama Erdeni Gedun Choekyi Nyima." "Latest Updates on Tibet Demonstrations," Radio Free Asia (Online), 25 March 08. More than 1,000 monks and other Tibetans shouted slogans on March 18 in Xiahe (Sangchu) county, Gannan (Kanlho) TAP, Gansu province, including, "Release the Panchen Lama."

[15] See, e.g., "Tibet Update (1)," China Digital Times (Online), last visited on 18 June 08. The Drepung monks "joined the peaceful demonstration, demanding the freedom for religious belief." In another protest, several hundred Labrang Tashikhyil monks and ordinary citizens staged a protest march on March 14 and shouted slogans including, "Return us to religion freedom." Tibetan Centre for Human Rights and Democracy (Online), "China Detains Drakar and Gaden Choeling Nuns in Kardze," 17 May 08. Two nuns were detained for calling for religious freedom, among other things. The detentions sparked a larger protest resulting in the detention of at least 10 more nuns. "Tibet Monks Disrupt Tour by Journalists," Associated Press, reprinted in New York Times (Online), 27 March 08. On March 27, a group of Jokhang Temple monks shouted that there was no religious freedom when a group of international journalists on a government-handled tour visited the temple.

[16] International Campaign for Tibet (Online), "Climate of Fear as Olympic Torch Arrives in Lhasa," 20 June 08. According to ICT, of 125 "separate incidents of dissent" that the organization documented, "47 have been carried out by monks, 44 by laypeople, and 28 by both monks and laypeople."

[17] The Dalai Lama is the foremost religious teacher of the Gelug tradition of Tibetan Buddhism, whose adherents at present are more numerous than those of other traditions of Tibetan Buddhism such as the Nyingma, Kargyu, and Sakya. The Crisis in Tibet: Finding a Path to Peace, Hearing of the Subcommittee on Asian and Pacific Affairs, Committee on Foreign Relations, U.S. Senate, 23 April 08, Written Statement Submitted by John Negroponte, Deputy Secretary of State. Deputy Secretary Negroponte described the Dalai Lama as "the undisputed spiritual leader of the Tibetan people," and "the spiritual leader of the vast majority of Tibetans."

[18] See, for example, Tibetan Centre for Human Rights and Democracy (Online), "Mobile Phone Pictures Depict Intensity of Demonstration in Amdo Labrang," 14 March 08. A protest demonstration by Labrang Tashikhyil monks "eventually grew into thousands when laypeople also joined in." Tibetan Centre for Human Rights and Democracy (Online), "At Least Eight Shot Dead in Tongkor Monastery in Kardze," 5 April 08. Approximately 300 Tongkor Monastery monks marching in protest toward government offices were "later joined by hundreds of laypeople." "Tibetans Wounded in Sichuan Protest," Radio Free Asia (Online), 5 April 08. "Local people" joined protesting monks from Nyatso Monastery (referred to as "Mintso" in the article), increasing the crowd to about 1,000 persons.

[19] "Door of Dialogue Still Opens to Dalai: Premier," Xinhua (Online), 18 March 08. "There are ample facts and plenty of evidence to prove that the riot in Lhasa was organized, premeditated, masterminded and incited by the Dalai Lama clique, said Wen."

[20] "Hao Peng: Patriotic Education Should Be Reinforced Among Buddhist Monks at Monasteries," China Tibet News, 5 April 08 (Open Source Center, 10 April 08). Speaking to the Tashilhunpo Monastery Democratic Management Committee, Deputy Party Secretary Hao Peng called on the committee to "educate the masses of monks so that they can see clearly the true colors of Dalai and recognize that Dalai has not been a Buddhist monk since a long time ago but a politician that engages himself in the evil deeds of separating the motherland by means of beating, smashing, looting, and burning under the disguise of a lama and under the signboard of Buddhism . . . ."

[21] Significant factors were Zhang Qingli's arrival in the TAR as Acting Party Secretary in November 2005, his promotion to TAR Party Secretary in May 2006, the TAR government Standing Committee's issuance of the TAR Implementing Measures for the "Regulation on Religious Affairs" in September 2006, and the State Administration for Religious Affairs issuance in July 2007 of the Measures on the Management of the Reincarnation of Living Buddhas in Tibetan Buddhism. "Zhang Qingli Becomes New Party Chief of Tibet," Xinhua (Online), 29 May 07; "Xinjiang Communist Party Official Promoted to Acting Secretary of the Tibet Autonomous Region," CECC China Human Rights and Rule of Law Update, January 2006, 19; Tibet Autonomous Region Implementing Measures for the "Regulation on Religious Affairs" (Trial Measures) [Zizang zizhiqu shishi "zongjiao shiwu tiaoli" banfa (shixing)] [hereinafter TAR 2006 Measures], issued 19 September 06, effective 1 January 07; State Administration for Religious Affairs, Measures on the Management of the Reincarnation of Living Buddhas in Tibetan Buddhism [Zangchuan fojiao huofo zhuanshi guanli banfa], issued 13 July 07, effective 1 September 07.

[22] For example, "Chinese Foreign Ministry Says: We Hope the Dalai Will Treasure the Opportunity of Consultation, and Stop his Separatist and Sabotage Activities," Xinhua, 29 April 08 (Open Source Center, 29 April 08). Ministry of Foreign Affairs spokeswoman Jiang Yu said on April 29, "We hope the Dalai will treasure the opportunity of consultation, stop his violent and criminal activities with concrete actions, stop his activities to interrupt and sabotage the Beijing Olympic Games, and stop his activities to split the motherland so as to create conditions for the next consultation."

[23] "Dalai Lama, Wolf in Human Shape," China Tibet News, 21 March 08 (Open Source Center, 24 March 08).

[24] "Unifying the Masses' Hearts and Will To Fight a People's War Against Separatism and To Maintain Stability: The Tibet Autonomous Region Holds a Video/Telephone Conference on Handling the '3.14 Incident' and Maintaining the Region's Stability; Zhang Qingli Gives Important Speech," China Tibet News, 19 March 08 (Open Source Center, 19 March 08).

[25] "State Councilor and Minister of Public Security Meng Jianzhu Heads Central Work Team on Tibet Inspection," China Tibet News, 25 March 08 (Open Source Center, 25 March 08). Meng Jianzhu said, "[W]e must continue to deepen education in patriotism in the monasteries and temples, and unfold in depth there propaganda and education in the ethnic and religious policies and the legal system . . . ." "Hongyuan Begins 'Maintaining Stable Thinking Among the Masses' Educational Campaign," Sichuan News, 27 March 08 (Open Source Center, 27 March 08). OSC summary: officials in Hongyuan County began a campaign to show herdsmen and local farmers the "truth" of the March 14 events in Lhasa. "Qiang Wei Stresses the Importance of Resolutely and Unswervingly Struggling Against Separatism, Safeguarding Stability, and Promoting Unity," Qinghai Daily, 29 March 08 (Open Source Center, 1 April 08) ("We should continuously step up the education campaign and extensively reveal the true features of the Dalai clique in separating the motherland and sabotaging national unity. We should carry on legal system education with a great fanfare. We should make more efforts in providing public opinion guidance."); Jill Drew, "In Tibetan Monasteries, the Heavy Hand of the Party," Washington Post (Online), 6 April 08 ("After widespread protests swept the Tibetan plateau last month, Chinese leaders responded with a combination of arrests, interrogations and vigorous education campaigns."); Tibetan Centre for Human Rights and Democracy (Online), "12 Monks of Dingri Shelkar Choedhe Monastery Arrested for Opposing the 'Patriotic Re-education' Campaign," 31 May 08 ("The stipulated two-months' renewed "Patriotic re-education" campaign launched at the beginning of April following unprecedented protests across Tibetan plateau since 10 March, not only permeates the monastic institutions but also government employees, security forces, farmers, nomads, private entrepreneurs and educational institutions.").

[26] See, for example, Woeser (Oezer), "Woeser: Tibet Update (May 1–6, 2008)," China Digital Times (Online), last visited 4 June 08. April 30, Gonsar Monastery, Dege county, Ganzi (Kardze) TAP, Sichuan province: "[T]he work team force the monks to sign their names in the official document entitled "Expose and Criticize the Dalai Separatist Clique", and also demanded each monk to hand in two photos to paste on the document." Woeser, "Tibet Update (2)," China Digital Times (Online), last visited 12 June 08. April 12, Ganzi TAP: officials told "religious leaders and other figures" attending "emergency meetings" in Ganzi's 18 counties to sign documents "opposing the Dalai Lama."

[27] See, for example, "Personalities From All Walks of Life in Qinghai Province Strongly Condemn Lhasa Violent Crime Incident," Qinghai Daily, 1 April 08 (Open Source Center, 7 April 08). "Cadre conferences, meetings of villagers, seminars of non-Party personages, and seminars of religious figures have been convened in various locations in our province in recent days, to continue to expose and criticize the Dalai Lama clique's reactionary nature and its monstrous crimes which disrupt stability in Tibet." "Update for Friday, 4 April 08," Tibetan Government-in-Exile (Online), 4 April 08. April 2, Bathang Choede Monastery, Batang (Bathang) county, Ganzi (Kardze) TAP, Sichuan province: officials pressured 200 monks to sign a statement alleging that the Dalai Lama "was responsible for inciting the recent demonstrations in Tibet." The monks refused to sign the document, resulting in an argument with officials that led to the detention of five monks, including abbot Jigme Dorje and disciplinarian Yeshe.

[28] "China Publishes Evidences of Dalai Clique's Masterminding of Riots," Xinhua (Online), 1 April 08. "Solid facts showed that the unrest in Lhasa, the capital of southwest China's Tibet Autonomous Region, was organized, premeditated, masterminded and instigated by the Dalai clique and its 'Tibet independence' forces." "Subsequently, the 'Tibet independence' forces in the United States proposed the idea of the 'Tibetan People's Uprising Movement.' Senior officials of the Dalai clique studied and approved the plan. They believed that 2008 would be their last chance to achieve 'Tibet independence' and decided to use the 'favorable opportunity' before the Olympics to stage sabotage activities in the Tibetan-inhabited areas in China."

[29] Tibetan People's Uprising Movement (Online), "Press Release: Launch of the Tibetan People's Uprising Movement," 4 January 08. TPUM was established in January 2008 as "a new coordinated Tibetan resistance effort in the lead up to the 2008 Beijing Olympics." The alliance consists of five Tibetan organizations: the TYC, the Tibetan Women's Association, the Gu Chu Sum Movement of Tibet (an organization established by former Tibetan political prisoners), the National Democratic Party of Tibet, and the India chapter of Students for a Free Tibet. TYC President Tsewang Rigzin described TPUM as "a unified movement to bring about an end to Chinese rule in Tibet."

[30] Tibetan Youth Congress (Online), "About Us," last visited 3 June 08. The TYC was established in October 1970. Among the four "tasks" assigned to TYC members are, "To dedicate oneself to the task of serving one's country and people under the guidance of His Holiness the Dalai Lama, the Spiritual and Temporal Ruler of Tibet," and, "To struggle for the total independence of Tibet even at the cost of one's life." (The TYC does not, however, accept the Dalai Lama's guidance on seeking "genuine autonomy" for "Tibet" under Chinese sovereignty, nor does the TYC expressly disavow the use of violence in the campaign for independence.)

[31] Office of His Holiness the Dalai Lama (Online), "His Holiness's Middle Way Approach For Resolving the Issue of Tibet," last visited 3 June 08.

[32] Tibetan People's Uprising Movement (Online), "Background," last visited 16 September 08.

[33] "China Publishes Evidences of Dalai Clique's Masterminding of Riots," Xinhua. "To implement the 'Tibetan People's Uprising Movement,' the 'Tibetan Youth Congress' and other 'Tibet independence' organizations held two training classes on how to carry out violent, terrorist activities."

[34] The English language version of the Xinhua report attributed the monks' actions to "the Dalai Lama." The Chinese language version, however, attributed the monks' actions to "the Dalai clique." Substituting "Dalai Lama" in the English language version for "Dalai clique" in

the original Chinese version indicates the level of state-run media interest in associating nominally "terrorist" events with the Dalai Lama, especially in international (English) reporting, whether or not there is a factual basis for doing so. "Police in Tibet Arrest 16 Monks as Bombing Suspects," Xinhua (Online), 5 June 08; "Individual Monks in Changdu Area Carried Out Bombings To Echo the '14 March' Incident. Public Security Organs in Tibet Cracked Three Cases in a Row and Daunted the 'Tibet Independence' Forces," Xinhua, 5 June 08 (Open Source Center, 6 June 08).

[35] "Tibetans Jailed For Blasts," Radio Free Asia (Online), 2 October 08. According to the article, the court sentenced four Oezer (Oser) Monastery monks and a total of five monks from Gonsar Monastery and Khenpa Lung Monastery to imprisonment for involvement in setting off a series of small explosions in Mangkang (Markham) county. An official told RFA that the blasts caused no casualties and minimal damage to government property.

[36] Terry Friel, "Dalai Lama Rejects Tibetan Buddhist Praise of China," Reuters (Online), 29 December 05.

[37] "Think Like a Mosquito—Lhasang," Phayul (Online), 25 February 07; Tibetan Youth Congress (Online), "Lhasang Tsering" [short bio], last visited 2 August 07. Lhasang Tsering served as TYC President from 1986 to 1990.

[38] Office of His Holiness the Dalai Lama (Online), "Statement of His Holiness the Dalai Lama to All Tibetans," 6 April 08.

[39] Ibid. On the Olympics, the Dalai Lama said, "I have from the very beginning supported the holding of these Games in Beijing. My position on this remains unchanged. I feel the Tibetans should not cause any hindrance to the Games."

[40] Office of the Special Coordinator for Tibetan Issues, U.S. Department of State, Report on Tibet Negotiations, April 2008. The Report is mandated by Section 611 of the Foreign Relations Authorization Act, 2003.

[41] Ibid.

[42] Ibid.

[43] H.R. Con. Res. 196, 110th Cong. (2007) ("Authorizing the use of the Rotunda and grounds of the Capitol for a ceremony to award the Congressional Gold Medal to Tenzin Gyatso, the Fourteenth Dalai Lama.") The House Concurrent Resolution provided for the award ceremony to take place in the Capitol Rotunda, and for the Capitol grounds to be available for a public event sponsored by the International Campaign for Tibet.

[44] S. 2784, Fourteenth Dalai Lama Congressional Gold Medal Act, The Library of Congress (Online), enacted 27 September 06; International Campaign for Tibet (Online), "U.S. Congress Passes Bill To Award the Dalai Lama the Congressional Gold Medal: Bill Cosponsored by 387 Members of U.S. House and Senate," 13 September 06. The bill was introduced as S. 2782 by Senators Dianne Feinstein and Craig Thomas, and as H.R. 4562 by Representatives Ileana Ros-Lehtinen and Tom Lantos.

[45] "Dalai Lama's Envoys To Begin China Visit on May 3," Congressional-Executive Commission on China (Online), 4 May 08. The report lists the six previous sessions of dialogue: September 2002, May–June 2003, September 2004, June–July 2005, February 2006, and June–July 2007. All of them took place in China except in 2005, when the envoys met their counterparts in Bern, Switzerland.

[46] "Statement by Special Envoy of His Holiness the Dalai Lama, Kasur Lodi Gyaltsen Gyari," Tibetan Government-in-Exile (Online), 8 May 08.

[47] Ibid.

[48] Ibid.

[49] Ibid.

[50] Office of His Holiness the Dalai Lama (Online), "Statement of His Holiness the Dalai Lama to All Tibetans," 6 April 08.

[51] "Full Transcript of Interview with the Dalai Lama," Financial Times (Online), 25 May 08. In response to the question, "What are your priorities for these talks?" the Dalai Lama said, "Stop the arrests, and release [the arrested]." To the question, "[I]f there were one or two gestures or concrete gestures that the Chinese could make, what would they be, to pass your test?" the Dalai Lama responded, "Then stop, inside Tibet, arresting and torture. This must stop. And then they should bring proper medical facilities. And most important, international media should be allowed there, should go there, and look, investigate, so the picture becomes clear."

[52] "President Hu: Next Contact With Dalai Lama To Be Held at Appropriate Time," Xinhua (Online), 7 May 08.

[53] "Statement by Special Envoy of His Holiness the Dalai Lama, Kasur Lodi Gyaltsen Gyari," Tibetan Government-in-Exile (Online), 5 July 08.

[54] "The Responsible Person of the Central United Front Work Department Answers Xinhua Reporter's Questions on the Recent Contact with Dalai Lama's Personal Representatives," Xinhua, 6 July 08 (Open Source Center, 7 July 08).

[55] "China Demands That the Dalai Lama Fulfill Additional Preconditions to Dialogue," Congressional-Executive Commission on China (Online), 30 July 08. The Dalai Lama has expressed support for the 2008 Beijing Olympic Games; he counsels Tibetans not to engage in violent activity; he does not lead the Tibetan Youth Congress (which does not support the Dalai Lama's Middle Way Approach); he seeks "genuine autonomy," not independence. The Dalai Lama's Special Envoy said in his July 5, 2008, statement that the envoys "categorically rejected the Chinese attempt to label [the TYC] as a violent and terrorist organization."

[56] "The Responsible Person of the Central United Front Work Department Answers Xinhua Reporter's Questions on the Recent Contact with Dalai Lama's Personal Representatives," Xinhua. "Comrade Du Qinglin raised in clear-cut terms a requirement of 'four no support's' for Dalai; in other words, if Dalai Lama truly wished to do something useful for the country, the nation, and the well-being of the Tibetan people in his remaining years, he should give an open and explicit promise and take corresponding actions in the forms of giving no support for activities that aimed to disturb and sabotage the Beijing Olympic Games, giving no support for and

making no attempt to conspire and incite violent criminal activities, giving no support for and taking earnest steps to check the violent terrorist activities of the 'Tibetan Youth Association,' and giving no support for any [propositions] or activities that sought to achieve 'Tibet independence' and split the motherland."

[57] "Beijing Holds Talks With Dalai's Representatives," Xinhua, reprinted in China Daily (Online), 3 July 08.

[58] "China Demands That the Dalai Lama Fulfill Additional Preconditions to Dialogue," Congressional-Executive Commission on China. For example, Chinese government pressure on the Dalai Lama to take action against "propositions or activities" in support of Tibetan independence is important because Chinese government targets are not limited to plans or activities that include violence—Chinese targets include a point of view and the peaceful expression of it. Many of the countries where Tibetans live, including India, have constitutions that protect the freedom of speech and governments that strive to respect that freedom.

[59] "The Responsible Person of the Central United Front Work Department Answers Xinhua Reporter's Questions on the Recent Contact with Dalai Lama's Personal Representatives," Xinhua.

[60] "Statement by Special Envoy of His Holiness the Dalai Lama, Kasur Lodi Gyaltsen Gyari." Tibetan Government-in-Exile.

[61] "Tibet Update (1)," China Digital Times (Online), last visited on 18 June 08. Drepung monks "joined the peaceful demonstration, demanding the freedom for religious belief." "Ethnic Unrest Continues in China," New York Times (Online), 5 April 08. "Tibet was shaken by protests last month by Buddhist monks demanding religious freedoms."

[62] Some of the protests reportedly involved hundreds or even thousands of monks. "The Dalai Clique's Scheme To Undermine Tibet's Social Stability Is Doomed to Failure," Xinhua, 16 March 08 (Open Source Center, 17 March 08). Reports that 300 Drepung Monastery monks protested in Lhasa on March 10. "Chinese Police Fire Tear-Gas at Protesting Tibetan Monks," Radio Free Asia (Online), 12 March 08. Reports that an estimated 500–600 Sera Monastery monks protested in Lhasa on March 11. International Campaign for Tibet (Online), "Protests Spread Throughout Tibet: Thousands Gather in Towns and Monasteries," 16 March 08. Reports that more than 1,000 Kirti Monastery monks protested in Aba county (Aba Tibetan and Qiang Autonomous Prefecture, Sichuan Province) on March 16. (Rioting also took place at the same location on the same date.)

[63] See, e.g., Tibetan Centre for Human Rights and Democracy (Online), "Provisional List of Known Tibetan Arrestees—Updated on 25 April [2008]." Of the 518 persons named on the list, 232 are monks (none are nuns). (Chinese authorities reportedly detained a substantial number of monks and nuns in the period following the publication date of the TCHRD list.)

[64] See, e.g., Jim Yardley, "Tibetans Clash With Chinese Police in 2nd City," New York Times (Online), 16 March 08. According to a Tibetan in India who spoke by phone to Tibetan protesters in Xiahe county, Gansu province, thousands of protesters on March 16 shouted slogans including, "The Dalai Lama must return to Tibet." Tibetan Centre for Human Rights and Democracy (Online), "Scores of Tibetans Arrested for Peaceful Protest in Lhasa," 11 March 08. On March 10 in Guinan (Mangra) county, Qinghai province, a few hundred protesters shouted slogans calling for the Dalai Lama to return to Tibet. Tibetan Centre for Human Rights and Democracy (Online), "Around 40 Middle School Students Arrested in Marthang," 17 March 08. Approximately 100 Tibetan middle school students in Hongyuan (Kakhog, or Marthang) county, Sichuan Province demonstrated inside the school compound, calling for the return of the Dalai Lama to Tibet.

[65] See, e.g., Tibetan Centre for Human Rights and Democracy (Online), "Protest Erupts After Prayer for Deceased in Drango County," 25 March 08. More than 400 monks in Luhuo (Draggo) county, Ganzi TAP, Sichuan province, shouted slogans on March 25 including, "Release [the] Panchen Lama." Tibetan Centre for Human Rights and Democracy (Online), "Hundreds of Tibetans Protested in Chentsa, Malho 'TAP,' Qinghai Province," 25 March 08. Hundreds of Tibetans protesting on March 22 in Jianza (Chentsa) county, Huangnan (Malho) TAP, Qinghai province, carried photographs of the Dalai Lama and Panchen Lama, and shouted slogans including, "Release the eleventh Panchen Lama Erdeni Gedun Choekyi Nyima." "Latest Updates on Tibet Demonstrations," Radio Free Asia (Online), 25 March 08. More than 1,000 monks and other Tibetans shouted slogans on March 18 in Xiahe (Sangchu) county, Gannan (Kanlho) TAP, Gansu province, including, "Release the Panchen Lama."

[66] See, e.g., "Tibet Update (1)," China Digital Times. The Drepung monks "joined the peaceful demonstration, demanding the freedom for religious belief." In another protest, several hundred Labrang Tashikhyil monks and ordinary citizens staged a protest march on March 14 and shouted slogans including, "Return us to religion freedom." Tibetan Centre for Human Rights and Democracy (Online), "China Detains Drakar and Gaden Choeling Nuns in Kardze," 17 May 08. Two nuns were detained for calling for religious freedom, among other things. The detentions sparked a larger protest resulting in the detention of at least 10 more nuns. "Tibet Monks Disrupt Tour by Journalists," Associated Press, reprinted in New York Times (Online), 27 March 08. On March 27, a group of Jokhang Temple monks shouted that there was no religious freedom when a group of international journalists on a government-handled tour visited the temple.

[67] "A Reader for Advocating Science and Technology and Doing Away With Superstitions" (translated by International Campaign for Tibet in When the Sky Fell to Earth: The New Crackdown on Buddhism in Tibet, 2004). "Conducting patriotic education among the monks and nuns in the monasteries is an important aspect of strengthening the management of religious affairs by the government. . . . Dalai's bloc has never stopped penetrating and engaging in splittist activities in our region under the support of international antagonistic forces. . . . The monks and nuns should be religious professionals who love the country, love religion, obey the discipline, and abide by the law."

[68] See, e.g., Tibetan Centre for Human Rights and Democracy (Online), "12 Monks of Dingri Shelkar Choedhe Monastery Arrested for Opposing the 'Patriotic Re-education' Campaign," 31

May 08; International Campaign for Tibet (Online), "More Than 80 Nuns Detained After Peaceful Protests Continue in Kham," 30 May 08; Tibetan Centre for Human Rights and Democracy (Online), "China Arrests 55 Nuns of Pang-ri Nunnery for Protesting," 17 May 08; Tibetan Centre for Human Rights and Democracy (Online), "China Arrests 16 Monks for Defying 'Patriotic Re-education'" 15 May 08; Tibetan Centre for Human Rights and Democracy (Online), "Monks of Drepung Monastery Detained During Patriotic Education Campaign," 14 April 08.

[69] "Chronology of Events Surrounding Recognition of 11th Panchen Lama," Tibetan Government-in-Exile, reprinted in World Tibet Network News (Online), 6 August 02.

[70] P. Jeffrey Hopkins, "The Identification of the Eleventh Panchen Lama," University of Virginia, Center for South Asian Studies Newsletter, Fall 1995.

[71] UN Commission on Human Rights (Online), "Summary of Cases Transmitted to Governments and Replies Received," 27 March 06, 24–25. The Special Rapporteur on Freedom of Religion or Belief sent a request to the Chinese government for information about Gedun Choekyi Nyima on June 9, 2005. The Chinese government provided a response on September 7, 2005.

[72] "Official Urges Dalai Lama To Abandon Secessionist," Xinhua, reprinted in China Daily (Online), 29 July 07.

[73] "It Is Both Illegal and Invalid for the Dalai Lama to Universally Identify the Reincarnated Soul Boy of the Panchen Lama," People's Daily, 1 December 95 (Open Source Center, 1 December 95).

[74] See, e.g., Tibetan Centre for Human Rights and Democracy, "Protest Erupts After Prayer for Deceased in Drango County." More than 400 monks in Luhuo (Draggo) county, Ganzi TAP, Sichuan province, shouted slogans on March 25 including, "Release [the] Panchen Lama." Tibetan Centre for Human Rights and Democracy, "Hundreds of Tibetans Protested in Chentsa, Malho 'TAP,' Qinghai Province." Hundreds of Tibetans protesting on March 22 in Jianza (Chentsa) county, Huangnan (Malho) TAP, Qinghai province, carried photographs of the Dalai Lama and Panchen Lama, and shouted slogans including, "Release the eleventh Panchen Lama Erdeni Gedun Choekyi Nyima." "Latest Updates on Tibet Demonstrations," Radio Free Asia. More than 1,000 monks and other Tibetans shouted slogans on March 18 in Xiahe (Sangchu) county, Gannan (Kanlho) TAP, Gansu province, including, "Release the Panchen Lama."

[75] "List of Alternate Members of 17th CPC Central Committee," Xinhua (Online), 21 October 07.

[76] "How Was the Problem Between Religion and Socialism Cracked—Exclusive Interview With Religious Affairs Administration Director Ye Xiaowen," Southern Weekend, 13 March 08 (Open Source Center, 10 April 08).

[77] Ministry of Foreign Affairs (Online), "Did Tibet Become an Independent Country after the Revolution of 1911?" 15 November 00. "In 1792 the twenty-nine-article Imperial Ordinance was issued. It stipulated in explicit terms for the reincarnation of the Living Buddhas in Tibet as well as the administrative, military and foreign affairs." (The edict sought to impose Qing control over religious, administrative, military, fiscal, commercial, and foreign affairs. The edict demanded that the Amban, "Resident Official" representing the imperial court, would have equal status to the Dalai and Panchen Lamas, and function as the supervisor of the Tibetan administration.)

[78] "Chinese-Installed Panchen Lama Pledges To Meet Communist Party Expectations," CECC China Human Rights and Rule of Law Update, January 2006, 3.

[79] PRC Criminal Law, enacted 1 July 79, amended 14 March 97, 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, art. 103 ("organize, plot or carry out the scheme of splitting the State or undermining unity of the country"; "incites others to split the State or undermine unity of the country").

[80] Tibetan and Himalayan Digital Library (Online), "The Periodization of Tibetan History: General Chronology," last visited 18 June 08. Sonam Gyatso (1543–1588), the Third Dalai Lama, was the first person to have the title. The first and second Dalai Lamas were recognized posthumously.

[81] CECC, 2007 Annual Report, 10 October 07, 191–197.

[82] The Dalai Lama is the foremost religious teacher of the Gelug tradition of Tibetan Buddhism, whose adherents are more numerous than those of other traditions of Tibetan Buddhism such as the Nyingma, Kargyu, and Sakya.

[83] Tibet Autonomous Region Implementing Measures for the "Regulation on Religious Affairs" (Trial Measures) [Zizang zizhiqu shishi "zongjiao shiwu tiaoli" banfa (shixing)] [hereinafter TAR 2006 Measures], issued 19 September 06, effective 1 January 07.

[84] State Administration for Religious Affairs, Measures on the Management of the Reincarnation of Living Buddhas in Tibetan Buddhism [Zangchuan fojiao huofo zhuanshi guanli banfa], issued 13 July 07, effective 1 September 07.

[85] "Tibet Procuratorial Organs Carry Out 'Anti-Secession Struggle' Intensively," Tibet Daily, 13 February 08 (Open Source Center, 14 March 08).

[86] Ibid.

[87] Measures for Dealing Strictly With Rebellious Monasteries and Individual Monks and Nuns [hereinafter Ganzi Measures], Order from the People's Government of Ganzi Tibetan Autonomous Prefecture, No. 2, issued 28 June 08 with immediate effect, translated from Tibetan language in International Campaign for Tibet (Online), "New Measures Reveal Government Plan To Purge Monasteries and Restrict Buddhist Practice," 30 July 08.

[88] International Campaign for Tibet (Online), "Tibet at a Turning Point: The Spring Uprising and China's New Crackdown," 5 August 08, 3, 22–23. ICT states that the actual number of protests is certain to be higher than 125.

[89] Ibid.

[90] Sichuan Province Party Committee Policy Research Office, "Improve Capacity to Resolve Minority Issues, Make Efforts to Build a Harmonious Ganzi," 10 August 05. According to the Sichuan Province Party Committee Policy Research Office, August 10, 2005 report, there are 515 Tibetan Buddhist monasteries in Ganzi Prefecture and 37,916 monks and nuns, which represent

4.49 percent of the prefecture's total population. "Facts and Figures of Tibetan Development," Xinhua (Online), 27 March 08. In comparison, there are 46,000 Tibetan Buddhist monks and nuns in the entire TAR. CECC Staff Interview, September 2003. According to a Chinese official, there are approximately 21,000 monks and nuns in Qinghai province.

[91] The current period of Tibetan political activism began on September 27, 1987, when 21 monks from Drepung Monastery staged a peaceful protest march in Lhasa, calling for Tibetan freedom. It was the first Tibetan political protest in China in the post-Cultural Revolution period that was internationally reported.

[92] As of October 31, 2008, the Commission's Political Prisoner Database (PPD) contained records of 2,534 Tibetan political prisoners detained or imprisoned since 1987. Of those 2,534 Tibetan political prisoners and detainees, 543 are known or believed to be currently detained or imprisoned. The rest are known or believed to have been released or to have escaped or died. Of the 2,534 Tibetans who became political prisoners or detainees since 1987, 321 of them were residents of Ganzi Tibetan Autonomous Prefecture (TAP), according to PPD information. Of the 321 Tibetan residents of Ganzi TAP who became political prisoners or detainees since 1987, 199 of them are known or believed to be currently detained or imprisoned. Of the 199 Tibetan residents of Ganzi TAP who are known or believed to be currently detained or imprisoned, 179 of them have been detained during the period beginning March 10, 2008. Due to the large number of detentions of Tibetan protesters since March 10, 2008, and a lack of complete information about the detentions, the PPD does not contain information on a large number of Tibetans detained since that date.

[93] International Campaign for Tibet, "New Measures Reveal Government Plan To Purge Monasteries and Restrict Buddhist Practice."

[94] Regulation on Religious Affairs (RRA) [Zongjiao shiwu tiaoli], issued 30 November 04, translated on the Web site of China Elections and Governance.

[95] Measures on the Management of the Reincarnation of Living Buddhas in Tibetan Buddhism, issued 13 July 07.

[96] Ganzi Measures, art. 7, provides for the demolition of monastic residential quarters under certain circumstances. Ganzi Measures, art. 9, provides for revocation of a monastery or nunnery's registration followed by closure of the monastery or nunnery under certain circumstances.

[97] Ganzi Measures, art. 12, provides for stripping a trulku of "the right to hold the incarnation lineage."

[98] PRC Constitution, art. 4 ("The people of all nationalities have the freedom to use and develop their own spoken and written languages, and to preserve or reform their own ways and customs."), arts. 112–122.

[99] PRC Regional Ethnic Autonomy Law [hereinafter REAL], enacted 31 May 84, amended 28 February 01. The REAL's Preamble asserts that the ethnic autonomy system "reflects the state's full respect for and guarantee of ethnic minorities' right to administer their internal affairs" and gives "full play to ethnic minorities' enthusiasm for being masters over their own affairs."

[100] REAL, Preamble. "Regional ethnic autonomy reflects the state's full respect for and guarantee of ethnic minorities' right to administer their internal affairs and its adherence to the principle of equality, unity and common prosperity for all nationalities."

"Regional ethnic autonomy has played an enormous role in giving full play to ethnic minorities' enthusiasm for being masters over their own affairs, in developing among them a socialist relationship of equality, unity and mutual assistance, in consolidating the unification of the country and in promoting socialist construction in the ethnic autonomous areas and the rest of the country."

[101] State Council Information Office, White Paper on Building of Political Democracy in China [Zhongguo de minzhuzhengzhi jianshe], 19 October 05. "Democratic centralism is the fundamental principle of organization and leadership of state power in China. When democratic centralism is practiced, it requires that we give full play to democracy and discuss matters of concern collectively, so that people's wishes and demands are fully expressed and reflected. Then, all the correct opinions are pooled, and decisions are made collectively so that the people's wishes and demands are realized and met. The practice of democratic centralism also requires that 'the majority be respected while the minority is protected.' We are against the anarchic call for 'democracy for all,' and against anybody placing his own will above that of the collective."

[102] REAL, art. 7. "Institutions of self-government in ethnic autonomous areas shall place the interests of the state as a whole above all else and actively fulfill all tasks assigned by state institutions at higher levels."

[103] PRC Constitution, art. 62(12), 89(15). (Only the National People's Congress (NPC) and State Council have the constitutional authority to approve the establishment of autonomous regions, prefectures, and counties, and to alter their boundaries.)

[104] REAL, art. 19. "The people's congresses of ethnic autonomous areas shall have the power to enact self-governing regulations and separate regulations in the light of the political, economic and cultural characteristics of the nationality or nationalities in the areas concerned. . . ." PRC Constitution, art. 116. "People's congresses of national autonomous areas have the power to enact autonomy regulations and specific regulations in the light of the political, economic and cultural characteristics of the nationality or nationalities in the areas concerned."

[105] PRC Legislation Law, enacted 15 March 00, art. 9. "In the event that no national law has been enacted in respect of a matter enumerated in Article 8 hereof, the [NPC] and the Standing Committee thereof have the power to make a decision to enable the State Council to enact administrative regulations in respect of part of the matters concerned for the time being, except where the matter relates to crime and criminal sanctions, the deprivation of a citizen's political rights, compulsory measure and penalty restricting the personal freedom of a citizen, and the judicial system."

[106] REAL, art. 20. "If a resolution, decision, order, or instruction of a state agency at a higher level does not suit the actual conditions in an ethnic autonomous area, an autonomous agency

of the area may report for the approval of that higher level state agency to either implement it with certain alterations or cease implementing it altogether. . . ."

[107] PRC Legislation Law, art. 66. ". . . An autonomous decree or special decree may vary the provisions of a law or administrative regulation, provided that any such variance may not violate the basic principles thereof, and no variance is allowed in respect of any provision of the Constitution or the Law on Ethnic Area Autonomy and provisions of any other law or administrative regulations which are dedicated to matters concerning ethnic autonomous areas."

[108] Andrew Martin Fischer, "From Labour Polarisation to Urban Employment Exclusion," in A Theory of Polarisation, Exclusion and Conflict within Disempowered Development: The Case of Contemporary Tibet in China (Thesis with London School of Economics, November 2007). Dr. Fischer conducted fieldwork in the TAR and Qinghai, Gansu, and Sichuan provinces.

[109] Ibid., 30–31.

[110] TAR Regulations on the Study, Use and Development of the Tibetan Language, adopted July 9, 1987, by the Fifth Session of the Fourth TAR People's Congress, and amended on May 22, 2002, by the Fifth Session of the Seventh TAR People's Congress, arts. 3–5. In 2002, the TAR People's Congress revised the 1987 TAR Regulations on the Study, Use, and Development of the Tibetan Language, ending the precedence of the Tibetan language by authorizing the use of "either or both" of Mandarin and Tibetan languages in most areas of government work.

[111] Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, Country Reports on Human Rights Practices—2007, China (includes Tibet, Hong Kong, and Macau), 11 March 08. "In middle and high schools—even some officially designated as Tibetan schools—teachers often used Tibetan only to teach classes in Tibetan language, literature, and culture and taught all other classes in Chinese."

[112] CECC, 2006 Annual Report, 20 September 06, 169, citing Ma Rong and Tanzen Lhundup, "Temporary Migrants in Lhasa in 2005," Section IV(4.8), Table 14. Based on a survey published by Chinese academics Ma Rong and Tanzen Lhundup, the rate of illiteracy among Tibetan migrants (32.3 percent) was almost 10 times higher than for Han migrants (3.3 percent), and Han migrants were better prepared to secure jobs that require skills learned in junior or senior middle school. Of the migrants surveyed, Han reached junior or senior middle school at about twice the rate of Tibetans: 53.7 percent of Han compared to 26 percent of Tibetans reached junior middle school, and 19.4 percent of Han compared to 9 percent of Tibetans reached senior middle school.

[113] Andrew Martin Fischer, "Educating for Exclusion in Western China: Structural and Institutional Foundations of Conflict in the Tibetan Areas of Qinghai," CRISE Working Paper, Oxford: Centre for Research on Inequality, Security and Ethnicity, Queen Elizabeth House, 2008 (forthcoming). Dr. Fischer conducted field work in Qinghai province.

[114] Li Dezhu, "Large-Scale Development of Western China and China's Nationality Problem," Seeking Truth, 15 June 00 (Open Source Center, 15 June 00). Li Dezhu (Li Dek Su) addresses the social and ethnic implications of the program that Jiang Zemin launched in 1999. Li states that the program is intended to "accelerate economic and social development of the western region and the minority nationality regions in particular."

[115] "Qinghai-Tibet Railway Ready for Operation on July 1," Xinhua (Online), 29 June 06. Zhu Zhensheng, the vice director of an office managing the railway, said that the railway startup is one year ahead of schedule due to "good construction, environment, and safety conditions."

[116] "Qinghai-Tibet Railway Statistics Add to Confusion, Mask Impact on Local Population," CECC China Human Rights and Rule of Law Update, February 2008, 4.

[117] "Province To Be Transport Hub," China Daily (Online), 23 January 08. Sichuan province Governor Jiang Jufeng and Party Secretary Liu Qibao signed an agreement on January 10, 2008, with Minister of Railways Liu Zhijun to include the "Sichuan-Tibet railway" in the national railway network plan.

[118] Ibid.

[119] "Qinghai-Tibet Railway To Get Six New Lines," China Daily (Online), 17 August 08. "The six new tracks include one from Lhasa to Nyingchi [Linzhi] and one from Lhasa to Xigaze [Rikaze], both in the Tibet autonomous region. Three tracks will originate from Golmud in Qinghai province and run to Chengdu in Sichuan province, Dunhuang in Gansu province, and Kuerle [Ku'erle] of the Xinjiang Uygur Autonomous Region. The sixth will link Xining, capital of Qinghai, with Zhangye in Gansu."

[120] CECC China Human Rights and Rule of Law Update, September 2006, 14; "Government Announces Extension of Qinghai-Tibet Railway to Rikaze," Congressional-Executive Commission on China (Online), 28 August 06.

[121] CECC staff map analysis. A more northerly Golmud-Chengdu route could traverse southern portions of Hainan (Tsolho) and Huangnan (Malho) TAPs in Qinghai province and Gannan (Kanlho) TAP in Gansu province before entering Aba Tibetan and Qiang Autonomous Prefecture in Sichuan province.

[122] Tabulation on Nationalities of 2000 Population Census of China, Department of Population, Social, Science and Technology Statistics, National Bureau of Statistics, and Department of Economic Development, State Ethnic Affairs Commission (Beijing: Ethnic Publishing House, September 2003), Table 10–4. Based on official 2000 census data, Tibetans made up 91.6 percent of the Guoluo TAP population (126,395 Tibetans among 137,940 total population) and 97.1 percent of the Yushu TAP population (255,167 Tibetans among 262,661 total population). In Ganzi TAP's three northernmost counties, Dege, Seda (Serthar), and Shiqu (Sershul), Tibetans made up 96.5 percent of the population (162,974 Tibetans among 168,928 total population). In three of the northernmost Aba Tibetan and Qiang Autonomous Prefecture counties—Aba, Ruo'ergai (Dzoege), and Hongyuan (Marthang, or Kakhog)—Tibetans made up 88 percent of the population (145,706 Tibetans among 165,656 total population).

[123] "Tibet Plans Huge Industrial Investment," Xinhua (Online), 5 September 08. According to the Xinhua report: "Industrial development in Tibet had remained inactive for a long time and the sector only accounted for 7.5 percent of the region's overall gross domestic product last year,

official statistics showed. The 22 projects are expected to speed up development of other industrial fields and the comprehensive economic growth."

[124] Ibid. According to the report, of the 21.17 billion yuan total allocated to the 22 projects, "the mining sector will absorb 15.9 billion yuan and the industrial zones will take 3.45 billion yuan."

[125] Ibid.

[126] "Qinghai-Tibet Railway Transports 5.95 Mln Tourists," Xinhua (Online), 8 February 08; CECC, 2006 Annual Report, 167. The 33 billion yuan construction cost was approximately US$4.12 billion in 2006.

[127] Human Rights Watch (Online), "'No One Has the Liberty To Refuse'—Tibetan Herders Forcibly Relocated in Gansu, Qinghai, Sichuan, and the Tibet Autonomous Region," 11 June 07.

[128] For example, incidents of political protest were reported in nomadic areas such as Banma (Pema), Jiuzhi (Chigdril), and Dari (Darlag) counties in Guoluo (Golog) TAP, Qinghai province. "Latest Updates on Tibet Demonstrations," Tibetan Government-in-Exile (Online), 26 March 08. Banma county: "After the arrival and the subsequent tight restrictions by Chinese military forces in Pema County, a protest was held during which the people demanded concrete results in the Sino-Tibetan dialogue. The same evening in Panchen, Pangrue and Markhog villages, Tibetans held peaceful demonstrations." "Latest Updates on Tibet Demonstrations," Tibetan Government-in-Exile (Online), 23 March 08. Jiuzhi county: "Around 500 monks and lay people from Palyul village are holding a sit-down on a hill-top to demand that Karwang Nyima Rinpoche (Dharthang Monastery head) not be harassed by the Chinese military. The people have also demanded the United Nations, U.S. and other countries intervene to resolve the issue." "Latest Updates on Tibet Demonstrations," Tibetan Government-in-Exile (Online), 22 March 08. Dari county: "Around 200 protesters (including many horsemen) held protests in Toema and Meyma villages."

[129] The current period of Tibetan political activism began on September 27, 1987, when 21 monks from Drepung Monastery staged a peaceful protest march in Lhasa, calling for Tibetan freedom. It was the first Tibetan political protest in China in the post-Cultural Revolution period that was internationally reported.

[130] Tibetan Centre for Human Rights and Democracy (Online), "Tensions Are High as the Olympic Torch Arrives in Lhasa," 20 June 08. TCHRD reports that it "has recorded the arrests or arbitrary detention of more than 6,500 Tibetans." (The report provides no information about whether or not, and to what extent, this figure includes more than 4,000 Tibetans whom official Chinese news media reported surrendered or were detained by police in connection to alleged rioting.)

[131] "Latest Casualty Figures in Tibet," Tibetan Government-in-Exile (Online), 21 August 08. "Update on Death Toll from Tibet Demonstrations," Tibetan Government-in-Exile (Online), 26 March 08. The report lists the first 40 names published by the TGiE of Tibetans allegedly killed by Chinese security forces.

[132] Tibetan Centre for Human Rights and Democracy, "Tensions Are High as the Olympic Torch Arrives in Lhasa."

[133] "Update on Tibet, 1 May 2008," Tibetan Government-in-Exile (Online), 1 May 08. The report alleges that on March 28, Chinese security forces cremated "around 83 corpses" in a crematorium in Duilongdeqing county near Lhasa in an attempt to destroy "evidence related to the recent protests." The report described the corpses as "dead bodies of people who have been killed since the March 14 protest in Tibet," but did not disclose how the location, time, or cause of any of the deaths was established reliably.

[134] "Update on Tibet Demonstration," Tibetan Government-in-Exile (Online), 16 March 08.

[135] "Governor Denies Use of Lethal Force in Lhasa Riot," Xinhua, reprinted in China Daily (Online), 17 March 08. "Throughout the process, [security forces] did not carry or use any destructive weapons, but tear gas and water cannons were employed," Jampa Phuntsog told reporters in Beijing.

[136] "Complete One-Week Update on Tibet Protests," Tibetan Government-in-Exile (Online), 18 March 08. The TGiE reports 3 Tibetans shot and killed and 10 others shot and injured.

[137] Tibetan Centre for Human Rights and Democracy (Online), "Middle School Student Shot Dead in Ngaba County," 19 March 08. "At least 23 people including as young as 16 years old student, Lhundup Tso, were confirmed dead following Chinese Armed police shot many rounds of live ammunitions into the protesters . . . ."

[138] International Campaign for Tibet (Online), "Monks, Nomads Protest as Demonstrations Spread Across Entire Tibetan Plateau," 19 March 08. On March 16 protesters stoned government offices and burned a police station and vehicles before 11 truckloads of security personnel "suppressed the protests." "The number of casualties was unclear, although one source that could not be confirmed indicated there could be as many as 19 deaths." "Latest Update on Tibet Protests," Tibetan Government-in-Exile (Online), 18 March 08. In a report dated March 18, and beneath the subheading "18th March, 2008," the TGiE report states, "During the protest in Machu County that continued from yesterday, People's Armed Police (PAP) shot dead nineteen peaceful protesters this morning as confirmed by a source." TibetInfoNet (Online), "'The World Will Not Look Away.' Demonstrations in Amdo Machu and Region," 19 March 08. TibetInfoNet, like the ICT report, reported that the protest took place on March 16, resulted in significant property destruction, and was suppressed by 11 truckloads of security personnel. But, according to TibetInfoNet, no casualties were reported.

[139] Tibetan Centre for Human Rights and Democracy (Online), "At Least Three Tibetans Shot Dead in Kardze Protest," 18 March 08. According to the report, security forces firing indiscriminately shot and killed three Tibetans and injured 15 more when hundreds of Tibetans gathered in the town market and shouted slogans calling for independence and the Dalai Lama's long life.

[140] Tibetan Centre for Human Rights and Democracy (Online), "One Shot Dead and Another in Critical Condition in Drango Protest," 24 March 08. According to the report, security officials

killed one person and critically wounded another when they fired indiscriminately on about 200 protesters shouting slogans calling for independence and the Dalai Lama's long life as they marched toward township offices.

[141] "Chinese Police Fire on Tibetan Protesters, Death Toll Unknown," Radio Free Asia (Online), 4 April 08; Tibetan Centre for Human Rights and Democracy (Online), "At Least Eight Shot Dead in Tongkor Monastery in Kardze," 5 April 08. According to TCHRD, security forces opened fire on and killed as many as 15 Tibetans, including monks of Tongkor Monastery. A monastic protest supported by local villagers developed after monks refused to cooperate with officials conducting "patriotic education," and the officials responded by detaining an elderly monk.

[142] "Tibetans Wounded in Sichuan Protest," Radio Free Asia (Online), 5 April 08; "Troops Settle Down in China's Restive Sichuan," Radio Free Asia (Online), 5 April 08. Ordinary Tibetans joined monks of Nyatso Monastery in a peaceful procession to protest the deaths of Tibetans killed during recent protests. Security forces opened fire on the protesters at crossroads when officials allowed monks to continue, but not the ordinary Tibetans, who began to chant slogans calling for the Dalai Lama's long life and objecting to Tibetans' lack of freedom.

[143] "Dalai Lama Says Will Quit if Violence Out Of Control," Reuters, reprinted in New York Times (Online), 18 March 08. The Dalai Lama said, "If things become out of control then my only option is to completely resign. . . . Please help stop violence from Chinese side and also from Tibetan side."

[144] Office of His Holiness the Dalai Lama (Online), "Statement of His Holiness the Dalai Lama to All Tibetans," 6 April 08. "I want to reiterate and appeal once again to Tibetans to practice non-violence and not waver from this path, however serious the situation might be."

[145] For example, China's state-run media reported that security forces in Aba county fired on and wounded four Tibetan protesters on March 16. TCHRD reported that security forces fired on and killed at least 23 Tibetans in the Aba protest. Xinhua characterized the incident as a "riot"; TCHRD described it as a "peaceful protest." "Police: Four Rioters Wounded Sunday in Aba of SW China," Xinhua (Online), 20 March 08. Police fired on and wounded four rioters "out of self defense," a police official said. Tibetans "destroyed 15 police vehicles and more than 20 office facilities," according to the report. Tibetan Centre for Human Rights and Democracy, "Middle School Student Shot Dead in Ngaba County." TCHRD reports the death of "[a]t least 23 people" and injuries to "scores" of protesters during "the peaceful demonstration."

[146] State Council Information Office, "Ministry of Public Security Holds News Conference To Brief the Press on the Latest Situation of Cracking Cases of 14 March Incident and Make Public the Names of Victims," 1 April 08 (Open Source Center, 2 April 08); "Baby Burned to Death in Lhasa Riot Fire," China Daily (Online), 24 March 08. "At least 18 civilians and one police officer have been confirmed killed in the unrest in Lhasa, which also saw 382 injured."

[147] International Campaign for Tibet (Online), "Tibet at a Turning Point: The Spring Uprising and China's New Crackdown," 5 August 08, 17, 54. According to the report, on March 14 in Lhasa "Chinese shops were burnt, and Chinese people were beaten severely and killed." "Transcript: James Miles Interview on Tibet, CNN (Online), 20 March 08. Miles witnessed the March 14 Lhasa riot and told CNN, "What I saw was calculated targeted violence against an ethnic group, or I should say two ethnic groups, primarily ethnic Han Chinese living in Lhasa, but also members of the Muslim Hui minority in Lhasa." Miles, who did not witness lethal violence, said, "But I can do no more really on the basis of what I saw then say there was a probability that some ethnic Chinese were killed in this violence, and also a probability that some Tibetans, Tibetan rioters themselves were killed by members of the security forces."

[148] The largest number of political detentions of Tibetans reported internationally as the result of a distinct sequence of political events that took place during the period of the current Chinese Constitution and Criminal Law, and before the cascade of Tibetan protests that began on March 10, 2008, resulted from the Lhasa protests of March 5 to 7, 1989. The Commission's Political Prisoner Database contains information on fewer than 200 cases of Tibetan political prisoners whose imprisonment may be linked to the March 1989 political events. The Tibet Information Network reported that at least 1,000 Tibetans were detained in connection with the incident. (Tibet Information Network, "A Struggle of Blood and Fire: The Imposition of Martial Law in 1989 and the Lhasa Uprising in 1959," 25 February 99.)

[149] The current Constitution of the People's Republic of China is the fourth. The National People's Congress passed the current Constitution on December 4, 1982; it was most recently amended on March 14, 2004.

[150] The National People's Congress passed the Criminal Law on July 1, 1979; it was most recently amended on June 29, 2006.

[151] The figures reported below (953, 362, 2,204, 8, 432, 94, and 381) total 4,434 persons who surrendered to security officials or were detained by them during the period March 14 to 19 in the nine county-level areas named in the reports: Lhasa, Linzhou, Aba, Xiahe, Maqu, Luqu, Zhuoni, Hezuo, and Diebu. "953 Suspects in Lhasa Riots Detained," Xinhua (Online), 9 April 08. TAR government Chairman Jampa Phuntsog told reporters that police had detained "953 people who were suspected of participating in the March 14 violence in Lhasa," and that another 362 persons "delivered themselves to the law enforcement." "Media Tour in Gansu Interrupted, Resumes Soon," Xinhua (Online), 9 April 08. Acting head of the Gannan TAP government told reporters that 2,204 persons (including 519 monks) had surrendered to police in connection with riots in the prefecture, and that police had "formally arrested eight people suspected of participating in the riots and put another 432, including 170 monks, in temporary custody." The report said, "From March 14 to 19, assaults, vandalism, looting and arson occurred in the Xiahe, Maqu, Luqu, [Zhuoni], Hezuo and Diebu areas of Gannan. . . ." "94 Criminal Suspects in Linzhou County Surrender Themselves to Justice," Tibet Daily, reprinted in China Tibet News, 19 March 08 (Open Source Center, 19 March 08). "Awed by the powerful legal and policy offensives, 94 criminal suspects in Linzhou County who were involved in serious incidents of beating, smashing, looting, and burning surrendered themselves to justice by 2400 hours on 17 March." "381

Rioters in Aba County Surrender to Police," Xinhua, reprinted in People's Daily (Online), 25 March 08. "A total of 381 people involved in the riots in Aba county of Sichuan Province have surrendered themselves to the police as of Monday [March 17] noon . . . . Law enforcement authorities . . . issued a notice . . . urging those who had taken part in the riots on March 16 to submit themselves within ten days."

[152] "953 Suspects in Lhasa Riots Detained," Xinhua; "Media Tour in Gansu Interrupted, Resumes Soon," Xinhua.

[153] "42 Rioters Sentenced to Prison," China Daily (Online), 21 June 08.

[154] Ibid.

[155] "Officials Report Release of More Than 3,000 of the More Than 4,400 Detained Tibetan 'Rioters'" Congressional-Executive Commission on China (Online), 9 July 08.

[156] "953 Suspects in Lhasa Riots Detained," Xinhua (Online), 9 April 08.

[157] "Media Tour in Gansu Interrupted, Resumes Soon," Xinhua (Online), 9 April 08.

[158] "94 Criminal Suspects in Linzhou County Surrender Themselves to Justice," Tibet Daily, reprinted in China Tibet News, 19 March 08 (Open Source Center, 19 March 08).

[159] "381 Rioters in Aba County Surrender to Police," Xinhua, reprinted in People's Daily, 25 March 08.

[160] "42 Rioters Sentenced to Prison," China Daily (Online), 21 June 08.

[161] "Lhasa City People's Procuratorate Gives Permission To Arrest the First Suspect Who Held Up a Reactionary Flag," China Tibet News, 25 March 08 (Open Source Center, 27 March 08). At least 13 monks of a group of 15 monks apprehended while protesting near Lhasa's Jokhang Temple were charged with unlawful assembly. A 14th monk may have been charged with separatism for displaying a Tibetan flag.

[162] "Judgments Pronounced Publicly on Some Defendants Involved in Lhasa's '14 March' Incident," Xinhua, 29 April 08 (Open Source Center, 30 April 08). "Total jailed over Lhasa violence rises to 30," Xinhua (Online), 29 April 08. Three defendants were sentenced to life imprisonment; the rest received sentences to fixed term imprisonment ranging from 3 to 20 years. Monk Pasang, whom authorities accused of leading a group of 10 persons (including 5 monks) in Duilongdeqing county "to destroy the local government office, smash or burn down 11 shops and rob their valuables, and attack policemen on duty," received a life sentence. Two of the monks who "followed" Pasang were sentenced to 20 years in prison; the other three received 15-year sentences.

[163] Ibid.

[164] "Tibet Confident on Security During Olympic Torch Relay," Xinhua (Online), 21 June 08. The article does not name the court ("the local court") or provide details about any of the cases.

[165] Ibid.

[166] "List of Appointments and Removals by the Tibet Autonomous Regional People's Congress Standing Committee," China Tibet News, 30 March 08 (Open Source Center, 30 March 08). Although it is not clear whether or not the reshuffle was linked to the large number of protest- and riot-related cases, all of the appointments were to the Rikaze (Shigatse) and Shannan (Lhoka) prefectural procuratorates and courts, the two locations most easily and quickly reached from Lhasa. It is also possible that the transfers were part of a five-yearly reshuffle coordinated with central government changes.

[167] "No Death Penalty Handed Down So Far Over Lhasa Violence," Xinhua (Online), 11 July 08. The report provided information based on statements by TAR government Executive Chairman Pema Trinley (Palma Trily, Baima Chilie).

[168] Ibid.

[169] Tibetan Centre for Human Rights and Democracy, "Provisional List of Known Tibetan Arrestees—Updated on 25 April 2008."

[170] Tibetan Centre for Human Rights and Democracy (Online), "Olympics and Tibet Under a Cloud of Repression," 7 August 08; "Latest Casualty Figures in Tibet," Tibetan Government-in-Exile.

[171] "Tibetan Monks Still Held in Qinghai," Radio Free Asia (Online), 28 August 08. "The remaining 57 monks from outlying areas were said to have been taken from smaller Lhasa monasteries." (The report did not specify the location of the "outlying areas.")

[172] Ibid. Monks from Tibetan areas in Sichuan province ("Kham") "are still being held . . . in Golmud" (Ge'ermu city, a principal city in Qinghai, located on the Qinghai-Tibet railway). "The number of those still in detention [in Golmud] cannot be independently confirmed."

[173] Ibid. RFA described the source of the information as "an authoritative source who spoke on condition of anonymity." (The report did not name any of the monks and provided information of the specific location of relatively few.)

[174] Ibid. The source told RFA, "On April 10 in the afternoon, security forces detained 550 monks from Drepung monastery, took them to the Nyethang Military School, and detained them on the school campus." [Nyethang (Nedang) is a township located in Qushui (Chushur) county, adjacent to Lhasa city.] "Then, on the night of April 14, a huge contingent of Chinese security forces arrived at Sera monastery and took away about 400 monks and detained them at a military prison in Tsal Gungthang." [Tsal Gungthang is a township under the administration of Lhasa city.] (Other published reports have referred to detentions of substantial numbers of monks from Drepung and Sera monasteries on or about those dates.)

[175] CECC, 2005 Annual Report, 83. Officials had already been intensifying the "patriotic education" program in Tibetan monastic institutions since 2005.

[176] "In Tibetan Monasteries, the Heavy Hand of the Party," Washington Post (Online), 3 June 08.

[177] "Successfully Handling the Work of Maintaining Social Stability in All Aspects in a Comprehensive, Deepgoing, and Down-to-Earth Manner," Tibet Daily, reprinted in China Tibet News, 3 April 08 (Open Source Center, 06 April 08).

[178] "Lhasa's Education System Makes Constant Efforts To Deepen Education in Patriotism," Xinhua, 17 July 08 (Open Source Center, 18 August 08). "A total of 3,691 core instructors were

specially assigned and properly trained, and 1,057 lecture sessions were held in the course of the drive, attended by 179,476 people. In addition, 219 people took to the floor to tell their story to 94,708 listeners in 193 sessions, and 265 and 718 sessions were held respectively to greet the Beijing Olympics and denounce the criminal conduct of the Dalai separatist clique. Furthermore, 2,533 oath-taking sessions were held for participants to pledge themselves to safeguard the motherland's unification, oppose ethnic separatism . . . [ellipsis as published]."

[179] Campaigns were not limited to Party propaganda on religion, but also included legal, economic, and historical themes emphasizing the well-being of the Tibetan people under the Communist Party and the Chinese government. See, e.g., "China's Tibetan Affairs Expert Says There Is a Need To Pay Attention to Educating Young Monks of Tibetan Buddhism," Xinhua, 2 April 08 (Open Source Center, 3 April 08); "Qiang Wei Stresses the Importance of Resolutely and Unswervingly Struggling Against Separatism, Safeguarding Stability, and Promoting Unity," Qinghai Daily, 29 March 08 (Open Source Center, 1 April 08); "While Conducting Investigation and Studies in Gannan Prefecture, Liu Lijun Stresses Need to Effectively Carry Out in a Down-to-Earth Manner Work on Propaganda and Education in Legal Knowledge at Monasteries of Tibetan Buddhism," Gansu Daily, 4 April 08 (Open Source Center, 26 April 08).

[180] "Hongyuan Begins 'Maintaining Stable Thinking Among the Masses' Educational Campaign," Sichuan News Net, 27 March 08 (Open Source Center, 27 March 08). OSC summarizes an article on political education in Hongyuan (Kakhog, or Marthang) county in Aba prefecture (where non-violent protests were reported). "Qiang Wei Stresses the Importance of Resolutely and Unswervingly Struggling Against Separatism, Safeguarding Stability, and Promoting Unity," Qinghai Daily. The Qinghai Party Secretary called for stepping up political education in Huangnan (Malho) TAP (where non-violent protests were reported). "While Conducting Investigation and Studies in Gannan Prefecture, Liu Lijun Stresses Need to Effectively Carry Out in a Down-to-Earth Manner Work on Propaganda and Education in Legal Knowledge at Monasteries of Tibetan Buddhism," Gansu Daily. A senior Gansu Party official called for propaganda campaigns and tighter control of monasteries in Gannan TAP (where non-violent protests and rioting were reported.)

[181] See, e.g., "A Briefing Meeting on the Work of Safeguarding Stability in Haibei Tibetan Autonomous Prefecture Is Held in Xihai Town on 28 March," Qinghai Daily, 31 March 08 (Open Source Center, 2 April 08). Senior Party officials in Haibei (Tsojang) TAP (where no protests were reported) detailed efforts to step up political indoctrination.

[182] See, e.g., Tibetan Centre for Human Rights and Democracy (Online), "12 Monks of Dingri Shelkar Choedhe Monastery Arrested for Opposing the 'Patriotic Re-education' Campaign," 31 May 08; International Campaign for Tibet (Online), "More Than 80 Nuns Detained After Peaceful Protests Continue in Kham," 30 May 08; Tibetan Centre for Human Rights and Democracy (Online), "China Arrests 55 Nuns of Pang-ri Nunnery for Protesting," 17 May 08; Tibetan Centre for Human Rights and Democracy (Online), "China Arrests 16 monks for Defying 'Patriotic Re-education,'" 15 May 08; Tibetan Centre for Human Rights and Democracy (Online), "Monks of Drepung Monastery Detained During Patriotic Education Campaign," 14 April 08.

[183] "Abbots, Lamas Refuse To Denounce Dalai Lama," Phayul (Online), 30 March 08. Officials in Shiqu (Sershul) county, Ganzi TAP, convened a meeting of senior Tibetan Buddhist figures from the county's 43 monasteries to launch a patriotic education campaign. The officials said that the Dalai Lama and the Tibetan government-in-exile had masterminded the protests across the Tibetan area of China, and told the monastic representatives to provide critical statements about the protests and to launch signature campaigns criticizing the protests. "China Steps Up Crackdown in Tibet," Radio Free Asia (Online), 17 April 08. Officials told (apparently senior) Tibetan Buddhist monks attending an April 12 meeting in Kangding, the capital of Ganzi TAP, that, among other things, monks and nuns in the prefecture should denounce the Dalai Lama as a separatist and state that the Dalai Lama and Tibetan government-in-exile were responsible for the "unrest" in Tibetan areas. RFA cited as the source a monk in India who cited monks who attended the meeting. "Tibet Update (3) April 15 – 27," China Digital Times (Online), last visited 19 June 08. The report refers to an emergency meeting in Ganzi TAP of the heads of all prefecture's monasteries and of various work units. All the attendees were told to acknowledge that the protest incidents were masterminded by the Dalai clique.

[184] "Update for Friday, 4 April 2008," Tibetan Government-in-Exile (Online), 4 April 08. Work teams conducting patriotic education pressured 200 monks at Bathang Choede Monastery in Batang county, Ganzi TAP, to sign statements supporting the Chinese government position that the Dalai Lama was responsible for inciting the Tibetan protests. All of the monks refused. Officials detained five monks, including the abbot. "Updates on Tibet, 19 April 2008," Tibetan Government-in-Exile (Online), 19 April 08. Officials summoned villagers to meetings in several locations in Yajiang (Nyagchukha) county, Ganzi TAP, and told them to sign a statement saying that the Dalai Lama had instigated the recent unrest. Some villagers walked out of such meetings.

[185] International Campaign for Tibet (Online), "Mass Detentions of Monks, Suicides and Despair as Enforced Condemnation of Dalai Lama Provokes Dissent," 29 April 08. The article provides photographic images of defaced images of the Dalai Lama at Kirti Monastery in Aba prefecture. "Tibet Update (3) April 15 – 27," China Digital Times. The report describes an April 17 search of Rongbo Gonchen Monastery in Huangnan (Malho) TAP: "Next they searched the living quarters of the monks, confiscated the Dalai Lama's photos and DVDs. They also arbitrarily destroy[ed] articles, and stole the monks' possessions."

[186] "Chinese Police Fire on Tibetan Protesters, Death Toll Unknown," Radio Free Asia; Tibetan Centre for Human Rights and Democracy, "At Least Eight Shot Dead in Tongkor Monastery in Kardze."

[187] See, e.g., Tibetan Centre for Human Rights and Democracy, "12 Monks of Dingri Shelkar Choedhe Monastery Arrested for Opposing the 'Patriotic Re-education' Campaign." "[C]ell phones were known to have been confiscated to curb the report of the incident from leaking to the outside world. . . ." "Update on Tibet, 9 May 2008," Tibetan Government-in-Exile (Online),

9 May 08. Referring to police raid on Ratoe Monastery, near Lhasa: ". . . mobile phones belonging to 70 monks' were confiscated. In addition, the telephone of the monastery was confiscated too." "Tibet Update (2)," China Digital Times (Online), last visited 15 June 08. Referring to Tongkor Monastery in Ganzi county: "Each room in the monks' living quarters was searched and all cell phones were confiscated." International Campaign for Tibet (Online), "Monks reveal concerns about Chinese allegations on weapons caches, views on Olympics," 16 April 08. Referring to Tibetan protest areas generally: "[A]uthorities have confiscated cellphones and computers, turned off cellular transmission facilities or cut landlines, and interfered with internet access, according to various reports received by ICT." "2,000 Tibetans Defy Sichuan Crackdown as China Admits Shooting," Radio Free Asia (Online), 20 March 08. Referring to Lhasa: "Another man said many people had been arrested but it was hard to know exactly who, because the authorities had cut off the mobile phone network." "Police Seize Weapons, Ammunition in Southwestern China Monastery," Xinhua (Online), 30 March 08. Referring to objects, including weapons, seized at Kirti Monastery in Aba county: ". . . communication facilities including satellite phones, receivers for overseas TV channels, fax machines and computers were confiscated."

[188] Tibetan Centre for Human Rights and Democracy, "12 Monks of Dingri Shelkar Choedhe Monastery Arrested for Opposing the 'Patriotic Re-education' Campaign." "[T]he monks were even known to have been threaten[ed] with dire consequences if found 'leaking' the information to the outside world." "Update on Tibet, May 31, 2008," Tibetan Government-in-Exile (Online), 31 May 08. Referring to Ramoche Monastery in Lhasa: "[A]ll three monks . . . were again arrested by the concerned local Chinese officials on 26 May for keeping in contact with outsiders through phone calls. They are suspected of sharing information with the outside world." Tibetan Centre for Human Rights and Democracy (Online), "A Former Chief of Rong Gonchen Monastery in Critical Condition," 18 April 08. Referring to Rongbo Gonchen Monastery in Tongren county: "The Chinese authorities have issued terse warning to the monks about leaking the information to the outside world following the severe crackdown by the Chinese authorities."

[189] "Tibet To Reopen to Tourists on May 1," Xinhua, reprinted in China Daily (Online), 3 April 08.

[190] Ministry of Foreign Affairs, "Transcript of Regular News Conference by PRC Foreign Ministry on 12 June 2008, Moderated by Spokesman Qin Gang," 12 June 08 (Open Source Center, 12 June 08). After MFA Spokesman Qin Gang stated that the Chinese government is "not to blame" for the closure of Tibetan areas to journalists following the "'3.14' serious violent criminal incidents," a journalist asked, "Who is to blame, then?" Qin replied, "Do you really have no idea? Of course, it is the Dalai clique."

[191] "Full Transcript of Interview with the Dalai Lama," Financial Times (Online), 25 May 08. "Then stop, inside Tibet, arresting and torture. This must stop. And then they should bring proper medical facilities. And most important, international media should be allowed there, should go there, and look, investigate, so the picture becomes clear."

[192] PRC Criminal Law, enacted 1 July 79, amended 14 March 97, 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, art. 103 ("organize, plot or carry out the scheme of splitting the State or undermining unity of the country"; "incites others to split the State or undermine unity of the country").

[193] Dui Hua Foundation (Online), "Sentence Reductions for Political Prisoners More Than Previously Thought," 17 June 08.

[194] Ibid.

[195] CECC, 2005 Annual Report, 11 October 05, 112. Jigme Gyatso was sentenced in 1996 to 15 years' imprisonment for counterrevolution. Chinese officials told a UN Working Group on Arbitrary Detention (UNWGAD) delegation in September 2004 that he was guilty of "planning to found an illegal organization and seeking to divide the country and damage its unity." Another UNWGAD opinion on the case found that "there is nothing to indicate that the 'illegal organization' . . . ever advocated violence, war, national, racial, or religious hatred, and that Jigme Gyatso was "merely exercising the right to freedom of peaceful assembly with others in order to express opinions."

[196] Ibid., 111–112. Choeying Khedrub, a monk of Tsanden Monastery in the TAR, was sentenced in 2000 to life imprisonment for his role in a group of men who allegedly printed pro-independence leaflets. According to information that the Chinese government provided to the United Nations Working Group on Arbitrary Detention (UNWGAD), he was found guilty of endangering state security and "supporting splittist activities of the Dalai clique." The UNWGAD reports that the Chinese response "mentions no evidence in support of the charges, or if they used violence in their activities," and finds that the government "appears" to have misused the charge of endangering state security.

[197] CECC, 2007 Annual Report, 10 October 07, 210. Bangri Chogtrul (Jigme Tenzin Nyima), who lived as a householder in Lhasa and managed a children's home along with his wife, was convicted of inciting splittism and sentenced to life imprisonment in a closed court in Lhasa in September 2000. "Lhasa Court Commutes Life Sentence for Children's Home Director to 19 Years," CECC China Human Rights and Rule of Law Update, April 2006, 16. The sentencing document lists evidence against Bangri Chogtrul that includes meeting the Dalai Lama, accepting a donation for the home from a foundation in India, and a business relationship with a Tibetan contractor who lowered a Chinese flag in Lhasa in 1999 and tried to blow himself up. Jigme Tenzin Nyima acknowledged meeting the Dalai Lama, accepting the contribution, and knowing the contractor, but he denied the charges against him and rejected the court's portrayal of events.

[198] Measures for Dealing Strictly With Rebellious Monasteries and Individual Monks and Nuns [hereinafter Ganzi Measures], Order from the People's Government of Ganzi Tibetan Autonomous Prefecture, No. 2, issued 28 June 08, translated from Tibetan language in International Campaign for Tibet (Online), "New Measures Reveal Government Plan To Purge Monasteries and Restrict Buddhist Practice," 30 July 08.

[199] The Commission does not have relevant information about Sichuan province or Ganzi TAP regulations. See, however, Tibet Autonomous Region Implementing Measures for the "Regulation on Religious Affairs" [hereinafter TAR 2006 Measures], issued by the Standing Committee of the Tibet Autonomous Region People's Government on September 19, 2006, art. 16. "To rebuild, expand, or repair venues for religious activities, a petition for examination and approval is made to the prefectural (city) administrative office (people's government) religious affairs department in the locality, after obtaining the consent of the county-level people's government religious affairs department in the locality. . . ."

[200] Monks or nuns who administer a monastery or nunnery form the Democratic Management Committee (DMC). DMC members must implement Party policies on religion and ensure that monks and nuns obey government regulations on religious practice.

[201] The Commission does not have relevant information about Sichuan province or Ganzi TAP regulations. See, however, Tibet Autonomous Region Implementing Measures for the "Regulation on Religious Affairs" [hereinafter TAR 2006 Measures], issued by the Standing Committee of the Tibet Autonomous Region People's Government on September 19, 2006, arts. 19, 29. Article 19 stipulates: "Venues for religious activities recruit religious personnel, and handle procedures for their confirmation and for placing [the matter] on record on the basis of [the venues'] ability for self-cultivation, management ability, and the economic capacity of their religious adherents, as well as on the basis of the relevant provisions of the state and autonomous region." Article 29 states that "religious personnel" may not "engage in professional religious activities" until their status as a religious professional is confirmed by a "religious organization" (a state-controlled Buddhist association) and reported for the record to the religious affairs bureau of a local government at county-level or above. (Based on Commission staff analysis, a monastery or nunnery is unlikely to succeed in increasing the number of resident monks or nuns unless the local government endorses the increase.)

[202] Regulation on Religious Affairs (RRA) [Zongjiao shiwu tiaoli], issued 30 November 04, translated on the Web site of China Elections and Governance, art. 13. Government officials at the county, prefectural, and provincial levels are involved in the approval process for establishing a "site for religious activity."

[203] State Administration for Religious Affairs, Measures on the Management of the Reincarnation of Living Buddhas in Tibetan Buddhism [Zangchuan fojiao huofo zhuanshi guanli banfa], issued 13 July 07, arts. 3–5.

Notes to Section VI—Developments in Hong Kong

[1] United States-Hong Kong Policy Act of 1992, Public Law No. 102–383, enacted 4 April 90; The Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China, enacted 4 April 90; Joint Declaration of the Government of the United Kingdom of Great Britain and Northern Ireland and the Government of the People's Republic of China on the Question of Hong Kong, adopted 19 December 84.

[2] CECC, 2005 Annual Report, 11 October 05, 115–116.

[3] Universal suffrage is described as the "ultimate aim" in the Basic Law. The Basic Law of the Hong Kong Special Administrative Region, arts. 45, 68.

[4] Decision of the Standing Committee of the National People's Congress on Issues Relating to the Methods for Selecting the Chief Executive of the Hong Kong Special Administrative Region and for Forming the Legislative Council of the Hong Kong Special Administrative Region in the Year 2012 and on Issues Relating to Universal Suffrage, issued 29 December 2007.

[5] The first instance came in April 2004 when the NPCSC ruled against universal suffrage for the 2007 Chief Executive election and the 2008 LegCo election. For more information, see CECC, 2004 Annual Report, 5 October 04, 104–106.

[6] Ying-Kit Lai, "New Poll Confirms People's Support for Universal Suffrage," South China Morning Post (Online), 13 August 07.

[7] Donald Greenlees, "Democracy Advocate Wins in Hong Kong," New York Times (Online), 3 December 07; "Democracy Champion Wins HK Poll," BBC (Online), 2 December 07.

[8] Government of the Hong Kong Special Administrative Region (Online), Green Paper on Constitutional Development, July 2007.

[9] Donald Tsang (Chief Executive of the HKSAR), Government of the Hong Kong Special Administrative Region (Online), "Report on the Public Consultation on Constitutional Development and on Whether There Is a Need To Amend the Methods for Selecting the Chief Executive of the Hong Kong Special Administrative Region and for Forming the Legislative Council of the Hong Kong Special Administrative Region in 2012", 12 December 07.

[10] "Hong Kong 'To Elect its Leader by 2017'" BBC (Online), 29 December 07.

[11] Decision of the Standing Committee on Methods for Selecting the Chief Executive of the Hong Kong Special Administrative Region, Forming the Legislative Council, and on Issues Relating to Universal Suffrage; Qiao Xiaoyang, "Marching Toward a New Course for Democratic Development in Hong Kong with One Mind and Joined in Common Effort" [Jixin xieli maixiang xianggang minzhu fazhan xin licheng], Speech Delivered at the Forum on Hong Kong's Political Development, 29 December 07.

[12] Qiao Xiaoyang, "Marching Toward a New Course for Democratic Development in Hong Kong."

[13] Government of the Hong Kong Special Administrative Region, Registration and Electoral Office (Online), "The Third Term Chief Executive Election: Election Committee," 7 February 07; Keith Bradsher, "China Plans to Allow Hong Kong a Bigger Voice in Choosing its Leaders," New York Times (Online), 25 September 05; Human Rights Watch (Online), "A Question of Patriotism: Human Rights and Democratization in Hong Kong," 9 September 04, 33–34; Alvin Y. So, "The Tiananmen Incident, Patten's Electoral Reforms, and the Roots of Contested Democracy in Hong Kong," in The Challenge of Hong Kong's Reintegration with China, ed. Ming K. Chan (Hong Kong: Hong Kong Univ. Press 1997), 70–72.

[14] Keith Bradsher, "On Economy, Voters Move to the Left in Hong Kong," New York Times (Online), 8 September 08; "Democrats Face Key Test as Hong Kong Votes," Agence France-Presse (Online), 7 September 08.

[15] Decision of the Standing Committee on Methods for Selecting the Chief Executive of the Hong Kong Special Administrative Region, Forming the Legislative Council, and on Issues Relating to Universal Suffrage.

[16] Jimmy Chueng, "'Fake' Voting Model Would Backfire, Lawmaker Warns," South China Morning Post (Online), 9 February 2008.

[17] Ambrose Leung and Albert Wong, "Tsang Hints Legco Trade Seats May Be Retained," South China Morning Post (Online), 16 May 08.

[18] Chris Yeung, "Change of Tack," South China Morning Post (Online), 22 January 08.

[19] Decision of the Standing Committee on Methods for Selecting the Chief Executive of the Hong Kong Special Administrative Region, Forming the Legislative Council, and on Issues Relating to Universal Suffrage.

[20] Anne Marie Roantree and James Pomfret, "Olympic Torch Protesters Denied Entry to Hong Kong," Reuters (Online), 27 April 08; Keith Bradsher, "Torch Nears, Posing Test of Autonomy in Hong Kong," New York Times (Online), 29 April 08.

[21] Jimmy Cheung, et al., "Barring of Rights Activists Criticized," South China Morning Post (Online), 29 April 08; Bradsher, "Torch Nears, Posing Test of Autonomy in Hong Kong."

[22] "Olympic Torch Arrives in Hong Kong," Associated Press (Online), 30 April 08; "Hong Kong Authorities Bar at Least 7 Activists From Olympic Torch Relay," Voice of America (Online), 30 April 08.

[23] James Pomfret, "Hong Kong Says Olympic Trouble-Makers Not Welcome," Reuters (Online), 6 May 08; "Warning Goes Out to the Olympic Spoilers," Standard (Online), 2 April 08.

[24] Dennis Chong, "Overseas Dissidents Arrive in HK with Plan To Confront Authorities," South China Morning Post (Online), 8 August 08; Nora Boustany, "Hong Kong Bars Chinese Dissident," Washington Post (Online), 7 August 08.

[25] Peter So and Martin Wong, "HK Protest Sites 'Far from Venues'" South China Morning Post (Online), 31 July 08; "Tight Rein Kept on Tibet, Rights Protesters," South China Morning Post (Online), 10 August 08; "Tibetan Independence Supporters are Taken Away at the Olympic Equestrian Racetrack" [Zhichi zangdu renshi zai aoyun mashu saichang shitu kangyi bei daizou], Radio Free Asia (Online), 10 August 08.

[26] "Hong Kong Pro-Democracy Activist Ejected from Olympic Venue," Agence France-Presse (Online), 9 August 08.

[27] Hong Kong Special Administration Region, Information Services Department (Online), "Views Sought on Human Rights Report," 2 September 08.