

CRIMINAL JUSTICE

Introduction

Criminal justice was an area of significant concern during the Commission's 2015 reporting year. Chinese authorities introduced discrete reforms that could improve the criminal justice system's fairness and accuracy.¹ The Commission did not observe statistics establishing the impact of reforms from the past reporting year, such as whether they led to a decrease in death sentences or a higher rate of convictions being overturned on appeal. A May 2015 report by an international human rights non-governmental organization (NGO) found that Chinese authorities have failed to fully enforce certain criminal justice reforms introduced in past years, especially measures that provide for excluding suspects' confessions and written statements obtained through torture.² Fundamental structural issues—including the dominance of police³ in the police-procuratorate-court "iron triangle"⁴ and the overriding influence of the Chinese Communist Party⁵—remained impediments to creating a criminal justice system that comports with standards dictated by both Chinese law⁶ and international human rights instruments.⁷ Although reform-minded individuals both within and outside the government continued to press for reforms furthering the protection of human rights,⁸ their ability to bring about meaningful reform was constrained in a political climate that emphasized perpetuating one-party rule at the expense of individual freedoms.⁹

Alternatives to the Criminal Justice System

A narrow view of criminal justice in China that considers only formal criminal processes fails to capture the full breadth of extrajudicial measures used by the Chinese government and Communist Party. So-called "administrative" or otherwise non-criminal measures,¹⁰ disciplinary actions by the Party against its own members,¹¹ and other actions taken by Chinese authorities that lack adequate legal support¹² continued to be tools for suppressing behavior that the government and Party deem dangerous, socially undesirable, or threatening to the existing political structure.¹³ For example, an amendment to the PRC Food Safety Law to take effect in October 2015 provides that people who add inedible substances to food can be detained for 15 days without being afforded the protections in the PRC Criminal Procedure Law.¹⁴

While not labeled "criminal" by the Chinese government, these "administrative," Party-controlled, and extralegal measures can restrict personal liberty as severely, if not more, than some sanctions allowed by the PRC Criminal Law,¹⁵ and lack sufficient judicial procedures.¹⁶ These deprivations of liberty raise concerns under international law because of the Chinese government's failure to observe international norms relating to the right to a fair trial,¹⁷ including as set forth in the International Covenant on Civil and Political Rights (ICCPR),¹⁸ which China signed in 1998 but still has not ratified.¹⁹

ADMINISTRATIVE MEASURES

In December 2013, the Chinese government ended the long-standing practice of reeducation through labor (RTL)—a form of administrative detention that could result in up to four years' deprivation of liberty without a trial.²⁰ The Commission's 2014 Annual Report cautioned, however, that alternative "administrative" measures remained after RTL's abolition.²¹ Chinese authorities continued to use various extrajudicial measures during this reporting year.²² For instance, although the PRC Mental Health Law took effect in 2013,²³ the use of psychiatric facilities to detain people who do not necessarily have mental health conditions continued to receive international attention as a form of arbitrary detention.²⁴ A report by a China-based NGO found that, in 2014, the government used mental health facilities to detain rights advocates.²⁵ Attention has also focused on China's use of involuntary detention of drug addicts in compulsory drug treatment centers,²⁶ with the public health advocacy NGO Beijing Aizhixing Institute questioning the conditions of confinement and use of forced labor at drug treatment centers in a February 2015 submission to the UN Committee against Torture.²⁷

A focal point of concern has been "custody and education," a form of administrative detention that can deprive people of liberty for up to two years.²⁸ In response to a request through China's open government information system, the government reported there were 116 "custody and education" centers as of August 2014.²⁹ Authorities have largely used this form of detention against sex workers, and sometimes their customers,³⁰ though authorities have also reportedly used it against government critics.³¹ Although UNAIDS has advised, "Sex workers and clients should have access to high-quality educational opportunities,"³² a report by the international NGO Asia Catalyst concluded that "custody and education" detainees "are required to engage in long hours of uncompensated labor, and have few opportunities for skill training and education."³³ The release of actor Huang Haibo in December 2014 after six months' detention for soliciting a sex worker brought greater attention to the use of "custody and education,"³⁴ but the centers remained in use.³⁵

CHINESE COMMUNIST PARTY DISCIPLINARY PROCESS

The approximately 87 million members of the Chinese Communist Party³⁶ are subject to a complex and opaque disciplinary process entirely within the Party's control.³⁷ The Party has special measures for investigating, detaining, and punishing members prior to transferring them to the formal criminal justice system.³⁸ Party members can be subject to a Party disciplinary process called *shuanggui* (sometimes translated as "double designation"),³⁹ which requires them to appear for interrogation at a designated time and place.⁴⁰ *Shuanggui* not only contravenes the right to be free from arbitrary detention guaranteed by the Universal Declaration of Human Rights and the ICCPR,⁴¹ but also violates Chinese law.⁴² *Shuanggui* remains governed by internal Party rules⁴³ despite calls by voices ranging from Chinese legal experts⁴⁴ to a member

of the Chinese People's Political Consultative Conference⁴⁵ for the Party to consider bringing *shuanggui* into the legal system.

President and Party General Secretary Xi Jinping's ongoing anticorruption campaign brought new emphasis on the intersection of the Party disciplinary process with the formal criminal justice process.⁴⁶ By April 2015, the campaign had led to the removal of 100 high-ranking officials in addition to scores of low-ranking ones.⁴⁷ Most prominently, the June 2015 conviction of Zhou Yongkang, a former member of the Standing Committee of the Political Bureau of the Communist Party Central Committee and Minister of Public Security, for bribery, abusing power, and disclosing state secrets followed months of detention under the Party's disciplinary process.⁴⁸ The Tianjin No. 1 Intermediate People's Court sentenced Zhou to life in prison.⁴⁹ The PRC Criminal Procedure Law provides that trials be held in open court sessions by default.⁵⁰ In Zhou Yongkang's case, however, the government chose to hold the trial entirely behind closed doors, citing the legal exception for cases involving disclosure of state secrets.⁵¹

The lack of transparency regarding Party members' experiences when subjected to disciplinary measures complicates efforts to evaluate the extent to which the Party's procedures comply with international human rights norms.⁵² The limited reports available indicate that, at a minimum, there are violations with respect to the arbitrary nature of the detention as well as the conditions of detention.⁵³

OTHER EXTRALEGAL MEASURES

During the past reporting year, the Party and government continued to take actions without legal basis in order to silence voices perceived as threatening to the Party's control.⁵⁴ These extralegal measures were expedient tools for suppressing dissent and, because the Party and government do not formally recognize them, have been especially difficult to monitor and evaluate.⁵⁵ Measures range from home confinement (sometimes called "soft detention" for the Chinese term *ruanjin*)⁵⁶ to holding people at secret detention sites known as "black jails."⁵⁷ Prominent human rights lawyer Gao Zhisheng,⁵⁸ for example, was released from prison in August 2014 following completion of a three-year sentence for "inciting subversion of state power."⁵⁹ After his release, however, he remained under 24-hour surveillance at his home with limited telephone access.⁶⁰

Criminal Law

During the Commission's 2015 reporting year, important developments took place in the formal criminal justice system with respect to both the substantive laws that could be used to support a conviction as well as the procedures that people undergo once identified as criminal suspects.

This past year the Chinese government adjusted the types of conduct subject to criminal sanctions and the severity of possible punishments. The National People's Congress Standing Committee passed the Ninth Amendment to the PRC Criminal Law in August 2015 with 51 revisions that will take effect in November 2015.⁶¹

The Ninth Amendment included positive changes such as reducing the number of capital crimes⁶² and increasing protections for vulnerable populations by criminalizing the buying of women and children.⁶³ [For more information, see Section II—Human Trafficking.] Under the previous iteration of the law, Article 291 criminalized gathering a crowd to disturb order in a public place.⁶⁴ The new addition to Article 291 punishes the fabrication and dissemination of certain types of false information—including regarding “dangerous situations,” “epidemics,” and “disasters”—on the Internet and other media with up to seven years’ imprisonment.⁶⁵ The amendment did not include definitions of key terms like “dangerous situations,” “epidemics,” and “disasters.”⁶⁶ An amendment to Article 308 provides up to three years’ imprisonment for the transmission of certain information regarding court cases that are not to be tried in public.⁶⁷ The amendments to Articles 291 and 308 thus create new criminal liability for transmitting various types of information, in addition to existing PRC Criminal Law provisions criminalizing the disclosure of state secrets.⁶⁸ The April 2015 sentencing of veteran journalist Gao Yu to seven years’ imprisonment for allegedly leaking state secrets⁶⁹ was criticized by foreign governments⁷⁰ and international non-governmental organizations (NGOs)⁷¹ as an abuse of criminal laws to silence peaceful criticism of the government. [For more information on Gao’s case, see Section II—Freedom of Expression.]

LAWS CRIMINALIZING TERRORISM AND EXTREMISM

The Chinese government’s June 2015 report on “Progress in China’s Human Rights in 2014” highlighted efforts to combat terrorism, reporting “[T]he judicial organs severely punished crimes such as the terrorist attacks at Tiananmen on October 28, 2013 and at Kunming railway station on March 1, 2014 to ensure the safety of life and property of the people.”⁷² During the 2015 reporting year, the government considered adopting a counterterrorism law⁷³ and passed revisions to the PRC Criminal Law regarding the punishments for “terrorism” and “extremism.”⁷⁴ The Supreme People’s Court’s (SPC) 2014 work report noted a 14.8-percent increase over the previous year in cases handled by Chinese courts involving terrorist attacks and “separatism.”⁷⁵ The draft PRC Counterterrorism Law has garnered attention for its potential to criminalize activities that are freedoms protected under international human rights norms.⁷⁶ One international human rights NGO warned that “in its present form [the PRC Counterterrorism Law (Draft)] is little more than a license to commit human rights abuses.”⁷⁷

“POCKET CRIMES”

This past year, Chinese authorities expanded the use of “pocket crimes” (*koudai zui*)⁷⁸—such as “gathering a crowd to disturb social order”⁷⁹—so named because Chinese authorities incorporate a wide variety of conduct within their definitions.⁸⁰ In May 2015, authorities indicted Pu Zhiqiang, a public interest lawyer, with “inciting ethnic hatred”⁸¹ and “picking quarrels and provoking trouble”⁸² related to comments on his microblog.⁸³ The PRC Criminal Law provision for “picking quarrels and provoking trouble” lists four relatively specific acts,⁸⁴ and the SPC and Supreme People’s

Procuratorate have issued a joint judicial interpretation of the crime.⁸⁵ One expert on Chinese law commented that the crime “as applied to Pu’s case has to be stretched beyond all recognition in order to apply.”⁸⁶ Authorities initially detained Pu in May 2014.⁸⁷

Authorities have used the offense of “inciting subversion of state power”⁸⁸ to imprison human rights advocates such as lawyer Gao Zhisheng in 2006,⁸⁹ Nobel Peace Prize laureate Liu Xiaobo in 2009,⁹⁰ and, in May 2015, democracy advocate Liu Jiakai.⁹¹ Similarly, authorities have charged people whom the government and Party see as threats with engaging in “illegal business activity.”⁹² Authorities arrested Guo Yushan,⁹³ founder of the think tank and NGO Transition Institute, in January 2015.⁹⁴ The Beijing Municipal Public Security Bureau accused Guo of “illegal business activity” for publishing the Transition Institute’s various research reports on tax reforms, education equality, legal reforms, and social and economic issues.⁹⁵ Authorities released Guo and He Zhengjun, a Transition Institute manager arrested on the same charge, on “guarantee pending further investigation” (“bail”) the week prior to President Xi Jinping’s state visit to the United States in September 2015.⁹⁶ In December 2014, a district court in Beijing sentenced Shen Yongping,⁹⁷ the creator of a documentary about the history of constitutional governance in China, to one year’s imprisonment on the basis that disseminating copies of the film constituted “illegal business activity.”⁹⁸

Criminal Procedure

Chinese authorities’ implementation of key provisions in the 2012 PRC Criminal Procedure Law (CPL)⁹⁹ remained inconsistent¹⁰⁰ during the Commission’s 2015 reporting year. Even when Chinese authorities followed the CPL, they continued to target government critics in an effort to suppress rights advocacy.¹⁰¹ In March 2015, authorities detained five women’s rights advocates¹⁰² on suspicion of “picking quarrels and provoking trouble”¹⁰³—later changed to “gathering a crowd to disturb order in a public place”¹⁰⁴—for planning to distribute materials calling attention to sexual harassment.¹⁰⁵ Authorities released the five women over a month later on bail (also translated as “guarantee pending further investigation”),¹⁰⁶ meaning that they remained criminal suspects who were limited in their freedom of movement and communications for an investigation period of up to 12 months.¹⁰⁷ After their release, one of the women reported that authorities summoned her back for eight hours of interrogation and verbal abuse.¹⁰⁸ As the government reportedly continued surveillance of the women,¹⁰⁹ another Chinese women’s rights advocate wrote, “The police punished my friends to intimidate other social and political activists.”¹¹⁰

ACCESS TO COUNSEL AND TREATMENT OF LAWYERS

Following the 2012 CPL’s clarification of procedures for lawyer-client contact,¹¹¹ the Supreme People’s Procuratorate (SPP) introduced new regulations in December 2014 aimed at improving the ability of lawyers to perform their professional duties by, for example, emphasizing the right to lawyer-client meetings in criminal

cases.¹¹² In March 2015, the head of the SPP reportedly stated that all levels of procuratorates should safeguard the rights of lawyers who represent defendants in major bribery cases¹¹³—a noteworthy development because lawyer-client contact had been especially constrained in cases involving serious bribery, endangering state security, and terrorism.¹¹⁴ In general, however, lawyers continued to face substantial impediments when trying to play a meaningful role in criminal cases.¹¹⁵ As explained by a Chinese legal scholar, “[T]he Chinese government was not prepared to adopt broad legal protections for defendants, including the right to remain silent and allowing lawyers to be present during interrogations.”¹¹⁶ The Commission did not observe any change in the long-standing problem that most criminal suspects are not assisted by counsel.¹¹⁷

Criminal detentions and prosecutions of lawyers, particularly rights defense lawyers who took on cases deemed sensitive by the government, continued during the reporting year.¹¹⁸ Article 306 of the PRC Criminal Law creates a strong disincentive for lawyers to collect evidence on their clients’ behalf because the government has used the provision to allege that lawyers who take on sensitive cases have fabricated evidence or induced witnesses to change their testimony.¹¹⁹ A revision to the PRC Criminal Law amended Article 309 to stipulate that “insulting, defaming, or threatening a judicial officer” and “engaging in other acts that seriously disrupt the order of the court” may be punishable by up to three years’ imprisonment.¹²⁰ Over 500 lawyers signed an open letter in November 2014 expressing concerns that this provision could criminalize lawyers’ speech during trials if they challenge the court.¹²¹

Lawyers also faced reprisals short of formal criminal prosecution. In December 2014, authorities detained defense lawyer Zhang Keke after he invoked China’s Constitution in court while representing a Falun Gong practitioner.¹²² Approximately 260 Chinese lawyers signed an open letter protesting Zhang’s treatment.¹²³ In April 2015, court personnel removed defense lawyer Chen Jian’gang from the courtroom and detained him after he objected to the court’s decision to shackle his client in contravention of Chinese law.¹²⁴

Concerns for lawyers’ safety go beyond official government action. In April 2015, unidentified assailants attacked four defense lawyers outside a court after they had publicly accused police of having coerced their clients into confessing.¹²⁵ Hundreds of lawyers responded by calling for an investigation into the beatings.¹²⁶ [For information on a crackdown against rights lawyers launched in July 2015, see Section III—Access to Justice—Harassment and Abuse of Human Rights and Public Interest Lawyers.]

SOURCES OF EVIDENCE: TORTURE AND WRONGFUL CONVICTIONS

Numerous reports have surfaced over the past decade of innocent people convicted in China based on faulty evidence.¹²⁷ The Chinese government for years has acknowledged the problem of wrongful convictions, including the use of torture to extract confessions.¹²⁸ In a major policy document issued in October 2014, the Chinese Communist Party emphasized strengthening procedures for gathering and using evidence in criminal cases.¹²⁹ In March 2015, the head of the Supreme People’s Court (SPC) apologized for past wrongful convictions and called on courts to improve practices.¹³⁰

Also in March 2015, the Supreme People's Procuratorate (SPP) issued "Five Major Cases in Correcting Wrongful Convictions."¹³¹ In April 2015, the SPP announced that it was launching a special campaign to rectify "miscarriages of justice."¹³² According to a December 2014 media report, the SPC was reportedly drafting more detailed guidance in conjunction with other government bodies regarding the procedures for excluding evidence, but this document had not been released publicly as of September 2015.¹³³

Sources continued to report on high-profile wrongful convictions this past year.¹³⁴ In December 2014, the Inner Mongolia Autonomous Region High People's Court posthumously overturned an April 1996 guilty verdict for rape and murder that resulted in the swift execution of Huugjilt, an 18-year-old ethnic Mongol.¹³⁵ The case's handling came under intense scrutiny when, in December 2014, the commanding officer faced criminal charges for using force to extract confessions in other cases¹³⁶—a rare example of police being held accountable for their interrogation practices.¹³⁷ Huugjilt reportedly confessed to the murder after 48 hours of interrogation but subsequently proclaimed his innocence.¹³⁸ Other examples from the 2015 reporting year included the Fujian Province High People's Court's decision in August 2014 to overturn Nian Bin's conviction for murder after eight years in prison following a coerced confession,¹³⁹ and the Shandong Province High People's Court's review of the infamous 1995 execution of Nie Shubin for a murder he did not commit.¹⁴⁰

In early 2015, the Party called for an end to quotas for "arrests, indictments, guilty verdicts and case conclusions."¹⁴¹ Depending on the implementation of such a plan,¹⁴² this change could positively influence the incentive structure for police, as well as for prosecutors and judges, by reducing pressure to extract confessions.¹⁴³ Chinese authorities took steps to require that police film all interrogations¹⁴⁴ and to increase accountability of individual police officers for their conduct.¹⁴⁵ In addition, discussions continued regarding possible adoption of a new PRC Detention Center Law,¹⁴⁶ covering interrogation conditions at centers controlled by the Public Security Bureau.¹⁴⁷ One Chinese law professor pointed out, however, that rules for excluding illegally obtained evidence and other discrete legal reforms are insufficient,¹⁴⁸ and improvements to the overarching structure of the criminal process are necessary.¹⁴⁹

Chinese authorities have stated their intention to place greater emphasis on trials,¹⁵⁰ including increasing citizen participation in the trial process.¹⁵¹ For those cases proceeding from police investigation to formal charges and a trial, however, defendants regularly faced substantial challenges when countering the government's case. China had a nearly 100-percent conviction rate as of 2013¹⁵² and has long had a practice of leniency for those who confess and severity for those who do not.¹⁵³ Witnesses rarely appear in court for questioning,¹⁵⁴ and the Commission observed few reports of successful use of the rules on excluding illegally obtained evidence contained in the 2012 Criminal Procedure Law.¹⁵⁵ In a May 2015 report, Human Rights Watch (HRW) reviewed 158,000 criminal court verdicts published on the Supreme People's Court (SPC) website and found 432 in which the suspects alleged torture.¹⁵⁶ HRW reported that, "The defendants were convicted in all

432 cases, and judges excluded confessions in only 23 cases (6 percent of the verdicts) due to concerns over police torture. And even in those 23 cases, the defendants were convicted.”¹⁵⁷

The conditions under which suspects confess will be subject to detailed international scrutiny on November 17 and 18, 2015, when the UN Committee against Torture (Committee) reviews China’s compliance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.¹⁵⁸ A number of NGOs have submitted to the Committee issues of concern ranging from an insufficient legal definition of torture under Chinese law to the use of extralegal detention facilities such as “black jails.”¹⁵⁹

CLEMENCY AND PAROLE

The Chinese government took steps during the 2015 reporting year to address the use of clemency and parole in criminal cases. Following issuance in 2014 of various new rules on commutations and parole by the SPC,¹⁶⁰ Supreme People’s Procuratorate (SPP),¹⁶¹ and the Ministry of Justice,¹⁶² the SPP announced in March 2015 that 252 officials were punished in 2014 for “illegally granting parole or shortening prison terms.”¹⁶³ In February 2015, the SPC provided additional guidance in the form of eight typical cases involving commutations, parole, and temporarily serving sentences outside prison.¹⁶⁴ In April 2015, the Ministry of Justice issued an “Opinion on Further Deepening Prison Affairs Openness” that included provisions on information that should be provided to the public as well as to the families of prisoners.¹⁶⁵ The Ministry of Justice also warned about abuses of the medical parole system.¹⁶⁶ This past year, there were allegations that some wealthy prisoners bought patents to take advantage of an early release arrangement for prisoners who developed new technologies.¹⁶⁷

The PRC Criminal Law further allows early release on the basis of good behavior.¹⁶⁸ American geologist Xue Feng was released on this basis in April 2015, 10 months before the end of his 8-year sentence.¹⁶⁹ The Beijing No. 1 Intermediate People’s Court convicted Xue in July 2010 of “illegally procuring state secrets” following a trial reportedly marred by numerous procedural abuses.¹⁷⁰

Death Penalty

In its 2014 annual report on the death penalty, the international NGO Amnesty International once again was unable to publish an exact figure for executions in China because of the information’s classification and inaccessibility as a state secret.¹⁷¹ Amnesty International noted, however, “[A]vailable information indicates that thousands of people are executed and sentenced to death in China each year.”¹⁷² There were signs that the overall trend of curbing use of the death penalty had not reversed course.¹⁷³ The U.S.-based human rights organization Dui Hua Foundation estimated that executions would stay steady at about 2,400 in 2013 and 2014 because “[a]nnual declines in executions recorded in recent years are likely to be offset in 2014 by the use of capital punishment in anti-terrorism campaigns in the Xinjiang Uyghur Autonomous Region and the anticorruption campaign nationwide.”¹⁷⁴

Public support in China for retaining the death penalty remained strong, including in corruption cases.¹⁷⁵ Nonetheless, in line with the goal announced at the Third Plenum of the 18th Party Congress Central Committee in November 2013¹⁷⁶ of “gradually reducing the number of crimes punishable by the death penalty,”¹⁷⁷ the Chinese government reduced the number of capital crimes from 55 to 46.¹⁷⁸ The crimes for which the death penalty is most commonly applied were not among those on the list.¹⁷⁹

The Chinese government continued to reevaluate the procedures used to determine and carry out death sentences,¹⁸⁰ procedures that were overhauled in 2006 when the SPC took back final review power of capital cases.¹⁸¹ In January 2015, the SPC issued new measures that detailed how judges should take defense lawyers’ opinions into account during the review of death sentences.¹⁸² Courts also continued to face scrutiny from the general public regarding whether death sentences were warranted in individual cases.¹⁸³ An example of public pressure followed the April 2015 decision by a court in Anyue county, Ziyang municipality, Sichuan province, to suspend the death sentence of Li Yan, a woman who murdered her abusive husband.¹⁸⁴ [For more information on Li Yan’s case, see Section II—Status of Women.] Another point of concern was the conditions under which detainees on death row are held,¹⁸⁵ with reports that one prisoner was handcuffed and shackled for eight years.¹⁸⁶

According to state-run media, the Chinese government announced the end of harvesting organs from executed prisoners starting in January 2015,¹⁸⁷ but further reported that death row prisoners remained “among the qualified candidates for donations.”¹⁸⁸ International medical professionals and human rights advocates expressed concerns regarding the voluntary nature of such donations.¹⁸⁹ One international human rights NGO cautioned that weaning China off harvesting organs from executed prisoners was a “marathon, not a sprint.”¹⁹⁰

Notes to Section II—Criminal Justice

¹ See, e.g., Supreme People's Court, Measures Concerning Listening to Defense Lawyers' Opinions in Handling Death Penalty Review Cases [Zuigao renmin fayuan guanyu banli sixing fuhe anjian tingqu bianhu lushi yijian de banfa], issued 29 January 15; Supreme People's Procuratorate, People's Procuratorate Guidelines for Reviews of Criminal Case Appeals [Renmin jianchayuan fucha xingshi shensu anjian guiding], issued 29 April 14, reprinted in *Procuratorial Daily*, 21 November 14.

² Human Rights Watch, "Tiger Chairs and Cell Bosses: Police Torture of Criminal Suspects in China," May 2015, 3.

³ Hu Wei, "Experts Call for Less Police Dominance in China Legal System," *Voice of America*, 10 September 14; Murray Scot Tanner and Eric Green, "Principals and Secret Agents: Central Versus Local Control Over Policy and Obstacles to 'Rule of Law' in China," *China Quarterly*, Vol. 191 (September 2007), 644; Kam C. Wong, *Chinese Policing, History, and Reform* (New York: Peter Lang Publishing, 2009), 157. The colloquial term "police" encompasses a variety of law enforcement officials in China, e.g., local public security officers, state security officers, and People's Armed Police.

⁴ Mike McConville, *Criminal Justice in China: An Empirical Inquiry* (Northampton, MA: Edward Elgar, 2011), 378–79.

⁵ "Xi Makes the Rules," *Economist*, *Analysts* (blog), 24 October 14.

⁶ See, e.g., PRC Criminal Procedure Law [Zhonghua renmin gongheguo xingshi susong fa], passed 1 July 79, amended 17 March 96, 14 March 12, effective 1 January 13, arts. 33, 54, 121; Human Rights Watch (HRW), "Tiger Chairs and Cell Bosses: Police Torture of Criminal Suspects in China," May 2015. HRW's report describes the Chinese government's failure to fully implement Articles 33, 54, and 121 of the PRC Criminal Procedure Law. See also Chinese Human Rights Defenders, "New Rules on Lawyers' Input on Death Penalty Reviews Too Weak To Cut Down on Executions," 5 February 15.

⁷ See, e.g., UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by UN General Assembly resolution 39/46 of 10 December 84, entry into force 26 June 87; International Covenant on Civil and Political Rights, adopted by UN General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 23 March 76.

⁸ See, e.g., "China's Broken Justice System," *New York Times*, 17 March 15. During an annual report to the National People's Congress, President of the Supreme People's Court Zhou Qiang reportedly stated, "We deeply reproach ourselves for letting wrongful convictions happen" Luo Guoping, "Committee Member Li Wai: 'Shuanggui' Must Be Clearly Stipulated by Law" [Li wai weiyuan: "shuanggui" ying minque rufu], *Caixin*, 9 March 15; Tom Mitchell, "Lunch With FT: He Jiahong," *Financial Times*, 20 February 15; Elizabeth M. Lynch, "Translation—Beijing News Interviews Tian Wenchang on Custody & Education," *China Law & Policy* (blog), 25 June 14.

⁹ See, e.g., "Xi Makes the Rules," *Economist*, *Analysts* (blog), 24 October 14.

¹⁰ See, e.g., State Council, Measures on Sex Workers' Custody and Education [Maiyin piaochang renyuan shourong jiaoyu banfa], issued and effective 4 September 93.

¹¹ See, e.g., "What Is 'Shuanggui': Special Organizational and Investigative Measures" [Shenme shi "shuanggui": teshu de zuzhi cuoshi he diaocha shouduan], *China News*, reprinted in *Sina*, 19 October 03.

¹² See, e.g., "To Date, Qin Yongmin and His Wife Kept Under Soft Detention for Over Two Months" [Qin yongmin fufu bei ruanjin liang ge duo yue zhijin], *Radio Free Asia*, 20 March 15.

¹³ Peter Larson, "Laying Down the Law: Jerome Cohen on the Rule of Law in China Pt. 2," *China Focus* (blog), 25 April 15.

¹⁴ PRC Food Safety Law [Zhonghua renmin gongheguo shipin anquan fa], passed 28 February 09, amended 24 April 15, effective 1 October 15, art. 123; Zhou Dongxu, "Changes to Food Safety Law Include Tougher Punishments," *Caixin*, 4 May 15.

¹⁵ PRC Criminal Law [Zhonghua renmin gongheguo xingfa], passed 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, 25 February 11, arts. 32–58.

¹⁶ See, e.g., Jerome A. Cohen, "Incommunicado Detention in China," *New York University School of Law, US-Asia Law Institute*, 18 April 12.

¹⁷ UN Office of the High Commissioner for Human Rights, "Fact Sheet No. 26, The Working Group on Arbitrary Detention," May 2000, sec. IV(C).

¹⁸ International Covenant on Civil and Political Rights, adopted by UN General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 23 March 76, art. 9(1). See also CECC, 2014 Annual Report, 9 October 14, 207–08, endnotes 14, 15.

¹⁹ "Over One Hundred Lawyers and Citizens Urge National People's Congress To Ratify International Conventions on Human Rights and Enact Press Laws" [Yu bai lushi ji gongmin yu renda pizhun guoji gongyue baozhang renquan ji banbu xinwen fa], *Radio Free Asia*, 10 March 15.

²⁰ "China Abolishes Reeducation Through Labor," *Xinhua*, 28 December 13.

²¹ CECC, 2014 Annual Report, 9 October 14, 82–84. See also "Four Cities Pilot Reeducation Through Labor System Reform; Unlawful Activities in Education and Corrections To Be Replaced" [Si shi shidian laojiao zhidu gaige you weifa xingwei jiaoyu jiaozhi qudai], *Beijing News*, reprinted in *Xinhua*, 29 August 12.

²² See, e.g., Human Rights Watch, "World Report 2015: China," last visited 22 June 15.

²³ PRC Mental Health Law [Zhonghua renmin gongheguo jingshen weisheng fa], passed 26 October 12, effective 1 May 13.

²⁴ Chinese Human Rights Defenders, "[CHRB] Forced Psychiatric Detention Persists 2 Years After China Enacted Mental Health Law," 8 May 15. See also Chinese Human Rights Defenders, "The Darkest Corners: Abuses of Involuntary Psychiatric Commitment in China," 6 August 12.

²⁵Civil Rights & Livelihood Watch, “2014 Year-End Report on Mental Health and Human Rights (Forced Psychiatric Commitment) in China” [2014 nian zhongguo jingshen jiankang yu renquan (bei jingshenbing) nianzhong baogao], 14 January 15; “Forced ‘Psychiatric Care’ for China’s Government Critics Now Endemic: Report,” Radio Free Asia, 15 January 15.

²⁶See, e.g., Dan Levin, “Despite a Crackdown, Use of Illegal Drugs in China Continues Unabated,” New York Times, 25 January 15.

²⁷Beijing Aizhixing Institute, “List of Issues on the Rights of Drug Addicts in China Submitted to UN Committee against Torture by Beijing Aizhixing Institute, on Feb 8th, 2015,” 8 February 15, 1–2.

²⁸State Council, Measures on Sex Workers’ Custody and Education [Maiyin piaochang renyuan shourong jiaoyu banfa], issued and effective 4 September 93, art. 9; Asia Catalyst, “‘Custody and Education’: Arbitrary Detention for Female Sex Workers in China,” December 2013.

²⁹Wang Xing, “Ministry of Public Security Answers Information Request; Entire Country Presently Has 116 Custody and Education Centers” [Gong’anbu dafu xinxi gongkai shenqing quanguo xian you 116 ge shourong jiaoyu suo], Southern Metropolitan Daily, 1 August 14.

³⁰Asia Catalyst, “‘Custody and Education’: Arbitrary Detention for Female Sex Workers in China,” December 2013, 14, 18–20; Lu Yijie et al., “Three Questions on the Measures on Sex Workers’ Custody and Education” [San wen maiyin piaochang renyuan shourong jiaoyu banfa], China Youth Daily, 6 June 14.

³¹Dui Hua Foundation, “Custody and Education Worse Than Reeducation Through Labor?” Dui Hua Reference Materials, 26 December 13.

³²“UNAIDS Guidance Note on HIV and Sex Work,” UNAIDS/09.09E/JC1696E, updated April 2012, 10–11.

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