CRIMINAL JUSTICE

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CRIMINAL JUSTICE

Findings

• During the Commission's 2010 reporting year, the Chinese government took steps to limit the prevalence of coerced confessions and illegally obtained evidence within the judicial system. In May 2010, five Chinese law enforcement agencies announced two new regulations that intend to limit the use of torture by police and prosecutors in criminal, particularly death penalty, cases. Over the 2010 reporting year, police torture and coerced confessions continued to be widely reported by international and domestic organizations.

• Citing concerns over social tensions, Chinese authorities have promoted local and nationwide anti-crime campaigns to stem reported rising crime rates. In June 2010, China launched the fourth round of its national "strike hard" campaign in a massive seven-month crackdown on violent crimes and escalating social conflicts. "Strike hard" campaigns and anti-crime crackdowns have been tied to unusually harsh law enforcement tactics, quick trials, and violations of China's own criminal procedure laws and regulations.

• During this reporting year, Chinese judicial officials contravened provisions in China's Criminal Procedure Law that require courts to provide access to criminal trials for any observer, regardless of citizenship, except where the law specifically prohibits an open trial.

• Harassment and intimidation of human rights advocates by Chinese government officials continued during this reporting year. Public security authorities and unofficial personnel unlawfully monitored rights defenders, petitioners, religious adherents, human rights lawyers, and their family members, and subjected them to periodic illegal home confinement. Such mistreatment and abuse was evident particularly in the leadup to sensitive dates and events, such as U.S. President Barack Obama's visit in November 2009 and the Shanghai 2010 World Expo.

• Chinese officials continued to use various forms of extralegal detention against Chinese citizens, including petitioners, peaceful protesters, and other individuals considered to be "involved in issues deemed sensitive by authorities." Some of those arbitrarily detained were held in psychiatric hospitals or extralegal detention facilities, such as "black jails," and subjected to treatment inconsistent with international standards and protections found under China's Constitution and Criminal Procedure Law.

• Chinese criminal defense lawyers continue to confront obstacles to practicing law without judicial interference or fear of

prosecution. In politically sensitive cases throughout China, criminal defense attorneys routinely faced harassment and abuse. Some suspects and defendants in sensitive cases were not able to have counsel of their own choosing; some were compelled to accept government-appointed defense counsel. Abuses of Article 306 of the Criminal Law, which assigns criminal liability to lawyers that force or induce a witness to change his or her testimony or falsify evidence, continue to hamper the effectiveness of criminal defense.

• In August 2010, the National People's Congress reviewed the first draft of the proposed eighth amendment to China's Criminal Law, which reportedly calls for reducing the current 68 crimes punishable by death to 55 crimes. The reduction would signal the first time the Chinese government has reduced the number of crimes punishable by capital punishment since the Criminal Law was enacted in 1979.

Recommendations

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

○ Press the Chinese government to adopt the recommendation of the UN Committee against Torture to investigate and disclose the existence of black jails and other secret detention facilities, as a first step toward abolishing such forms of extralegal detention. Ask the Chinese government to extend an invitation to the UN Working Group on Arbitrary Detention to visit China.

○ Call on the Chinese government to guarantee the rights of criminal suspects and defendants in accordance with international human rights standards and provide the international community with a specific timetable for its ratification of the International Covenant on Civil and Political Rights, which the Chinese government signed in 1998, but has not ratified. Press the Chinese government to adhere to protections for criminal suspects and defendants asserted in its 2009–2010 National Human Rights Action Plan, and encourage the publication and broad dissemination of fully detailed reports and updates on local government implementation of the Action Plan.

○ Urge the Chinese government to amend its Criminal Procedure Law to reflect the enhanced protections and rights for lawyers and detained suspects contained in the 2008 revision of the Lawyers Law. Encourage Chinese officials to commit to a specific timetable for revision and implementation of the revised Criminal Procedure Law.

○ Make clear that the international community regards as laudable the commitments to fair trial rights and detainee rights the Chinese government made in its 2009–2010 National Human Rights Action Plan. Request information on the formalization of those commitments into laws and regulations and on what further steps it will take to ensure their successful implementation, and support bilateral and multilateral cooperation and dialogue to support such efforts.

Introduction

During the Commission's 2010 reporting year, international and Chinese domestic media have documented a range of new as well as ongoing problems within China's justice system, including detention abuses, coerced confessions, and police torture. Closed trial proceedings and trial procedures that unfairly disadvantage criminal suspects and defendants continue to contravene protections in both Chinese and international law. Public security administrative powers remain unchecked despite growing media coverage and public controversy.

Chinese and international media reported on various criminal justice policy developments during this reporting year, including reforms to stem the use of coerced confessions, to limit the number of executions, and to address public dissatisfaction with public security authorities.[1] While there were some potentially positive developments, the Chinese criminal justice system in practice consistently contravened domestic legal protections and continued to fall short of upholding international human rights standards. The Chinese government adopted legislation and regulations that signal new challenges for human rights advocates and reformers within the justice system. The National People's Congress, for instance, passed new amendments to tighten controls over communications under its state secrets law and increased restrictions on lawyers and law firms that work on politically sensitive cases or cases involving mass incidents.[2] 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 and Constitution.[3] Although China's 2009–2010 National Human Rights Action Plan (HRAP), released in April 2009, signaled the Chinese government's commitment to improving the "process of law enforcement and judicial work," Chinese authorities have not implemented criminal justice provisions in the HRAP consistently.[4]

Abuse of Police Powers: Suppression of Dissent

Chinese authorities' targeting of human rights advocates and defenders in the leadup to sensitive dates and events in 2009 continued through the 2010 reporting year. In the period surrounding sensitive events, such as the 60th anniversary of the founding of the People's Republic of China in October 2009, U.S. President Barack Obama's visit to China in November 2009, the annual meetings of the National People's Congress and the Chinese People's Political Consultative Conference (Two Sessions) in March 2010, the 21st anniversary of the 1989 Tiananmen protests, and the Shanghai 2010 World Expo, public security officers and unidentified personnel continued to use detention measures against human rights advocates, petitioners, and their families.

Public security officers continued to engage in extralegal tactics such as harassment, assault, kidnappings, and illegal detention in order to punish Chinese citizens who expressed dissent or sought to defend their rights and the rights of others. Such arbitrary restrictions on personal liberty, freedom of expression, and freedom

of peaceful assembly and association contravene the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, as well as China's Constitution.[5] In September 2009, for example, prominent activist Qi Zhiyong said Chinese authorities placed him under home confinement and told him to leave Beijing prior to China's National Day parade.[6] In the leadup to President Obama's visit to China in November 2009, Chinese law enforcement officials reportedly detained dozens of rights defenders and reform advocates.[7] On November 13, 2009, public security officers took away Zhao Lianhai, the head of an advocacy group for parents of children sickened by melamine-tainted milk, searched his house, and confiscated personal property. When Zhao refused to comply with the public security officers because the summons did not specify a charge, the police officers added "provoking an incident" to the summons.[8] In February 2010, before the Two Sessions, Beijing and Shanghai police forcefully removed Mao Hengfeng, a longtime Shanghai petitioner, from her Beijing hotel room; subsequently, the Shanghai Municipal Reeducation Through Labor Committee ordered her to serve 18 months of reeducation through labor for her involvement in a protest that occurred outside a Beijing court in December 2009.[9] [See box titled Liu Xiaobo in Section II—Freedom of Expression.] During the Two Sessions in early March 2010, the non-governmental organization Chinese Human Rights Defenders reported that public security officers detained more than 20 petitioners.[10] Chinese police similarly acted to limit free speech and activism in the period before and during the Shanghai Expo. Shanghai public security officers reportedly detained, threatened, and placed under surveillance housing petitioners that sought to exercise their constitutional right to petition. [For more information on the Shanghai Expo, see Section III—Access to Justice—Abuse of Petitioners.] In early April 2010, Shanghai police sent human rights advocates notices warning them not to go near the Shanghai Expo.[11] In June 2010, Human Rights in China, a U.S.-based non-governmental organization, reported that police authorities detained and abused members of the Guizhou Human Rights Symposium for planning to commemorate the 21st anniversary of the Tiananmen protests.[12] Later in June 2010, state security officers reportedly abducted Beijing-based human rights advocate Liu Dejun and took him to the outskirts of Beijing, where he was beaten and threatened before being left on the side of the road.[13]

Lawyers and rights defenders who took on "sensitive" cases or who became involved with "sensitive" issues during the past year were harassed, abducted, or beaten by public security officers or unidentified personnel working under the direction of, or with the knowledge of, the public security bureau. In November 2009, public security officers detained Jiang Tianyong, a prominent human rights lawyer, for more than 13 hours, after he and other activists gathered outside the U.S. Embassy for a possible meeting with President Obama.[14] In January 2010, Chinese lawyers met with imprisoned human rights lawyer Wang Yonghang who defended Falun Gong prisoners and verified reports that authorities beat Wang on three occasions following his kidnapping by plainclothes police officers.[15] Prominent human rights lawyer Gao Zhisheng resurfaced in late March after "disappearing" into what experts on

the case describe as official custody for more than a year, but news outlets reported that Gao once again "disappeared" in late April.[16] [For more information, see Section III—Access to Justice—Human Rights Lawyers and Defenders.]

Pretrial Detention and Prisons: Torture and Abuse in Custody

Although China officially claims to have outlawed torture in 1996 with amendments to the Criminal Procedure Law and the Criminal Law, torture and abuse by law enforcement officers remain widespread. In November 2008, the UN Committee against Torture (UNCAT) stated it "remains deeply concerned about the continued allegations . . . of routine and widespread use of torture and ill-treatment of suspects in police custody, especially to extract confessions or information to be used in criminal proceedings."[17] While the Chinese government objected to the UNCAT report's findings in its November 2009 followup report, over this reporting year, the Commission observed cases of alleged torture during pretrial detention and the continued reporting of suspicious deaths in detention centers.[18]

Despite the government's public efforts to combat the practice of torture, international media, domestic news sites, and non-governmental organizations have documented ongoing problems of police torture and other forms of police mistreatment. Public security officers have allegedly employed various torture measures, including beatings, electric shock, cigarette burnings, and sleep deprivation.[19] In December 2009, the Yancheng Evening News reported that 19 out of 26 suspects in Chongqing municipality's "anticrime" crackdown alleged that police used torture to extract confessions.[20] In February 2010, a Dahe Net article (reprinted in the Global Times, which operates under the official People's Daily) reported that the Mengzhou Municipal People's Court sentenced three police officers to varying periods of fixed-term imprisonment or to suspended sentences for using torture to extract a confession after the officers ruptured a suspect's bladder with tear gas canisters.[21] In May 2010, environmental activist Wu Lihong described his mistreatment in prison to international reporters: "They used tree branches to whip my head, burned my hands with cigarettes and kicked and beat me until my arms and legs were swollen and my head was spinning."[22] [For more information, see Section II—Climate Change and the Environment.] In a related case, Zhu Mingyong, a lawyer for alleged Chongqing criminal syndicate boss Fan Qihang, made public secret recordings of his client detailing numerous forms of torture in July 2010, after submitting recordings and pictures documenting Fan's torture to the Supreme People's Court for review.[23]

During this reporting year, an earlier case of torture emerged, sparking national interest in the justice system's overreliance on confessions in criminal trials. In May, the China Daily reported that officials in Shangqiu city, Henan province, admitted police officers had tortured criminal suspect Zhao Zuohai into confessing to a murder.[24] Zhao, who spent 11 years in prison before being released after the supposed victim reappeared in late April, was reportedly beaten and forced "to stay awake for more than 30 days" during the interrogation process.[25] Days after his release, the

Henan High People's Court acquitted Zhao in a retrial, and the Shangqiu Intermediate People's Court awarded Zhao 650,000 yuan (US$96,000) in compensation. In June, the Procuratorial Daily reported that the "wrongful case of Zhao Zuohai" had sparked a "great amount of public concern," particularly over the causes behind such an injustice.[26] A May 2010 China Daily editorial advocated for greater oversight to prevent future abuses, stating, "The police ought to police themselves to rid its [sic] reputation of such taints."[27]

Chinese print and online media outlets have continued reporting on several instances of "bizarre" or "unnatural" detention deaths over the year, which, according to the China Daily, have reportedly "sparked nationwide discussion about inmates' human rights and the proper management of detention houses."[28] In news reports and online forums, the detention deaths received high-profile monikers, following the widely reported "hide-and-seek" death of detainee Li Qiaoming in February 2009.[29] During this reporting year, the Chinese media reported on unnatural death cases and official explanations that reportedly captured public attention, including deaths linked to "taking a shower," "drinking hot water," "falling in the bathroom," "hanging by shoelaces," and "having a nightmare."[30] According to a June Zhejiang Daily report, "the naming convention[s]" related to these official explanations that have emerged are a "glib poke at the official line that time and again accompanies these tragedies, a line that clumsily obfuscates the most commonly suspected cause of the deaths, which is abuse at the hands of detention center personnel." The reports of unnatural deaths have shaken public confidence in China's judicial system, according to various media reports.[31] In March 2010, Minister of Public Security Meng Jianzhu addressed the controversy, urging reform and stating that the unnatural deaths have "seriously harmed the public's confidence in law enforcement by police authorities."[32]

During this reporting year, Chinese authorities announced new measures intended to limit inmate abuse and police torture by improving the criminal justice system. At the end of May, the Supreme People's Court, the Supreme People's Procuratorate, and the Ministries of Public Security, State Security, and Justice released two evidence guidelines that prohibit the use of illegally obtained evidence to convict defendants.[33] In May, the Ministries of Public Security, Supervision, and Human Resources and Social Security jointly issued the first police discipline regulation, which went into effect in June 2010 and details punishments for 76 types of misconduct including sanctioning inmates to mistreat suspects.[34] The amended State Compensation Law, which enters into effect in December 2010, stipulates that when a detainee dies or is incapacitated, the authorities shall be required to provide evidence proving they are not responsible.[35]

Arrest and Trial Procedure Issues

ACCESS TO COUNSEL

The right to legal counsel in criminal trials is not a guaranteed legal right for all defendants in China, even though China's Crimi-

nal Procedure Law (CPL) and Lawyers Law provide guidelines for legal representation in criminal trials.[36] Many criminal defendants reportedly do not have access to legal assistance. This is counter to provisions under Article 14(3)(d) of the International Covenant on Civil and Political Rights, which China signed in 1998 but has not yet ratified.[37]

Most Chinese defendants confront the criminal process without the assistance of an attorney.[38] According to a survey reported on Qianlong Web, lawyers participated in criminal defense in approximately 30 percent of criminal cases nationally, and in Beijing, the rate of legal representation was less than 10 percent.[39] In March 2010, All China Lawyers Association (ACLA) President Yu Ning told China Newsweek that criminal defense may be in decline since many Chinese lawyers seek more profitable legal fields and hope to avoid the risks associated with criminal law.[40]

Chinese criminal lawyers continue to confront obstacles in handling cases, most notably in managing the "three difficulties" (*san nan*) of criminal defense—gaining access to detained clients, reviewing the prosecutors' case files, and collecting evidence.[41] Although authorities amended the 2008 Lawyers Law to address these longstanding issues, ACLA Vice President Wang Junfeng said in December 2009 that, based on national ACLA surveys conducted in late 2009, the amended Lawyers Law had not "fundamentally resolved" the "three difficulties" and that some lawyers expressed concerns that the amended Lawyers Law posed new difficulties for the legal profession.[42] Many lawyers in the survey expressed frustration with justice officials for failing to honor new rights under the Lawyers Law, due to incongruence between the CPL and the revised Lawyers Law.[43] A senior lawyer with the ACLA, Li Guifang, told the China Daily in June 2010 that it is "almost impossible" for criminal defense attorneys to meet with their clients within the first 48 hours of detention—a period he characterized as "a crucial time in getting to grips with a case and vital for warning a suspect of his legal rights and responsibilities."[44]

Chinese lawyers also remain vulnerable to prosecution under controversial Article 306 of China's Criminal Law (commonly referred to as the "lawyer-perjury" statute), a legal provision on evidence fabrication that specifically targets defense attorneys.[45] Because of the risks presented by Article 306, most defense attorneys reportedly engage in passive defense: they focus on finding flaws and weaknesses in the prosecutors' evidence rather than actively conducting their own investigations.[46] Human rights groups and Chinese legal experts estimate that more than 100 defense attorneys have been charged with evidence fabrication under Article 306 and suspect the statute has had a "chilling effect for defense lawyers, who may decide to defend clients less forcefully than they otherwise would for fear of displeasing the prosecution."[47] According to a March Legal Daily article, Article 306 may be responsible for declining rates of criminal representation: "Because of Article 306, an increasing number of lawyers are leaning toward non-criminal procedure professions, which has led to an increasing decline in the rate of criminal defense."[48]

In late 2009 and early 2010, the case against prominent Beijing-based lawyer Li Zhuang and its handling figured prominently in

national Chinese news and in ongoing debates over Article 306.[49] In early February 2010, the Chongqing No. 1 Intermediate People's Court sentenced Li to a prison term of one year and six months for falsifying evidence and inciting others to bear false witness (under Article 306) in what reportedly was widely regarded as political targeting.[50]

FAIRNESS OF CRIMINAL TRIALS

Chinese lawyers and criminal defendants continue to face numerous obstacles in defending the right to a fair trial. Closed trials, political influence, and a lack of transparency in judicial decision-making remain commonplace within the justice system. Although China has signed and committed to ratify the International Covenant on Civil and Political Rights (ICCPR), Chinese officials routinely sentence defendants in trials that fall far short of fair trial standards set forth in the ICCPR.

During this reporting year, the Commission has observed several notable cases in which Chinese judicial authorities failed to uphold defendants' right to a fair trial in accordance with domestic and international law.

- In November 2009, the Wuhou District People's Court in Chengdu city, Sichuan province, sentenced veteran activist Huang Qi, whose human rights Web site advocated on behalf of grieving parents after the May 12 Sichuan earthquake, to three years' imprisonment for violating China's broad and vague "state secrets" legal framework.[51] Throughout the legal process, owing to the broad definition of state secrets, authorities granted Huang's lawyers, witnesses, and associates limited access to evidence.[52] [For more information see Section II—Freedom of Expression—Abuse of Vague Criminal Law Provisions—Other Crimes: Splittism, State Secrets, and Slander.]
- On December 25, 2009, a Beijing court sentenced prominent intellectual Liu Xiaobo to 11 years in prison for "inciting subversion of state power" for his role in organizing Charter 08, a treatise advocating political reform and human rights, and publishing six articles online.[53] Among various procedural violations, Liu was denied the right to hire the attorney of his choice. Liu's defense attorneys were also denied the right to present their opinions, as required by law, to prosecutors before the indictment was issued and were not given adequate time to prepare for trial.[54] [For more information see box titled Liu Xiaobo in Section II—Freedom of Expression.]
- In June 2010, the Yanqi County People's Court, located in Bayinguoleng (Bayangol) Mongol Autonomous Prefecture, Xinjiang Uyghur Autonomous Region, sentenced Karma Samdrub, a Tibetan environmentalist, to 15 years' imprisonment for "illegally excavating and robbing cultural sites or ancient tombs," charges that were initially dropped in 1998.[55] Karma Samdrub's lawyer, Pu Zhiqiang, called the trial a "miscarriage of justice" due to a number of procedural irregularities: "evidence was tampered with, inadequate translation was provided and the judge refused to look into [Karma Samdrub's] claims of beatings and sleep deprivation while in custody."[56]

[For more information see Section V—Tibet—Political Imprisonment of Tibetans: Law as a Tool of Repression.]

Arbitrary Detention

Arbitrary detention in China takes many forms and continues to be used widely by Chinese authorities to quell local petitioners, government critics, and rights advocates. Arbitrary detention includes various forms of extralegal detention, such as "black jails" (*hei jianyu*); "soft detention" (*ruanjin*), a form of unlawful home confinement; reeducation through labor, an administrative detention of up to four years for minor crimes; and forcible detention in psychiatric hospitals for nonmedical reasons. Another form of extralegal detention—*shuanggui* (often translated as "double regulation" or "double designation")—is used by the Communist Party for investigation of Party members, most often officials in cases of suspected corruption.

The UN Working Group on Arbitrary Detention defines the deprivation of personal liberty to be "arbitrary" if it meets one of the following criteria: (1) there is clearly no 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 International Covenant on Civil and Political Rights (ICCPR); or (3) there is grave noncompliance with fair trial standards set forth in the UDHR and other international human rights instruments.[57] In addition, many forms of arbitrary detention also violate China's own laws.[58]

"SOFT DETENTION" AND CONTROL

During the Commission's 2010 reporting year, the Commission noted various reports of law enforcement authorities using "soft detention" and surveillance measures to control and intimidate Chinese citizens. The "soft detention" that numerous human rights defenders, advocates, and their family members are subjected to has no basis in Chinese law and constitutes arbitrary detention under international human rights standards. In late April 2010, for example, public security officers held housing rights advocates and victims of forced evictions under "soft detention" at their homes in order to prevent them from drawing attention away from the Shanghai 2010 World Expo.[59] In June, the South China Morning Post reported on New York University Law School Professor Jerome Cohen's visit with criminal lawyer Zheng Enchong, who has remained under "soft detention" since June 2006.[60] In Cohen and Yu-Jie Chen's South China Morning Post editorial on the meeting, the authors described the circumstances behind Zheng's house arrest:

> Around the clock, 12 guards, including uniformed police, plain-clothes public security officials and their hired hands, take turns manning the outer gate, building entrance and hallway outside Zheng's apartment. Strategically posted surveillance cameras ensure that no one in the vicinity can escape police eyes. Zheng, who is 60, only leaves when summoned by police and has been summoned at least 77 times since 2006 for interrogations that are in-

> timidating and occasionally physically abusive. His home has been searched 11 times, and five computers have been confiscated. He generally has no Internet access, and his phone is monitored when not disconnected.[61]

Petitioners and activists across China continue to face the threat of police surveillance and home confinement for criticizing government policies, challenging officials, and advocating for human rights. Huang Yuqin, a Shanghai resident whose home was demolished on March 2, 2010, was placed under "soft detention" and prevented from leaving her home on at least one occasion.[62] Public security officers placed Beijing activists Cha Jianguo and Gao Hongming, founders of the China Democracy Party, under "soft detention" in late January 2010. Although police stationed at Cha and Gao's apartment blocks did permit them to leave their homes, the police directed Cha and Gao to travel in police vehicles.[63] In July 2010, authorities placed a number of civil society activists under "soft detention" during German Chancellor Angela Merkel's visit to Beijing. Those who reportedly faced harassment or restrictions on movement included Yang Jing, Qi Zhiyong, Wang Debang, and Xu Yonghai.[64]

REEDUCATION THROUGH LABOR

Public security officers continue to use the reeducation through labor (RTL) system to silence critics and to circumvent the criminal procedure process. RTL is an administrative measure that allows Chinese law enforcement officials to order Chinese citizens, without legal proceedings or due process, to serve a period of administrative detention of up to three years, with the possibility of up to one-year extension.[65] While Chinese sources maintain that the RTL system has been established "to maintain public order, to prevent and reduce crime, and to provide compulsory educational reform to minor offenders," RTL is used frequently to punish, among others, dissidents, drug addicts, petitioners, Falun Gong adherents, and religious practitioners who belong to religious groups not approved by the government.[66]

During this reporting year, the Commission observed numerous accounts of RTL orders violating the legal rights of Chinese citizens, specifically their rights to a fair trial and to be protected from arbitrary detention.[67] In October 2009, the non-governmental organization Chinese Human Rights Defenders reported that the Shenyang RTL Committee ordered democracy advocate Sun Fuquan to serve one year and nine months of RTL in February 2009 for "inciting subversion of state power" and "splittist speech" by posting information online about the violent suppression of the 1989 Tiananmen protests.[68] In March 2010, the Shanghai RTL Committee ordered Shanghai petitioner Mao Hengfeng to serve one year and six months of RTL for "disturbing social order" after she shouted slogans outside a Beijing court on December 25, 2009. On April 13, 2010, the Shanghai RTL Committee ordered Shanghai petitioner Chen Jianfang to serve one year and three months of RTL for committing "acts disruptive to social order," after he participated in a peaceful protest outside of Peking University on April 17, 2009.[69]

Human rights advocates and legal experts within China have been calling for an end to RTL for decades. In 2008, another public call to end RTL came in the treatise Charter 08, which was signed initially by 303 Chinese intellectuals, human rights advocates, and others. The Charter states: "All persons should be free from unlawful arrest, detention, summons, interrogation, and punishment. The system of reeducation through labor should be abolished."[70] In March 2010, the Chairman of the National People's Congress Standing Committee, Wu Bangguo, announced that the Illegal Behavior Correction Law, which in recent years has been discussed as possibly replacing the RTL regulations, had been included in the 2010 legislative agenda.[71] In 2010, two prominent Chinese legal scholars publicly debated abolishing and reforming the reeducation through labor system in a series of public opinion editorials.[72]

"BLACK JAILS": SECRET DETENTION SITES

During this reporting year, Chinese authorities continued to use "black jails" (*hei jianyu*), secret detention sites established by local officials, to detain and punish petitioners who travel to Beijing and provincial capitals to voice complaints and seek redress for injustices. Inside the black jails, detainees are denied access to legal counsel and in most cases, contact with family and friends. A November 2009 Human Rights Watch (HRW) report detailed conditions at the black jails: "Detainees are kept under constant surveillance, and subject to often arbitrary physical and psychological abuse including beatings, sexual violence, threats and intimidation."[73]

The Chinese government continues to deny the existence of black jails. In November 2009, Foreign Ministry spokesperson Qin Gang told reporters: "I can assure you there are no so-called black jails in China. We put people first, and we are an administration for the people."[74] Still, the existence of black jails of various forms throughout China is well documented by international organizations and, increasingly, domestic media. Black jails arose as a substitute for the dismantled "custody and repatriation" (*shourong qiansong*) centers that had been used to detain petitioners and undocumented migrants until the centers were abolished in 2003.[75] Law professor and human rights defender Xu Zhiyong defines black jails as:

> places used by provincial governments to illegally imprison petitioners; we call them black jails because, first, they are just like prisons—established by the government to restrict people's freedom—and, second, they are "black" because they have no basis in any laws or regulations and are totally illegal.[76]

According to the HRW report on black jails, guards at the detention centers "routinely subject [the] detainees to abuses including physical violence, theft, extortion, threats, intimidation, and deprivation of food, sleep, and medical care."[77]

During this reporting year, the Commission observed reports by international and domestic Chinese media organizations on black jails, as well as on the network of personnel that intercept and abuse petitioners.[78] In one prominent example of domestic report-

ing, a Southern Weekly article reported in August 2009 on the case of 21-year-old Li Ruirui from Anhui province.[79] According to the report, a black jail security guard publicly raped Li after she had been detained for several days in a black jail in the Juyuan Hotel in Beijing. In December, a court in Beijing ordered the guard Xu Jian to serve eight years in prison and pay 2,300 yuan (US$337) in compensation.[80] In late November, China's Oriental Outlook Magazine, published by the official Xinhua news agency, provided an investigative report on the network of black jails, stating that they "seriously damage the government's image."[81] The report noted that, at certain times of the year, local governments employ over 10,000 black jail "retrievers" to abduct citizens and pay fees from 100 to 200 yuan (between US$15 and US$30) per person per day of detention. The Oriental Outlook report stated there were at least 73 black jails in Beijing alone. Chinese human rights observers stated that this was the first time an official, high-level magazine acknowledged the existence of black jails; however, the article did not appear to influence official statements on the existence of black jails or prompt official calls to abolish the detention centers.[82]

SHUANGGUI: EXTRALEGAL INVESTIGATORY DETENTION OF PARTY MEMBERS

During this reporting year, the Chinese media reported on the Communist Party's use of *shuanggui* (often translated as "double regulation" or "double designation"), a form of extralegal detention that involves summoning Communist Party members under investigation to appear at a designated place at a designated time. *Shuanggui* investigations often precede formal Party disciplinary sanctions or the transfer of suspects to law enforcement agencies, if there has been a violation of the criminal law. Although those under investigation are reportedly held under conditions preferable to police detention, in 2006, Professor Jerome Cohen pointed out that the suspects are "generally held incommunicado and denied some of the protections to which criminal suspects are entitled at least in principle."[83] *Shuanggui* has no basis in Chinese law and violates protections found in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.[84]

Communist Party discipline inspection commissions continued to use *shuanggui* during the past year to detain high-ranking officials in the Communist Party's ongoing battle against corruption. In October 2009, for example, Ou Shaoxuan, a former top-level official of the Guangxi Zhuang Autonomous Region High People's Court, was put under *shuanggui* for alleged corruption in a property dispute.[85] The China Daily reported in late April 2009 that Chinese authorities had placed six officials from the State Food and Drug Administration, the agency responsible for issuing production licenses for biological products and supervising drug safety, under *shuanggui* for allegedly accepting bribes from drug companies.[86]

"Strike Hard" and "Anticrime" Campaigns

With official sources reporting an increase in violent crime and escalating social tensions with high-profile school attacks, Chinese officials launched anticrime campaigns across China during the reporting year.[87] In June 2010, the Ministry of Public Security announced the launch of the fourth round of its national "strike hard" campaign (to take place between July 2010 and February 2011) aimed at violent crime.[88] In June, the Vice Minister of Public Security Zhang Xinfeng told a national meeting that "China, during a process of social and economic transformation, is facing emerging social conflicts and new problems in social security."[89] Traditionally, "strike hard" campaigns have been intense national crackdowns of fixed duration associated with unusually harsh law enforcement tactics, quick trials, and violations of criminal procedure. In addition to the national "strike hard" campaign, provincial, municipal, and lower level governments also undertook anticrime and anticorruption campaigns. In the most high-profile example, the southwestern municipality of Chongqing continued a massive, public "anticrime" sweep (known in Chinese as "striking organized crime and uprooting evil" [*dahei chu'e*]) of criminal syndicates and corrupt officials that resulted in thousands of arrests and raised various concerns about judicial independence and procedural rights.

Launched in June 2009, the Chongqing anticrime campaign continued to capture national publicity and lead to numerous high-profile trials and arrests. By April 2010, Chongqing authorities had arrested 14 high-ranking officials and more than 3,000 others in the crackdown.[90] In February 2010, in one of the more publicized cases, the Chongqing No. 1 Intermediate People's Court sentenced Li Zhuang, a prominent Beijing lawyer who represented alleged Chongqing organized crime figure Gong Gangmo, to one year and six months in prison for fabricating evidence and interfering with witness testimony. While officials alleged that Li urged his client to make false claims of torture by police and directed a lawyer to make claims in support of the allegations, various Chinese lawyers have asserted "that the prosecution of Li is a political vendetta because he, unlike most of the other defense lawyers, fought hard for his client."[91] In May 2010, the Chongqing High People's Court upheld an April death sentence for former Director of the Chongqing Municipal Judicial Bureau Wen Qiang for his role in "accepting bribes, shielding criminal gangs, rape, and failing to account for his cash and assets."[92] In his May appeal, Wen confessed to "85 percent" of the charges, but maintained that the first trial "inaccurately" determined certain established crimes, which had led to a "more severe penalty."[93]

At the same time, however, Chinese scholars and lawyers have expressed concern that efforts to satisfy public resentment and meet anticrime targets have led to procedural inconsistencies and wrongful convictions. Jiang Ping, former President of the China University of Politics and Law, strongly criticized the handling of the Li Zhuang case in an essay widely circulated online, stating "[n]o matter what you think about it, from the most basic level, procedural justice was violated."[94] According to the July 1, 2010,

Oriental Outlook article, some Chinese legal scholars have criticized the "strike hard" campaigns, whose "severity and speed" have led to criminal procedure violations. The article states "the procedural rights of criminal suspects and defendants to a certain extent are deprived—which is not consistent with the spirit of the rule of law."[95]

Medical Parole

During this reporting year, Chinese authorities denied medical parole and adequate medical treatment to those within the prison system, particularly human rights advocates. The U.S. State Department observed in its report on China's human rights situation for 2009 that "adequate, timely medical care for prisoners remained a serious problem, despite official assurances that prisoners have the right to prompt medical treatment."[96] Chinese authorities reportedly denied legal advocate and rights defender Chen Guangcheng adequate medical treatment while he was imprisoned.[97] [For additional discussion on Chen Guangcheng, see box titled Case Update: Chen Guangcheng—Human Rights Defender in Section II—Population Planning.] In April 2010, imprisoned activist Hu Jia, who had been sentenced to three years and six months in April 2008, was denied early release from prison despite a reportedly rapidly deteriorating medical condition and possible liver cancer.[98] In June 2010, Chinese authorities released Zhang Jianhong, also known by his pen name Li Hong, who had been serving a six-year sentence and suffers from advanced-stage Amyotrophic Lateral Sclerosis, or Lou Gehrig's disease. Authorities first diagnosed Zhang with advanced-stage muscular dystrophy in 2007, after determining that he was "suffering from muscle contractions and spasms of the hands and feet, and gradual weakening of his entire body."[99] Despite the 2007 diagnosis, which qualified him for medical parole, prison authorities rejected "requests from Zhang's family and lawyers for medical parole."[100]

Capital Punishment

In March 2010, Supreme People's Court President Wang Shengjun emphasized the state policy of "strictly controlling and carefully applying the death penalty" in his annual report to the National People's Congress.[101] Despite claims that fewer executions occur, however, the Chinese government maintained its policy of not releasing details on the thousands reportedly executed annually and continues to keep information on the death penalty a "closely guarded state secret," according to a March 2010 Amnesty International report.[102] In August 2010, the National People's Congress reviewed the first draft of the proposed eighth amendment to the Criminal Law, which reportedly calls for reducing the current 68 crimes punishable by death to 55 crimes.[103] The reduction would signal the first time the Chinese government has reduced the number of crimes subject to the death penalty since the Criminal Law was enacted in 1979.

In December 2009, China gained international attention for executing British defendant Akmal Shaikh, the first EU national to be executed in China since 1951, after refusing to allow Shaikh to be

examined by a doctor.[104] Despite multiple appeals by the British government based on Shaikh's "serious mental health problems," China executed Shaikh on December 29, 2009.[105] According to an international media report, Chinese authorities maintained that evidence of Shaikh's mental illness was "insufficient," and that the case was handled according to Chinese law.[106] China's Foreign Ministry spokesperson Jiang Yu defended the execution, stating, "The Chinese judiciary's right to treat cases according to the rule of law should be respected and there's nobody who has the right to make improper comments on China's judicial sovereignty."[107] International organizations and critics have claimed the execution contravened the Safeguards Guaranteeing Protection of the Rights of Those Facing the Death Penalty, adopted in 1984 by the UN Economic and Social Council, which states that executions shall not be carried out on persons who suffer from mental illness.[108]

During the Commission's 2010 reporting year, China moved to adopt lethal injection as the primary form of execution. Lethal injection was legalized in China as an alternative to execution by firing squad in the 1996 Criminal Procedure Law. In December 2009, Liaoning province became the first province to adopt lethal injections as the sole form of execution.[109] In 2010, Beijing municipality also moved to implement lethal injections for all executions.[110]

Notes to Section II—Criminal Justice

[1] For information on reforms related to limiting the use of coerced confessions and executions, see Provisions Concerning Questions About Examining and Judging Evidence in Death Penalty Cases [Guanyu banli sixing anjian shencha panduan zhengju ruogan wenti de guiding], effective 1 July 10, and Provisions Concerning Questions About Exclusion of Illegal Evidence in Handling Criminal Cases [Guanyu banli xingshi anjian paichu feifa zhengju ruogan wenti de guiding], effective 1 July 10. After several reports on the handling of suspicious detention center deaths, the Ministry of Public Security released new guidelines on management and education in detention centers. For more information, see "China Issues Detention Center Guideline," Xinhua (Online), 26 February 10.

[2] "National People's Congress Standing Committee Issues Revised State Secrets Law," CECC China Human Rights and Rule of Law Update, No. 5, 4 June 10, 2; "Lawyers' Licenses Withheld," Radio Free Asia (Online), 18 July 10; China Human Rights Lawyers Concern Group (Online), "Concern Over Human Rights Lawyers Snatched of Their Legal Practice Qualification, Demand Scrapping the Annual Inspection and Annual Registration System," 15 July 10.

[3] 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. 19; Universal Declaration of Human Rights, adopted and proclaimed by UN General Assembly resolution 217A (III) of 10 December 48, art. 29.

[4] State Council Information Office, National Human Rights Action Plan of China (2009–2010), Xinhua (Online), 13 April 09, sec. II(1), art. 22; Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, Country Report on Human Rights Practices—2009, China (includes Tibet, Hong Kong, and Macau), 11 March 10.

[5] Universal Declaration of Human Rights, adopted and proclaimed by UN General Assembly resolution 217 A (III) of 10 December 48, arts. 3, 5, 9, 19, and 20; 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, arts. 7, 9(1), 19(1), 19(2), 21, and 22(1); PRC Constitution, adopted 4 December 82, amended 12 April 88, 29 March 93, 15 March 99, 14 March 04, arts. 35 (freedom of speech, press, assembly), 37 (freedom of person), and 41 (right to criticize state organ or functionary).

[6] Henry Sanderson, "China Activist Told To Leave City for National Day," Associated Press, reprinted in Taiwan News (Online), 18 September 09.

[7] "China Arrests Activists Before Obama Visit," United Press International (Online), 14 November 09.

[8] Human Rights in China (Online), "Organizer of Families of Tainted Milk Powder Victims Detained," 13 November 09.

[9] Human Rights in China (Online), "Shanghai Petitioner To Serve 18 Months of Reeducation-through-Labor After Shouting Slogans," 9 March 10.

[10] Chinese Human Rights Defenders (Online), "During Two Sessions, More Than 20 Petitioners From Every Region Arrested and Detained" [Lianghui zhi shi you you 20 duo wei gedi fang min bei soubu guanya], 7 March 10.

[11] Chinese Human Rights Defenders (Online), "On the Eve of the World Expo, Shanghai Citizens Receive Public Security Authorities' Notice" [Shibohui qianxi, shanghai shimin shou dao gongan jiguan de shibo gaozhi shu], 13 April 10.

[12] Human Rights in China (Online), "Guizhou Authorities Suppress Activities To Commemorate June Fourth," 2 June 10.

[13] Chinese Human Rights Defenders (Online), "Human Rights Activist Liu Dejun Beaten and Taken to a Remote Location by Police in the Middle of the Night" [Weiquan renshi liu dejun shenye bei jingcha ouda bing pao shenshan], 16 June 10; "Liu Dejun, Civil Rights Activist, Kidnapped by Police and Left in Mountains," Boxun (Online), 15 June 10.

[14] Ng Tze-wei, "Police Detain Lawyers Who Sought To Meet Obama," South China Morning Post (Online), 21 November 09.

[15] Chinese Human Rights Defenders (Online), "Lawyers Meet With Wang Yonghang; Family Calls for End to Persecution" [Lushi huijian wangyonghang jiashu xu tingzhi pohai], 18 January 10; Chinese Human Rights Defenders (Online), "China Human Rights Briefing January 14–22, 2010," 27 January 10.

[16] "Gao Zhisheng Missing Again for 3 Months," Radio Free Asia (Online), 8 July 10; "Chinese Dissident Disappears for Second Time," Voice of America (Online), 1 May 10; Michael Wines, "Chinese Rights Lawyer Disappears Again," Associated Press (Online), 30 April 10; "Chinese Human Rights Defender Gao Zhisheng Disappears Again," CECC China Human Rights and Rule of Law Update, No. 5, 4 June 10, 2.

[17] UN Committee against Torture, Consideration of Reports Submitted by State Parties Under Article 19 of the Convention: Concluding Observations of the Committee against Torture: China, CAT/C/CHN/CO/4, 12 December 08, para. 11.

[18] China objected to the quoted UN Committee against Torture statement by stating, "The Government of China contends that this statement seriously distorts the truth." UN Committee against Torture, Consideration of Reports Submitted by State Parties Under Article 19 of the Convention: Comments by the Government of the People's Republic of China, CAT/C/CHN/CO/4, 9 December 09, 2. For examples of police torture, see Human Rights Watch (Online), "China: Investigate Torture Allegations in Tibet Philanthropist Trial," 23 June 10; "Extorting Confessions by Torture Is an Illness of the Chinese Detention System; Call for Separation of Detention and Investigation Powers" [Xingxun bigong cheng zhongguo jiya tizhi chenke huyu shixian ji zhen fenli], People's Daily (Online), 17 March 10. For examples of detention center deaths, see "Ensure the Rights of Suspects and Unnatural Deaths Will Be Avoided" [Baozheng she'an renyuan quanli caineng bimian fei zhengchang siwang], Southern Metropolitan Daily (Online), 16 April 10; Chen Wenxiang, "Face-Washing? How Many More Ways To Die Can Detention Centers 'Invent'/" [Xilian si, kanshousuo jiujing hai yao "faming" duoshao zhong si fa?], People's

Daily (Online), 10 April 10; "'Bizarre' Inmate Death Sparks Investigation," China Daily (Online), 12 April 10.

[19] For descriptions of police abuse and torture, see Geng He's opinion-editorial on her husband Gao Zhisheng's disappearance and coverage of the high-profile Zhao Zuohai case: Geng He, "The U.S. Must Speak Out Against China's Offenses," Washington Post (Online), 4 February 10; Clifford Coonan, "Zhao Zuohai: Beaten, Framed and Jailed for a Murder That Never Happened," Independent (Online), 14 May 10.

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[21] On November 30, 2009, the Mengzhou Municipal Court sentenced Zhang Jiabin to three years' imprisonment, Xu Libin to two years' imprisonment, suspended for three years, and Dong Dongli to one year's imprisonment, suspended for two years. "Police Torture Suspect and Induce Bladder Rupture; Use Tear Gas Canister" [Minjing xingxun bigong zhi xianfan pangguang polie yong cuilei pensheqi], Dahe Net, reprinted in Global Times (Online), 26 February 10.

[22] Robert Saiget, "China Environmentalist Alleges Brutal Jail Treatment," Agence France-Presse (Online), 11 May 10; "Environmental Activist Wu Lihong Released, Alleges Abuse," CECC Human Rights and Rule of Law Update, No. 5, 4 June 10, 2.

[23] Chinese Human Rights Defenders (Online), "China's Highest Court Must Overturn Death Sentence Based on Confession Extracted by Torture," 3 August 10; Ng Tze-wei, "Lawyer Reveals Grim Details of Client's Torture," South China Morning Post (Online), 29 July 10.

[24] Wang Jingqiong and Shi Baoyin, "'Murderer' Says He Was Tortured To Confess," China Daily (Online), 12 May 10.

[25] "Wrongly Jailed Man Gets State Compensation," Xinhua (Online), 13 May 10.

[26] "A Major Initiative To Protect the Quality of Death Penalty Cases" [Baozhang sixing anjian zhiliang de yige zhongda jucuo], Procuratorial Daily (Online), 7 June 10.

[27] "Policing the Police," China Daily (Online), 13 May 10.

[28] "Inmate Death Sparks Investigation," China Daily (Online), 12 April 10; "Ensure the Rights of Suspects and Unnatural Deaths Will Be Avoided" [Baozheng she'an renyuab guanli caineng bimian feizhengchang], Southern Metropolitan Daily (Online), 31 March 10.

[29] Kent Ewing, "Chinese Prisons: Horror and Reform," Asia Times (Online), 24 March 09. The first case that came to light in 2009 involved the death in February of 24-year-old Li Qiaoming at a detention center in Yunnan province, which was initially explained by officials to have resulted from fatal injuries sustained during a game of "hide-and-seek" (*duo maomao*) with other inmates. The media and blogosphere spread news of the case. Internet users expressed anger over the death and the unconvincing explanation given by the officials, and called for an investigation.

[30] "Urgently Awaiting the End of Unnatural Deaths in Detention Centers" [Feizhengchang siwang jidai ezhi], Zhejiang Daily (Online), 24 June 10; Chen Wenxiang, "Face-Washing? How Many More Ways To Die Can Detention Centers 'Invent'/" [Xilian si, kanshousuo jiujing hai yao "faming" duoshao zhong sifa?], People's Daily (Online), 10 April 10.

[31] See, e.g., Deng Wei, "Why Do 'Detention Stories' Continue Without End/" ["Kanshousuo de gushi" heyi xuji buduan], Xi'an Evening News, reprinted in New People Network (Online), 17 March 10; Wang Jingqiong, "Officers Suspended After Inmate Death," China Daily (Online), 19 April 10; Wang Huazhong, "Inmate Death Sparks Investigation," China Daily (Online), 12 April 10; "What Should We Call the Next Detention Center Death/" [Kanshousuo li xia yili siwang gai jiao shenme], Dalian Evening News, 13 August 09.

[32] Wang Jingqiong, "Officers Suspended After Inmate Death," China Daily (Online), 19 April 10; "Meng Jianzhu: Successive Unnatural Deaths Severely Damage the Credibility of the Public Security" [Meng jianzhu: jielian fasheng fei zhengchang siwang shijian yanzhong sunhai gongan jiguan zhifa gongxinli], Legal Daily (Online), 27 March 10.

[33] Circular From Supreme People's Court, Supreme People's Procuratorate, Ministry of Public Security, Ministry of State Security, and Ministry of Justice Regarding the Issue of "Provisions Concerning Questions About Examining and Judging Evidence in Death Penalty Cases" and "Provisions Concerning Questions About Exclusion of Illegal Evidence in Handling Criminal Cases" [Zuigao renmin fayuan zuigao renmin jiancha yuan gong'an bu guojia anquan bu sifa bu yinfa "guanyu banli sixing anjian shencha panduan zhengju ruogan wenti de guiding" he "guanyu banli xingshi anjian paichu feifa zhengju ruogan wenti de guiding" de tongzhi], issued 13 June 10; Provisions Concerning Questions About Exclusion of Illegal Evidence in Handling Criminal Cases [Guanyu banli xingshi anjian paichu feifa zhengju ruogan wenti de guiding], effective 1 July 10, arts. 1, 7; Provisions Concerning Questions About Examining and Judging Evidence in Death Penalty Cases [Guanyu banli sixing anjian shencha panduan zhengju ruogan wenti de guiding], effective 1 July 10, arts. 18(4), 19, 34.

[34] Regulations on the Discipline of Policemen [Gong'an jiguan renmin jingcha jilu tiaoling], issued 21 April 10, effective 1 June 10; Wang Huazhong, "Regulation Details Disciplines for Police," China Daily (Online), 6 May 10; "Regulations on 'Discipline of Policemen' Will Go Into Effect June 1" ["Gong'an jiguan renmin jingcha jilu tiaoling" jiang yu liu yue yi ri qi shixing], People's Daily (Online), 4 May 10.

[35] PRC State Compensation Law, enacted 12 May 94, amended 29 April 10, effective 1 December 10, art. 26. Cheng Zhuo and Li Huizi, "China Adopts Amended State Compensation Law To Better Protect Human Rights," Xinhua (Online), 30 April 10.

[36] According to Article 34 of the Criminal Procedure Law, the court "shall designate a lawyer that is obligated to provide legal aid to serve as a defender," if the defendant does not have a lawyer and is blind, deaf, mute, a minor, or facing the possibility of a death sentence. Article 42 of the Law on Lawyers states that lawyers must fulfill their obligations to provide legal aid services. For more information see PRC Criminal Procedure Law, enacted 1 July 79, amended 17 March 96, effective 1 January 97, art. 34; PRC Law on Lawyers, enacted 15 May 96, amended 29 December 01, amended 28 October 07, effective 1 June 08, art. 42.

[37] CECC, 2009 Annual Report, 10 October 09, 102.

[38] Bureau of Democracy, Human Rights, and Labor, U.S. Department of State, Country Report on Human Rights Practices—2009, China (includes Tibet, Hong Kong, and Macau), 11 March 10.

[39] "'Lawyers Falsification-Gate' and 'Law of Perjury'" ["Lushi zaojiamen" yu "lushi weizhengzui"], Qianlong Web (Online), 15 December 09.

[40] "President of All China Lawyers Association Discusses Article 306 of Criminal Law" [Quanguo luxiehui zhang shou tan "bu zuowei" cheng ziji bingfei kuilei], China Newsweek, reprinted in Xinhua (Online), 25 March 10.

[41] CECC, 2008 Annual Report, 31 October 08, 38.

[42] PRC Law on Lawyers, enacted 15 May 96, amended 29 December 01, amended 28 October 07, effective 1 June 08; PRC Criminal Procedure Law, enacted 1 July 79, amended 17 March 96, effective 1 January 97; Zhang Liang, "ACLA Survey Shows Lack of Optimism in Professional Lawyer Field" [Quanguo lushi xiehui diaoyan xianshi lushi zhiye huanjing burong leguan], Legal Daily (Online), 30 December 09.

[43] Zhang Liang, "ACLA Survey Shows Lack of Optimism in Professional Lawyer Field" [Quanguo luxie diaoyan xianshi lushi zhiye huanjing burong leguan], Legal Daily (Online), 30 December 09.

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[51] Amnesty International (Online), "China Must Free Activist Who Defended Earthquake Victims," 23 November 09.

[52] "Huang Qi," New York Times (Online), 8 February 09. For more information on Huang Qi's advocacy and the Tianwang Human Rights Center, see Human Rights in China (Online), "HRIC Condemns Three-Year Sentence for Earthquake Activist," 23 November 09.

[53] "International Outcry After Chinese Dissident Liu Xiaobo Sentenced to 11 Years," Times of London (Online), 26 December 09.

[54] "Liu Xiaobo Appeals Sentence; Official Abuses Mar Case From Outset," CECC China Human Rights and Rule of Law Update, No. 2, 5 February 10, 2.

[55] The charge of "illegally excavating and robbing cultural sites or ancient tombs" is listed under 328 of the PRC Criminal Law. PRC Criminal Law, enacted 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, art. 328. "Tibetan Gets 15 Years," Radio Free Asia (Online), 24 June 10; "Tibetan Karma Samdrup Sentenced to 15 Years; Will Appeal" [Zangzu gama sangzhu bei pan 15 jiang shangsu], Radio Free Asia (Online), 24 June 10.

[56] Jonathan Watts, "China Jails Tibetan Environmentalist for 15 Years," Guardian (Online), 25 June 10.

[57] Office of the UN High Commissioner for Human Rights (Online), Working Group on Arbitrary Detention Fact Sheet No. 26, May 2000, sec. IV; International Covenant on Civil and Political Rights (ICCPR), adopted by UN General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 23 March 76, arts. 12, 18, 19, 21, 22, and 27; Universal Declaration of Human Rights, adopted and proclaimed by UN General Assembly resolution 217A (III) of 10 December 48, arts. 7, 10, 13, 14, 18, 19, and 21. 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.

[58] See, e.g., PRC Constitution, adopted 4 December 82, amended 12 April 88, 29 March 93, 15 March 99, 14 March 04, arts. 35, 37, 41; PRC Criminal Procedure Law, enacted 1 July 79, amended 17 March 96, effective 1 January 97, art. 3; PRC Public Security Administration Punishment Law, enacted 28 August 05, effective 1 March 06, arts. 3, 9, 10, 16; PRC Legislation Law, enacted 15 March 00, effective 1 July 00, art. 8(v).

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[62] Shao Jiang, Chinese Human Rights Defenders (Online), "Chinese Government Silences Activists Ahead of Shanghai World Expo," 29 April 10.

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[70] Xiaorong Li and Zhang Zuhua, Charter 08 (Hong Kong: Open Books, 2009), 319.

[71] "China To Speed Up Legislation on Reforming Reeducation through Labor System," Xinhua (Online), 10 March 10.

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[84] Universal Declaration of Human Rights, adopted and proclaimed by UN General Assembly resolution 217A (III) of 10 December 48; International Covenant on Civil and Political Rights (ICCPR), adopted by UN General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 23 March 76.

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