

## I. Executive Summary

### INTRODUCTION

The China of today is vastly different from that of 30 years ago, when major economic reforms began, and even 10 years ago, when China acceded to the World Trade Organization. More people in today's China enjoy an improved quality of life, economic freedoms, and greater access to information via the Internet and other communication technologies. But economic and technological progress has not led to commensurate gains in China's human rights and rule of law record.

In the areas of human rights and rule of law this year, China's leaders have grown more assertive in their violation of rights, disregarding the very laws and international standards that they claim to uphold and tightening their grip on Chinese society. China's leaders have done this while confidently touting their own human rights and rule of law record. This year, officials declared that China had reached a "major milestone" in its legal system and made "remarkable achievements" in carrying out its 2009–2010 National Human Rights Action Plan, asserting that "civil and political rights have been effectively protected." China's leaders no longer respond to criticism by simply denying that rights have been abused. Rather, they increasingly use the language of international law to defend their actions. According to China's leaders, today's China is strong and moving forward on human rights and rule of law.

Official rhetoric notwithstanding, China's human rights and rule of law record has not improved. Indeed, as this year's Annual Report indicates, it appears to be worsening in some areas. A troubling trend is officials' increased willingness to disregard the law when it suits them, particularly to silence dissent. Beginning in February 2011, Chinese police took the unusual step of "disappearing" numerous lawyers and activists in one of the harshest crackdowns in recent memory. It was no surprise, then, that in sensitive issue areas such as China's population planning policy, local government officials demonstrated little restraint in turning to illegal measures, including violence, to coerce compliance with a policy that itself violates international human rights standards. Lack of respect for the rule of law extended into the international arena, where China pursued domestic subsidies and industrial policies inconsistent with China's commitments as a member of the World Trade Organization.

The Chinese government's misuse of the law to violate fundamental human rights continued. The Commission observed officials citing the "law" as a basis to crack down on peaceful protests; to prevent Buddhists, Catholics, Falun Gong practitioners, Muslims, Protestants, and Taoists from freely practicing their beliefs; to pre-

vent Tibetans, Uyghurs, and other ethnic minorities from exercising autonomy despite guarantees in Chinese law; to prevent workers from independently organizing; and to clamp down on civil society organizations. The Communist Party tightened its grip at all levels of society, stepping up monitoring of citizens and social groups and stifling attempts at independent political participation and advocacy for democracy.

Along with negative developments, there have been some hopeful signs, notably at the grassroots level. The Commission observed the courage of citizens calling for justice, as when daring journalists and millions of Internet users outmaneuvered censors to raise questions about the government's response to a high-speed rail crash, or when members of the Shouwang Church openly defied the government to hold outdoor worship services in Beijing. The Commission also continued to observe well-intentioned officials and individuals seeking to bring about positive changes within the system. Such actions testify to the Chinese people's desire for a just society and their willingness to be productive partners in pursuit of that aim.

Human rights and rule of law developments in China are important to the rest of the world. The rights to freedom of expression, association, and religion are universal and transcend borders. These rights are provided for in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights, two documents that China has publicly supported. When the Chinese government and Communist Party deny these rights, as when they censor the press and Internet and restrict access to courts, citizens worldwide—not just in China—know less about issues such as poisoned food, unsafe products, natural and man-made disasters, and infectious disease, and have less recourse to hold officials accountable. Moreover, the Chinese government's respect for human rights and rule of law domestically serves as an important barometer for China's compliance and cooperation internationally, from trade agreements to issues of common global concern. Finally, as recent years have shown, China's increasing confidence in and defense of its human rights record risk setting negative precedents for other countries and reshaping international human rights standards to allow for China's abuses. China's strident justification this past year of its imprisonment of the Nobel Peace Prize winner Liu Xiaobo, and the refusal of some governments to send representatives to the Nobel ceremony, exemplify this trend.

This is the Commission's 10th Annual Report on China's human rights and rule of law developments. As in the past, the Commission has assessed the Chinese government's record on the basis of China's own Constitution and laws and international human rights standards, relying on research based in large part on reports and articles published in China. As Commission research has shown this past year, Chinese officials continue to deny Chinese citizens their rights in order to preserve the Communist Party's notion of political stability and harmony. China's stability is in the United States' best interest, but the Commission believes that stability will not result from repressing rights for perceived short-term gain,

but only by ensuring and protecting the rights of all Chinese citizens.

#### OVERVIEW

Below is a discussion of the major trends that the Commission observed during the 2011 reporting year, covering the period from fall 2010 to fall 2011.

#### DISREGARD FOR THE LAW

The Commission observed Chinese officials disregarding the law to deny Chinese citizens the freedoms of speech, association, and religion, and the right to be free from arbitrary detention, as well as Chinese officials refusing to abide by international commitments:

- **Disappearance of Human Rights Lawyers and Activists.** In the first half of 2011, authorities reportedly “disappeared” numerous lawyers and rights activists known for criticizing the Communist Party and for advocating on behalf of politically sensitive causes and groups. The “disappearances,” in which persons went missing with little or no word of their whereabouts or the charges against them, violated the limited procedural protections provided under Chinese law and drew the criticism of the UN Working Group on Enforced or Involuntary Disappearances and of the international community. The missing included the well-known artist and public advocate Ai Weiwei, who was kept at a secret location for 81 days before being released on bail on the condition that he not grant interviews or send Twitter messages. Following the crackdown, the Chinese government announced a draft revision to its Criminal Procedure Law that would legalize such disappearances.
- **Population Planning.** Although Chinese law prohibits officials from infringing on the rights and interests of citizens when promoting compliance with population planning policies, the Commission noted reports of official campaigns, as well as numerous individual cases in which officials used violent methods to coerce citizens to undergo sterilizations or abortions or pay heavy fines for having “out-of-plan” children. In one such example, in October 2010, local family planning officials in Xiamen city, Fujian province, reportedly kidnapped a woman who was eight months pregnant with her second child and detained her for 40 hours. They then forcibly injected her with a substance that caused the fetus to be aborted. During this time, the woman’s husband reportedly was not permitted to see her.
- **Worker Rights.** China’s Constitution and international human rights standards provide for freedom of association, but workers in China are still denied their fundamental right to organize independent unions, despite some potentially positive but limited developments this past year (see below). Instead, workers must rely on a Party-controlled union to represent them. Without genuine labor representation, Chinese workers continue to face poor working conditions and harassment when

they seek to advocate independently for their rights. Worker safety issues, especially among miners, and child labor remained serious problems.

• **Extralegal Confinement of Released Activists, Petitioners.** Hu Jia, a human rights and environmental advocate, and Chen Guangcheng, a self-trained legal advocate who publicized population planning abuses, were released from prison this year only to face, along with their families, onerous conditions of detention and abuse with little or no basis in Chinese law. In Chen's case, authorities kept him and his wife under extralegal house arrest and allegedly beat them after video footage of their conditions was smuggled out of the house and released on an overseas Web site. In addition, officials continued to hold Mongol rights advocate Hada after completion of his prison sentence in December 2010. The legal basis under Chinese law, if any, for his continued custody is unclear. Chinese and international media also reported on the ongoing problem of "black jails," which are extralegal detention facilities used to house and abuse citizens who persistently petition the government about their grievances.

• **Commercial Rule of Law.** China continued to implement policies that are inconsistent with its commitments as a member of the World Trade Organization (WTO) and are incompatible with the rule of law. Industrial policies limit market access for non-Chinese companies and in some cases violate the core WTO principle of national treatment; state-owned enterprises enjoy direct and indirect subsidies, including land and regulatory protection, which is contrary to China's WTO commitments. Favoring state-owned enterprises has implications for human rights, including the taking of land to subsidize production and the use of the state secrets law to protect information in the state-owned sector. WTO cases this past year addressed the impact of China's policies on its trading partners in industries ranging from tires to wind energy. These cases highlight Chinese support of its domestic industry, China's use of quotas and subsidies, the lack of transparency, and the fear of retaliation against foreign companies that speak up. China continued to control its currency, which many economists and the International Monetary Fund consider to be undervalued.

• **Ethnic Minority Language and Culture.** In Tibetan autonomous areas of China, the Xinjiang Uyghur Autonomous Region, the Inner Mongolia Autonomous Region, and other minority areas, the government continued to promote policies threatening the viability of the language and culture of Tibetans, Uyghurs, Mongols, and other groups, in contravention of China's Constitution and law providing autonomy to ethnic minorities. These policies included the imposition of Mandarin Chinese language in schools at the expense of other languages, the compulsory resettlement of large numbers of nomads, tight curbs over religious practice, and economic development projects that threatened livelihoods and sacred sites.

## MISAPPLICATION OF THE LAW AS A TOOL FOR REPRESSION

The Commission also noted the continuance of Chinese officials abusing and strengthening laws as a tool for repression and to deny citizens the basic freedoms of speech, association, and religion, and the right to be free from arbitrary detention.

- **Criminal and Administrative Law.** Official abuse of Chinese criminal law and administrative provisions prohibiting “subversion,” “splittism,” and “disrupting social order” remained a significant concern this reporting year. Chinese officials used these provisions to imprison labor advocates, writers, Internet essayists, democracy advocates, and Tibetan and Uyghur writers and journalists who engaged in peaceful expression and assembly. These included labor lawyer and advocate Zhao Dongmin, three Tibetans—Buddha (pen name), Jangtse, and Kalsang Jinpa—democracy advocate Liu Xianbin, Uyghur journalist Memetjan Abdulla, and numerous other advocates swept up in the domestic crackdown that followed protests in the Middle East and North Africa and the calls for “Jasmine” protests in China. In August, China’s top legislature reviewed a draft amendment of the Criminal Procedure Law that would legalize the current practice of forcibly “disappearing” rights advocates in violation of international standards.

- **Internet Regulation.** The Chinese government sought to tighten its supervision of Internet activities, establishing in May 2011 a State Internet Information Office to “strengthen [the state’s] supervision of online content.” Reports indicated that officials also stepped up measures to monitor Internet use in public places. The total number of Web sites in China reportedly decreased dramatically as a result of greater state intervention.

- **Religious Regulation.** The Chinese government continued to formally recognize only five religions and to require groups belonging to these religions to register with the government and submit to ongoing state control. Unregistered worshippers and those practicing unrecognized beliefs continued to face harassment.

- **Buddhists and Taoists.** Authorities maintained a restrictive framework for controlling Buddhist and Taoist doctrines, practices, worship sites, and religious personnel.

- **Catholics.** Authorities continued to harass and detain Catholics who worshipped outside state-controlled parameters. The state-controlled church forced some bishops to attend the ordination ceremonies of two bishops ordained without Holy See approval—the first such ordinations since late 2006—as well as a December 2010 state-controlled church conference.

- **Falun Gong.** Officials continued to carry out a campaign—lasting more than a decade—of extensive, systematic, and in some cases violent efforts to pressure Falun Gong practitioners to renounce their beliefs. This year, officials were in the second year of a three-year campaign

that included greater funding and government measures to achieve these goals.

- **Protestants.** Officials took into custody or confined to their homes hundreds of members of unregistered Protestant congregations who assembled into large groups or across congregations. These included members of the Shouwang Church, which had not registered with the authorities, after they attempted to hold large-scale outdoor services in Beijing.

- **Regulations in Ethnic Minority Regions.**

- **Tibetans.** Governments at prefecture levels or above issued or drafted a series of regulations to tighten state control over Tibetan Buddhist monasteries, nunneries, monks, and nuns.

- **Uyghurs.** Following demonstrations and riots in the Xinjiang region in 2009, authorities there maintained repressive security policies that targeted peaceful dissent, human rights advocacy, and expressions of cultural and religious identity, especially among Uyghurs.

#### TIGHTENING PARTY CONTROL OVER SOCIETY

The Commission observed the Communist Party's attempts to strengthen control over many aspects of society in ways that threatened basic human rights of freedom of expression, association, and religion. Authorities created new institutions and stepped up monitoring of citizens and groups in the name of "comprehensive management of public security" and "safeguarding social stability." In some cities, Party monitoring was extended into commercial buildings and local officials packaged "social management" tasks with government service delivery in expanded monitoring of neighborhoods. Party wariness of the formation of independent networks, whether among Chinese citizens or between Chinese citizens and foreign groups, remained a prominent feature in many policies.

- **Democratic Governance and Political Participation.**

Top officials continued to insist that there would be no multiparty elections or separation of powers and that the goal of any political reform—whether it is of the political system or of the media—must be to strengthen, not weaken, the Party's leadership. The use of the Internet by independent candidates running in local people's congress elections emerged as a hopeful sign for grassroots attempts at democracy, but the Party discouraged such candidates, and local officials took repressive measures to stop them. The Party sought to monopolize village leadership positions. Authorities continued to have no tolerance for certain democracy advocates, for example restricting the freedom of movement of elections expert Yao Lifa.

- **Media and Internet.** Party officials maintained heavy censorship of the Internet, media, and publishing, including limiting coverage of public disasters and health emergencies, and silencing well-known journalists such as Chang Ping. Repression of foreign journalists peaked after they attempted to cover the calls for "Jasmine" protests.

- **Negotiations With the Dalai Lama.** Regarding the status of negotiations between Chinese officials and the Dalai Lama or his representatives, no formal dialogue between the two sides took place this past year, the longest break since dialogue resumed in 2002. Officials continued their campaign to discredit the Dalai Lama as a religious leader. For his part, the Dalai Lama renounced an official role in exiled Tibetan governance, a move that could alter the dialogue dynamics by making it more difficult for officials to characterize him as a “political” figure.

PROGRESS CLAIMED; IMPACT UNCLEAR

This past year, the Chinese government announced new measures related to human rights and the rule of law, but the actual impact was unclear or negative.

- **Civil Society.** Beijing and Shanghai reportedly conducted limited reforms to potentially make it easier for certain types of civil society organizations to register with the government, but some experts argued that the moves could solidify the government’s already tight control over which types of civil society organizations are allowed to operate in China.
- **Death Penalty Reform.** In order to limit application of the death penalty, for which statistics remain a state secret, authorities amended the PRC Criminal Law to reduce the number of crimes punishable by death from 68 to 55. In practice authorities rarely, if ever, applied the death penalty for the 13 reclassified crimes.
- **Access to Justice.** Officials promoted a new mediation law, effective in January 2011, as the preferred method of resolving disputes and maintaining social stability. While mediation may be effective in some cases, the courts’ emphasis on this form of dispute resolution raised questions about denying access to courts, increasing pressure on courts and parties to mediate cases, and weakening the rule of law.
- **Village Governance.** Local authorities continued to implement pilot projects in villages to reduce corruption, maintain “social stability,” improve budget transparency, and promote “democratic” public participation, but the sustainability and impact of these projects are unclear.
- **Environment.** Some central-level authorities continued to state their support for public participation and took steps to improve environmental information disclosure. An administrative provision limiting the disclosure of basic pollution information, however, appeared to remain in effect, and local environmental authorities continued to be reluctant to disclose information, especially in relation to polluting industries. In addition, central-level environmental officials issued a measure that states support for social organizations and encourages closer cooperation between government officials and environmental groups, but also stipulates strengthening “guidance” of and “political thought” work for environmental groups.

## POTENTIAL FOR PROGRESS

In a few areas, the Commission observed developments that could bring about positive change in human rights and the rule of law in China depending on implementation and other factors.

- **Mental Health.** After decades of preparation, officials released a draft national mental health law in June 2011 that could curb abuse of the diagnosis of mental illness to detain in psychiatric institutions persons who voice dissent.
- **Government Transparency.** Officials continued to state their support for open government information initiatives, and the number of government agencies publicly disclosing general information about their budgets reportedly increased. However, a number of fundamental obstacles to transparency remained in place, including China's state secrets laws, lack of a free press and independent judiciary, and policies requiring government approvals of investments through a non-transparent process.
- **Worker Rights.** Faced in part with the demands of a younger, more assertive workforce and pressure to maintain social stability, Chinese officials introduced limited steps that could improve conditions for workers. A law on social insurance took effect that deals with work-related injury insurance, and authorities reportedly continued to consider a draft national wage regulation. It remains unclear whether such measures will help address unequal wealth distribution and streamline worker compensation procedures.
- **Citizen Participation on the Internet.** Government initiatives to expand access to the Internet, including access among rural residents, have contributed to creating an online space that Chinese citizens have utilized to express concern over human rights and government policies. The government and Party, however, continued to heavily censor the Internet and to promote its use for economic development and propaganda.
- **Anticorruption.** The government continued limited anticorruption measures, including steps to prevent corruption at the grassroots level, to curb judicial corruption, and to criminalize bribery of foreign officials by Chinese companies operating overseas. Officials issued provisions calling for the promotion of an "honest" Party and a "clean" government. Despite some new regulatory language, protections for whistleblowers remain inadequate.
- **Access to Justice.** Chinese officials reportedly took some steps to expand legal aid and to promote administrative law reforms that seek to provide greater oversight of state agencies and government employees and to protect citizens' interests.
- **Property Rights.** Regulations covering expropriation of urban housing came into effect in January 2011. If fully implemented, the regulations could offer greater protection for urban homeowners. Rural landowners, however, lack equivalent protection.
- **Criminal Procedure Reforms.** In August, China's top legislature reviewed a draft amendment to the Criminal Proce-

dures Law, which includes revisions that aim to prohibit forced self-incrimination, bar the use of evidence obtained through torture, and permit Chinese criminal defense attorneys to meet criminal defendants in custody without being monitored.

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