III. Development of the Rule of Law

CIVIL SOCIETY

Crackdown on Civil Society Advocates and Increasing Pressures on NGOs

During the Commission’s 2014 reporting year, the Chinese government and Communist Party expanded the scope of its crackdown against civil society advocates, journalists, and rights defenders that began in spring 2013.1 Human rights organizations and other observers reported on dozens of detentions and arrests,2 including individuals who attempted to monitor the Chinese government’s report to the UN Human Rights Council for its second Universal Periodic Review on human rights in China in October 2013,3 and others who sought to mark the 25th anniversary of the 1989 Tiananmen protests.4 Among the targets of the government crackdown were participants in the New Citizens’ Movement (NCM),5 a “loose association” or “network”6 of rights defenders engaged in a social movement for justice, rule of law, and citizens’ rights.7 In January 2014, a court in Beijing municipality sentenced legal scholar and NCM promoter Xu Zhiyong to four years’ imprisonment based on an indictment that accused him of being the “ringleader” of peaceful demonstrations for equal education rights and transparency.8 Others associated with the NCM who have been sentenced to prison terms include Liu Ping (6 years and 6 months),9 Wei Zhongping (6 years and 6 months),10 and Ding Jiaxi (3 years and 6 months),11 and some continue to be held in detention, such as Zhang Kun12 and Li Huaping.13 Authorities also detained Wang Gongquan, a key NCM financial supporter, in September 2013, but released him on bail in January 2014 after he reportedly admitted his “guilt.”14 Such acts by the authorities violate international standards on freedom of speech, association, and assembly in the International Covenant on Civil and Political Rights15 (Articles 19, 21, and 22) and the Universal Declaration of Human Rights16 (Articles 19 and 20). Moreover, China’s Constitution provides for freedom of speech, assembly, association, and demonstration in Article 35.17 [For further information on the crackdown on NCM advocates and others, see Section II—Freedom of Expression and Criminal Justice and Section III—Institutions of Democratic Governance.]
According to Teng Biao, a leading proponent of the New Citizens’ Movement (NCM), the emergence of the NCM reflects a gradual shift from “legal appeals towards political appeals” and from “cyberspace activism into real-world activism.” The NCM tracks closely to the careers of Teng and Xu Zhiyong, former classmates and legal advocates whose efforts contributed to the abolition of custody and repatriation in 2003—a form of extralegal detention rife with reported abuses. They later established a legal aid center, the Open Constitution Initiative (Gongmeng), which Beijing municipal authorities shut down in 2009 after accusing the organization of tax evasion. Xu, Teng, and others continued their legal work under the name Citizens (Gongmin) following the closure of Gongmeng, and renamed it New Citizens’ Movement in 2012. The NCM has been shaped by participant activities, including petitioning for equal education rights; peaceful demonstrations urging disclosure of government officials’ assets; “same-city dinner gatherings” that feature discussion of issues of public concern; and a Web site. A petition initiated by NCM participants advocating for education equality for the children of migrant workers reportedly garnered 100,000 signatures.

Increasing pressures on non-governmental organizations (NGOs) went beyond mere regulatory oversight during this reporting year. A leading Chinese expert on civil society development stated that there has been no reduction of controls or restrictions on NGOs, but rather the government is exerting even greater pressure on organizations it deems to be “troublemaking,” i.e., politically sensitive. In its 2013 annual report, the international human rights organization Chinese Human Rights Defenders noted that “groups working on issues of health and discrimination that had more space in previous years faced paralyzing scrutiny.” Following the Changsha municipality, Hunan province, civil affairs bureau’s refusal to register an LGBT group as an NGO in November 2013, several NGOs planned a seminar in Beijing municipality to discuss NGO registration in early May. Police summoned some of the participants for questioning and canceled the seminar reportedly due to the seminar’s close timing to the 25th anniversary of the 1989 Tiananmen protests. Although the arrest of human rights lawyer and Zhengzhou Yirenping co-founder Chang Boyang in July was also linked to the 25th anniversary events, authorities in Zhengzhou municipality, Henan province, reportedly raided Zhengzhou Yirenping’s office twice in one month, closed the organization’s bank account, and required that it produce a list of foreign NGOs with which it had contact. Zhengzhou Yirenping is a public health and anti-discrimination NGO. In a separate development, the pioneering anti-domestic violence advocacy group Anti-DV Network (ADVN) ceased operations during this reporting year. Based in Beijing and active for more than 14 years, ADVN urged the establishment of national anti-domestic violence legislation. In a letter posted to its Web site in April, the group explained that with an anti-domestic violence law on the legislative calendar for 2014 and the rise of other organizations engaged in advocacy, it had “achieved its organizational mis-
sion.” It is unclear, however, if political pressures had any bearing on its closure. [For information on the harassment of labor and religious groups, see Section II—Worker Rights and Freedom of Religion.]

International news media reported in June that local governments posted notices for a security review of foreign NGOs operating in China, an investigation reportedly instigated by the new Central State Security Commission. The Global Times, a state-run media outlet, and the Hong Kong-based South China Morning Post also reported on the increased surveillance of Chinese NGOs that had contact with or received program funds from foreign NGOs.

Government and Party Control

Scholars have estimated there are anywhere from three to eight million non-governmental organizations (NGOs) in China—many of which are not registered—that engage in a broad range of activities. Government-registered “social organizations” (shehui zusi)—the government’s term for non-governmental entities—make up a subset of Chinese NGOs. Most of these registered organizations are government-organized NGOs (GONGOs) whose decisionmaking and operations are not independent of the government. Government statistics for 2013 reported an 8.4 percent increase overall in government-registered “social organizations” over 2012 estimates, reflecting steady rather than explosive growth. Of the 541,000 officially registered organizations in 2013, 286,000 were membership-based social associations (shehui tuanti); 251,000 were private, non-commercial units (minban feiqiye danwei); and 3,496 were foundations (jijinhui). In spite of regulatory changes to lower the threshold for NGO registration that began in a few locations in 2009, many Chinese NGOs, especially those the government deems to be politically sensitive, continue to register as business entities, remain unregistered due to administrative obstacles in registering, or choose not to register to avoid intrusive government control. An academic study of 263 grassroots NGOs in Beijing municipality and Guangdong and Yunnan provinces published in 2014, for example, found that 70 percent were not registered as NGOs. Grassroots organizations’ lack of formal registration is a barrier to normalized operations, such as opening a bank account and receiving project funding.

The Chinese government reportedly has not engaged with non-governmental organizations without “an official background” in formulating national reports presented to UN review bodies or in monitoring China’s compliance with its domestic or international commitments, a concern raised during this reporting year by UN member states, the UN Committee on the Rights of the Child, and domestic and international civil society organizations. The government listed 22 and 16 “non-governmental organizations and academic research institutions,” respectively, for its most recent national reports to the UN Human Rights Council (UNHRC) and the Committee on Economic, Social and Cultural Rights (CESCR). The U.S.-based NGO Human Rights in China noted that many of the listed groups in the country report for the CESCR review “are mass organizations created by or closely affiliated with the govern-
ment." A representative from the China Association for the Preservation and Development of Tibetan Culture, an organization affiliated with the Communist Party’s United Front Work Department and one of the NGOs listed as a consultant in the Universal Periodic Review (UPR) and CESCR country reports, was observed by UN staff taking photos of the computer screen of Ti-Anna Wang, the daughter of imprisoned dissident Wang Bingzhang, at the March 2014 session of China’s UPR. When the representative continued to take photos of Wang despite warnings from UN staff, UN officials revoked his authorization to attend the session.

The Chinese government interfered with international NGO efforts at UN forums this past year. For example, it attempted to use UN procedures to prevent international NGOs from holding a moment of silence to honor civil society activist Cao Shunli on March 20, 2014, during the session in which the UNHRC adopted the outcomes of the second Universal Periodic Review of China’s human rights record. Cao died in March 2014, following a two-week forcible disappearance, months of detention without access to adequate medical care, and alleged abuse. At least two organizations have been unable to attain consultative status on the UN Economic and Social Council Committee on NGOs (ECOSOC) due to obstruction from China. The Child Rights International Network (CRIN), an international group based in London, reported that China repeatedly has asked that it “change content on the organisation's website regarding Tibet . . . .” At a May 2014 ECOSOC session, a Chinese government representative delayed a decision on U.S.-based Freedom Now’s application with a request for the “theoretical definition of prisoners of conscience.”

POLICY SUPPORT TO EXPAND ROLE OF “SOCIAL ORGANIZATIONS”

In contrast to the “chill” of the government’s clampdown on more independent civil society development, central government and Party policy documents, such as the Central Committee Third Plenum Decision on Certain Major Issues Regarding Comprehensively Deepening Reforms of the 18th National Congress of the Chinese Communist Party issued in November 2013, included language to support broader participation of non-governmental “social organizations” as a function of China’s economic development and reform. This policy support reiterated points in the institutional reform plan of March 2013 that aim to shift some government functions in the provision of public services to “social organizations.” The expansion of social service and welfare organizations encompasses several sectors, including large-scale urbanization, public health, social welfare for disabled persons, services for the elderly, education, and employment. The Chinese public reportedly is concerned that the government might not willingly transfer functions and that “social organizations’ autonomy may not be guaranteed.

CHALLENGES TO “SOCIAL ORGANIZATION” SYSTEM REFORM

The central government did not meet the December 2013 deadline specified in the March 2013 institutional reform plan to issue revisions to the three main administrative regulations on “social organization” management. Twenty-six provinces and re-
gions, however, have issued local measures. One of the key features of these local measures reflects a “combined” registration system whereby trade and industry associations, science and technical groups, foundations, and rural-urban community services organizations will be permitted to register directly at civil affairs bureaus, but religious, legal, and political groups, among others, will continue to be required to first secure a governmental or quasi-governmental professional sponsoring organization prior to registration at the civil affairs office, maintaining the existing “dual management” system. Other provisions under discussion include a stipulation that government officials not be permitted to hold joint appointments at both a government agency and a “social organization,” and measures to de-link the operations of the government departments and affiliated “social organizations”; sanctioning the registration of more than one organization per sector as a potential spur to organizational competition; and abolishing some restrictions on national-level social associations (shehui tuanti or shetuan).

The transition to this “combined” system has not resolved two key aims of “social organization” reform. Registration, for example, has been hampered by a lack of human resources at the Ministry of Civil Affairs (MCA) and its bureaus throughout the country. The separation of membership organizations (shetuan) from the government units to which they were attached also has not gone smoothly. For example, a directive to change its professional sponsoring organization pitted a politically well-connected legal research institute against the MCA in a case that came to court in April 2014. The institute’s professional sponsoring unit was the Ministry of Justice and it refused to accept the China Law Society as its professional sponsoring unit, which led the MCA to issue a warning to the institute for not submitting financial audit information according to the regulations.

GOVERNMENT PROCUREMENT OF SERVICES FROM NGOS

A central government opinion issued in late September 2013 gave high-level policy support to the development of the procurement of services from non-governmental organizations, yet government outsourcing reportedly continued to develop unevenly, with greater development in urban areas rather than in central and western China. Research on government contract outsourcing to HIV/AIDS organizations in Yunnan province found a tendency toward government control of public-private partnerships. A Chinese researcher has raised a concern that continuing government control may not only lead to potentially ineffective project implementation, but also may thwart growth of “social organizations” by subsuming the organization as a subsidiary of a government department.

DEVELOPMENTS IN THE PHILANTHROPIC SECTOR

The regulatory framework for charitable organizations made some progress at the provincial level, specifically Beijing municipality and Shenzhen Special Economic Zone, during this reporting year. A national charity law has been on the National People’s Congress (NPC) legislative agenda since 2006, but work on
it stalled due to debate over whether charity would be “state-supervised or independent.”95 Government officials and scholars have highlighted the need for the law to help establish credibility, transparency, and accountability in the sector, particularly among government-run charities96 and to resolve the current overlapping of the charitable sector and government.97 The national legislation reportedly was raised to a high priority project in the fall of 2013 and the first-ever meeting of an NPC small working group on the charity law took place in February 2014.98 According to Wang Zhenyao, director of the Philanthropy Research Institute at Beijing Normal University, the lack of a national charity law has cost China billions of yuan in potential donations in one year alone.99

Notes to Section III—Civil Society

9 Patrick Boehler, “Chinese Court Hands Down Harsh Jail Sentences to New Citizen Movement Activists,” South China Morning Post, 19 June 14. For more information about Liu Ping’s case, see the Commission’s Political Prisoner Database record 2013-00310.
10 Ibid. For more information about Wei Zhongping’s case, see the Commission’s Political Prisoner Database record 2013-00307.
For more information on Li Huaping, see the Commission’s Political Prisoner Database record 2014-00085.


42 “Understanding China’s Crackdown on Rights Advocates: Personal Accounts and Perspectives, Hearing of the Congressional-Executive Commission on China, 8 April 14, Written Statement Submitted by Teng Biao, Human Rights Lawyer and Scholar.”


44 “New Citizens’ Movement Briefing Note,” May 2014.


Radio Free Asia, 28 July 14; “Office of Zhengzhou NGO Yinrenping Once Against Searched, Police Investigating Relations With Foreign Organizations” [Zhengzhou NGO yirenping bangongshi bei soucha jingfang dianshu yu jingpai zuixi guanxi], Radio Free Asia, 14 July 14.


44See Fengshi Wu and Kin-man Chan, “Graduated Control and Beyond: The Evolving Government-NGO Relations,” in China Perspectives, No. 3, 2012, 15. The term “social organization” is a broad classification in Chinese official parlance, according to Chinese University of Hong Kong scholars Fengshi Wu and Kin-man Chan, in that it includes organizations that also function as quasi- or semi-state-run organizations. See Yu Keping, “China’s Civil Society: Concepts, Classifications, and Institutional Environment” [Zhongguo gongmin shehui: gainian, fenlei yu zhidu hangwendu], Social Sciences in China, Issue No. 1, 2006. China’s “people’s organizations” (renmin zuanti) or “mass organizations” (qianzhong zuanti), such as the All-China Women’s Federation, the All-China Federation of Trade Unions, and the Communist Youth League, are also commonly referred to as “social organizations,” and sometimes describe themselves as non-governmental even though they function as quasi-governmental entities under government and Party leadership.

45See Fengshi Wu and Kin-man Chan, “Graduated Control and Beyond: The Evolving Government-NGO Relations,” in China Perspectives, No. 3, 2012, 15. The term “social organization” is a broad classification in Chinese official parlance, according to Chinese University of Hong Kong scholars Fengshi Wu and Kin-man Chan, in that it includes organizations that also function as quasi- or semi-state-run organizations. See Yu Keping, “China’s Civil Society: Concepts, Classifications, and Institutional Environment” [Zhongguo gongmin shehui: gainian, fenlei yu zhidu hangwendu], Social Sciences in China, Issue No. 1, 2006. China’s “people’s organizations” (renmin zuanti) or “mass organizations” (qianzhong zuanti), such as the All-China Women’s Federation, the All-China Federation of Trade Unions, and the Communist Youth League, are also commonly referred to as “social organizations,” and sometimes describe themselves as non-governmental even though they function as quasi-governmental entities under government and Party leadership.

46Isabel Hilton and Meng Si, “Funding Green China,” Chinadialogue, 19 May 13, 27.


49Ibid.


52Ibid.


56UN Committee on the Rights of the Child, Concluding Observations on the Combined Third and Fourth Periodic Reports of China, adopted by the Committee at its sixty-fourth session (16 September–4 October 2013), 29 October 13, sec. III(b).

Association—listed in China’s roster of NGOs consulted during the formulation of its report for its second Universal Periodic Review—“cannot be seen as a proper independent organization.”


Economic and Social Council Committee on NGOs, Department of Public Information, “Committee on Non-Governmental Organizations, Concluding Review of Applications, Recommends Two Groups for Consultative Status,” 28 May 14.


96 “MCA Minister Li Liguo: Countdown to China’s Charity Law” [Minzhengbu buzhang li liguo: woguo cishanfa jinru daojishi], China National Radio, 5 March 14.

95 Wu Nan, “Charity Donations May Become Compulsory for All Chinese Earners in Sector of Social Organizations” [Zhiyi shengzhu de zhidao yijian], reprinted in Ministry of Civil Affairs NPO Bureau, 8 July 14; Ministry of Civil Affairs (MCA), Circular of the Ministry of Civil Affairs on Matters Relating to the Implementation of the Decision of the State Council on Canceling the Administrative Approval for the Registration of Branches and Representative Offices of National Social Groups [Minzhengbu guanyu quxiao he xiafang yipi xingzheng shenpi xiduan de jueding], reprinted in Ministry of Civil Affairs NPO Bureau, 8 July 14; Ministry of Civil Affairs (MCA), Circular of the Ministry of Civil Affairs on Matters Relating to the Implementation of the Decision of the State Council on Canceling the Administrative Approval for the Registration of Branches and Representative Offices of National Social Groups [Minzhengbu guanyu quxiao he xiafang yipi xingzheng shenpi xiduan de jueding], reprinted in Ministry of Civil Affairs NPO Bureau, 8 July 14.

94 “Li Jian: The Development of China’s Charity Law” [Li jian: zhongguo cishan lifa de zhidao yijian], reprinted in Ministry of Civil Affairs NPO Bureau, 8 July 14.


91 Zhu Lan, “Government Procurement of Services From Society as Driver of Social System Reform” [Zhengfu xiang shehui liliang goumai fuwu de zhidaoyijian], reprinted in Ministry of Civil Affairs NPO Bureau, 8 July 14.


89 Zhu Lan, “Government Procurement of Services From Society as Driver of Social System Reform” [Zhengfu xiang shehui liliang goumai fuwu de zhidaoyijian], reprinted in Ministry of Civil Affairs NPO Bureau, 8 July 14.


87 Ministry of Civil Affairs (MCA), Circular of the Ministry of Civil Affairs on Matters Relating to the Implementation of the Decision of the State Council on Canceling the Administrative Approval for the Registration of Branches and Representative Offices of National Social Groups [Minzhengbu guanyu quxiao he xiafang yipi xingzheng shenpi xiduan de jueding], reprinted in Ministry of Civil Affairs NPO Bureau, 8 July 14.


