

United States Congressional-Executive Commission on China

Senator Chuck Hagel, Chairman | Representative Jim Leach, Co-Chairman

Message From the Chairmen

Reform of the Death Penalty Review Process

The Commission commends the recent positive steps that China's leaders have taken to help minimize wrongful executions and provide greater procedural due process to criminal defendants. In September, the Supreme People's Court and Supreme People's Procuratorate issued reform measures that establish concrete guidelines for death penalty appeals. On October 31, the Chinese government passed an amendment that requires all death sentences to be reviewed by the Supreme People's Court.

The new amendment brings the primary law governing China's judiciary into conformity with other laws governing the criminal process and incorporates into law policy goals that the Supreme People's Court established in October 2005, when it issued a new five-year reform program for the Chinese judiciary. As a next positive step, the Commission urges the Supreme People's Court to give full effect to its October 2005 commitments, by issuing a judicial interpretation to settle unresolved issues in the death penalty review process and to clarify its own procedures for review.

Announcements

Translation: Reform of the Death Penalty Review Process

The Congressional-Executive Commission on China has prepared translations of the [Decision on Amending the PRC Organic Law of the People's Courts](#), issued by the National People's Congress Standing Committee on October 31, and the [Trial Provisions on Several Issues Regarding Court Hearing Procedures in Death Penalty Appeals Cases](#), jointly issued by the Supreme People's Court (SPC) and Supreme People's Procuratorate (SPP) on September 21. For more information on these measures, see [Law Amended To Require SPC Approval of All Death Sentences](#) and [SPC, SPP Issue Joint Interpretation on Death Penalty Appeals](#). The Commission previously prepared translations of the SPC [Circular on Further Improving Open Court Session Work in Second Instance Death Penalty Cases](#) and [Second Five-Year Reform Program for the People's Courts](#). For more information on these reform measures, see [Supreme People's Court Calls for Hearings in Death Penalty Appeals](#) and [SPC Incorporates Reform of Death Penalty Review into New Five-Year Program](#).

Roundtable: China's National and Local Regulations on Religion: Recent Developments in Legislation and Implementation

The Congressional-Executive Commission on China will hold another in its series of staff-led Issues Roundtables, entitled "China's National and Local Regulations on Religion: Recent Developments in Legislation and Implementation," on Monday, November 20, from 2:00 PM - 3:30 PM in Room 2200 of the Rayburn House Office Building.

The witnesses are:

- Eric R. Carlson, Attorney, Covington & Burling LLP.
- Bob (Xiqiu) Fu, President, China Aid Association.
- James W. Tong, Associate Professor of Comparative Politics, University of California—Los Angeles and Editor of the journal *Chinese Law and Government*.

Translation: Supreme People's Court Interpretations on Commercial Arbitration

The Commission has prepared a translation of the [Interpretation Regarding Certain Issues Relating to the Application of the "People's Republic of China Arbitration Law"](#), issued by the Supreme People's Court on August 23, 2006, as well as a translation of Chapter Six of the [Minutes of the Second National Work Meeting on Adjudications Involving Commercial and Maritime Affairs](#) issued by the Supreme People's Court on December 26, 2005 addressing foreign arbitrations. For additional information regarding the Interpretation, see [Supreme People's Court Provides Clarification on Arbitration Law](#) below.

Update on Rights and Law in China

[Human Rights Updates](#) [Rule of Law Updates](#) [All Updates](#)

Law Amended To Require SPC Approval of All Death Sentences

The Supreme People's Court (SPC) submitted a new amendment to the Organic Law of the People's Courts to require that all death sentences be approved by the SPC, according to an October 28 China Daily [report](#) (reprinted in Xinhua). The National People's Congress Standing Committee (NPCSC) issued a [decision](#) on October 31, making the amendment effective as of January 1, 2007, according to a Xinhua [report](#) (reprinted in China Daily) on the same date.

Xinhua quoted Xiao Yang, President and Chief Justice of the SPC, as saying that the new amendment will "give the defendants in death sentence cases one more chance to have their opinions heard." Xiao explained that reclaiming the power of death penalty review from provincial-level high courts will allow the SPC to separate review and approval of a death sentence from the appeals process at the local level. Xinhua notes that the practice of allowing provincial-level high courts to handle both the appeal and the final review of a death sentence has generated increasing criticism "for causing miscarriages of justice." A September 30, 2005, Southern Daily [editorial](#) (in Chinese) pointed out that provincial-level high courts typically combine the appeals process with the review process, therefore making the review process meaningless. Moreover, the ability of local administrative bodies to control the finances and staffing of provincial-level high courts makes those courts more susceptible to outside pressures than the SPC.

The new amendment brings the primary law governing China's judiciary into conformity with other laws governing the criminal process. The China Daily report comments: "In fact, a revision to the [Criminal Procedure Law](#) in 1996 and the [Criminal Law](#) amendment in 1997 both had clear stipulations requiring death sentences to be approved by the Supreme People's Court. But such stipulations have not been officially implemented." The SPC first shifted the legal authority to review and approve certain death sentences to provincial high courts in 1980, and the NPCSC incorporated this devolution of authority into law with a [1983 Amendment](#) to the [1979 Organic Law of the People's Courts](#). The 1983 Amendment changed the requirement that the SPC decide or approve all death penalty cases to create the following carve-out:

The Supreme People's Court, when necessary, may authorize high people's courts of provinces, autonomous regions, and municipalities directly under the central government to exercise the authority to review and approve cases in which the death penalty is imposed for homicide, rape, robbery, causing explosions, and other crimes seriously endangering public security and social order.

Beginning in 1997, Article 48 of the Criminal Law and Article 199 of the Criminal Procedure Law again imposed the requirement that the SPC approve all death sentences. The government has allowed the outdated 1983 Amendment to remain effective until January 1, 2007.

The new amendment also incorporates into law policy goals that the SPC established in October 2005, when it issued a [Second Five-Year Reform Program for the People's Courts](#) to highlight reform of the death penalty review process as a [priority topic for the Chinese judiciary](#). On September 21, the SPC and Supreme People's Procuratorate issued a [joint interpretation](#) to establish specific guidelines for how local courts and procuratorates should handle death penalty appeals. The SPC has not yet issued a judicial interpretation to settle [unresolved issues](#) in the death penalty review process and to clarify its own procedures for final review.

For more information on Chinese law governing the review and approval of death sentences, see the CECC's topic paper on [The Execution of Lobsang Dondrub and the Case Against Tenzin Deleg: The Law, the Courts, and the Debate on Legality](#). See also information on "Capital Punishment," in Section V(b) of the CECC's [2006 Annual Report](#).

SPC, SPP Issue Joint Interpretation on Death Penalty Appeals

The Supreme People's Court (SPC) and Supreme People's Procuratorate have jointly issued a judicial interpretation that establishes concrete guidelines for the handling of death penalty appeals (*ershen*, or "second instance" cases) by local courts and procuratorates, according to a September 25 Xinhua [report](#) (in Chinese). The [Trial Provisions on Several Issues Regarding Court Hearing Procedures in Death Penalty Appeals Cases](#) (Trial Provisions) were issued on September 21 and went into effect on September 25. The Trial Provisions help clarify policy goals that were established by the SPC in its [Second Five-Year Reform Program for the People's Courts](#) and its [Circular on Further Improving Open Court Session Work in Second Instance Death Penalty Cases](#), both issued in late 2005. Specifically, the Trial Provisions provide guidance on the following issues, among others:

- When an appellate (or second instance) court should conduct a hearing in a death penalty case (Articles 1-2).
- Whether procuratorate personnel should appear in court (Article 9).
- Which appellate court personnel should be present to hear the case (Article 11).
- Which other individuals should appear in court for the hearing and under what circumstances (Article 13).
- What tasks the appellate court and procuratorate should complete prior to the hearing and what issues they should focus on (Articles 5, 8, 10, and 12).
- What specific protocol should be followed at each hearing (Article 14).

The Trial Provisions reform the death penalty review process to make it consistent with requirements under the [Criminal Procedure Law](#) (CPL). Under Article 187 of the CPL, court hearings should be conducted in all criminal appeals that are initiated by a procuratorate (pursuant to Article 181 of the CPL) and in most criminal appeals that are initiated by another party to the case. The exception to the CPL's hearing requirement occurs in appeals initiated by a party other than the procuratorate, if "after consulting the case file, interrogating the defendant, and heeding the opinions of the other parties, defenders and agents ad litem, [an appellate court] thinks the criminal facts are clear."

The Trial Provisions depart from the SPC's previous policy statements on using court hearings for all death penalty appeals. In 2005, the SPC expanded the use of hearings beyond the scenarios in Article 187 and used its Reform Program and Circular to more broadly [call for hearings in all death penalty appeals](#) by the end of 2006. The new Trial Provisions, however, limit the use of hearings to the following categories of death penalty appeals:

- The appeal of a court's decision to immediately execute the death penalty, regardless of who initiates the appeal;
- A defendant's appeal of a death sentence, with two years' reprieve, if the defendant or his representative introduces new evidence that has an impact on the conviction or sentence;
- A defendant's appeal of a death sentence, with two years' reprieve, except where the appellate court determines in accordance with Article 187 that the facts of the case are sufficiently clear;
- All appeals initiated by a procuratorate to protest the imposition of a death sentence, with two years' reprieve.

Under Article 48 of the [Criminal Law](#), a death sentence can be carried out either immediately or with a two-year reprieve. The practical effect of the Trial Provisions is that all appeals initiated by a procuratorate will be heard in court. A defendant's appeal of a death sentence, with two years' reprieve, however, will not be heard in court unless significant facts or evidence raise reviewable questions.

The Trial Provisions focus only on hearing procedures for local-level appellate courts, and does not clarify how the SPC itself will conduct death penalty review. As part of its 2005 Reform Program, the SPC has also said that it would consolidate and reclaim the power to review all death sentences, and issue judicial interpretations to clarify procedures for review. Over the past year, the SPC has worked on setting up three new criminal tribunals and conducted trainings for new court personnel, in order to prepare for the workload that will result when it [reclaims the power to review death sentences](#). On October 31, the National People's Congress Standing Committee passed an [amendment to the Organic Law on the People's Courts](#), to echo requirements under Article 48 of the Criminal Law and Article 199 of the CPL that the SPC review and approve all death sentences. The SPC has not yet issued a judicial interpretation to clarify its own procedures for such review.

For more information on "Capital Punishment" in China, see Section V(b) of the CECC's [2006 Annual Report](#).

Officials Detain Nine Tibetan Residents of Sichuan for Links to Leaflets, Posters

Chinese public security officials detained nine Tibetans in Ganzi (Kardze) Tibetan Autonomous Prefecture (TAP), Sichuan province, between March and August, 2006, according to a series of reports between June and September by Radio Free Asia (RFA) and Phayul.com. Officials detained the Tibetans following incidents of distributing or displaying pro-independence leaflets and posters, and in at least one case, possessing printed matter that included photographs of the Dalai Lama. Three detainees are Buddhist nuns, one is a former nun, and one is a 16-year-old female student. Three of the four males are Buddhist monks. Eight of the nine detained Tibetans live in Ganzi county, the residence of more Tibetan political prisoners than anywhere outside the Tibet Autonomous Region (TAR), according to information in the CECC [Political Prisoner Database](#) (PPD).

Security officials detained six of the Tibetans for alleged roles in printing and distributing pro-independence leaflets in late May, during the Tibetan Buddhist lunar holy month, according to a June 15 Phayul [report](#) and a June 16 RFA [report](#). Ganzi county officials detained Tibetan layman Kayo Doga (or Kayi Doga) and nun Sonam Lhamo on June 1 and 2, respectively, on suspicion of having organized the printing and distribution of the leaflets. Nuns Sonam Choezom (or Sonam Choetso) and Jampa Yangzom (or Jampa Yangtso), and Yiga, Kayo Doga's daughter and a former nun, allegedly distributed the leaflets from a van to "lunchtime crowds in [Ganzi] prefecture," according to RFA sources, and then fled to Lhasa in the TAR. Public security officials in Lhasa and Ganzi cooperated on the case, detained the three women in Lhasa in early June, and returned them to an unspecified detention site in Ganzi TAP, according to Phayul's description of an RFA report. In addition, Yiwang, a middle-school student in Ganzi county, was detained in June and accused of writing the leaflets, according to an August 18 RFA [report](#).

A Ganzi court issued a notice that the six detainees, including the minor Yiwang, would face trial, according to a Tibetan source cited in the August RFA report, indicating that formal arrest has taken place. No information about the charges against them, the trials, or verdicts is available. According to PPD information, Kayo Doga was sentenced in December 2002 to three years' reeducation through labor for his role in organizing a long-life prayer ceremony for the Dalai Lama, and was released early on medical parole.

In two separate incidents involving the seventh and eighth Ganzi detentions, county officials detained Gepheling Monastery monks Namkha Gyaltsen in March and Lobsang Palden on August 15, according to RFA reports on [July 14](#) and [September 19](#). A source told RFA that Namkha Gyaltsen painted pro-independence slogans on bridges and the walls of government buildings in Ganzi county, and another source said that he put up pro-independence posters and displayed a Tibetan flag. He fled Ganzi and attempted to reach the China-Nepal border, but Chinese security officials detained him in the TAR and

returned him to Ganzi. He allegedly confessed and, according to an RFA source who cited local officials, Namkha Gyaltsen faces a potential seven- to eight-year sentence. He is imprisoned in Aba (Ngaba) Tibetan and Qiang Autonomous Prefecture in Sichuan province. Security officials detained Lobsang Palden after they searched his room at Gepheling Monastery and found "several incriminating documents," including photos of the Dalai Lama, according to an RFA source. Another source told RFA that he was allegedly involved in pro-independence activity. Officials at a detention center, which the report does not identify, allegedly beat Lobsang Palden for refusing to implicate other persons. He was formally arrested on September 6 on charges of inciting splittism, according to the RFA report.

In the ninth reported Ganzi detention, public security officials from Kangding (Dartsedo), the capital of Ganzi TAP, traveled to Seda (Serthar) county in Ganzi TAP where they detained Abbot Jinpa of Taglung Monastery on August 23, 2006, according to a September 7 RFA [report](#). Officials reportedly searched Jinpa's living quarters but did not find any "incriminating materials," according to the report. A source told RFA that the detention may be linked to the appearance of pro-independence posters at the monastery approximately one year earlier. The report does not state whether or not the officials took Jinpa with them when they returned to Dartsedo. No information is available about official accusations or charges against him, or about his place of detention.

Based on PPD data current in early October, Tibetan residents of Ganzi TAP constitute 9 of the 10 known political detentions of Tibetans by Chinese authorities in 2006 so far. The [CECC 2006 Annual Report](#) says that none of the known political detentions of Tibetans occurred in Sichuan province in 2005, a shift from the previous three years. The 2006 detentions in Ganzi TAP represent a return to an established pattern of Tibetan political activism and imprisonment. Chinese courts treat peaceful expressions advocating Tibetan independence as endangering state security by "inciting splittism" and "undermining national unity," crimes under Article 103 of China's [Criminal Law](#).

See Section V(d), on "Freedom of Religion, Religious Freedom for Tibetan Buddhists," and Section VIII, on "Tibet, Tibetan Culture and Human Rights," of the [CECC 2006 Annual Report](#) for more information.

Authorities Arrest Gao Zhisheng Supporters for Inciting Subversion

Chinese authorities formally arrested writer Zhang Jianhong (whose pen name is Li Hong) and China Democracy Party (CDP) leader Chen Shuqing, and charged each with "inciting subversion of state power," according to notices delivered on October 12 and October 17, respectively. The arrests came after both posted articles on the Internet expressing support for Beijing lawyer Gao Zhisheng. Li Jianqiang, a lawyer and a member of the [Independent Chinese Pen Center](#) (ICPC) who has represented other writers and activists, including [Yang Tianshui](#) and [Guo Qizhen](#), is serving as defense lawyer for both men.

Gao, former head of the Beijing Shengzhi Law Firm, has represented numerous activists, religious leaders, and writers. Authorities first detained Gao on August 15 and [initially denied him access to a lawyer](#) on the grounds that his case [involves state secrets](#). They formally arrested him on September 21 on the charge of "inciting subversion of state power," but it was not until October 12 that Gao's lawyer, Mo Shaoping, found out about the arrest, according to an October 12 Boxun [article](#) (in Chinese). For more information on Gao's case, see the CECC's [Political Prisoner Database](#).

Zhang Jianhong

Authorities in Ningbo city, Zhejiang province, notified Zhang's wife on October 12 that Zhang had been formally arrested and charged with "inciting subversion of state power," according to a Boxun [report](#) (in Chinese) on the same day. The Boxun report did not specify the actual date of the arrest. On September 6, police first took Zhang into custody, removed disk drives and a phone book from his home, and questioned his wife about articles he had posted on foreign Web sites, according to a September 19 Reporters Without Borders [report](#). Ningbo authorities notified Zhang's family on September 7 that Zhang had been placed in criminal detention, according to the Boxun report.

Li Jianqiang said the arrest came after Zhang, a member of the ICPC, posted an article on the Internet calling for Gao's release, according to an October 18 Agence France-Presse (AFP) [report](#) (reprinted by ABS-CBN Interactive). An essay Zhang wrote titled "Return Gao Zhisheng Back to Us, Return China's Conscience Back to Us," appeared on both the [Epoch Times Web site](#) and [Boxun Web site](#) on August 17. In addition, the AFP report said that Zhang wrote articles condemning the arrests of other activists and [organ harvesting in China](#). A September 19 Committee to Protect Journalists [report](#) noted that two days before he was detained, Zhang posted an essay highlighting international criticism of the government's human rights record and recent harassment of journalists, calling the situation "Olympicgate."

Zhang was a founder and editor of the literary and news Web site Aegean Sea (*Aiqinhai*), which authorities [shut down in March](#) for [posting news without a license](#). He spent a year and a half from 1989 to 1991 in a reeducation through labor center for "counterrevolutionary incitement," as a result of his involvement in the 1989 Tiananmen democracy protests, according to a [biography](#) (in Chinese) of Zhang posted on the ICPC's Web site. Authorities also detained him for one month in 1999 for his involvement with the CDP, according to the biography.

Chen Shuqing

Authorities in Hangzhou city, Zhejiang province, notified Chen's wife on October 17 that Chen had been formally arrested and charged with "inciting subversion of state power," according to a Boxun [report](#) (in Chinese) on the same day. The

Boxun report did not specify the actual date of the arrest. Li Jianqiang said that Chen was arrested after he posted an article on the Internet calling for Gao's release, according to the AFP report. On August 21, [Epoch Times](#) and [Boxun](#) posted an essay written by Chen titled "Gao Zhisheng Is in Trouble and We Are Duty-Bound to Give Him Our Help and Protection." Police originally detained Chen on September 14, according to a September 15 Boxun [article](#) (in Chinese). For more information on Chen and the CDP, see [an earlier CECC analysis on Chen's detention](#).

Earlier this year, authorities used Article 105, the [Criminal Law](#) provision on subversion, to sentence other individuals who published essays on overseas Web sites. For example, Jiangsu authorities [sentenced freelance writer Yang Tianshui in May to 12 years in prison for "subversion of state power,"](#) Guizhou authorities [sentenced journalist Li Yuanlong in July to 2 years' imprisonment for "inciting subversion of state power,"](#) and Hebei authorities [sentenced Internet essayist Guo Qizhen on October 9 to 4 years' imprisonment for "inciting subversion of state power."](#) The UN Working Group on Arbitrary Detention (UNWGAD), in a report on its 2004 mission to China (available on the UNWGAD's [Country Visits](#) Web page), recommended that the Chinese government halt the use of vague, imprecise, or overly broad criminal law provisions such as "subverting state power" to punish peaceful expression, assembly, and religious practice.

Appellate Court Orders Retrial of Chen Guangcheng Case

The intermediate people's court in Linyi city, Shandong province, has vacated the trial court judgment and ordered a new trial in the criminal case of Chen Guangcheng, according to reports (in [English](#) and [Chinese](#)) by Radio Free Asia (RFA) on October 31. Chen Guangcheng is a self-trained legal advocate who drew international news media attention in 2005 to [population planning abuses in Linyi](#). Li Jinsong, who previously led Chen's criminal defense team, will continue to represent Chen and will soon travel to Linyi for a meeting with his client, according to RFA's Chinese-language report.

On August 24, the Yinan County People's Court [sentenced](#) Chen to four years and three months in prison for "intentional destruction of property" (a crime under Article 275 of the [Criminal Law](#)) and "gathering people to disturb traffic order" (a crime under Article 291 of the Criminal Law). On September 3, news media such as [RFA](#) and [Voice of America](#) reported (in Chinese) that Li Jinsong had filed an appeal on Chen's behalf. The Network of Chinese Human Rights Defenders (CRD) posted a [defense opinion](#) (in Chinese), authored by Li and dated September 25, which requested that the appellate court vacate the original judgment and remand Chen's case for retrial in accordance with Article 191 of the [Criminal Procedure Law](#) (CPL). Li argued that the trial court had illegally [deprived Chen of the right to be represented](#) by criminal defense lawyers of one's own choosing.

The CPL authorizes an appellate court to review both substantive issues (related to the trial court's findings of fact or law, or to its sentence) and procedural issues. Under Article 189 of the CPL, an appellate court has three options when reviewing substantive issues:

- If the original judgment was correct in its determination of facts, and in its application of law and sentencing, the appellate court will affirm the judgment.
- If the original judgment contained no error in the determination of facts, but the trial court either applied the law incorrectly or imposed an inappropriate sentence, the appellate court will correct the judgment.
- If the facts are unclear or the evidence insufficient, the court will correct the judgment after determining the actual facts or, alternatively, vacate the original judgment and remand the case for a retrial.

Under Article 191 of the CPL, an appellate court will vacate the original judgment and remand the case for a retrial if it discovers that the trial court violated certain litigation procedures, including "depriving the parties of their litigation rights prescribed by law or restricting such rights, which may hamper impartiality of a trial." Under Articles 32 and 33 of the CPL, a criminal defendant's litigation rights include the right to "entrust persons as his defenders."

Li's defense opinion also raised substantive issues in addition to the procedural ones, claiming that the case put together by the local public security bureau and procuratorate lacked both clear facts and sufficient evidence, and that the appellate court should therefore overturn the judgment and declare a not guilty verdict. In addition, Li argued that public security and procuratorate officials should bear criminal responsibility under Articles 397 and 254 of the Criminal Law for the actions that they took against Chen in retaliation for his advocacy work. Article 397 imposes liability on government officials who abuse their authority or neglect their professional duties, and therefore cause heavy losses to the public's interests. Article 254 deals specifically with retaliation against citizens who criticize or file complaints about the government. The Supreme People's Procuratorate issued [provisions](#) that went into effect on July 26 and [detail the criteria for filing cases](#) related to official abuses and retaliation. The initial reporting by RFA provides no indication that the appellate court addressed these arguments.

Authorities Sentence Guo Qizhen to Four Years in Prison for Online Essays

The Intermediate People's Court in Cangzhou city, Hebei province, sentenced Internet essayist Guo Qizhen on October 9 to four years' imprisonment and three years' deprivation of political rights for "inciting subversion of state power," a crime under Article 105, Paragraph 2, of the [Criminal Law](#), according to the court [judgment](#) (in Chinese, reprinted by Boxun). The court found Guo guilty because he posted more than 30 essays on the U.S.-based Web site Democracy Forum (*Minzhu Luntan*), with titles such as "[Statement Regarding Participating in Lawyer Gao Zhisheng's Hunger Strike Protest Activity](#),"

"Let Some Get Rich First While Others Cannot Make a Living," and "Hurry and Save the Children." The court said the essays "attacked and vilified the Chinese government," "harmed state power and the socialist system," and "incited subversion of state power and the overthrow of the socialist system," but did not explain how the essays accomplished these acts. The court rejected Guo's defense that his essays were an exercise of freedom of expression protected under China's [Constitution](#). For more information on Guo, see the CECC's [Political Prisoner Database](#) and [an earlier CECC analysis on Guo's formal arrest](#).

Epoch Times [reported](#) (in Chinese) on October 18 that Guo said he was beaten during his detention. The report said that Zhao Changqin, Guo's wife, planned to go to the local "letters and visits" (*xinfang*) office to demand that someone be held accountable for the alleged beating. According to an October 18 Ming Pao Daily [article](#), Zhao said that they would appeal the verdict.

Public security officials first detained Guo on May 12 as he was preparing to join a [hunger strike](#) proposed by Gao Zhisheng and other rights defenders to protest abuses against Chinese citizens, according to a July 4 Network of Chinese Human Rights Defenders [report](#). The Cangzhou Public Security Bureau formally arrested Guo on June 6, according to the June 16 [opinion](#) that it filed with the Cangzhou People's Procuratorate (in Chinese, reprinted by Boxun). According to the court judgment, the procuratorate indicted Guo on August 25.

For more information on the arrests of other Gao Zhisheng supporters, see a [CECC analysis on the arrests of Zhang Jianhong and Chen Shuqing](#). Beijing officials detained Gao, a lawyer who has represented activists, religious leaders, and writers, on August 15 and initially [denied him access to his defense lawyer](#). They formally arrested him on September 21 on suspicion of "inciting subversion of state power," according to an October 12 Boxun [article](#) (in Chinese).

Earlier in 2006, authorities used Article 105, the Criminal Law provision on subversion, to sentence other individuals who published essays on overseas Web sites. For example, Jiangsu authorities sentenced [freelance writer Yang Tianshui in May to 12 years' imprisonment for "subversion of state power"](#) and Guizhou authorities sentenced [journalist Li Yuanlong in July to 2 years' imprisonment for "inciting subversion of state power."](#) The UN Working Group on Arbitrary Detention (UNWGAD), in a report on its 2004 mission to China (available on the UNWGAD's [Country Visits](#) Web page), recommended that the Chinese government halt the use of vague, imprecise, or overly broad criminal law provisions such as "subverting state power" to punish peaceful expression, assembly, and religious practice.

Chinese Officials Agree To Discuss Cooperation With the Anglican Church

Chinese officials have agreed to discuss the prospect of cooperation with the Church of England, according to the [Archbishop of Canterbury](#) and an October 23 International Herald Tribune [report](#). Rowan Williams, the Archbishop of Canterbury, visited China in October for meetings with officials from the government and from Party-controlled religious organizations, and said that Chinese officials have agreed to discuss the possibility of Anglican theologians teaching in Chinese Protestant seminaries and of developing a program for Chinese seminarians to study at Protestant seminaries abroad. "We've talked quite a bit about this, and in detail, and we have a group which will be taking this forward," Archbishop Williams said. An October 24 China Daily [article](#) reported that the bishop "said the Anglican church would expand efforts to help China's Protestant church train the clergy" but neither commented on nor confirmed the bishop's statement. According to an October 23 [report](#) on China.org, an official PRC portal site, the State Administration for Religious Affairs and the Three-Self Patriotic Movement (TSPM), the Party-controlled organization in charge of the registered Protestant church in China, jointly hosted Archbishop Williams.

Jia Qinglin, Chairman of the Chinese People's Political Consultative Conference, met with Archbishop Williams and said that religion can play an "important role" in the government goal of building a "harmonious society." Jia also said that Christianity in China has "deep relations" with Christianity in Britain, according to an October 19 Xinhua [report](#). The TSPM promotes cooperation with other Protestant churches and [organizations](#) abroad. Chinese officials refer to the TSPM as a "post-denominational" church. The TSPM does not allow Protestants to express denominational beliefs freely, and the 2004 [Regulation on Religious Affairs](#) requires that all Protestants worship at registered churches, regardless of their differences in doctrine and liturgy.

The Party-controlled Catholic Patriotic Association (CPA) has permitted hundreds of select Catholic seminarians to pursue graduate study in theology at Catholic seminaries and universities abroad since the 1990s. With some restrictions, the CPA also has permitted foreign theologians to teach in Chinese Catholic seminaries. In supervising these programs, Chinese officials have cooperated with Catholic groups abroad, including the [U.S. Catholic China Bureau](#) and the [Ferdinand Verbiest Institute](#) in Belgium.

For more information on Protestants in China, see the [CECC 2006 Annual Report](#), Section V(d).

Supreme People's Court Limits News Media Coverage of Court Cases

Supreme People's Court (SPC) President Xiao Yang and Vice President Cao Jianming on September 12 announced new restrictions on news media access to information regarding court cases, according to a September 12 Xinhua [report](#) and a

September 13 Xinhua [report](#). The policies include a requirement that news media obtain information from court spokespersons and not interview judges and other court officials without government permission, a requirement that courts must receive government approval to make announcements in sensitive cases, and a prohibition on a court's release of certain types of information, including "any other information that a court's leaders instruct should not be released," according to the September 13 Xinhua report. Cao also called on the media to avoid, among other things, issuing commentary regarding court cases, according to the September 13 Xinhua report.

Some members of China's state-run media criticized the new policies for limiting the media's oversight of the courts, giving courts discretion to withhold information that may be of public interest but that the government deems inappropriate for release, and restricting judges' right to freedom of expression, according to a September 14 South China Morning Post (SCMP) [article](#) (subscription required), a September 14 Southern Daily [editorial](#) (in Chinese), a September 20 Beijing News [editorial](#) (in Chinese), and a September 21 Southern Weekend [article](#) (via NetEase, in Chinese). Xiao and other state-run news media, however, said the new announcement system would increase the transparency of court proceedings, lead to fairer trials, and ensure more truthful media reports, according to a September 13 [report](#) (in Chinese) on the SPC's Web site, a September 12 People's Daily [article](#) (in Chinese), and a September 13 People's Daily [editorial](#) (via Xinhua, in Chinese).

Under Article 14 of the [International Covenant on Civil and Political Rights](#) (ICCPR), courts can exclude the press and public "from all or part of a trial" but only to protect "morals, public order or national security in a democratic society" or the privacy of individuals, or "to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice." The SPC's prohibition on the release of "any other information that a court's leaders instruct should not be released" is overly broad because SPC officials did not indicate that the "court's leaders" would be subject to any standards for determining when they may exercise this discretion. A search of publicly accessible sources of China's laws and regulations did not turn up any rules issued in connection with the announcement of these policies.

Both the [Basic Standards of Professional Ethics for Judges of the People's Republic of China](#) and the [Bangalore Principles of Judicial Conduct](#) (Bangalore Principles, also available in [Chinese](#)), which the U.N. Economic and Social Council endorses and has invited U.N. member states to consider, call on judges to refrain from making public statements that might affect the fairness of the court but do not call on judges to refrain from all public statements. The Bangalore Principles also provide that judges are entitled to the same freedom of expression as any other citizen, so long as the judge exercises such freedom so as to avoid harming "the dignity of the judicial office and the impartiality and independence of the judiciary." According to the September 21 Southern Weekend article, a university law professor said that judges should not be subject to "excessive restrictions" and even though, as judges, they should be subject to special restrictions, this "does not mean they have no rights to freedom of expression."

For more information on China's judicial system, see Section VII(c), Access to Justice, of the Commission's [2006 Annual Report](#).

Full Analysis >> <http://www.cecc.gov/pages/virtualAcad/newsletterListing.php?NLdate=20061103&show=ALL#id72197>

Most Provincial-Level Governments Issue Hourly Minimum Wage Standards

Most of China's 31 provinces, autonomous regions, and directly-administered municipalities now have hourly minimum wage standards, according to a Ministry of Labor and Social Security (MOLSS) third-quarter work progress [report](#) (Report) released on October 25. Only Guangdong province and the Tibet Autonomous Region (TAR) do not, according to the Report. This represents an increase over the end of 2005, when only 23 provincial-level areas had hourly minimum wage standards, according to 2005 [statistics](#) published on the MOLSS Web site. Based on those statistics, Fujian, Qinghai, Gansu, Shaanxi, Shandong, and Heilongjiang provinces have since issued hourly minimum wage standards. In addition, the report said that all 31 provincial-level areas have monthly minimum wage standards, the same number as at the end of 2005, according to 2005 [statistics](#) published on the MOLSS Web site.

The 2004 [Provisions on Minimum Wages](#) (Provisions) require local governments to re-evaluate their minimum wage standards (hourly and monthly) at least once every two years. The Report shows greater local government compliance with the two-year rule for monthly minimum wage standards in 2006 than in 2005. Out of the 20 provincial-level governments due to reconsider their monthly minimum wage standards in 2006, only Jiangxi and the TAR have not done so. In 2005, at least four provincial governments were out of compliance with this rule, according to the MOLSS statistics. The Report did not indicate the level of compliance with hourly minimum wage standards. Provincial-level governments in China [have been reluctant to comply with the Provisions](#), fearing that higher minimum wages would cause companies to relocate manufacturing facilities to provinces where wages are lower, according to a May 9 China Daily [editorial](#).

The Provisions require provincial-level governments to formulate the minimum wage standards for their area, in consultation with local unions and businesses. The MOLSS has two weeks to review draft standards submitted by the local labor and social security bureaus. The standards are deemed approved if the MOLSS does not raise objections during this period. The Provisions set forth a number of factors that provincial governments should consider in calculating the minimum wage, including the average salary, minimum living expenses, unemployment rate, and level of economic development in their area. The China Daily editorial criticized the Provisions, saying "central policy makers should work out a more clearly

defined methodology for the calculation of the minimum wage level to ensure it is not artificially low." The editorial also called for closer monitoring of local governments' application of the methodology.

According to the Report, the highest monthly minimum wage is in Shenzhen, at 810 yuan (US\$101.25), the highest hourly minimum wage is in Beijing, at 7.9 yuan (US\$.99), and the lowest monthly and hourly minimum wages are in Jiangxi, at 270 yuan (US\$33.75) and 2.7 yuan (US\$.34), respectively. The Provisions allow local labor unions to request that local labor and social security bureaus punish employers who violate the minimum wage regulations, and mandate fines against employers for gross violations of worker health and safety.

For more information on minimum wages in China, see the CECC [2006 Annual Report](#), Section V(c), Protection of Internationally Recognized Labor Rights: Wages.

Henan Teacher Recruits Underage Students for Work in Zhejiang Factory

A teacher in Shengqiao village, Henan province, recruited 84 female students from her school in July to work in a can factory in Ningbo, Zhejiang province, according to an August 10 article from [Beijing Evening News](#). The students ranged in age from 12 to 16 years old. According to the Beijing Evening News report, the teacher told the students that they would work eight hours a day and that food, lodging, and transportation would be provided. Students discovered harsh working conditions on arrival, and four students eventually escaped from the factory to alert their parents. Authorities rescued the remaining children. Two children were injured during their time at the factory, according to the report. The Beijing Evening News report did not disclose whether or not the teacher was detained, charged, or otherwise punished.

A similar case was [reported](#) in April when teachers from a school in Shaanxi province arranged for some 600 underage students to work in electronic factories in Dongguan city, Guangdong province. In one factory, some 240 students worked on assembly lines for up to 14 hours a day. The school called the students' employment a "work-study program," according to the report.

As the CECC noted in its 2006 [Annual Report](#), the use of child labor in some regions of China is reportedly on the rise, according to analyses over the past year by NGOs with expertise on Chinese labor issues. State-controlled media reported in June that the Ministry of Justice and the Ministry of Labor and Social Security intensified their efforts "to fight illegal employment of child laborers," suggesting that the government is more concerned about such abuses than before. Article 15 of the [Labor Law](#) prohibits employing children under the age of 16, and Article 94 provides for punishment of businesses that employ children, including revocation of their business licenses.

Beijing Municipality Amends Local Religious Regulation

The Beijing Municipal People's Congress Standing Committee issued [amendments](#) on July 28 to its 2002 [Beijing Municipal Regulation on Religious Affairs](#) (Beijing RRA), making it the sixth provincial-level area to [issue a new or amended regulation on religion](#) since the national [Regulation on Religious Affairs](#) (national RRA) entered into force in March 2005. [Anhui](#) province [amended its regulation in June](#), and [Shanghai](#) municipality and [Zhejiang](#) province amended their regulations in April 2005 and March 2006, respectively. [Henan](#) and [Shanxi](#) provinces issued new regulations in July 2005.

The Beijing municipal government amended its regulation to alter only provisions that conflicted with or differed from the national RRA, according to an [explanation](#) of the draft amendments (Draft Amendments Explanation) posted May 25 on the Beijing Municipal People's Congress Standing Committee Web site. The government amended eight articles in total, including the following:

- Article 14 previously provided that registered clergy could "lead religious activities within venues for religious activities." The amended provision tracks language in the national RRA, stipulating only that registered clergy can "carry out religious affairs activities." The elimination of the requirement that such activities be held in registered venues does not, however, necessarily signify a loosening of controls. The amended Beijing RRA retains limits on the movement of clergy (Article 16), and both the national and Beijing RRA place general limits on carrying out religious activities (see, e.g., Articles 12 and 22, respectively).
- The amendment to Article 20 eliminates the requirement that religious venues be subject to a fixed yearly inspection by the district or county religious affairs bureaus (RAB). The amendment instead makes venues subject to "guidance, supervision, and inspection" by both district or county RABs and "other relevant departments," on a non-fixed basis. Articles 18 and 19 of the national RRA contain similar provisions.
- Article 26 previously required that the city-level religious association consent to, and the relevant city, district, or county RAB approve, all large-scale religious activities. The amendment to this article goes into more detail, tracking in part language within the national RRA. It makes a large-scale religious activity that involves more than one provincial-level area, as well as large-scale activities held outside registered venues, subject to provisions within the national RRA. Article 22 of the national RRA requires that religious organizations or venues apply to the provincial-level RAB to hold such activities. In addition, amended Article 26 of the Beijing RRA makes permission to hold all other large-scale religious activities subject to consent by the city-level religious association. In addition, the event must be reported beforehand to the district or country RAB. Article 22 of the national RRA specifies that large-scale religious activities be held in accordance with a "notice of approval," but does not specify who grants such approval.

- Amendments to Articles 47 and 48 reorganize provisions on liability, reducing the number of violations that could be subject to a fine specified within the regulation. Most violations now are subject to various penalties including public security administration punishments. The [Public Security Administration Punishment Law](#) (PSAPL) provides for administrative punishments that include limited short-term administrative detention as well as fines. Not all of the provisions singled out for penalties within the Beijing RRA are singled out for penalties within the national RRA, but the national RRA contains a number of broad punitive provisions that could encompass a range of violations. Penalties within the national RRA include public security administration punishments.

The Beijing changes are more detailed than those made recently in Anhui province, but are not as extensive as amendments made in Shanghai and Zhejiang. The Anhui government made two amendments to its provincial RRA and retained provisions that conflicted with or differed from the national RRA. The Beijing government's stated goal of bringing its regulation into conformity with the national RRA, coupled with its detailed explanation of each amendment in its Draft Amendments Explanation, reflects a degree of transparency and organization lacking in amendment processes such as the one in Anhui. At the same time, some of the Beijing amendments reflect continued uncertainties in China's religious regulatory system. The amendment to Article 20, for example, was based in part on the determination that requirements within the [Measures for the Yearly Inspection of Venues for Religious Activities](#) (Measures) are no longer applicable due to subsequent legislative developments, yet some local governments and local religious regulations continue to abide by the Measures and require yearly inspections. (See, for example, an [announcement](#) posted May 15, 2006, on the Yandu City government Web site and Article 15 of the [Guangdong Province Regulation on the Administration of Religious Affairs](#). See also the Draft Amendments Explanation for more information on Article 20.)

For more information on religion in China, see section V(d), Freedom of Religion, in the CECC 2006 [Annual Report](#).

Anhui Court Jails House Church Pastor for Giving Away Bibles

An Anhui court sentenced house church pastor Wang Zaiqing to two years' imprisonment for "illegal operation of a business" in printing and giving away Bibles without government authorization, according to an October 20 [report](#) of the China Aid Association (CAA), a U.S. NGO that monitors religious freedom in China. Anhui officials detained Wang in April 2006 and [formally arrested](#) him in May. On October 9, a local people's court in Huainan city, Anhui province convicted Wang, sentenced him to two years' imprisonment, and fined him 100,000 yuan (approximately US\$12,500). Wang plans to appeal to a higher court.

According to the CAA report and Wang's [indictment](#) (via CAA), officials prosecuted Wang under Article 225 of the [Criminal Law](#). This article requires, among other elements, that the accused's actions must have involved operation of "a business" and must have "disrupted market order." The CAA report indicated that the court did not accept defense counsel's argument that Wang's actions did not constitute a violation of Article 225.

In addition to holding house church leaders criminally liable under Article 225 of the Criminal Law, the Chinese government has also established [administrative rules](#) that subject an individual to administrative sanctions for printing "materials for religious use." These rules designate national religious associations as responsible for the printing of Bibles for domestic use. The restrictions on religious publishing do not conform to international human rights standards for freedom of the press and freedom of religion. Article 19 of the [Universal Declaration of Human Rights](#) and Article 19 of the [International Covenant of Civil and Political Rights](#) (ICCPR) provide that people enjoy the right to use any media to publish "information and ideas," and the ICCPR further provides for the right to publish information and ideas "of all kinds." International human rights standards permit restrictions on publishing only if the restrictions are prescribed by law and necessary to prevent the dissemination of speech that is obscene or defamatory, or that poses a realistic threat to national security, or that is false and threatens public order.

Wang Zaiqing is at least the third Christian religious leader since 2000 to be convicted of "illegal operation of a business" for printing and giving away Bibles and other Christian literature without government authorization. A court convicted [Cai Zhuohua](#), a Beijing house church pastor, in November 2005 for the same offense and sentenced him to three years' imprisonment. [Jiang Sunian](#) (also known as Jiang Shurang), an unregistered Catholic priest in Zhejiang province, served four years of a six-year sentence after an April 2000 conviction for illegal publishing of Bibles and hymnals.

CAA has released on its Web site the [legal opinion](#) of Li Baiguang. Li is one of Wang's criminal defense attorneys and is himself a house church member. Li actively [promotes religious freedom](#) and has served a number of clients in the house church movement. For more information on Wang Zaiqing, see the CECC [Political Prisoner Database](#). For more information on Protestants in China, see the [CECC 2006 Annual Report](#), Section V(d).

Court Officials Refuse Falun Gong Practitioner's Appeal of RTL Sentence

Liu Ruping, a lawyer and Falun Gong practitioner, has been unsuccessful in appealing his reeducation through labor (RTL) sentence. Courts in Jinan city, Shandong province, refused to accept appeals on his behalf from either Liu or his lawyer, Yang Zaixin, according to a January 12, 2006, Epoch Times [article](#) and a Boxun [article](#) dated the same day.

The Jinan City RTL Administration Commission sentenced Liu Ruping to 15 months of RTL on December 14, 2005, for disturbing public order by posting Falun Gong notices, according to the RTL [decision](#) available on the Epoch Times Web site.

Officials detained Liu after he posted Falun Gong material on Jinan city streets on October 17, 2005, and held him at the Changqing District Detention Center on suspicion of "organizing or using a cult to undermine implementation of the law" (a crime under Article 300 of the [Criminal Law](#)), according to the detention center release [document](#) available on the Minghui Web site. Liu was detained on October 25 and released the same day, after the Changqing district branch of the local public security bureau concluded that the circumstances surrounding Liu's actions were not serious, and that his actions therefore did not constitute a crime. On November 25, Liu published an [open letter](#) on the Minghui Web site, calling for an end to the "forced conversion" of Falun Gong practitioners. He claimed that from October 25 to about November 7, he was subjected to a "forced conversion" class run by the "Changqing Public Security Anti-Cult Investigation Team." On December 7, officials detained him again, and on December 14, the Jinan City RTL Administration Commission found Liu guilty of "disturbing public order" by "posting Falun Gong propaganda," according to the RTL decision. The commission charged him under Articles 10(4) and 13 of the [State Council 1982 Trial Measures on RTL](#). Article 10(4) provides for RTL sentences in cases where the defendant disturbs public security, but the actions do not rise to the level of a crime. Article 13 provides for a RTL term ranging from one to three years. The RTL decision does not mention Liu's open letter, but instead cites the October 17 incident as the reason Liu was sent to RTL.

A July 10, 2006, Epoch Times [article](#) says that Liu tried to file an administrative lawsuit in the Jinan Intermediate People's Court from his RTL facility on December 26, but never received a response. On January 12, 2006, his lawyer, Yang Zaixin, attempted to meet with Liu to make arrangements to be his defense counsel, according to the January 12 Epoch Times and Boxun articles. Officials at the RTL center denied Yang access to Liu. On the same day, officials at the Shizhong District People's Court in Jinan refused Yang's attempts to file an appeal on behalf of Liu. Yang Zaixin previously served as defense counsel for two Falun Gong practitioners in Guangxi province, according to an [interview](#) with him published in the Epoch Times on January 26, 2006. Yang's law firm dismissed him on January 26, 2006, and reportedly cited Yang's defense of Falun Gong practitioners as a reason for his dismissal.

Public security officials punish the majority of detained Falun Gong practitioners administratively, including by detaining them in RTL centers. Administrative punishments are [controversial](#) because police issue them without effective judicial review or the minimal procedural protections that the Criminal Procedure Law provides to criminal defendants. Under Article 37 of the [Administrative Procedure Law](#) (APL), an individual can first apply for reconsideration of an administrative punishment and, if he refuses to accept the reconsideration decision, then bring an administrative lawsuit in court to challenge the decision. Alternatively, an individual can also go straight to court to challenge an administrative punishment. Under Article 42 of the APL, a court has seven days to either docket the case or make a ruling not to accept it. The UN Working Group on Arbitrary Detention, in an [addendum](#) to its 2004 report, has found that in practice, the Administrative Procedure Law is "of very little value" and that "no real judicial control has been created over the procedure to commit someone to [reeducation] through labor."

For more information on administrative punishments and government persecution of Falun Gong practitioners, see the CECC 2006 [Annual Report](#), Section V(b), Rights of Criminal Suspects and Defendants: Administrative Detention and Section V(d), Freedom of Religion: Government Persecution of Falun Gong.

MPS Revises Internal Procedures To Conform With Public Security Administration Law

The Ministry of Public Security (MPS) has issued new Provisions on the Procedures for Handling Administrative Cases ([2006 Provisions](#)) to conform with and further clarify provisions under the [Public Security Administration Punishment Law](#) (PSAPL), according to a September 12 [Q&A](#) (in Chinese) posted on the MPS Web site. The 2006 Provisions went into effect on August 24, 2006, and replace [earlier Provisions](#) that were issued in 2003. The 2006 Provisions establish more detailed procedural rules for handling "administrative cases," which include cases punishable either through administrative sanctions such as warnings or fines, or through administrative detention measures such as forced drug detoxification, custody and education, or reeducation through labor (RTL).

A September 4 MPS [report](#) (in Chinese) stated that law enforcement's strict adherence to the 2006 Provisions will help guard against the abuse of power and safeguard the rights of citizens and other legal entities. According to the Q&A, the 2006 Provisions now echo provisions under the PSAPL that require notification of family members when an individual has been summoned for questioning by public security officials, and impose stricter time limits on the period for questioning. When the National People's Congress Standing Committee (NPCSC) [passed](#) the PSAPL in 2005, domestic news media reported that NPCSC members had placed great emphasis on balancing the maintenance of public security and the protection of human rights. The Q&A notes that, in addition to improving the quality of law enforcement, the 2006 Provisions were also passed to establish stricter procedural rules that would require law enforcement agencies to abide by the law when carrying out their functions.

Both the PSAPL and the 2006 Provisions, however, leave the power to adjudicate cases and administer punishment in the hands of public security agencies, despite adding procedural safeguards that increase the transparency of law enforcement actions and place a potential check on abuses of power. Public security agencies continue to investigate, adjudicate, and review complaints regarding administrative cases. In cases involving administrative detention, this system contravenes international human rights standards designed to protect individuals from arbitrary detention. Under Article 9(4) of the

[International Covenant on Civil and Political Rights](#), "[a]nyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful."

Administrative detention measures continue to be controversial in China because public security agencies can impose them without effective judicial review or the minimum procedural protections that the [Criminal Procedure Law](#) provides to criminal defendants. After its September 2004 visit to China, the UN Working Group on Arbitrary Detention (UNWGAD) issued a report (available on the UNWGAD's [Country Visits](#) Web page) that noted: "The fact that the legal system of China classifies [punishment such as reeducation through labor] as an administrative deprivation of liberty as opposed to judicial deprivation of liberty governed by criminal law, does not affect China's obligation to ensure judicial control over this form of deprivation of liberty."

For additional information about the PSAPL, see earlier CECC analyses on the [passage of the law](#) and its [impact](#) in at least one municipality. See also information on "Arbitrary Detention in the Formal Criminal Process" and "Administrative Detention," in Section V(b) of the CECC's [2006 Annual Report](#).

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Xinjiang Government Continues Controversial "Work-Study" Program

The Xinjiang Uighur Autonomous Region (XUAR) government is continuing a controversial "work-study" program that requires students to spend up to 14 days each year picking cotton and other crops, despite complaints from students and parents. A September 12 Tianshan Net [article](#) profiled student and teacher complaints about the work-study program in Changji City, where students in the second year of junior high and above must pick cotton and students in the third grade of elementary school and higher must pick hops in 12-hour shifts at farms within the Xinjiang Production and Construction Corps (XPCC). Some students cannot meet their quota, which is equivalent to picking 22 kilograms a day, and parents have joined their children in the fields to help them harvest this amount, the article reported. The news media [also reported parents' complaints about the work-study program in 2005](#). The work-study program (also called by such names as "labor skills classes," "education practice labor," and "social practice activities") is a required class for XUAR students, who are evaluated on their "attitude toward labor," "labor results," and "grasp of knowledge and skills," according to a September 11 [article](#) from the Xinjiang Education Information Net (XEIN). Students' performance in the work-study program influences their promotion to higher grades. Some 800,000 secondary school and university students began their 2006 academic year in September by picking cotton in school-organized work-study programs, according to the XEIN article. As of this year, schools and education departments in the XUAR may no longer make elementary school students in the third grade and higher pick cotton, due to concern for their health and safety, according to an August 16 Tianshan Net [article](#). These students, however, may continue to participate in other work-study activities that "serve society and the community," and "help children form a proper notion of labor." The XUAR government issued an [Opinion on Strengthening the Management of Secondary and Elementary School Students' Work-Study Labor Activities](#) (Opinion) on May 8.

Work-study programs exist elsewhere in China, and other provincial-level areas also have issued guidance regulating such work-study or "social practice" programs. A 2005 [trial opinion](#) from Shanghai municipality, for example, requires students to spend from at least 7 to 30 days per school year doing "social practice activities," depending on their grade level. The opinion includes a range of activities in the category of "social practice activities," including social service work, but does not rule out students going to physical labor sites to carry out their "social practice activities." Older opinions, such as ones from [Anhui](#) and [Jilin](#) provinces, more clearly intend that work-study programs involve physical labor to meet crop-harvesting and other production needs. Recent news reports show that some areas outside the XUAR continue to carry out such crop-harvesting activities. In September, over 10 thousand students in the fourth grade and higher in Suzhou District, Jiuquan city, Gansu province, were made to harvest corn, according to a Lanzhou Morning News [article](#) posted September 26 on Tengxun News. An official cited in the article said stipulations permitted elementary students to work up to 14 days each year and older students up to 18 days, but that in practice students have not been made to work the full amount.

While the Suzhou District work-study program shares similarities with the program in the XUAR, the XUAR work-study program also reflects some features unique to the region. The central government holds close control over the XUAR economy in part through its directly administered XPCC farms, where cotton is harvested. The central government has placed special focus on supporting the XUAR's cotton industry during its 11th Five-Year Program, according to a February 17 Tianshan Net [article](#). The central government made the decision to compel XUAR students to pick cotton, according to a September 21, 2005, Radio Free Asia (RFA) [article](#).

Full Analysis >> <http://www.cecc.gov/pages/virtualAcad/newsletterListing.phpd?NLdate=20061103&show=ALL#id71197>

Students With Hepatitis B File Lawsuit After School Officials Bar Enrollment

Officials at three middle schools in Urumqi, the capital of the Xinjiang Uighur Autonomous Region (XUAR), have barred 19 students diagnosed as hepatitis B positive from enrolling, according to an October 19 Radio Free Asia [report](#). The Urumqi Bureau of Education approved the decision after the students were diagnosed in their matriculation health check. Seven of the students have since filed a lawsuit against the Urumqi Bureau of Education, according to an October 19 South China Morning Post (SCMP) [report](#) (subscription only). On October 18, XUAR authorities shut down the Xinjiang "Snow Lotus"

AIDS organization, which had publicized the case of the 19 students, according to an October 20 SCMP [article](#). While authorities formally shut down the group for its failure to register with the government, a source close to the organization suggested its reporting of the hepatitis B case prompted the closure.

A Ministry of Health (MOH) spokesperson criticized the school officials' decision to bar the students, according to an October 11 China Daily [article](#). The spokesperson stated, "This is prejudice. All these students can go to school unless they are sick enough to be hospitalized." According to the students' lawyer, all of the students have medical documentation that they are otherwise healthy, as [reported](#) by the SCMP. A September 2 MOH [circular](#) on education about hepatitis B explains that carriers are not a threat to those working, studying, or living around them.

Carriers of hepatitis B in China face discrimination in schooling and employment, despite protections in the [Law on the Prevention and Control of Infectious Diseases](#), as amended in 2004. Article 16 of the amended law prohibits discrimination against people with infectious diseases, people carrying the pathogen of an infectious disease, and people who are suspected of having an infectious disease. A 2005 survey co-sponsored by the China Foundation for Hepatitis Prevention and Control, covering 583 hepatitis patients in 18 provincial-level areas, found that 52 percent of the respondents reported encountering discrimination in employment and education, according to a September 29, 2005, [article](#) in the China Daily.

Some hepatitis carriers have taken legal action against unfair treatment. In November 2005, a student initiated a lawsuit against a university in the XUAR after university authorities suspended 156 students diagnosed as hepatitis B positive in their matriculation health checks, according to a February 16, 2006, China Development Brief [report](#). Students also formed an action group and circulated fliers to protest the unfair treatment. A student in Henan [filed a lawsuit](#) against a university in that province, alleging that the school denied him admission because he is a carrier of the hepatitis B virus. The university had denied the student admission, despite his having scored above the cut-off point on the entrance examination. His application showed that he had tested positive for hepatitis B.

For more information on government policy regarding infectious diseases, see section V(g) Public Health, of the Commission's [2006 Annual Report](#).

Hebei Officials Release Bishop Jia Zhiguo; Catholic Priests Arrested in Guangdong

Hebei provincial officials released from detention Catholic Bishop Jia Zhiguo, the unregistered bishop of Zhengding diocese, on September 25 but continued to keep him under surveillance, according to a September 26 [report](#) of the Union of Catholic Asian News (via the Indian Catholic). Bishop Jia was detained on June 25, when officials removed him from the hospital where he was recovering from surgery and took him to an unknown location, according to a July 6 [report](#) of the Cardinal Kung Foundation (CKF), a U.S. NGO that monitors religious freedom in China. The CKF report said that the religious affairs bureau told some Catholics that Bishop Jia was being sent away for "education." Bishop Jia has been [detained frequently](#) in the past.

On the same day as Bishop Jia's release, officials in Guangdong province detained Fathers Shao Zhoumin and Jiang Sunian, unregistered priests who serve as Vicar General and Chancellor, respectively, of the Wenzhou diocese in Zhejiang province. The two priests were detained in Shenzhen city, Guangdong province, as they were returning home from a trip to Rome and other European cities, according to a September 29 CKF [report](#). According to an October 16 Radio Free Asia [report](#) (via Epoch Times), officials in Wenzhou formally arrested the two priests on October 11 and charged them with illegally crossing the national border. Officials told a human rights NGO that the two priests had used false identification cards in applying for their visas. According to an October 26 [report](#) of the Union of Catholic Asian News (via Catholic Online), the Wenzhou PSB has investigated the case and, in anticipation of a criminal trial, a lawyer has been engaged to defend the priests. Fathers Shao and Jiang were previously [detained](#) in October 2005.

The freedom "to establish and maintain communications with individuals and communities in matters of religion and belief at the national and international levels" is provided for in Article 6 of the United Nations [Declaration on the Elimination of All Forms of Intolerance and Discrimination Based on Religion or Belief](#). Chinese authorities have prevented some religious leaders in the past from traveling abroad, and imprisoned others upon their return to China. In September 2005, for example, the Party-controlled Catholic Patriotic Association (CPA) [denied four bishops permission to travel](#) to Rome; one bishop was unregistered, one was registered with the government but not with the CPA, and two were CPA-registered. In 2006, officials also prevented house church Protestants from traveling abroad, according to a May 16 [report](#) from the China Aid Association, a U.S. NGO that monitors religious freedom in China. In 2005, officials charged Zhang Rongliang, a leader of a Protestant house church network who had been unable to get permission to travel abroad, with "illegally crossing the national border" and "fraudulently obtaining a passport." In June 2006, Zhang was sentenced to seven years and six months in prison, according to a July 2006 Compass Daily [report](#).

For more information on Bishop Jia and Fathers Shao and Jiang, see the CECC [Political Prisoner Database](#). For more information on Catholics in China, see the [CECC 2006 Annual Report](#), Section V(d).

Forum on Tibetan Cultural Preservation Upholds Party Development Policy

Communist Party and government officials, acting as officials of a Chinese NGO, hosted an international meeting in Beijing

October 10 and 11 that promoted increased economic development and tourism as appropriate measures to ensure the preservation and development of Tibetan culture, according to reports by state-run news media. About 120 experts, scholars, and celebrities from China, Hong Kong, and more than 10 other countries, attended the China Tibetan Culture Forum, according to an October 10 China Tibet Information Center (CTIC) [report](#). The Forum was sponsored by the China Association for Preservation and Development of Tibetan Culture (CAPDTC). Founded in June 2004, CAPDTC is an "NGO formed by voluntary [persons devoted] to the protection and development of Tibetan culture," according to an October 9 CAPDTC [report](#) that announced the opening of the Forum.

CAPDTC describes the organization's legal status as "independent." Senior CAPDTC officials, however, also hold leadership positions in the Party's [United Front Work Department](#) (UFWD), whose responsibilities include overseeing the implementation of Party policy in the Tibetan areas of China. Liu Yandong, the Honorary President of CAPDTC, also heads the UFWD and is a Vice Chairman of the Chinese People's Political Consultative Conference (CPPCC), according to a [CTIC](#) report. Zhu Weiqun, the Vice President of CAPDTC, is also the Deputy Head of the UFWD, the [CAPDTC](#) reported on October 10. Sithar (Sita), the Vice Chairman of CAPDTC, is also the Director of the [UFWD's Seventh Bureau](#) that handles Tibetan affairs, according to an October 9 CAPDTC [report](#).

Several Tibetan CAPDTC officials also hold influential government, advisory, and academic posts at the national level. Ragdi (Raidi), the Honorary Chairman of CAPDTC, is also a Party Central Committee member, Vice Chairman of the National People's Congress, and former Chairman of the TAR People's Congress, according to an October 10 [CAPDTC report](#). CAPDTC President Ngapoi Ngawang Jigme and Vice Chairman Pagbalha Geleg Namgyal also serve as Vice Chairmen of the CPPCC according to two CTIC reports dated [October 10 \(1\)](#) and [October 10 \(2\)](#). Lhagpa Phuntsog (Laba Pingcuo), Vice Chairman of CAPDTC, is also Secretary General of the China Tibetology Research Center and a former Vice Chairman of the TAR government, the [CTIC](#) reported on October 11.

A [CAPDTC](#) Web page says that the organization endeavors to "preserve and develop Tibetan culture, protect human rights, and promote unity, harmony and common prosperity of people of all ethnic groups in Tibet." In addition, CAPDTC pledges to abide by the "policies of the State."

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Central Government To Punish Local Officials for Protecting Polluters

Central government officials announced that they will punish local government officials for protecting local enterprises that pollute the environment, according to a September 15 China Daily [article](#) and a September 28 Xinhua [article](#). The announcement came after a series of pollution incidents and the finding that pollution increased in the first half of 2006, according to the China Daily article and an August 20 Xinhua [article](#). Specifically, the emission of major pollutants increased in 17 provinces over the first six months of 2006, even though the government pledged to reduce emissions by 2 percent this year, according to the August 20 Xinhua article. Zhou Shengxian, Director of the State Environmental Protection Administration (SEPA), attributed the increase to fraudulent project approval procedures and delayed construction of pollution-control facilities at the local level, according to the August 20 Xinhua article. The September 28 Xinhua article reports that central government inspection teams will be dispatched to seven provinces in October to investigate and punish local officials who protect polluting enterprises that operate illegally.

Some local environmental protection bureaus (EPBs) ignore environmental laws and regulations by approving the Environment Impact Assessment (EIA) report of a polluting enterprise even when it does not fulfill the criteria outlined in the [EIA Law](#) or other relevant measures. In 2005, the Anhui provincial People's Congress inspected several small paper mills and discovered that almost all had passed the local EPBs' EIA process despite causing severe pollution, according to a September 29 Economic Information Daily [article](#) (in Chinese). SEPA Director Zhou reports that local EPBs in some counties checked the pollution-control facilities of only 30 percent of enterprise projects before they were granted construction licenses, according to the August 20 Xinhua article. Zhou also noted that almost half of the enterprises did not build the necessary pollution-control facilities during construction, according to the same article.

Some local government officials and enterprise officials also fail to prepare EIAs before construction begins on a project, in violation of Articles 31 and 32 of the EIA Law. Official statistics from parts of Anhui province indicate that most construction projects in local industrial zones had not undergone EIAs, according to the Economic Information Daily article. The article quotes one municipal EPB director in Anhui province as saying, ". . . [T]he project had to be constructed in a short amount of time, whereas to undergo an EIA requires a relatively longer period of time, so we approved the construction in advance." Articles 31 and 32 of the EIA Law stipulate that when construction begins before submitting the requisite EIA report, the EPB or other relevant departments should instruct the enterprise to cease construction within a fixed time. If the enterprise does not cease construction within the specified time limit, EPBs or other relevant departments can impose a fine between 50,000 and 200,000 yuan. Furthermore, both the individuals responsible for the construction and any derelict government officials involved in the process are subject to administrative sanctions, and officials may also be subject to criminal liability.

For related reports, see earlier CECC analyses on [SEPA efforts to halt construction projects](#). See also Section V(f), on "The Environment," in the [CECC's 2006 Annual Report](#).

Supreme People's Court Provides Clarification on Commercial Arbitration

China's state-run press announced on September 7 that the Supreme People's Court had issued an [Interpretation Regarding Certain Issues Relating to the Application of the "People's Republic of China Arbitration Law,"](#) (Interpretation) to take effect on September 8. The Interpretation is the Supreme People's Court's second during the past year providing clarification about commercial arbitration. In December 2005, the Supreme People's Court issued [Minutes of the Second National Work Meeting on Adjudications Involving Commercial and Maritime Affairs](#), Chapter Six of which provides guidelines regarding court treatment of foreign-related arbitrations and foreign and foreign-related arbitration awards.

The Interpretation represents progress toward conforming China's arbitration regime with international practice, but it "falls short of addressing several questions that concern foreign entities," according to a September 2006 [briefing](#) published by the Freshfields Bruckhaus Deringer law firm. Shortcomings of the Interpretation include, according to Freshfields, its failure to:

- clarify whether the International Chamber of Commerce and other foreign arbitration institutions can conduct arbitrations in China; and
- allow Chinese parties to agree to arbitrate outside China.

The Interpretation provides guidance to contracting parties in China in several areas including:

- Establishing that the requirement in Article 16 of China's [Arbitration Law](#) that arbitration agreements must be in "written form" includes letters and electronic data (including telegrams, telexes, faxes, electronic data exchanges, and e-mails) (Article 1);
- Stipulating that the scope of arbitral disputes includes those "arising on the basis of a contract's formation, effectiveness, modification, assignment, performance, liability for breach of contract, interpretation, or termination" (Article 2);
- Clarifying the validity of arbitration agreements in which the arbitration institution is not specified (Articles 3-6) and in which an agreement provides that disputes may be submitted to either an arbitration institution or a court (Article 7);
- Confirming that, once an arbitration institution has determined that an arbitration clause is valid, a party may not appeal the decision to a people's court based on the ground that the clause is invalid (Article 13);
- Requiring that objections to the validity of an arbitration agreement either be raised during the arbitration or waived (Article 27);
- Mandating people's courts convene formal hearings with the parties presided over by a panel of judges for objections to the validity of an arbitration agreement and applications to set aside an arbitration award (Articles 15 and 24).

The Interpretation also provides clarification regarding the transferability (Articles 8 and 9) and severability (Article 10) of arbitration agreements, as well as when they may be incorporated by reference (Article 11).

The Interpretation devotes significant space to re-arbitration and setting aside arbitration awards (Articles 17-23). The Interpretation restricts the ability of courts to order re-arbitration to circumstances where evidence has been falsified or concealed. A spokesperson for the Supreme People's Court said that this restriction is conducive to "avoiding arbitrariness in judges' notices of re-arbitration," according to a September 7 Xinhua [report](#) on the Interpretation.

A Supreme People's Court spokesperson said that the Interpretation also restricts to intermediate people's courts the jurisdiction to review the validity of arbitration agreements and the enforceability of arbitration awards, because of the "relatively large degree of arbitrariness" in basic level people's courts, according to another September 7 Xinhua [article](#).

The Interpretation also includes several provisions that specifically deal with foreign-related arbitrations. Article 12 provides that cases involving an application to affirm the validity of a foreign-related arbitration agreement are subject to the jurisdiction of the intermediate people's court located in the place where the arbitration institution is located, where the arbitration agreement was signed, or where the applicant or the person against whom the application is being sought resides. Article 16 provides that courts shall apply the law agreed to by the parties when determining the validity of foreign-related arbitration agreements. If parties did not agree on the law to be used but have agreed on the location of the arbitration, then the law of the place of arbitration will be applied. Where the parties have neither agreed on the law to be used nor on the place of arbitration, or where the place of arbitration is not clear, the law where the court is located will be used.

Shaanxi Provincial Officials Continue Harassment of Catholic Bishop Wu Qinjing

Officials detained Wu Qinjing, a Catholic bishop in Shaanxi province whose episcopal consecration was not approved by the government, on September 11 in Zhouzhi city, according to September 14 reports by [AsiaNews](#) and the [Union of Catholic Asian News](#) (UCAN). The reports say that officials struck Wu and forced him into a vehicle. The bishop was released on September 16. On September 17, Wu was admitted to a hospital, where he was diagnosed with a concussion that observers suggested may have resulted from official mistreatment while in custody, according to September 20 reports by [AsiaNews](#) and [UCAN](#). When Chinese officials detain Catholic clerics, they generally disregard the procedural requirements of the [Criminal Procedure Law](#) for detention, arrest, trial, and sentencing, and appear to have done so in this case. Officials

sometimes have beaten and injured Catholics when detaining them. In August and September, provincial officials in [Hebei](#) and [Fujian](#) provinces beat Catholic laypeople, and in 2006 officials beat Catholic priests in Hebei province, according to a June 27 [AsiaNews report](#).

Officials have harassed Bishop Wu in the past because he accepted consecration as a bishop without the approval of the Party-controlled Catholic Patriotic Association (CPA). In October 2005, Li Duan, the CPA-registered bishop of Xi'an diocese in Shaanxi province, secretly consecrated Wu as a bishop, but with the approval of the Holy See. (Wu had been a CPA-registered priest.) Bishop Li was noted for his resistance to CPA interference in religious matters and loyalty to the Holy See, as evidenced by this 2004 [Mondo e Missione interview](#) (via [www.Chiesa](#)). Bishop Li did not reveal Wu's episcopal status until May 22, 2006, three days before Li died, according to a May 26 [South China Morning Post article](#) (subscription required). Between May 22 and May 27, government officials told Bishop Wu that they considered his consecration illegal and that he must not act as a bishop. On May 27, CPA officials met with priests from Zhouzhi diocese, declared Bishop Wu's consecration illegal, and urged that a diocesan management group headed by another CPA-registered priest replace Bishop Wu. The priests refused, and Bishop Wu then presided at a ceremony to mark the erection of a new cross in the Zhouzhi cathedral, according to May 29 [South China Morning Post](#) and [AsiaNews](#) reports.

In the following months, officials harassed Bishop Wu, stopping him for checks and detaining him for questioning, according to the September 14 UCAN report. During the September detention, officials forced Bishop Wu to state in writing that he would not wear a bishop's miter or vestments or appear as a bishop at major church activities. They also forced him to acknowledge that he was consecrated without having been selected by a CPA-managed election, and that he had violated the Regulation on Religious Affairs by presiding over church activities as a bishop. Article 27 of the Regulation on Religious Affairs ([translation available](#) on the Web site of China Elections and Governance) provides that, "Religious personnel who are determined qualified as such by a religious body and reported for the record to the religious affairs department of the people's government at or above the county level may engage in professional religious activities. . . . With respect to Catholic bishops, the matter shall be reported for the record by the national religious body of the Catholic Church to the religious affairs department of the State Council." The [AsiaNews](#) reports suggest that the CPA planned to select another candidate as bishop in Zhouzhi diocese. In the past the CPA and the Holy See have sometimes been able to agree on a candidate for episcopal consecration, as they did in [Shanghai diocese](#) in 2005.

During Wu's detention in September, a group of priests visited the religious affairs bureau in Xi'an, where they said that they would organize a public protest unless the government explained the reason for the detention and guaranteed the bishop's safety, according to the September 14 UCAN report.

For more information on Catholics in China, see the [CECC 2006 Annual Report](#), Section V(d).

IPR Violations in China Remain Rampant

Almost half of all books, films, music CDs, and software sold in China in 2005 were pirated, according to a September 1 [Xinhua report](#) (via the People's Daily Web site). According to the report, the figure represents a 0.5 percent decrease from 2003, and the first drop in the publication piracy rate in six years. Xinhua characterized the drop as "tiny," and attributed it to the "government's effort to crack down on piracy." According to Xinhua, Chinese authorities have confiscated 8.3 million illegal CDs and DVDs as part of a 100-day crackdown on piracy that began on July 25.

Rampant piracy by China's state-run television stations has resulted in local Chinese movie producers losing US\$7.5 million annually, according to an August 11 [Xinhua report](#). Xinhua said that "pirated copies of movies are widely sold in the streets in China," and quoted Meng Yu, legal affairs director for the China Movie Copyright Protection Association, as saying, "The number of movies illegally aired [by China's television stations] is startling, more than 100 in the first six months of the year." A [study released by the Motion Picture Association of America](#) (MPAA) in May 2006 found that 93 percent of the potential Chinese film market for U.S. studios is lost to piracy. Industry estimates place the cost of this piracy at nearly US \$300 million per year, according to a December 12, 2005, [Reuters report](#).

WTO Compliance

The U.S. Trade Representative's Trade Policy Staff Committee held a hearing on September 28, 2006, as part of its annual review of China's WTO compliance. In its [written comments](#) ([oral statement](#) also available) the US-China Business Council (USCBC) said that a 2006 survey of its member companies' executives ranked IPR enforcement as the "most serious shortfall" in the Chinese government's implementation of its WTO commitments, and that over half said there had been no improvement in IPR enforcement in the past year. The USCBC statement said that the Chinese government's IPR enforcement regime remains ineffective because:

1. It relies on administrative, rather than judicial, punishments which "impose only very low penalties."
2. The thresholds it uses to determine the existence of IPR infringement are too high and too easily circumvented.

Under the [Interpretation on Several Issues of Concrete Application of Laws in Handling Criminal Cases of Infringing Intellectual Property](#) issued in 2004 by the Supreme People's Court and the Supreme People's Procuratorate, the Chinese government calculates criminal thresholds using the retail value of the illegal goods rather than the value of genuine products. In addition, the interpretation creates a "safe harbor" for commercial infringers by setting high quantitative and

value thresholds. The USCBC said the Chinese government's use of thresholds "appears to be inconsistent with its commitments as a signatory of the WTO [Agreement on Trade Related Aspects of Intellectual Property](#) (TRIPs)." Article 61 of TRIPs states: "Members shall provide for criminal procedures and penalties to be applied at least in cases of willful trademark counterfeiting or copyright piracy on a commercial scale."

A representative of the International Intellectual Property Alliance (IIPA) was also critical of the Chinese government's use of thresholds, and told the hearing that "China is not meeting its WTO commitments to provide effective and deterrent criminal enforcement against 'copyright piracy on a commercial scale' as it is obligated to do under Articles 41 and 61 of the TRIPs Agreement." The IIPA said it is aware of only "two criminal cases under Articles 217 and 218 of the [Criminal Law](#) having been concluded involving U.S. copyrights and only five criminal cases involving copyrights of any other WTO member." It estimated the piracy rate in China at 85 to 90 percent, resulting in economic losses exceeding US\$2.6 billion in 2005. A copy of the IIPA's [written statement](#) is also available.

In its written statement, the International AntiCounterfeiting Coalition, Inc. (IACC) said, "China continues to be the single biggest source of counterfeit product worldwide, and the steps taken by the Chinese government and judiciary over the last year to reduce counterfeiting and piracy have not yet achieved significant and necessary reductions in the level of infringements." The IACC said its members report that infringing goods seized by authorities are sometimes auctioned off and return to the stream of commerce. The IACC was also critical of the Chinese government's use of thresholds and its reliance on administrative, rather than judicial, means of IPR enforcement. According to an IACC review of economic crimes in the Criminal Law, "the threshold for criminal prosecution of most economic crimes is between 5,000 yuan and 10,000 yuan, whereas the threshold for IP crimes is 10 or more times higher - 50,000 yuan for individuals and 150,000 yuan for corporate offenders." The IACC said the Chinese government's application of these higher thresholds was a "clear violation to the Chinese government's obligations under Article 61 of the TRIPs Agreement of the WTO." The IACC also noted that Chinese government IPR enforcement campaigns "only serve to highlight the Chinese government's refusal to take the necessary actions on a regular basis . . . giving the appearance of, if not in fact demonstrating, the government's tolerance or tacit approval of the illicit industry that operates with near impunity inside its borders." Finally, the IACC said that the Chinese government's success in stopping IPR infringement of Olympic merchandise "continues to raise industry concerns regarding favoritism of domestic IPR owners over foreign rights holders."

Government Enforcement Efforts

In the first half of 2006, Chinese customs authorities settled 1,076 intellectual property rights infringement cases involving over 68 million yuan worth of goods and the seizure of 39 million infringing articles, according to an August 14 [Guangming Daily report](#) (in Chinese) citing information from the General Administration of Customs. The report stated that Chinese customs officials were stepping up their protection of Olympic symbols, and had seized almost 5,000 goods that infringed on the Olympic trademark and the 2008 Olympic mascots.

The state-run press has also been publicizing a "100-Day Anti-Piracy Action," which eight government agencies jointly launched on July 15 pursuant to a [Public Notice Regarding Launching the 100-Day Anti-Piracy Action](#). According to a September 8 [report](#) (in Chinese) on the Ministry of Public Security Web site, as part of the crackdown Chinese police had confiscated more than 6 million pirated publications by the end of August, inspected over 32,000 publication markets and distribution companies, and sanctioned 355 companies engaged in commercial-scale copyright infringement.

In another report on the 100-Day Anti-Piracy Action, the [Guangming Daily reported](#) (in Chinese) on September 18 that authorities in China had revoked the audio-visual business licenses of 368 companies for selling pirated products.