

# China Human Rights and Rule of Law Update

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## United States Congressional-Executive Commission on China

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

### Message from the Chairman

#### Internet Censorship in China

Recently, U.S. Internet companies operating in China censored certain material offered by their Internet service. The Commission is concerned that these actions were made in response to a threat of commercial or criminal reprisals by the Chinese government, not in an effort to comply with Chinese law.

This government-compelled censorship denies Chinese citizens the fundamental right to freedom of expression guaranteed in their Constitution. Any restrictions placed on this right by the Chinese government must be openly legislated and transparently applied. This is the minimum requirement for a society based on the rule of law.

### Announcements

#### **Translation: Second Five Year Reform Program**

The Congressional-Executive Commission on China has prepared a translation of the [Second Five Year Reform Program for the People's Courts \(2004-2008\)](#).

### Update on Rights and Law in China

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

#### **Chinese Authorities Indict New York Times Researcher Zhao Yan**

The New York Times [reported](#) on December 23 that Chinese authorities have indicted Zhao Yan, a researcher at its Beijing bureau, on charges of revealing state secrets and fraud. Agents from the Ministry of State Security [detained](#) Zhao on September 17, 2004, and authorities formally arrested him in October 2004 for "providing state secrets to foreigners." In June 2005, the Ministry of Foreign Affairs (MFA) [confirmed](#) that on May 20 authorities had transferred his case to the Beijing procuratorate for prosecution both for providing state secrets to foreigners and for fraud.

According to the New York Times report, the indictment came on the last working day for the procuratorate to decide whether to go forward with the case under Chinese law. It also occurred two weeks after Reporters Without Borders [awarded](#) Zhao its [2005 Fondation de France Prize](#).

The New York Times reported that a confidential Chinese state security document said that the key piece of evidence in the state secrets charge is a photocopy of a note handwritten by Zhao. Zhao wrote the note two months before the New York Times published a September 7, 2004 article revealing that former Chinese President Jiang Zemin had unexpectedly offered to resign his last leadership post as head of the military. The New York Times said the note "describes some jockeying between Mr. Jiang and Mr. Hu over military appointments," and that a reference to that jockeying appeared in the article. According to the New York Times, a central question is [how state security agents obtained the photocopy](#). The original note remains in the New York Times' office in Beijing, suggesting either that agents entered the office without permission or enlisted someone to help them make a copy. The New York Times cited unnamed legal experts as saying that, in either instance, the note should be inadmissible under Chinese law.

#### **Microsoft Censors Internet Writer at Chinese Government's Request**

Microsoft Corporation's MSN Web portal shut down the Web site of Zhao Jing, a research assistant at the Beijing bureau of the New York Times and one of China's best known independent Internet commentators (also known as "web loggers" or "bloggers"), on December 30, the New York Times (NYT) [reported](#) (subscription required) on January 6. The NYT cited Brooke Richardson, a group product manager for MSN in Seattle, as saying that Microsoft took down Zhao's site after Chinese authorities made a request through a Shanghai-based affiliate of the company. A January 6 Associated Press [report](#) (via Businessweek) cited Ms. Richardson as saying it was shut down for violating Microsoft's code of conduct, which requires users to comply with local laws in the country in which the user is based. The NYT said Zhao served as China's lone jury member in a blog competition that Deutsche Welle sponsored last year, and had worked as a research assistant for the Washington Post before joining the NYT in 2003.

Microsoft removed Zhao's Web site from its service called "MSN Spaces" after he used it to discuss Chinese authorities' [tightening their control over the Beijing News](#), a newspaper that has been the [subject of criticism from Liu Yunshan](#), the head of the Communist Party's Central Propaganda Department. Zhao's last three postings were:

- December 28: "The Beijing News Falls into Enemy Hands, the Guangming Daily Hopes to Take it Over Completely." Zhao was one of the first to report that officials at the Guangming Daily had announced on December 28 that they were firing the Beijing News' editor-in-chief Yang Bin and two other senior editors (Western media did not report on the incident until the following day. For an example, see this [BBC report](#)). Zhao said: "We hope that Yang Bin and the Beijing News protest will end well. The achievements of the Beijing News are obvious to all, and if the Guangming Daily comes down off the mountain to pick the blossoms and takes over management of the Beijing News in the name of the government, then it will be a new Guangming newspaper, and we will definitely cancel our subscriptions."
- December 29: "For Those of Us Readers Who Are Unwilling to Endure Humiliation, the Only Thing to Do is to Immediately Call and Cancel Our Subscriptions." Zhao called on readers to cancel their subscription to the Beijing News to protest the fact that "The perpetually lying Guangming Daily has taken over the newspaper that we paid for with our earned wages."
- December 30: "Our Respects to the Idealists, and Our Understanding for Their Practical Choice." Zhao reported that the Beijing News was published that day, despite many employees refusing to show up for work, and telling those who chose to publish the paper that they missed an opportunity to make history.

The shutdown also came one week after the Sydney Morning Herald profiled Zhao in an article entitled [China's Web Censors Struggle to Muzzle Free-spirited Bloggers](#), citing Zhao as saying that his previous Web site (which was not hosted at MSN Spaces) was shut down in August, apparently because he had posted an [internal letter by a journalist at the China Youth Daily](#). According to the article, Zhao's Web MSN Spaces site was getting about 8,000 hits a day, and was posting English translations of important political commentaries by Chinese writers.

Ms. Richardson told the NYT: "This is a complex and difficult issue," and "We think it's better to be there with our services than not be there." On January 4 CNet, a Web site specializing in technology news, [reported](#) that a Microsoft representative said that the company had removed Zhao's Web site to help ensure that the service complied with local laws in China, and quoted the unnamed source as saying: "MSN is committed to ensuring that products and services comply with global and local laws, norms and industry practices. Most countries have laws and practices that require companies providing online services to make the Internet safe for local users. Occasionally, as in China, local laws and practices require consideration of unique elements." The following day, CNet [quoted](#) Michael Connolly, a product unit manager on MSN Spaces, as saying: "In China, there is a unique issue for our entire industry: there are certain aspects of speech in China that are regulated by the government. We've made a choice to run a service in China, and to do that, we need to adhere to local regulations and laws. This is not unique to MSN Spaces; this is something that every company has to do if they operate in China."

Ann Cooper, executive director of the Committee to Protect Journalists [said](#): "China's growing attempt to stifle the free flow of news and opinion by making Internet companies complicit in their repressive policies is deeply disturbing. But for an Internet company to argue that it must honor contractual agreements when operating in China does not absolve it of its responsibility to uphold the ideal behind the Internet - the free and open exchange of information." Reporters Without Borders [said](#) Microsoft's action showed that "some Internet sector companies do not respect freedom of expression when operating in repressive countries."

In Section [III\(c\) - Freedom of Expression -- Self Censorship](#), of its [2005 Annual Report](#), the CECC noted that relevant Chinese laws and regulations do not provide clear guidance about what kind of political or religious expression is illegal. For example, regulations prohibit publishing or disseminating anything that "harms the honor of China," but no legislative or judicial guidance exists to guide publishers as to what constitutes a violation of this prohibition. Instead, Chinese authorities rely upon detaining writers, indoctrinating publishers, and banning publications to encourage companies, institutions, and individuals to "choose" not to use certain words or publicize certain views that a government official might deem politically unacceptable. Internet and software companies must either employ censorship technologies in their products or risk a government order to close. For example, although no Chinese law or regulation forbids specific words, companies such as Tencent and MSN embed a list of banned words and phrases, including "freedom" and "democracy," in their Internet applications. The China-based search engines of Yahoo! and MSN filter results for searches relating to the Voice of America, Radio Free Asia, and human rights. Google designed its Chinese-language news aggregation service so that users in China cannot view materials from dissident news Web sites that Chinese authorities have blocked.

## Release Date Approaches for Imprisoned Tiananmen Protester Yu Dongyue

Imprisoned journalist and Tiananmen democracy protest participant Yu Dongyue's sentence will expire on February 26, 2006, according to the [Dui Hua Foundation](#), a U.S. NGO that advocates for prisoners of conscience in China.

According to [PEN Canada](#), Yu, then a deputy editor of the Liuyang Daily, traveled from Changsha city, Hunan province, to Beijing on May 19, 1989. He was a representative of the Hunan Delegation in Support of the Beijing Students, which traveled to join the Tiananmen democracy protests. On May 23, Yu and two others - Yu Zhijian and Lu Decheng - threw paint at the portrait of Mao Zedong that faces Tiananmen Square from the Forbidden City. Police immediately arrested the three. Yu was tried on July 11, 1989, and on August 11, the Beijing Intermediate People's Court sentenced Yu to 20 years in

prison and 5 years deprivation of political rights for "counterrevolutionary propaganda" and "counterrevolutionary sabotage and incitement," crimes under Articles 100 and 102 of China's 1979 Criminal Law. In 1997, authorities transferred Yu to Yuanjiang Prison in Hunan. According to the Dui Hua Foundation, Yu received a 2-year sentence reduction in January 2001 and a second, 15-month sentence reduction, some time in 2003.

Yu Zhijian and Lu Decheng, who were sentenced for the same act of paint throwing, were both released in 1998. Officials have offered no explanation for why they released them, but kept Yu Dongyue in prison. In December 2004, Radio Free Asia (RFA) [reported](#) that Lu visited Yu Dongyue in prison and said that he was "barely recognizable." Lu described Yu Dongyue as disoriented, with a visible head injury. Another prisoner told Lu that prison officials tied Yu to an electricity pole and left him outside in the hot sun for several days. The fellow inmate also said authorities kept Yu in solitary confinement for two years, and offered the opinion that this punishment is "what broke him." PEN Canada has expressed concern that Yu has suffered psychological trauma as a result of harsh treatment in prison.

According to a June 6, 2005, RFA [article](#), Lu and Yu Zhijian have written repeatedly to central government officials in Beijing calling for the release of Yu Dongyue on medical grounds, but with no result. Yu first became eligible for medical parole in 1996, but a June 6, 2005, South China Morning Post article cited his mother as saying that when she submitted the application, prison officials told the family that political criminals could not be granted medical parole and that "he never admitted he was wrong." Article 3 of the "Measure on Implementing Medical Parole for Prisoners" only prohibits three categories of prisoners from eligibility for medical parole: (1) those serving sentences of death penalty with two year reprieve; (2) those whose crimes are serious and toward whom the people have great hatred; and (3) those who injure or incapacitate themselves in prison to escape punishment.

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### Hebei Provincial Government Issues Opinion Prohibiting Torture to Obtain Evidence

The Hebei provincial procuratorate, high court, and public security bureau have issued a joint opinion prohibiting the use of torture to obtain evidence against a criminal suspect, according to a December 30, 2005, [report](#) by the official Xinhua news agency. The "Guiding Opinion Regarding Prevention of Extorting Confessions Under Torture During Criminal Case Activity" went into effect in Hebei province on January 1, 2006. Liu Ruichuan, president of the Hebei provincial high court, highlighted in the 2005 progress [report](#) (posted by Xinhua on December 27) on rule of law developments in Hebei province that "Any witness deposition, victim testimony, or defendant statement that is verified for authenticity, and categorized as obtained through extortion under torture or other illegal means, cannot serve as the basis of a [criminal] verdict." Xinhua also quoted language in the opinion that states, "Oral evidence obtained through extortion under torture cannot serve as the basis for approving arrest and prosecution." In addition, the opinion provides that the local procuratorate will initiate an investigation into cases where extortion under torture may constitute a crime.

President Liu acknowledged that the opinion comes in the wake of recent developments related to a wrongful conviction case in Hebei. According to a September 24, 2005, [report](#) by Xinhua, Li Jiuming became the principal suspect in a murder case that took place in Tangshan city, Hebei province, in July 2002. A local court sentenced him to death, with a two-year reprieve, in November 2002. Public security officials in Wenzhou city, Zhejiang province, then apprehended a different culprit in June 2004. After the Tangshan procuratorate launched an investigation into the wrongful conviction, the Hejian Municipal People's Court ultimately convicted seven civilian officers, including the bureau chief and vice chief of a branch office of the local public security bureau, for "extorting a confession under torture," a crime under Article 247 of China's [Criminal Law](#). The court found that the seven officers had subjected Li to corporal punishment and inflicted injury to extort his confession for the murder. The court exempted five of the officers from criminal punishment, and sentenced both the bureau chief and vice chief to two years imprisonment. Article 247 authorizes a maximum sentence of three years imprisonment where a criminal suspect suffers minor injuries under torture.

The wrongful conviction of Nie Shubin, also from Hebei, created a national uproar in 2005 over widespread abuses in China's criminal justice system and the continuing problem of torture. Although Chinese law prohibits torture, national regulations currently in force do not require courts to exclude illegally obtained evidence. The Supreme People's Court issued a June 29, 1998, [judicial interpretation](#), and jointly issued a September 6, 2004, [circular](#), providing only that such evidence shall not be used as the "basis" for a criminal judgment. The Hebei opinion does not go so far as to prohibit the use of illegally obtained evidence during trial, but instead echoes the language in national regulations and focuses on the punishment of officials who resort to such means. The Sichuan provincial government [introduced a similar opinion](#) that actually prohibited the use of oral evidence obtained through illegal means, which went into effect May 1, 2005. At the time, an article in the Legal Daily [questioned](#) whether the Sichuan opinion could adequately address key problems in criminal procedure and evidence. In December 2005, the UN Special Rapporteur on Torture [called on](#) the Chinese government to "ensure that the reform of the criminal procedure law conforms to [International Covenant on Civil and Political Rights] fair trial provisions, including by providing for the following: the right to remain silent and the privilege against self-incrimination; the right to cross-examine witnesses and the effective exclusion of evidence extracted through torture."

For additional information on the Nie case and the problem of extorting confessions under torture, see the CECC's analysis of [Torture and Abuse in Custody](#), in Section III(b) of the [2005 Annual Report](#).

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### Government Program to Shut Dangerous Coal Mines Proceeds Slowly, Results Mixed

Premier Wen Jiabao reiterated the commitment of the central government to reforming China's mining industry and closing

illegal mines, but acknowledged that the safety situation remains serious despite official efforts, according to a January 25 Beijing News [article](#). The National Development and Reform Commission (NDRC) has ordered the closure of China's most dangerous mines, as part of a campaign to improve safety in the coal mining industry. Despite this order, nearly 60 percent of the mines ordered to close remain open and operating, according to a January 17 article in The Standard. The NDRC said that 5,001 mines were ordered to close, but only 2,157 actually closed. The Standard report also noted that the State Administration of Work Safety (SAWS) reported that 5,986 miners died in coal mine accidents in 2005 and 2,235 died in other kinds of ore mining accidents, for a combined average of 22 miner deaths each day.

Provincial inspectors have been slow to complete the necessary inspections in support of the mine closing campaign, according to a January 16, 2006 People's Daily article. The NDRC spokesman said that inspection work has been slow in Hunan, Sichuan, Shaanxi, Gansu, Guizhou, Shanxi, Yunnan, and Heilongjiang provinces, and in Chongqing municipality. The spokesman criticized not only the slow inspection work, but also the manner in which local officials carried it out. He commented that they had no set framework or time limits for inspections, and the few standards they used are set excessively low.

Corruption also impedes reforms to the coal mining industry, according to Chinese news media reports. Despite an August 2005 State Council order that forbids local officials from owning shares in the mines that they supervise, inspectors found that many still own such shares, according to a January 9 report in the Southern Daily. For example, inspections in Guangdong province revealed that officials in Shaoguan, Qingyuan, and Meizhou cities had investments in mines worth almost 6 million yuan (US \$7,441,030). After a Shanxi mine inspection team examined coal mine investments in November 2006, they found about 950 government officials had investments of 155 million yuan (US \$19,176,527) in coal mines, according to the article. Of the 950 officials, 871 had to withdraw investments totaling 62,000,000 yuan (US \$7,679,730) according to a [Legal Daily](#) article. The inspection revealed that some officials had transferred their shares to friends and family members to keep control of their coal mine investments. The Shanxi provincial inspectors shut 2,203 illegal mines and arrested 293 officials, according to the same article.

## Officials Break Up Protestant Christmas Services in Xinjiang; Detain 12 House Church Leaders

Officials broke up two Protestant house church Christmas celebrations in the Xinjiang Uighur Autonomous Region (XUAR) and detained 12 house church leaders, according to a December 27, 2005 [report](#) of the China Aid Association (CAA), a U.S. NGO that monitors the religious freedom of house church Protestants. On December 24, officials broke up a Christmas celebration taking place in Korla city in the XUAR at which about 100 house church members were present. On December 25, officials raided a Christmas celebration taking place in a rented commercial facility in Manasi county in Changji Hui Autonomous Prefecture in the XUAR. Approximately 200 house church members were present. Officials presented a search warrant, declared the celebration an "illegal religious gathering," and detained 12 leaders and confiscated without receipt private property including two motor vehicles. The following day officials released seven leaders but detained Pastor Guo Xianyao, Lu Jianzhen, Wu Haifang, Wang Ximei, and Zhou Bin until January 8, 2006, according to a January 16 CAA [report](#). Officials beat Guo Xianyao and fined all those detained.

CAA also reported that on December 13, officials detained Pastors Miao Fengming and Liu Haibo in Zhaqi county, Inner Mongolia, and accused them of "leading illegal religious gatherings." Officials released the two pastors after a 24-hour detention.

Article 12 of China's [Regulation on Religious Affairs](#) (2005) forbids citizens to gather other than at "registered sites" presided over by "religious personnel" whom the government certifies as "qualified." The Chinese government generally qualifies only religious personnel who submit to state control of religious groups. Chinese officials frequently break up gatherings on unregistered religious sites and detain unregistered religious leaders on religious holidays. Officials detained unregistered Protestants on or near Christmas in [2004](#) (AFP report) and [2003](#) (AsiaNews report). In addition, officials detained unregistered Catholics on or near Christmas in [2004](#) (AP report) and [2002](#) (Cardinal Kung Foundation press release).

For more information on Protestants in China, see the [CECC 2005 Annual Report](#), Section III(d).

## Rebiya Kadeer's Employees Released After Seven-Month Detention

Chinese authorities released two employees of a company belonging to Uighur dissident Rebiya Kadeer on December 14, 2005, after detaining them for seven months without charges, according to a December 16 [report](#) from Radio Free Asia (RFA). Authorities detained Kadeer's former assistant Aysham Kerim and company secretary Ruzi Mamat on May 11, 2005, at Kadeer's company offices in Urumqi, capital of the Xinjiang Uighur Autonomous Region (XUAR). According to RFA sources, police returned to the offices again on May 13 and confiscated documents and money. RFA had no further information on the impetus for Kerim and Mamat's release.

Authorities detained Kadeer, a prominent Uighur businesswoman and civic leader, in mid-1999 and sentenced her in 2000 to eight years in prison for "unlawfully supplying state secrets or intelligence to entities outside China." They [released](#) her on medical parole on March 17, 2005, after she served over five years of her sentence. Since then, Kadeer has lived in exile in the United States, where she has spoken out about her experiences and about human rights abuses against Uighurs in China. Kadeer said that prison guards warned her before her release that her business interests and relatives who remain in

the XUAR would face repercussions if she disclosed sensitive information overseas, RFA [reported](#) on March 28, 2005. Police attempted to [take into custody](#) Kadeer's son Ablikim Abdiriyim during the May raid on Kadeer's offices, but he dodged his pursuers. In August 2005, Kadeer's son Alim Abdiriyim told RFA that police in the XUAR had created a [special unit](#) to monitor Kadeer's relatives and business interests.

Other Uighurs who have left China also report that Chinese authorities monitor relatives who remain there. A January 5, 2006, RFA [article](#) highlighted the situation of a Uighur permanent resident in the United States who says Chinese officials have restricted movement of his family in the XUAR until he agrees to provide information on overseas Uighurs to Chinese state security.

For more information on conditions for Uighurs in China, see sections on [Rights Violations in Xinjiang](#) and [Religious Freedom for China's Muslims](#) in the 2005 CECC [Annual Report](#).

## Chinese Government Takes Steps Against Corruption While Land Abuses Continue

The Supreme People's Procuratorate (SPP) and Ministry of Justice (MOJ) participated in a December 14 [online forum](#) posted by the People's Procuratorate Daily (in Chinese) to discuss the impact of the [UN Convention Against Corruption](#) (Anti-Corruption Convention) on China's anti-corruption efforts. The forum took place on the same day that the Anti-Corruption Convention went into effect worldwide. SPP representative Zhang Zhihui and MOJ representative Huang Feng agreed on the need to improve domestic legislation to bring China into line with its obligations under the Convention. They also highlighted the need for China to supplement criminal penalties with preventive measures, including better management over public assets, the establishment of an anti-corruption agency, and increased education on corruption issues.

The Chinese government has sought over the past two years to bring domestic law into compliance with international obligations. China [signed](#) the Anti-Corruption Convention on December 10, 2003. The National People's Congress ratified the Anti-Corruption Convention on October 27, 2005, according to a [report](#) by the official Xinhua news agency. At a December 2005 meeting of Asian and European prosecutors in Shenzhen, Deputy Procurator General Wang Zhenchuan emphasized that procuratorates nationwide prosecuted and punished 50,000 corrupt officials from 2003 to 2005, according to a December 11 [report](#) by the official Xinhua news agency. A December 15 [article](#) in the China Daily noted, "As prevention is even more important than prosecution, international co-operative efforts must be made."

Despite the ongoing efforts, Transparency International (TI), an anti-corruption NGO based in Berlin, ranked China 78 out of 158 in its [2005 Corruption Perceptions Index](#), and recent corruption scandals demonstrate that corruption in China has increasingly involved senior officials. In a case that the [China Daily](#) labeled "China's biggest political scandal," more than 260 government officials were alleged to have connections with Ma De, a senior official in Heilongjiang province convicted in July 2005 for taking bribes. Two senior officials allegedly connected to Ma include Tian Fengshan, China's former Minister of Land and Resources, and Han Guizhi, former chairwoman of the Heilongjiang Provincial Committee of the Chinese People's Political Consultative Conference. Beijing courts tried Tian on December 13, according to a Xinhua [report](#) on the same day, and Han one week earlier, according to a Xinhua [report](#) (in Chinese) on December 6. One scholar described these high profile prosecutions as "'show trials' that are becoming increasingly ineffective as warnings to lower-level officials," according to a December 14 [report](#) by the Voice of America. Tian received a life sentence on December 27, and Han received the death penalty, with a two-year reprieve, on December 15, according to a December 28 [report](#) by the China Daily. The prosecution and harsh sentencing of Tian, the highest ranking official in China's Ministry of Land and Resources, help confirm that corruption and abuse in land deals remains widespread.

SPP representative Zhang mentioned during the online forum that one area for reform will be the increased participation of citizens in keeping official corruption in check. Article 10 of the Anti-Corruption Convention calls on state parties to take measures that will enhance transparency in public administration. Article 13 emphasizes the need for active participation by individuals and groups outside the public sector in fighting against, and raising public awareness about, corruption. Barriers to public participation in challenging official corruption have resulted in increasing popular resentment in past months. Villagers and officials clashed on September 12, 2005, in Taishi village, Guangdong province, after the local government [blocked](#) a campaign to recall village committee head Chen Jinsheng, who allegedly embezzled village funds from land deals. Despite national law guaranteeing village electoral rights, local officials blocked the recall effort by forcing elected village representatives to resign and detaining lawyers providing legal advice to the villagers. A confrontation between villagers in Dongzhoukeng village, Guangdong province, ended in [bloodshed on December 6](#). The conflict over land seizures to make way for a power plant escalated amid accusations of embezzled compensation funds and after the failure of attempts to launch citizen petitions and a lawsuit. The Communist Party's Central Commission for Discipline Inspection announced on December 28 that it has launched a new Web site, [jubao.gov.cn](#), to facilitate the public reporting of corruption, according to a Xinhua [report](#) on the same day.

Additional information on corruption in China is available in the introductory section to the CECC's [2004 Annual Report](#). For more on the growing social unrest over land deals, see materials from the June 21, 2004, CECC Roundtable on [Property Seizure in China: Politics, Law, and Protest](#). See also the introductory section on [Growing Social Unrest and the Chinese Leadership's Counterproductive Response](#), in the CECC's [2005 Annual Report](#).

## Dalai Lama Tells Tibetans From China That He Does Not Seek Independence

The Dalai Lama told approximately 9,000 Tibetans who traveled from Tibetan areas of China to southern India to attend a Buddhist event that education, not guns and knives, would enable them to fight for the rights [that] are enshrined in the Chinese Constitution, according to a January 17 [report](#) by the Tibetan government-in-exile. In closing remarks at the 11-day religious teaching, known as the Kalachakra, the Dalai Lama said that he is not seeking Tibetan independence, and that he is working for a solution to the issue of Tibet based on the [Middle Way Approach](#) and within the constitutional framework of the People's Republic of China.

Tibetans who travel from China to India without official papers and then return to China can face detention or imprisonment. According to the February 2005 U.S. Department of State [Country Reports on Human Rights Practices - 2004](#), Tibetans who wish to travel to India for religious purposes faced difficulty obtaining the required travel documents, but thousands did so anyway. Tibetans who returned home by hiking from Nepal into the Tibet Autonomous Region (TAR) sometimes faced detention by Chinese officials that "generally lasted for several months" and resulted in release without charge, according to the State Department report. Tibetans who bring religious material featuring the Dalai Lama with them when they return to China may face prison terms, according to remarks made in September 2005 by an official of the Shigatse (Rikaze) Prefecture Intermediate People's Court to [Radio Free Asia](#) (RFA). "Any document that relates to Tibetan independence, Dalai Lama photos, or any other documents or literature containing reactionary themes or subjects are punishable," said the official. He added that the maximum penalty for carrying materials relating to the Dalai Lama or other separatist activities was five years imprisonment. Inciting others to "split the State or undermine unity of the country" is a crime under article 103 of [China's Criminal Law](#).

The Dalai Lama began the Kalachakra teachings with remarks aimed at travelers from China, according to a January 11 [report](#) by the International Campaign for Tibet (ICT). If informers from China are present, he told the crowd, they should pay attention to his religious teachings and also learn about his Middle Way Approach, which calls for "genuine autonomy" within China. ICT described the Dalai Lama's opening remarks as "a powerful statement urging Tibetans from inside Tibet to tell Tibetans when they return about the importance of the 'Middle Path' approach." At a meeting with Chinese followers, the Dalai Lama reiterated his willingness to stay within the constitutional framework of [China] without seeking independence, according to a January 10 [report](#) by the Tibetan government-in-exile.

The U.S. Department of State "[Report on Tibet Negotiations](#)," published in April 2005, states, "The United States encourages China and the Dalai Lama to hold direct and substantive discussions aimed at resolution of differences at an early date, without preconditions." The report notes, "The Dalai Lama can be a constructive partner as China deals with the difficult challenges of regional and national stability." The fourth, and most recent, round of talks between Chinese officials and the Dalai Lama's envoys took place in Bern, Switzerland in late June and early July 2005. The envoys visited China in September 2002, May 2003, and September 2004.

See Section VI - "Tibet," [The Status of Discussion Between China and the Dalai Lama](#), of the [CECC 2005 Annual Report](#) for more information.

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## Officials Ban Dozens of Papers, Seize Thousands of Political Publications, in 2005

Chinese authorities banned 79 newspapers and periodicals and seized 169 million illegal publications in 2005, according to a January 18 Xinhua [report](#) citing government statistics. The announcement came the day after the [National Sweep Away Pornography and Strike Down Illegal Publications Task Force](#) held its 19th telephone conference, according to a January 18 China News Agency [report](#) (in Chinese, via Xinhua). The China News Agency report cited [Liu Yunshan](#), a Communist Party Central Committee member who also serves as secretary of the Secretariat and Director of the [Central Propaganda Department](#), as calling on officials throughout China to "strike hard at illegal political publications and forcefully purify all types of cultural markets."

Although comprehensive figures are not available, reports in China's state controlled media indicate that government agencies confiscated hundreds of thousands of the publications because of their political and/or religious content:

- Gansu province: 2,800 illegal political publications, according to a December 23 Lanzhou Daily [report](#) (in Chinese, via Xinhua).
- Jiangxi province: 5,519 illegal political publications, according to a January 18 Jiangxi Daily [report](#) (in Chinese, via Xinhua).
- Liaoning province: 4,965 illegal political publications and 155,000 Falun Gong and other "evil cult organization" publications, according to a January 18 Liaoning Television [report](#) (in Chinese).
- Shanxi province: 6,233 illegal political publications and Falun Gong propaganda materials, according to a January 18 Shanxi Evening News [report](#) (in Chinese, via the Shanxi Daily Web site).
- Tibetan Autonomous Region: 147,230 illegal political publications, 54 "Dalai Lama splittist group reactionary publications," and 3,223 "reactionary propaganda" materials, according to a January 18 Xinhua [report](#) (in Chinese).
- Yunnan province: 12,000 illegal political publications, according to a January 18 Yunnan Daily [report](#) (in Chinese).

China's law [requires that every publication in China have a book number](#), the distribution of which is controlled by the [General Administration of Press and Publication](#) (GAPP). This requirement is one of [several prior restraints](#) the Chinese government employs to ensure that it retains control over all publishing in China. For example, in November 2005 a Beijing court [jailed Cai Zhuohua](#), a house church minister, and two of his family members for printing and giving away Bibles and other Christian literature without a government license.

The numbers of banned and confiscated publications are roughly identical to those of 2004, when Xinhua and other official government news sources reported that Chinese authorities [confiscated over 200 million "illegal publications,"](#) and [banned](#) at least 60 news, law, education, and lifestyle publications.

The CECC has previously reported on the government's announcements regarding its newspaper and periodical censorship in 2005:

- On April 18, the GAPP announced it had [banned 19 newspapers](#).
- On April 26, the GAPP announced it had [banned 60 magazines](#), stating that it was necessary to "strengthen the work of reading and evaluating [publications], and tracking down the source and background situation of contents that have severe problems." Some of the titles of the [banned publications](#) include: "China Economics," "Prosperous China," "Finance and Technology," "Contemporary Mathematics and Administration," "A Guide to Government Procurement," and "Chinese and Foreign Legal Systems."

For additional information on Chinese government censorship, please see the CECC's [2005 Annual Report](#) - III(c) [Freedom of Expression](#) -- [Government Censorship](#).

## Official Urges Participation in State-Managed Hajj After Deaths in Mecca

An official from the State Administration for Religious Affairs (SARA) urged Chinese pilgrims to Mecca to make the trip under the auspices of the China Islamic Association, according to a January 19 report from [Xinhua](#). Guo Chengzhen, deputy director of the Muslim affairs department at SARA, said that the delegation organized by the state-sponsored China Islamic Association "enjoys better transportation and accommodation facilities." Guo called Chinese pilgrims who do not join official groups an inconvenience to other pilgrims and the Saudi government. Four participants in the official pilgrimage from Qinghai province were trampled to death in Mecca on January 12; Chinese news media reported the deaths shortly after the event. (For an example of early reporting on these deaths, see a January 13 article from the [China Daily](#).) In the January 19 Xinhua article, Guo reported that a pilgrim from the Xinjiang Uighur Autonomous Region (XUAR) who visited Mecca on his own also was trampled to death. The China Islamic Association will pay family members of the four Qinghai pilgrims 50,000 yuan (US\$6,200) each in compensation, the China Daily [reported](#) on January 16.

Article 11 of the [Regulation on Religious Affairs](#) (RRA) provides that China's national Islamic religious organization is responsible for organizing overseas pilgrimages. A 1995 [circular](#) of provisions on self-funded pilgrimages specifies that the State Council tasks SARA with responsibility for pilgrimages, assigns seven government departments to coordinate pilgrimage-related work, and also tasks the China Islamic Association with responsibility for implementation. It adds that no other department may organize pilgrimages. The circular provides information on the pilgrimage application process and details on organizing the trip. It also instructs local authorities to gather pilgrims under their jurisdiction and provide education in topics including patriotism, socialism, "defending the unity of the motherland," and ethnic unity. A 2005 [notice](#) from Weishan county in Yunnan province calls for curbing independent pilgrimages. It instructs local leaders to clarify policies on pilgrimages and emphasize the dangers of undertaking unofficial trips. A Human Rights Watch/Human Rights in China analysis notes that new legislation in the XUAR bars individuals from organizing pilgrimages. In 2001 draft amendments (yet to be made public in China) to the 1994 XUAR Regulation on the Management of Religious Affairs, Article 17 states, "Pilgrimage activities are to be organized by the religious affairs bureau of the people's government and religious organizations. No other organization or individual may organize such activities." (A full text of the legislation and information on religious policies in the XUAR are available in the 2005 Human Rights Watch/Human Rights in China report [Devastating Blows: Religious Repression of Uighurs in Xinjiang](#).)

Ambiguity in some religious regulations, combined with Guo's statements acknowledging that independent pilgrimages occur while discouraging them, indicates some government tolerance for private pilgrimages, although the degree of tolerance may vary. In August 2005, XUAR authorities reportedly [confiscated](#) passports from a group of Uighur pilgrims en route to Mecca.

For more information, see the section on [Religious Freedom for China's Muslims](#) in the 2005 CECC [Annual Report](#).

## Supreme People's Court Maps Future Judicial Reforms in Five Year Reform Program

The Supreme People's Court (SPC) released its [five year court reform program](#) (translated by CECC staff) for 2004 to 2008 on October 26, 2005. (The full text of the document did not become available until December 2005.) The focus of the program suggests that one of the top priorities for judicial authorities is criminal law reforms, and that authorities may also address some institutional problems facing the judiciary. At the same time, however, the program also includes proposals to

increase official supervision of judges and does not change basic Communist Party control over the courts.

### *Criminal Law Reforms*

#### **Reforms to Judicial Review of Death Penalty Cases**

The program provides that the Supreme People's Court will [consolidate and reclaim the power of uniform review](#) over all death penalty cases. The SPC has already [taken steps](#) to increase the number of personnel assigned to handle the increased caseload.

The program also requires that Chinese courts [conduct hearings](#) on appeals of death penalty cases after 2006. After issuing the program, the SPC subsequently issued a [circular](#) (translated by CECC staff) on December 7 detailing procedures for these hearings. Since January 1, provincial high courts in Shanghai, Beijing, and Tianjin municipalities, and Hainan province, have announced that they are conducting hearings, according to a January 23 Legal Daily [article](#) and China Court articles dated January [20](#), [23](#), and [26](#), respectively.

#### **Reforms To Strengthen Protections For Criminal Defendants**

The program provides that officials should reject the use of evidence obtained through torture and other illegal means. This issue generated significant domestic and international criticism in 2005, as noted in Section III(b) of the Commission's 2005 Annual Report, on the [Rights of Criminal Suspects and Defendants](#). The Hebei provincial government has since [issued an opinion](#) prohibiting torture to obtain evidence from criminal suspects. However, only the Sichuan provincial government has acted to [exclude illegally obtained evidence](#) from criminal trials. The program also provides that judicial officials should take steps to adopt the principle of presumption of innocence.

### *Institutional Reforms*

#### **Changes to Court Jurisdiction**

According to the program, Chinese judicial authorities will support reforms to the jurisdiction of provincial high people's courts (HPCs) so that they only handle cases involving general questions of law. Currently, HPCs possess both first instance trial jurisdiction for certain cases and automatic appellate jurisdiction for cases tried by subordinate intermediate people's courts (IPC).

The program also suggests that Chinese judicial authorities will move towards a division of jurisdiction between basic people's courts (BPCs), IPCs, and HPCs based not only on the amount of monetary compensation at stake but also on the physical places of residence of the parties.

#### **Reforms to Retrial Procedures and Requests For Advisory Opinions**

The program targets for reform both the retrial (zaishen) and advisory opinion (qingshi) systems. Extensive use of retrial procedures undermines the finality of court decisions. Lower courts also frequently rely on internal advisory requests to higher courts to seek advance guidance on how to decide cases, which undermines judicial fairness. For more information, see Section V(c) on [China's Judicial System](#) in the Commission's 2005 Report, and the corresponding Section V(d) in the Commission's [2004 Annual Report](#).

The program suggests that court officials will reduce court discretion to initiate retrial proceedings and advisory opinions independently, unless plaintiffs and defendants approve. The program also suggests that courts will attempt to limit the of advisory opinions to general questions of law rather than determinations of facts.

### *Internal Reforms*

#### **Reforms to Court Financing**

The program directs court officials to explore national financing for the court system and including court finances within provincial and national financial systems. Local government control over court finances limits the independence of Chinese courts because such control makes courts [dependent for support](#) on the same government officials who appear before them as defendants.

#### **Reforms to Adjudication Committees**

Adjudication committees comprising court presidents and other administrative personnel are the highest authority in each court. These committees can serve as vehicles for external and internal actors to substitute their wishes for the decisions of trial judges, a practice which challenges judicial independence, as discussed in Section V(c) of the Commission's 2005 Annual Report on [China's Judicial System](#), and Section V(c), "The Judicial System," in the Commission's [2003 Annual Report](#).

The program allows HPCs and IPCs to establish specialized adjudication committees to handle criminal and civil/administrative cases. It also instructs courts to reform adjudication committees procedures to use hearings, rather than closed-door meetings, to decide cases.

#### **Improvements in Juvenile Justice**

The program stresses the need to improve the juvenile criminal system and procedures for handling civil cases affecting the rights of juveniles. It provides for the establishment of experimental youth courts in selected cities.



*Supervision of the Judiciary***Allowing Local Prosecutors to Participate in Court Adjudication Committees**

The program directs courts to explore systems in which representatives of the local procuratorate can participate in judicial adjudication committees in courts of the same rank. Since adjudication committees are the highest authorities in each court, and prosecutors represent the government, this proposal raises issues of judicial independence and possible conflicts of interest.

**Implementing National People's Congress (NPC) Decisions Regarding the People's Assessors System**

The program directs courts to implement fully previous NPC directives regarding the establishment of a system of people's assessors, who are ordinary citizens selected by court personnel as lay assessors. In 2005, Chinese authorities [launched](#) an effort to regularize this practice. Chinese authorities have promoted this practice as an anti-corruption method that allows popular supervision of the judiciary.

**Reforms to Local People's Congress (LPC) Supervision of Courts**

The program directs local officials to strengthen court systems for receiving criticism and recommendations from LPCs. The ability of LPCs to intervene in and supervise court decisions allows parties a method of applying external pressure on courts to decide cases in their favor. For more information, see Section V(d), [China's Judicial System](#), of the Commission's 2004 Annual Report.

**Increased Use of Responsibility Systems**

The program also calls on local officials to strengthen the use of responsibility systems to supervise and manage the judiciary. These systems link the career advancement of judges to specific criteria, such as case closure ratios or rates of reversal on appeal. The program also calls on officials to standardize and strengthen the evaluation system used to assess judicial performance.

The explicit reference to responsibility systems in the five year program parallels a requirement in new national regulations on citizen petitioning that the State Council issued in 2005 and language in a [November 2, 2005, SPC announcement](#) requiring courts to respond to citizen petitions. This parallel requirement suggests that central authorities are increasing their top-down management of officials across multiple government organizations.

*Party-Led Reforms To Address Social Unrest***Strengthening Rural Courts**

The program directs judicial officials to improve the funding and professionalization of people's tribunals, the township (and lowest) level of the Chinese judiciary. Supreme People's Court President Xiao Yang linked such improvements to core Party goals of establishing a "harmonious society" and increasing the Party's "governance capacity," according to a January 24 China Court [article](#). In December 2005, the general offices of the State Council and Communist Party issued a [joint opinion](#) setting the reduction of the number of "mass incidents" such as strikes, marches, demonstrations, and collective petitions as a priority for 2006.

**Strengthening the Enforcement of Court Judgments**

The five year program includes extensive discussion on the need to address non-enforcement of court judgments. While the program contains few details, a January 23 [Party circular](#) suggests that a Party-led campaign will be the principal vehicle for such reforms, and is tied to official concern about mounting social unrest.

**Shenyang City Government Revokes Reforms to Temporary Residence Permit System**

Municipal authorities in Shenyang city, Liaoning province, will revoke reforms to the system of temporary residence permits that they adopted in July 2003, according to a December 14, 2005, [article](#) in the People's Procuratorate Daily. The head of the Shenyang Public Security Bureau (PSB) confirmed that labor officials are in the process of drafting new regulations to reinstate the requirement that migrants obtain a temporary residence permit to live and work in the city. In 2003, the Shenyang government abolished its existing temporary residence permit system in favor of a new system that only required migrants to sign in with local PSB authorities upon arrival in the city.

The government decision to end the temporary residence permit requirement between 2003 and 2005 had limited practical effect on the situation of migrants, according to the article. Migrants continued to face discrimination in employment, education, and health services. Employers continued to make jobs conditional on a person's place of hukou (household) registration. Banks required migrants seeking to purchase houses both to go to PSB authorities to obtain a "statement of temporary residence" and to locate a guarantor with a local hukou. Migrants interviewed for the article indicate that few individuals actively attempted to sign in with the PSB as required. PSB sources suggest this has led to a deterioration of their ability to monitor and control Shenyang's migrant population.

Central government authorities apparently pressed Shenyang officials to revoke the reforms. The article cites unnamed sources as saying that provincial PSB authorities wish to "standardize" the management of migrants and that the original Shenyang reforms may have been excessively "sudden." The Shenyang PSB head announced that the policy shift has been made to comply with the Liaoning provincial government's May 24, 2005, [Circular on Improving Conditions for Farmers](#)

[Entering Cities to Work](#). Both that circular and an earlier December 27, 2004 State Council [circular](#) instruct local officials to simplify administrative approvals for rural migrants who seek work in the cities, eliminate registration requirements specifically directed at migrants, and "manage [the migrant population] through the use of the temporary residence permit system alone."

Chinese officials appear to be pursuing residency reforms both to strengthen their supervision of Chinese migrants and to address discrimination against them. A December 2005 joint Communist Party and State Council opinion [instructs](#) local officials not only to develop new systems to monitor migrants but also to improve the treatment of migrants. [National](#) and [local](#) authorities have taken some steps to remove barriers to urban employment for migrants, pursuant to the 2004 State Council circular that directs officials to do so.

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## Officials Harass Protestant House Churches, Leaders

Chinese officials in Beijing municipality and Jilin province disrupted two Protestant house church services and briefly detained one house church leader in separate incidents in late 2005 and early 2006, according to a January 16 [report](#) of the China Aid Association (CAA), a U.S. NGO that monitors the religious freedom of house church Protestants.

- Officials detained and questioned Jin Tianming, a Protestant house church pastor in Beijing, in late December 2005, releasing him after one night of detention.
- On January 4, 2006, officials in Changchun city, Jilin province, disrupted a Protestant house church service, ordering the members to move the service to a government-approved Protestant church. Officials interrogated Cui Guojun, the church's pastor, for three hours before releasing him.
- On January 8 and again on January 15, 2006, officials harassed members of the Beijing Ark House Church, a small, 20-30 member house church in the Chinese capital attended by some prominent Chinese intellectuals and lawyers. Officials have pressed the leaseholder of the place where the church meets to end the gatherings of believers. An official beat one house church member who videotaped the harassment, but CAA reports no detentions in this incident. Members of the Beijing Ark House Church include Gao Zhisheng, the well-known human rights lawyer, who published a [report](#) on January 15, 2006, on the CAA Web site about the government persecution against him and about the raids earlier in the month on the Ark House Church.

The number of detentions of Protestant house church leaders and unregistered Catholic clerics has increased markedly since September 2005. For example, in November 2005, officials detained [four groups of unregistered Protestants](#) and [five groups of unregistered Catholics](#). The late December and early January incidents described above suggest that low-level harassment, such as raids on house churches coupled with brief detentions of pastors, may also increase during 2006.

For more information on Protestants in China, see the [CECC 2005 Annual Report](#), Section III(d).

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## Ministry of Public Security Reports Rise in Public Order Disturbances in 2005

Public order disturbances in China increased during 2005, according to Ministry of Public Security (MPS) statistics released in a January 19 [news release](#) and January 20 [News York Times](#) and [South China Morning Post](#) articles. Crimes of "disturbing public order" rose by 6.6 percent over 2004, to 87,000. "Interferences with government functions" increased by 18.9 percent, while incidents of "mass gatherings to disturb social order" rose by 13 percent.

The MPS statistics on public order disturbances reflect a general increase in social unrest in China. In July 2005, Public Security Minister Zhou Yongkang [said](#) that "mass protests" or "mass incidents," including riots, demonstrations, and collective petitions, had risen from 58,000 in 2003 to 74,000 in 2004. The MPS use of different terms, "mass incidents" and "public order disturbances," in the two sets of statistics complicates direct comparisons between them.

The increase in social unrest reflects a range of citizen grievances, including citizen protests linked to land disputes, labor issues, and environmental pollution. In a December 29 speech reported in a January 19 Xinhua [article](#), Premier Wen Jiabao noted that official failures to provide farmers with adequate compensation for land seizures has generated "mass incidents" that pose a "significant problem for social order." Weak protection of labor rights and worker discontent over wages and benefits [resulted](#) in a rise in mass labor disputes from 1,482 in 1994 to 11,000 in 2003. In 2005, villagers in Zhejiang province engaged in a series of [mass protests](#) against environmental pollution created by local factories.

Despite increasing unrest, Communist Party officials [rule out](#) significant political reform as a response, instead emphasizing the need to [strengthen Party controls](#) over society and government. For more information, see section II of the Commission's 2005 Annual Report, [Growing Social Unrest and the Chinese Leadership's Counterproductive Response](#).

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## Limited Political Reforms in One Zhejiang County Help Check Local Abuses

[Limited political reforms](#) in Wuyi county, Zhejiang province, that allow a degree of popular political participation have helped check local abuses, according to a December 7, 2005, [report](#) in the 21st Century Business Herald. Implemented over the past three years, the reforms have been limited in content and local officials have resisted some of the changes.

Nonetheless, the reforms represent a positive effort to introduce a degree of independent citizen political participation in one Chinese locality.

County officials have allowed the creation of "Village Affairs Supervision Committees" with veto power over Communist Party branch and village committee financial decisions. Supervision committee members are selected through direct election, and neither Party branch and village committee members nor their relatives may serve on the supervision committees. The article notes that in some villages, this rule has resulted in the rejection of Communist Party members who have sought the post in favor of the election of experienced petitioners who have challenged unpopular government decisions. A January 31, 2005, Wuyi News [article](#) appearing on the Wuyi government Web site notes that the reforms seek to carry out the June 22, 2004, Communist Party and State Council "[Joint Opinion on Perfecting Transparency in Village Affairs and Democratic Management.](#)"

Wuyi officials have implemented the reforms as a means to address local governance problems. The reforms began in 2003 as an experimental project in one village that suffered from endemic corruption scandals, and had more citizen grievance petitions filed with authorities than any other village in the county. Village leaders obtained support for the experiment from the head of the county discipline committee, which has since sponsored expansion of the program to the 558 villages in Wuyi county.

The reforms have helped limit official corruption and have provided a channel for citizen political participation, according to the 21st Century Business Herald article. The article notes that citizens attempt to use the supervision committees to check the power of local officials. The committees also create pressure on local officials to limit local government expenses as well as the opportunity for corruption. For example, in the year following adoption of the new system in the first village to implement it, local government funds spent on entertaining higher level officials amounted to less than 1/12 of the amount spent during the previous year, according to the article.

The Wuyi reforms remain limited in scope and have [encountered resistance](#) from local officials. Supervision committees remain dependent on the support of individual political leaders, particularly the head of the county discipline commission. Local officials also have watered down efforts to expand the system. In at least one village, citizens have alleged that only Party members are permitted to serve on the supervision committee.

The Wuyi reforms represent a positive development because they seek to introduce into local governance in China elements of independent citizen political participation and checks on official power. As noted in section V(d) of the Commission's 2005 Annual Report, [Democratic Governance and Legislative Reform](#), local political power is often concentrated in the hands of a few key Party officials. This concentration gives rise to abuse and corruption. Experiments such as those in Wuyi county may help create mechanisms for citizens to address these problems, participate in the decisions that affect their lives, and exert pressure on local officials to engage in broader political reform.

## **New Religious Exchange Association Disseminates Government Views of Religion**

Government officials, religious leaders, and scholars met on December 30, 2005, to announce the establishment of the China Religious Culture Communication Association (CRCCA), according to a [report](#) posted on the Web site of the State Administration for Religious Affairs (SARA) and an [article](#) posted on Xinhua's English-language Web site. The CRCCA is a non-profit social organization led by SARA Director Ye Xiaowen that seeks to promote religious exchanges and cooperation between China and other countries.

CRCCA honorary chairman Bishop Fu Tieshan, who is also vice chairman of the Standing Committee of the National People's Congress, chairman of the Catholic Patriotic Association, and acting chairman of the Chinese Catholic Bishops Conference, [remarked](#) that the establishment of the association will help disseminate accurate information about religion in China and China's policies on freedom of religious belief. He asserted that "hostile forces" in the West have attacked China's religious policies and distorted information about religious conditions in China.

The Chinese government permits religious practice within officially recognized organizations subject to state control. It controls contact between Chinese religious groups and overseas organizations as part of its supervision of religious affairs. The Catholic Patriotic Association, the official organization through which the government controls Catholic religious practice, [prevented bishops](#) from attending an October 2005 Synod in Rome, but in May of that year a [Protestant delegation](#) took part for the first time in a World Council of Churches conference. The government monitors contact between Tibetan Buddhists in China and Tibetan Buddhist organizations outside the country, especially monasteries and nunneries of the Gelug tradition closely associated with the Dalai Lama, and Chinese authorities may [punish](#) Tibetans who return to China carrying Buddhist materials featuring the Dalai Lama's image or his religious teachings. The [Regulation on Religious Affairs](#) calls for China's national Islamic organization to organize Chinese Muslims' overseas pilgrimages, and authorities reportedly have [stopped](#) some pilgrims from making pilgrimages on their own.

Chinese citizens who worship outside of official organizations risk detention, arrest, and abuse. The CRCCA's establishment came days after authorities raided two Christmas services in the Xinjiang Uighur Autonomous Region and [detained](#) house church leaders there.

For more information on religious freedom in China, see [Section III\(d\)](#) of the 2005 CECC [Annual Report](#).

## Guangzhou Officials Release Activist Guo Feixiong

Guangzhou city officials released rural issues activist Guo Feixiong without charge on the exact date of their [legally mandated deadline](#), according to a December 28 [report](#) by Radio Free Asia (RFA). Authorities formally arrested Guo Feixiong, whose true name is Yang Maodong, on October 4, 2005, for "gathering people to disturb public order," a crime under Article 290 of China's [Criminal Law](#). The Panyu District People's Procuratorate issued its [Decision Not to Prosecute](#) on December 26, 2005 (posted by the Boxun Web site) and noted that public security officials had completed a supplementary investigation and resubmitted their findings to the procuratorate on November 27, 2005. The December 26 decision stated: "This procuratorate believes that criminal suspect Yang Maodong carried out the behavior set forth under Article 290, Paragraph 1 of the Criminal Law of the People's Republic of China, but that the circumstances were minor. In accordance with Article 37 of the Criminal Law of the People's Republic of China, there is no need to administer criminal punishment."

The charge against Guo arose in connection with his efforts to provide legal advice to the villagers of Taishi village, Guangzhou city, in their [recall campaign](#) against an allegedly corrupt village committee head. On September 12, 2005, about 1,000 public security officials clashed with villagers and [took into custody](#) nearly 50 individuals, including Guo. Officials released the six Taishi villagers who remained in detention along with Guo, according to RFA. Guo told RFA (in a taped interview available on the RFA [Web site](#) and transcribed by [Boxun](#)) that local authorities have continued to use "mafia tactics," including threats and violence, against Taishi villagers. Beijing lawyer Gao Zhisheng, head of the Beijing Shengzhi Law Firm where Guo worked as a legal consultant, speculated that officials released Guo due to a lack of sufficient evidence and called their decision to hold Guo until the last minute "the last resort of the mafiosi." The Beijing Justice Bureau [shut down Gao's law practice](#) in November 2005, and a December 14 RFA [report](#) hinted that the Guangzhou Justice Bureau may have contributed to the firing of Guangzhou lawyers Tang Jingling and Guo Yan from their respective law firms. All three lawyers contributed to Guo Feixiong's criminal defense case.

Guo's release has generated optimistic and emboldened responses from some Chinese activists. The Independent Chinese Pen Center (ICPC) issued a [statement](#) on December 28 commending efforts by local authorities to resolve Guo's case in accordance with the law. At the same time, ICPC also used the occasion to call for greater protection of citizen rights and the release of all prisoners of conscience. ICPC has also called for an investigation into the conditions of Guo's detention. Since his release, Guo has posted through Boxun his own [Letter to Guangdong Provincial Government Agencies Reporting "Forced Labor" While in Prison](#), dated November 20, 2005. Guo's letter describes a widespread, organized system of forced labor in the detention center where authorities held him. Guo also accuses the Panyu district government of organizing and deriving profits from the system of forced labor, and calls for a province-wide investigation into similar conditions in detention centers and prisons throughout Guangdong province.

Several reports following Guo's release from detention provide background on the Taishi conflict and liken the string of events there to the [clash between villagers and authorities in Dongzhoukeng village, Shanwei city](#). A December 27 article by [Reuters](#) noted that both villages lie 210 kilometers apart in Guangdong. According to Reuters, "even the booming Pearl River Delta region that neighbours Hong Kong is experiencing spreading protest." The CECC's [2005 Annual Report](#) included an introductory section on [Growing Social Unrest and the Chinese Leadership's Counterproductive Response](#). As protests continued over the issue of land confiscations in Guangdong (in December), as well as in [Xi'an](#), Shaanxi province (in November) and [Chengdu](#), Sichuan province (in October), some human rights lawyers have questioned the effectiveness of the central government's response. The National People's Congress (NPC) will deliberate this year on a draft "Law on Handling Sudden Incidents," due for passage in June 2006, according to a December 28 [article](#) by Xinhua (via the NPC Web site). Beijing lawyers Gao Zhisheng and Chen Yongmiao question whether the law will focus on quashing incidents (like the one in Dongzhoukeng) rather than settling them, according to a December 29 [article](#) by Kyodo. The Chinese government's continued restrictions on Beijing lawyer [Zhu Jiuhu](#) and Shanghai lawyer [Zheng Enchong](#) underscore the politically sensitive nature of their roles as property rights advocates and the government's desire to maintain control over the nation's property markets.

## Jiangxi Party Authorities Support Judicial Independence, but Under Party Control

The Jiangxi Provincial Party Committee has issued a "Decision on Strengthening the Work of Courts and Procuratorates," according to a January 17 [article](#) appearing on the China Court Web site. The Decision calls on Party officials to support a degree of judicial independence, but to continue the Party's control over the selection of top personnel in each court.

The Decision calls on local Party committees to protect independent judicial decisionmaking and guard against local protectionism. It also warns local Party committees against organizing court personnel to support activities to attract investment in the local economy, and requiring them to participate in campaigns to enforcement government decisions.

In addition, the Decision emphasizes the need to strengthen the "dual management" aspect of selecting top court officials. Under the Decision, provincial high people's courts and Communist Party political-legal committees choose the presidents of intermediate people's courts (IPCs) from a list of eligible candidates. These bodies must first consult, however, with the local Party committee of the administrative area where the IPC is located. Similar procedures govern the selection of basic level people's courts, and similar consultations between local Party committees and higher level courts must precede the selection of court vice presidents.

## Chinese Authorities Crack Down on Progressive Newspaper Publisher

The Communist Party's Propaganda Department appears to have ordered the removal of several editors from publications of the Southern Daily Press Group during the last week of December 2005, according to reports in Hong Kong and Western news media citing sources in China. Based in Guangzhou city in Guangdong province, the Southern Daily Press Group is one of China's most progressive and reform-oriented newspaper publishers. The Hong Kong and foreign press accounts say that Communist Party propaganda officials removed several editors from the Southern Metropolitan Daily and the Beijing News, both part of the Group.

### *Southern Metropolitan Daily*

The Southern Metropolitan Daily dismissed Xia Yitao as deputy editor-in-chief during the last week of December, according to a December 29 Reuters [report](#) citing unnamed media industry sources. According to a December 30 article posted on the Web site of Hong Kong's Ming Pao, the Southern Daily Press Group announced the dismissal on December 27. The announcement cited a Southern Metropolitan Daily front page article that reported that Guangdong Vice Governor You Ningfeng had been given a demerit because of the Xingning coal mine disaster. The Ming Pao report cited an unnamed reporter at the Southern Metropolitan Daily as saying that, although Xinhua was the first to announce the information, their paper put the story on the front page with the headline: "Where Are the Feelings Between Parental Officials? This is too immature." On December 31, the Zaobao Web site (which is published by Singapore Press Holdings Ltd.) quoted a source at the Press Group as saying that the provincial Communist Party Propaganda Department was already extremely upset at a September 12, 2005, report in the Southern Metropolitan Daily. The report concerned [a campaign by residents of Taishi village](#), Guangzhou city, to remove village committee head Chen Jinsheng. According to the Zaobao source, the provincial Propaganda Department subsequently ordered provincial news media to cease reporting on the matter.

### *The Beijing News*

On December 28, the Communist Party Propaganda Department removed the editor-in-chief and two other top editors at the Beijing News as part of an effort to curb the newspaper's aggressive style, according to a December 31 Wall Street Journal [article](#) (subscription required). The report cited Pu Zhiqiang, a prominent Chinese lawyer whom the Journal said is a friend of one of the dismissed editors. Pu also said the newspaper's opinion section was told to suspend publication, according to a December 30 Associated Press report. Several sources, including [Reporters Without Borders](#) and Taiwan's [China Times](#) (in Chinese), have speculated that editor-in-chief Yang Bin and the two deputy editors, Sun Xuedong and Li Duoyu, were removed to permit the management of the Guangming Daily, which holds the controlling interest in the Beijing News, to take over day-to-day management of the paper from the Southern Daily Press Group. The Guangming Daily is a publication of the Communist Party Central Committee.

### *Background*

In November 2003, a China Central Television [report](#) (via the State Council Information Office's China.org) labeled the Southern Daily Press Group a "press reform pioneer." The Beijing News was founded in 2003 as a venture between the Beijing based Guangming Daily and the Southern Daily Press Group. According to an announcement about the launch of the Beijing News published on the [People's Daily Web site](#) (in Chinese) in November 2003, the Guangming Daily is sponsored by the Communist Party Central Committee and managed by the Communist Party Central Propaganda Department, and the Southern Daily Press Group is run by the Guangdong Communist Party Provincial Central Committee. The Guangming Daily consistently follows the Party's line, while the Southern Daily Press Group's publications tend to be more commercially-oriented and willing to test Chinese censors.

Chinese authorities have attempted to curb the aggressiveness of Southern Daily Press Group publications several times since 2003.

- In [March 2003](#), Chinese authorities suspended publication of the 21st Century World Herald after it published an article referring to democracy in China as "fake" democracy.
- In [April 2003](#), Chinese authorities removed the editor-in-chief of the Southern Weekend, and replaced him with Zhang Dongming, a former director of news media at the Guangdong Propaganda Department. Zhang had a personal role in the central government's attempt to [restrict reporting of the 2002/2003 SARS outbreak](#), according to a May 4, 2003 Financial Times [article](#) (via taiwansecurity.org).
- In [January 2004](#) Chinese authorities detained several senior editors and managers at the Southern Daily Press Group, and charged two with economic crimes. Many scholars and citizens in China objected that the charges were without legal basis, and that Guangdong authorities exploited China's immature financial regulatory system and the news media's quasi-governmental status to punish the editors of a newspaper that had embarrassed the provincial leadership.

The Associated Press reported that, at a news conference on December 30, Cai Wu, head of the [State Council Information Office](#), answered a question from a Beijing News reporter about how China could encourage growth of new media by saying that newspapers must pay attention to the "social and economic effects" of their reporting. Cai also said that journalists

"must play their due role to educate and provide proper guidance to the people," and "must follow discipline and rules and regulations."

Full Analysis >> <http://www.cecc.gov/pages/virtualAcad/newsletterListing.phpd?NLdate=20060203&show=ALL#id36178>

## Popular Magazine Changes Format to Avoid "Politically Sensitive Issues"

The Beijing-based monthly magazine People [Bai Xing], has toned down its outspoken style and removed the "Recording China in Change" slogan from its cover, according to a December 30 South China Morning Post (SCMP) article. A December 29 Voice of America (VOA) [report](#) (in Chinese) quoted a "knowledgeable person" at Bai Xing as saying that "the slogan did not have any political meaning, but we were not willing to touch politically sensitive issues, so we are doing our best to keep a distance from certain politically sensitive issues." The SCMP quoted Bai Xing editor Huang Liangtian as saying: "we are required to focus more on culture and lifestyle topics." Huang told the Epoch Times that "higher ups" had demanded that the magazine change its cover, columns, style, and content, but no personnel changes were planned, according to a January 5 [report](#) on the Epoch Times Web site.

The South China Morning Post article noted that the magazine was known for its "detailed investigative stories from around the country and radical comments, which have displeased authorities." Some examples include:

- In June 2005, the magazine published a [report](#) on how the government of impoverished Taikang county in Henan province spent large sums of money on building a town square, and did not compensate villagers for the land acquisition. The following month, the magazine published a [letter](#) from the county government demanding the magazine apologize, claiming the article was a "malicious attack" that had "not only harmed the image of the Taikang County Communist Party Central Committee and the government, but also harmed the image of the entire Party and government."
- In September 2005, propaganda department officials in Gengtai city, Hebei province, ordered public security authorities to detain two Bai Xing reporters for several hours, claiming their credentials were false, according to a September 13, 2005, Radio Free Asia [report](#). The reporters had just completed interviewing an official at a toll gate on a Nanhe county road about whether he was authorized to collect tolls.

Various sources, including the SCMP and [Boxun](#), reported that Bai Xing was ordered to close its Web site, which carries the publication's reports and public feedback. Both Huang and VOA's unnamed source denied this was the case, however, and the Web site - [bai-xing.net](http://bai-xing.net) - was accessible as of January 15.

Reports on this incident have been unclear about whether the source of the magazine's decision to move away from politically sensitive content was a direct order from the government or the Party, or a decision by the magazine's management to self-censor. Chinese laws do not provide clear guidance about what kind of political or religious expression is illegal. For example, regulations prohibit publishing or disseminating anything that "harms the honor of China," but no legislative or judicial guidance exists to guide publishers as to what constitutes a violation of this prohibition. Instead, Chinese authorities rely upon detaining writers, indoctrinating publishers, and banning publications to encourage companies, institutions, and individuals to "choose" not to use certain words or publicize certain views that a government official might deem politically unacceptable. For more information on the pressure to self-censor in China, see the Commission's [2005 Annual Report: III\(e\) Freedom of Expression -- Self-Censorship](#).

## Falun Gong Practitioner Charles Lee Released, Expelled to the United States

Falun Gong practitioner Charles Lee arrived in San Francisco on January 21 after Chinese authorities released him from prison and expelled him from China upon completion of his three-year sentence, according to a Radio Free Asia [report](#) (in Chinese) and a Falun Dafa Information Center [news release](#) (in Chinese) dated the same day.

Chinese authorities detained U.S. citizen Charles Lee, a Falun Gong (FLG) practitioner, in Guangzhou municipality, Guangdong province, on January 22, 2003, formally arrested him on January 29, and indicted him on March 5, according to reports from [Xinhua](#) appearing on the Ministry of Justice Web site (in Chinese), [Reporters Without Borders](#), and the [Friends of Falun Gong](#). Lee [admitted](#) in court that, as alleged by the procuratorate, he intended to interfere with cable television transmissions in Yangzhou city, Jiangsu province, in October 2002; his goal was to broadcast messages on Chinese government persecution of FLG practitioners. On March 21, 2003, the Yangzhou Intermediate People's Court sentenced Lee to three years in prison for "sabotaging broadcast and television facilities," a crime under Article 124 of the [Criminal Law](#). Lee denied any intent to "sabotage" equipment. Credible reports suggest that prison authorities subjected Lee to both mental and physical abuse because of his Falun Gong beliefs. U.S. consular officers met with Lee several times during his imprisonment, pursuant to the provisions of a bilateral consular convention.

Lee said he was beaten, deprived of sleep and food, and handcuffed in painful positions during his prison sentence, according to a January 24 International Herald Tribune [report](#). Lee also said, "I'm also concerned and worried because the persecution is still going on and there are so many practitioners who have been physically and mentally tortured."

## Li Jinping Detained Twice for Attempting to Commemorate Zhao Ziyang's Death

Authorities in Beijing detained Li Jinping on January 8 and also placed dozens of people who were were planning to gather at his home under house arrest, according to January 9 reports from the Associated Press and Agence France-Presse. Reuters had [reported](#) on January 3 that Li planned to hold a private ceremony on January 9 at his home to commemorate the first anniversary of the death of former Communist Party General Secretary Zhao Ziyang. The Communist Party purged Zhao in 1989 after he opposed the decision to use force to quell the Tiananmen Square democracy protests. Li was one of several people that Chinese authorities [detained](#) in the wake of Zhao's death in January 2005. Chinese authorities used [technical blocks](#) and [political pressure](#) to censor news reports on Zhao's passing.

Authorities released Li on January 10, but detained him again on January 13, according to reports from [Radio Free Asia](#) (in Chinese) and the [Epoch Times](#) on January 16 and 17, respectively. Authorities released him on January 20, but had posted police outside his home, according to a January 24 Epoch Times [report](#) (in Chinese).

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## Li Changqing Gets Three Years Imprisonment for Reporting Disease Outbreak

The Gulou District People's Court in Fuzhou city, Fujian province, sentenced Li Changqing, a deputy director at the Fuzhou Daily, to three years imprisonment for "reporting for the U.S.-based Chinese-language news portal Boxun that an outbreak of [dengue fever] had infected more than 100 people in Fujian in 2004," according to a January 25 Reuters [report](#) citing Li's lawyer, Mo Shaoping. Public security officials previously placed Li under residential surveillance on January 20, 2005, and formally arrested him on February 3, 2005, for "inciting subversion of state power," a crime under Article 105 of the [Criminal Law](#). When the government indicted Li on December 30, however, the charge was "intentionally disseminating terrorist information while clearly knowing that it is fabricated, thereby seriously disturbing public order," a crime which was added as Article 291(a) in the [Third Amendment](#) to the Criminal Law adopted on December 29, 2001. Li was tried on January 19.

Mo said that authorities initially denied his requests to see Li, citing a regulation against visits to prisoners whose cases involve state secrets, according to a January 20 Washington Post [report](#). They did, however, allow Mo to meet with Li twice after they changed the charge.

According to the Washington Post, Li told the court that his interrogators never asked him about the crime he was charged with, and instead focused on articles he published regarding Huang Jin'gao, a whistleblower who exposed massive government corruption in Fujian, and who Fujian authorities detained several days before Li. Authorities accused Li of helping Huang write an open letter describing death threats that he said forced him to wear a bulletproof vest, according to a January 19 [press release](#) from the Committee to Protect Journalists. In November 2005, the Intermediate People's Court in Nanping city, Fujian province, [sentenced](#) Huang to life imprisonment for corruption. Mo told the Washington Post: "From the beginning, the only thing they wanted was to punish Li for writing so many articles in favor of Huang."

The Washington Post said Li told the court that the dengue fever report was written by people who run the Boxun Web site, with his information serving only as a tip, and that the report turned out to be true. Boxun [reported](#) on January 17 that it had received an anonymous report on an outbreak of dengue fever in Fuzhou. The author reported more than 20 cases, according to Boxun. Boxun performed additional research indicating that the number of cases was higher, and on October 13, 2004, it published a [report](#), entitled "Dengue Fever Breaks Out in Fuzhou, Over 100 People Infected, the Government Endeavors to Cover it Up, Causing Citizens to Panic." Only after Boxun published its report did China's state run media and government officials begin reporting on the outbreak:

- On October 15, Xinhua [reported](#) (in Chinese) that as of October 13, there were 30 cases of dengue fever in Fujian.
- On October 15, the China Youth Daily published an [article](#) (in Chinese) entitled "How Many Days Late Was Fujian's Report on Dengue Fever?" pointing out that there were an additional 18 suspected cases, and questioning whether "utilizing propaganda sources to leak out drops of information in one locale" was the appropriate method to disseminate information about the disease outbreak.
- In an April 10, 2005, [speech](#) (in Chinese), Chen Wenjia, deputy director of Fujian's health bureau, said that during 2004 Fujian province had 94 cases of dengue fever.

Based on these reports, it would appear that neither Li's nor Boxun's reports regarding the number of dengue fever cases was materially inaccurate.

Chinese authorities have attempted to cover up outbreaks of infectious disease in the past. As the CECC noted in [Section III \(c\) - Free Flow of Information](#) of its [2003 Annual Report](#), in December 2002, health care workers in Guangdong province began noticing people coming in with "atypical pneumonia," and by early January 2003 people were already engaged in panic buying at drug stores because of rumors of a "mystery epidemic." Chinese authorities [did not begin to allow reporting on the SARS crisis](#) until the disease began killing people in Hong Kong. In response to their cover-up and mishandling of the SARS crisis, Chinese authorities dismissed some senior officials and enacted regulations to discourage provincial and local officials from concealing information from the central government. These reforms were not intended, however, to relax the government's control over the news media or the free flow of information to the general public. Rather, the goal was to increase the flow of information to central authorities in Beijing, control how the press reported on the matter, and prevent

private citizens from publishing opinions regarding the government's handling of the crisis. For additional information on this issue, see the CECC Topic Paper: [Information Control and Self-Censorship in the PRC and the Spread of SARS](#).

In responding to avian flu outbreaks in poultry stock across China, as well as a growing number of human cases, Chinese health authorities have assured the public and international health officials that they have learned from SARS. Speaking in Washington, D.C., Qi Xiaoqi, director of the Chinese Center for Disease Control and Prevention, explained that, "from SARS, we see that no . . . information can be hidden," according to a November 1, 2005, report by the Associated Press. Chinese health authorities have reported avian flu outbreaks in poultry stock to international health officials in a generally timely fashion, as well as issued [regulations](#) to ensure accurate domestic reporting.

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## Officials Detain Catholic Priest in Hebei Province, Move Bishop to Unknown Location

Officials detained Wang Wenzhi, an unregistered Catholic priest of Yongnian diocese in Hebei province, on December 11, according to a January 4 [report](#) of the Cardinal Kung Foundation (CKF), a U.S. NGO that monitors the religious freedom of Chinese Catholics. Security officials detained Father Wang after he finished celebrating Mass in the private home of a Catholic believer in Fengfeng city. Officials have pressured him to register with the Catholic Patriotic Association, the organization through which the government controls the registered Catholic community. The CKF reported that officials are holding Father Wang in the Guangping county detention center, while a January 5 AsiaNews [report](#) said that Father Wang is being held in a hotel.

The Cardinal Kung Foundation also reported the disappearance of Bishop Han Dingxiang, the unregistered Catholic bishop of Yongnian diocese in Hebei province. According to the CKF, officials detained Bishop Han in [1999](#). Officials held Bishop Han in a government-run hostel, but have now transferred him to an [unknown location](#). Bishop Han is one of three Catholic bishops whose whereabouts are unknown. The others are Bishop [Su Zhimin](#), the unregistered bishop of Baoding diocese in Hebei, who has been missing since 1997, and Bishop [An Shuxin](#), Su's auxiliary bishop, missing since 1996. In November 2005, officials detained [five groups of Catholic clerics](#) in Hebei.

For more information on Catholics in China, see the [CECC 2005 Annual Report](#), Section III(d).

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## Court Sentences Shaanxi Investor Feng Bingxian to Three Years Imprisonment

The Jingbian County People's Court in Yulin city, Shaanxi province, has sentenced private investor Feng Bingxian to three years imprisonment for "gathering a crowd to disturb public order," a crime under Article 291 ([amended](#) in December 2001) of the [Criminal Law](#), according to a January 5 Radio Free Asia (RFA) [report](#). The court identified Feng as the principal leader and organizer of a group of private investors whose oil fields the municipal governments of Yulin and Yanan seized in 2003. The court also sentenced private investors Feng Xiaoyuan (no relation to Feng Bingxian) and Wang Shijun, but released them on January 5 and suspended their sentences for three years because they showed remorse and cooperated in the investigation, according to a January 6 [report](#) in the South China Morning Post (subscription required). The [21st Century Business Herald](#) and [Boxun](#) both noted that, at the conclusion of the proceedings, Feng Bingxian reserved his right to appeal.

According to the RFA report, the court did not notify criminal defense lawyer Mo Shaoping about his client's sentencing. Reports also indicated that the court failed to inform Feng's family about his sentencing date, and that Feng's son was the only non-government representative allowed to attend the proceedings. Feng's son told RFA that the court judgment relied strongly on the local procuratorate's case, and that the procuratorate's evidence consisted almost entirely of notes from public security interrogations of individual private investors. An earlier RFA [report](#) (via Epoch Times) from Feng's December 26, 2005, trial proceedings also suggested that the court has restricted access by outsiders to various stages of Feng's criminal process. Feng pleaded not guilty at his December 26 trial and requested that both the court and head procurator Wang Minglang recuse themselves from the trial, because of potential bias and previous involvement in the dispute over the oil field seizures. In a detailed [analysis](#) of Feng's case, The Economic Observer reported that representatives of the court and procuratorate maintained that their involvement in the separate administrative lawsuit was "unrelated to this [criminal] case." They refused Feng's request for recusal and transfer to a jurisdiction outside Shaanxi province. Both RFA and [Reuters](#) noted that court personnel closed the December 26 proceedings to media representatives and about 100 private investors who wished to show their support for Feng.

Sources close to Feng's case, including his criminal defense lawyer and fellow private investors, have highlighted the questionable use of the Criminal Law to shut down enforcement of private property rights that are recognized under Chinese law and enshrined in the language of [2004 Amendments](#) to the Chinese [Constitution](#). Despite the guarantee under Article 13 of the Constitution that "the lawful private property of citizens is not to be violated," recent [corruption scandals implicating China's top leadership](#) have confirmed the continuing abuse of government authority in land deals. In late 2005, government response to citizen efforts to enforce their property rights led to the violent suppression of protests in the villages of [Dongzhoukeng](#) and [Taishi](#), Guangdong province. Government officials have also detained numerous property rights activists, including Beijing legal expert [Guo Feixiong](#) and Fujian rights activist Huang Weizhong (whose case has received coverage from [RFA](#)), on the basis of similar accusations of "gathering people to disturb public order." Mo Shaoping's [defense pleading](#) (posted by Boxun) emphasized that in Feng's case, the procuratorate could prove neither a



criminal intent to disturb public order nor "serious circumstances" deserving of criminal punishment under Article 291. In an [Appeal to President Hu Jintao, Premier Wen Jiabao, and All Segments of Society Regarding Prosecution of Four Representatives Feng Bingxian Et Al.](#) (posted by Boxun), fellow private investors highlighted that Feng had encouraged them to avoid violent and otherwise criminal behavior, and resort only to the law in enforcing their property rights.

Recent CECC reports reflect that rights activists who challenge the Chinese government's abuse of power continue to be charged with vaguely defined crimes. In December 2005, the UN Special Rapporteur on Torture [called on](#) the Chinese government to "abolish imprecise and sweeping definitions of crimes that leave large discretion to law enforcement and prosecution authorities such as 'endangering national security,' 'disrupting social order,' 'subverting public order,' etc." For more information on the application of vague criminal and administrative provisions to detain Chinese citizens for political offenses, see the CECC's analysis on [Political Crimes](#), in Section III(b) of the [2005 Annual Report](#). For more information on Feng's case, see the CECC's analyses of his [detention in July 2005](#) and his [indictment in October 2005](#).

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### **Writer Yang Tianshui's Status, Location Unknown a Month After Officials Detain Him**

The Independent Chinese PEN Center (ICPC) [reported](#) (in Chinese) on December 25 that public security officials in Nanjing city, Jiangsu province, took freelance writer Yang Tongyan into custody on December 23. Yang is an ICPC member who is also known as Yang Tianshui. According to the ICPC, Yang served a 10-year prison sentence from 1990 through 2000 after being convicted of "counterrevolution." Yang was one of at least nine prominent intellectuals and activists whom Chinese authorities either detained or imprisoned in [November and December 2004](#). Authorities [detained](#) Yang on December 24, 2004, in Hangzhou city, Zhejiang province, but [released](#) him on bail on January 24, 2005.

The Committee to Protect Journalists (CPJ) [reported](#) on January 17 that authorities are holding Yang on suspicion of endangering national security, and have denied him access to a lawyer on the grounds that his case involves "state secrets." CPJ also reported that Yang's family has not been informed about any details of his case, including where he is being held or whether he has been formally arrested. According to CPJ, Yang continued to write after his release last year for news Web sites based outside of China, including Boxun and Epoch Times. CPJ said Yang's writings were "strongly critical of authoritarian rule in China," and that he advocated the release of imprisoned Chinese writers [Zhang Lin](#) and [Zheng Yichun](#).

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### **Central Circular Orders Party-Led Campaign on Enforcing Judicial Decisions**

The Political and Legislative Affairs Committee of the Communist Party Central Committee issued a "Circular on Solving the Enforcement Problem of Chinese Courts" on January 23, according to an [article](#) published on the China Court Web site on the same date. The article's commentary on the circular indicates that a campaign on enforcement of judicial decisions led by the Party is now under way, as a result of official concern about mounting social unrest.

The circular directs Chinese courts to improve efforts to enforce court decisions "under the leadership of local Party committees," and for Party officials to step up propaganda efforts directed at such efforts. Chinese plaintiffs and defendants often have difficulties enforcing court decisions when they win a favorable judgment, and the SPC has identified the problem as a top reform priority in the [2004-2008 Five Year Program for Court Reform](#). The circular also directs local Party committees responsible for the comprehensive management of public security to coordinate efforts at enforcing court judgments and to include the quality of enforcement work in the responsibility systems used to evaluate the performance of local officials.

Supreme People's Court (SPC) Vice President Cao Jianming said that court efforts will focus on five types of cases: 1) court judgments that have not been executed for over a year; 2) cases influenced by local protectionism; 3) cases in which groups of plaintiffs have collectively applied for the execution of a court decree; 4) judgements awarding back wages in the construction industry; and 5) cases in which a court has improperly stayed an enforcement order, according to a January 24 Beijing News [article](#). Vice President Cao called on courts to cooperate with public security and procuratorate officials to "strike hard" against efforts to resist court enforcement orders through violence, according to the Beijing News article.

The content of the circular suggests that it reflects Party concerns about mounting social unrest. The national Political and Legislative Affairs Committee and the Committee for Comprehensive Management of Public Security (CCMPS) also prepared a December 2005 Party and State Council [joint opinion](#) to stem social unrest and to reduce the number of "mass incidents" such as riots, demonstrations, or collective petitions directed at government authorities. The Political and Legislative Affairs Committee circular directive to coordinate with the local CCMPS branches suggests that this enforcement campaign may be a specific effort to implement the earlier joint opinion.

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### **Court Sentences Xu Wanping to 12 Years Imprisonment for Inciting Subversion**

The Chongqing Municipal No. 1 Intermediate People's Court sentenced Xu Wanping to 12 years imprisonment and 4 years deprivation of political rights for incitement to subvert state power on December 23, according to a December 24 Human Rights in China (HRIC) [press release](#). Chinese authorities have not disclosed for what actions they prosecuted Xu. In addition, they have taken several measures to ensure the public does not learn about the facts relating to his case:

- Authorities denied Xu access to his family during his detention, according to an October 20 HRIC [report](#).
- HRIC's October 20 report also said that Gao Zhisheng, a lawyer who has represented political activists including [Zheng Yichun](#), [Guo Feixiong](#), and the wife of jailed house church pastor [Cai Zhuohua](#), attempted to register as Xu's legal counsel on June 2, but authorities refused to grant him access to Xu on the grounds that his case involved state secrets (in November authorities in Beijing [shut down Gao's law firm](#)).
- The court refused to open Xu's trial to the public or allow his family members to attend, again citing state secrets, according to a November Voice of America [report](#) (in Chinese). In addition, the procuratorate and the court have refused to provide a copy of the indictment to Xu's family, according to a December 28 Epoch Times [report](#).

The UN Working Group on Arbitrary Detention identified Chinese authorities' use of "state secrets" exceptions as an area of concern in the [report on its September 2004 mission to China](#), noting that they improperly interfere with access to defense counsel.

As a result of the government's actions, the only information available regarding the nature of the acts underlying Xu's conviction is that the head of the Chongqing public security bureau and at least 10 other public security officials took Xu into custody from his home in Chongqing on April 30, 2005, after interrogating him regarding his participation in a signature campaign related to [anti-Japanese protests](#) earlier that month, according to a May 2 HRIC [press release](#).

Full Analysis >> <http://www.cecc.gov/pages/virtualAcad/newsletterListing.phpd?NLdate=20060203&show=ALL#id34469>

## Zheng Yichun Wins Human Rights Award, Loses Appeal

The Liaoning High People's Court upheld on December 22, 2005, author Zheng Yichun's [seven year prison sentence and three years deprivation of political rights](#) for [inciting subversion of state power](#), according to a December 28 [report](#) (in Chinese) on the Epoch Times Web site. The offense is a crime under Article 105 of the [Criminal Law](#). In a [statement](#) the same day, the Committee to Protect Journalists (CPJ) quoted Zheng's brother as saying that Gao Zhisheng, Zheng's appellate lawyer, was not present at the hearing. Authorities in Beijing recently [stripped](#) Gao of his law license after he defended journalists and other politically sensitive clients, including [Guo Feixiong](#), [Cai Zhuohua](#), [Xu Wanping](#), and [Guo Guoting](#). Zheng's brother also told CPJ that Zheng suffers from diabetes and has not received adequate medical treatment for the condition while in custody.

The court rejected Zheng's appeal one week after The Museum at The House at Checkpoint Charlie and the International Society for Human Rights (Internationalen Gesellschaft für Menschenrechte) awarded Zheng the Rainer-Hildebrandt-Medaille human rights award, according to a December 16 [report](#) (in German) in Die Welt.

Zheng was one of at least five writers that Chinese authorities arrested between December 2004 and March 2005, including [Shi Tao](#), [Yang Tianshui](#), and [Li Boguang](#), as part of a [crackdown on public intellectuals](#).

Full Analysis >> <http://www.cecc.gov/pages/virtualAcad/newsletterListing.phpd?NLdate=20060203&show=ALL#id36162>

## Anti-Corruption Reporter Jiang Weiping Released from Prison One Year Early

The Intermediate People's Court in Dalian city, Liaoning province, commuted the six-year prison sentence of journalist Jiang Weiping by one year, releasing him on January 3, the Washington Post [reported](#) the same day. On January 4, Reuters [quoted](#) Jiang's wife as saying that the court released Jiang one year early for good behavior. Chinese courts have the discretion to authorize commutation of sentences under Articles 78 and 79 of the [Criminal Law](#), and Article 221 of the [Criminal Procedure Law](#). Jiang remains barred from speaking to journalists, because he continues to be deprived of his political rights as part of his original sentence. Jiang's wife also told Reuters that she hopes Jiang can join her in Canada, where she now lives, but that for now he is staying with her sister in Dalian, and that his health is "not very good."

In a January 3 [press release](#), the Dui Hua Foundation, a U.S. NGO that monitors political imprisonment in China, said Jiang was "one of China's best known investigative journalists," and that authorities imprisoned him after he wrote articles about corruption in northeast China. The Washington Post report said Jiang was on a list of 13 prisoners that U.S. officials delivered during a 2002 meeting between President George W. Bush and then-Chinese President Jiang Zemin. According to the Washington Post, senior U.S. officials pressed for Jiang Weiping's release in several subsequent meetings, and Clark T. Randt Jr., the U.S. Ambassador to China, raised Jiang's case in speeches.

Full Analysis >> <http://www.cecc.gov/pages/virtualAcad/newsletterListing.phpd?NLdate=20060203&show=ALL#id36155>

## Beijing Court Holds Market Landlord Liable for Tenants' Sales of Counterfeit Goods

The Beijing Second Intermediate People's Court found the corporate landlord of the Xiushui Market in Beijing liable for trademark infringement on December 20, 2005, due to sales of counterfeit goods by five tenants within the market, according to a January 4 Bloomberg [article](#) and a January 6 Voice of America [story](#) (in Chinese). In September 2005, Chanel SA, Prada Holding NV, Burberry Group Plc, LVMH Moët Hennessy, Louis Vuitton SA, and PPR SA's Gucci unit, all luxury goods makers based outside China, brought the suit against Beijing Xiushui Haosen Clothing Market Co., the landlord of the

Xiushui Market, as well as five tenants. The court found both the landlord and tenants liable for infringement. This ruling marks the first time a Chinese court has extended liability for intellectual property rights (IPR) infringement to a market's landlord because of its tenants' sale of fake goods, according to an IPR lawyer quoted in the Bloomberg [article](#). Xiushui Haosen appealed the court's judgment on January 4.

The court assessed a relatively small penalty against Xiushui Haosen, but the case is important because market landlords will bear responsibility for infringement discovered within their markets, according to one of the plaintiffs' lawyers quoted in a 21st Century Business Herald [article](#). The plaintiffs' lawyer also noted that, if followed elsewhere in China, this court decision should permit IPR owners to use civil litigation more effectively.

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