

PUBLIC HEALTH

Findings

- The outbreak of a novel coronavirus in 2019 and the resulting infectious disease (COVID–19) in mainland China went unchecked for weeks as the Chinese government and Communist Party downplayed the potential severity of human-to-human transmission. Starting on January 23, 2020 (at least six weeks after the earliest cases of atypical pneumonia were identified), the central government imposed drastic measures to contain the virus, including the lockdown of millions of people; tight community-level controls based on “grid management”; restrictions on movement; and contact tracing and testing of millions of people.
- The Chinese government has emphasized the right to life and right to health as key human rights priorities during the COVID–19 pandemic. These rights, however, exist in the broad context of international human rights norms, particularly with regard to access to information. The right to information is inextricably intertwined with the rights to life and to health. The government and Party have failed to communicate full, accurate, and timely information to the Chinese public, the World Health Organization, and the international community. While international rights norms, based on Article 19 of the International Covenant on Civil and Political Rights, permit some restrictions on speech and movement during public health emergencies, these restrictions must be legal, proportional, and necessary. Government and Party use of stability maintenance and information control measures have not complied with international human rights standards.
- Experts have observed that data transparency is crucial to tracing the source of the virus and developing effective treatment. To date, the Chinese government has refused to permit an independent international investigation of the outbreak.
- Information control measures have been widely observed in the government and Party’s response to the pandemic, including online censorship and press restrictions. The international non-governmental organization (NGO) Chinese Human Rights Defenders documented nearly 900 cases of purported “rumor-mongers” whom authorities criminally or administratively detained, disciplined, “educated,” or otherwise intimidated for social media posts about the COVID–19 outbreak between January 1, 2020 and March 21, 2020. Among the individuals detained for commenting on the government and Party’s response to the outbreak were legal experts **Xu Zhiyong** and **Xu Zhangrun**, citizen journalists **Chen Qiushi**, **Fang Bin**, and **Zhang Zhan**, and businessman **Ren Zhiqiang**. Medical and health workers also were disciplined or “educated” for sharing information.
- Two notable legislative developments in the health sector were the passage of the PRC Vaccine Management Law and the PRC Basic Healthcare and Health Promotion Law.
- Public health advocacy remained politically sensitive. **Cheng Yuan**, **Liu Dazhi**, and **Wu Gejianxiang**—the co-founder and

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two staff members of the anti-health-discrimination NGO Changsha Funeng in Hunan province—remained in detention for alleged “subversion of state power” in connection with Changsha Funeng’s efforts to submit open government information requests and engage in other legal processes to promote the rights of persons with health conditions.

Recommendations

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

- Press for an independent, international investigation on the origins and handling of the COVID-19 outbreak in China, requiring that human rights experts are included in the scientific and medical expert groups that travel to China to carry out this work. Urge the UN Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health to conduct a mission to China within 12 to 18 months.
- Increase support to bilateral and global technical assistance and exchange programs on emerging and zoonotic infectious diseases, global health, and public health preparedness and response. Strengthen information-sharing, particularly drawing on the legal framework established in the International Health Regulations (IHR). Strengthen communications channels and outreach that circulate science- and evidence-based public health information.
- Urge the Chinese government to end the unlawful detention and official harassment of individuals in China who share opinions and information about COVID-19. Release or confirm the release of individuals detained, held in home confinement, or imprisoned for exercising freedom of expression, such as **Xu Zhiyong, Xu Zhangrun, Chen Qiushi, Fang Bin, Zhang Zhan, Hu Jia, and Ren Zhiqiang**. Amplify the work of Chinese investigative reporters, citizen journalists, scientists, and medical professionals to document COVID-19 and other public health developments in China.
- Acknowledge Chinese legislative efforts that seek to strengthen the rule of law in domestic food and drug production. Support U.S.-China bilateral exchanges focused on improving regulatory enforcement and compliance tools and urge Chinese authorities to be more responsive to citizen demands for accountability. Engage Chinese officials and others who seek to devise a fair compensation system for harm caused by defective vaccines.
- Urge Chinese officials to focus attention on effective implementation of laws and regulations that prohibit health-based discrimination in access to employment and education, and on the development of a barrier-free environment. Where appropriate, share with Chinese officials the United States’ ongoing experience and efforts to promote and enhance the rights of persons with disabilities and other health-based conditions. Expand the number of site visits and exchanges for Chinese non-governmental health advocates, universities, and state-affili-

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ated social work agencies to meet with U.S. rights groups, lawyers, and state and federal agencies to share best practices in outreach and services to vulnerable communities. Release or confirm the release of **Cheng Yuan, Liu Dazhi, and Wu Gejianxiong**, whom authorities have detained for public health advocacy. Raise these cases in bilateral dialogues, as well as through multilateral mechanisms such as the UN Working Group on Arbitrary Detention.

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COVID-19 Pandemic

The outbreak of a novel coronavirus and the resulting infectious disease (COVID-19)¹ in late 2019 in Wuhan municipality, the capital of Hubei province, caused unprecedented challenges to public health, social welfare, governance, and the economy in China and throughout the world in 2020. COVID-19 is highly contagious² and has spread rapidly;³ as of June 30, 2020, there was a total of 10,185,374 confirmed cases worldwide (85,227 in China), and 503,862 confirmed deaths (4,648 in China), according to the World Health Organization.⁴

Official Chinese reports identified the site of the outbreak as a seafood market in Wuhan,⁵ where wild animals were sold for human consumption.⁶ Scientists have hypothesized that the virus was transmitted to humans by bats through another animal,⁷ though the exact transmission path remained unknown as of June 2020.⁸ The earliest patient cases have been traced to mid-November,⁹ with patients observed in hospitals by mid-December in Wuhan.¹⁰ Researchers reportedly attempted to examine earlier patient data in a search for the origins of the virus.¹¹ The Chinese government has been largely uncooperative in response to calls for an independent international investigation into the COVID-19 outbreak in China.¹² Chinese President and Communist Party General Secretary Xi Jinping, however, agreed to a “comprehensive review of the global response to COVID-19 after it is brought under control” during a speech to the World Health Organization (WHO) in mid-May, yet did not acknowledge in the speech that the outbreak started in China.¹³

Public health expert Yanzhong Huang commented that, “while loopholes in China’s public health system contributed to the initial mishandling of the [COVID-19] crisis, the root cause of the problem remain[ed] political and institutional.”¹⁴ As in previous public emergencies in China,¹⁵ the Chinese government and Communist Party turned to legal and institutional mechanisms to administer “stability maintenance”¹⁶ and exert information control¹⁷ in response to the COVID-19 pandemic. This entailed withholding information from the public that officials deemed detrimental to the government and Party under the guise of national and public security. Authorities suppressed legitimate concerns, information-sharing, and criticism using harassment, penalties, and detention, labeling as “rumors” information outside of non-official channels. Officials used online censorship, media restrictions, and digital surveillance to monitor and limit speech and movement during the COVID-19 outbreak in China.¹⁸ Fang Fang, a writer in Wuhan, who posted diary-like notes on social media each day during the 76-day lockdown there, called for accountability for the political and human error involved in the government’s response:

Deeply ingrained habitual behaviors, like reporting the good news while hiding the bad, preventing people from speaking the truth, forbidding the public from understanding the true nature of events, and expressing a disdain for individual lives, have led to massive reprisals

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against our society, untold injuries against our people, and even terrible reprisals against those officials themselves . . . All this, in turn, led to the city of Wuhan’s falling under a 76-day quarantine, with its reverberations affecting untold numbers of people and places. It is absolutely essential that we continue to fight until those responsible are held accountable.¹⁹

[In addition to this chapter on Public Health, additional chapters of the Commission’s 2020 Annual Report may be consulted about the COVID–19 outbreak in China. For information on domestic media control and international media outlets, see Section II—Freedom of Expression. For information on public security measures, see Section II—Criminal Justice. For governance measures and the efforts of non-governmental organizations, see Section III—Institutions of Democratic Governance and Civil Society. For information on the origins of the outbreak, see Section II—The Environment and Climate Change. For information on the impact of gender inequality, see Section II—Status of Women. For information on digital surveillance, see Section II—Business and Human Rights. For information on the initial concerns about the impact of COVID–19 on ethnic minority communities in the Xinjiang Uyghur Autonomous Region, see Section IV—Xinjiang. For information on detentions in Tibetan areas of China in connection with information-sharing about the epidemic, see Section V—Tibet.]

PROTECTING HUMAN RIGHTS DURING PANDEMICS

Article 12 of the International Covenant on Economic, Social and Cultural Rights declares the “right of everyone to the enjoyment of the highest attainable standard of physical and mental health,” including the “prevention, treatment and control of epidemic . . . diseases.”²⁰ During the COVID–19 pandemic, official Chinese media highlighted the government and Party’s protection of the right to life and the right to health.²¹ UN special rapporteurs, however, stressed a broader understanding of the right to health, noting, “[h]uman health depends not only on readily accessible health care. It also depends on access to accurate information about the nature of the threats and the means to protect oneself, one’s family, and one’s community.”²² In light of the pandemic, international human rights advocacy organizations,²³ special rapporteurs,²⁴ and scientists²⁵ reaffirmed international human rights norms in the context of public health emergencies, particularly the rights to information, freedom of expression and opinion, freedom from arbitrary detention, and issues related to the use of surveillance technologies and data collection. While the International Covenant on Civil and Political Rights allows governments to impose some restrictions on freedom of expression in cases of public emergencies, such restrictions must meet standards of legality, proportionality, and necessity.²⁶

FROM “PREVENTABLE AND CONTROLLABLE” TO SEVERE EPIDEMIC

The Wuhan Municipal Health Commission issued its first public announcement of “viral pneumonia” on December 31, 2019, reporting 27 cases.²⁷ Between the first announcement of the outbreak

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and the decision to implement lockdown measures in Wuhan in late January 2020, Wuhan municipal and Hubei provincial health officials publicly insisted that the outbreak was “preventable and controllable”²⁸ and downplayed the risk of human-to-human transmission.²⁹ Health officials also reportedly concealed and failed to communicate relevant information about the outbreak,³⁰ including by suppressing laboratory results and using narrow diagnostic criteria to identify new cases.³¹ A U.S.-based expert surmised that local health officials did not use the national epidemic reporting system, in an attempt to “resolve the problem” within Hubei province.³² Central- and provincial-level health officials throughout China had information about the potential severity of the outbreak by mid-January: At a restricted teleconference with provincial-level health commissions on January 14, the Director of the National Health Commission warned that the epidemic was likely to be the “most severe challenge” since the Severe Acute Respiratory Syndrome (SARS) epidemic in 2003.³³

January 20, 2020, was a turning point³⁴ as a Chinese medical expert confirmed human-to-human transmission of the disease on state broadcaster China Central Television (CCTV),³⁵ and state media agency Xinhua reported Chinese President and Communist Party General Secretary Xi Jinping’s directive to implement aggressive public health measures.³⁶ Subsequently, government authorities authorized a national response that involved travel restrictions and the full-scale lockdown of tens of millions of people in and around the epicenter.³⁷ On January 23, officials imposed a city-wide lockdown in Wuhan.³⁸ Nearby municipalities in Hubei—Huanggang, Ezhou, Suizhou, and Xiaogan—were placed under lockdown on January 24.³⁹ By early February, an additional 30 million people in the municipalities of Wenzhou, Hangzhou, Ningbo, and Taizhou in Zhejiang province also were placed under restrictive lockdown conditions.⁴⁰

SWEEPING CONTAINMENT AND SURVEILLANCE MEASURES

As the virus surged in Wuhan at the end of January through mid-February, observers initially reported shortages of staff, equipment, diagnostic kits, and patient information at hospitals.⁴¹ These reported problems led to changes to the public health response.⁴² On February 6, Sun Chunlan, a member of the Party Central Committee Political Bureau (Politburo) and the senior-most Party official on the front lines managing the outbreak in Wuhan ordered Wuhan government workers to “round up those who should be rounded-up, don’t leave out anyone” (*yingshou jinshou, bu lou yi ren*) in order to hasten the identification of anyone with COVID-19 symptoms.⁴³ Later in February, the new Wuhan Party Secretary Wang Zhonglin threatened “coercive measures” for individuals who did not report symptoms.⁴⁴ CNN, however, reported that overzealous outreach resulted in healthy individuals being forced into quarantine centers.⁴⁵

A WHO-China joint expert team that conducted an investigation in China in mid-February⁴⁶ reported on containment measures such as organizing over 1,800 contact tracing teams (each composed of at least 5 people),⁴⁷ halting transportation into and out of Wuhan,⁴⁸ the mobilization of about 40,000 medical personnel from

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throughout the country to assist in Wuhan⁴⁹ (including 10,000 military personnel),⁵⁰ and the creation of isolation centers to care for individuals who presented with mild symptoms.⁵¹ As non-pharmaceutical measures such as social distancing, testing, and isolating⁵² showed success in slowing the COVID-19 outbreak in China,⁵³ the government began to lift some restrictions⁵⁴ and shifted the focus to health screenings and city-wide testing in the spring.⁵⁵ Smaller-scale lockdowns were instituted in later cases of localized outbreaks,⁵⁶ for example, in Beijing municipality in June.⁵⁷

An operational feature of the lockdown conditions in Wuhan and elsewhere in China was the use of “grid management”⁵⁸ to provide services and monitor individuals in their homes within closed-off residential blocs.⁵⁹ Grid management, which experts date to the early 2000s in its contemporary urban iteration in China, involves micro-level community-based oversight of clusters of households from the same area based on a geographical “grid.”⁶⁰ Residence committee cadres, street administration office staff, and community volunteers⁶¹—the latter of whom reportedly were primarily Party members⁶²—monitored each household resident’s health,⁶³ restricted movement outside of the residential grid;⁶⁴ and coordinated medical treatment, such as transfer to isolation centers and hospitals.⁶⁵ Grid management also employs artificial intelligence (AI) to analyze mass data and geographic information, and uses high-tech surveillance systems to impose “stability maintenance.”⁶⁶ In February, officials in Hangzhou municipality, Zhejiang province, rolled out an online health application (app) in cooperation with the digital payment platform Alipay to track each individual’s health.⁶⁷ The Chinese government and Communist Party’s mobilization of grid management and expanded use of the health app nationwide raised concerns among international human rights experts about the legality and proportionality of such tools and about the use of the pandemic as pretext to further restrict human rights.⁶⁸

INFORMATION CONTROL: CENSORSHIP AND DETENTION

Official censorship during the pandemic included removal of content that may have contained medical or health information⁶⁹ and restrictions on the free exchange of opinion,⁷⁰ such as government criticism.⁷¹ Citizen Lab, a research center at the University of Toronto that studies the intersection of digital technologies, human rights, and global security,⁷² found that censors at the social media platforms YY and WeChat began blocking terms related to the coronavirus as early as December 31, 2019.⁷³ In early February 2020, the Cyberspace Administration of China (CAC) directed its local-level bureaus to increase scrutiny of websites and social media platforms, by “actively exercis[ing] their management responsibilities, creating a favorable online environment for winning the war for prevention and control of the coronavirus outbreak.”⁷⁴ By late April, major internet service providers reportedly had shut down 18,576 alleged “malicious” accounts.⁷⁵ Public intellectuals reported that their WeChat accounts had been disabled for promoting freedom of speech or criticizing the government’s handling of the COVID-19 epidemic.⁷⁶

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China legal scholar Eva Pils commented that the government and Party had deployed their “vast and concentrated power to fight not only the virus, but also domestic critics of [their] response . . .”⁷⁷ Among those detained and disappeared in connection with the coronavirus include citizen journalists **Chen Qiushi**,⁷⁸ **Fang Bin**,⁷⁹ **Li Zehua**,⁸⁰ and **Zhang Zhan**;⁸¹ legal expert and civil society proponent **Xu Zhiyong**;⁸² democracy advocate **Guo Quan**;⁸³ and real estate tycoon, Party member, and “second generation Red”⁸⁴ **Ren Zhiqiang**.⁸⁵ Authorities reportedly placed under home confinement Tsinghua University law scholar **Xu Zhangrun**⁸⁶ and rights activist **Hu Jia** and his family members.⁸⁷ The Commission also observed reports of official penalties and warnings in cases that drew less extensive media coverage. For example, lawyer Liu Yingying in Zhengzhou municipality, Henan province, reportedly was disciplined by the local lawyers association for posting a photo on her WeChat account of Wuhan residents outside a funeral home.⁸⁸ A leading doctor in Wuhan, Dr. Yu Xiangdong, the deputy director of Wuhan Central Hospital, reportedly was penalized for posting alleged “unsuitable” remarks online, and was dismissed from his senior-level positions at the hospital and a separate medical group.⁸⁹ Union of Catholic Asian News reported that a Catholic priest referred to as “Father Peter” in Hebei province was warned by authorities to stay silent about the outbreak.⁹⁰

“ZERO TOLERANCE” FOR “RUMOR-MONGERING”

The Chinese government’s vague legal provisions banning “spreading rumors”⁹¹ have led to harassment and detention of individuals who expressed their opinions online.⁹² During the pandemic, authorities sought to control the “spread of false information,” illustrated by the catchphrase “rumors are more frightening than the virus,” by compiling and discrediting information officially deemed rumors.⁹³ The Supreme People’s Court, Supreme People’s Procuratorate, Ministry of Public Security, and Ministry of Justice jointly issued an opinion in early February to guide law enforcement agencies when dealing with “spreading false information” and other activities that allegedly obstructed epidemic control.⁹⁴ The joint opinion linked “spreading false information” during the epidemic to PRC Criminal Law crimes of “fabricating and intentionally disseminating false information”; “picking quarrels and provoking trouble”; “inciting separatism”; and “inciting subversion of state power.”⁹⁵

The international NGO Chinese Human Rights Defenders (CHRD) documented nearly 900 cases of purported “rumor-mongers” whom authorities criminally or administratively detained, disciplined, “educated,” or otherwise intimidated for online posts about the COVID-19 outbreak between January 1 and March 30, 2020.⁹⁶ The total number of such cases is likely to be significantly higher, according to CHRD,⁹⁷ which referred to a comment in the Party’s official news outlet People’s Daily by a senior official in the Ministry of Public Security that public security already had handled 5,551 cases of intentional fabrication of false information (as of February 21).⁹⁸ In June, People’s Daily exhorted readers to have “zero tolerance” for rumor-mongering since some rumors have the potential to “harm social stability.”⁹⁹

Chinese doctors reportedly were directed by authorities to refrain from sharing information about the outbreak through “their own personal communication channels or giv[ing] interviews with the media.”¹⁰⁰ Cases of doctors and medical workers sharing information included the following:

- **Wuhan municipality, Hubei province.** The Wuhan Municipal Health Commission ordered hospitals and workers on December 30, 2019, to not share information on cases of “pneumonia of unknown cause” without authorization.¹⁰¹ Dr. Ai Fen, the head of emergency medicine at Wuhan Central Hospital, alerted hospital administrators and colleagues to a patient’s diagnostic analysis, which preliminarily identified Severe Acute Respiratory Syndrome (SARS),¹⁰² and noted there was a cluster of cases linked to a local seafood market.¹⁰³ Eight individuals thereupon shared this information within their own social media groups and were questioned by hospital administrators and investigated by the Wuhan Public Security Bureau for allegedly “rumor-mongering.”¹⁰⁴ On January 1, 2020, state media outlet Xinhua and broadcaster CCTV reported that eight unnamed rumor-mongers were under investigation and would be penalized.¹⁰⁵ Caixin, a commercial media outlet known for its investigative reports, interviewed several doctors who were contacted by hospitals and police for “rumor-mongering,” though it is not clear whether these individuals were among the group of eight “rumor-mongers.”¹⁰⁶ A doctor thought to be one of the eight, ophthalmologist **Li Wenliang**, was required by Wuhan municipal public security officials to sign a statement in which he acknowledged his actions as “illegal behavior.”¹⁰⁷ Dr. Li became infected with COVID-19 in January 2020 and died on February 7, 2020 due to the disease.¹⁰⁸ An official investigation later revoked the reprimand against him.¹⁰⁹ The Wuhan Public Security Bureau denied “imposing penalties of warning, fines, or detention,” and claimed only to have “educated and criticized” the eight alleged “rumor-mongers.”¹¹⁰ Two other doctors reported that public security officials compelled them to sign a statement or had “educated” them (reprimanded without further penalty).¹¹¹ These warnings resulted in a “chill” among medical workers in sharing information.¹¹²
- **Yunnan province.** Radio Free Asia reported that, in early February, public security authorities in Yunnan fined and administratively detained five medical doctors for 10 days for alleged rumor-mongering about the epidemic.¹¹³

In late January 2020, Tang Xinghua, a judge in Beijing municipality, acknowledged in a post to the Supreme People’s Court social media account that the lack of timely information disclosure had given rise to the proliferation of “false information.”¹¹⁴ The South China Morning Post, among other news outlets, interpreted Tang’s comments to be an official rebuke of the Wuhan Public Security Bureau for reprimanding the eight “rumor-mongers.”¹¹⁵ Tang directly cited the incident and suggested that the outbreak might have been mitigated if the information had been shared and the public started taking precautions earlier, and noted that the “law doesn’t need to fight against all untrue information.”¹¹⁶

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DATA REPORTING, RESEARCH, AND TRANSPARENCY

Transparency is crucial to a worldwide understanding of the COVID-19 pandemic, in order to develop appropriate mitigation interventions, clinical treatment, and preventive approaches, as well as to protect health workers and vulnerable populations.¹¹⁷ The Chinese government's effort to portray itself as a responsible international stakeholder¹¹⁸ is marred by credible reports that the Chinese government has neither been accurate nor timely in providing information to the Chinese public, the scientific community, or the World Health Organization (WHO).

- **Delayed communications with the WHO.** The Chinese government did not proactively notify the WHO about the outbreak within the 24-hour timeframe stipulated in the International Health Regulations, according to comments by Michael Ryan, Executive Director of the WHO Health Emergencies Programme, at an April 2020 WHO press conference.¹¹⁹ Ryan noted that WHO officials in Geneva, Switzerland, learned of the outbreak from a translation of a Chinese-language media report dated December 31, 2019, which was circulated by a U.S.-based open-source platform that tracks infectious diseases worldwide.¹²⁰ A WHO timeline (updated on June 29, 2020)¹²¹ substantiated that the WHO's China office picked up a "media statement by the Wuhan Municipal Health Commission from their website on cases of 'viral pneumonia' in Wuhan" on December 31, 2019.¹²² Delays in early January 2020 by the Chinese government in communicating patient data and the genome sequence, among other critical information, also frustrated WHO officials, according to an investigation by the Associated Press.¹²³

- **Undercounting cases.** During the outbreak, officials appear to have undercounted the number of infected individuals,¹²⁴ partly in connection to changing diagnostic criteria.¹²⁵ A major spike in the number of confirmed cases in Hubei on February 12 apparently was due to the broadening of diagnostic criteria¹²⁶ and the inclusion of cases from the prior days and weeks.¹²⁷ In late March, Caixin reported that the Chinese government was not including asymptomatic carriers in its publicly shared data, which is not consistent with WHO standards.¹²⁸ The government did not report the existence of 500 infected healthcare workers in Wuhan by mid-January.¹²⁹ Healthcare workers reportedly were told not to disclose this information.¹³⁰ By February, the Chinese government had provided some sporadic data about healthcare workers who became infected, but did not provide detailed information about them.¹³¹

- **Skepticism about official statistics on virus-related deaths in Wuhan.** In late March, Radio Free Asia reported widespread skepticism in Wuhan about the officially reported death toll of 2,531.¹³² In mid-April, Wuhan health officials revised the number of deaths in Wuhan to 3,869.¹³³ A group of researchers analyzed official statistics on deaths in Wuhan for the period through early February; based on the activity of crematoria and distribution of funerary urns, they posited that

the cumulative death toll was 10 times higher than the officially reported number of deaths.¹³⁴

• **Suppression of data and incomplete data-sharing.** Caixin reported that on January 1, a private company was told by authorities to destroy patient samples submitted for gene sequencing analysis.¹³⁵ In May, national authorities confirmed that several unauthorized labs were told to destroy such samples or send them for storage to the municipal commission for disease control.¹³⁶ Authorities also shut down for “rectification” a laboratory associated with Fudan University in Shanghai municipality on January 12, 2020, the day after it shared the coronavirus’s genome sequence on an international scientific platform.¹³⁷ As of May 12, 2020, according to a Wall Street Journal report, detailed information about animal and environmental samples taken in January from the Wuhan market where the coronavirus is thought to have initially been transmitted had not been shared internationally.¹³⁸

• **Restrictions on academic freedom.** In a move that public health expert Yanzhong Huang said reflects Chinese authorities’ political sensitivity about the origins of the coronavirus,¹³⁹ a State Council directive from March 2020 required that any academic scientific research on the origins of the coronavirus produced by universities must undergo vetting and approval by a university academic committee as well as officials at the Department of Science and Technology of the Ministry of Education.¹⁴⁰ The Ministry of Science and Technology also must approve any clinical research papers being readied for international publication.¹⁴¹ While peer review is a crucial part of assessing the value of scientific and clinical research, the Chinese government’s policy appears to impose political considerations rather than scientific ones in vetting research.¹⁴²

Legislative Developments in the Health Sector

VACCINE SAFETY

The PRC Vaccine Management Law took effect in December 2019 following its passage by the National People’s Congress in June 2019.¹⁴³ The law includes provisions to strengthen official supervision of vaccine research, distribution, and use; penalize producers and distributors of substandard or fake vaccines; and provide compensation for victims of defective vaccines.¹⁴⁴ It mandates the creation of a nationwide digital tracking system to trace vaccines during production, distribution, and administration.¹⁴⁵ The law prescribes stringent penalties for violations,¹⁴⁶ specifying that punishments should be in the high range of sentence lengths as stipulated by the PRC Criminal Law.¹⁴⁷ The new legislation affords the right to financial compensation for individuals who suffer adverse reactions from vaccinations, such as severe injury, organ damage, or death, with compensation amounts to be based upon national standards established by the State Council.¹⁴⁸

Prior to the May 2020 annual meeting of the National People’s Congress (NPC) in Beijing municipality,¹⁴⁹ a grassroots advocacy group consisting primarily of families of children who were victims of defective vaccines called for revisions to the law in an open letter

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to the NPC.¹⁵⁰ The group noted the law's lack of provisions for emergency assistance from the Chinese Center for Disease Control in the immediate time period after the vaccine recipient is harmed by a faulty vaccine, and the absence of the right to bring lawsuits against pharmaceutical companies for defective vaccines.¹⁵¹ Moreover, the law carves out compensation exemptions, including for adverse reactions due to the nature of the vaccine itself, the quality of the vaccine, and the individual's preexisting conditions or illnesses,¹⁵² which the group of families believes will lead to the rejection of valid claims of vaccine-related injury.¹⁵³ On or around May 19, 2020, authorities briefly detained **He Fangmei**, the founder of the advocacy group and primary author of the letter to the NPC,¹⁵⁴ while she was in Beijing municipality to advocate for changes to the new vaccine law.¹⁵⁵

RIGHT TO HEALTH AND PROTECTING MEDICAL PERSONNEL FROM HARM

The PRC Basic Healthcare and Health Promotion Law passed in December 2019 and took effect in June 2020.¹⁵⁶ A key aim of the new legislation is to establish legal mechanisms to advance healthcare reform, which have primarily been driven by policy initiatives.¹⁵⁷ A legal expert in Hong Kong hailed the new law as a “de facto constitutional charter for public health” in China,¹⁵⁸ highlighting the law's provision that “state and society respect and protect citizen's right to health” (Article 4), which he said is a fundamental right not mentioned in China's Constitution.¹⁵⁹ According to the same expert, however, the new legislation is comprised of “ambiguous” provisions and “abstract principles” and will require that the government and courts issue regulatory guidance and judicial interpretation for the new law to be effective.¹⁶⁰

The new legislation also addresses violent assault against medical staff (*yibao*) and commotions in hospitals (*yinao*), instances of which have been widely reported in China¹⁶¹ and have been linked, in part, to the limitations of formal channels and institutions to resolve doctor-patient disputes.¹⁶² Research in 2018 found that 85 percent of doctors in China interviewed had experienced *yibao* on the job.¹⁶³ Article 46 of the Basic Healthcare and Health Promotion Law designates hospitals as “public spaces” (*gonggong changsuo*),¹⁶⁴ and groups *yinao* with disturbances of public order.¹⁶⁵ While hospitals previously were included as public spaces in a 2013 judicial interpretation that expanded the scope of public spaces in Article 293 of the PRC Criminal Law (“picking quarrels and provoking trouble”),¹⁶⁶ commentators believe the new healthcare legislation will likely enhance the authority of the courts and law enforcement in suspected cases of *yinao*.¹⁶⁷ Attacks or threats of attack against medical staff in Wuhan municipality, Hubei province, the epicenter of the COVID-19 outbreak, were reported this past year.¹⁶⁸

Health-Based Discrimination and Public Advocacy

International rights organizations asserted this past year that Chinese government policies and laws “continue to allow or encourage discrimination” against disadvantaged populations in China, including those with health-based conditions.¹⁶⁹ The Commission

observed scattered reports in domestic media outlets about incidents of discrimination that people with disabilities and other health conditions have faced, such as unequal access to education for children with special needs¹⁷⁰ and a 2018 case in which the Jiangsu Province High People’s Court found for a blind plaintiff against a bank that had refused to activate their bank card.¹⁷¹ In October 2019, several media outlets reported on a case of employment discrimination against an HIV-positive person who had worked for two years in sales at Maotai Liquor in Guizhou province but was refused regular full-time employment when his HIV status was revealed during a pre-employment physical exam.¹⁷²

Although the Chinese government has shown increasing support for social welfare service provisions in the fields of mental health rehabilitation¹⁷³ and elder care,¹⁷⁴ grassroots advocates and organizations that engage in advocacy on a range of public health issues have been subjected to suppression over the years,¹⁷⁵ including during this past year.¹⁷⁶ In August 2019, authorities in Hunan province brought the charge of “subversion of state power” (*dianfu guojia zhengquan*) against **Cheng Yuan, Liu Dazhi, and Wu Gejianxiong**, the co-founder and two staff members of Changsha Funeng, an anti-health-discrimination non-governmental organization (NGO).¹⁷⁷ The charge of “subversion” refers to Article 105 of the PRC Criminal Law and involves “an offense of association or concrete action—the individual must be personally involved with actions designed to lead to the overthrow of the political system.”¹⁷⁸ Changsha Funeng reportedly assists vulnerable populations—such as persons living with HIV/AIDS, persons living with hepatitis B, and persons with disabilities—in submitting open government requests and participating in other legal processes.¹⁷⁹ [For more information on NGOs and non-governmental advocacy, see Section III—Civil Society.]

Notes to Section II—Public Health

¹Paul G. Auwaerter, “Coronavirus COVID-19 (SARS-CoV-2)” in *Johns Hopkins ABX Guide*, accessed April 18, 2020.

²Jonathan Shaw, “COVID-19 May Be Much More Contagious Than We Thought,” *Harvard Magazine*, May 13, 2020; Naomi Kresge, “Virus May Spread Twice as Fast as Earlier Thought, Study Says,” *Bloomberg*, April 8, 2020.

³William Wan, “WHO Declares a Pandemic of Coronavirus Disease COVID-19,” *Washington Post*, March 11, 2020.

⁴World Health Organization, “Coronavirus Disease (COVID-19) Situation Report—162,” June 30, 2020.

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