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Findings

• Food safety and vaccine safety scandals have continued to emerge this past year, despite the Chinese government's attempts in the past decade to improve quality control. Analysts point to a lack of accountability, weak regulatory capacity and enforcement of laws, corruption, and government procurement systems that favor low-cost goods. The National People's Congress passed a new vaccine law in June 2019 aimed at strengthening vaccine supervision, penalizing producers of substandard or fake vaccines, and introducing compensation for victims of faulty vaccines.

• Despite strong regulations aimed at improving food and vaccine safety and punishments for companies and individuals found guilty of criminal acts, authorities also continued to detain citizens for speaking out and organizing protests in re-

sponse to food and vaccine scandals.

• Chinese authorities reportedly continued to forcibly commit individuals to psychiatric facilities, including government critics and those with grievances against government officials and legal processes, even though the PRC Mental Health Law prohibits forcible commitment as a form of punishment.

Recommendations

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

Ocontinue to support technical assistance and exchange programs in public health. Require that U.S.-China cooperative programs include the participation of U.S. and Chinese nongovernmental organizations and a focus on human rights.

Urge Chinese officials—including officials in the National Health Commission—to focus on effective implementation of laws and regulations that prohibit health-based discrimination in employment and education. Where appropriate, share the United States' ongoing experience promoting the rights of persons with disabilities in education and employment, through non-governmental advocacy and services, as well as legal and

regulatory means.

O Urge the Chinese government to establish panels of legal, medical, social work, and security professionals from within and outside the government to monitor and report on implementation of the PRC Mental Health Law (MHL) and initiatives under the National Mental Health Work Plan (2015–2020) to ensure that local implementation consistently meets standards of care and rights protection stipulated in the MHL, the PRC Law on the Protection of the Rights of Persons with Disabilities, and international standards.

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Legislative and Policy Developments

In October 2018, the National People's Congress Standing Committee released a second draft of healthcare legislation aimed at protecting healthcare workers from the ongoing problem of "commotions at hospitals" (yi'nao).¹ The draft legislation establishes that actions such as disturbing order at healthcare institutions, threatening or endangering the personal safety of staff, and illegally gaining favors will be investigated as crimes.² In February 2019, the Chinese Communist Party General Office and State Council General Office issued the "Provisions on the Food Safety Responsibility System for Local Party and Government Leading Cadres," which, if implemented, could strengthen food safety accountability for local officials.³ In June 2019, the National People's Congress passed the PRC Vaccine Management Law set to take effect in December 2019.⁴

Food Safety

Although the Chinese government has committed itself to protect citizens' right to safe food,⁵ and it continues to take steps aimed at improving food safety,⁶ food safety scandals nevertheless continued to occur.⁷ Authorities suppressed protests by victims and their parents,⁸ violating freedoms of expression, assembly, and demonstration.⁹

The Commission observed reports of the following instances of such suppression during its 2019 reporting year:

- In September 2018, after expired, worm-infested food was served to children at three kindergartens, authorities detained two individuals in **Wuhu municipality**, **Anhui province**, who were believed to be responsible. The incident reportedly affected 765 children.
- According to international and domestic reports, in March 2019 public security authorities in **Chengdu municipality**, **Sichuan province**, used pepper spray to control parents who protested against unsanitary food served at a private high school and detained at least 12 of them. ¹² At least 77 students received medical attention after ingesting the food, including 3 who were hospitalized. ¹³

Drug Safety

Vaccine scandals continued this reporting year, ¹⁴ sparking protests by parents of sickened children. ¹⁵ In the aftermath of a major vaccine scandal uncovered in 2018 involving Changsheng Biotechnology Company in Changchun municipality, Jilin province, ¹⁶ public health expert Yanzhong Huang noted that the case had exposed "systematic safety risks across China's entire vaccine industry." ¹⁷ Huang further said that ongoing scandals stem from "a host of issues confronting China today: corruption, moral decline, loopholes in internal corporate controls, weak regulatory capacity, and a lack of accountability." ¹⁸

The Office of the UN High Commissioner on Human Rights and the World Health Organization, in a jointly issued fact sheet, noted that the right to quality healthcare includes "scientifically approved and unexpired drugs." ¹⁹ Following the 2018 vaccine scandal involving Changsheng Biotechnology Company, ²⁰ in June 2019 the National People's Congress Standing Committee passed the PRC Vaccine Management Law, aimed at strengthening supervision, penalizing producers and distributors of substandard or fake vaccines, and introducing compensation for victims of faulty vaccines. ²¹

During this past year, the Chinese government took the following actions against companies and individuals deemed responsible for vaccine safety violations:

- In **October 2018,** the National Medical Products Administration imposed a record total penalty of 9.1 billion yuan (approximately US\$1.3 billion) on Changsheng Biotechnology Company, which it found responsible for producing faulty vaccines that were administered to hundreds of thousands of people, along with other illegal actions, and detained 18 people.²² In November 2018, the Shanghai and Shenzhen stock exchanges issued new measures providing for the mandatory delisting of companies suspected of "illegal behavior in the areas of national security, public security, environmental security, work safety, and public health." ²³ In January 2019, the state media outlet Xinhua reported that Changsheng Biotechnology announced that it had received its delisting notice from the Shenzhen Stock Exchange.²⁴
- In **January 2019**, authorities in Jinhu county, Jiangsu province, reportedly fired 3 health officials and "held 33 persons responsible" after at least 145 children were administered expired polio vaccines.²⁵
- In **January 2019**, authorities in Shijiazhuang municipality, Hebei province, criminally detained a nurse suspected of administering incorrect vaccines to 29 children for financial gain, and removed 2 district heads of the Shijiazhuang disease control center.²⁶
- In **April 2019**, authorities in Hainan province fined and revoked the license of privately-owned Bo'ao Yinfeng Healthcare International Hospital, for reportedly administering fake HPV vaccines to at least 38 patients, one of whom reportedly was pregnant.²⁷

The Commission observed that Chinese authorities violated the rights to free speech and free assembly of individuals who protested against unsafe vaccines and sought compensation, including the following: ²⁸

• In February 2019, authorities in Beijing municipality detained **He Fangmei**, whose daughter was paralyzed in March 2018 by a series of tainted vaccines, ²⁹ after He Fangmei organized other aggrieved parents to protest before the annual meetings of the National People's Congress and Chinese People's Political Consultative Conference (Two Sessions). ³⁰ In April 2019, authorities charged her with "picking quarrels and provoking trouble," and held her at the Xinxiang Public Security Bureau Detention Center in Xinxiang municipality, Henan province. ³¹ He's case was sent to court in August 2019. ³²

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• On or around September 2, 2018, authorities in Beijing detained **Tan Hua,** in connection to her public advocacy for compensation for victims of tainted vaccines in August 2018, and reportedly transferred her to the custody of authorities in Shanghai municipality.³³

Ongoing Misuse of the PRC Mental Health Law

Authorities continued to use forcible psychiatric commitment (bei jingshenbing), in violation of the PRC Mental Health Law, to punish or arbitrarily detain individuals who expressed political dissent or grievances against the government. Two experts in Chinese law commented that the law's definition of "mental disorder" is too vague, and a "lack of due process in such important decision-making jeopardizes millions of people's basic right to freedom from arbitrary detention." ³⁵

Examples of misuse of the law this past year include the following:

• On July 16, 2018, officials in Zhuzhou municipality, Hunan province, forcibly committed **Dong Yaoqiong**, a 29-year-old woman who live-streamed a video of herself criticizing Communist Party General Secretary Xi Jinping and the Chinese Communist Party, to a psychiatric hospital.³⁶ According to Radio Free Asia, authorities detained her father in August 2018,³⁷ and barred a rights lawyer from visiting her.³⁸ The Commission has not observed updates on the status of Dong Yaoqiong during this reporting year.³⁹

• In March 2019, authorities in Shanghai municipality forcibly committed **Yan Fenlan** to a psychiatric institution after she had traveled to Beijing during the Two Sessions to petition for compensation for her demolished home. 40 She was first forcibly committed to a psychiatric institution in 2008 after she petitioned authorities in Beijing and Shanghai regarding land con-

fiscation.41

Notes to Section II—Public Health

¹National People's Congress, Zhonghua Renmin Gongheguo Jiben Yiliao Weisheng yu Jiankang Cujin Fa (Cao'an) (Er Ci Shenyi Gao) [PRC Basic Healthcare and Health Promotion Law (Draft) (Second Deliberation Draft)], NPC Observer, accessed July 24, 2019, arts. 43, 47, 107; Tian Xiaohang, "Woguo ni lifa baohu yiliao weisheng renyuan renshen anquan" [China drafts legislation to protect healthcare workers' personal safety], Xinhua, October 22, 2018. Public reports about these "commotions" typically describe incidents of violence against hospital personnel, sometimes resulting in fatalities, by aggrieved patients or their extended family. For

sonnel, sometimes resulting in fatalities, by aggrieved patients or their extended family. For more information on yi'nao, see CECC, 2016 Annual Report, October 6, 2016, 203.

² National People's Congress, Zhonghua Renmin Gongheguo Jiben Yiliao Weisheng yu Jiankang Cujin Fa (Cao'an) (Er Ci Shenyi Gao) [PRC Basic Healthcare and Health Promotion Law (Draft) (Second Deliberation Draft)], NPC Observer, accessed July 24, 2019, arts. 43, 47, 107; Tian Xiaohang, "Woguo ni lifa baohu yiliao weisheng renyuan renshen anquan" [China drafts legislation to protect healthcare workers' personal safety], Xinhua, October 22, 2018.

³ Chinese Communist Party General Office and State Council General Office, Difang Dang Zheng Lingdao Ganbu Shipin Anquan Zerenzhi Guiding [Provisions on the Food Safety Responsibility System for Local Party and Government Leading Cadres], effective February 5, 2019; Wang Xiaodong, "Leading Local Officials to Be Accountable for Food Safety," China Daily, February 26, 2019; "China Launches Nationwide Inspection on Food Safety at Schools," Xinhua, March 4, 2019; "State Council Passes Draft Rules on Implementing Food Safety Law," Xinhua, March 4, 2019; Tingmin Koe, "China Unveils the First Set of Food Safety Tasks for Local Government," Food/Navigator-Asia, March 5, 2019.

⁴ Zhonghua Renmin Gongheguo Yimiao Guanli Fa [PRC Vaccine Management Law], passed

⁴Zhonghua Renmin Gongheguo Yimiao Guanli Fa [PRC Vaccine Management Law], passed June 29, 2019, effective December 1, 2019.

⁵World Health Organization, "Human Rights and Health," December 29, 2017; Universal Declaration of Human Rights, adopted and proclaimed by UN General Assembly resolution 217A (III) of December 10, 1948, art. 25(1). See also Convention on the Rights of the Child, adopted by UN General Assembly resolution 44/25 of November 20, 1989, entry into force September 2, 1990, art. 24.2(c); International Covenant on Economic, Social and Cultural Rights, adopted by UN General Assembly resolution 2200A (XXI) of December 16, 1966, entry into force January

⁶Chinese Communist Party General Office and State Council General Office, Difang Dang Zheng Lingdao Ganbu Shipin Anquan Zerenzhi Guiding [Provisions on the Food Safety Responsibility System for Local Party and Government Leading Cadres], effective February 5, 2019.

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⁷Phoebe Zhang, "Chinese Kindergartens 'Served Rotten, Worm-Infested Food' to Children, Two People Detained," South China Morning Post, September 27, 2018; Echo Xie, "Chinese School Principal Sacked over Claims Mouldy Food Found in Canteen," South China Morning Post, March 17, 2019; Alice Yan, "Shanghai School Food Scare Triggers City Wide Kitchen Health Check," South China Morning Post, October 23, 2018.

⁸See, e.g., Mandy Zuo, "Police Try to Quell Chinese Parents' Protest over 'Mouldy' School Food," South China Morning Post, March 14, 2019; Gerry Shih, "Chinese Police Say They Used Minimum' Pepper Spray to Disperse Fuming Parents in Food Safety Scandal," Washington Post, March 14, 2019.

⁹International Coverant on Civil and Political Rights (ICCPR), adopted by LIN General Assertational Coverant on Civil and Political Rights (ICCPR), adopted by LIN General Assertational Coverant on Civil and Political Rights (ICCPR).

⁹International Covenant on Civil and Political Rights (ICCPR), adopted by UN General As-⁹International Covenant on Civil and Political Rights (ICCPR), adopted by UN General Assembly resolution 2200A (XXI) of December 16, 1966, entry into force March 23, 1976, arts. 19, 21; United Nations Treaty Collection, Chapter IV, Human Rights, International Covenant on Civil and Political Rights, accessed July 15, 2019. China has signed but not ratified the ICCPR. Universal Declaration of Human Rights, adopted and proclaimed by UN General Assembly resolution 217A (III) of December 10, 1948, arts. 19, 20; *PRC Constitution*, passed and effective December 4, 1982 (amended March 11, 2018), art. 35.

¹⁰Phoebe Zhang, "Chinese Kindergartens 'Served Rotten, Worm-Infested Food' to Children, Two People Detained," South China Morning Post, September 27, 2018.

¹¹ Ibid.
¹² Mandy Zuo, "Police Try to Quell Chinese Parents' Protest over 'Mouldy' School Food," South China Morning Post, March 14, 2019; Gerry Shih, "Chinese Police Say They Used 'Minimum' Pepper Spray to Disperse Fuming Parents in Food Safety Scandal," Washington Post, March 14, 2019; "Chengdu Qi Zhong Shiyan Xuexiao famei shipin shijian zhong duo ren zao juliu," [Many detained in Chengdu No. 7 Experimental Middle School moldy food incident], Australian Broadcasting Corporation, March 18, 2019.
¹³ Ye Hanyong, Li Like, and Liu Hai, "Chengdu gongbu Chengdu Qi Zhong Shiyan Xuexiao shipin anquan wenti diaocha zuixin jinzhan" [Chengdu announces latest progress in investigation of Chengdu No. 7 Experimental Middle School food safety problem], Xinhua, March 17, 2019

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15 Sui-Lee Wee and Elsie Chen, "China Investigates Latest Vaccine Scandal After Violent Protests," New York Times, January 14, 2019; "Chinese Official Appears to Be Beaten in Protest over Vaccine Scandal" [Video file], South China Morning Post, January 11, 2019.

16 Sui-Lee Wee, "China Imposes Record Fine on Vaccine Maker over Safety Scandal," New York Times, October 17, 2018. In 2018, China's National Medical Products Administration imposed a record penalty on Changchun Changsheng Biotechnology Company for the fabrication of data pertaining to a rabies vaccine the company produced. Authorities further accused the

of data pertaining to a rabies vaccine the company produced. Authorities further accused the company of producing substandard vaccines for diptheria, tetanus, and whooping cough.

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¹⁷Yanzhong Huang, "China's Vaccine Scandals Must Trigger Deeper Health Care Reforms," Nikkei Asian Review, August 15, 2018. See also Yoel Kornreich, "Vaccine Scandals in China: Why Do They Keep Happening Over and Over Again?" Asia Pacific Foundation of Canada, December 21, 2018.

18 Yanzhong Huang, "China's Vaccine Scandals Must Trigger Deeper Health Care Reforms,"

Nikkei Asian Review, August 15, 2018.

¹⁹UN Office of the High Commissioner for Human Rights and World Health Organization, Right to Health (Human Rights Fact Sheet no. 31), June 2008, 4. See also World Health Organization, Human Rights and Health, December 29, 2017.

²⁰ Kinling Lo, "Changsheng Bio-Tech, the Vaccine Maker behind China's Latest Public Health Scare," South China Morning Post, July 25, 2018.

²¹ Zhonghua Renmin Gongheguo Yimiao Guanli Fa [PRC Vaccine Management Law], passed

²¹Zhonghua Renmin Gongheguo Yimiao Guanli Fa [PRC Vaccine Management Law], passed June 29, 2019, effective December 1, 2019, arts. 1, 72, 93, 96; Wang Xiaodong, "Law on Vaccine Supervision Includes Tough Penalties for Producing Fakes," China Daily, July 1, 2019; "China Adopts Tough Law to Ensure Vaccine Safety," Xinhua, June 29, 2019.

²²Zhao Wenjun, "Yao Jian Bumen yifa congyan dui Changchun Changsheng Gongsi weifa weigui shengchan kuangquanbing yimiao zuochu xingzheng chufa" [National Medical Products Administration severely punishes Changchun Changsheng Company for illegal production of rabies vaccine], Xinhua, October 16, 2018; Sui-Lee Wee, "China Imposes Record Fine on Vaccine Maker Over Safety Scandal," New York Times, April 29, 2019; Eric Ng, "Troubled Chinese Vaccine Maker Changsheng Faces Delisting for Endangering Public Security under Revised Rules," South China Morning Post, November 19, 2018; China Securities Regulatory Commission, "Zhongguo Zhengjianhui xingzheng chufa jueding shu (Changsheng Shengwu Keji Gufen Youxian Gongsi, Gao Junfang, Zhang Jing deng 18 ming zeren renyuan)" [China Securities Regulatory Commission Administrative Punishment Decision (Changsheng Biotechnology Company, Gao Junfang, Zhang Jing among 18 responsible individuals)], December 6, 2018. The monetary penalties against Changsheng included confiscation of illegal gains of 1.9 billion yuan (approximately US\$276 million) and a fine of 7.2 billion yuan (approximately US\$1.05 billion).

²³ "Zhongguo fabu shangshi gongsi zhongda weifa qiangzhi tui shi xin gui, Changsheng Shengwu tui shi jizhi qidong" (China announces new rules for compulsory delisting of companies for serious violations of law, delisting of Changsheng Biotech begins], Reuters, November 18,

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²⁷Zhang Qianyi, "Hainan tongbao Bo'ao Yinfeng Kangyang Guoji Yiyuan snexian sinyong jia yimiao" [Hainan announces Bo'ao Yinfeng Kangyang International Hospital suspected of using fake vaccines], *China News*, April 29, 2019; Zhuang Pinghui, "Private Hospital in China Closed Down after Dozens of Patients Given Fake HPV Vaccines," *South China Morning Post*, April 20, 2010. "China Fines a Hospital for Administering Potentially Fake Vaccines," *Bloomberg*,

28, 2019; "China Fines a Hospital for Administering Potentially Fake Vaccines," *Bloomberg*, April 29, 2019.

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²⁹ Civil Rights & Livelihood Watch, "Yimiao shouhai jiazhang He Fangmei fufu bei jin ban huzhao" [He Fangmei and her husband, parents of vaccine victim, prevented from getting passports], September 14, 2018. He Fangmei's daughter was sickened by a series of vaccines, including hepatitis A: measles mumps, and rubella: and dirtheria tetangus and nertussis.

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