

## CRIMINAL JUSTICE

### *Findings*

- The criminal justice system remained a political instrument used for maintaining social order in furtherance of the Chinese Communist Party's authoritarian rule. The government punishes criminal acts, but it also targets individuals who pursue universal human rights, particularly when they independently organize or challenge the Party's authority.
- Government officials used extrajudicial and extralegal means—such as mass internment camps, “black jails,” and psychiatric hospitals—to detain members of ethnic minorities, government critics, and people who seek redress for harm caused by official actions. “Retention in custody” is another form of extrajudicial detention. It is provided by law and allows anticorruption officials to detain people without legal representation or judicial process. In one example, local officials detained police officer **Wang Shengli** through retention in custody and tortured him, reportedly in retaliation for Wang's efforts to expose their corrupt schemes.
- Arbitrary detention did not abate despite official rhetoric promoting “rule-based governance.” Authorities labeled rights advocates and dissidents as criminals, using provisions such as “endangering state security” and other vaguely defined offenses. For example, authorities sentenced entrepreneur **Sun Dawu** to 18 years in prison on a range of criminal charges including “picking quarrels and provoking trouble.” Previously, Sun had voiced support for human rights lawyers and criticized the government's handling of the African swine flu epidemic.
- Legally recognized forms of detention—such as retention in custody and “residential surveillance at a designated location”—may lend a veneer of legality to official actions, but detention was often arbitrarily applied and used by officials as cover for secret detentions. Reports emerged this past year indicating that officials had tortured individuals while holding them in these forms of detention. As examples, petitioner **Wan Wenying** suffered fractured ribs due to repeated beatings; citizen journalist **Zhang Zhan** was subjected to force-feeding and was denied adequate medical care despite her fast-deteriorating health; and a transgender person, **Chen Luo'an**, reportedly endured sexual assault in a detention facility but the government did nothing to investigate.
- There continued to be examples of authorities denying detainees family and counsel visits. In one example, officials in Beijing municipality invoked public health concerns in preventing **Wang Su'e** from visiting her husband **Zhang Wenhe**, who was forcibly committed to a psychiatric hospital for the fifth time for his pro-democracy activities. In the case of **Wang Zang**, detention center officials prevented him from meeting with his lawyer for over one year and two months, alleging public health reasons; they granted a telephone conversation only after the lawyer filed a complaint with the procuratorate.

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### *Recommendations*

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

- Publicly advocate for political prisoners. Chinese officials have deprived individuals of liberty on unsubstantiated criminal charges and for political reasons. Experience demonstrates that consistently and prominently raising individual prisoner cases—and the larger human rights issues they represent—can result in improved treatment in detention, lighter sentences or, in some cases, release from custody, detention, or imprisonment. Specific cases of prisoners can be found in this section and other sections in this report. For additional cases, refer to the Commission’s Political Prisoner Database and the Tom Lantos Human Rights Commission’s “Defending Freedoms” Project.
- Advocate for United States citizens and lawful permanent residents, such as **Kai Li** and Pastor **David Lin**, whom Chinese authorities arbitrarily detained in or prevented from leaving China. Devise and implement measures to proactively counter the PRC’s use of hostage diplomacy as leverage to advance its political objectives.
- Prioritize an end to arbitrary detention through diplomatic engagement. The Administration should urge Chinese officials to end all forms of arbitrary detention, and raise this issue in all bilateral discussions and in multilateral institutions of which the United States and China are members. The Administration should create public diplomacy campaigns and support media efforts to raise global awareness about the detention of political and religious prisoners in “black jails,” psychiatric institutions, compulsory drug detoxification centers, police and state security detention centers, and mass internment camps in the Xinjiang Uyghur Autonomous Region. In addition, the Administration should consider funding non-governmental projects that assist individuals with evidence collection and submissions to accumulate evidence on Chinese officials complicit in the arbitrary detention of political and religious prisoners.
- Take the necessary steps to ensure that U.S. businesses are not complicit in People’s Republic of China (PRC) abuses of police power. The Administration and Members of Congress should take the necessary steps to prohibit the export of U.S. surveillance technologies and equipment to PRC security services. Members of Congress should hold public hearings and private meetings with companies from their districts to raise awareness of the risk of complicity in human rights abuses and privacy violations that U.S. companies working in China may face. Topics of meetings could include complicity in the use of artificial intelligence technology and surveillance equipment to monitor human rights advocates, religious believers, and ethnic minority groups in China.
- Voice support for human rights advocates in China. Members of Congress and Administration officials, especially the President, should regularly meet with Chinese civil society and

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democracy advocates and human rights defenders, as well as other targets of Chinese government repression. The Administration and Members of Congress should discuss with Chinese counterparts the importance of protection for such individuals in a wide range of bilateral and multilateral discussions with Chinese officials.

- Emphasize to the Chinese government the need for greater transparency in its use of the death penalty. The Administration and Members of Congress should urge Chinese officials to disclose the number and circumstances of executions. The Administration and Members of Congress should urge the Chinese government to ban explicitly, in national legislation, the procurement of organs from live and executed prisoners, prisoners of conscience, and other persons detained in the PRC.

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### *Introduction*

During the Commission's 2022 reporting year, PRC officials continued to use the criminal justice system and various other forms of detention to arbitrarily detain individuals. As of February 2022, the human rights monitoring group Rights Defense Network documented 1,279 cases of active detention, which it estimated to be a small fraction of the total number of political and religious prisoners in China.<sup>1</sup> In reviewing PRC's administration of justice in 2020, a scholar observed a standardization of abusive procedures in politically sensitive cases, such as total isolation and torture of detainees, the scope of which had expanded given the diminishing space for speech and civil society activity.<sup>2</sup> These factors are relevant, for example, in evaluating diplomatic assurances made by the Chinese government that it will protect the due process rights of a person subject to extradition to China.<sup>3</sup>

The UN Working Group on Arbitrary Detention considers a detention arbitrary if 1) it has no legal basis, 2) it is used to suppress the exercise of universal human rights, 3) the detainee's due process rights are violated, 4) asylum seekers or refugees are subjected to prolonged detention, or 5) the detention is discriminatory on grounds such as religion, ethnicity, sexual orientation, and political opinion.<sup>4</sup> Arbitrary detention violates international human rights standards<sup>5</sup> and China's Constitution, which prohibits unlawful deprivation or restriction of a person's liberty.<sup>6</sup> All forms of arbitrary detention are prohibited under international law, including "detention within the framework of criminal justice, administrative detention, detention in the context of migration and detention in the health-care settings."<sup>7</sup>

### *Extrajudicial Detention*

Chinese authorities used the following forms of extrajudicial detention this past year to arbitrarily detain individuals:

#### ENFORCED DISAPPEARANCE

Reports of enforced disappearance continued to emerge this past year.<sup>8</sup> "Enforced disappearance" is any form of deprivation of a person's liberty carried out by the government or with its acquiescence, followed by a refusal to acknowledge the detention or to disclose the detainee's whereabouts.<sup>9</sup>

As of February 2022, rights lawyer **Gao Zhisheng** remained missing since his disappearance in August 2017, after he wrote a book detailing his experience of being tortured and his outlook on democratization in China.<sup>10</sup> In December 2021, domestic security protection officers detained another rights lawyer, **Tang Jitian**, in Beijing municipality before his planned attendance at a human rights event organized by the European Union.<sup>11</sup> As of June 2022, Tang's detention location remained unknown, and he reportedly fainted because of deteriorating health, prompting concerns that he had suffered mistreatment.<sup>12</sup>

In another case, tennis player **Peng Shuai** disappeared in November 2021, after she wrote a post on a social media platform ac-

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causing a former vice premier of sexually assaulting her.<sup>13</sup> About two weeks later, state-run news media published a message in which Peng recanted her accusation and denied her disappearance.<sup>14</sup> Peng subsequently gave media interviews arranged by Chinese officials, but some journalists and human rights experts expressed doubt that Peng was actually free.<sup>15</sup> [For more information on the case of Peng Shuai, see Section VI—Status of Women.]

### BLACK JAILS

The informal term “black jail” refers to buildings such as hotels and training centers that government officials or their agents use to detain people.<sup>16</sup> These extralegal detention facilities operate under different names, including “assistance and service center” or “legal education center.”<sup>17</sup> Their existence and use have no legal basis, and people detained in such sites—many of whom are petitioners<sup>18</sup> and Falun Gong practitioners<sup>19</sup>—do not know when they will be released and do not have any procedural protection.<sup>20</sup>

One report indicates that the use of black jails is not limited to China. Non-governmental organization (NGO) ChinaAid Association reported that Chinese officials in Dubai, United Arab Emirates, held **Wu Huan** for 10 days in a detention facility converted from a villa, releasing her on June 8, 2021.<sup>21</sup> During detention, officials repeatedly threatened Wu, denied her food, and asked her to sign a document incriminating her fiancé **Wang Jingyu**, who had fled China because he was wanted by the Chinese government for questioning the official death toll in the 2020 conflict between the Indian and Chinese militaries.<sup>22</sup>

### PSYCHIATRIC FACILITIES

Forcibly committing individuals without mental illness to psychiatric facilities (*bei jingshenbing*) for acts such as expressing political opinions or grievances against the government continued during this past year,<sup>23</sup> despite domestic legal provisions prohibiting such abuse.<sup>24</sup> In particular, the UN Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care provide that a “determination that a person has a mental illness shall be made in accordance with internationally accepted medical standards” and must not be based on “political, economic or social status . . . or any other reason not directly relevant to mental health status.”<sup>25</sup>

Between July 2021 and June 2022, the Chinese human rights organization Civil Rights & Livelihood Watch documented 14 cases of forcible psychiatric commitment across China.<sup>26</sup> One notable case concerned teacher **Li Tiantian**, whom officials forcibly committed to a psychiatric hospital in Xiangxi Tujia and Miao Autonomous Prefecture, Hunan province, in December 2021 because she voiced support for a professor in Shanghai municipality who was terminated for questioning the official death toll in the historical event known as the Nanjing Massacre.<sup>27</sup> Li was four months pregnant at the time, and people who looked for her went missing.<sup>28</sup> Authorities released her from the hospital about a week later but placed her under constant surveillance and restricted her speech.<sup>29</sup>

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### ADMINISTRATIVE DETENTION

Chinese authorities continued to suppress freedoms such as protest,<sup>30</sup> movement,<sup>31</sup> and religion<sup>32</sup> by employing administrative detention,<sup>33</sup> which is among several types of administrative penalties authorized by the PRC Public Security Administration Punishment Law and the PRC Administrative Penalty Law,<sup>34</sup> and referenced in about 90 domestic laws and regulations.<sup>35</sup> Some political detainees are subjected to further criminal detention and prosecution after completion of administration detention.<sup>36</sup>

### RETENTION IN CUSTODY

The PRC Supervision Law (Supervision Law),<sup>37</sup> authorizes the National Supervisory Commission (NSC) to investigate suspected official misconduct<sup>38</sup> using methods including “retention in custody” (*liuzhi*),<sup>39</sup> an extrajudicial form of detention that allows NSC officials to hold individuals without legal representation and deny them the right to be tried.<sup>40</sup>

According to an official report, the Central Commission for Discipline Inspection and the National Supervisory Commission detained 5,006 persons under retention in custody in 2021 as part of their efforts to investigate corruption.<sup>41</sup> In one case, **Wang Shengli**, a police officer from the Inner Mongolia Autonomous Region who specialized in economic crimes, became permanently disabled as a result of torture he endured during retention in custody.<sup>42</sup> In a transcript that became available around January 2022, Wang said that local officials placed him under “retention in custody” in retaliation for his efforts to expose their corrupt schemes.<sup>43</sup> Beginning in January 2018, officials held Wang in two facilities for nearly six months, during which time they ordered him to sit still, and deprived him of sleep and sufficient food.<sup>44</sup> He hallucinated, became emaciated, and had extensive blood clots in his legs.<sup>45</sup>

### MASS INTERNMENT CAMPS

Authorities continued to operate a system of extrajudicial mass internment camps in the Xinjiang Uyghur Autonomous Region (XUAR) in which they have arbitrarily detained over a million individuals from predominantly Muslim ethnic minority groups, including Uyghurs, Kazakhs, Kyrgyz, Hui, and others.<sup>46</sup> In April 2022, the U.S. Government reiterated its determination that the Chinese government is committing genocide against Muslim minorities in China.<sup>47</sup> [For more information on arbitrary detention in China’s mass internment camps, see Section X—Xinjiang.]

### *Abuse of Criminal Provisions*

As “law-based governance” remained a theme in official rhetoric,<sup>48</sup> Chinese authorities continued to suppress the exercise of universal human rights through the use of criminal charges. Commonly applied criminal charges include the following:

- **Crimes of endangering state security** is a category of 12 offenses that carry a maximum of life imprisonment<sup>49</sup> and have been lodged against government critics and rights lawyers.<sup>50</sup>

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- **Picking quarrels and provoking trouble**, often considered a catch-all offense and encompassing internet activities,<sup>51</sup> carries up to 10 years in prison<sup>52</sup> and is an offense that the government sometimes uses against people whom it deems to be troublemakers.<sup>53</sup> Ahead of the National People’s Congress annual meeting in March 2022, Chinese People’s Political Consultative Conference member Zhu Zhengfu said the offense should be repealed because it is vaguely defined and additionally may result in a legal absurdity, in that, conduct that does not otherwise satisfy the elements of a lighter offense may be subject to a lengthier prison term under this offense.<sup>54</sup>
- **Extortion**, carrying over 10 years of imprisonment depending on the amount of money involved,<sup>55</sup> has been applied to individuals who petition the government for redress of grievances.<sup>56</sup>
- **Illegal business activity**,<sup>57</sup> carrying a maximum sentence of over five years, has been used in cases involving religious and political publications.<sup>58</sup>
- **Fraud**,<sup>59</sup> the maximum sentence for which can be life imprisonment depending on the amount involved, has been lodged against church leaders who collected offerings from church members.<sup>60</sup>
- **Organizing and using a cult to undermine implementation of the law**, with sentences ranging from under three years to life imprisonment,<sup>61</sup> is typically used to prosecute individuals considered to be “cult members,” such as Falun Gong practitioners,<sup>62</sup> and lawyers are prohibited from contesting the government’s “cult designation” in the course of defending the accused.<sup>63</sup>

Defendants sometimes face multiple criminal charges and hence lengthy sentences, such as in the case of entrepreneur **Sun Dawu**, whom authorities accused of eight offenses: “picking quarrels and provoking trouble,” “obstructing official business,” “conducting coercive transactions,” “illegal mining,” “illegal occupying of agricultural land,” “illegal fundraising,” “gathering a crowd to attack a government agency,” and “disrupting production operations.”<sup>64</sup> In July 2021, the Gaobeidian City People’s Court in Baoding municipality, Hebei province, sentenced Sun to 18 years in prison, and additionally sentenced his employees, his son, and his brothers to prison terms ranging from 1 to 12 years.<sup>65</sup> Sun had voiced support for human rights lawyers and criticized the government’s handling of the African swine flu epidemic.<sup>66</sup> Before Sun’s detention, personnel of a state-run farm attempted to demolish one of his company’s offices; after his detention, local officials took over management of his company.<sup>67</sup> Sun’s lawyers noted that court proceedings would last over 12 hours on most days during the 14-day trial<sup>68</sup> and “were conducted with unusual urgency.”<sup>69</sup> They further pointed out that authorities had illegally detained Sun under “residential surveillance at a designated location.”<sup>70</sup> [For more information on this form of coercive measure under the PRC Criminal Procedure Law, see the subsection “Residential Surveillance at a Designated Location” below.]

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### *Restriction of Liberty of Foreign Individuals*

The Chinese government continued to arbitrarily restrict the liberty of foreign individuals as leverage to advance its political goals,<sup>71</sup> a practice that has sharply escalated since 2018, as observed by the Australian Strategic Policy Institute (ASPI).<sup>72</sup> In a report published in August 2020, ASPI noted that this type of arbitrary detention often involved “enforced disappearances, unusual trial delays, harsh punishments, prolonged interrogations and lack of transparency to maximise the effects of coercion.”<sup>73</sup> Furthermore, Chinese authorities are “known to reinstate Chinese citizenship to detainees to prevent them from being repatriated . . .”<sup>74</sup>

### *Pretrial Detention*

Reports continued to emerge indicating that Chinese authorities subjected political prisoners to prolonged pretrial detention, a violation of the right to a speedy trial under the International Covenant on Civil and Political Rights.<sup>75</sup> The PRC Criminal Procedure Law requires that a decision to formally arrest an individual must be made within 37 days of the initial detention.<sup>76</sup> Thereafter, absent special circumstances, the procuratorate has one month to indict an individual, and the court is required to complete trial and sentencing within two months of receiving the case from the procuratorate.<sup>77</sup> NGO Chinese Human Rights Defenders observed that “Chinese authorities routinely use prolonged pretrial detention, for no particular reason, to lock up rights defenders and dissidents without any judicial review.”<sup>78</sup> One recent example involves lawyer **Qin Yongpei**, who remained in pretrial detention as of March 2022, over 21 months after his detention in October 2019.<sup>79</sup> [For more information on Qin Yongpei’s case, see Section IV—Access to Justice.]

In an article that does not focus on political cases, a China-based scholar acknowledged China’s high rate of pretrial detention but noted a sudden decline in 2020, possibly due to public health concerns surrounding COVID-19.<sup>80</sup> “[T]he national average pretrial detention rate was almost 95%” between 1990 and 2009, which, according to the scholar’s estimates, was followed by a trend of gradual decline, reaching 66 percent in 2019.<sup>81</sup> The Supreme People’s Procuratorate reported in 2021 that the pretrial detention rate fell to 53 percent in 2020.<sup>82</sup> The sharp decline could be attributed to local authorities’ attempt to reduce the number of detainees so as to abate COVID-19 transmission within detention facilities, as reflected by case officers proactively processing bails, rather than waiting for the lawyers to make the request.<sup>83</sup> The scholar noted that the continuation of a low pretrial detention rate after the pandemic would be consistent with the Party’s stated goal of promoting non-custodial measures, but he cautioned that it was also possible that the downward trend would reverse course.<sup>84</sup>

### *Denial of Counsel and Family Visits*

The Commission observed cases in which Chinese authorities denied detainees the right to counsel and family visits, in violation of international law.<sup>85</sup> While domestic legal provisions permit counsel and family visits, they do not describe such visits as rights.<sup>86</sup>



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In particular, the PRC Criminal Procedure Law does not provide for family visits per se but permits visitation only if the family member is acting as a defense representative.<sup>87</sup> The law likewise circumscribes counsel visits during the investigation phase of a case if it involves state security, requiring prior permission by relevant authorities.<sup>88</sup>

For example, Radio Free Asia reported that officials in Sichuan and Qinghai provinces denied Tibetan political prisoners visitation by their family members, citing concern about the spread of COVID-19, despite the lack of reported transmission for over a year.<sup>89</sup> Officials in Beijing municipality likewise invoked public health concerns in preventing **Wang Su'e** from visiting her husband **Zhang Wenhe**, who was forcibly committed to a psychiatric hospital for the fifth time for his pro-democracy activities.<sup>90</sup>

### *Denial of Effective Legal Representation*

Chinese authorities denied criminal defendants the right to effective legal assistance by a representative of his or her own choosing, especially in political cases.<sup>91</sup> NGO Safeguard Defenders observed that effective legal representation “may help mitigate the sentence, provide a degree of accountability by making abuses public knowledge, [and] provide a lifeline between the detainee and their loved ones,” but authorities openly, repeatedly, and systematically denied legal representation by means including coercing detainees into firing their lawyers, disbarring lawyers, and holding people under false names or setting up bureaucratic hurdles to prevent counsel visits.<sup>92</sup> In one example, detention center officials prevented writer **Wang Zang** from meeting with his lawyer for over one year and two months, alleging public health reasons; they granted a telephone conversation only after the lawyer filed a complaint with the procuratorate.<sup>93</sup>

### *Torture and Abuse*

Reports indicate that the practice of torture and abuse of detainees continues in China, a violation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which China is a signatory.<sup>94</sup>

In one report of torture, police took petitioner **Wan Wenyong** into custody after she had traveled to Beijing, where she intended to file a petition regarding bodily injuries she sustained from being beaten by a police officer in Shanghai municipality in 2018.<sup>95</sup> Beginning in September 2021, her captors detained Wan in different rooms in two hotels, beating her on two occasions and fracturing her ribs, and denied her medical care over a period of 50 days.<sup>96</sup>

**Zhang Zhan**, whom authorities sentenced to four years in prison for documenting the government’s mishandling of the COVID-19 outbreak, suffered from “severe malnutrition, a gastric ulcer, [and] advanced oedema of her lower limbs and is unable to walk or raise her head without being assisted,” according to a group of UN human rights experts, who called for her immediate release.<sup>97</sup> In July 2021, officials committed her to a prison hospital for 11 days, subjecting her to force-feeding.<sup>98</sup> The experts noted that Zhang’s health was fast deteriorating and said that Chinese authorities’

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“failure to provide adequate medical treatment flies in the face of [its duty of care owed to Zhang].”<sup>99</sup>

In an article published in October 2021, a former Chinese detective who worked in the detention system in the Xinjiang Uyghur Autonomous Region told CNN that he and his colleagues systematically tortured Uyghur detainees, some as young as 14 years old, to extract confessions from them.<sup>100</sup> In his opinion, however, none of the detainees he encountered actually committed a crime.<sup>101</sup> According to the detective, methods of torture used by detention camp officials include kicking, beating, applying electric shocks to detainees’ genitals, and ordering other detainees to rape new male inmates.<sup>102</sup>

Sexual assault is also reported in the case of **Chen Luo’an**, a transgender person whom authorities sentenced to two years and six months in prison on the charges of “picking quarrels and provoking trouble” and “theft” in connection with allegations that information about PRC leader Xi Jinping’s relatives was made public.<sup>103</sup> A person who was detained with Chen reported that Chen was sexually assaulted by a homicide suspect in the detention facility and that the government did nothing to investigate.<sup>104</sup> Custodial abuses may amount to torture if they are committed “by or at the instigation of or with the consent or acquiescence of a public official,” and international law obligates state officials to promptly report such abuses.<sup>105</sup> [For information on other instances of sexual assault, see Section III—Freedom of Expression, Section VI—Status of Women, and Section X—Xinjiang. For information on torture experienced by lawyer Chang Weiping, see the subsection “Residential Surveillance at a Designated Location” below.]

### *Death in Custody*

Reports of custodial death continued to emerge this past year, one of which involved a petitioner whose death could be attributed to abuse.<sup>106</sup> Public security officials in Jiangyin city, Wuxi municipality, Jiangsu province, who had been detaining petitioner **Mao Lihui** in a hotel, informed her family in March 2022 that Mao had died as a result of self-immolation.<sup>107</sup> A person familiar with the case speculated that self-immolation was impossible since her captors would have searched her and subjected her to constant surveillance.<sup>108</sup> An unknown source surmised that Mao’s body was set on fire after she had been beaten to death.<sup>109</sup> Previously, authorities had detained Mao on at least three occasions since 2016, after she filed reports about local officials’ misconduct, including fraudulently requisitioning communal farmland and forcibly demolishing her father’s residence.<sup>110</sup>

Multiple custodial deaths of Uyghurs occurred, some of which involved allegations of torture and neglect:

- Imam **Qeyimahun Qari**, whom authorities detained in 2017 and held in a mass internment camp, died in 2018 in the XUAR.<sup>111</sup> He previously served a 15-year prison term after having been sentenced in 1991 for “separatism.”<sup>112</sup> The cause of Qeyimahun’s death was unknown, but a source described him as a healthy man prior to his detention; the source further reported that “police frequently interrogated [Qeyimahun] in-

side the camp to try to obtain information about the Uyghurs who came to his mosque . . .”<sup>113</sup>

- **Shahzadigul Tomur**, a 45-year-old woman and detainee at a mass internment camp, died in September 2020 after vomiting blood and losing consciousness in a sock factory in the XUAR where she performed forced labor since 2018.<sup>114</sup> Despite knowledge of her condition, camp officials forced her to continue working.<sup>115</sup> Prior to her death, Shahzadigul Tomur had been unable to eat because of allergies, but camp officials interpreted her condition as a voluntary hunger strike and subjected her to torture and interrogations.<sup>116</sup>

- **Niyaz Nasir**, a retired civil servant whom authorities had detained in an internment camp in the XUAR since 2018, died at the end of 2020.<sup>117</sup> Authorities ordered the family to immediately bury the body and did not provide any explanation for his detention or death.<sup>118</sup>

- Businessman **Yaqub Haji** died in September 2021 after having been detained in the XUAR since 2018 on suspicion of “religious extremism,” a charge that was related to the financial support he gave to a religious cleric and for building a mosque.<sup>119</sup> Authorities reportedly tortured Yaqub Haji for not confessing to the alleged crime.<sup>120</sup>

### *Residential Surveillance at a Designated Location*

Chinese authorities continued to abuse the form of detention known as “residential surveillance at a designated location” (RSDL), which the PRC Criminal Procedure Law reserves for situations where the detainee does not have a permanent residence or if the case involves state security or terrorism.<sup>121</sup> The law does not provide for the right to family visits, requiring only that the family be notified of the fact of the detention within 24 hours if possible; it does not require the disclosure of the detention location.<sup>122</sup> The law further subjects counsel visits to approval by the investigation unit.<sup>123</sup> A group of UN experts observed that “these conditions of detention are analogous to incommunicado and secret detention and tantamount to enforced disappearance,” which heighten the risk of torture and abuse.<sup>124</sup> According to a research report focusing on the application of RSDL to human rights defenders, NGO Safeguard Defenders documented 175 individual cases as of June 2021 and noted that “RSDL may be being used as a tool of intimidation and to coerce testimony against others.”<sup>125</sup>

In one example, detained rights lawyer **Chang Weiping** told his lawyer during a counsel visit in September 2021 that when he was previously held under RSDL, authorities forced him to sit in an interrogation chair continuously for six days and six nights, subjected him to prolonged interrogation, and denied him privacy, sanitary needs, and sufficient food.<sup>126</sup> Authorities detained Chang for providing legal representation in discrimination cases and for revealing his experience of being tortured in a previous detention.<sup>127</sup>

### *The Death Penalty*

The Chinese government continued to classify statistics relating to the use of the death penalty as a “state secret.”<sup>128</sup> Despite the

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official claim that this punishment is reserved for a small number of crimes and only the most serious offenders,<sup>129</sup> the human rights group Amnesty International “believed that the number of death sentences imposed and executions carried out during [2021] remained in the thousands.”<sup>130</sup> [For more information on organ procurement from death row prisoners, see Section V, Chapter 10—Human Trafficking.]

The new PRC Legal Aid Law, which became effective in January 2022, expands state-sponsored legal aid services to cover several groups of people, including capital defendants and those seeking review of a death sentence.<sup>131</sup> At a conference held during the law’s drafting stage, a group of China-based legal experts highlighted the importance of providing sufficient compensation and establishing qualifications for lawyers to ensure the quality of representation.<sup>132</sup> In its final form, the law delegates to local governments the setting of standards of compensation but specifies that representation in capital and death sentence review cases must be rendered by lawyers with at least three years of experience.<sup>133</sup> The effectiveness of the new law, however, is not yet clear.

### *Legal Developments*

In December 2021, the Supreme People’s Court, Supreme People’s Procuratorate, Ministry of Public Security, and Ministry of Justice jointly issued an opinion aiming at improving the adjudication of sentence commutation and parole requests.<sup>134</sup> Under the PRC Criminal Law, these requests are submitted by the detention facility to a people’s court for adjudication based on a set of factors such as repentance or major contributions to society.<sup>135</sup> Intended to counter corruption and to develop a better mechanism for ascertaining facts,<sup>136</sup> the opinion was prompted in part by an incident in which a person committed homicide and assault after being released from jail as a result of multiple commutations, facilitated by prison and court officials who had accepted bribes from the person’s family.<sup>137</sup> A China-based scholar welcomed the opinion’s emphasis on the court’s factfinding duty, rather than relying on the materials submitted by the agency.<sup>138</sup> She noted, however, that the opinion did not explicitly provide for an adversarial proceeding between the detention facility (as the requester) and the procuratorate (as the supervisor), a proceeding which would enhance the court’s factfinding capacity.<sup>139</sup>

#### Notes to Section IV—Criminal Justice

<sup>1</sup>Rights Defense Network, “Zhongguo dalu zaiya zhengzhifan, liangxinfan yuedu baogao (2022 nian 2 yue 28 ri) di 77 qi (gong 1279 ren) (yi)” [Monthly report on political prisoners and prisoners of conscience detained in mainland China (February 28, 2022) No. 77 (total 1,279 persons) (I)], February 28, 2022.

<sup>2</sup>Chen Yu-Jie, “Human Rights in the Chinese Administration of Justice: Formalizing Ideology in the Political and Legal System and Institutionalizing and Normalizing Human Rights Abuses,” trans. Siobhanna Parkin, in *China Human Rights Report 2020*, Taiwan Foundation for Democracy, 2012, 8, 14, 28.

<sup>3</sup>Donald Clarke, “New Zealand’s Troubling Precedent for China Extradition,” *Lawfare* (blog), June 15, 2021; Michael Caster, “To the Supreme Court: Diplomatic Assurances from China Are Meaningless,” *Stuff*, June 12, 2021.

<sup>4</sup>See, e.g., UN Human Rights Council, Working Group on Arbitrary Detention, Opinions adopted by the Working Group on Arbitrary Detention at its 78th session, (19–27 April 2017), A/HRC/WGAD/2017/5, July 28, 2017.

<sup>5</sup>Universal Declaration of Human Rights, adopted and proclaimed by UN General Assembly resolution 217A (III) of December 10, 1948, art. 9; International Covenant on Civil and Political Rights, adopted by UN General Assembly resolution 2200A (XXI) of December 16, 1966, entry into force March 23, 1976, art. 9.

<sup>6</sup>*PRC Constitution*, passed and effective December 4, 1982 (amended March 11, 2018), art. 37.

<sup>7</sup>UN Human Rights Council, Working Group on Arbitrary Detention, Deliberation No. 11 on Prevention of Arbitrary Deprivation of Liberty in the Context of Public Health Emergencies, May 8, 2020, para. 7.

<sup>8</sup>See, e.g., Rights Defense Network, “Hubei Wuhan meitiren, jizhe, zuojia, ‘dabing mianfei yiliao ni wo meiri yihu’ yundong tuiguangren Hu Xincheng zao qiangpo shizong 36 tian” [Hu Xincheng of Wuhan, Hubei, who is a media worker, journalist, writer, and promoter of you and I proclaim “major sickness deserves free medical care” campaign, was forcibly disappeared for 36 days], January 9, 2022.

<sup>9</sup>International Convention for the Protection of All Persons from Enforced Disappearance, adopted by the General Assembly resolution 47/133, December 18, 1992, art. 2.

<sup>10</sup>Rights Defense Network, “Zhongguo dalu zaiya zhengzhifan, liangxinfan yuedu baogao (2022 nian 2 yue 28 ri) di 77 qi (gong 1279 ren) (san)” [Monthly report on political prisoners and prisoners of conscience detained in mainland China (February 28, 2022) No. 77 (total 1,279 persons) (III)], February 28, 2022; “Gao Zhisheng shizong zheng san nian qizi huyu Meiguo jiu ren” [Gao Zhisheng has been disappeared for three full years, wife asks the U.S. to save him], *Radio Free Asia*, August 14, 2020.

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<sup>14</sup>Bindu Bansinath, “What We Know About the Disappearance of Peng Shuai,” *The Cut*, February 8, 2022.

<sup>15</sup>Bindu Bansinath, “What We Know About the Disappearance of Peng Shuai,” *The Cut*, February 8, 2022.

<sup>16</sup>“Zhongguo hei jianyu daguan” [Overview of black jails in China], *Radio Free Asia*, May 7, 2019.

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<sup>18</sup>See, e.g., Civil Rights & Livelihood Watch, “Ren Chunhua bei guan ‘xuexiban’ zao nueda” [Ren Chunhua detained in “study class,” suffered beating], August 10, 2021.

<sup>19</sup>See, e.g., Li Chencai, “Hebei Honghe binguan she hei jianyu gengduo neimu xianwei renzhi” [Hotel in Honghe, Hebei, has black jail installed, more rarely known inside information], *Epoch Times*, November 17, 2021.

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<sup>35</sup>Ministry of Public Security, *Weifan Gong’an Xingzheng Guanli Xingwei de Mingcheng ji Qi Shiyong Yijian* [Opinion on the Titles and Applicable Laws for Public Security Administrative Violations], issued August 6, 2020.

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<sup>38</sup>*Zhonghua Renmin Gongheguo Jiancha Fa* [PRC Supervision Law], passed and effective March 20, 2018, art. 3.

<sup>39</sup>*Zhonghua Renmin Gongheguo Jiancha Fa* [PRC Supervision Law], passed and effective March 20, 2018, art. 22; CECC, *2018 Annual Report*, October 10, 2018, 103.

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<sup>49</sup>*Zhonghua Renmin Gongheguo Xing Fa* [PRC Criminal Law], passed July 1, 1979, revised March 14, 1997, amended December 26, 2020, effective March 1, 2021, arts. 102–5, 107–12.

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<sup>54</sup>“Zhongguo Zhengxie weiyuan jianyi quxiao xunxin zishi zui” [CPPCC member suggests repealing picking quarrels and provoking trouble as a crime], *Lianhe Zaobao*, March 7, 2022.

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<sup>56</sup>See, e.g., “Wu zhong dangju quantao? Shanxi fangmin shang Jing bei zhi ‘qiaozha lesuo’ panqiu wu nian” [Fell into the government’s trap? Petitioner from Shanxi who traveled to Beijing sentenced to five years in prison for “extortion”], *Radio Free Asia*, January 24, 2022.

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<sup>90</sup>Rights Defense Network, “Beijing minyun renshi Zhang Wenhe diwu ci bei jingfang songjin jingshenbing yuan qizi Wang Su’e tifa mingzhi shiyan weiquan daodi” [Beijing democracy advocate Zhang Wenhe forcibly committed to a psychiatric hospital by police for the fifth time, wife Wang Su’e shaves head to express determination, vows to defend rights to the end], October 29, 2021.

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<sup>105</sup> Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), adopted by UN General Assembly resolution 39/46 of December 10, 1984, entry into force June 26, 1987, arts. 1, 12; Body of Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment, adopted by UN General Assembly resolution 43/173 of December 9, 1988, principle 7.

<sup>106</sup> CECC, *2021 Annual Report*, March 21, 2022, 83–84.

<sup>107</sup> “Jiangsu fangmin zao jiefang siyu feiming gongmin guanzhu siyin bei xingju” [Jiangsu petitioner intercepted and died from unnatural causes, citizen who voiced concerns over cause of death was criminally detained], *Radio Free Asia*, March 8, 2022.

<sup>108</sup> “Jiangsu fangmin zao jiefang siyu feiming gongmin guanzhu siyin bei xingju” [Jiangsu petitioner intercepted and died from unnatural causes, citizen who voiced concerns over cause of death was criminally detained], *Radio Free Asia*, March 8, 2022.

<sup>109</sup> “Jiangsu fangmin zao jiefang siyu feiming gongmin guanzhu siyin bei xingju” [Jiangsu petitioner intercepted and died from unnatural causes, citizen who voiced concerns over cause of death was criminally detained], *Radio Free Asia*, March 8, 2022.

<sup>110</sup> Civil Rights & Livelihood Watch, “Zhuiwen Jiangsu weiquan renshi Mao Lihui zai hei jianyu de siyin” [Questioning the reason behind Jiangsu rights defender Mao Lihui’s death in a black jail], March 5, 2022.

<sup>111</sup> Shohret Hoshur, “Death of Detained Uyghur Imam Underscores Harsh Conditions in Xinjiang Re-education Camps,” *Radio Free Asia*, October 22, 2021.

<sup>112</sup> Shohret Hoshur, “Death of Detained Uyghur Imam Underscores Harsh Conditions in Xinjiang Re-education Camps,” *Radio Free Asia*, October 22, 2021.

<sup>113</sup> Shohret Hoshur, “Death of Detained Uyghur Imam Underscores Harsh Conditions in Xinjiang Re-education Camps,” *Radio Free Asia*, October 22, 2021.

<sup>114</sup> Shohret Hoshur, “Uyghur Forced Laborer Died at Factory in China’s Xinjiang, Officials Say,” *Radio Free Asia*, December 28, 2021.

<sup>115</sup> Shohret Hoshur, “Uyghur Forced Laborer Died at Factory in China’s Xinjiang, Officials Say,” *Radio Free Asia*, December 28, 2021.

<sup>116</sup> Shohret Hoshur, “Uyghur Forced Laborer Died at Factory in China’s Xinjiang, Officials Say,” *Radio Free Asia*, December 28, 2021.

<sup>117</sup> “Retired Uyghur Civil Servant Confirmed to Have Died in Xinjiang Internment Camp,” *Radio Free Asia*, December 20, 2021.

<sup>118</sup> “Retired Uyghur Civil Servant Confirmed to Have Died in Xinjiang Internment Camp,” *Radio Free Asia*, December 20, 2021.

<sup>119</sup> “Uyghur Businessman, Philanthropist Confirmed Dead in Xinjiang’s Ghulja,” *Radio Free Asia*, September 27, 2021.

<sup>120</sup> “Uyghur Businessman, Philanthropist Confirmed Dead in Xinjiang’s Ghulja,” *Radio Free Asia*, September 27, 2021.

<sup>121</sup> *Zhonghua Renmin Gongheguo Xingshi Susong Fa* [PRC Criminal Procedure Law], passed July 1, 1979, amended and effective October 26, 2018, art. 75.

<sup>122</sup> *Zhonghua Renmin Gongheguo Xingshi Susong Fa* [PRC Criminal Procedure Law], passed July 1, 1979, amended and effective October 26, 2018, art. 75.

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<sup>123</sup> *Zhonghua Renmin Gongheguo Xingshi Susong Fa* [PRC Criminal Procedure Law], passed July 1, 1979, amended and effective October 26, 2018, art. 39.

<sup>124</sup> Letter from the mandates of the Working Group on Arbitrary Detention; the Working Group on Enforced or Involuntary Disappearances; the Special Rapporteur on the promotion and protection of the right to freedom of opinion and expression; the Special Rapporteur on the rights to freedom of peaceful assembly and of association; the Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health; the Special Rapporteur on the situation of human rights defenders; the Special Rapporteur on the independence of judges and lawyers; the Special Rapporteur on the right to privacy; the Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism; and the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment to the Permanent Representative to the Permanent Mission of the People's Republic of China to the United Nations Office at Geneva and Other International Organizations in Switzerland, OL CHN 15/2018, August 24, 2018.

<sup>125</sup> Safeguard Defenders, "Locked Up: Inside China's Secret RSDL Jails," October 5, 2021, 4.

<sup>126</sup> "Xiamen juhui an": Chang Weiping zaici pilu zao kuxing neimu lushi yuejuan shouzhū" ["Xiamen gathering case": Chang Weiping again exposes inside story of being tortured; lawyer faced obstacle in reviewing case file], *Radio Free Asia*, September 15, 2021.

<sup>127</sup> "Xiamen juhui an": Chang Weiping zaici pilu zao kuxing neimu lushi yuejuan shouzhū" ["Xiamen gathering case": Chang Weiping again exposes inside story of being tortured; lawyer faced obstacle in reviewing case file], *Radio Free Asia*, September 15, 2021.

<sup>128</sup> Amnesty International, "Death Sentences and Executions 2021," May 24, 2022, 28.

<sup>129</sup> Zhou Qiang, "Zuigao Renmin Fayuan guanyu jiaqiang xingshi shenpan gongzuo qingkuang de baogao," [Supreme People's Court report on the situation of strengthening criminal trial work], October 23, 2019, sec. 1(2).

<sup>130</sup> Amnesty International, "Death Sentences and Executions 2021," May 24, 2022, 28.

<sup>131</sup> *Zhonghua Renmin Gongheguo Falu Yuanzhu Fa* [PRC Legal Aid Law], passed August 20, 2021, effective January 1, 2022, art. 25.

<sup>132</sup> Dui Hua Foundation, "China's National People's Congress May Expand Legal Aid in Death Penalty Cases," *Dui Hua Human Rights Journal*, July 7, 2021.

<sup>133</sup> *Zhonghua Renmin Gongheguo Falu Yuanzhu Fa* [PRC Legal Aid Law], passed August 20, 2021, effective January 1, 2022, arts. 26, 52.

<sup>134</sup> Supreme People's Court, Supreme People's Procuratorate, Ministry of Public Security, and Ministry of Justice, *Guanyu Jiaqiang Jianxing, Jiashi Anjian Shizhizhua Shenli de Yijian* [Opinion on Strengthening Actual Adjudication of Sentence Commutation and Parole Requests], issued December 1, 2021.

<sup>135</sup> *Zhonghua Renmin Gongheguo Xing Fa* [PRC Criminal Law], passed July 1, 1979, revised March 14, 1997, amended December 26, 2020, effective March 1, 2021, arts. 78–86.

<sup>136</sup> Supreme People's Court, "Guanyu Jiaqiang Jianxing, Jiashi Anjian Shizhizhua Shenli de Yijian; xinwen fabu" [Press release for the "Opinion on Strengthening Actual Adjudication of Sentence Commutation and Parole Requests"], December 8, 2021.

<sup>137</sup> Cao Yin, "Prison Term Reduction Faces Tougher Scrutiny," *China Daily*, December 9, 2021; Susan Finder, "Supreme People's Court's 2021 Year-End Accomplishments," *Supreme People's Court Monitor* (blog), January 4, 2022.

<sup>138</sup> Xiong Qihong, "Tuijin jianxing, jiashi anjian shizhizhua shenli, bixu rang shenli huigui sifa chengxu" [In order to promote actual adjudication of sentence commutation and parole requests, adjudication must return to the judicial procedures], *People's Court Daily*, December 11, 2021.

<sup>139</sup> Xiong Qihong, "Tuijin jianxing, jiashi anjian shizhizhua shenli, bixu rang shenli huigui sifa chengxu" [In order to promote actual adjudication of sentence commutation and parole requests, adjudication must return to the judicial procedures], *People's Court Daily*, December 11, 2021.