CRIMINAL JUSTICE

Introduction

During the Commission’s 2016 reporting year, Chinese government and Communist Party officials continued to abuse criminal law and police power to further their priorities in “maintaining social stability” and perpetuating one-party rule at the expense of individual freedoms. Representative examples discussed in this section include the criminal prosecution of Yang Maodong, better known as Guo Feixiong, who participated in peaceful rights advocacy and called for political reform; Tang Jingling, who promoted non-violent civil disobedience; and Zhang Haitao, who advocated for ethnic minority rights.

The Commission observed that many of the concerns raised by the UN Committee against Torture (Committee) during its November 2015 review of China’s compliance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment also were raised by the Committee during its previous review of China in 2008. The Committee remained concerned about a wide range of issues, including the use of extralegal and extrajudicial detention, harassment of rights lawyers and advocates, restrictions on detainees’ access to legal counsel, and excessive time in detention for individuals held without formal charges. The Committee also expressed regret that the follow-up recommendations to the Chinese government identified in its 2008 concluding observations “have not yet been implemented.”

Ongoing Use of Arbitrary Detention

Extralegal and extrajudicial forms of detention that restrict a person’s liberty without judicial oversight violate Article 9 of the Universal Declaration of Human Rights and Article 9(1) of the International Covenant on Civil and Political Rights (ICCPR). Some commonly used forms of extralegal and extrajudicial detention in China include the following.

BLACK JAILS

“Black jails” are detention sites that operate outside of China’s judicial and administrative detention systems. After the Chinese government abolished the reeducation through labor (RTL) system in 2013, the Commission continued to observe Chinese authorities’ use of “black jails” to suppress individuals such as petitioners, rights advocates, and those resisting the government’s crackdown on Christianity. In one example, in March 2016, local police from Beijing municipality reportedly detained rights advocate Yin Huimin for seven days in a “black jail,” during which time an officer punched and repeatedly slapped her, breaking her ear drum and causing permanent deafness in one ear. The Commission further observed multiple reports of Chinese authorities detaining petitioners in “black jails” prior to and during the National People’s Congress and Chinese People’s Political Consultative Conference meetings in March 2016.

Local-level government and Communist Party officials reportedly used “legal education centers”—a type of “black jail”—to detain
individuals such as Falun Gong practitioners, in an effort to force them to renounce their beliefs,\(^{20}\) and petitioners, in order to prevent them from making complaints to the central government.\(^{21}\) [For more information on Falun Gong practitioners and petitioners, see Section II—Freedom of Religion and Section III—Access to Justice.] In one example, in October 2015, authorities in Jiansanjiang, Fujin city, Jiamusi municipality, Heilongjiang province, detained a farm worker in a legal education center that reportedly closed around April 2014.\(^{22}\) In addition, Shi Mengwen continued to serve a three-year prison sentence in Jiansanjiang in apparent connection with his advocacy—along with three other Falun Gong practitioners—for the release of Falun Gong practitioners who had been arbitrarily detained at the Jiansanjiang “legal education center.”\(^{23}\)

**PSYCHIATRIC INSTITUTIONS**

Chinese authorities continued to forcibly commit individuals to psychiatric facilities as a tool of political repression\(^{24}\) despite provisions in the PRC Mental Health Law aimed at protecting citizens from such abuse.\(^{25}\) Civil Rights & Livelihood Watch, a human rights monitoring group based in China, noted an increase in reporting of such forcible commitments in 2015, stating that the options available for government officials to restrict citizens’ liberty in the name of “maintaining social stability” became more limited after the 2013 abolition of the RTL system.\(^{26}\) [For more information on implementation of the PRC Mental Health Law, see Section II—Public Health.]

**CHINESE COMMUNIST PARTY DISCIPLINARY PROCESS (SHUANGGUI)**

Under an investigation process known as “double designation” (shuanggui), Party investigators may summon Party members\(^{27}\) to appear for interrogation at a designated time and place for alleged Party discipline violations.\(^{28}\) The shuanggui process is within the Party’s control and outside China’s legal system; it is a form of extralegal detention\(^{29}\) that contravenes rights guaranteed by the Universal Declaration of Human Rights and the ICCPR.\(^{30}\) Investigators detain Party members for three to six months on average\(^{31}\) and generally do not notify the detainee’s family nor permit family visits or meetings with legal counsel.\(^{32}\) Investigators reportedly have employed torture and other coercive means to extract information and confessions during the investigation process.\(^{33}\) Human Rights Watch reported in February 2016 that prolonged solitary confinement, ill treatment, and threats against family members during shuanggui remained common.\(^{34}\) In February 2016, former Deputy Director of the National Energy Administration Xu Yongsheng retracted a confession he previously made while detained under shuanggui, asserting that investigators had tortured him while in custody.\(^{35}\)

**Criminal Law**

Some provisions in the Ninth Amendment to the PRC Criminal Law, which became effective on November 1, 2015,\(^{36}\) may have a negative impact on human rights practices in China\(^{37}\) in areas such as freedom of speech,\(^{38}\) freedom of the press,\(^{39}\) freedom of as-
assembly, freedom of religion, access to justice, and rights advocacy.

USE OF CRIMINAL LAW TO PROSECUTE RIGHTS ADVOCATES

In the past year, the Chinese government continued to use broadly defined crimes to punish rights advocates, petitioners, lawyers, and members of some ethnic minority groups.

- **Picking quarrels and provoking trouble.** This past year, authorities prosecuted rights advocates for “picking quarrels and provoking trouble” under Article 293 of the PRC Criminal Law. A U.S.-based legal scholar observed that the vagueness of this crime potentially allowed police “unlimited discretion to detain and arrest offenders for almost any action.” The Chinese government expressly expanded this provision to cover Internet activities in 2013 and has since used it to prosecute individuals for online speech. In December 2015, Chinese authorities convicted public interest lawyer Pu Zhiqiang on charges of “picking quarrels and provoking trouble” and “inciting ethnic hatred” in connection with his posting of several online messages critical of the Chinese government. Pu was disbarred following his conviction.

- **Gathering a crowd to disturb order in a public place.** The Chinese government applied Article 291 of the PRC Criminal Law under circumstances that could constitute a restriction on freedom of assembly. Article 291 provides for criminal sanctions—including imprisonment of up to five years—for the main organizer who gathers a crowd to disturb order in a public place. In November 2015, a court in Guangdong province sentenced rights advocate Yang Maodong, better known as Guo Feixiong, to six years’ imprisonment under both this provision and Article 293, reportedly in connection with his peaceful rights advocacy and calls for official transparency and political reform. As part of the same case, the court also sentenced Sun Desheng to two years and six months’ imprisonment under Article 291.

- **Organizing and using a cult to undermine implementation of the law.** The Commission observed that in the past year, Chinese authorities used Article 300 of the PRC Criminal Law to prosecute Buddhists, Christians, and Falun Gong practitioners, among others, under circumstances that could constitute a restriction on the freedom of religion under international law. The Ninth Amendment to the PRC Criminal Law added the possibility of life imprisonment to Article 300. [For more information on Chinese authorities’ treatment of religious groups, see Section II—Freedom of Religion.]

- **Endangering state security.** During this reporting year, the Chinese government used “endangering state security” charges in a crackdown against rights lawyers and advocates. Articles 102 to 112 of the PRC Criminal Law—listing offenses including “subversion of state power,” “separatism,” and “espionage”—are collectively referred to as crimes of “endangering state security” (ESS), some of which carry the death penalty. The U.S.-based human rights organization Dui Hua Foundation noted a significant drop in the number of ESS trials in
2015, which it attributed to the Chinese government’s use of non-ESS charges to prosecute political and religious activism.\textsuperscript{66} In January 2016, a court in Guangdong province convicted Tang Jingling,\textsuperscript{67} Yuan Chaoyang,\textsuperscript{68} and Wang Qingying\textsuperscript{69} of “inciting subversion of state power,” an ESS charge, in connection with their promotion of non-violent civil disobedience, sentencing them to prison terms ranging from two years and six months to five years.\textsuperscript{70} In the same month, a court in the Xinjiang Uyghur Autonomous Region sentenced Zhang Haitao,\textsuperscript{71} an advocate for ethnic minority rights, to 19 years’ imprisonment on ESS charges.\textsuperscript{72} In addition, as of July 2016, authorities filed ESS charges against at least 16 rights lawyers and advocates who were detained or disappeared in connection with the crackdown that began in and around July 2015.\textsuperscript{73} [For more information about the 2015 crackdown on human rights lawyers and advocates, see Section III—Access to Justice.]

\begin{table}[h]
\centering
\begin{tabular}{|p{\textwidth}|}
\hline
**UN Committee against Torture’s Review of China’s Compliance With the Convention against Torture** \\
\hline
On November 17 and 18, 2015, the UN Committee against Torture (Committee) held sessions in Geneva, Switzerland, to assess China’s compliance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (Convention against Torture).\textsuperscript{74} In response to Committee members’ questions, the Chinese delegation claimed that “[t]here were no cases of political imprisonment” and that “interrogation chairs were used to prevent detainees from escaping, attacking others or self-harming and were padded for comfort and safety.”\textsuperscript{75} Recent reports from international human rights organizations referred to these chairs as “tiger chairs” and detailed their use as torture devices.\textsuperscript{76}

In its concluding observations, the Committee noted certain positive developments in the Chinese government’s efforts to reform the criminal justice system, including the recognition of the infliction of mental suffering as a form of torture and the 2013 abolition of the reeducation through labor system.\textsuperscript{77} The Committee, however, censured the Chinese government, noting that “the practice of torture and ill-treatment is still deeply entrenched in the criminal justice system . . . .”\textsuperscript{78} Specific concerns included that the definition of torture under Chinese law did not conform to that of the Convention against Torture\textsuperscript{79} and that Chinese authorities used broadly defined charges against rights advocates and religious practitioners and subjected them to ill-treatment, torture,\textsuperscript{80} “black jails,” and other forms of administrative detention without accountability.\textsuperscript{81} The Committee further criticized China for failing to provide disaggregated information about torture, criminal justice, and related issues by invoking state secrets provisions.\textsuperscript{82} Among its recommendations, the Committee called on China to repeal provisions of the PRC Criminal Procedure Law that allow de facto incommunicado detention known as “residential surveillance at a designated location.”\textsuperscript{83}

\hline
\end{tabular}
\end{table}
UN Committee against Torture's Review of China's Compliance With the Convention against Torture—Continued

The Chinese government reportedly barred at least seven rights advocates from exiting China to prevent them from attending the review. The Chinese government also reportedly denied citizens' disclosure requests for information omitted from China's written report to the Committee, including details of cases where the government had awarded compensation to victims of torture and coerced confession, the punishment that the perpetrators received, and the charges for which they were prosecuted.

Ongoing Challenges in the Implementation of the Criminal Procedure Law

COERCED CONFESSIONS

Despite legislative and regulatory enactments by the Chinese government to prevent coerced confession, the problem continued during the reporting year. A November 2015 Amnesty International report noted that the extraction of confessions through torture remained widespread in pre-trial detention, especially in cases that the government considered to be politically sensitive.

The 2012 amendment to the PRC Criminal Procedure Law (CPL) provided for the exclusion of evidence obtained through illegal means such as torture, force, or threat, and required audiovisual recording of the interrogation process in serious cases involving life imprisonment or the death penalty. In September 2015, the Ministry of Public Security (MPS) announced that the implementation of the audiovisual recording system, as prescribed by the CPL, was still in progress and that it planned eventually to expand the scope of the system to cover all criminal cases. In March 2016, the MPS issued disciplinary rules to hold police officers accountable for misconduct and subject them to criminal, administrative, and disciplinary sanctions, including for obtaining confessions by torturing detainees and retaliating against whistleblowers or complainants.

Chinese and international rights organizations expressed concerns about the implementation and effectiveness of existing preventive measures, as did a member of the Chinese People's Political Consultative Conference (CPPCC). Lawyer and CPPCC delegate Shi Jie observed that written interrogation notes sometimes were inconsistent with or even contradicted audiovisual recordings. Shi suggested that the National People's Congress specify, through legislation or judicial interpretation, that defense lawyers have the right to copy the recording of the entire interrogation session, whether or not the procuratorate decides to transfer it to the court. A U.S.-based legal expert observed that “recording interrogations [was] not significantly changing the culture of extreme reliance on confessions as the primary form of evidence in criminal cases.” Human Rights Watch also questioned the effectiveness of the supervisory mechanism.
TELEVISED CONFESSIONS

The Chinese government’s practice of broadcasting on television prerecorded “confessions” in high-profile cases continued during the past reporting year. Examples of individuals subjected to televised “confessions” included the cofounder of a legal advocacy NGO, rights lawyers, media professionals, booksellers, and other individuals. Such practices contravened international human rights standards, including the right to a fair trial and due process, the presumption of innocence, and the right against self-incrimination. The international NGO Chinese Human Rights Defenders noted that “when suspects are held incommunicado, without access to lawyers, and ‘confess’ on TV—a cruel and degrading humiliation in itself—it is impossible to verify if they have confessed willingly or have been tortured, threatened, or intimidated.” Zhu Zhengfu, a CPPCC member and Deputy Director of the All China Lawyers Association, reportedly said that televised confessions worked against the principle of the presumption of innocence. A senior judge in Henan province reportedly echoed this opinion, noting, “Outside of a court, no one has the right to decide whether someone is guilty of a crime.”

RESIDENTIAL SURVEILLANCE AT A DESIGNATED LOCATION

Under Article 73 of the PRC Criminal Procedure Law, authorities can enforce a form of coercive detention known as “residential surveillance at a designated location” to detain a person at an undisclosed location for up to six months for cases involving “endangering state security” (ESS), terrorism, and serious bribery. An international human rights group questioned the legality of “residential surveillance at a designated location” and noted that the six-month period far exceeded the 30-day time limit for police to submit an arrest request to the procuratorate in cases where individuals were held at a detention center.

The UN Committee against Torture criticized this coercive measure because it “may amount to incommunicado detention in secret places, putting detainees at a high risk of torture or ill-treatment.” In December 2015, with the stated goal of supervising the enforcement of “residential surveillance at a designated location,” the Supreme People’s Procuratorate issued provisions requiring procuratorate officials to issue an “opinion to correct” upon discovering noncompliant or unlawful conduct such as corporal punishment and torture committed by officials carrying out the coercive measure. A lawyer based in Shanghai municipality, however, questioned the effectiveness of the provisions because they did not provide for any penalty. Two China-based legal scholars also cautioned that since “residential surveillance at a designated location” is enforced outside a detention center, the lack of effective supervision could lead to illegal evidence gathering.

Access to Counsel

In the past year, the Chinese government denied access to legal counsel to some individuals detained in politically sensitive cases. Individuals charged with ESS crimes—which the government often used against rights advocates—continued to face difficulty in
meeting with their lawyers. Article 33 of the PRC Lawyers Law as amended in 2012 deprives detainees of the right to meet with their lawyers in ESS, terrorism, and serious bribery cases (“three categories of cases,” or sanlei anjian) unless an application for that purpose has been approved by the agency investigating the case. The CPL, however, does not provide for a specific timeframe within which authorities must decide on such an application. Authorities reportedly obstructed or denied access to counsel for those detained during a major crackdown on rights lawyers and advocates that began in and around July 2015 and in other cases involving rights advocacy.

After the 2012 amendment of the CPL, some lawyers reported that defendants had improved access to legal counsel, even though lawyers continued to experience difficulties in meeting with their clients, for reasons including the following: insufficient numbers of lawyer meeting rooms in detention facilities; authorities’ invocation of the “three categories of cases” to deny a detainee access to counsel irrespective of the actual charge; authorities’ detention of individuals under “residential surveillance at a designated location” instead of at a detention center; and authorities’ refusal to allow lawyer-client meetings without prior permission.

### Torture and Abuse in Custody

During this reporting year, authorities at detention facilities continued to abuse detainees. For example, in November 2015, Zhang Liiumao, founder of a literary magazine, died in a detention center in Guangzhou municipality, Guangdong province, after authorities had detained him for about two months on suspicion of “picking quarrels and provoking trouble.” A lawyer who viewed Zhang’s body observed evidence of physical abuse, but procuratorate officials denied the family’s demand for a copy of the full autopsy report.

In April 2016, the sister of imprisoned rights advocate Yang Maodong, better known as Guo Feixiong, requested that prison officials provide Guo with medical examination and treatment for his deteriorating health, which included intermittent bloody diarrhea and bleeding in his mouth and pharynx. In May, officials in charge of Guo’s custody forced Guo to have a rectal examination, which officials reportedly filmed and threatened to post online.

In May 2016, Lei Yang, an environmentalist and new father, died shortly after police officers in Beijing municipality placed him in custody. In June, Beijing procuratorial officials approved the arrest of two of the officers involved on the charge of “dereliction of duty.” Authorities reportedly censored a news article about Lei’s family accusing the police officers of causing Lei’s death by intentional infliction of injury.

In August 2016, family members of detained lawyer Xie Yang issued a statement saying that in August 2015, officials reportedly beat Xie unconscious after Xie was tortured and called out for help from a window of the holding place where “residential surveillance at a designated location” was enforced. In July 2016, officials at the Changsha Municipal No. 2 PSB Detention Center reportedly held Xie in a cell with a death row inmate who attacked Xie with handcuffs, causing serious injuries.
Wrongful Conviction

In March 2016, the Supreme People’s Court (SPC) and the Supreme People’s Procuratorate (SPP) reported continuing to make efforts to prevent wrongful convictions, and courts in Jilin, Zhejiang, and Yunnan provinces overturned convictions in some cases involving torture allegations. Nevertheless, reports of coerced confessions continued to surface this past year. In June 2016, the SPP released a guiding case in which a local procuratorate did not approve the arrest of a murder suspect when it determined that authorities had illegally obtained the suspect’s confession and that other evidence was insufficient to establish criminal conduct. In March 2016, a procuratorate in Guizhou province agreed to investigate the 2003 murder convictions of two individuals who alleged that they were tortured during the police investigation, but the court that rendered the guilty verdict declined the procuratorate’s request to retrieve the case materials for review.

The Chinese government and Communist Party previously have called for an end to the use of quotas for arrests, indictments, guilty verdicts, and case conclusions in performance evaluations. Depending on the implementation of such a plan, this change could reduce pressure on police to extract confessions and on courts to issue guilty verdicts. In February 2016, state-funded newspaper Beijing Times published a commentary in which the author anticipated that this change would result in an increase in not-guilty verdicts. According to the SPC work report released in March 2016, the not-guilty verdict rate for 2015 was 0.084 percent, representing an increase from 0.066 percent for 2014, but below 0.10 and 1.02 percent for 2010 and 2000, respectively. Chinese news agency Caixin reported that more than half of the 26 annual work reports published by provincial-level high courts in 2016 continued to list statistical data of these quotas as performance indicators.

Death Penalty

The Ninth Amendment to the PRC Criminal Law removed the death penalty from 9 non-violent crimes, leaving 46 crimes that still carried the death penalty. While two UN special rapporteurs welcomed this move, one human rights group viewed it as a modest improvement, and another questioned its practical impact on reducing the number of executions. Despite the trend of a reduction in the number of executions in China—from an estimated 12,000 in 2002 to 2,400 in 2013—the number of executions reportedly remained high relative to other countries. In April 2016, Amnesty International estimated that the number of executions in China in 2015 was still in the thousands, exceeding the number for all other countries combined.

WITHHOLDING OF STATISTICS RELATED TO THE DEATH PENALTY

The Chinese government continued to withhold statistical data on executions and treat the data as a state secret. In its review of China’s compliance with the Convention against Torture, the UN Committee against Torture requested that the Chinese gov-
ernment provide information on the number of executions carried out. In its response to the Committee, China merged the statistical data on the death penalty with other criminal sentences, rather than providing disaggregated data on executions alone.

JUDICIAL REVIEW OF DEATH PENALTY CASES

Some scholars expressed concerns about the death penalty review process, specifically its lack of clear legal standards, transparency, and adequate procedures to ensure meaningful participation by legal counsel. At a criminal law forum in October 2015, Zhou Guangquan, a Tsinghua University law professor and a member of the National People's Congress Legal Affairs Committee, called on the SPC to promulgate death penalty sentencing guidelines and to disclose statistical data on death penalty reviews.

The U.S.-based human rights organization Dui Hua Foundation examined 525 death penalty review decisions issued between April 2011 and November 2015 and inferred from these decisions that, in determining whether to approve a death sentence, the SPC considered several mitigating factors, including remorse, good behavior, severity of the crime, and the defendant’s economic situation and role in the crime. The Dui Hua Foundation did not cite and the Commission did not observe any published legal standards governing death penalty review.

Although the SPC in 2013 promulgated a general rule requiring courts to post judgments online, an SPC official explained that the SPC would publish only selected death penalty review decisions. The Dui Hua Foundation reported an inconsistency between the 2-percent reversal rate based on the cases it examined and the figure provided by a former SPC judge, which was around 10 percent in 2014. The Dui Hua Foundation further noted that the SPC published a small fraction of the death penalty review decisions.

ORGAN HARVESTING

Huang Jiefu, a senior Chinese health official, announced in late 2014 that harvesting organs from executed prisoners would completely cease on January 1, 2015, but he later characterized death row prisoners as citizens who were eligible to give consent to organ donation. In November 2015, Huang again affirmed the ban on harvesting organs from executed prisoners but when asked, did not deny that the practice continued. In June 2016, the U.S. House of Representatives passed a resolution expressing concerns about organ harvesting in China and noting that Huang's 2014 announcement did not directly address organ harvesting from “prisoners of conscience.” Ahead of an August 2016 global conference on transplantation, its organizer, the Transplantation Society, rejected 10 out of 28 clinical papers submitted from China for presentation at the conference because of concerns over the sources of the transplanted organs discussed in these papers.

According to Chinese doctors interviewed by the New York Times, the Communist Party called for Party members to donate organs and bring media attention to organ donation, which reportedly resulted in an increase in donations. China Daily, a state-
run media outlet, reported a 60-fold increase in voluntary organ donations between 2010 and 2014.\textsuperscript{183} According to a state-funded news outlet, as of July 2016, the number of patients waiting for organ transplantation (approximately 300,000) remained significantly higher than those who actually received it (approximately 10,000).\textsuperscript{184}
Notes to Section II—Criminal Justice


2. UN Committee against Torture, Concluding Observations of the Committee against Torture—China, adopted by the Committee at its 864th Meeting (21 November 2008), CAT/C/CHN/CO/4, 12 December 08, para. 14; UN Committee against Torture, Concluding Observations on the Fifth Periodic Report of China, adopted by the Committee at its 1391st and 1392nd Meetings (2–3 December 2015), CAT/C/CHN/CO/5, 3 February 16, para. 42. See also Human Rights Watch, “An Alleyway in Hell,” 12 November 09.

3. UN Committee against Torture, Concluding Observations of the Committee against Torture—China, adopted by the Committee at its 864th Meeting (21 November 2008), CAT/C/CHN/CO/4, 12 December 08, para. 11(b); UN Committee against Torture, Concluding Observations on the Fifth Periodic Report of China, adopted by the Committee at its 1391st and 1392nd Meetings (2–3 December 2015), CAT/C/CHN/CO/5, 3 February 16, para. 12.

4. UN Committee against Torture, Concluding Observations of the Committee against Torture—China, adopted by the Committee at its 864th Meeting (21 November 2008), CAT/C/CHN/CO/4, 12 December 08, para. 11(c); UN Committee against Torture, Concluding Observations on the Fifth Periodic Report of China, adopted by the Committee at its 1391st and 1392nd Meetings (2–3 December 2015), CAT/C/CHN/CO/5, 3 February 16, para. 12.

5. UN Committee against Torture, Concluding Observations of the Committee against Torture—China, adopted by the Committee at its 864th Meeting (21 November 2008), CAT/C/CHN/CO/4, 12 December 08, para. 11(a); UN Committee against Torture, Concluding Observations on the Fifth Periodic Report of China, adopted by the Committee at its 1391st and 1392nd Meetings (2–3 December 2015), CAT/C/CHN/CO/5, 3 February 16, para. 10.

6. UN Committee against Torture, Concluding Observations on the Fifth Periodic Report of China, adopted by the Committee at its 1391st and 1392nd Meetings (2–3 December 2015), CAT/C/CHN/CO/5, 3 February 16, para. 6.


8. Universal Declaration of Human Rights, adopted and proclaimed by UN General Assembly resolution 217A (III) of 10 December 48, art. 9.


16. For more information on Yin Huimin, see the Commission’s Political Prisoner Database record 2015-00015.

17. Yin Huimin, Placed in Black Jail During the Two Sessions, Faced Torture and Violent Beating by Evil Police, Causing Permanent Deafness” [Yin huimin lianghui qijian bei guan hei jianyu zao kuxing bei e jing baoda zhi zhongsheng er long], Boxun, 19 March 16.


20. Rights Defense Network: Investigative Report Regarding Mainland China’s ‘Legal Education Centers’ (Black Jails)” [Wuxi using psychiatrists to replace black jails to detain petitioners] (Shanghai fangmin sun hongqin bei cong beijing qiansheng huida shanghai bei guan hei jianyu), Radio Free Asia, 11 February 16; An Jing, “Psychiatric Hospitals Take the Place of Black Jails To Suppress Aggrieved Citizens Who Have Been Prevented From Petitioning” (Jingshenying yuankuai hei jianyu zhou zhi jie jianyu yu zhi qingming yu zhi fangmin), Renmin Bao, 11 February 16. Authorities in different localities across China reportedly continued the practice of holding petitioners and rights advocates in psychiatric institutions. See, e.g., Civil Rights & Livelihood Watch, “More Than 20 Petitioners Welcomed Lu Liming of Shanghai Upon His Discharge From the Hospital, Concluding His Life of Forcible Psychiatric Commitment” (20 yu fangmin yingqu shanghai lu liming chuyuan zhi jian, cai tong shenghuo jian, bei jingshenying yuankuai zhou zhi jie jianyu yu zhi qingming yu zhi fangmin), 11 February 16; “Beijing Municipal Court Upholds Verdict Against ‘Black Jail’,” Deutsche Welle, 2 May 16; “Hebei Human Rights Defenders, ‘[CHRB] Forced Psychiatric Commitment of Dissidents Continues as Police Act Above Enacted Law (4/29–5/5, 2016),’” 5 May 16; Civil Rights & Livelihood Watch, “Concluding His Life of Forcible Psychiatric Commitment” [CHRB Forced Psychiatric Commitment of Dissidents Continues as Police Act Above Enacted Law (4/29–5/5, 2016)], 5 May 16; Civil Rights & Livelihood Watch, “More Than 20 Petitioners Welcomed Lu Liming of Shanghai Upon His Discharge From the Hospital, Concluding His Life of Forcible Psychiatric Commitment” (20 yu fangmin yingqu shanghai lu liming chuyuan zhi jie jianyu yu zhi qingming yu zhi fangmin); 11 February 16 (Beijing municipality); Civil Rights & Livelihood Watch, “Qingyang From Guangzhou Forcibly Committed to Psychiatric Hospital Again for Over a Hundred Days” (Guangzhou qingyang zhi jian, fangmin zhi jianyu yu zhi qingming yu zhi fangmin), 5 May 16; Chinese Human Rights Defenders, “[CHRB] Forced Psychiatric Commitment of Dissidents Continues as Police Act Above Enacted Law (4/29–5/5, 2016),” 5 May 16; Civil Rights & Livelihood Watch, “Forcibly Committed to Psychiatric Hospital Again” [Hunan sheng yongzhou shi fangmin fangmin zhi jianyu zhi jian, fangmin zhi jianyu yu zhi qingming yu zhi fangmin], 17 April 16 (Hunan province); Civil Rights & Livelihood Watch, “Gu Xian sent to psychiatric hospital for the first time, no release date has not been released” [Hunan gu xianghong lianghui qijian bei touru jingshenying yuan zhi zhiwei fangmin zhi jianyu], 21 March 16 (Hunan province); Civil Rights & Livelihood Watch, “Petitioner Zhang Chunhuang Held in Inner Mongolia Certified To Have Mental Disorder, Procuratorate Still Approved Her Arrest” [Neimeng fangmin zhi jianyu qijian bei jian, fangmin zhi jianyu yu zhi qingming yu zhi fangmin, zhang chunhuang bei jian, fangmin zhi jianyu yu zhi qingming yu zhi fangmin], Boxun, 19 February 16.

21. “China Continues To Use Psychiatric ‘Treatment’ on Its Critics: Report” [Radio Free Asia, 11 February 16; “Shanghai Petitioner Sent to Psychiatric Hospital in Beijing, Wuxi Using Psychiatric Hospitals To Replace Black Jails To Detain Petitioners” [Shanghai fangmin sun hongqin bei cong beijing qiansheng huida shanghai bei guan hei jianyu], Radio Free Asia, 11 February 16; An Jing, “Psychiatric Hospitals Take the Place of Black Jails To Suppress Aggrieved Citizens Who Have Been Prevented From Petitioning” (Jingshenying yuankuai hei jianyu zhou zhi jie jianyu yu zhi qingming yu zhi fangmin), Renmin Bao, 11 February 16. Authorities in different localities across China reportedly continued the practice of holding petitioners and rights advocates in psychiatric institutions. See, e.g., Civil Rights & Livelihood Watch, “More Than 20 Petitioners Welcomed Lu Liming of Shanghai Upon His Discharge From the Hospital, Concluding His Life of Forcible Psychiatric Commitment” (20 yu fangmin yingqu shanghai lu liming chuyuan zhi jie jianyu yu zhi qingming yu zhi fangmin), 11 February 16; “Beijing Municipal Court Upholds Verdict Against ‘Black Jail’,” Deutsche Welle, 2 May 16; “Hebei Human Rights Defenders, ‘[CHRB] Forced Psychiatric Commitment of Dissidents Continues as Police Act Above Enacted Law (4/29–5/5, 2016),’” 5 May 16; Civil Rights & Livelihood Watch, “Forcibly Committed to Psychiatric Hospital Again” [Hunan sheng yongzhou shi fangmin fangmin zhi jianyu zhi jian, fangmin zhi jianyu yu zhi qingming yu zhi fangmin], 17 April 16 (Hunan province); Civil Rights & Livelihood Watch, “Gu Xian sent to psychiatric hospital for the first time, no release date has not been released” [Hunan gu xianghong lianghui qijian bei touru jingshenying yuan zhi zhiwei fangmin zhi jianyu], 21 March 16 (Hunan province); Civil Rights & Livelihood Watch, “Petitioner Zhang Chunhuang Held in Inner Mongolia Certified To Have Mental Disorder, Procuratorate Still Approved Her Arrest” [Neimeng fangmin zhi jianyu qijian bei jian, fangmin zhi jianyu yu zhi qingming yu zhi fangmin, zhang chunhuang bei jian, fangmin zhi jianyu yu zhi qingming yu zhi fangmin], Boxun, 19 February 16.

28 of the 1994 provisions requires any person or organization having information about a case under investigation to comply with the shuanggui process. Chinese Communist Party Central Commission for Discipline Inspection, Opinion on Strengthening the Coordination Mechanisms in Case Investigation and on Further Regulating the Measure of “Double Designation” [Zhongyang jiwei guanyu wanshan cha ban anjian xiediao jiuzhi jinyibu gaijin he guifan “lianggui” cuoshi de yijian], issued 20 January 05, item 2(1); Flora Sapio, “Shuanggui and Extralegal Detention in China,” 11 November 15, 34.

29 Chinese Communist Party Central Commission for Discipline Inspection, Provisions for Investigative Work of Cases by Disciplinary Investigation Agencies (Zhengguo gongchandang jiu juan jiancha jiguang anjian xiejiao gongzuo tiaoli), issued and effective 25 March 94, arts. 10, 28(3), 39. Article 39 of the 1994 provisions limits the initial investigation period to three months but allows the unit that opened the case to extend it for an unspecified length of time in “serious or complex” cases. Chinese Communist Party Central Commission for Discipline Inspection, Opinion on Strengthening the Coordination Mechanisms in Case Investigation and on Further Regulating the Measure of “Double Designation” [Zhongyang jiwei guanyu wanshan cha ban anjian xiediao jiuzhi jinyibu gaijin he guifan “lianggui” cuoshi de yijian], issued 20 January 05, item 2(3). The 2005 opinion limits the initial investigation period to three months with an extension period not exceeding three months.

30 Universal Declaration of Human Rights, adopted and proclaimed by UN General Assembly resolution 217A (III) of 10 December 48, art. 9; International Covenant on Civil and Political Rights, adopted and proclaimed by UN General Assembly resolution 2200A (XXI) of 16 December 66, enter into force 23 March 76, art. 9. See also CEC, 2015 Annual Report, 8 October 15, 102–3; CEC, 2014 Annual Report, 9 October 14, 87–88.

31 Flora Sapio, “Shuanggui and Extralegal Detention in China,” China Information, Vol. 22, No. 1, March 2008, 8, 16. Based on a sample of 380 cases between 1990 and 2005, Flora Sapio found that the period of detention ranged from two days to over a year with an average period of three to six months.


36 National People’s Congress Standing Committee, PRC Criminal Law Amendment (Nine) [Zhonghua renmin gongheguo xing fa xiuzheng’an (jiu)] No. 1, March 2008, 24.

37 Twenty Newly Added Crimes in PRC Criminal Law Are Said To Be Aimed at Suppressing Rights Defenders” [Zhengguo xingfa xin zeng 20 xiang zizheng bei zhi yizai daya weiquan minzhong], Radio Free Asia, 2 November 15.

38 PRC Criminal Law [Zhonghua renmin gongheguo xing fa], passed 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, 25 February 11, 29 August 15, effective 1 November 15, arts. 120(1–6), 286(1); Rights Defense Network, “Request To Withdraw Unconstitutional Provisions in the Criminal Law Amendments—Suggestions for Amendment Proposed by Rights Defense Network Concerning PRC Criminal Law Amendment (9) (Second Reading Draft)” [Chexiaoweixian qinquan de xingfa xiuzheng’an youguan tiaowen—weiquanwangaoduixinfxiaoxuizheng’an youguan tiaowen—weiquanwang dui xinfu xiujuanbian’an jiujian] (cao’an erci shenyi gao) youguan tiaowen xuqiu jiujian, 4 August 15.

39 PRC Criminal Law [Zhonghua renmin gongheguo xing fa], passed 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, 25 February 11, 29 August 15, effective 1 November 15, art. 290; Rights Defense Network, “Request To Withdraw Unconstitutional Provisions in the Criminal Law Amendments—Suggestions for Amendment Proposed by Rights Defense Network Concerning PRC Criminal Law Amendment (9) (Second Reading Draft)” [Chexiaoweixian qinquan de xinfu xiujuanzhan an youguan tiaowen—weiquanwangaoduixinfxiaoxuizheng’an jiujian] (cao’an erci shenyi gao) youguan tiaowen xuqiu jiujian, 4 August 15.

40 PRC Criminal Law [Zhonghua renmin gongheguo xing fa], passed 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01,
28 December 02, 28 February 05, 29 June 06, 28 February 09, 25 February 11, 29 August 15, effective 1 November 15, art. 306; Guo Baosheng, “Rights Lawyers and Religious Freedom in China” [Weiquan lushi yu zhongjiao ziyuandu], Human Rights in China Biweekly, No. 151 (20 February 15–5 March 15).

42PRC Criminal Law [Zhonghua renmin gongheguo xing fa], passed 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, 25 February 11, 29 August 15, effective 1 November 15, art. 308.1; Rights Defense Network, “Request To Withdraw Unconstitutional Provisions in the Criminal Law Amendments—Suggestions for Amendment Proposed by Rights Defense Network Concerning PRC Criminal Law Amendment (9) (Second Reading Draft)” (Chexiao weixian qinquan de xingfa xuexiang’an youguan tiaowen—weiquanwang dui xingfa xuexiang’an jiujiu) 4 August 15.

43PRC Criminal Law [Zhonghua renmin gongheguo xing fa], passed 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, 25 February 11, 29 August 15, effective 1 November 15, art. 309. “Disrupting Court Order?” Several Hundred Lawyers Protested in a Jointly Signed Letter” [“Raojuan fating zhihu?” shubai lushi lian shu fandui], Deutshe Welle, 28 November 14; Human Rights Campaign in China, “Lawyer Zhang Lei: Record of Verdict Announcement in Guo Feixiong and Sun Desheng Case” [Zhang lei lushi: guo feixiong, sun desheng an xuanpan ji], 16 December 15. The presiding judge in this case characterized the lawyer’s advocacy on behalf of his client as an “attack,” as reflected in the following exchange between the lawyer and the judge: “[Lawyer] Zhang Lei: […] The protesters were exercising their right of free speech. By treating citizens’ exercise of their free speech right as causing commotion and trouble, the judiciary is in fact the one that is ‘causing commotion and trouble.’ When it makes this kind of determination, it is the judiciary that is ‘picking quarrels and provoking trouble’ with each individual citizen and their rights. [Judge] Zheng Xin: Do not attack the judiciary; otherwise, your speech will be terminated.”

44UN Committee against Torture, Concluding Observations on the Fifth Periodic Report of China, adopted by the Committee at its 1391st and 1392nd Meetings (2–3 December 2015), CAT/C/CHN/CO/5, 3 February 16, para. 36.

45See, e.g., Rights Defense Network, “Fujian Rights Defender and Lawyer Ji Sizun Was Prosecuted Against for ‘Picking Quarrels and Provoking Trouble and Gathering a Crowd To Disturb Public Order’ After Having Been in Custody for Nearly 11 Months” [Fujian renquan hanwei ji sizun lushi zao ji ji ni 11 ye hou bei yi “xunxin zishi he juzhong raoluan gonggong zhixu zui”], 30 June 15. The presiding judge in this case characterized the lawyer’s advocacy on behalf of his client as an “attack,” as reflected in the following exchange between the lawyer and the judge: “[Lawyer] Zhang Lei: […] The protesters were exercising their right of free speech. By treating citizens’ exercise of their free speech right as causing commotion and trouble, the judiciary is in fact the one that is ‘causing commotion and trouble.’ When it makes this kind of determination, it is the judiciary that is ‘picking quarrels and provoking trouble’ with each individual citizen and their rights. [Judge] Zheng Xin: Do not attack the judiciary; otherwise, your speech will be terminated.”

46PRC Criminal Law [Zhonghua renmin gongheguo xing fa], passed 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, 25 February 11, 29 August 15, effective 1 November 15, art. 291.

47For more information on Yang Maodong, also known as Guo Feixiong, see the Commission’s Political Prisoner Database record 2011-00313.

48Supreme People’s Court, Supreme People’s Procuratorate, Interpretation of Certain Issues Concerning the Application of Law in the Handling of Criminal Cases Including Defamation by Courts and litigants (20 February 15–5 March 15).
as amended in 2015, provides for life imprisonment if the circumstances are “particularly seri-
ous.”

56 Wei Meng, “Wu Zeheng, Leader of Evil Cult 'Huazang Dharma,' Sentenced to Life Imprison-
ment by Court of First Instance” [Xiejiao zuzhi “huazang zongmen” toumu wu zeheng yi'zen bei panchu wuqi tuxing], Xinhua, 31 October 15; “China Harshly Sentences Founder of Huazang Dharma,” China Change, 3 November 15; Zhuhai Intermediate People’s Court, “Court of First
Instance Announces Verdict in Case of Wu Zeheng and Four Others [Charged With] Organizing
and Using Cult Organization To Undermine Implementation of the Law” [Wu zeheng deng 5 ren zuzhi, liyong xiejiao zuzhi pohuai falu shishi an yizhan xuanpan], 30 October 15.

57 Guo Baosheng, ChinaAid, “House Churches Are The Next Target of Sinicization of Christi-
anity” [Jiating jiaohui shi jidujiao zhongguohua de xia yi ge mubiao], 2 December 15.

58 New Development in the Case in Which Lawyer Zhang Zanning Defended Wu Hongwei,
a Falun Gong Practitioner From Heyuan, Guangdong” [Zhang zanning lushi wei guangdong
heyuan falun gong xueyuan wu hongwei biaohua xin jinzhan], Boxun, 12 December 15.

59 Universal Declaration of Human Rights, adopted and proclaimed by UN General Assembly
resolution 217A (III) of 10 December 48, art. 18; International Covenant on Civil and Political
Rights, adopted by UN General Assembly resolution 2290A (XXI) of 16 December 66, entry into
force 23 March 76, art. 18.

60 National People's Congress Standing Committee, PRC Criminal Law Amendment (Nine)
[Zhonghua renmin gongheguo xingshi susong fa], issued 29 August 15, effective 1 November
15, art. 33.

Times, 28 January 16; Zhuhai Intermediate People’s Court, “Court of First Instance
Announces Verdict in Case of Wu Zeheng and Four Others [Charged With] Organizing
and Using Cult Organization To Undermine Implementation of the Law” [Wu zeheng deng 5
ren zuzhi, liyong xiejiao zuzhi pohuai falu shishi an yizhan xuanpan], 30 October 15.

62 For more information on Zhang Haitao, see the Commission’s Political Prisoner Database
record 2011-00255.

63 For more information on Yuan Chaoyang, also known as Yuan Xinting, see the Commis-
sion’s Political Prisoner Database record 2014-00221.

64 For more information on Wang Qingying, see the Commission’s Political Prisoner Database
record 2014-00180.

65 Chris Buckley, “3 Rights Advocates Are Sentenced to Prison in China,” New York Times,
Chaoyang, Wang Qingying, The Three Gentlemen of Guangzhou” [“Guangzhou san junzi”
tang jingling, yuan chaoyang, wang qingying de panjue shu], 29 January 16.

66 For more information on Zhang Haitao, see the Commission’s Political Prisoner Database
record 2015-00343.

67 Xinjiang Rights Defender Zhang Haitao Sentenced to 19 Years—With Real Estate Con-
fiscated, Where Will Wife and Infant Son Live? ” [Xinjiang weiquan renshi zhang haitao zao
zhongguo xuezai zhongguo xueyuan wu hongwei deng jiazai xin jinzhan], Radio Free Asia,
18 January 16; Rights Defense Network, “Urumiqi Intermediate Court Sentenced Xinjiang
Rights Defender Zhang Haitao to Fixed-Term Imprisonment of 15 Years for ‘Inciting Subversion
of State Power’ and Fixed-Term Imprisonment of 5 Years for ‘Supplying Foreign Entities With
State Intelligence, To Serve 19 Years Combined” [Xinjiang renquanzai huxia zhe zhang haitao
bei wulumuqi zhong yuan yi ‘shandong dianfu guojia zui’ chu youqi tuxing 19 nian, ‘wei jia
yuan zhongguo xuezai zhongguo xueyuan wu hongwei deng jiazai xin jinzhan’], Boxun, 29 January
16.

68 For more information on Wu Hongwei, see the Commission’s Political Prisoner Database
record 2015-00284.

69 Chris Buckley, “3 Rights Advocates Are Sentenced to Prison in China,” New York Times,
Chaoyang, Wang Qingying, The Three Gentlemen of Guangzhou” [“Guangzhou san
junzi” tang jingling, yuan chaoyang, wang qingying de panjue shu], 29 January 16.

70 For more information on Liu Shifeng, see the Commission’s Political Prisoner Database
record 2015-00276.

71 For more information on Liu Sixin, see the Commission’s Political Prisoner Database
record 2015-00277.

72 For more information on Zhao Wei, see the Commission’s Political Prisoner Database
record 2015-00278.

73 For more information on Gou Hongguo, also known as Ge Ping, see the Commission’s
Political Prisoner Database record 2015-00331.

74 For more information on Liu Yongjia, also known as Laomu, see the Commission’s
Political Prisoner Database record 2015-00333.

75 For more information on Li Chunfu, see the Commission’s Political Prisoner Database
record 2015-00311.

76 For more information on Wu Gan, see the Commission’s Political Prisoner Database
record 2015-00348.

77 For more information on Hu Shigen, see the Commission’s Political Prisoner Database
record 2004-02053.

78 For more information on Liu Zhou, see the Commission’s Political Prisoner Database
record 2014-00205.

79 For more information on Wu Gan, see the Commission’s Political Prisoner Database
record 2015-00348.

80 For more information on Wu Gan, see the Commission’s Political Prisoner Database
record 2015-00348.

81 For more information on Wu Gan, see the Commission’s Political Prisoner Database
record 2015-00348.

75 UN Committee against Torture, Summary Record of the 1371st Meeting, CAT/C/SR.1371, 23 November 15, paras. 29, 67. For more information about interrogation chairs, also known as “tiger chairs,” see Human Rights Watch, “Tiger Chairs and Cell Bosses: Police Torture of Criminal Suspects in China,” May 2015, 40. Human Rights Watch reported that “police officers regularly use restraints—known as the “tiger chair”—to immobilize suspects for hours and even days, deprived of sleep, and immobilized until their legs and buttocks were swollen.”


77 UN Committee against Torture, Concluding Observations on the Fifth Periodic Report of China, adopted by the Committee at its 1391st and 1392nd Meetings (2–3 December 2015), CAT/C/CHN/CO/5, 3 February 16, para. 5.

78 Ibid., para. 20.

79 Ibid., paras. 8–9.

80 Ibid., para. 18.

81 Ibid., para. 42.

82 Ibid., paras. 22, 30.

83 Ibid., paras. 14–15.

84 Ibid., para. 38. “The Committee is concerned at allegations that seven human rights defenders, who were planning to cooperate with the Committee in connection with the consideration of the fifth periodic report of the State party, were prevented from travelling or were detained on the grounds that their participation could ‘endanger national security.’” “Chinese Lawyer’s Solitary Confinement Amounts to ‘Slow Torture’: Wife,” Radio Free Asia, 18 November 15; Stephanie Nebehay, “U.N. Torture Watchdog Questions China Over Crackdown on Activists, Lawyers,” Reuters, 17 November 15; Sui-Lee Wee and Stephanie Nebehay, “At U.N., China Uses ‘Scripted Confessions’ to Silence Its Critics,” Reuters, 5 October 15.

85 See, e.g., Rights Defense Network, “Shanghai Rights Defender Yin Humin Received a Reply From the Ministry of Foreign Affairs Entitled ‘Reply Concerning an Open Government Information Application,’ in Which It Claimed That the Information Sought Was Beyond the Scope of OGI” [Shanghai renquan hanweizhi yin huimin shoudao waijiaobu "guanyu zhengfu xinxi qiu fuhan de fuhan" cheng shenqing guofu bu shuyu qi zhengfu xinxi qiu waiaibuo], 23 September 15; Rights Defense Network, “Shanghai Rights Defender Juying Commenced an Action Against the Ministry of Foreign Affairs Concerning Her Request for Information Relating to the Torture Report Made Under the Open Government Information Regulations” [Shanghai renquan hanweizhi ding juying jiu kuxing baogao xinxi gongkai shenqing de fuhan], 26 October 15; Rights Defense Network, “Shanghai Rights Defender Zheng Peipei Commenced an Action Against the Ministry of Foreign Affairs Concerning the Torture Report and Commenced an Administrative Litigation Action Against It” [Shanghai renquan hanweizhi zheng peipei bufu waijiaobu jiu kuxing baogao de fuhan dui ti qiti xingzheng suzang], 19 October 15; Lin Yunfei, “Citizen Li Wei: Administrative Litigation Complaint” [Gongmin li wei: xingzheng qisu zhuang], New Citizen Movement, 19 August 15.


87 PRC Criminal Procedure Law [Zhonghua renmin gongnegu xinxi qiu suzfana], passed 1 July 79, amended 17 March 96, 14 March 12, effective 1 January 13, arts. 54, 121.

88 Xing Shiwei, “Audiovisual Recording Will Be Implemented in All Criminal Cases” [Suoyou xinxi qiu suzfana jiang quan luoyu luoxiang], Beijing News, 22 September 15.

89 Ministry of Public Security, Provisions on Accountability for Public Security Agencies and People’s Police in Law Enforcement Misconduct [Gongan jingcha zhifa guocuo zeren zhuanju guiding], issued 24 February 16, effective 1 March 16, arts. 12, 19.


91 Zhao Fuduo, “Shi Jie, Member of the CPPCC: Proposing Rules To Expressly Include Audiovisual Recordings as Evidence” [Quanguo zhengxie weiyuan shi jie: jianyi mingque xunwen jinyue juxiang weizheng xingzheng suzang], 26 February 16.

92 Ibid.

93 China’s Pervasive Use of Torture, Hearing of the Congressional-Executive Commission on China, 14 April 16, Margaret K. Lewis, Professor of Law, Seton Hall University School of Law, 2.


95 CECC, 2014 Annual Report, 9 October 14, 87, box on “Televised Confessions.”

96 Ministry of Truth: A Brief History of Televised ‘Confessions’ in China,” Hong Kong Free Press, 8 February 16; “Top China Lawyer Calls for End to Televised Confessions,” Hong Kong Free Press, 4 March 16.


109 PRC Criminal Procedure Law (Zhonghua renmin gongheguo xingshi susong fa), passed 1 January 1996, entered into force 1 January 1997, arts. 73, 77. See also Eva Pills et al., “Rule by Fear?” Asia Society, ChinaFile (blog), 18 February 16; Scholar Eva Pills wrote: “. . . whereas in 2011, the authorities made people disappear stealthily and generally without admitting that this was happening, forced disappearances have now effectively become part of the system, and the authorities carry them out ‘in accordance with law.’”

111 The Rights Practice, “Prevention of Torture: Concerns With the Use of Residential Confinement in a Designated Residence,” October 2015.

112 UN Committee against Torture, Concluding Observations on the Fifth Periodic Report of China, adopted by the Committee at its 1391st and 1392nd Meetings (2–3 December 2015), CAT/C/CHN/CO/5, 3 February 16, para. 14. The UN Committee against Torture uses the term “residential surveillance at a designated location” as “designated-location residential surveillance.”


VerDate Mar 15 2010 11:00 Oct 20, 2016 Jkt 000000 PO 00000 Frm 00018 Fmt 6602 Sfmt 6602 U:\DOCS\AR16 CRIMINAL JUSTICE_FINAL.TXT DEIDRE
Hai: Defense Statement Presented Before the Court of Second Instance in Jia Lingmin's Picking Quarrels and Provoking Trouble Case [Cheng hai lushi: jia lingmin xunxin zishu an ershen bianhu ci], 5 April 16.

127 Wu Fatian, “My Encounter at the Yiyang Public Security Bureau Today” [Jintian wo zai yiyang shi gong'anju de zaoyu], Weibo post, 22 June 16, 10:10 p.m.; PRC Criminal Procedure Law (CPL) [Zhonghua renmin gongheguo xingshi susong fa], passed 1 July 79, amended 17 March 96, 13 March 12, effective 1 January 13, arts. 37, 72, 73. “Residential surveillance at a designated location” is a coercive measure under the CPL that allows authorities to hold a person at an undisclosed location if the case relates to endangering state security, terrorism, or serious bribery cases (three categories), or if the detainee does not have a fixed place of abode. Meeting with defense counsel is subject to approval by the investigating agency if the case falls under one of the three categories.


129 For more information on Zhang Liumao, see the Commission’s Political Prisoner Database record 2015-00558.


132 “Procuratorate Refuses To Provide Zhang Liumao’s Autopsy Report, Family Not Satisfied and Intend To Request Review” [Jiancha zai zuo yu zuowei zhang liumao shijian jiancha zhengzhi de jiashu yu pinglun], Radio Free Asia, 24 February 16.

133 Yang Maoping, “Request From Family for Immediately Carrying Out Diagnosis and Treatment for Yang Maodong” [Guanyu liji dui yang maodong jinxing zhenduan zhiliao de jiashu yu pinglun], reposted in Human Rights in China, 27 April 16.


135 Wang Heyan et al., “Witnesses Say Lei Yang Was Chased by Plainclothes Officers and There Was a Fight, Public Security Bureau Says Autopsy Will Be Performed Today or Tomorrow” [Mujizhe cheng le zhe bu bei bian yi zhuang chang yu da dou guanqian jin zing xing liang zhi xingzhi yu xin], Weibo post, 19 May 16; Lin Peiran, Li Yu, Cag, and Zhu Zhen, “Holder of Master’s Degree Dies After He Is Detained on ‘Suspicion of Soliciting a Prostitute,’ Was the Same Day as His Wedding Anniversary” [Shuzhuo “shexian piaochang” bei kongzhi hui shenwen dangzhan shi yu jiehuan jin qian], Beijing News, 10 May 16; “Man Suspected of Soliciting a Prostitute Dies Suddenly While in Custody, Procuratorate Already Involved” [Shexian piaochang nanzi bei yu tuzhong cui jianfeng yi jieru], Qiangjiang Evening News, 10 May 16; “Procuratorate Refuses To Provide Zhang Liumao’s Autopsy Report, Family Not Satisfied and Intend To Request Review” [Jiancha zai zuo yu zuowei zhang liumao shijian jiancha zhengzhi de jiashu yu pinglun], reposted in Human Rights in China, 27 April 16.


137 Yang Maoping, “Request From Family for Immediately Carrying Out Diagnosis and Treatment for Yang Maodong” [Guanyu liji dui yang maodong jinxing zhenduan zhiliao de jiashu yu pinglun], reposted in Human Rights in China, 27 April 16.


141 For more information on Zhang Liumao, see the Commission’s Political Prisoner Database record 2015-00558.


143 Yi Shenghua, “Lawyer Yi Shenghua: Complete Strategy for Lawyer Meeting in Criminal Cases” [Yi shenghua lushi: xingshi anjian lushi huijian quan gonglue], Weibo post, 22 June 16, 10:10 p.m.; PRC Criminal Procedure Law (CPL) [Zhonghua renmin gongheguo xingshi susong fa], passed 1 July 79, amended 17 March 96, 13 March 12, effective 1 January 13, arts. 37, 72, 73. “Residential surveillance at a designated location” is a coercive measure under the CPL that allows authorities to hold a person at an undisclosed location if the case relates to endangering state security, terrorism, or serious bribery cases (three categories), or if the detainee does not have a fixed place of abode. Meeting with defense counsel is subject to approval by the investigating agency if the case falls under one of the three categories.


145 For more information on Zhang Liumao, see the Commission’s Political Prisoner Database record 2015-00558.
140 “Supreme People’s Court Work Report” [Zuigao renmin fayuan gongzuo baogao], 13 March 16, 3; “Supreme People’s Procuratorate Work Report” [Zuigao renmin jianchayuan gongzuo baogao], 13 March 16, 7–8.

141 See, e.g., Li Xianfeng, “18 Years of Injustice and 7 Days and 7 Nights of Torture” [18 nian yuan’an bei xingxun de 7 tian 7 ye], Beijing Youth Daily, 8 May 16; Wang Jian, “Chen Man, Wrongfully Condemned and Jailed for the Longest Time Known in the Country, Declared Innocent After 23 Years” [“Guonei yizhi bei guan zhuju de yuanwu fan” chen man 23 nian hou xiangqiao wuzi], The Paper, 1 February 16; Zhang Manshuang, “Upstream News’ Exclusive Interview With Qian Renfeng: Felt Despair When Tortured To Confess” [Shangyou xizhuan dujia duihuai qian renfeng bei xingxun bigong shi gandao zui juewang], Upstream News, 21 December 15. See also Supreme People’s Court, “Supreme People’s Court Granted Retrial in the Nie Shubin Intentional Homicide and Rape Case” [Zuigao renmin fayuan jueying yifa zaishen nie shubin guyi sharen, qiangjian funu yi an], Xinhua, 8 June 16.


143 Supreme People’s Procuratorate, “Supreme People’s Procuratorate Issues Seventh Set of Guiding Cases” [Zuigao renmin jianchayuan fahu de qie shi yifa zhuxian], issued 30 January 15; Wang Lin, “Not Guilty Verdict Rate Rises Again, Are You Ready” [Wuzui panjue lu xiangjia], The Paper, 1 February 16; Zhang Manshuang, “Upstream News’ Exclusive Interview With Qian Renfeng: Felt Despair When Tortured To Confess” [Shangyou xizhuan dujia duihuai qian renfeng bei xingxun bigong shi gandao zui juewang], Upstream News, 21 December 15. See also Supreme People’s Court, “Supreme People’s Court Granted Retrial in the Nie Shubin Intentional Homicide and Rape Case” [Zuigao renmin fayuan jueying yifa zaishen nie shubin guyi sharen, qiangjian funu yi an], Xinhua, 8 June 16.

144 Youling Jueshi, “Two ‘Muder Convicts’ Have Been Crying Injustice for 13 Years; Murky Evidence and Possible Confession Through Torture” [Liang ‘sharenfan’ hanyuan 13 nian zhengju buqing yi zao xingxun bigong], Tencent News, 1 April 16.

145 Supreme People’s Court, Opinion Regarding Establishing a Robust System To Prevent Wrongful Criminal Cases [Zuigao renmin fayuan guanyu jianchayuan fangzhi he jiuzheng queshi lu xianggao wuzui], 6 September 15; CECC, 2015 Annual Report, 8 October 15.

146 Chen Fei and Zou Wei, “Retired Beijing Judge: Abolishing Guilty Verdict Rate Will Reduce the Occurrence of Miscarriages of Justice” [Beijing cizhi faguan: qiuwu zouzhong buhui jiajiu shi gandao zui juewang], The Paper, 1 February 16. See also Liu Zhan, “Examination of Issues Faced by Courts When Issuing a Not Guilty Verdict for Insufficiency of Evidence” [Zhengju buzu shi fayuan zuo wuzui panjue nan suo she wenti yanjiu], Journal of Law Application, No. 6 (2015), reprinted in Procedural Law Research Institute, China University of Political Science and Law.


148 Youling Jueshi, “Two ‘Murder Convicts’ Have Been Crying Injustice for 13 Years; Murky Evidence and Possible Confession Through Torture” [Liang ‘sharenfan’ hanyuan 13 nian zhengju buqing yi zao xingxun bigong], Tencent News, 1 April 16.

149 Wang Lin, “Not Guilty Verdict Rate Rises Again, Are You Ready” [Wuzui panjue lu xiangjia], The Paper, 1 February 16.


151 “Supreme People’s Court Work Report” [Zuigao renmin fayuan gongzuo baogao], 13 March 16, 2, 3. See also Supreme People’s Court, “Supreme People’s Court Work Report” [Zuigao renmin fayuan gongzuo baogao], 12 March 15.

152 Chen Xuequan, “Examination of Issues Faced by Courts When Issuing a Not Guilty Verdict for Insufficiency of Evidence” [Zhengju buzu shi fayuan zuo wuzui panjue nan suo she wenti yanjiu], Journal of Law Application, No. 6 (2015), reprinted in Procedural Law Research Institute, China University of Political Science and Law.


154 “National People’s Congress Standing Committee Work Report (Summary)” [Quanguo renmin jianchayuan dangci weiyuanhui gongzuo baogao (zhaiyao)], Xinhua, 19 March 16; National People’s Congress Standing Committee, PRC Criminal Law Amendment (Nine) [Zhongguo renmin gongheguo xingfa xiangkuai jingsu (jiu)], issued 29 August 15, effective 1 November 15, items 9, 11, 12, 42, 50, 51. See also “Zhang Dejiang: Improve the Criminal Law System, Remove Death Penalty From 9 Crimes That Are Infrequently Used” [Zhang dejiang: wanshan xingshi falu zhidu quxiao 9 ge jiaoshao shiyong de sixing zuoming], China Radio International, 9 March 16; “China’s Criminal Law Amended Again, Death Penalty for 9 Crimes Removed” [Zhuangzhan xingfa zuo xiaozhe quxiao 9 xiang jiaosha sheying de xingxu], Radio Free Asia, 30 August 15; “Member of the Legislative Affairs Commission: Strictly Controlling Death Penalty and Progressively Reducing the Number of Executions Is the Direction of China’s Criminal Law” [Fangongwei: yankong sixing, zhubu jianshao sixing shi zhongguo xingfa de fangxiang], China News Service, reprinted in Xinhua, 29 August 15.

160 Amnesty International, “Death Penalty 2015: Facts and Figures,” 6 April 16. According to Amnesty International, “China remained the world’s top executioner—but the true extent of the use of the death penalty in China is unknown as this data is considered a state secret; the figure of 1,634 excludes the thousands of executions believed to have been carried out in China.”
161 Ibid.; Wen Shan and Ren Chen, “Sharp Increase in Global Executions” (Quanqiu xingfu shangxu de qianxian yu wanshan), Journal of Hubei Correspondence University, Vol. 29, No. 9 (2016), 92.
164 UN Committee against Torture, List of Issues to the Committee against Torture, China, CAT/C/CHN/Q/5/Add.1, 15 June 15, para. 37.
165 UN Committee against Torture, China’s Reply to the Committee against Torture’s List of Issues, CAT/C/CHN/Q/5/Add.2, 1 October 15, para. 37.
166 Shan Yuxiao, “Tsinghua Scholar Calls on the Supreme People's Court To Make Public Annual Data on Death Penalty Review Cases” (Qinghua xuezhe huyu zuigao fayuan gongkai xingfu anjian niandu shuju), Caixin, 19 October 15; Zhao Bingzhi and Xu Wenwen, “Observations and Reflections on Death Penalty Reform in the ‘Ninth Amendment to the Criminal Law’ [‘Xingfa xiuzheng’an (jiu)’ xingfu anjian niandu shuju], Legal Forum, No. 1 (2016), 34; Li Wenchao, “The Flaws and Ways of Improving the Death Penalty Review Process” (Sixing fuhe chengxu de quexian yu wanshan), Journal of Hubei Correspondence University, Vol. 29, No. 9 (2016), 92.
167 Shan Yuxiao, “Tsinghua Scholar Calls on the Supreme People's Court To Make Public Annual Data on Death Penalty Review Cases” (Qinghua xuezhe huyu zuigao fayuan gongkai xingfu anjian niandu shuju), Caixin, 19 October 15; Li Wenchao, “The Flaws and Ways of Improving the Death Penalty Review Process” (Sixing fuhe chengxu de quexian yu wanshan), Journal of Hubei Correspondence University, Vol. 29, No. 9 (2016), 92.
169 Shan Yuxiao, “Tsinghua Scholar Calls on the Supreme People’s Court To Make Public Annual Data on Death Penalty Review Cases” (Qinghua xuezhe huyu zuigao fayuan gongkai xingfu anjian niandu shuju), Caixin, 19 October 15.
171 Ibid.
172 Shan Yuxiao, “Tsinghua Scholar Calls on the Supreme People’s Court To Make Public Annual Data on Death Penalty Review Cases” (Qinghua xuezhe huyu zuigao fayuan gongkai xingfu anjian niandu shuju), Caixin, 19 October 15.
173 Yung Weiyan, “The Supreme People’s Court Explains in Detail the Hot Topic About the SPC’s Posting of Judgments Online” (Zuigao fayuan xiang jie zuigao fayuan caiyan wenshu shangwang de guifang), 18 November 15, 14, arts. 2, 3.
175 Dui Hua Foundation, “Can Recognizing Poverty Reduce Executions in China?” Dui Hua Human Rights Journal, 9 June 16; Ren Zhongyuan, “Eight Years After the SPC Reclaimed Authority Over Death Penalty Review, How Has the SPC Spared People’s Lives” (Sixing fuhe anjian niandu shuju), Caixin, 19 October 15.
176 Supreme People's Court, Provisions on Releasing Opinions Online by People's Courts (Zuigao fayuan xiang jie zuigao fayuan caiyan wenshu shangwang de guifang), 13 November 15, effective 1 January 14, arts. 2, 3.
177 Shan Yuxiao, “Tsinghua Scholar Calls on the Supreme People’s Court To Make Public Annual Data on Death Penalty Review Cases” (Qinghua xuezhe huyu zuigao fayuan caiyan wenshu shangwang de guifang), 13 November 15, effective 1 January 14, arts. 2, 3.
178 Shan Yuxiao, “Tsinghua Scholar Calls on the Supreme People’s Court To Make Public Annual Data on Death Penalty Review Cases” (Qinghua xuezhe huyu zuigao fayuan gongkai xingfu anjian niandu shuju), Caixin, 19 October 15.
180 Ye Jingxi, “China Confirms That Organs From Death Row Prisoners To End on January 1, 2015” [Zhongguo mingque 2015 nian yuandan tingzhi caiyong siqiu qiguan], BBC, 4 December 15.
181 Shan Yuxiao, “Tsinghua Scholar Calls on the Supreme People’s Court To Make Public Annual Data on Death Penalty Review Cases” (Qinghua xuezhe huyu zuigao fayuan gongkai xingfu anjian niandu shuju), Caixin, 19 October 15.
182 Shan Yuxiao, “Tsinghua Scholar Calls on the Supreme People’s Court To Make Public Annual Data on Death Penalty Review Cases” (Qinghua xuezhe huyu zuigao fayuan gongkai xingfu anjian niandu shuju), Caixin, 19 October 15.
183 Ye Jingxi, “China Confirms That Organs From Death Row Prisoners To End on January 1, 2015” [Zhongguo mingque 2015 nian yuandan tingzhi caiyong siqiu qiguan], BBC, 4 December 15.
184 Shan Yuxiao, “Tsinghua Scholar Calls on the Supreme People’s Court To Make Public Annual Data on Death Penalty Review Cases” (Qinghua xuezhe huyu zuigao fayuan gongkai xingfu anjian niandu shuju), Caixin, 19 October 15.
185 Shan Yuxiao, “Tsinghua Scholar Calls on the Supreme People’s Court To Make Public Annual Data on Death Penalty Review Cases” (Qinghua xuezhe huyu zuigao fayuan gongkai xingfu anjian niandu shuju), Caixin, 19 October 15.
186 Shan Yuxiao, “Tsinghua Scholar Calls on the Supreme People’s Court To Make Public Annual Data on Death Penalty Review Cases” (Qinghua xuezhe huyu zuigao fayuan gongkai xingfu anjian niandu shuju), Caixin, 19 October 15.
187 Shan Yuxiao, “Tsinghua Scholar Calls on the Supreme People’s Court To Make Public Annual Data on Death Penalty Review Cases” (Qinghua xuezhe huyu zuigao fayuan gongkai xingfu anjian niandu shuju), Caixin, 19 October 15.
188 Shan Yuxiao, “Tsinghua Scholar Calls on the Supreme People’s Court To Make Public Annual Data on Death Penalty Review Cases” (Qinghua xuezhe huyu zuigao fayuan gongkai xingfu anjian niandu shuju), Caixin, 19 October 15.
22

180 U.S. House of Representatives, “Expressing Concern Regarding Persistent and Credible Reports of Systematic, State-Sanctioned Organ Harvesting From Non-Consenting Prisoners of Conscience in the People’s Republic of China, Including From Large Numbers of Falun Gong Practitioners and Members of Other Religious and Ethnic Minority Groups,” H. Res. 343, 13 June 16. See also T. Trey et al., “Transplant Medicine in China: Need for Transparency and International Scrutiny Remains,” American Journal of Transplantation (accepted for publication 13 August 16). The authors of the August 13, 2016, article echoed the concern raised in House Resolution 343 and further pointed out that verifiable evidence to date did not show that “ethical practices have replaced unethical ones.”


184 Chen Sisi, “The Ratio of Supply to Demand for Organ Transplants in China Is 1:30, Donation Requires Consent of Parents, Children, and Spouse” [Zhongguo qiguan yizhi yizhi gongxu bi 1:30, juanxian xu fumu, zinu, banlu dou tongyi], The Paper, 6 July 16.