

## SPECIFIC FINDINGS AND RECOMMENDATIONS

A summary of specific findings follows below for each section of this Annual Report, covering each area that the Commission monitors. In each area, the Commission has identified a set of issues that merit attention over the next year, and, in accordance with the Commission's legislative mandate, submits for each a set of recommendations to the President and the Congress for legislative or executive action.

## FREEDOM OF EXPRESSION

*Findings*

- During the Commission's 2016 reporting year, the Chinese government and Communist Party continued to restrict expression in contravention of international human rights standards, including Article 19 of the International Covenant on Civil and Political Rights and Article 19 of the Universal Declaration of Human Rights. While such standards permit states in limited circumstances to restrict expression to protect interests such as national security and public order, official Chinese restrictions covered a broader range of activity, including peaceful dissent and expression critical of the government and Party.
- Government and Party control of the press continued to violate international press standards with censorship and propaganda instructions to limit the scope of news content. In a February 2016 speech, President and Party General Secretary Xi Jinping declared that the media "must be surnamed Party" (*bixu xing dang*) and called for "absolute loyalty" to the Party from official media outlets and personnel.
- Chinese authorities continued to broadcast prerecorded confessions on state-run television. Chinese Human Rights Defenders said that the government used televised confessions on state media "to denounce individuals or groups," "control public narratives about government-perceived 'political threats,'" and retaliate against government critics. Authorities also countered criticism by shutting down microblog accounts, and by harassing and detaining media professionals and several China-based family members of Chinese journalists and bloggers living overseas.
- Chinese citizens and journalists challenged the Party's control of news media and propaganda work, some specifically in response to Xi's February speech. Family members of rights defenders, labor groups, and lawyers brought, or planned to bring, defamation suits against official media outlets.
- In May 2016, China was one of 10 countries to vote against the Committee to Protect Journalists (CPJ) receiving accreditation for non-consultative status at the United Nations. CPJ is a prominent international advocacy group for press freedom and the rights of journalists and maintains a list of imprisoned Chinese journalists and bloggers. Chinese authorities targeted citizen journalists from the human rights website 64 Tianwang for harassment and detention, including Wang Jing, Sun Enwei, and Huang Qi. In addition, authorities did not grant

permission to elderly journalist Gao Yu to travel abroad for medical treatment, instead harassing her and restricting her movements while she serves a five-year sentence on medical parole in Beijing municipality.

- The scale of Internet and social media use continued to grow in spite of government and Party censorship. There were 710 million Internet users in China at the end of June 2016, including 656 million who accessed the Internet from mobile devices. A European scholar observed that the government and Party brought Internet governance “into the cent[er] of political decision-making” in recent years.

### *Recommendations*

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

- Give greater public expression, including at the highest levels of the U.S. Government, to the issue of press freedom in China, condemning the harassment and detention of both domestic and foreign journalists, the denial, threat of denial, or delay of visas for foreign journalists, and the censoring or blockage of foreign media websites. Consistently link press freedoms to U.S. interests, noting how censorship and restrictions on journalists and media websites prevent the free flow of information on issues of public concern, including public health and environmental crises, food safety problems, and corruption, and act as a trade barrier for foreign media and companies attempting to access the Chinese market. Raise these issues with Chinese officials during future rounds of the Strategic and Economic Dialogue. Assess the extent to which China’s treatment of foreign journalists contravenes its WTO or other obligations.
- Sustain, and where appropriate expand, programs that develop and distribute widely technologies that will assist Chinese human rights advocates and civil society organizations in circumventing Internet restrictions, in order to access and share content protected under international human rights standards. Continue to maintain Internet freedom programs at the U.S. Department of State and the Broadcasting Board of Governors for China to provide digital security training and capacity-building efforts for bloggers, journalists, civil society organizations, and human rights and Internet freedom activists in China.
- Raise with Chinese officials, during all appropriate bilateral discussions, the costs to U.S.-China relations and to the Chinese public’s confidence in government institutions that occur when the Chinese government restricts political debate, advocacy for democracy or human rights, and other forms of peaceful political expression. Emphasize that such restrictions exceed international standards for the restrictions on free expression, particularly those contained in Article 19 of the International Covenant on Civil and Political Rights and Article 19 of the Universal Declaration of Human Rights. Emphasize that such restrictions erode confidence in media and government in-

stitutions. Submit questions for China's next UN Human Rights Council Universal Periodic Review, asking China to explain what steps it will take to ensure its restrictions on free expression conform to international standards.

○ Urge Chinese officials to end unlawful detention and official harassment of Chinese activists, lawyers, and journalists subject to reprisal for exercising their right to freedom of expression. Call on officials to end the illegal home confinement of individuals such as Liu Xia; and release or confirm the release of individuals detained or imprisoned for exercising freedom of expression, such as Liu Xiaobo, Zhang Haitao, Drukar Gyal (Shogjang), Gao Zhisheng, Xie Wenfei, and Wang Mo. Raise this issue in bilateral dialogues, such as the U.S.-China Human Rights Dialogue, U.S.-China Legal Experts Dialogue, and Strategic and Economic Dialogue, as well as through multilateral institutions, such as China's UN Human Rights Council Universal Periodic Review and the UN Human Rights Council Working Group on Arbitrary Detention.

#### WORKER RIGHTS

##### *Findings*

- During the Commission's 2016 reporting year, the All-China Federation of Trade Unions (ACFTU) remained the only trade union organization permitted under Chinese law, and leading union officials held concurrent positions in the Communist Party and government. Restrictions on workers' rights to freely establish and join independent trade unions violate international standards set forth by the International Labour Organization (ILO), Universal Declaration of Human Rights, International Covenant on Civil and Political Rights, and International Covenant on Economic, Social and Cultural Rights.
- Workers' right to collective bargaining remains limited in law and in practice, violating China's obligations as a member of the ILO. Chinese laws designate the Party-controlled ACFTU as responsible for negotiating with employers and signing collective contracts on behalf of workers, but the ACFTU and its lower level branches reportedly more often represented the interests of government or enterprises. At the enterprise level, union leaders were often company managers.
- In 2015, China's economy grew at its slowest rate in 25 years. Major steel and coal enterprises announced plans for layoffs, and some workers in these industries had reportedly already lost their jobs in recent years. Employment in manufacturing reportedly had declined for 25 consecutive months as of late 2015. Service sector jobs increased in 2015, but these jobs reportedly paid less on average than manufacturing jobs. Wages continued to rise overall in China, though workers faced slower wage growth, and in some cases stagnant or reduced wages.
- Chinese government officials and international observers reported a significant increase in worker actions such as strikes and protests. Although some of the observed increase may have been due to better data collection, China Labour Bulletin docu-

mented 2,773 worker actions in 2015, more than double the total from 2014. The majority of workers' actions involved disputes over wage arrears.

- The situation of labor rights advocates and non-governmental organizations (NGOs) has worsened in recent years. On December 3, 2015, public security officials in Guangzhou and Foshan municipalities, Guangdong province, detained at least 18 labor rights advocates affiliated with several labor NGOs. As of January 8, procuratorates in Foshan and Panyu district, Guangzhou, had approved the arrests of Zeng Feiyang, Zhu Xiaomei, He Xiaobo, and Meng Han, releasing Zhu on bail on February 1 and He on bail on April 7. In June, the Panyu district procuratorate reportedly began reviewing the cases of Zeng, Zhu, Meng, and also Tang Jian in preparation for a possible trial. According to Chinese and international observers, authorities targeted these individuals due to their labor rights advocacy and ties to NGOs.

- This past year, the Commission continued to observe reports of the use of child labor in China, including a 14-year-old factory worker in Guangdong province who reportedly died in his sleep and a case in Zhejiang province of at least eight children forced to work for years making socks. The ILO Country Office for China and Mongolia noted that the Chinese government has not released official statistics on child labor in China nor has it reported any cases to the ILO.

- The Commission continued to observe reports of the over-reliance on and misuse of dispatch and intern labor during the reporting year, in violation of domestic laws and regulations meant to prevent such abuses. Workers above the legal retirement age continued to enjoy fewer legal protections than other workers under Chinese law. Workers above the retirement age reportedly faced difficulties obtaining compensation and other benefits.

- Chinese government data showed continued declines in workplace accidents and deaths, while reported cases of occupational illness, particularly pneumoconiosis, increased. Workers reportedly faced difficulties obtaining compensation for workplace illnesses. Despite relevant laws and regulations, international observers continued to express concern regarding workplace safety in China.

#### *Recommendations*

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

- Call on the Chinese government to release labor rights advocates Zeng Feiyang and Meng Han. Raise their cases in public and in private meetings with Chinese officials. Urge authorities to drop all charges against those labor NGO staff detained in December 2015 and subsequently released on bail.
- Condemn the crackdown on labor advocacy NGOs in China, and call on Guangdong provincial authorities in particular to end the harassment of labor NGO staff. Encourage authorities to cooperate with labor NGOs, noting the positive role such or-

ganizations play in encouraging workers to address their grievances peacefully and through legal channels.

- Call on the Chinese government to respect internationally recognized rights to freedom of association and collective bargaining, and allow workers to organize and establish labor unions. Convey support in all appropriate bilateral and multilateral dialogues for genuine collective bargaining and direct elections of trade union representatives, emphasizing that increased worker representation can be beneficial for resolving workplace grievances and preventing strikes.

- Encourage Chinese officials through all appropriate bilateral discussions to publish information on measures taken to prevent the employment of children under the age of 16. Call on the Chinese government to collect and publish detailed statistical data on working children, including on child labor and hazardous work, in order to better understand the prevalence and nature of child labor in China and to effectively target efforts to address this problem.

- Promote and support bilateral and multilateral exchanges among government officials, academics, legal experts, and civil society groups to focus on labor issues such as collective bargaining, employment discrimination, and occupational health and safety, including, particularly, prevention of pneumoconiosis. Seek opportunities to support capacity-building programs to strengthen Chinese labor and legal aid organizations involved in defending the rights of workers.

- When appropriate, integrate meaningful civil society participation into bilateral and multilateral dialogues, meetings, and exchanges. Invite international unions and labor NGOs as well as domestic civil society groups from all participating countries to observe relevant government-to-government dialogues. Although participation of the ACFTU or Chinese government-organized NGOs (so-called GONGOs) may be constructive in some cases, ensure such organizations are not treated as independent civil society groups.

- Support China's increased engagement and cooperation with the International Labour Organization (ILO) through funding for ILO technical cooperation projects with China. Request that the ILO increase its work with China on observing core labor standards, including freedom of association and the right to organize.

## CRIMINAL JUSTICE

### *Findings*

- During the 2016 reporting year, the Commission observed continued reports of the Chinese government using “black jails” and other forms of extralegal and extrajudicial measures to arbitrarily detain targeted individuals. In particular, a “black jail” in Heilongjiang province, which was closed around April 2014, reportedly resumed operation during the past year. A China-based human rights monitoring group also reported increased use of involuntary commitment to psychiatric hospitals as a political tool.

- After the reeducation through labor system was abolished in 2013, Chinese officials reportedly continued to use “black jails”—detention sites that operate outside of China’s judicial and administrative detention systems—to suppress individuals such as petitioners, rights advocates, and religious practitioners.
- The Chinese government continued to apply broadly defined criminal provisions such as “picking quarrels and provoking trouble” and “gathering a crowd to disturb order in a public place” to punish rights advocates, petitioners, lawyers, dissidents, and ethnic minorities.
- Some provisions in the Ninth Amendment to the PRC Criminal Law, which became effective on November 1, 2015, may have a negative impact on human rights conditions in China in areas such as freedom of speech, freedom of the press, freedom of assembly, freedom of religion, access to justice, and rights advocacy.
- The UN Committee against Torture issued its concluding observations on China’s compliance with and implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The Committee called on China to abolish the coercive detention measure “residential surveillance at a designated location” and censured the Chinese government for failing to provide disaggregated information about torture, criminal justice, and related issues.
- The Chinese government used charges of “endangering state security” crimes in its crackdown against rights lawyers and advocates, a category of crimes that carry heavy penalties. The PRC Criminal Procedure Law permitted the use of “residential surveillance at a designated location” against those accused of “endangering state security” crimes. The UN Committee against Torture criticized this coercive measure because it may amount to incommunicado detention that puts detainees at a high risk of torture or ill-treatment.
- Despite legislative and regulatory enactments by the Chinese government, the Commission continued to observe cases of coerced confession. The Commission also observed the Chinese government broadcasting prerecorded “confessions,” a practice that could violate international human rights standards.
- In the past year, individuals died in detention under circumstances that raised concerns regarding abuse and torture. Officials reportedly denied adequate medical care to detainees. In the case of imprisoned rights advocate Yang Maodong, better known as Guo Feixiong, officials reportedly arranged a rectal examination that officials recorded and threatened to post online.
- The Ninth Amendment to the PRC Criminal Law reduced the number of capital crimes, but the number of executions in China remained high. One human rights group estimated the number of executions in 2015 to be in the thousands. The Chinese government’s continued withholding of statistical data on executions may impede monitoring of Chinese authorities’ com-

pliance with international standards on the use of capital punishment.

### *Recommendations*

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

- Call on the Chinese government to publicly commit to a specific timetable for ratification of the International Covenant on Civil and Political Rights (ICCPR), which the Chinese government signed in 1998 but has not yet ratified.
- Urge Chinese officials to end all forms of extrajudicial detention—such as “custody and education,” confinement in drug detoxification centers, and extralegal home confinement—that are imposed without meeting the standards for a fair trial as set forth in the ICCPR and other international human rights instruments.
- Raise with Chinese officials, during all appropriate bilateral discussions, individual cases where the investigation of allegedly criminal activity has been used to target government critics and rights advocates.
- Publicly convey support for human rights advocates who have been deprived of liberty on unsubstantiated criminal charges and for political or religious reasons.
- Encourage Chinese officials to adopt the recommendations made by the UN Committee against Torture in relation to China’s compliance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, such as the call to repeal the provisions allowing “residential surveillance at a designated location.” Further encourage Chinese officials to extend invitations to all UN special rapporteurs and other special procedures that have requested to visit China.
- Stress to the Chinese government the need for greater transparency on the number and circumstances of executions, and urge Chinese officials to further limit the crimes to which the death penalty is applicable.
- Continue and, where appropriate, expand support for programs involving U.S. entities engaging with reform-minded Chinese organizations and individuals (both within and outside the government) in hopes of drawing on comparative experience to improve the criminal justice process. For example, the experience of the United States and other jurisdictions can inform China as it charts a path toward reducing reliance on confessions, enhancing the role of witnesses at trials, and creating more reliable procedures for reviewing death penalty cases.

## FREEDOM OF RELIGION

### *Findings*

- In both law and practice, the Chinese government continued to violate the rights of its citizens to religious freedom, violating both the Chinese government’s international obligations

and the standards set by China's Constitution. Chinese Communist Party and government officials have broad discretion over religious practice, internal affairs, and interpretations of faith, which is often exercised based on Party and government policy interests.

- Government and Party officials convened the first National Conference on Religious Work in 15 years in April 2016, signaling that officials aim to prioritize religious affairs. Chinese President and Communist Party General Secretary Xi Jinping declared religious affairs to be an area of “special importance” and directed government and Party authorities to ensure that religious believers are “patriotic, preserve national unity, and serve the overall interests of the Chinese nation.” Xi emphasized the Party view that religious groups are a “bridge” connecting the Party and government to religious believers and that groups must therefore support the “leadership of the Party” and the Chinese political system.
- Chinese authorities deny members of various religious communities the right to practice their faith freely and without fear of government reprisal. The 2005 Regulations on Religious Affairs continue to require religious groups to register with the government and report on their religious activities. Registration is a significant obstacle for some groups: officials may deny registration applications of groups they believe to be adverse to Party and government interests, and some groups refuse to register because they believe that the conditions associated with registration compromise principles of their faith. Official recognition of groups falling outside the “main” religions—Buddhism, Catholicism, Islam, Taoism, and Protestantism—is limited. Unregistered religious and spiritual communities are especially vulnerable to government harassment, detention, and other abuses, but groups may be sanctioned regardless of registration status when authorities view them as posing a challenge to official authority. The government has also continued to ban some belief systems outright.
- The government and Party continued to exert political influence over the activities of Buddhist and Taoist religious groups. As in past years, this influence manifested in extensive government regulation and sponsorship of religious activity.
- The government and Party continued efforts to control Chinese Catholic leadership and religious practice. The government continued to deny Catholics in China the freedom to be ministered to by bishops independently approved by the Holy See, instead continuing to require Catholic bishops to be selected and ordained by state-controlled organizations without Holy See approval. The government also continued to harass, detain, or hold incommunicado certain Catholic leaders.
- The government and Party continued a campaign initiated in 1999 of extensive, systematic, and in some cases violent efforts to pressure Falun Gong practitioners to renounce their belief in and practice of Falun Gong.
- The government and Party continued to enforce regulations controlling the religious activities of Muslim believers. Officials and state-sponsored scholars also made a number of state-

ments against the popularization of practices and symbols associated with Islam. Concurrent with these statements, experts noted significant online commentary hostile to Islam, raising concerns about rising anti-Muslim sentiment in China.

- Chinese authorities continued to prevent many Protestant Christians from worshiping freely, taking a range of actions that experts believe are connected to the national-level “sinicization” campaign. In particular, authorities in Zhejiang province continued to target Protestants with harassment and close monitoring in the past reporting year, for example, by continuing to implement a campaign launched in 2014 that has resulted in the removal of an estimated 1,500 church crosses from state-sanctioned churches, and in more than 20 cases, the complete demolition of churches. Some Protestant leaders have been sentenced to prison terms, and officials also detained those providing legal assistance to churches facing forced cross removal. In other regions of China, government officials detained Protestant believers and conducted raids on church buildings and gatherings, with churches in Guangdong province hit especially hard. In Guizhou province, the Guiyang municipal government designated the Living Stone Church an “illegal social group.”

- Religious communities that do not fall within China’s five “main” religions continue to exist within China, some practicing openly and with tacit government approval, while others, such as the local Jewish community in Kaifeng municipality, Henan province, have reportedly begun to experience government restrictions on religious activity.

#### *Recommendations*

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

- Call on the Chinese government to guarantee to all citizens freedom of religion in accordance with China’s international human rights obligations. Stress to Chinese authorities that freedom of religion includes the right to freely adopt beliefs and practice religious activities without government interference, particularly interference based on political goals.
- Stress to the Chinese government that the right to freedom of religion includes, but is not limited to: the right of Buddhists and Taoists to carry out activities in temples and select monastic teachers independent of state controls over religion; the right of Catholics to recognize the authority of the Holy See in matters relating to the practice of their faith, including to make bishop appointments; the right of Falun Gong practitioners to freely practice Falun Gong inside China; the right of Muslims to freely preach, undertake overseas pilgrimage, select and train religious leaders, and wear clothing with religious significance; the right of Protestants to worship free from state controls over doctrine and worship, and to be free from harassment, detention, and other abuses for public and private manifestations of their faith, including the display of crosses;

and the right of members of other religious communities, such as Judaism, to be free of state control and harassment.

- Call for the release of Chinese citizens confined, detained, or imprisoned for peacefully pursuing their religious beliefs, as well as people confined, detained, or imprisoned in connection to their association with them. Such prisoners include Bishop Thaddeus Ma Daqin, who has been under extralegal confinement since July 2012 for renouncing his affiliation with the Chinese Catholic Patriotic Association; Pastors Bao Guohua and Xing Wenxiang of Jinhua municipality, Zhejiang province; those affiliated with the Living Stone Church in Guizhou province, including its pastor, Li Guozhi (also known as Yang Hua); and other prisoners mentioned in this report and in the Commission’s Political Prisoner Database.

- Call on the Chinese government to fully implement accepted recommendations from its October 2013 UN Human Rights Council Universal Periodic Review, including taking necessary measures to ensure that rights to freedom of religion, religious culture, and expression are fully observed and protected; cooperating with the UN human rights system, specifically UN special procedures and mandate holders; facilitating visits for UN High Commissioners to China; taking steps to ensure lawyers working to advance religious rights can practice their profession freely and promptly investigating allegations of violence and intimidation impeding their work; and considering possible revisions to legislation and administrative restrictions to provide better protection of freedom of religion.

- Call on China to abolish Article 300 of the PRC Criminal Law, which criminalizes “organizing and using a cult to undermine implementation of the law,” and Article 27 of the PRC Public Security Administration Punishment Law, which stipulates detention or fines for organizing or inciting others to engage in “cult” activities and for using “cults” or the “guise of religion” to disturb social order or to harm others’ health.

- Encourage U.S. political leaders to visit religious sites in China to raise awareness of and promote freedom of religion.

## ETHNIC MINORITY RIGHTS

### *Findings*

- During the 2016 reporting year, central government officials in China continued to stress the importance of “ethnic unity” and of ethnic minorities’ identification with “the motherland” and “Chinese culture.” An Australian scholar outlined concerns regarding the impact of assimilation on ethnic minorities’ cultures and languages.

- For a third consecutive year, Xinjiang Uyghur Autonomous Region (XUAR) authorities implemented a “mass line” campaign, which promotes “ethnic unity” and requires officials working at the grassroots level to monitor and control Muslim residents’ religious practices.

- In addition to projects aimed at integrating Han majority and ethnic minority populations, central government officials pushed both development and securitization in places such as

Tibetan autonomous areas and the XUAR, in an effort to maintain “stability.”

- As in past reporting years, Inner Mongolia Autonomous Region (IMAR) authorities detained herders who engaged in peaceful protests related to grasslands, including herders who reportedly used online forums or spoke to foreign journalists about their grievances.
- As in past reporting years, authorities in the IMAR continued to harass Mongol rights advocate Hada and his family. IMAR officials imprisoned Hada for 15 years beginning in 1995, and subsequently extralegally detained him for an additional 4 years, after he organized peaceful protests for Mongol rights and for his role in founding the banned Southern Mongolian Democratic Alliance. According to Hada and his wife, Xinna, as of October 2015, public security personnel have maintained a constant presence in their apartment building in order to surveil Hada’s activities at home, and have followed him whenever he has gone out. In addition, in October 2015, public security authorities in Qingshan district, Baotou municipality, IMAR, detained Hada and Xinna’s son Uiles for 10 days on the charge of “obstructing official business.”

#### *Recommendations*

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

- Continue to build the capacity of Mongol, Uyghur, and Tibetan groups working to advance human rights, environmental protection, economic development, and rule of law in China through U.S. foreign assistance funding and by encouraging additional support from both UN and non-governmental sources.
- Convey to the Chinese government the importance of respecting and protecting ethnic minority cultures and languages. Urge Chinese officials to provide ethnic minority students and parents a choice of what language or languages of instruction should be used at schools they attend in accordance with the PRC Regional Ethnic Autonomy Law.
- Support rule of law programs and exchange programs that raise awareness among Chinese leaders of different models for governance that protect ethnic minorities’ rights and allow them to exercise meaningful autonomy over their affairs, in line with both Chinese law and international human rights standards.
- Call on the Chinese government to allow Mongol herders to exercise their fundamental rights of freedom of expression, association, and peaceful assembly, as well as the right to be free from arbitrary detention.
- Urge Chinese authorities to end restrictions on the freedom of movement and other unlawful restrictions against Hada, his wife, Xinna, and their son, Uiles. The Universal Declaration of Human Rights grants “everyone . . . the right to freedom of movement and residence within the borders of each state.”

## POPULATION CONTROL

*Findings*

- Chinese authorities continue to actively promote and implement coercive population planning policies that violate international standards, including the 1995 Beijing Declaration and the 1994 Programme of Action of the Cairo International Conference on Population and Development. Controls imposed on Chinese women and their families, and additional abuses engendered by the system, including coerced abortion and discriminatory policies against “out-of-plan” children, also violate standards set forth in the Convention on the Rights of the Child and the International Covenant on Economic, Social and Cultural Rights. China is a State Party to these treaties and has committed to upholding their terms. The Chinese government’s population planning policies continue to exacerbate the country’s demographic challenges, which include an aging population, diminishing workforce, and sex ratio imbalance.
- In November 2015, the UN Committee against Torture conducted its fifth periodic review of China’s compliance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In its concluding observations, the Committee stated its concerns about China’s coercive implementation of the population policy, such as coerced sterilization and forced abortion, and the lack of information on investigations into such allegations.
- As the November 2013 policy revision of allowing couples to bear a second child if one parent is an only child (*dandu erhai* policy) failed to meet the intended birth target, and amid demographic and economic concerns voiced by population experts and research institutions, central Party authorities issued a decision in October 2015 to adopt a “universal two-child policy” (*quanmian erhai*) at the Fifth Plenum of the 18th Communist Party Central Committee, allowing all married couples to have two children.
- Central government authorities stated that the universal two-child policy is the Party’s “major initiative” to “promote balanced population development” and to address demographic concerns China currently faces. Central government officials emphasized repeatedly that family planning will remain the long-term “basic national policy.” On December 27, 2015, the Standing Committee of the National People’s Congress amended the PRC Population and Family Planning Law, which became effective nationwide on January 1, 2016. As of August 2016, at least 29 provincial-level jurisdictions reportedly had revised their population and family planning regulations in accordance with the amended national law. Human rights advocates, demographic experts, and others, however, expressed concerns that coercive implementation of family planning measures and human rights abuses will persist despite the adoption of the universal two-child policy.
- The National Health and Family Planning Commission predicted that the universal two-child policy, if fully implemented, will result in population growth. Population experts, citing the

tepid response to the previous policy revision, suggested that the universal two-child policy likely will not lead to significant population growth in the long term. Experts urged central government authorities to introduce supporting policy measures that will further encourage couples to have two children. Central government authorities pledged to promote “family planning service management reform” and to introduce “supporting policy measures” to help implement the universal two-child policy. This past year, government authorities also took steps to further relax the birth registration system, allowing married couples to register their first two children without going through a complicated approval or application process.

- The amended PRC Population and Family Planning Law contains provisions that prohibit officials from infringing upon the “legitimate rights and interests” of citizens while implementing family planning policies. Some provincial population planning regulations continued to explicitly instruct officials to implement abortions for “out-of-plan” pregnancies, often referred to as a “remedial measure.” Local authorities continued to promote “family planning work” that entailed harsh and invasive family planning measures.

- Officials employed various methods of punishment to enforce family planning policies, including levying heavy fines, job termination, arbitrary detention, and coerced abortion. Authorities in some localities denied household registration (*hukou*) to children whose parents violated local family planning requirements. People who lack *hukou* in China face considerable difficulties accessing social benefits compared to registered citizens.

- During this reporting year, central Party and government authorities took steps to address the issue of 13 million “illegal residents” (*heihu*), that is, those without *hukou*, in China. In January 2016, the State Council issued the Opinion on Resolving Issues of Hukou Registration for Individuals Without Hukou, which specified eight types of “illegal residents” newly eligible to register for *hukou* without preconditions. Unregistered individuals whose parents failed to pay “social compensation fees,” however, were not included in this list. Some parents, fearing that authorities might forcibly collect social compensation fees from them retroactively, remain deterred from registering their children born in violation of family planning policies.

- This past year, international media reports continued to suggest a link between China’s large number of “surplus males” and the trafficking of foreign women into China for forced marriage or commercial sexual exploitation. Reports also indicate that China’s population planning policies have contributed to illegal adoptions, as a traditional preference for sons combined with birth limits is thought to encourage a black market for illegal adoptions.

#### *Recommendations*

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

- Press Chinese government officials to bring the PRC Population and Family Planning Law into conformance with international standards set forth in international agreements, including the 1995 Beijing Declaration, the 1994 Programme of Action of the Cairo International Conference on Population and Development, the Convention on the Rights of the Child, and the International Covenant on Economic, Social and Cultural Rights. Urge the Chinese government to address the concerns the UN Committee against Torture raised in its concluding observations on the fifth periodic review of China’s compliance with the Convention against Torture.
- Highlight the looming demographic challenges currently facing China in bilateral meetings with Chinese government officials—including a rapidly aging population, shrinking workforce, and sex ratio imbalance. Urge the Chinese government to take the new universal two-child policy further and heed the recommendations of domestic and international demographic experts by ending all birth restrictions on families and abolishing “social compensation fees.”
- Urge the Chinese government to expand its existing efforts to register all children to include those whose parents failed to pay the “social compensation fees” associated with their births. In line with the Girls Count Act of 2015, the U.S. State Department and the U.S. Agency for International Development should support training and programs that contribute to improvements in the registration of girls, in order to increase rights and opportunities for women and girls in China.
- Call on China’s central and local governments to vigorously enforce provisions of Chinese law that provide for punishment of officials and other individuals who violate the rights of citizens when implementing population planning policies, and to clearly define what these rights entail. Urge the Chinese government to establish penalties, including specific criminal and financial penalties, for officials and individuals found to have committed abuses such as coercive abortion and sterilization.
- Publicly link, with supporting evidence, the sex ratio imbalance exacerbated by China’s population planning policies with potential regional humanitarian and security concerns—human trafficking, crime, increased internal and external migration, and other possible serious social, economic, and political problems—and discuss and address these issues in bilateral dialogues.

## FREEDOM OF RESIDENCE AND MOVEMENT

### *Findings*

- The Chinese government continued use of the household registration (*hukou*) system established in 1958. The *hukou* system limits the right of Chinese citizens to freely choose their place of residence. The *hukou* system classifies Chinese citizens as either rural or urban, conferring legal rights and access to public services based on their classification. Implementation of *hukou* regulations discriminates against rural *hukou* holders and migrants to urban areas by denying them equitable access

to public benefits and services enjoyed by registered urban residents. The *hukou* system conflicts with international human rights standards guaranteeing freedom of residence and prohibiting discrimination on the basis of “national or social origin, . . . birth or other status.”

- The Chinese central government and provincial and municipal authorities continued to implement reforms to the *hukou* system. As of August 2016, at least 29 province-level jurisdictions had issued implementing proposals governing local *hukou* reform planning. Local governments’ reform plans did not generally remove the link between residence and provision of public benefits.

- After issuing draft measures on residence permits in December 2014, in November 2015, the State Council issued provisional regulations on residence permits. The provisional regulations are intended to “fully cover basic public services and benefits” for urban residents, but the provisional regulations extend fewer benefits to permit holders than the 2014 draft measures would have, and contain restrictive conditions on who may apply for residence permits.

- Chinese authorities continued to deny some Chinese citizens who criticize the government their internationally recognized right to leave the country. Officials justified preventing some rights lawyers and their family members from leaving China by saying their leaving the country “could endanger state security.” Chinese officials prevented at least seven individuals from traveling to Geneva in November 2015 to take part in the UN Committee against Torture’s review of China’s compliance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Chinese authorities refused to allow disabled former lawyer and housing rights advocate Ni Yulan to travel to the United States in March 2016 to receive a U.S. State Department award.

- The Commission continued to observe reports of Chinese government officials punishing rights advocates and their families and associates and targeting some members of ethnic minority groups by restricting their freedom of movement in violation of Article 12 of the International Covenant on Civil and Political Rights. Authorities increased restrictions on movement during politically sensitive periods, and placed particularly strict controls on Uyghurs and Tibetans, as well as residents of some ethnic minority areas.

#### *Recommendations*

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

- Call on Chinese authorities to accelerate reforms to the *hukou* system, including fully relaxing restrictions on migration to major cities and centers of economic opportunity; equalizing the level and quality of public benefits and services afforded by local *hukou* and residence permits; and implementing laws and regulations to provide equal treatment for all Chinese citizens, regardless of place of birth or residence.

- Support programs, organizations, and exchanges with Chinese policymakers and academic institutions engaged in research and outreach to migrants, in order to advance legal and anti-discrimination assistance for migrants and their families, and encourage policy debates aimed at eliminating inequality and discrimination connected to the *hukou* system.
- Emphasize in meetings with Chinese officials that the Chinese government's noncompliance with international standards on freedom of movement and travel diminishes confidence in the Chinese government's commitment to broader international standards. Call on the Chinese central government to combat local authorities' arbitrary and discriminatory restrictions on the ability of residents of some ethnic minority areas, particularly Uyghurs and Tibetans, to move freely inside China.
- Raise specifically Chinese authorities' restrictions on the freedom of movement and the right to leave the country of rights defenders, lawyers, critics of the government, and their family members and associates, including, among others: the son of rights lawyer Liu Xiaoyuan and the wife of detained lawyer Xie Yang; Yang Jisheng, a historian and former journalist; Gao Yu, a journalist serving a five-year prison sentence for "leaking state secrets"; and Ni Yulan, a disabled former lawyer and housing rights advocate.

#### STATUS OF WOMEN

##### *Findings*

- The Chinese government restricted many women's rights advocates from providing services and engaging in advocacy, violating China's obligations under international standards. For example, on February 1, 2016, the widely known and respected Beijing Zhongze Women's Legal Counseling and Service Center ceased operations after government authorities reportedly ordered the organization to shut down.
- The Chinese government continued to target individual women's rights advocates with criminal prosecution and other forms of harassment. Wang Yu—a high-profile human rights lawyer whom Beijing municipality security officials detained in July 2015 and Tianjin municipality authorities subsequently arrested on suspicion of "subversion of state power" in January 2016—reportedly was released on bail in August 2016 following the broadcast of a prerecorded confession that members of the Chinese human rights community believe was coerced. In April 2016, the Foshan Intermediate People's Court in Guangdong province put on trial women's rights and democracy activist Su Changlan on the charge of "inciting subversion of state power." As of August 2016, she remained in custody, awaiting a verdict. Police in Beijing lifted bail conditions for five women's rights advocates—referred to as the Feminist Five—who were detained and subsequently released in 2015 in connection with a planned anti-sexual harassment campaign. The women, however, are still considered suspects in an investigation for the crime of "gathering a crowd to disturb order in a public place."

- Despite the legal framework prohibiting employment discrimination, employers in China continued to discriminate against women in recruiting, hiring, compensation, and other employment practices. A March 2016 article in Xinhua stated that “job discrimination against women still pervades Chinese society.” More women are suing employers, or prospective employers, for gender-based discrimination. Female plaintiffs prevailed in two separate employment discrimination cases, each claiming that a prospective employer refused to hire her because she was a woman.
- Employment discrimination against women based on pregnancy continues to be a serious problem, despite laws protecting the rights of pregnant workers. Results from a recent survey of nearly 1,000 female employees indicated that over 52 percent of the respondents experienced discrimination when they were pregnant, on maternity leave, or breastfeeding and, as a result, suffered pay cuts, forced transfers, lost promotion and training opportunities, or were pressured to resign.
- The PRC Anti-Domestic Violence Law became effective on March 1, 2016. The National People’s Congress passed the legislation in December 2015 after more than a decade of advocacy and organizing by women’s rights advocates and Chinese officials. Many women’s rights advocates hailed the application of the law to non-married, cohabiting partners and the fact that the definition of domestic violence specifies both physical and psychological abuse. Rights advocates, nevertheless, expressed concerns about the omission of sexual violence and economic coercion from the definition of domestic violence and about the law’s silence with respect to same-sex couples.
- Officials in China reportedly continued to use coercion and violence against women while implementing family planning policies, in contravention of international standards. The UN Committee against Torture, in its November 2015 review of China’s compliance with the Convention against Torture, expressed concern about reports of coerced sterilization and forced abortions, and noted the Chinese government’s failure to provide requested information on such reports and on redress provided to past victims.

#### *Recommendations*

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

- Publicly and privately urge the Chinese government to drop any and all remaining charges against the Feminist Five, release rights activist Su Changlan from detention, and clarify the status of rights lawyer Wang Yu whose whereabouts remain unknown despite her purported release on bail.
- Facilitate and support technical assistance programs that would assist law enforcement and judicial personnel as well as lawyers and women’s rights organizations in effectively enforcing the PRC Anti-Domestic Violence Law, including best practices for implementing protection orders and handling domestic violence cases in court.

- Support international exchanges among academics, legal advocates, non-governmental organizations, and others that focus on gender-based employment discrimination, including pregnancy-related discrimination.
- Call on the Chinese government to stop coercion and violence against women during population planning implementation and to provide the UN Committee against Torture with the information it requested on coerced sterilization and forced abortions and on redress to past victims.

## HUMAN TRAFFICKING

### *Findings*

- During the Commission’s 2016 reporting year, China remained a country of origin and destination for the trafficking of men, women, and children, as defined under the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (UN TIP Protocol). In addition to domestic human trafficking, criminal networks reportedly drove an increase in human trafficking of Chinese nationals to Southeast Asia, Europe, and Africa. Women from Southeast Asia and Nepal reportedly were trafficked to China for forced marriage or sexual exploitation.
- The Commission observed reports of North Korean laborers in China working under conditions experts described as forced or slave labor. These workers earned income for the North Korean government and reportedly worked long hours in substandard conditions for little or no pay. The U.S. State Department and the UN TIP Protocol include forced labor in their respective definitions of human trafficking.
- Although the Chinese government abolished the reeducation through labor system in 2013, authorities continue the use of similar forms of arbitrary detention, including “custody and education” and compulsory drug detoxification, in which detainees perform forced labor.
- China’s ongoing human trafficking problem stems from a variety of social, economic, and political factors. Within China, internal migrant workers were vulnerable to being trafficked for forced labor, and their children reportedly were at risk for forced labor, forced marriage, and sexual exploitation. Individuals with disabilities were at risk for forced labor and forced begging. Poverty and political instability contributed to trafficking from Southeast Asia into China. North Korean refugees in China remained at risk for human trafficking. China’s sex ratio imbalance created a demand for marriageable women that may contribute to human trafficking for forced marriage. Experts disagreed over the extent to which the new universal two-child policy would affect the sex ratio imbalance.
- In March 2016, the Supreme People’s Court reported an almost 56-percent decline in the number of human trafficking cases handled in Chinese courts and a nearly 63-percent decline in the number of convictions in 2015 compared to 2010.
- The PRC Criminal Law prohibits human trafficking, but China’s domestic legislation remains inconsistent with UN TIP

Protocol standards. The current definition of trafficking under Chinese law does not clearly cover offenses against male victims. Chinese law identifies illegal adoptions as human trafficking, which under the UN TIP Protocol are considered trafficking only if the end purpose is exploitation.

- During the reporting year, Hong Kong was a destination for human trafficking, with migrant workers particularly at risk of exploitation for forced labor. One alleged victim of human trafficking challenged the Hong Kong government in court, arguing that Hong Kong's Bill of Rights Ordinance requires the Hong Kong government to enact stronger anti-trafficking legislation.

#### *Recommendations*

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

- Urge the Chinese government to abide by its commitments under the UN TIP Protocol and to bring anti-trafficking legislation into alignment with international standards, specifically with regard to China's legal definition of human trafficking. Call on the Chinese government to extend coverage of the UN TIP Protocol to include Hong Kong. Urge the Chinese government to end its policy of forcibly repatriating undocumented North Korean migrants.
- Work with regional governments, multilateral institutions, and non-governmental organizations (NGOs) to encourage and support the collection of more accurate data in order to better assess the scale and root causes of human trafficking in Asia and monitor the effectiveness of anti-trafficking measures.
- Encourage and engage in continued regional cooperation to combat human trafficking through multilateral agreements and meetings such as the Coordinated Mekong Ministerial Initiative Against Trafficking, Asia-Pacific Economic Cooperation, and the East Asia Summit. Such regional cooperation should address migration and the flow of refugees, poverty, sex ratio imbalances, and other risk factors that contribute to human trafficking.
- Pursue cooperation on anti-trafficking efforts through the U.S.-China Joint Liaison Group on Law Enforcement Cooperation. Facilitate international exchanges among civil society groups and industry associations to raise awareness of best practices for identifying and combating human trafficking in supply chains. Support NGOs working on anti-trafficking education and victims' services throughout Asia.
- Incorporate language into bilateral and multilateral economic agreements requiring member countries to improve data collection on human trafficking and to take concrete steps toward eliminating human trafficking within their borders.

## NORTH KOREAN REFUGEES IN CHINA

*Findings*

- During the Commission's 2016 reporting year, the Chinese government's policy of detaining North Korean refugees and repatriating them to the Democratic People's Republic of Korea (DPRK) remained in place, in violation of its obligations under international human rights and refugee law.
- In November 2015, the UN Committee against Torture (Committee) conducted its fifth periodic review of China's compliance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. In its concluding observations, the Committee stated its concerns about China's lack of "national asylum legislation and administrative procedures" for determining refugee status and China's "rigorous policy of forcibly repatriating all nationals of the [DPRK] on the ground that they have illegally crossed the border solely for economic reasons." The Committee also urged China to adopt measures to address these concerns.
- Heightened security measures along the China-North Korea and China-Southeast Asia borders increased the risks North Korean refugees face. The number of refugees who reached South Korea decreased from 1,397 in 2014 to 1,277 in 2015, continuing the trend of a significant decline in the number of refugees entering South Korea since 2011.
- Chinese authorities continued to crack down on organizations and individuals that have played a crucial role in assisting and facilitating the movement of North Korean refugees outside the DPRK, including Canadian citizen Kevin Garratt who was reportedly involved in assisting North Korean refugees.
- The Commission observed reports of North Korean laborers in China working under exploitative conditions. According to one expert, the DPRK government subjected these workers to "very harsh conditions of work" that "amount to forced labor." This past year, some North Korean restaurant workers escaped to South Korea from their work sites in China.
- North Korean women who enter China illegally remained particularly vulnerable to human trafficking. The majority of North Korean refugees leaving the DPRK are women, many of whom are trafficked from the DPRK into or within China for the purposes of forced marriage and commercial sexual exploitation.
- Many children born to Chinese fathers and North Korean mothers remained deprived of basic rights to education and other public services owing to a lack of legal resident status in China, contravening China's obligations under international law.

*Recommendations*

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

- Consider using the suite of sanctions that are available, where appropriate, against Chinese government agencies and individuals involved in the repatriation of North Korean refugees, and press for increased international monitoring of and accountability for China’s treatment of refugees.
- Call on the Chinese government to address the concerns of the UN Committee against Torture by incorporating the principle of non-refoulement into domestic legislation and allowing UN High Commissioner for Refugees personnel unimpeded access to North Korean refugees in China.
- Urge Chinese officials to abide by China’s obligations under international human rights instruments and to prosecute human traffickers operating in China and along the China-North Korea border.
- Urge Chinese authorities to recognize the legal status of North Korean women who marry or have children with Chinese citizens, and ensure that all such children are granted resident status and access to education and other public services in accordance with Chinese law and international standards.
- Ask the U.S. Special Envoy on North Korean Human Rights Issues to work with South Korean counterparts—including the newly established South Korean Ambassador for International Cooperation on North Korean Human Rights at the Ministry of Foreign Affairs and the North Korean Human Rights Foundation under the Ministry of Unification—to coordinate efforts related to humanitarian assistance and human rights promotion for North Korean refugees in China, in accordance with the North Korean Human Rights Act.

## PUBLIC HEALTH

### *Findings*

- The Chinese government and Communist Party advanced health care reform priorities with a merger of two of China’s three health insurance schemes announced in January 2016. The merger will affect health insurance coverage for more than 1 billion Chinese citizens. The government also sought to address the ongoing problem of “commotions at hospitals” (*yi’nao*) related to patient-doctor disputes with measures to improve security for hospital staff and a revision to the PRC Criminal Law that imposes harsher penalties for “social order” disturbances at hospitals.
- The Party propaganda department issued censorship directives to prohibit or limit news about public health matters deemed politically sensitive, including news stories about patient-doctor disputes, challenges in accessing medical care, and apparently contaminated pharmaceutical products. Parents who advocated for government accountability over harm to their children’s health and well-being through public protests and filing lawsuits encountered a range of official responses, including detention.
- Forcibly committing individuals without mental illness to psychiatric facilities (*bei jingshenbing*) as a “form of retaliation

and punishment by Chinese authorities against activists and government critics” reportedly remains a serious problem in China despite the PRC Mental Health Law’s (MHL) prohibition of such abuse. The Commission observed reports during the past year on the forcible institutionalization of individuals including Xing Shiku, Xia Funian, Wang Hedi, Xu Dajin, Wang Shou’an, and Zhang Wenhe.

- Chinese officials and domestic and international experts have observed a range of challenges in the implementation of the MHL since it took effect in 2013. During the reporting year, localities issued plans to implement the National Mental Health Work Plan (2015–2020), including pilot projects to provide more rehabilitation services for individuals with psychosocial disorders. A focus on individuals with severe mental disorders deemed at risk of violent behavior is evident in national policy and local mental health work agendas.

- Provisions on anti-employment discrimination and the right to work in the PRC Law on the Protection of the Rights of Persons with Disabilities were cited in a model case featuring the protection of the rights of persons with disabilities published by the Supreme People’s Court in May 2016. In addition, in May, a court in Guizhou province awarded financial compensation to the plaintiff in a case that legal experts noted was the first in which a court found in favor of a plaintiff claiming employment discrimination due to HIV/AIDS. Persons with disabilities and health-related conditions in China, nevertheless, continued to face obstacles in attaining equal access to employment and education. In July and August 2016, official media reported on two cases in which individuals with visual impairments were denied university enrollment and government employment based on physical eligibility standards.

#### *Recommendations*

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

- Call on the Chinese government to strengthen implementation of the PRC Mental Health Law (MHL) and stop using forcible psychiatric commitment to retaliate against and silence persons with grievances against the government or persons with dissenting opinions and preferences. Urge the Chinese government to establish panels made up of legal, medical, and security professionals from within and outside the government to monitor and report on implementation of the MHL and initiatives planned under the National Mental Health Work Plan (2015–2020) to ensure that local implementation consistently meets standards of care and rights protection stipulated in the MHL, the PRC Law on the Protection of the Rights of Persons with Disabilities, and international standards.
- Continue to support technical assistance and exchange programs in the area of public health, including but not limited to cardiac care and breast cancer prevention that were identified during the seventh annual U.S.-China Consultation on People-to-People Exchange in June 2016. Require that U.S.-

China cooperative programs include the participation of U.S. and Chinese non-governmental organizations.

○ Urge Chinese officials to focus attention on effective implementation of laws and regulations that prohibit health-based discrimination in access to employment and education, including revision of the national physical eligibility standards for civil servants and teachers that discriminate against persons with health conditions. Where appropriate, share the United States' ongoing experience with and efforts to promote the rights of persons with disabilities in education, employment, and public life, through non-governmental advocacy and services, and legal and regulatory means.

## THE ENVIRONMENT

### *Findings*

- During the 2016 reporting year, reports indicated the severity of China's air, water, and soil pollution, and scientists published new research linking air pollution to 1.6 million premature deaths per year. Chinese authorities continued to censor and control media reporting on the environment, including on environmental emergencies, such as the August 2015 explosion in Tianjin municipality, the December 2015 landslide in Shenzhen municipality, and the summer 2016 floods and their aftermath.
- The non-transparent and extralegal detention of Chinese government officials handling environmental matters and data raised concerns about China's commitments to transparency and the rule of law in environmental protection. Significant cases of concern during the reporting year included the reported torture of Xu Yongsheng, the former director of the National Energy Administration; the detention of Zhang Lijun, a retired vice minister of the Ministry of Environmental Protection (MEP); and the detention of Wang Bao'an, the director of the National Bureau of Statistics of China.
- Since the revised PRC Environmental Protection Law took effect in January 2015, official government and media reports indicated that there have been some improvements in public participation and an increase in the number of environment-related public interest lawsuits. During 2015, Chinese courts reportedly accepted 53 public interest lawsuits.
- The PRC Air Pollution Prevention and Control Law passed in August 2015 and took effect on January 1, 2016. The MEP continued to implement 2015 revisions to the PRC Environmental Protection Law that allow for the imposition of daily fines for violating emissions standards; the MEP, however, reportedly only issued daily fines in a limited number of cases. The National People's Congress passed an amendment to the PRC Wild Animal Protection Law in July 2016, and central government officials reportedly have plans to draft a PRC Soil Pollution Law and revise the PRC Environmental Impact Assessment Law.
- During the reporting year, Chinese authorities continued to harass and detain environmental advocates. In April 2016, a

court in Liaoning province reportedly accepted a retrial request after a November 2015 judgment that imposed a 12-year prison sentence on environmentalist Tian Jiguang for “extortion,” “embezzlement,” and “misappropriation of funds,” although the retrial decision did not suspend the initial judgment. Tian founded a non-governmental organization to protect spotted seals, and Chinese authorities reportedly detained him in connection with a blog post criticizing water pollution by a state-owned enterprise.

- During the reporting year, China remained the largest emitter of carbon dioxide in the world. The United States and China continued many dialogues and exchanges related to the environment and climate change. In April 2016, China signed the Paris Agreement under the United Nations Framework Convention on Climate Change, affirming its June 2015 commitment to lower carbon dioxide emissions per unit of GDP by 60 to 65 percent from the 2005 level by 2030.

#### *Recommendations*

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

- Continue to support U.S.-China technical and legal collaboration on environmental protection. U.S.-China cooperation should focus on programs aimed at increasing media freedom; improving transparency and the rule of law; reducing air, water, and soil contamination; and improving government accountability. Raise concerns regarding the censorship of the documentary “Under the Dome” and transparency surrounding important environmental data.
- Raise questions with Chinese officials about the lack of transparency and due process in the detentions of energy, environmental, and statistics bureau officials, including Xu Yongsheng, Zhang Lijun, and Wang Bao’an.
- Urge Chinese authorities to fully implement provisions in Chinese law providing for public participation in environmental policy and project decisions. Support programs intended to increase the scientific, technical, legal, and operational capacity of Chinese environmental non-governmental organizations (NGOs), including programs that assist NGOs in taking full advantage of opportunities to file environmental public interest lawsuits and submit open government information requests. Raise the detention of Tian Jiguang in meetings with Chinese officials.
- Support efforts by Chinese and U.S. groups working to expand awareness of citizens’ environmental rights in China and the protection of those rights. Include environmental law and transparency issues in bilateral human rights and legal expert dialogues. Include discussion of human rights dimensions of climate change in the U.S.-China Climate Change Working Group.

## CIVIL SOCIETY

*Findings*

- During the Commission's 2016 reporting year, the Chinese government and Communist Party continued to deepen a crackdown that began in 2013 against non-governmental organizations (NGOs) and civil society advocates. Targets of the crackdown included staff from the Panyu Workers' Services Center and other labor rights NGOs and the Beijing Zhongze Women's Legal Counseling and Service Center. An international rights NGO reported that authorities detained 22 human rights defenders in 2015 on suspicion of "inciting subversion of state power," equal to the recorded total for the three previous years combined under the same charge. These detentions, some of which are linked to the government's "unprecedented attack" beginning in and around July 2015 against rights lawyers and advocates, reportedly have contributed to a "chilling effect" on civil society in China.
- Chinese authorities also targeted an international staff member of a legal rights advocacy group during this reporting year. Authorities detained Peter Dahlin, a Swedish rights advocate who cofounded the Chinese Urgent Action Working Group, an organization that trains and supports Chinese rights defenders, for three weeks before expelling him from the country. On January 19, 2016, while Dahlin was still in detention, state television aired a prerecorded confession, which Dahlin later stated was scripted by Chinese authorities.
- The National People's Congress passed the PRC Law on the Management of Overseas NGO Activities in Mainland China in April 2016. The law covers a wide range of international NGOs (INGOs), grants authority over INGO registration to the Ministry of Public Security and provincial-level public security agencies, and restricts the activities of INGOs in China through registration and reporting requirements. International observers called on the Chinese government to repeal the legislation, and warned that the law could be used to intimidate and suppress dissenting views and to exert greater control over civil society.
- The National People's Congress passed the PRC Charity Law in March 2016. If fully implemented, the legislation paves the way for easier registration for qualifying charitable organizations, permits registered charities to engage in public fundraising, requires public disclosure of organizations' activities and use of funds, and forbids embezzlement and misuse of funds. Observers reported concerns over provisions in the law that allow authorities to prosecute and shut down groups deemed to "endanger state security," a vague charge that rights groups say authorities can use to crack down on human rights advocacy.
- During the past year, the central government released draft revisions to the three major regulations governing the registration and management of domestic civil society organizations. Following the February 2016 State Council administrative revision to the Regulations on the Registration and Management

of Social Organizations, the Ministry of Civil Affairs (MCA) released a revised draft for public comment in August 2016, which would permit direct registration for business associations, research organizations, charities, and service organizations. The MCA also released a revised draft for public comment of the Regulations on the Management of Non-Governmental, Non-Commercial Enterprises changing the name to the Regulations on the Management of Social Service Organization Registration, and renaming “non-governmental, non-commercial units” as “social service organizations.” Provisions in the draft Regulations on the Management of Foundations specify how charitable foundations should be classified and regulated.

- The regulatory environment for Chinese NGOs continued to be challenging to navigate. Authorities continued to require some NGOs to secure the sponsorship of a governmental or quasi-governmental organization in order to be eligible for registration. This “dual management system” subjects NGOs to differentiated treatment based on authorities’ perception of a group’s political sensitivity. Experts noted that NGOs without government affiliation are at a disadvantage compared to quasi-governmental or government-organized non-governmental organizations (GONGOs) with respect to public fundraising and government procurement.

#### *Recommendations*

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

- Urge the Chinese government to hasten the enactment of legal provisions pertaining to civil society that are consistent with China’s Constitution as well as China’s international obligations. Urge China to ratify the International Covenant on Civil and Political Rights (ICCPR). Urge the Chinese government to revise or repeal the PRC Law on the Management of Overseas NGO Activities in Mainland China and revise the PRC Charity Law to reflect the principles of the ICCPR.
- Call on the Chinese government to cease harassment of civil society advocates and NGOs. Integrate civil society issues into bilateral discussions and agreements and strengthen U.S. Government-funded programs and exchanges in China.
- Take measures to facilitate the participation of Chinese civil society advocates in relevant international conferences and forums, and support international training to build their leadership capacity in non-profit management and best practices, public policy advocacy, strategic planning, and media relations.
- Urge the Chinese government to establish a fair and transparent framework for the implementation and regulation of government procurement of social services from NGOs. Where appropriate, support civil society leaders and advocates in visiting other signatories to the World Trade Organization Agreement on Government Procurement in order to observe best practices in government procurement of services from NGOs.

## INSTITUTIONS OF DEMOCRATIC GOVERNANCE

*Findings*

- This past year, the Chinese Communist Party continued to direct and influence politics and society at all levels, including in the military, economy, media, civil society, and family life. State media outlets reported that Chinese President and Party General Secretary Xi Jinping emphasized the Party's claims to wide-ranging leadership at a senior-level Party meeting in January 2016. The Party and government adopted the 13th Five-Year Plan (2016–2020) for economic and social development, which reiterates a vision to “spur a great rejuvenation of the Chinese nation” in line with the “Chinese dream.”
- The Commission observed a continued emphasis on Party General Secretary and President Xi Jinping's leading role in guiding decisionmaking in Party, government, and military affairs. Reports suggested that Xi used the ongoing anticorruption campaign, intensified Party disciplinary measures, promoted his speeches as ideological guidance, and continued his chairmanship of at least six leading small groups in the Party Central Committee to strengthen his power within the Party. Following central Party meetings that featured calls to strengthen the Party's role, several provincial and local Party leaders referred to Xi as the “core” (*hexin*) of Party leadership.
- This past year, Chinese officials' wide-reaching anti-corruption campaign to reduce graft and strengthen Party discipline continued snaring so-called “tigers” and “flies”—high- and low-level Party officials in the government, military, media, and business—in a manner that one scholar called selective in enforcement, non-transparent, and politicized. The Central Commission for Discipline Inspection targeted officials through use of the non-transparent and extralegal disciplinary process of *shuanggui*, about which the UN Committee against Torture expressed concern during its fifth periodic review of China's compliance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- Chinese officials continued a broad ideological and political crackdown on the Party and bureaucracy, human rights lawyers, business leaders, and rights advocates. Some representative cases of advocates whom authorities targeted this past year included Qin Yongmin, Zhao Suli, Wang Su'e, Xu Qin, Yin Weihe, and Liu Shaoming. Authorities detained and in some cases sentenced individuals in connection with their commemoration of the violent suppression of the 1989 Tiananmen protests. Such individuals included Zhao Changqing, Zhang Baocheng, Xu Caihong, Li Wei, Ma Xinli, Liang Taiping, Fu Hailu, Tang Jingling, Yuan Chaoyang, Wang Qingying, and Pu Zhiqiang.
- This past year, central Party authorities did not undertake any substantial political liberalization, but instead pledged to continue improving China's “socialist political democratic consultative system” with the aim of strengthening Party leader-

ship. Sources from this past year highlighted several examples in which officials interfered with or inhibited meaningful public participation in local elections, undermining the ability of Chinese political institutions to meet the standards for “genuine” elections outlined in the Universal Declaration of Human Rights and the International Covenant on Civil and Political Rights.

- In June 2016, international and Chinese official media outlets reported a new round of protests in Wukan, a village in Donghai subdistrict, Lufeng city, Shanwei municipality, Guangdong province, over the detention of the village committee’s Party Secretary Lin Zulian. Media reports indicated that authorities detained Lin after he announced a public meeting to protest the lack of official progress in the government’s pledge to return farmland. On June 21, Shanwei officials released a prerecorded confession of Lin admitting to taking bribes, which local residents reportedly found unconvincing, and formally arrested him on July 21.

- Chinese authorities reiterated their intent to improve open government affairs and aim for a higher level of public information disclosure. The Party Central Committee and State Council issued an opinion in February 2016 to further strengthen work on the open government information system, stipulating that government agencies must effectively improve disclosure, civic participation, and public trust.

- The Chinese government continued plans to establish the national social credit system this past year. In June 2016, the State Council issued a guiding opinion on building the social credit system, directing national and provincial government agencies to construct an “interregional and cross-departmental mechanism for encouraging trustworthiness and punishing dishonesty.”

### *Recommendations*

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

- Support U.S. research programs that seek to document and analyze the governing institutions and ideological campaigns of the Chinese Communist Party, as well as its influence over companies, government agencies, legislative and judicial bodies, and non-governmental organizations.
- Employ a “whole-of-government” approach to encourage Chinese authorities to ratify the International Covenant on Civil and Political Rights and release individuals detained or imprisoned for exercising their rights to freedom of speech, association, and assembly. Such political prisoners may include those who sought to hold memorials for victims of the violent suppression of the 1989 Tiananmen protests, those engaged in anticorruption advocacy, or other individuals mentioned in this report and in the Commission’s Political Prisoner Database.
- Support joint U.S.-China cooperative programs to develop independent village committee and people’s congress election monitoring systems and encourage central and local Party and

government leaders to implement free and fair elections across China. Continue to support democracy promotion and rule of law programs that are adapted to China.

- Support organizations working in China that seek to work with local governments and non-governmental organizations to improve transparency, especially in efforts to expand and improve China's government information disclosure initiatives. Urge Party officials to further increase the transparency of Party affairs.

- Call on the Chinese government to improve procedures through which citizens may hold their officials accountable. Urge Chinese officials to strengthen and expand protections for corruption informants, investigate irregularities associated with corruption-related detentions, and release detained anti-corruption and democracy advocates.

#### COMMERCIAL RULE OF LAW

##### *Findings*

- As of December 11, 2016, China will have been a member of the World Trade Organization (WTO) for 15 years. The Chinese government, however, has failed to fulfill many of its WTO commitments, including its legal commitments related to the rule of law, market prices, transparency, non-discrimination against foreign companies, and preferential treatment and subsidies for state-owned enterprises. During the reporting year, the United States and Chinese governments' negotiation for a Bilateral Investment Treaty (BIT) continued, and the U.S. Government's objectives for the treaty included "non-discrimination, fairness and transparency."

- The Chinese government continued to impose restrictions on economic reporting and control access to commercial information. The websites of the New York Times, Bloomberg News, Wall Street Journal, and Reuters remained blocked in China. In March 2016, the Office of the U.S. Trade Representative listed Chinese Internet censorship as a trade barrier for the first time. As of August 2016, the Public Company Accounting Oversight Board, a non-profit corporation established by the U.S. Congress to oversee public company audits, reportedly remained unable to obtain legal and financial documents from China-based companies listed on U.S. stock exchanges. A report indicated that between January 2010 and November 2015, Chinese companies reportedly raised US\$36.7 billion from U.S. investors in initial public offerings.

- In August 2015, Chinese authorities detained Caijing financial reporter Wang Xiaolu after he reported that the Chinese government might reduce financial support for stabilizing stock prices. In or around February 2016, authorities reportedly released Wang from detention. In January 2016, authorities detained Wang Bao'an, director of the National Bureau of Statistics of China, hours after he had defended China's economic performance and official economic data at a news conference.

- In March 2015, American businesswoman Sandy Phan-Gillis disappeared as she was about to travel from Zhuhai municipi-

pality, Guangdong province, to Macau. In June 2016, the UN Working Group on Arbitrary Detention issued an opinion that Phan-Gillis's detention was arbitrary due to violations of her right to legal counsel and the lack of a prompt, independent review of her detention. In July 2016, international media reported that Phan-Gillis had been, or would soon be, indicted. According to the U.S. State Department, the Chinese government's restrictions on communication between U.S. consular officials and Phan-Gillis are "inconsistent" with China's obligations under the U.S.-China Consular Convention.

- During the reporting year, China remained a non-market economy. In 2015, China's 150,000 state-owned enterprises (SOEs) held over 100 trillion yuan (US\$16 trillion) in assets and employed more than 30 million people. "State-owned holding" enterprises accounted for the majority of the total equity of the Chinese stock market, and the Chinese government was reportedly a majority shareholder in 99 of the 100 largest publicly listed companies.

- Cyber theft of intellectual property supported by the Chinese government reportedly continued during the reporting year, despite President Barack Obama and President Xi Jinping's agreement in September 2015 that "neither country's government will conduct or knowingly support cyber-enabled theft of intellectual property with the intent of providing competitive advantages to companies or commercial sectors." Inadequate protection for intellectual property and discriminatory and non-transparent antimonopoly enforcement in China continued to negatively affect American companies, although there were some positive judicial and regulatory developments.

- Foreign investments by Chinese companies in the United States, with the support of the Chinese government and Chinese government-controlled financial institutions, continued to grow during the 2016 reporting year. In January 2016, the Asian Infrastructure Investment Bank, a multilateral development bank headquartered in Beijing municipality, formally opened.

- In November 2015, the International Monetary Fund (IMF) decided to include the yuan as part of the Special Drawing Rights, despite concerns over restrictions on convertibility of the yuan. In February 2016, the Wall Street Journal reported that the IMF was unsatisfied with the lack of economic information provided by the Chinese government. According to state-run news agency Xinhua, IMF officials later denied the report.

- In October 2015, the PRC Food Safety Law became effective; an American company, however, expressed concern with the Chinese government's enforcement processes. During the reporting year, a vaccine scandal involving the sale of improperly stored vaccines caused significant public concern.

#### *Recommendations*

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

- Urge the Chinese government, in Bilateral Investment Treaty (BIT) negotiations and other forums, to stop blocking access to U.S. commercial and media companies in China, including the New York Times, Bloomberg News, and the Wall Street Journal. The Office of the U.S. Trade Representative should ensure that the BIT includes protection for investments in news agency services and online media, as well as protection for cross-border data flows that are at least as strong as those in the Trans-Pacific Partnership agreement. The Office of the U.S. Trade Representative should provide a list of U.S. commercial websites blocked in China in its annual Special 301 Report.
- Study ways to respond to the Chinese government's increased funding of international investment projects. The United States should consider approving the December 2010 International Monetary Fund (IMF) reform measures to increase IMF funding and increase representation of emerging economies.
- Consider revisions to the U.S.-China Consular Convention to ensure that Americans detained in China are allowed to discuss the details of their case with U.S. consular officials and meet with a lawyer. U.S. Government officials should raise the case of Sandy Phan-Gillis in meetings with Chinese officials. Provide additional support to U.S. companies facing criminal and administrative enforcement actions in China and litigating significant intellectual property cases.
- Increase reporting on intellectual property theft and cyber espionage from China. The U.S. Department of Justice should consider reporting intellectual property cases involving foreign companies and foreign nationals, including those originating from China, on an annual basis.
- The U.S. Securities and Exchange Commission should require full access to corporate documents for Chinese companies listed on U.S. stock exchanges, and raise challenges regarding corporate transparency in discussions with Chinese officials.

#### ACCESS TO JUSTICE

##### *Findings*

- During the Commission's 2016 reporting year, the Chinese government made some progress in implementing various judicial reforms but continued to fall short in meeting certain international human rights standards such as equal access to impartial tribunals.
- Despite purported efforts to shield courts from political influence, the Chinese government and Communist Party continued to exert influence over the judiciary. Although reports indicated that more citizens had their cases accepted by courts this past year, some courts continued to deny rights advocates access to the court system.
- The implementation of a trial-centered litigation system, which is aimed at ensuring the legality of evidence obtained during the pre-trial process, was at the planning stage during this reporting year. The effectiveness of this system, however,

may be hampered by the low rate of legal representation in criminal cases before courts of first instance, which dropped from 30 to 20 percent in the past two years.

- The Chinese court system continued to make judicial opinions available online and issue “guiding cases” toward the goal of promoting judicial transparency and uniformity in court judgments.

- In the past year, central and local government reports showed an overall increase in funding for and access to the legal aid system since 2010, and media reports illustrated progress and challenges in efforts toward further expansion.

- The Chinese government took steps to improve the overburdened petitioning system in part by requiring administrative agencies to specify petition subject matters within their respective jurisdictions, using the two newly established circuit tribunals to resolve petitioners’ grievances, and diverting some cases from the petitioning system to judicial and other administrative channels. Some believe, however, that these measures may not be able to effectively address issues that are traditionally handled by the petitioning system due to the costs and processing time involved. In the past year, petitioners continued to face reprisals for seeking redress from local governments, such as being prosecuted for extortion and other criminal charges.

- During the reporting year, the Chinese government continued to detain rights lawyers and advocates whom it targeted during a nationwide and coordinated crackdown that began in and around July 2015. Authorities denied many of the advocates access to counsel and did not inform their families about the detention location. Authorities also detained and harassed family members of the detained advocates.

- Authorities appeared to target non-governmental organizations (NGOs) and individuals whose legal aid work overlapped with rights advocacy.

### *Recommendations*

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

- Urge the Chinese government to eliminate all forms of influence on the court system, including of the Communist Party and the central government.
- Raise concerns about the fact that some local courts, despite the new case filing system, refused to accept cases submitted by petitioners and rights advocates, thereby denying them equal access to justice.
- Encourage the Chinese government to improve legal representation of criminal defendants and to take substantive action to implement the trial-centered litigation system that is designed to ensure the legality of evidence obtained during the pre-trial process.
- Increase support for programs that promote dialogue between U.S. and Chinese legal experts regarding how China can structure and implement legal reforms. Concomitantly increase

support for collaboration between U.S. and Chinese academic and non-governmental entities to foster programs that enhance the Chinese legal system's potential to be a vehicle for protecting citizens' rights.

- Urge the Chinese government to stop all forms of persecution or prosecution of petitioners who use the petitioning system to seek redress for their grievances.
- Urge the Chinese government to protect the fundamental civil and professional rights of China's lawyers, to investigate all allegations of abuse, and to ensure that those responsible are brought to justice.
- Urge the Chinese government to unconditionally release the rights lawyers and advocates detained during the crackdown that began in and around July 2015, to investigate allegations of sexual assault against Zhao Wei while in custody, and to vacate the convictions of the individuals already sentenced.

## XINJIANG

### *Findings*

- During the Commission's 2016 reporting year, central and regional authorities continued to implement repressive security measures targeting Uyghur communities in the Xinjiang Uyghur Autonomous Region (XUAR). Reports from international media and rights advocates documented arbitrary detentions, oppressive security checkpoints and patrols, the forcible return of Uyghurs to the XUAR from other provinces as part of heightened security measures, and forced labor as a means to "ensure stability." In addition, Meng Jianzhu, head of the Communist Party Central Committee Political and Legal Affairs Commission, repeatedly stressed the need for authorities to "eradicate extremism"—in particular, "religious extremism"—in the XUAR in conjunction with security measures. The U.S. Government and international observers have asserted that XUAR officials have justified limits on Uyghurs' religious freedom by equating them with efforts to combat extremism.
- The Commission observed fewer reports of violent incidents involving ethnic or political tensions in the XUAR in the 2016 reporting year than in previous reporting years, though it was unclear whether less violence occurred, or if Chinese authorities prevented public disclosure of the information. International media and rights advocates raised concerns about Chinese authorities' failure to report and attempts to suppress information regarding deadly clashes involving Uyghurs, including information about a September 2015 attack in Aksu prefecture.
- On December 27, 2015, the National People's Congress passed the PRC Counterterrorism Law. The legislation, which took effect on January 1, 2016, contains provisions that expand police authority, including the authority to use weapons. Human rights organizations and other observers criticized the law as repressive and expressed fears that it expanded offi-

cials' authority to punish peaceful activities and target ethnic minorities, including Uyghurs.

- On July 29, 2016, the XUAR People's Congress approved regional measures to implement the PRC Counterterrorism Law that contain more detailed definitions than the national legislation regarding terrorist activities and how to punish religious extremists. A human rights advocate cited in an international news report expressed concern that under the new regional measures, authorities could label Uyghurs' ordinary religious activities as extremism and terrorism.
- Uyghur political prisoners remaining in detention in the XUAR during the reporting year include Uyghur scholar Ilham Tohti; Tudaxun Hoshur, brother of Uyghur-American reporter Shohret Hoshur; and Uyghur-Canadian imam Huseyin Celil.
- During this reporting year, central and XUAR officials continued to focus on the role of economic growth and development initiatives in the XUAR in promoting stability. Through the "Silk Road" and "One Belt, One Road" development strategies introduced in recent years, government authorities sought to attract overseas investment and investment from other areas of China, and to develop the XUAR as a production and logistics hub. Critics of XUAR development strategies outlined authorities' failure to address persistent tensions involving socio-economic inequality, ethnic tension, and assimilation. In addition, an April 2016 Greenpeace briefing on air quality in China reported that the five cities with the highest average PM<sub>2.5</sub> concentration were located in the XUAR—the result of the westward shift of industries such as coal-fired power plants.
- Following XUAR authorities' November 2014 amendment of regional regulations governing religious affairs, central and XUAR officials continued to use new legislation and other measures that narrowed the scope of Uyghur Muslims' ability to peacefully practice their religious faith and express their Muslim cultural identity. Authorities in locations throughout the XUAR also enforced controls on Uyghur Muslims in mosques and in their homes, and sought to restrict Islamic teaching outside of state control.
- During the reporting year, central and regional officials placed restrictions on journalists covering XUAR-related issues, detained Uyghurs who wrote for websites, enforced controls on online communications tools in the XUAR, and restricted public information on violent incidents in the XUAR. In one example of officials restricting news media from opposing the state's narrative on the XUAR and counterterrorism, in December 2015, authorities failed to renew the press credentials of Beijing municipality-based French reporter Ursula Gauthier, effectively expelling her from China. Gauthier, who had criticized Chinese counterterrorism policies, was the first foreign journalist Chinese authorities expelled since Al Jazeera reporter Melissa Chan in 2012.
- During the reporting year, XUAR authorities linked social policies in the areas of education and employment in the XUAR to political goals such as the "sinicization" of ethnic mi-

nority populations. In November 2015, XUAR Party Secretary Zhang Chunxian noted the importance of “bilingual education” in the region, alongside “ethnic blending” and students’ acceptance of the “five identifies,” that is, identifying with the country, Chinese nationality, Chinese culture, the Chinese Communist Party, and “socialism with Chinese characteristics.” Reports indicated the existence of ethnic tensions amid an influx of Han Chinese workers in the XUAR, and in spite of some official efforts to create jobs for Uyghur residents of the XUAR, some government and private employers within the XUAR discriminated against non-Han job applicants.

#### *Recommendations*

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

- Support efforts to raise greater public awareness of human rights conditions in the XUAR, support initiatives to protect Uyghur culture, increase avenues for Uyghurs to protect their human rights, and undertake more frequent human rights-focused visits to the XUAR.
- Call on the Chinese government to allow diplomats, domestic and international journalists, and observers greater freedom to report on XUAR-related issues, and to allow domestic and international journalists to freely express their views on government policy in the XUAR, as provided for under Chinese and international law.
- Call on the Chinese government to adhere to domestic laws and regulations guaranteeing freedom of religious belief as well as international standards guaranteeing religious practice free from state restrictions.
- Call on the Chinese government to consult with non-Han Chinese parents, teachers, and students regarding which language or languages of instruction should be used in XUAR schools, from the preschool to the university level. Call on Chinese officials to provide parents and students a choice of instruction in the Uyghur language and other non-Chinese languages prevalent in the XUAR, as mandated in Article 4 of China’s Constitution and Article 10 of the PRC Regional Ethnic Autonomy Law.
- Encourage U.S. companies conducting business or investing in development initiatives in the XUAR to promote equal opportunity employment for ethnic minorities and to support development projects that incorporate consultation with ethnic minorities regarding the economic, political, and social impact of such projects. Encourage U.S. companies investing in XUAR business opportunities to actively recruit ethnic minority candidates for employment positions, implement mechanisms to eliminate hiring and workplace discrimination, and urge Chinese counterparts to provide equal opportunity employment to ethnic minorities.
- Encourage U.S. companies conducting business or investing in development initiatives in the XUAR to use environmentally friendly business practices in their operations and business

strategies, and to promote environmental preservation efforts in the region.

## TIBET

### *Findings*

- Formal dialogue between the Dalai Lama’s representatives and Chinese Communist Party and government officials has remained stalled since the January 2010 ninth round, the longest interval since such contacts resumed in 2002. The Commission observed no indication during the 2016 reporting year of official Chinese interest in resuming a dialogue that takes into account the concerns of Tibetans who live in the Tibetan autonomous areas of China.
- The frequency of Tibetan self-immolation reportedly focusing on political and religious issues during the 2016 reporting year declined substantially. The approximately seven-month period between monk Sonam Tobyal’s self-immolation in July 2015 and monk Kalsang Wangdu’s self-immolation in February 2016 is the longest since the period between the first two such self-immolations in February 2009 and March 2011. Government provisions imposing collective punishment on self-immolators’ family members or communities may have deterred potential self-immolators from putting persons close to them at risk.
- The Party and government rely on regulation of Tibetan Buddhism to compel its transformation into a state-managed institution. In November 2015, Zhu Weiqun, formerly a senior Party official and counterpart in dialogue with the Dalai Lama’s envoys, described reincarnation as “first and foremost an important political matter in Tibet and an important manifestation of the Chinese central government’s sovereignty over Tibet.” A senior Tibet Autonomous Region (TAR) Party official said in March 2016 that the Dalai Lama was “no longer a religious leader after he defected [from] his country and betrayed its people.”
- Tibetans continued to face Party and government pressure on Tibetan culture and language. Reports emerged showing that officials at times treated Tibetan efforts to sustain their culture and language as illegal or as a threat to social stability. Tibetans continued either to attempt to arrange for Tibetan language training—sometimes successfully—or to protest the lack of it. Security officials continued to detain Tibetans who advocated on behalf of Tibetan culture and language, or who sought to publish their views. President and Party General Secretary Xi Jinping stressed in the August 2015 Sixth Tibet Work Forum the requisite promotion of a common culture and identity that would serve “social stability.”
- The Commission observed no evidence during its 2002 to 2016 period of reporting that the Party or government solicited systematic or representative input from the Tibetan population on economic development in the Tibetan autonomous areas of China. TAR officials asserted that the Sichuan-Tibet railway, upon which construction began in December 2014, would bring “even more prosperity” and denied that it would result in envi-

ronmental harm. Commission access this past year to Chinese 2010 ethnic census data showed a 50-percent increase in the Han population of Lhasa municipality from 2000 to 2010—a period that included the 2006 completion of the Qinghai-Tibet railway. TAR total population increased by about 15 percent, while its Han population increased by about 55 percent.

- As of August 1, 2016, the Commission’s Political Prisoner Database contained records of 650 Tibetan political prisoners believed or presumed currently detained or imprisoned. Of those, 640 are records of Tibetans detained on or after March 10, 2008; 43 percent of them are Tibetan Buddhist monks, nuns, teachers, or *trulkus*. Officials imprisoned or detained cultural advocates such as Tashi Wangchug and Drukar Gyal. The UN Committee against Torture released its Concluding Observations on the Fifth Periodic Report of China in February 2016. With respect to torture, and specifically to death believed to have resulted from abuse while detained or imprisoned, as of August 1, 2016, the PPD contained records of 23 Tibetans taken into police custody on or after March 10, 2008, who reportedly died as a result of such circumstances.

#### *Recommendations*

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

- Urge the Chinese government to resume contact with the Dalai Lama or his representatives and engage in dialogue without preconditions. Such a dialogue should aim to protect the Tibetan culture, language, religion, and heritage within the Tibet Autonomous Region and the Tibetan autonomous prefectures and counties in Qinghai, Gansu, Sichuan, and Yunnan provinces. A Chinese government decision to engage in dialogue can result in a durable and mutually beneficial outcome for the government and Tibetans that will benefit local and regional security in coming decades.
- Encourage the Chinese government to take fully into account the views and preferences of Tibetans when planning infrastructure, natural resource development, and settlement or resettlement projects in the Tibetan areas of China. Encourage the government to engage with appropriate experts in assessing the impact of projects and in advising the government on the implementation and progress of projects.
- Urge the Chinese government to recognize the role of government regulatory measures and Party policies in Tibetan protests and self-immolations. Stress to Chinese officials that strengthening measures and policies that Tibetans resent is unlikely to promote “social stability” or a “harmonious society.” Urge the government to refrain from using security and judicial institutions to intimidate Tibetan communities by prosecuting and imprisoning Tibetans with alleged links to a self-immolator or other protesters, or for sharing information about protests.
- Stress to Chinese officials that increasing pressure on Tibetan Buddhists by aggressive use of regulatory measures, “pa-

triotic” and “legal” education, and anti-Dalai Lama campaigns is likely to harm social stability, not protect it. Urge the government to cease treating the Dalai Lama as a security threat instead of as Tibetan Buddhism’s principal teacher. Urge the government to respect the right of Tibetan Buddhists to identify and educate religious teachers, including the Dalai Lama, in a manner consistent with Tibetan Buddhist preferences and traditions.

- Stress to the Chinese government the importance of respecting and protecting the Tibetan culture and language. Stress the importance of respecting Tibetan wishes to maintain the role of both the Tibetan and Chinese languages in teaching modern subjects, and to refrain from criminalizing Tibetans’ passion for their language and culture. Urge Chinese officials to promote a vibrant Tibetan culture by honoring China’s Constitution’s reference to the freedoms of speech, association, assembly, and religion, and refrain from using the security establishment, courts, and law to infringe upon Tibetans’ exercise of such rights.

- Continue to condemn the use of security campaigns to suppress human rights. Request the government to provide complete details about Tibetans detained, charged, or sentenced for protest-related and self-immolation-related “crimes.” Continue to raise in meetings and correspondence with Chinese officials the cases of Tibetans who remain imprisoned as punishment for the peaceful exercise of human rights.

- Encourage the Chinese government to respect the right to freedom of movement of Tibetans who travel domestically, including for the purpose of visiting Tibetan economic, cultural, and religious centers, including Lhasa; to provide Tibetans with reasonable means to apply for and receive documents necessary for lawful international travel; to respect the right of Tibetan citizens of China to reenter China after traveling abroad; and to allow access to the Tibetan autonomous areas of China to international journalists, representatives of non-governmental organizations, representatives of the United Nations, and U.S. Government officials.

- Urge the Chinese government to invite a representative of an international organization to meet with Gedun Choekyi Nyima, the Panchen Lama whom the Dalai Lama recognized in 1995, so that he can express to the representative his wishes regarding privacy.

#### DEVELOPMENTS IN HONG KONG AND MACAU

##### *Findings*

- The disappearance, alleged abduction, and detention in mainland China of five Hong Kong booksellers, including two foreign nationals, in October and December 2015 compromised the “one country, two systems” framework enshrined in the Basic Law, which prohibits mainland Chinese authorities from interfering in Hong Kong’s internal affairs, and raised concerns that Hong Kong’s rule of law and autonomy were increasingly threatened by Chinese authorities. International human rights

groups and non-governmental organizations; Hong Kong activists, lawyers, and legislators; and foreign governments condemned the disappearances of Gui Minhai, Lee Bo, Lui Bo, Cheung Chi-ping, and Lam Wing-kei in October and December 2015 and the televised “confessions” of four of the men in January and February 2016. Lam Wing-kei alleged that central government officials had ordered the five men’s detentions.

- The Basic Laws of Hong Kong and Macau confirm the applicability of the International Covenant on Civil and Political Rights (ICCPR) to both territories, and guarantee both regions “a high degree of autonomy” from mainland China. The Basic Law of Hong Kong provides specifically for universal suffrage in electing the Chief Executive and Legislative Council, but Macau’s does not.

- Some political groups and activists in Hong Kong called for greater self-determination or independence for Hong Kong, due in part to perceptions that Chinese government control over Hong Kong and mainland Chinese economic and cultural influence in Hong Kong are increasing. Activists, students, and veterans of the 2014 pro-democracy demonstrations founded new political organizations that contested local elections.

- The Chinese central and Hong Kong governments expressed opposition to increasing calls for political self-determination in Hong Kong, including independence from China. Some Chinese and Hong Kong officials suggested that the act of advocating for Hong Kong’s independence violated Hong Kong criminal statutes and the Basic Law. Lawyers, political groups, and others criticized the Hong Kong government’s disqualification of six Legislative Council candidates for their pro-independence views, calling it “political censorship.”

- In Hong Kong’s September 4, 2016, Legislative Council election, opposition parties, including both pro-democrats and candidates seen as “localist” or supportive of self-determination for Hong Kong, won a total of 30 out of 70 seats. Localist candidates reportedly received 19 percent of the popular vote and won 6 seats.

- Hong Kong journalists and media organizations reported a continuing decline in press freedom in Hong Kong, citing government restrictions, violence against journalists, and pressure on reporters and editors from media ownership, including owners with financial ties to mainland China. According to a Hong Kong media non-governmental organization, 85 percent of Hong Kong reporters believed that press freedom had deteriorated in the past year. Concerns over editorial independence, journalistic integrity, and management decisions continued to grow during the past year, including at media companies with financial connections to mainland China. The purchase of the South China Morning Post (SCMP) by Chinese company Alibaba Group raised concerns that Hong Kong media could face increased pressure to self-censor or avoid reporting on topics deemed “sensitive.” SCMP was one of several Hong Kong media outlets to publish alleged interviews with individuals detained in mainland China or televise their “confessions” this past year.

- The Commission observed no progress in Macau toward “an electoral system based on universal and equal suffrage . . .” in line with provisions of the ICCPR, as recommended by the UN Human Rights Committee. Macau’s Legislative Assembly passed revisions to an electoral law that did not alter the composition of the Legislative Assembly or the methods for Chief Executive elections provided for in the Basic Law.
- Macau officials continued negotiations with Chinese authorities on an agreement governing extraditions to and from mainland China. The Macau and Hong Kong governments also pursued an interregional extradition agreement. Activists, lawyers, and the UN Committee against Torture cautioned against potential abuses under the proposed agreements. In May 2016, the Macau legislature rejected the government’s extradition bill.

#### *Recommendations*

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

- Call on the Chinese central government to ensure Hong Kong residents’ rights and to guarantee non-interference in Hong Kong’s affairs by Chinese officials or government entities. Raise issues relating to Hong Kong’s autonomy and freedom in meetings with central government officials.
- Raise specifically, in meetings with Chinese and Hong Kong officials, the cases of five Hong Kong residents detained, disappeared, or under investigation in mainland China: Gui Minhai, Lee Bo, Lui Bo, Cheung Chi-ping, and Lam Wing-kei. Inquire as to the charges against them and the legal basis for those charges. Inquire as to the legal status, condition, and whereabouts of Gui Minhai.
- Urge the Chinese and Hong Kong governments to restart the electoral reform process and work toward implementing Chief Executive and Legislative Council elections by universal suffrage with a meaningful choice of candidates, in accordance with the aspirations of the Hong Kong people, provisions of the Basic Law, and the International Covenant on Civil and Political Rights (ICCPR).
- Urge the Chinese and Macau governments to set a timeline for implementing elections for Chief Executive and the Legislative Assembly by universal suffrage, as required by Article 25 of the ICCPR and repeatedly urged by the UN Human Rights Committee.
- Urge the Chinese, Hong Kong, and Macau governments to guarantee the rights of and protections for fugitives and offenders under proposed mutual extradition agreements. Urge the Hong Kong and Macau governments to specifically prohibit extradition to China of individuals likely to be subjected to torture or mistreatment in custody, and individuals likely to be subjected to political or religious detention or imprisonment.