

## 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*

- Imprisoned writer Liu Xiaobo—an advocate of democracy and non-violent political reform and China’s only Nobel Peace Prize laureate—died of liver cancer on July 13, 2017, in Shenyang municipality, Liaoning province, on medical parole. In the nine years prior to his death, he spent one year in pre-trial detention and nearly eight years in prison on the charge of “inciting subversion of state power” for his coauthorship of the political treatise Charter 08 and several essays critical of the Chinese Communist Party and government. The government and Party continued to isolate his wife Liu Xia in extralegal confinement after his death, a condition that Chinese authorities imposed on her starting in October 2010, when the Norwegian Nobel Committee announced that it would award the 2010 Nobel Peace Prize to Liu Xiaobo.
- The government and Party continued to stress the need for ideological discipline from news media and journalists, in particular that the media function as a “mouthpiece” for the Party. At a November 2016 meeting with the All-China Journalists Association (ACJA), President and Party General Secretary Xi Jinping urged media workers to “embody the principle of Party character” and “be reliable for the Party and the people.”
- Official news media continued to publish articles about human rights lawyers as part of the government and Party’s ongoing crackdown on human rights lawyers and advocates that began in and around July 2015. Articles in the *Global Times*, *The Paper*, *Legal Daily*, and *Procuratorial Daily* ascribed a litany of criminal offenses to disbarred lawyer Jiang Tianyong, including an assertion that he fabricated the torture allegations of fellow rights lawyer Xie Yang.
- Pervasive government and Party censorship contributed to the shrinking space for journalism and public debate, demonstrated by the closure of the reform-minded journal *Yanhuang Chunqiu*; the suspension of *Consensus*, a website known for open discussion and commentary; the shutdown of the economic think tank *Unirule’s* website; and the two-month suspension in October 2016 of *Caixin* news articles for republication.
- Several Chinese journalists and media outlets argued for the protection of journalists’ physical safety, government accountability, and guarantees of their right to report on events in the

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public interest following incidents of physical violence against and obstruction of domestic Chinese journalists on assignment this past year.

- The government targeted citizen journalists for prosecution this past year. In August 2017, authorities sentenced Lu Yuyu, the founder of “Not the News”—a blog that published information on mass incidents relating primarily to labor protests—to four years in prison. In November 2016, authorities detained Liu Feiyue and Huang Qi, founders of websites that featured news from citizen journalists, and arrested them in December, demonstrating the government’s drive “to criminalize those who document human rights abuses and advocate for better human rights protections,” according to Chinese Human Rights Defenders.

- Foreign journalists continued to face obstruction and harassment in their efforts to report in China, including detention, physical abuse, surveillance and restricted access, and visa renewal challenges. The government blocked some international news media, websites, and social media applications (apps) within China. Chinese citizens who spoke with foreign journalists were at risk of punishment such as imprisonment, detention, travel denial, and dismissal from organizations.

- The Chinese government’s Internet and social media policies are aimed at controlling the flow of information, which a U.S.-based expert said, “guides the narrative in the direction that the state determines.” Citizen Lab, an information technology and human rights research center, published findings on Chinese government content filtering of social media platforms WeChat and Weibo, observing a high level of flexibility and speed in response to issues and events deemed politically sensitive, such as the death of Liu Xiaobo, the names of detained human rights lawyers, and a Tibetan Buddhist teaching held in January 2017.

- This past year, authorities developed judicial and legislative approaches to protect the “national historical narrative” and took punitive action against Chinese officials, academics, and journalists, for speech critical of President and Party General Secretary Xi Jinping, former leader Mao Zedong, and political campaigns and incidents from modern Chinese history. Authorities also detained and imprisoned several citizens who criticized Xi and Mao, some using censorship circumvention hardware and software to post or repost their comments outside the Chinese government’s system of surveillance and censorship (commonly known as the Great Firewall).

### *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

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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 bilateral dialogues. Assess the extent to which China's treatment of foreign journalists contravenes its World Trade Organization or other obligations.

- Sustain, and where appropriate expand, programs that develop and widely distribute 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 for China at the U.S. Department of State and the Broadcasting Board of Governors to provide digital security training and capacity-building efforts for bloggers, journalists, civil society organizations, and human rights and Internet freedom advocates 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 are incurred 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 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 institutions. 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 rights advocates, lawyers, and journalists subject to reprisal for exercising their right to freedom of expression. Call on officials to end the illegal home confinement of Liu Xia, the wife of the late Nobel Peace Prize laureate Liu Xiaobo, and release or confirm the release of individuals detained or imprisoned for exercising freedom of expression, such as Lu Yuyu, Liu Feiyue, Huang Qi, Wang Jing, Yang Xiuqiong, Zhang Haitao, Tashi Wangchug, Wang Jiangfeng, Kwon Pyong, and other political prisoners raised in this report and in the Commission's Political Prisoner Database. Raise this issue in bilateral dialogues as well as through multilateral institutions, such as the UN Human Rights Council and its Working Group on Arbitrary Detention.

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### WORKER RIGHTS

#### *Findings*

- The Chinese government- and Communist Party-controlled All-China Federation of Trade Unions (ACFTU) remains the only trade union organization permitted under Chinese law, and Chinese labor advocates and international observers report that the ACFTU does not effectively represent workers' rights and interests. Chinese workers' right to collective bargaining remains limited in law and in practice.
- Labor advocates and non-governmental organizations (NGOs) reportedly continued to face surveillance and pressure from authorities this past year, following a December 2015 crackdown on Chinese labor advocates and NGOs in Guangdong province that domestic and international observers described as "unprecedented." The detention and sentencing of labor advocates amidst that crackdown reportedly has had a chilling effect on labor NGOs, affecting collective bargaining work in particular. In May 2017, authorities in Jiangxi province detained three Chinese men who were conducting research on behalf of a U.S.-based labor NGO regarding working conditions in factories producing shoes for international brands. Authorities released them on bail in June. In addition, the PRC Law on the Management of Overseas NGOs' Activities, which took effect on January 1, 2017, may further hinder the work of labor NGOs in China, as many of them rely on sources of funding outside of mainland China.
- Following reports of a significant increase in worker strikes and protests in the previous reporting year, the number of worker actions appeared to remain high this past year, though the Commission did not observe reliable statistics. China Labour Bulletin data indicate that government responses to worker strikes and protests were mixed, ranging from assisting with workplace negotiations to violent police intervention. Some labor advocates asserted that the government's suppression of strikes had increased. Labor advocates also noted increasing difficulty in finding information on strikes in China due to the chilling effect of the December 2015 crackdown on labor NGOs and tightening government control of the media.
- The Commission continued to observe reports of the use of child labor in China this past year. In one widely reported case, Party-run media revealed that clothing manufacturers in Jiangsu province had hired workers from Yunnan province through recruiters, and many of the workers were under the age of 16. According to the report, employers beat the children for working too slowly and withheld pay and identification documents to prevent them from quitting. Such actions are indicators of forced labor, according to the International Labour Organization.
- During this reporting year, government data showed a continued decline in both workplace accidents and deaths, though the Commission continued to observe reports of lax enforcement of work safety laws and regulations. The Commission did not observe officially published statistics for occupational ill-

ness for 2015 or 2016. This past year, the government issued several documents setting targets and outlining plans for improving occupational health and safety.

- Many categories of workers were unable to benefit fully from the protections provided under Chinese law, including workers above the retirement age, student workers and interns, and independent contractors or informal workers. During this reporting year, the Commission continued to observe reports of the mistreatment of dispatch laborers—workers hired through subcontracting agencies—in violation of domestic laws and regulations meant to prevent such abuses. Moreover, firms reportedly used “outsourced labor,” another form of subcontracted labor, to get around new regulations on dispatch labor.

#### *Recommendations*

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

- Call on the Chinese government to exonerate labor rights advocates Meng Han, Zeng Feiyang, Zhu Xiaomei, and Tang Jian. Raise their cases in public and private meetings with Chinese officials, and urge Chinese officials to allow these advocates to continue their work for labor NGOs. Encourage authorities to cooperate with labor NGOs, noting the positive role such organizations 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 truly independent 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 and unrest.
- In meetings with Chinese officials, highlight the September 2016 report of Maina Kiai, the former UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, which emphasizes that labor rights are workers’ human rights, and that the failure to protect or enforce these rights “exacerbates global inequality, poverty, violence and child and forced labour.”
- 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, multilateral, and multistakeholder exchanges among government officials, academics, legal experts, and civil society groups to focus on labor issues such as collective bargaining, employment discrimination, and occu-

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pational health and safety, 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 and contribute to relevant government-to-government dialogues, particularly those relating to trade. Although participation of the All-China Federation of Trade Unions or Chinese government-organized NGOs (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 2017 reporting year, the Commission observed continued reports of the Chinese government using “black jails” and other extralegal and extrajudicial measures to arbitrarily detain individuals in violation of international human rights standards. After the Chinese government abolished the reeducation through labor system in 2013, Chinese officials reportedly have 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 petitioners, rights advocates, lawyers, and ethnic minorities for the peaceful exercise of their rights.

- The government emphasized the procuratorate’s supervisory role over criminal investigations and continued to improve implementation of existing legal provisions that address the problem of investigators’ use of coercion and overreliance on confession. Despite official pronouncements, reports of coerced confession continued to emerge this past year, with some indicating that procurators participated in the practice.

- Authorities continued to charge citizens with “endangering state security” offenses. This is one of three categories of crimes in the PRC Criminal Law permitting the application of a coercive measure known as “residential surveillance at a designated location,” which can amount to incommunicado detention for up to six months. In one such example, authorities detained disbarred rights lawyer Jiang Tianyong without providing notice to his family within the required timeframe. The

location of Jiang's detention remained unknown for over six months.

- This past year, the government denied access to legal counsel to some individuals detained in politically sensitive cases, such as those detained in the crackdown against rights lawyers and advocates that began in and around July 2015. Reports also show that authorities harassed or intimidated defense lawyers by means including detention and search and seizure of their personal belongings.

- Multiple reports of torture and abuse surfaced this past year. Authorities reportedly tortured or abused rights lawyers Xie Yang, Li Chunfu, Li Heping, Wang Quanzhang, and rights advocate Wu Gan, all of whom authorities detained in the crackdown that began in or around July 2015. The Commission did not observe reports of authorities holding criminally accountable the perpetrators of abuse in these cases. In particular, authorities in Xie Yang's case claimed that the accounts of torture were fabricated. In the case of Lei Yang, a resident of Beijing municipality who died shortly after police took him into custody in May 2016, procuratorate officials decided in December 2016 not to prosecute the police officers who perpetrated fatal physical violence against Lei.

- The judiciary overturned 11 cases of wrongful conviction in 2016. In one of these cases, judicial reexamination commenced long after the execution of the wrongfully convicted person, prompted by someone coming forward who took responsibility for the crimes. The court declined to make a finding of confession by torture, which a legal expert said remains a predominant cause of wrongful convictions.

- 2017 marks the 10th anniversary of the Supreme People's Court regaining exclusive authority to review death sentences, but a uniform standard of review remained lacking. The government continued to treat the number of executions as a state secret. Some observers estimate the annual number to be in the thousands, exceeding the number for all other countries combined. Despite a purported ban on harvesting organs from executed prisoners, a senior Chinese health official admitted that the practice continued in at least one case during this reporting year.

#### *Recommendations*

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

- Raise with Chinese officials, during all appropriate bilateral discussions, individual cases where officials have used the investigation of alleged criminal activity to target government critics and rights advocates. Publicly convey support for human rights advocates whom officials have deprived of liberty on unsubstantiated criminal charges and for apparent political or religious reasons.
- Stress to the Chinese government the importance of procedural compliance and effective legal representation in criminal cases in relation to the goal of rule-based governance.

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- Urge Chinese officials to end all forms of extrajudicial detention that are imposed without meeting the standards for a fair trial as set forth in the International Covenant on Civil and Political Rights and other international human rights instruments.
- Consult with Chinese officials regarding progress toward adopting 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 visits to 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) that draw 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.
- Call on the Chinese government to publicly commit to a specific timetable for ratification of the International Covenant on Civil and Political Rights, which the Chinese government signed in 1998 but has not yet ratified.

## FREEDOM OF RELIGION

### *Findings*

- Both Chinese and international law provide guarantees for religious freedom. Despite these guarantees, the Commission continued to observe widespread and systematic violation of the principles of religious freedom as Chinese authorities exercised broad discretion over the religious practice of Chinese citizens.
- The Chinese government released draft revisions to the Regulations on Religious Affairs (RRA) in September 2016. The draft revisions were released following a major leadership conference on religious policy convened by Chinese President and Communist Party General Secretary Xi Jinping in April 2016. At this conference, Xi promoted the "sinicization" of religion in China, a term that officials have used often in recent years to encourage the adaptation of religious beliefs and activities to align with government and Party interests. One international rights organization characterized the draft revisions to the RRA as "implementing the new ideology [of sinicization] on a legislative level." The draft revisions were in line with a long-term Party policy of using religion as an instrument for pro-



moting national unity and social stability, although commentators also drew parallels with recently implemented restrictions on civil society groups through legislative reforms such as the PRC Law on the Management of Overseas Non-Governmental Organizations' Activities. On September 7, 2017, the State Council issued the revisions to the RRA, to take effect on February 1, 2018. The final revisions contained few changes from the earlier draft.

- The Chinese government's regulatory framework for religious affairs imposes numerous restrictions on religious freedom. Religious activity is subject to extensive government approvals and restrictions, including official guidelines for the content and distribution of religious publications, restrictions that limit religious activity to government-approved sites, and requirements that religious personnel be approved by local religious affairs authorities. Current regulations require religious groups to register with the government, and legal protection of religious activities is contingent on complying with registration requirements. Unregistered religious and spiritual communities are especially vulnerable to government harassment, detention, and other abuses; yet groups may be sanctioned regardless of registration status when officials view them as posing a challenge to government authority. The government has also continued to ban some belief systems outright.
- While government and Party officials rarely targeted Chinese Buddhist and Taoist communities with direct suppression, they nonetheless continued to subject these religions to extensive regulation and control.
- The government maintained measures that impede the freedom of Chinese Catholic congregations to be led by clergy who are selected and who conduct their ministry according to the standards called for by Catholic religious beliefs. The government also continued to harass, detain, or hold incommunicado certain leading Catholic clergy.
- Government and Party officials continued to subject Protestant Christian belief and practice to a wide range of restrictions and abuse. Unregistered Protestant churches throughout China continued to face raids during church gatherings, eviction from meeting spaces, and official bans on worship. Authorities also subjected some believers to harassment, violence, or detention. In several instances, house church members were detained on the charge of "organizing and using a cult to undermine implementation of the law" under Article 300 of the PRC Criminal Law.
- The Commission noted reports of continued repression of Falun Gong practitioners, by means including harassment, arbitrary detention, and prosecution. International observers continued to express concern over reports that numerous organ transplants in China have used the organs of detained prisoners, including those of Falun Gong practitioners. International medical professionals were skeptical of a Chinese health official's claim that the organ procurement system has been reformed in compliance with international standards, noting discrepancies and a lack of transparency in official data.

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- During this reporting year, officials maintained policies exerting strong influence and control over the religious belief and activities of Hui Muslim believers. Although policies for Hui Muslims remained far less repressive than those affecting Muslims in the Xinjiang Uyghur Autonomous Region, hostile rhetoric targeting Hui Muslims from both officials and the public increased. One expert said that this could increase the likelihood that policies affecting the religious freedom of Hui Muslims may become more restrictive.
- Religious communities outside of the five religions that are the main objects of religious affairs regulations continued to exist within China. Some, such as folk religions and Eastern Orthodox Christianity, are recognized at the local level. In contrast, authorities maintained restrictions imposed suddenly in 2014 on Jewish religious activity in Kaifeng municipality, Henan province.

### *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 its 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 those 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; the right of Catholics to be led by clergy who are selected and who conduct their ministry according to the standard called for by Catholic religious beliefs; 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 exercise their faith free from state controls over doctrine and worship, and 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 from 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 those people. Such individuals 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. The Administration should use existing laws to hold accountable Chinese government officials and others complicit in severe religious freedom restrictions, including by using the sanctions available in the Global Magnitsky Human Rights Accountability Act and the International Religious Freedom Act of 1998. Ensure that conditions related to religious freedom are taken into account when negotiating any trade agreement as mandated by the Bipartisan Congressional Trade Priorities and Accountability Act of 2015 (Public Law No. 114–26).

- Call on the Chinese government to fully implement accepted recommendations from its October 2013 UN 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 rules to provide better protection of freedom of religion.

- Call on the Chinese government 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 provides for 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*

- The UN Special Rapporteur on extreme poverty and human rights, Philip Alston, following his 2016 visit to China, issued a report criticizing what he saw as authorities’ lack of consultation with ethnic minorities regarding economic development that affects them, and he recommended that the State Ethnic Affairs Commission develop policies integrating human rights considerations into all aspects of its policymaking.

- As in past reporting years, Inner Mongolia Autonomous Region (IMAR) authorities detained Mongol herders who engaged in peaceful protests related to grasslands, including those who voiced their concerns online or talked with foreign reporters about their complaints.

- Mongol rights advocate Hada reportedly continued to press authorities to hold officials accountable for mistreating him during his 15-year prison sentence and subsequent detention and surveillance. IMAR authorities imprisoned Hada for 15 years starting in 1995 and then held him in extralegal deten-

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tion for another 4 years, following his organization of peaceful demonstrations for Mongol rights and his establishment of the banned Southern Mongolian Democratic Alliance. In a November 2016 interview, he described his living conditions, in an apartment heavily surveilled by security personnel, as similar to those he experienced under detention, complaining that authorities had at times cut off his family's water and heat in an effort to compel him to "cooperate with them and give up [his] ideas."

- Mongol parents and students in the IMAR reportedly faced limits on access to Mongolian-language instruction during the past reporting year, in spite of Chinese law protecting the use of minority languages. In late 2016, Mongol parents in Chifeng municipality, IMAR, published open letters on social media and demonstrated outside government offices to protest the appointment of Han Chinese principals to the only two kindergartens in Chifeng that provide instruction in the Mongolian language. The administrations of the two schools reportedly restricted the use of the Mongolian language, and at least one of the schools banned Mongol teachers from speaking Mongolian in the office.

### *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 and the UN Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities. Call on Chinese officials to establish mechanisms preserving and expanding existing instruction in ethnic minority languages from the pre-school to the university level.
- 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. Convey to Chinese officials the importance of consulting with ethnic minority communities regarding the impact of proposed development on their traditional grazing lands.
- 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.” Emphasize in meetings with Chinese officials the need to hold accountable local officials responsible for the continued persecution of Hada, Xinna, and Uiles.

POPULATION CONTROL

*Findings*

- Chinese government authorities continued to actively promote and implement coercive population control policies that violate international standards, including the 1995 Beijing Declaration, the 1994 Programme of Action of the Cairo International Conference on Population and Development, and the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Authorities continued to place an emphasis on birth limits and adherence to family planning as a “basic national policy.” The amended PRC Population and Family Planning Law and provincial-level regulations limit couples’ freedom to build their families as they see fit.
- During the Commission’s 2017 reporting year, Communist Party and central government authorities implemented the “universal two-child policy,” that became effective on January 1, 2016, which allows all married couples to have two children. Chinese government statistics, however, showed that the universal two-child policy had limited to moderate impact after a year of implementation. The National Bureau of Statistics of China (NBS) reported that the number of total births in 2016 was 17.86 million, 1.31 million more than the 2015 NBS figure. The increase was lower than the 3 million additional births per year that the National Population and Family Planning Commission had predicted.
- Human rights advocates, demographic experts, and others expressed concerns that the coercive implementation of family planning measures and human rights abuses will persist despite the adoption of the universal two-child policy.
- 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, however, continued to explicitly instruct officials to carry out abortions for “out-of-plan” pregnancies, often referred to as “remedial measures.” Local authorities continued to promote “family planning work” that entailed harsh and invasive family planning measures. Officials imposed or threatened various punishments to enforce family planning policies, including heavy fines, detention, forced sterilization, and abortion.
- During this reporting year, central and local governments continued to implement household registration (*hukou*) reforms to register “illegal residents” (*heihu*), a term commonly used to refer to people who lack *hukou* in China. According to 2010 national census data, over 60 percent of the 13 million “illegal residents” were people born in excess of birth quotas. Other re-

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ports indicated that the number of “illegal residents” might be higher than 13 million. “Illegal residents” face considerable difficulty accessing social benefits typically afforded to registered citizens. The People’s Daily reported in March 2017 that approximately 14 million “illegal residents” had registered for *hukou* since November 2012. Some “illegal residents,” however, reportedly continued to face difficulty in registering for *hukou*, including those born to unmarried parents.

- Decades of population control policies have exacerbated China’s demographic challenges, which include a rapidly aging population, shrinking workforce, and sex ratio imbalance. China’s total fertility rate has dropped from approximately 3 births per woman in the late 1970s to a reported 1.7 births per woman in 2017, below the replacement rate of 2.1 births per woman necessary to maintain a stable population. The NBS reported that from 2015 to 2016, China’s working-age population (persons between the ages of 16 and 59) declined by 3.49 million people to 907.47 million, while the elderly population (persons aged 60 or older) increased by approximately 8.86 million in 2016 to 230.86 million people, or 16.7 percent of the total population. The overall sex ratio in 2016 was 104.98 males to 100 females, and there were approximately 33.59 million more males than females in China.

- 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 the Chinese government’s population control policies have contributed to illegal adoptions, as a traditional preference for sons combined with birth limits may 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 concerns about China’s coercive implementation of the population control policy raised by the UN Committee against Torture in its concluding observations on the fifth periodic review of China’s compliance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.
- 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 heed the recommendations of domestic and international de-

mographic experts by ending all birth restrictions on families and abolishing “social compensation fees.”

- Urge the Chinese government to continue its existing efforts to register all Chinese citizens without *hukou*. 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.
- Use authorities provided in the Global Magnitsky Human Rights Accountability Act, as appropriate, to impose sanctions against Chinese officials who engage in gross violations of human rights—including those involving forced sterilizations and forced abortions—of individuals while implementing family planning policies. Call on China’s central and local governments to vigorously enforce provisions of Chinese laws that provide for punishment of officials and other individuals who engage in these abuses.
- Publicly link, with supporting evidence, the sex ratio imbalance exacerbated by China’s population control 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 the 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 the classification. Implementation of *hukou* regulations discriminates against rural *hukou* holders, including those who migrate to urban areas, by denying them equal access to public benefits and services enjoyed by registered urban residents. The *hukou* system contravenes 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 local authorities continued to implement reforms to the *hukou* system and other restrictions on Chinese citizens’ freedom of residence. The central government reiterated its plans to have 100 million individuals move to urban areas and obtain local, urban-registered *hukou* between 2015 and 2020. Local jurisdictions took steps to implement a new residence permit system, as directed by the central government’s January 2016 Provisional Regulations on Residence Permits. As of August 2017, at least 29 provincial-level jurisdictions had reportedly issued implementing measures for residence permits.

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- Authorities continued to deny some Chinese citizens who criticize the government their internationally recognized right to leave the country, through methods including mass confiscation of passports and individual travel bans. Authorities in Guangdong province prevented Australian permanent resident and Chinese citizen Feng Chongyi from returning to Australia for over a week in March and April 2017, reportedly in connection with his research on Chinese rights lawyers.
- 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 heightened restrictions on movement during politically sensitive periods, and placed particularly strict controls on Uyghurs and Tibetans and residents of 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 lowering restrictions on migration to major cities and centers of economic opportunity; equalizing the level and quality of public benefits and services tied to 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, or *hukou* or residence status.
- 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 to encourage policy debates aimed at eliminating inequality and discrimination connected to residence policies, including the *hukou* system.
- Emphasize in meetings with Chinese officials that the government's noncompliance with international standards on freedom of movement and travel negatively affects confidence in the Chinese government's commitment to international standards.
- Call on the Chinese central government to combat provincial and local authorities' arbitrary and discriminatory restrictions on the ability of residents of ethnic minority areas, in particular Uyghurs and Tibetans, to move freely inside China and to travel abroad.
- 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: Feng Chongyi, a professor and Australian permanent resident; Lu Dongli, a rights defender; Yao Lifa, a democracy advocate and



former independent local people's congress candidate; and human rights lawyers Liu Zhengqing and Chen Jian'gang.

STATUS OF WOMEN

*Findings*

- Despite a legal framework prohibiting employment discrimination, employers in China continued to discriminate against women in recruiting, hiring, compensation, and other employment practices. Employment discrimination against women based on pregnancy continues to be a serious problem, with much of the discrimination against women in employment due to employers' desire to avoid the cost of maternity leave for female employees. Such discrimination is expected to worsen with the continuing implementation of the "universal two-child policy."
- The legal advocacy of women seeking redress for gender discrimination in employment continued and seemed to gain some influence. During this reporting year, the Guangzhou Intermediate People's Court in Guangdong province held that a restaurant owed one woman compensation and an apology for refusing to interview or hire her for a chef's apprentice position based on her gender. The Supreme People's Court (SPC) included a recent gender discrimination case among its guiding cases, released in August 2016. SPC official Guo Feng said that because the case imposed civil liability, it would deter other employers from violating laws on gender equality.
- Women in China continued to face challenges with domestic and sexual violence. Experts on the PRC Anti-Domestic Violence Law (in effect since March 2016) noted that challenges to implementation include lack of awareness, inadequate resources for training of public security officials, gender discrimination within the legal system, and enforcement that prioritizes family cohesion and "social stability" over the safety of victims. Victims of sexual violence also faced challenges in obtaining legal redress, as they were reportedly reluctant to come forward due to pressure from family and society.
- Women continued to lack secure rights to property in both rural and urban areas due to a combination of legal policies and traditionalist cultural pressures, particularly after marriage.
- Chinese officials prevented some women's rights advocates from engaging in activism and providing services—a continuation of the intensifying restrictions on women's rights advocacy begun in 2015.
- The Chinese government continued to target individual women's rights advocates with criminal prosecution and other forms of harassment. One prominent example is that of women's rights and democracy activist Su Changlan, whom authorities detained in October 2014 and tried in April 2016 for "inciting subversion of state power." She was convicted on March 31, 2017, and is expected to be released in October.

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### *Recommendations*

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

- Publicly and privately urge the Chinese government to give rights advocate Su Changlan immediate access to medical care and to release her from arbitrary detention. After Su's sentence ends in October 2017, urge the Chinese government to ensure that she is free of state-imposed surveillance, harassment, and restrictions to her freedom of residence, movement, and expression. In addition, urge the release of advocates Chen Qitang and Shan Lihua, and immediately cease intimidation and harassment of their family members and associates.
- Publicly and privately urge the Chinese government to respect the freedom of expression and assembly of all rights advocates, and in particular to refrain from harassing and intimidating the independent women's rights advocates seeking to increase awareness about sexual harassment in public areas.
- Urge the Chinese government to publicly expand its commitment to gender equality through measures such as increasing the number of women in the highest levels of political leadership, instituting gender equality and anti-harassment trainings in government workplaces, and challenging discriminatory attitudes based on gender through public education.
- Commend the Chinese government for recent legal developments aimed at promoting the welfare of women and gender equality. These include the passage of the PRC Anti-Domestic Violence Law and the inclusion of a gender discrimination case among the Supreme People's Court's guiding cases. Encourage the government to strengthen formal support services for implementation—for example, by increasing funding for health services or shelters for women experiencing violence, providing funding and support for attorneys for legal services, and allowing independent lawyers and advocates to assist with the promotion and implementation of laws related to gender equality through lawsuits and public campaigns.
- Support international exchanges among academics, legal advocates, non-governmental organizations, and others that focus on the implementation and enforcement of recently adopted laws promoting gender equity. In particular, facilitate and support technical assistance programs that would help both men and women working in law enforcement and the judiciary to implement the PRC Anti-Domestic Violence Law effectively and challenge discriminatory attitudes based on gender. As the first point of contact, law enforcement in particular should be trained in addressing reports of violence in a way that does not undermine victims' concerns or safety.
- Facilitate and support technical assistance programs that would help the development of gender equality education in schools and communities.
- Encourage the collection and analysis of data on gender-based disparities in economic and social life so as to monitor changes.

HUMAN TRAFFICKING

*Findings*

- As a State Party to the UN Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children (UN TIP Protocol), China is obligated to enact legislation criminalizing human trafficking as defined by the UN TIP Protocol. The definition of human trafficking in Chinese law, however, remains inconsistent with UN TIP Protocol standards. Inconsistencies between domestic law and international standards contribute to the difficulty of assessing the scale of human trafficking in China.
- China remains a destination for the trafficking of men, women, and children from throughout Asia. The Commission observed reports of alleged human trafficking of Chinese nationals to the United States, Europe, and elsewhere for forced labor and sexual exploitation. Men, women, and children reportedly were trafficked within China's borders for forced labor, forced begging, forced marriage, and sexual exploitation.
- This past year, the Chinese government subjected individuals to forced labor in administrative detention centers, pre-trial detention, and through a forced labor program known as *hашar* in the Xinjiang Uyghur Autonomous Region.
- Chinese workers migrating within China and their children were particularly at risk of human trafficking, in part due to restrictions arising from China's household registration (*hukou*) system. Government restrictions on workers' rights to form independent unions and collective bargaining also exacerbated their vulnerability to trafficking.
- The Chinese government continued to treat North Korean refugees as economic migrants, and maintained a policy of repatriating undocumented North Koreans, leaving the refugees vulnerable to trafficking. The government of the Democratic People's Republic of Korea reportedly continued to generate revenue by sending North Korean nationals to work in China under conditions that one expert described as slave labor.
- China's sex ratio imbalance—exacerbated by government-imposed birth limits and in keeping with a traditional bias for sons—created a demand for marriageable women that may contribute to human trafficking for forced marriage and sexual exploitation. According to the National Bureau of Statistics of China, in 2016, China had approximately 33.59 million more men than women.
- Hong Kong remained a destination for human trafficking, with migrant domestic workers particularly at risk of exploitation for forced labor. A December 2016 ruling by a Hong Kong court found that Hong Kong's Bill of Rights Ordinance requires the Hong Kong government to enact stronger anti-trafficking legislation. In response to questions from a Hong Kong lawmaker regarding what steps the government had taken following the court ruling, the government stated that human trafficking "is not prevalent or widespread in Hong Kong," and that human trafficking "is effectively prohibited by various pieces of existing legislation in Hong Kong."

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### *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 to bring anti-trafficking legislation into alignment with international standards, specifically with regard to China's legal definition of human trafficking. Emphasize that this would facilitate better data collection and cross-border comparisons, which in turn would better inform domestic and multilateral anti-trafficking policies. Call on the Chinese government to extend coverage of the UN TIP Protocol to include Hong Kong.
- Support U.S. Government efforts to improve human trafficking data collection. 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.
- Discuss in appropriate bilateral and multilateral meetings the importance of protecting worker rights as a means of combating human trafficking for the purpose of forced labor. Stress that when workers are able to organize and advocate for their rights, they are less vulnerable to all forms of exploitation, including forced labor. Highlight the September 2016 report of the UN Special Rapporteur on the rights to freedom of peaceful assembly and of association, Maina Kiai, which stated that the failure to protect workers' right to freedom of association "directly contributes to problems such as human trafficking and slavery."
- Encourage and engage in continued regional cooperation to combat human trafficking through multilateral agreements and forums 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. Support the work of the U.S. Department of State's International Law Enforcement Academy Program in Bangkok, Thailand, to build regional law enforcement capacity.
- 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 research, education, prevention, 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 2017 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.
- Heightened security measures along the China-North Korea and China-Southeast Asia borders increased the risks North Korean refugees face, and may be limiting the outflow of refugees from the DPRK. South Korean Ministry of Unification data showed that 1,414 refugees reached South Korea in 2016, continuing the trend of a significant decline in the number of refugees entering South Korea since 2009.
- Chinese authorities appeared to have intensified crackdowns on organizations and individuals—including foreign aid workers, Christian missionaries and churches, and non-governmental organizations—that have played a crucial role in assisting and facilitating the movement of North Korean refugees outside the DPRK.
- North Korean women who enter China illegally remain 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 remain deprived of basic rights to education and other public services owing to a lack of legal resident status in China. The denial of these rights contravenes China’s obligations under international law.

*Recommendations*

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

- Urge the Chinese government to immediately halt the repatriation of North Korean refugees; 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 the Chinese government’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 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 serv-

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ices in accordance with Chinese law and international standards.

○ Consider passing the North Korean Human Rights Reauthorization Act of 2017 and implement relevant provisions pertaining to North Korean refugees in China. Appoint and confirm the U.S. Special Envoy on North Korean Human Rights Issues, and encourage the Special Envoy to work with South Korean counterparts to coordinate efforts related to humanitarian assistance and human rights promotion for North Korean refugees in China, in accordance with the reauthorized North Korean Human Rights Act.

### PUBLIC HEALTH

#### *Findings*

- During the Commission’s 2017 reporting year, the UN Special Rapporteur on extreme poverty and human rights issued a report that assessed whether the Chinese government’s poverty alleviation efforts, many of which dovetail with public health, “have ensured full respect for human rights in China.” The Special Rapporteur observed that the government overly emphasizes development goals, and that challenges to the protection of human rights and government accountability include the Chinese Communist Party’s “leading role” over government, civil society, and public participation; a “top-down” government approach; and lack of accurate, publicly available data.
- The government and Party continued to prioritize the treatment of mental health in public health policymaking. Despite implementation of the PRC Mental Health Law, which became effective in 2013, challenges in the treatment of mental health disorders include a shortage of mental health personnel and community-based services.
- The Commission remained concerned by reports that Chinese government authorities continued to forcibly commit individuals without mental illness to psychiatric facilities (*bei jingshenbing*) for activities, including petitioning, that are deemed to be “troublemaking” or politically sensitive. Reports of petitioners and others whom public security officials forcibly committed to psychiatric facilities this past year included Sheng Lanfu, Ren Naijun, and Zhu Liangqun. Media coverage of the case of Xu Xueling—a petitioner serving a four-year prison sentence for “picking quarrels and provoking trouble”—linked her petitioning to two instances of forcible psychiatric commitment that authorities had imposed to “maintain stability.” The December 2016 arrest of Liu Feiyue, founder of the human rights website Civil Rights & Livelihood Watch (CRLW), may have consequences for access to grassroots reports of forced psychiatric commitment given CRLW’s regular coverage of the topic.
- Health-based discrimination in access to employment, welfare, education, and medical treatment, as well as difficulties in accessing legal relief or accountability, reportedly remained widespread, despite prohibitions to prevent it under Chinese

laws and regulations. Contributing factors, according to rights lawyers, include a lack of compliance with the law and inconsistencies between laws and regulations.

- In June 2017, a court in Guangdong province issued China's first-ever judgment that held an employer violated Chinese law by discriminating against an employee because the employee was HIV positive. The court, however, rejected the employee's request to be reinstated to his job.

*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 forced psychiatric commitment to retaliate against and silence persons with grievances against the government or persons with dissenting opinions and preferences. Immediately release from detention Liu Feiyue, founder of Civil Rights & Livelihood Watch, a human rights website known for its coverage of the use of forced psychiatric commitment. In addition, release Xu Xueling—imprisoned in connection to petitioning two instances of forcible psychiatric commitment—and other individuals raised in this report and the Commission's Political Prisoner Database subjected to forcible psychiatric commitment for petitioning and other activities authorities deemed politically sensitive.
- Urge the Chinese government to establish panels made up of legal, medical, social work, and security professionals from within and outside the government to monitor and report on the 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. 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 abolition 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 in promoting the rights of persons with disabilities in education, employment, and public life, through non-governmental advocacy and services, and legal and regulatory means.

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### THE ENVIRONMENT

#### *Findings*

- During the 2017 reporting year, Chinese and international media reports highlighted the severity of China's air, water, and soil pollution, and related health concerns. At the same time, Chinese authorities continued to censor and control media reporting on the environment. The Chinese government made statements calling for public participation in environmental protection. According to the UN Special Rapporteur on extreme poverty and human rights, however, "the Government tends to rely almost entirely on top-down processes."
- During this reporting year, citizens engaged in a number of environmental protests over issues including sand mining and air pollution. In October 2016, as many as 10,000 people in Xi'an municipality, Shaanxi province, participated in a protest over a waste incinerator project. In December 2016, authorities reportedly briefly detained a number of advocates in Chengdu municipality, Sichuan province, after they gathered wearing face masks to protest air pollution.
- Chinese authorities continued to harass and detain environmental advocates. In October 2016, Chinese authorities administratively detained Liu Shu, the leader of an environmental non-governmental organization (NGO), for 10 days in Changsha municipality, Hunan province, for "leaking counter-espionage work state secrets." Her alleged offense was sharing pollution data. In June 2017, the Shuangtaizi District People's Court in Panjin municipality, Liaoning province, sentenced Tian Jiguang, the founder of the Panjin City Association of Volunteers for the Protection of the Spotted Seal, to four years and six months in prison. Chinese authorities detained Tian in October 2013 after he wrote a blog post in which he criticized a state-owned enterprise for water pollution.
- Judicial authorities assessed high court fees on two NGOs following an environmental public interest lawsuit. In January 2017, the Changzhou Intermediate People's Court in Changzhou municipality, Jiangsu province, ruled in favor of defendant chemical manufacturers and held that the two NGOs that brought the lawsuit were responsible for court fees totaling 1.89 million yuan (US\$270,000). The head of the litigation department at one of the NGOs expressed concern that this case "would set a precedent for courts to use similar charging standards in future environmental public interest lawsuits."
- In December 2016, the National People's Congress passed the PRC Environmental Tax Law. The legislation provides for new environmental taxes that will be jointly managed by environmental and tax authorities, superseding the previous pollution discharge fees that had been managed by environmental authorities. Some legal experts believe the potential for tax authorities to collect taxes from polluters may result in a strengthening of monitoring systems.
- In December 2016, the Supreme People's Court and Supreme People's Procuratorate issued an interpretation on environ-



mental crimes that, if implemented, may lead to more criminal enforcement for environmental data manipulation. The interpretation provides that criminal penalties for companies found in violation of environmental standards may be based on the amount of money the company saved by not operating the required pollution control equipment, and criminal charges of more than three years could be imposed if the money saved totaled over 1 million yuan (US\$140,000).

- In October 2016, Chinese authorities reportedly detained three environmental officials in Xi'an for "falsification" of air quality data. In June 2017, the Xi'an Intermediate People's Court sentenced seven environmental officials, including the three previously detained officials, to prison terms ranging from 1 year and 3 months to 1 year and 10 months for "damaging the computer information system." In July 2017, the Ministry of Environmental Protection, following a month-long inspection, strongly criticized the Tianjin municipal government for "wantonly covering up" its failed environmental protection efforts, finding that although Tianjin authorities had many meetings and campaigns, "it was more lip service than action."

- The Chinese government continued to develop and release comprehensive plans for improving the environment, although it also announced plans to increase coal-fired power capacity. In December 2016, the National Development and Reform Commission released China's 13th Five-Year Energy Development Plan, which included a mandatory target for coal energy to account for 58 percent or less of energy production by 2020, a 6-percent decrease from 2015. The 13th Five-Year Electricity Development Plan, however, included plans to increase coal-fired power capacity.

#### *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.
- Encourage Chinese leaders to strengthen rule of law in the environmental sector. Raise questions with Chinese officials about the censorship of environmental news reporting. U.S. officials should also raise questions about the lack of transparency regarding China's water and soil pollution.
- Call on the Chinese government to cease harassment of environmental advocates and follow international standards on freedom of speech, association, and assembly, including those contained in the International Covenant on Civil and Political Rights, the Universal Declaration of Human Rights, and China's Constitution. Raise the imprisonment of environmental advocate Tian Jiguang in meetings with Chinese officials.

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- 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.

### CIVIL SOCIETY

#### *Findings*

- During this reporting year, the Chinese government and Communist Party continued to deepen a crackdown on NGOs and civil society advocates. According to international human rights organizations, Chinese authorities restricted the activities of rights defenders by shrinking the space for expression, association, and assembly. Authorities also targeted rights advocates affiliated with NGOs this past year, including those promoting religious freedom, workers' rights, and the environment. Examples included the prosecution of pastors and labor advocates, as well as the detention of an environmentalist on "state security" grounds. Regulatory developments, particularly the PRC Law on the Management of Overseas Non-Governmental Organizations' Activities (Overseas NGOs' Activities Law) that took effect on January 1, 2017, threatened the continued presence of international NGOs (INGOs) in China as well as the independence of domestic NGOs reliant on foreign funding. The Chinese government provided limited clarifications on requirements for INGOs under the law. Foreign governments and NGOs sought clarification from the Ministry of Public Security (MPS) on official sponsorship requirements under the law.
- The operating environment for INGOs in China became more restricted and uncertain under the new Overseas NGOs' Activities Law. Reports indicate that INGOs are under greater scrutiny, and the law enables the Chinese government to surveil and collect information on such organizations. In addition, domestic NGOs may face "harsh penalties" under the expanded legal and regulatory framework given a "political climate of heightened security concerns" and "decreased tolerance for certain kinds of activism and expression." According to statistical data released by the MPS, a total of 168 INGO representative offices and 191 temporary activities had registered in China by July 31, 2017. Out of those registered, the United States had the highest number of registered INGO representative offices at 50, followed by Hong Kong at 38, Japan at 14, and Germany and South Korea each at 13. Beijing municipality ranked first for the highest total number of registered representative offices at 54, followed by Shanghai municipality at 35, Yunnan province at 17, and Guangdong province at 12. Registered representative offices of INGOs had partnering "professional supervisory units" (PSUs) from varying fields, with 66 representative offices working with PSUs in the trade sector, 25 in civil affairs, 21 in health and population planning, and 8 in education.

- In March 2017, Chinese authorities detained Taiwan human rights NGO volunteer Lee Ming-cheh while he was traveling to Zhuhai municipality, Guangdong province, via Macau. Ten days after Lee disappeared, the State Council Taiwan Affairs Office (TAO) confirmed that Chinese authorities were investigating Lee for “endangering state security.” On May 26, the TAO confirmed that state security authorities in Hunan province had formally arrested Lee on suspicion of “subversion of state power.”
- This past year, the Chinese government continued to strengthen its policy of inspection and ideological guidance over civil society. In March 2017, following two State Council directives to carry out inspections on the market and society released in 2015 and 2016, the Ministry of Civil Affairs (MCA) passed a measure to advance official inspection of social organizations, urging registration authorities to conduct both planned and random inspections of civil society groups. A leading small group on Party-building in social organizations, administered by the MCA, issued a document in March 2017 that prioritized work on the Party’s ideological guidance for NGOs, building Party groups in organizations, and recruiting new “outstanding and talented individuals” from NGOs as cadres.
- The Chinese government continued efforts to strengthen the philanthropic regulatory framework under the PRC Charity Law to increase the level of giving in China. In the first year after the law’s March 2016 passage, 260 national- or provincial-level organizations acquired “charitable” status and 13 provinces and municipalities reportedly began approving charities. In addition to registering charities, the law provides a legal framework for public fundraising and increasing tax incentives, toward which the Chinese government took steps in this past year. On February 24, 2017, the National People’s Congress Standing Committee adopted a revision to the PRC Enterprise Income Tax Law, enabling donations over 12 percent of an enterprise’s annual total profit to be carried over and deducted from taxable income during the following three years.

*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 NGOs’ Activities and revise the PRC Charity Law to reflect the principles of the ICCPR, especially the rights to freedom of association, assembly, and expression.
- Call on the Chinese government to cease harassment of civil society advocates and NGOs and provide adequate procedural due process for those undergoing criminal trials.

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- Integrate civil society issues into bilateral discussions and agreements with Chinese officials to promote reciprocity in the approach and implementation of civil society exchanges between the United States and China.
- Continue to fund, monitor, and evaluate foreign assistance programs in China that support democracy promotion, rule of law, and human rights advocacy.
- 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, public policy advocacy, and media relations.

### INSTITUTIONS OF DEMOCRATIC GOVERNANCE

#### *Findings*

- During the Commission's 2017 reporting year, the Chinese Communist Party continued to play a leading role in both state and society, restricting Chinese citizens' ability to exercise civil and political rights. Observers noted that the central role of the Party in governing the state appears to have strengthened since Chinese President and Party General Secretary Xi Jinping came into power, further "blurring" the lines between Party and government. In March 2017, Wang Qishan, a member of the Standing Committee of the Communist Party Central Committee Political Bureau (Politburo) and the Secretary of the Central Commission for Discipline Inspection (CCDI), said that "under the Party's leadership, there is only a division of labor between the Party and the government; there is no separation between the Party and the government."
- The Commission observed a continued emphasis on Xi Jinping's leading role in guiding decisionmaking. Following the Sixth Plenum of the 18th Central Committee of the Chinese Communist Party (Sixth Plenum) in October 2016, the plenum communiqué named Xi the "core" (*hexin*) of the Party. Some observers viewed the Sixth Plenum as a "victory for Xi" over internal political opposition. At the Sixth Plenum, the Party also announced that the 19th National Congress of the Chinese Communist Party (19th Party Congress) would take place in Beijing municipality during the second half of 2017.
- This past year, Xi Jinping called for "strict governance" of the Party. Regulations and guidelines on intraparty supervision and behavioral standards released after the Sixth Plenum stressed that cadres at all levels must comply, especially those who hold leadership positions. The CCDI continued punishing high- and low-level Party officials for misconduct, targeting officials in the government, military, and state security apparatus. In July 2017, CCDI authorities placed Sun Zhengcai, Party Secretary of Chongqing municipality and a Politburo member, under investigation for discipline violations—a move some international observers called a political decision by Xi to consolidate power ahead of the 19th Party Congress. The CCDI also tightened supervision of its anticorruption in-

investigators and staff to ensure stricter oversight of disciplinary enforcers.

- The Party and Chinese government are spearheading efforts to establish a new national supervisory commission for enforcing anti-graft measures, a move that may result in further blurring and integration of Party and government functions. In December 2016, the National People's Congress approved a pilot project to set up supervisory commissions to oversee government conduct in Beijing municipality and Shanxi and Zhejiang provinces. In January 2017, the CCDI announced plans to establish a new national commission in order to integrate all government officials who have authority to conduct Party disciplinary inspection into one institution. The new commission, designed to “strengthen the Party’s united leadership over anticorruption work,” will merge anticorruption functions of the CCDI, Ministry of Supervision, and Supreme People’s Procuratorate.
- Chinese authorities also continued to harass, detain, and imprison democracy advocates who exercised their rights to freedom of speech, assembly, and demonstration. Some representative cases of advocates whom authorities targeted this past year included Chen Zongyao, Chen Zhixiao, Zhao Suli, Liu Feiyue, Huang Qi, and Zi Su. 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 Shi Tingfu, Li Xiaoling, and Ding Yajun. Authorities continued to prosecute Fu Hailu, Chen Bing, Luo Fuyu, and Zhang Juanyong, detained in 2016 in connection with satirically labeled liquor bottles commemorating the Tiananmen protests.
- This past year, central Party authorities did not take any substantial steps toward political liberalization. Sources highlighted multiple instances in which officials interfered with or inhibited meaningful public participation in local elections, demonstrating that China’s political institutions do not meet the standards for “genuine” elections outlined in the Universal Declaration of Human Rights and International Covenant on Civil and Political Rights.
- Public security authorities and riot police cracked down on protests that arose after authorities detained Lin Zulian, chief of Wukan village, Donghai subdistrict, Lufeng city, Shanwei municipality, Guangdong province, in June 2016. International media outlets reported that, around September 13, 2016, security forces used tear gas and rubber bullets against protesters, a move that resulted in serious injuries to villagers. Police forces interrogated and expelled foreign reporters from the village, blocked access to the village, and detained villagers. In December 2016, the Haifeng County People’s Court tried and convicted nine Wukan residents for their participation in the protest and gave them prison sentences ranging from 2 years to 10 years and 6 months.
- The Chinese government continued to work toward increasing citizens’ access to information. In June 2017, the State Council released draft revisions to the 2008 Open Government

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Information (OGI) Regulations and solicited public comments. The draft revisions clarified the scope of OGI and defined the types of information not subject to OGI. Areas not subject to OGI requirements include local-level information that “endangers public safety or social stability” or that involves ethnicity or religion. Despite moves in this past year to update the OGI regulatory framework, Chinese authorities continued to deny OGI requests in cases related to human rights defenders.

### *Recommendations*

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

- Support U.S. research programs that 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 (NGOs).
- 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. These individuals include those mentioned in this report and in the Commission’s Political Prisoner Database, such as Chen Xi, Chen Wei, and Zhu Yufu.
- Support joint U.S.-China cooperative programs to develop independent village committee and people’s congress election monitoring systems. Encourage central and local Party and government leaders to implement free and fair elections across China. Continue to fund, monitor, and evaluate the effectiveness of democracy promotion and rule of law programs in China.
- Support organizations working in China that seek to work with local governments and NGOs to improve transparency, especially with regard to efforts to expand and improve China’s open government information 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 outside of the internal Party-led anticorruption campaign. Urge Party and government officials to establish and improve public participation in government affairs. Encourage top-level officials to reform governing institutions to promote an authentic multi-party system with protections for freedom of speech, association, and assembly.

## COMMERCIAL RULE OF LAW

### *Findings*

- December 11, 2016, marked 15 years since China acceded to the World Trade Organization (WTO). The Chinese government and Party, however, continued to fail to comply with key WTO commitments, including commitments to ensure equal treatment for foreign enterprises; to practice a market econ-

omy; and to enforce the rule of law with impartiality, transparency, and uniformity. Instead, the Chinese government continued to promote preferential treatment for domestic industry and compel technology transfer, creating an uneven playing field and altering market prices both domestically and globally.

- The Chinese government provided significant financial and political support to outbound investment this past year. This raised several concerns over issues including the lack of transparency about the Chinese government’s involvement in commercial dealings, the creation of an uneven playing field for foreign companies, and the distortion of market prices both domestically and globally. The Chinese government’s preferential treatment of state-owned enterprises (SOEs) in outbound investment may also increase the influence of SOEs on foreign markets. Such influence may further increase with implementation of the Chinese government’s plan for SOEs to play a major role in its Belt and Road Initiative.

- The government’s strict control over the Internet continued to serve as an indirect form of preferential treatment for domestic enterprises by obstructing consumers’ access to global websites. In March 2017, the Office of the U.S. Trade Representative (USTR) identified Internet censorship in China as a barrier to trade for a second year, noting that Chinese authorities blocked “11 of the top 25 global sites.”

- Chinese authorities continued to provide ineffective protection for intellectual property. In April 2017, USTR again placed China on its 301 priority watch list. In December 2016, USTR identified Taobao, a subsidiary of the Alibaba Group and the largest online shopping website in China, as a “notorious market” due to “the large volume of allegedly counterfeit and pirated goods.”

- Several cases involving the arbitrary detention and investigation of Chinese and American businesspeople this past year highlighted ongoing rule of law and due process concerns. On April 29, 2017, Chinese authorities deported American businesswoman Sandy Phan-Gillis to the United States after judicial authorities sentenced her to three years and six months’ imprisonment on the charge of espionage. Authorities detained Phan-Gillis in March 2015, and in June 2016, the UN Working Group on Arbitrary Detention found that she had been arbitrarily detained. Phan-Gillis was reportedly tortured in prison, and she was not able to meet with a lawyer for over a year. The cases of three prominent executives of Chinese firms, Xiao Jianhua, Guo Wengui, and Wu Xiaohui, highlighted the risks that businesspeople face when suspected of corruption or when dealing closely with corrupt officials.

- Food and drug safety in China remained a concern for Chinese and international consumers and the American business community operating in China. Their concerns were exacerbated by regulatory uncertainty and nontransparent enforcement. Reports in January 2017 of counterfeit soy sauce made with industrial salt and unsafe tap water raised particular concerns for consumers around the world.

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### *Recommendations*

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

- Ensure that China complies with its existing World Trade Organization (WTO) commitments before resuming negotiations for a Bilateral Investment Treaty (BIT) with China. A BIT with China should be based on reciprocity, and allow for American investment in the media, entertainment, Internet, and other sectors. The BIT should also strengthen human rights and rule of law protections.
- The U.S. Department of State should consider issuing a travel warning for China to warn Americans considering travel to China of the risk of arbitrary detention and torture by Chinese authorities, and the risk that a detained American may not be allowed to meet with a lawyer or discuss their case with U.S. consular officials. The U.S. Department of State should also consider revisions to the U.S.-China Consular Convention to ensure that Chinese authorities are required to detail the specific charges on which Americans are detained, and that Americans detained in China are allowed to discuss the details of their case with U.S. consular officials and to meet with a lawyer.
- The Office of the U.S. Trade Representative should, under WTO rules, request detailed information from the Chinese government on Internet restrictions that result in the blocking of the websites of U.S. companies. If warranted, a WTO dispute should be considered. In meetings with Chinese officials, urge the Chinese government to stop blocking Internet users' access to U.S. media and technology companies in China.
- Encourage U.S. companies that receive censorship requests from Chinese authorities to comply with the UN Guiding Principles on Business and Human Rights and the Global Network Initiative's Principles on Freedom of Expression.
- In meetings with Chinese officials, urge the Chinese government to improve the transparency of its foreign exchange controls and to move toward a market-based exchange rate.
- In meetings, urge Chinese government and Party officials to increase the transparency of the anticorruption campaign. Specifically raise concerns regarding the reported abduction and detention of Canadian citizen Xiao Jianhua from Hong Kong.

### ACCESS TO JUSTICE

#### *Findings*

- The Chinese Communist Party's control over the judiciary became more prominent this past year when the Supreme People's Court (SPC) president urged high court presidents from across China to reject Western principles, including "constitutional democracy, separation of powers, and judicial independence." The SPC president also noted the convictions of rights lawyer Zhou Shifeng and other rights advocates as a key achievement of the court system in 2016; international human



rights observers, however, said these convictions were politically motivated.

- With respect to developing a trial-centered litigation system, a goal that the Party set forth in October 2014, Chinese authorities issued an opinion emphasizing the importance of in-court testimony and developed evidentiary criteria for certain common crimes in some localities.

- This past year, the Chinese government promulgated rules in an attempt to improve the legal aid system, which continued to face problems such as a shortage of legal aid workers, lack of technical knowledge in non-lawyer staff, and insufficient reimbursement for legal-aid related expenses.

- In October 2016, the general offices of the Chinese government and Communist Party issued a set of measures that provides for sanctions on officials who mistreat individuals who petition the government for a range of grievances. Despite these new measures, the Commission continued to observe reports of official violence against petitioners. Furthermore, authorities reportedly targeted groups that supported petitioners—in November and December 2016, authorities detained and then arrested Liu Feiyue and Huang Qi, founders of two websites that report on human rights issues, including officials' mistreatment of petitioners.

- During this reporting year, the Chinese government continued to detain and prosecute the rights lawyers and advocates targeted during a nationwide, coordinated crackdown that began in and around July 2015. Authorities harassed family members of those detained and used arbitrary means to prevent lawyers associated with them from renewing their law licenses.

- The Ministry of Justice amended two sets of measures governing the licensing of lawyers and law firms this past year in ways that may violate the Basic Principles on the Role of Lawyers. The amendments added language mandating lawyers to support the Party's leadership and imposing restrictions on lawyers' ability to make independent professional judgments and on their rights to freedom of speech and peaceful assembly.

#### *Recommendations*

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

- Encourage leaders of the Chinese Communist Party and government to respect the independence of the judiciary and to eliminate all forms of political influence on it.
- Encourage Chinese legislators and judicial officials to implement an effective supervisory mechanism that ensures courts at all levels accept cases filed by all individuals, including petitioners and advocates, in a non-discriminatory manner.
- Encourage the Chinese government to take substantive action to implement the trial-centered litigation system that is designed to ensure the legality of evidence obtained during the pretrial process.

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- 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 capacity 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 unconditionally exonerate and lift any restrictions of liberty or eligibility to practice law on the rights lawyers and advocates detained in the crackdown that began in and around July 2015, including Wang Yu, Bao Longjun, Zhou Shifeng, Wang Quanzhang, Li Heping, Li Chunfu, Xie Yang, Wu Gan, Hu Shigen, Gou Hongguo, Liu Xing, and Zhang Wanhe. Raise concerns that the recent amendments to measures regulating lawyers and law firm licensing violate international standards concerning lawyers' rights to free speech, peaceful assembly, and independent exercise of professional judgment.
- Urge the Chinese government to protect the fundamental civil and professional rights of China's lawyers, to investigate all allegations of abuse against them, and to ensure that those responsible are brought to justice. Urge the Chinese government to end all forms of harassment or persecution against the family members of human rights lawyers and advocates affected by the July 2015 crackdown, including surveillance, restrictions on domestic and international travel, and preventing school attendance.

## XINJIANG

### *Findings*

- During the Commission's 2017 reporting year, central and regional government authorities introduced new security measures and expanded implementation of existing security controls targeting Uyghur communities and individuals in the Xinjiang Uyghur Autonomous Region (XUAR). According to official statistics, XUAR authorities spent 30.05 billion yuan (approximately US\$4.43 billion) on public security in 2016, nearly 20 percent more than the previous year. After Chen Quanguo became XUAR Communist Party Secretary in August 2016, replacing Zhang Chunxian, regional authorities implemented a number of new security measures. These included, but were not limited to, the installation of "convenience police stations" throughout the region, with 949 in the regional capital of Urumqi alone; the convening of mass anti-terrorism rallies; the recruitment of tens of thousands of security personnel from both within and outside of the XUAR; the implementation of a "double-linked household" (*shuanglian hu*) system; and the mandatory installation of satellite-tracking devices on vehicles in one prefecture in the XUAR.

- On March 29, 2017, the XUAR People’s Congress adopted the region’s first anti-extremism regulations. The regulations categorize 15 actions as “extremism,” and according to a Chinese legal scholar, “[draw] a clear line between legal religion and illegal religion.” In July 2016, the XUAR People’s Congress adopted regional measures to implement the PRC Counterterrorism Law, which also dealt with how to punish religious extremists. The 2017 anti-extremism regulations, however, provide more detailed descriptions of the responsibilities of government authorities to eliminate “extremism.”
- As in past reporting years, XUAR officials continued to restrict Uyghurs’ ability to travel freely, in violation of Chinese law and international legal standards. Beginning in October 2016, authorities in locations throughout the XUAR reportedly ordered residents to turn their passports in to police, with varying deadlines of up to four months. Authorities subsequently required residents to seek approval from police for international travel in order to retrieve their passports.
- Beginning in late January 2017, Chinese authorities reportedly ordered some Uyghurs studying abroad in countries including Egypt, Turkey, France, Australia, and the United States to return to the XUAR. XUAR authorities detained or threatened to detain relatives of some students to compel them to return, and reportedly detained some returnees and forced some to undergo “political reeducation.”
- During this reporting year, central and regional government and Party officials continued to promote the XUAR as an important center for Belt and Road (also known as One Belt, One Road) Initiative development projects. A U.S.-based Uyghur rights organization criticized the economic inequality exacerbated by official development projects, as well as the enhanced securitization officials employed to accompany such projects.
- Central and regional officials also placed restrictions on communication tools, issued regulations limiting the spread of “false” and “harmful” information, and constrained the ability of foreign journalists to report from the XUAR. In one example of authorities restricting XUAR residents’ access to communication tools, authorities issued regulations, effective October 1, 2016, requiring individuals in the region to register with their real names before being permitted to access the Internet, including on their mobile phones.
- XUAR government authorities expanded Mandarin-focused “bilingual education” in the region, a policy that contravenes international law and that a Uyghur rights advocacy organization criticized for its emphasis on Mandarin-language education at the expense of other languages as well as for the loss of Uyghur educators’ jobs. Under “bilingual education,” class instruction takes place primarily in Mandarin Chinese, largely replacing instruction in languages spoken by ethnic minority groups. In June 2017, education officials in Hotan prefecture, XUAR, banned the use of the Uyghur language in schools through the secondary school level, “in order to strengthen elementary and middle/high school bilingual education.” The ban includes a prohibition on Uyghur-language signage on school

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grounds, as well as the use of Uyghur in schools' public activities and educational management work. In March 2017, state media announced that authorities would strengthen preschool "bilingual education" in the XUAR by building or expanding a total of 4,387 "bilingual kindergartens" and hiring 10,000 "bilingual teachers" in 2017.

- According to research conducted by Human Rights Watch and reporting by the journal *Nature*, security personnel have been collecting DNA samples from Uyghurs in the XUAR and from other people throughout China on a massive scale, in many cases without consent. International observers raised the concern that officials may misuse the collected biometric data to heighten security controls on the Uyghur population, as officials build a database of citizens' biometric information not limited to those with a criminal background, as in other countries, and lacking the kinds of legal safeguards other countries implement to manage their DNA databases.

### *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 implement policies in the XUAR that promote both security and human rights, and that hold regional and local officials accountable for human rights violations carried out in the name of security. Urge Chinese officials to establish mechanisms ensuring that officials uphold the rule of law when implementing security procedures and refrain from arbitrary detention or surveillance of citizens. In addition, urge Chinese officials to include human rights safeguards in laws and regulations related to counterterrorism efforts, in consultation with international human rights experts, and to avoid broadly worded, ambiguous definitions of terrorism and terrorism-related offenses.
- 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.
- Urge Chinese officials to respect the rights of Uyghurs and all Chinese citizens to travel freely outside of China, in accordance with Article 12 of the International Covenant on Civil and Political Rights, which China has signed and committed to rat-

ify. Urge Chinese authorities to return passports and other legally obtained travel documents to XUAR residents.

- 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.

- Call on the Chinese government to cease its mass collection of DNA samples from Uyghurs in the XUAR, and end efforts to build a database of Chinese citizens' biometric information, until it enacts and implements privacy protections, mechanisms to ensure informed consent, and legal safeguards for DNA database management, in order to prevent official misuse of collected biometric data. Privacy protections should meet the standards contained in the International Covenant on Civil and Political Rights, which China has signed but not ratified. Chinese officials should also implement transparent regulations governing the storage, sharing, and usage of biometric information, and establish legal procedures citizens can use to effectively challenge the collection of such information.

## TIBET

### *Findings*

- There has been no formal dialogue between the Dalai Lama's representatives and Chinese Communist Party and government officials since the ninth round of dialogue was held in January 2010. In February 2017, Zhu Weiqun, Chairman of the Ethnic and Religious Affairs Committee of the Chinese People's Political Consultative Conference and former senior Party official, said that the Chinese government would not engage in dialogue with what he referred to as an "illegal group" whose aim is to split China.

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- The Party and government continued implementing repressive policies in Tibetan autonomous areas through the use of extensive and intrusive surveillance, strict regulations and rules to restrict Tibetans' fundamental rights, and pervasive displays of police and military force. New high-level appointments in the Tibet Autonomous Region (TAR)—Wu Yingjie as the new Party Secretary of the TAR, and Qizhala (Che Dalha) as the new governor—both of whom have extensive experience in the region, are unlikely to lead to any changes in policy or methods of governance in the TAR.
- The Chinese government restated its position that only it has the right to decide the Dalai Lama's successor. The current Dalai Lama reiterated his position on his reincarnation, and underscored that it is not a matter for the Chinese government or Party to decide, but rather a matter reserved for himself, Tibetan Buddhist leaders, and the Tibetan people.
- The Party and government continued to violate the right of religious freedom of Tibetan Buddhist monastics and laypersons through a system of pervasive controls and restrictions on religious practice. The expulsion of thousands of monks and nuns and demolitions of homes at the famous Buddhist institutes Larung Gar and Yachen Gar in Sichuan province were an acute example during this reporting year of the Party's crackdown on the right to religious freedom of Tibetan Buddhists.
- An estimated 7,000 Tibetan pilgrims from Tibetan areas of China attempted to attend an important religious teaching given by the Dalai Lama in Bodh Gaya, India, in early January 2017. In November 2016, Chinese officials confiscated passports, issued threats, and ordered Tibetans who had already traveled to India and Nepal to return to China, violating their rights of religious freedom and movement.
- Self-immolations by Tibetans reportedly focusing on political and religious issues continued during this reporting year. As of August 21, 2017, there were 5 known self-immolations in Tibetan autonomous areas of China, 4 of which were confirmed to be fatal, bringing the total number of such self-immolations by Tibetans living in China to 144 since 2009, 127 of which were reportedly fatal. As in the past, the self-immolators publicly called for the long life of the Dalai Lama, his return from exile, and freedom for Tibet.
- Chinese authorities continued to detain and imprison Tibetans for peacefully exercising their rights to freedom of expression and opinion, including advocacy for education in the Tibetan language. Tashi Wangchug, an advocate for bilingual education in Qinghai province, who has been detained since January 2016 following a November 2015 New York Times report and video about his Tibetan language rights advocacy, awaits trial for "inciting separatism."

*Recommendations*

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

- Encourage the Party and government to respect, as a matter of the right of religious freedom, recognized under Chinese and international law, that the decision regarding the Dalai Lama's succession or reincarnation must be reserved for the current Dalai Lama, Tibetan Buddhist leaders, and the Tibetan people.
- Urge the Chinese government to recognize the role of restrictive Party policies and government measures, and the increasing securitization of Tibetan autonomous areas of China, in Tibetan self-immolations and protests. Urge the Chinese government to cease treating the Dalai Lama as a security threat, and stress to the government the importance of respecting and protecting the Tibetan culture and language—policy changes that would promote and protect social stability in Tibetan areas.
- Encourage the Chinese government to respect the right of Tibetans to travel domestically as well as internationally, and to allow access to the Tibetan autonomous areas of China to international journalists, representatives of the United Nations and non-governmental organizations, and U.S. Government officials.
- The Administration is urged to nominate, as soon as practicable, an appropriate candidate to fill the position of Under Secretary of State for Civilian Security, Democracy, and Human Rights, who has traditionally also simultaneously held the position of Special Coordinator for Tibetan Issues, and the Senate is urged to confirm forthwith.
- Urge the Chinese government to release Tibetan language rights advocate Tashi Wangchug from detention, withdraw the charges against him, and stress that peacefully advocating for genuine bilingual education—a right recognized under Chinese and international law—is not a crime.
- In interactions with Chinese officials, call for the release of Tibetan political prisoners currently detained or imprisoned for the peaceful exercise of their human rights. The records of detained Tibetans in the Commission's Political Prisoner Database—albeit an incomplete picture of the extent of Tibetan detentions and disappearances—provides a useful resource for such interactions with Chinese officials. Urge the Chinese government and its security forces to cease using arbitrary detention, disappearance, beatings, torture, and intimidation to suppress and punish Tibetans' peaceful exercise of their rights.
- Urge the Chinese government to take fully into account the views and preferences of Tibetans when planning infrastructure, natural resource development, settlement or resettlement projects, and tourist attractions in the Tibetan areas of China.
- Continue to request that the Chinese government invite an independent representative of an international organization to meet with Gedun Choekyi Nyima, the 11th Panchen Lama whom the Dalai Lama recognized in 1995, and who has been

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held incommunicado, along with his parents, since May 17, 1995.

### DEVELOPMENTS IN HONG KONG AND MACAU

#### *Findings*

- On March 26, 2017, Hong Kong's Election Committee elected Carrie Lam Cheng Yuet-ngor as Hong Kong's fourth Chief Executive. Observers reported that during the nomination period and election campaign, Chinese central government officials and representatives pressured Election Committee members to support Lam over other candidates. The Election Committee's composition, and therefore the Chief Executive election, is restricted to ensure support for candidates approved by Chinese authorities, despite provisions in Hong Kong's Basic Law guaranteeing political autonomy and democratic development for Hong Kong.
- After pro-democracy candidates gained seats in the September 2016 Legislative Council (LegCo) elections, the Chinese central government and Hong Kong government moved to disqualify and remove from office opposition legislators who had altered their oaths of office. On November 7, 2016, the National People's Congress Standing Committee (NPCSC) issued an interpretation of Hong Kong's Basic Law, holding that oaths of office under Article 104 of the Basic Law are legal commitments to both Hong Kong and China, and prohibiting those whose oaths are determined to be invalid from retaking the oath. Lawyers, legislators, activists, and rights organizations strongly criticized the NPCSC interpretation. The interpretation came while a Hong Kong court was still considering the Hong Kong government's case against two legislators-elect, Sixtus "Baggio" Leung Chung-hang and Yau Wai-ching. The Hong Kong judge hearing the case ruled in the government's favor, finding that Leung and Yau "declin[ed] to take the LegCo Oath" and disqualifying the two.
- Following the NPCSC interpretation, the Hong Kong government continued to pursue legal cases against participants in the 2014 pro-democracy protests and members of the political opposition. In July 2017, a Hong Kong court ruled in the government's favor to disqualify four additional legislators over their oaths of office, and charged another with desecrating the Chinese and Hong Kong flags in a protest inside the LegCo chamber. Hong Kong police also charged nine leaders of the 2014 pro-democracy protests, including two sitting legislators, the day after the Chief Executive election.
- In August 2017, the Hong Kong government successfully appealed to increase the sentences of 13 protesters as well as pro-democracy student leaders Joshua Wong, Nathan Law, and Alex Chow. Some international rights and domestic pro-democracy groups asserted the prosecutions were politically motivated, which the Hong Kong government and two local legal organizations have denied.
- Hong Kong journalists reported continuing fears over press freedom in Hong Kong, noting concerns over self-censorship,



government restrictions on reporters, and the 2015 abductions and disappearances of five Hong Kong booksellers by mainland Chinese authorities. The Hong Kong government continued to restrict the ability of online media to freely report, including during the December 2016 Chief Executive Election Committee subsector elections and the March 2017 Chief Executive election, drawing criticism from international and Hong Kong rights organizations.

- The Commission observed no progress in Macau toward “an electoral system based on universal and equal suffrage . . .” in line with provisions of the International Covenant on Civil and Political Rights, as repeatedly recommended by the UN Human Rights Committee. In December 2016, Macau’s Legislative Assembly revised the legislative electoral law to disqualify candidates or legislators who do not swear loyalty to Macau’s Basic Law or who are “not loyal” to Macau. Critics of the revisions questioned the need for such legal requirements and expressed concern that the new law would threaten the right to free and fair elections.
- The Macau government continued to deny entry to some pro-democracy politicians and activists from Hong Kong. Macau authorities justified these denials by asserting that the individuals barred from entering Macau posed “threats to Macau’s internal stability and security.” One Macau pro-democracy activist suggested that authorities wanted “to prevent Hong Kong activists from affecting the political atmosphere in Macau.”

#### *Recommendations*

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

- Consider enacting the Hong Kong Human Rights and Democracy Act (S. 417) to monitor the state of Hong Kong’s autonomy from mainland China and reaffirm U.S. support for democratization in Hong Kong.
- Emphasize in meetings with Chinese and Hong Kong officials that the continued erosion of Hong Kong’s autonomy under the “one country, two systems” principle, and as guaranteed in the Sino-British Joint Declaration and the Basic Law, threatens the underpinnings of U.S. policy toward Hong Kong, particularly Hong Kong’s separate treatment under U.S. law.
- 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, in accordance with Articles 45 and 68 of the Basic Law and Article 25 of the International Covenant on Civil and Political Rights (ICCPR).
- Call on the Chinese and Macau governments to set a timeline for implementing elections in Macau for Chief Executive and the Legislative Assembly by universal suffrage, as required under Article 25 of the ICCPR and repeatedly urged by the UN Human Rights Committee.