

China Human Rights and Rule of Law Update

June 1, 2005
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United States Congressional-Executive Commission on China

Senator Chuck Hagel, Chairman | Representative Jim Leach, Co-Chairman

Message from the Co-Chairmen on the Sixteenth Anniversary of Tiananmen

Sixteen years after the world witnessed the devastating events in and around Tiananmen Square in Beijing, we remember the courage of the students and workers who peacefully exercised their rights to freedom of expression and assembly there. And we recall that, although the Chinese leadership crushed the "Beijing Spring" demonstrations, they could not crush the ideals of those who gathered at Tiananmen. Today, we can see in every Chinese province the effects of market reforms and forward-looking economic changes, but the backward-looking political system continues to leave most Chinese people without a voice in their own political future. Popular frustration, especially with official corruption, seems to be growing.

Political change is complex and imperfect. Many have hoped that China's new leadership would recognize that the greatest challenge to continued development comes from inflexibility, secretiveness, and a lack of democratic oversight. The Congressional-Executive Commission on China retains the hope that this type of change is possible in China, but many developments over the past year have given the Commission cause for concern. The American people and the U.S. government support the efforts of many Chinese people and government officials to build a more transparent, fair, and participatory society. The Chinese people ultimately will determine in which direction China develops and how it gets there, but China's leaders must take the first steps, and the United States must continue to be ready to assist.

Events

Roundtable: Unofficial Religions in China: Beyond the Party's Rules

On May 23, 2005, the CECC held another in its series of staff-led Issues Roundtables, entitled [Unofficial Religion in China: Beyond the Party's Rules](#). The roundtable highlighted the growth of religion in China and the state's efforts to control and regulate it. The panelists were: Patricia M. Thornton, Associate Professor of Political Science at Trinity College in Hartford, Connecticut; David Ownby, Director of the Center of East Asian Studies at the University of Montreal; and Robert P. Weller, Professor of Anthropology and Research Associate, Institute on Culture, Religion and World Affairs at Boston University.

Roundtable: Intellectual Property Protection as Economic Policy: Will China Ever Enforce Its IP Laws?

On May 16, 2005, the CECC held another in its series of staff-led Issues Roundtables, entitled [Intellectual Property Protection as Economic Policy: Will China Ever Enforce Its IP Laws?](#) The roundtable highlighted the current rate of infringement of intellectual property rights in China, the Chinese government's policies regarding intellectual property, and why these policies have so far been ineffective. The panelists were: Daniel C.K. Chow, Robert J. Nordstrom Designated Professor of Law, Ohio State University Michael E. Mortiz College of Law; Eric H. Smith, President, International Intellectual Property Alliance; and James M. Zimmerman, Partner and Chief Representative, Beijing office, Squire, Sanders and Dempsey LLP.

Updates on Rights and Law in China

[Human Rights Updates](#) [Rule of Law Updates](#) [All Updates](#)

Chinese Government Cancels Conference on Constitutionalism and Democracy

Chinese government authorities abruptly cancelled a planned international academic conference on constitutionalism and democracy that was to begin on May 19, according to reports by the Associated Press and South China Morning Post. Fordham University and the China University of Politics and Law jointly organized the three-day conference, entitled "Constitutionalism and Political Democratization in China - an International Conference." Some commentators speculate that the government cancelled the conference because it was scheduled too close to June 4, the anniversary of the 1989 Tiananmen Square crackdown.

Dalai Lama's Envoy Says Fourth Trip to China Will Be "Soon"

Lodi Gyaltsen Gyari, the Special Envoy of the Dalai Lama, told the Voice of America (VOA) in a May 4 interview that he and fellow Envoy Kelsang Gyaltsen would make their fourth trip to China "soon." In the VOA [interview](#), Gyari said, "Everything is decided except the timing of the visit, and we are in touch with concerned Chinese leadership." He noted that the Tibet issue is "extremely complex" and would not be resolved quickly.

Gyari said that the Tibetan government-in-exile, based in the Indian city of Dharamsala, had called for Tibetans living in India to refrain from staging anti-Chinese demonstrations during Premier Wen Jiabao's state visit to India from April 9-12, 2005. The gesture should not be construed as appeasement, Gyari said, since it is in the best interests of Tibetans to create an atmosphere conducive to Sino-Tibetan dialogue.

The envoys previously visited China in September 2002, May 2003, and September 2004. In addition to Beijing and other major cities, they traveled to the Tibet Autonomous Region (TAR), including Lhasa, Dechen (Diqing) Tibetan Autonomous Prefecture (TAP) in Yunnan province, and Kardze (Ganzi) TAP in Sichuan province. Each time they met with senior government and Party officials at the national and local levels, including the head of the United Front Work Department. The UFWD is part of the Chinese Communist Party and is responsible for maintaining relationships with groups outside the Party mainstream, including ethnic and religious groups, non-communist political organizations, and non-Party leaders and intellectuals.

The U.S. State Department submitted the third annual ["Report on Tibet Negotiations"](#) to Congress in April 2005. The report says that the Bush Administration was encouraged that the Chinese government invited the envoys to China in 2004, and hopes that a fourth visit will occur in 2005. The report describes the Dalai Lama as someone who "can be a constructive partner as China deals with the difficult challenges of regional and national stability." Additional information about contacts between China and the Dalai Lama is available in the [CECC 2004 Annual Report](#).

Supreme People's Procuratorate Promises to Focus on Eliminating Torture

Procuratorates across China will focus on addressing the problem of torture and coerced confessions this year, according to a [report](#) in the Legal Daily. The Supreme People's Procuratorate announced the new effort during a national work conference on the supervision of criminal investigations. An SPP official reportedly declared that in the wake of the [She Xianglin wrongful conviction case](#) and [reports of similar cases](#), the procuratorate will make eliminating the problem of torture and coerced confessions a priority. The official noted that the procuratorates would also work to address law enforcement corruption, illegal investigation and evidence collection methods, illegal bail, and other problems.

According to the Legal Daily report, the SPP has instructed procurators that confessions obtained as a result of torture may not form a basis for the formal approval of arrests and that prosecutors must work to eliminate illegally obtained evidence. The SPP has also reportedly told prosecutors that in supervising investigations, they must conduct an inquiry of suspects when there are concerns about or allegations of torture, give weight to allegations of torture by suspects and any evidence of torture, and vigorously investigate such allegations and evidence. When investigative bodies refuse to address allegations of torture or rectify wrongdoing, prosecutors are directed to report the problem to higher levels.

Although torture has long been illegal in China, Chinese sources [acknowledge](#) that it is a widespread problem. The issue has taken on increased prominence in recent months as Chinese news media have reported on a series of wrongful convictions stemming in part from coerced confessions. A national outcry over these cases appears to be creating some official momentum to address the problem. In the past few weeks, officials have announced local experiments to [exclude illegally obtained evidence](#) at trial and [permit lawyers to attend criminal interrogations](#). With amendments to China's Criminal Procedure Law [currently under discussion](#), such experiments may be preludes to national-level reforms. The new SPP policy is further evidence of such movement, and could be a significant positive step toward addressing the torture problem if implemented.

An English-language Xinhua report on the new policy is available [here](#).

UN Committee Calls on Beijing to End Forced Labor and Allow Independent Trade Unions

The United Nations Committee on Economic, Social, and Cultural Rights recommended that the Chinese government "abolish the use of forced labor as a corrective measure" and "allow workers to form independent trade unions outside of the structure of the All-China Federation of Trade Unions," according to the [China Labour Bulletin](#). The Committee's recommendations responded to the Chinese government's recent progress report on these issues. The Committee, which comprises 18 independent experts, also recommended that the Chinese government improve its implementation of Chinese labor laws to eliminate long work hours, insufficient breaks, and hazardous working conditions. During its deliberations, the Committee also asked whether or not the Chinese government intends to ratify more of the ILO's 18 Conventions. The National People's Congress has ratified two conventions on child labor and one on equal remuneration for women and men.

The U.N. Committee expressed concerns about the use of child labor in the PRC's dangerous industries, especially mining, and the poor working conditions of migrant workers. The Committee's list of suggestions and recommendations include: "(1) adoption of a National Human Rights Plan of Action; (2) allocation of adequate and increased resources; (3) legislative reforms, including amendments to the Trade Union Act to allow workers to form independent trade unions outside the structure of the official All-China Federation of Trade Unions; (4) the provision of detailed information on public consultation in the preparation of the country report; and (5) the removal of restrictions on freedom of information and expression."

Ministry of Information Industry: Web Sites That Fail to Register May Be Shut Down

In early May, local authorities in [Guangzhou](#) and [Shanghai](#) announced a requirement that all non-commercial Web sites in their jurisdictions must register. Xinhua reported on May 31 that the [Ministry of Information Industry](#) has asked local communication administrations throughout China to complete registration of non-commercial Web sites by June 30. According to the May 31 article, Web sites that fail to register promptly may be closed.

The Xinhua report did not explain the reasons behind this crackdown, saying only that certain Web sites, such as those containing feudalistic and superstitious content, are "poisoning people's spirits," and that "[i]mplementing regulation and supervision of the Internet has become a fundamental task in the healthy development of our country's Internet." The new registration requirement, however, is likely being imposed pursuant to the [Registration Administration Measures for Non-Commercial Internet Information Services](#) that the Ministry of Information Industry promulgated on February 8, 2005. These measures prohibit the operation of an unregistered non-commercial Internet information service in China.

The crackdown appears to be part of series of moves by Chinese authorities to tighten control over the Internet. Such steps include:

- [employing "online commentators"](#) in an effort to manipulate public opinion on Internet forums and bulletin boards.
- [issuing warnings to Internet content providers](#) that they must "strengthen their self-discipline," monitor the identities of those using their services, limit users to a number that will allow them to be controlled, and that they would be held responsible if they failed to filter postings regarding demonstrations, Falun Gong, and other "forbidden" information.
- [restricting access](#) to university Internet forums.
- [calling for increased filtering of foreign Web sites](#), citing concerns that "Western countries, headed by the United States, have occupied an advantageous position with respect to the spread of the Internet, and they dump on China massive amounts of information of all kinds, including their political models, value systems, and lifestyles, in order to oppose and edge out socialist values."
- [deploying improved monitoring systems](#) in Internet cafes.

Chinese Scholar: Abuse of Retrial Provisions a Leading Cause of Wrongful Convictions

Appeals courts reluctant to overturn criminal convictions often abuse a procedural provision that allows them to return cases for retrial, argues prominent Chinese criminal law scholar Chen Weidong in a Beijing News [interview](#). He concludes that the practice leads to wrongful convictions. Chinese media have focused attention on the retrial issue in the wake of controversy over the wrongful conviction of She Xianglin (see related stories [1](#), [2](#), [3](#)). In Mr. She's case, an appeals court returned the case for retrial multiple times citing "unclear facts" and "insufficient evidence." It finally let the conviction stand after prosecutors declared they could not find additional evidence and the trial court changed Mr. She's death sentence to 15 years' imprisonment. Similar cases also have come to light in recent months (see related story [here](#)).

Under Article 189 of the [PRC Criminal Procedure Law](#), appeals courts with doubts about a criminal case may cancel the conviction, alter the original judgment, or send the case back to trial courts for a retrial. According to Chen, the original intent of the CPL was that cases would be returned for retrial only in special circumstances, and courts are abusing the provision. He attributes the practice in part to the reluctance of appeals courts to overturn criminal convictions and allow cases to die in their hands. New judicial supervision systems that punish judges for "incorrect verdicts" also play a role, as appeals courts try to avoid conflicts with trial judges who would suffer professionally if their verdicts were overturned. In the retrials of Mr. She's case, the trial court even asked prosecutors to conduct a supplemental investigation, a move Chen concludes had no legal basis. Such practices virtually eliminate the possibility that an innocent defendant would be exonerated, and have led some Chinese experts to propose limits on retrials (see related story [here](#)).

New Regulations May Help Mongols Increase the Use of Their Own Language

New ["Regulations on the Inner Mongolia Autonomous Region's Mongolian Language Work"](#) that became effective on May 1 contain provisions to promote the use of the Mongol language. At a time when Chinese government policies limit

[the use of the Uighur language](#) in neighboring Xinjiang, the new Inner Mongolia regulations set specific guidelines for increasing the use of the Mongol language in government offices, courts, schools, and in the news media. For example, Article 13 stipulates that institutes of higher education should increase recruitment of Mongol-speaking students, as well as the number of classes using Mongolian as the language of instruction. Article 12 states that economic incentives should be offered to students receiving their primary and middle school instruction in Mongolian. Article 15 provides for the creation of Mongolian language technical training classes for peasants and herders.

If implemented, those guidelines that appear intended to reward the bilingual should favor Mongols, because many more Mongols speak and read Chinese well than Han Chinese speak or read Mongolian. The new regulations urge the Inner Mongolia People's Congress to provide bonuses to bilingual state workers. Any examination for hiring or promotions, whether in the government or the private sector, must be given in Mongolian to those who request it. Article 25 creates a preference for bilingual applicants when choosing between two otherwise similarly qualified candidates. The regulations require more and longer Mongol language news media broadcasts, as well as an increase in Mongol language reading materials for both inside and outside the classroom. Article 18 not only demands more Mongolian-language translators in government offices and state-owned enterprises, but also contains measures to raise their status and salaries. Government officials working in petitioning offices now are required to respond in the Mongol language to petitions they receive in Mongolian.

Full Analysis >> <http://www.cecc.gov/pages/virtualAcad/newsletterListing.phpd?NLdate=20050601&show=ALL#id12434>

Railway Bridge Completed at Lhasa; Tibetan Farmers Object to Compensation Amount

Chinese authorities announced on May 13 that construction of the railroad bridge across the "Lhasa River" at Lhasa is complete, according to a Xinhua [report](#). Tibetans know the river as the Kyichu. Many Tibetans speaking privately have expressed grave concern that the completion of the railroad could result in a transformation of the population mix.

Test operations of the rail link from Golmud, in Qinghai province, to Lhasa will begin in July 2006 and commercial service is scheduled for 2007. Premier Wen Jiabao visited Golmud on May 1 and hailed the railroad as "a hallmark project of the large-scale development of the western region," according to an [FBIS translation](#) of a May 2 Xinhua story. He praised "the builders fighting on the frontline of the Qinghai-Tibet Railway," and called for everyone to "unswervingly push forward the large-scale development of the western region."

In a related development, Radio Free Asia (RFA) [reported](#) on May 9 that some Tibetan farmers and herders along the route are appealing against the seizure of their land and the amount of compensation offered by authorities. An official in Toelung Dechen (Duilongdeqing) county, adjacent to Lhasa, told RFA, "There are a variety of situations. There are also some Tibetan farmers whose houses are not in good repair, or whose fields do not actually lie in the path of the rail track construction, but who want to move and are demanding compensation." A local resident complained to RFA that new homes for displaced farmers were incomplete. "Now when our land is taken for the construction of railways, we have nothing to live on. It is said that we will be compensated about 3,500 yuan [\$422] and given a 50,000 yuan [\$6,000] loan, but nothing is definite," she said.

Additional information about the railroad project is available in the [CECC 2004 Annual Report](#).

Chinese Authorities Sentence Journalist to 10 Years in Prison

Xinhua reported that on April 30 the Changsha Intermediate People's Court sentenced Shi Tao to 10 years imprisonment and two years deprivation of political rights for disclosing "[state secrets](#)." According to Xinhua, the state secrets in question consisted of information he learned at a meeting of the editorial board of the newspaper at which he worked.

Guo Guoting, Shi's attorney, [was not able to defend Shi](#) because Chinese authorities revoked Guo's law license on February 24, and then placed him under house arrest in mid-March. Shi was detained in November 2004 as part of a [Chinese government crackdown on writers, journalists, and intellectuals](#). According to Reporters Without Borders [Shi was officially arrested on January 28](#), for sending the online newspaper Minzhu Tongxun the abstract, or summary, of a document that Chinese authorities sent to his newspaper "warning journalists of the dangers of social destabilisation and risks linked to the return of certain dissidents on the occasion of the 15th anniversary of the Tiananmen Square massacre."

China's [state secrets laws](#), and [national security laws](#) in general, are [extremely broad and vague](#), and Chinese authorities often [use them to prosecute writers and journalists](#) for legitimately exercising their freedom of expression. The Chinese authorities' policies regarding state secrets [contributed to the 2003 SARS crisis](#).

Chinese Defense Lawyer Guo Guoting Arrives in Canada

Embattled Chinese defense lawyer Guo Guoting has arrived in Canada to participate in an international research conference, according to a Boxun [report](#). Guo, recognized for his legal representation of activists, has defended

journalists, Falun Gong practitioners, and other lawyers who have run afoul of Chinese authorities. On March 4, the Shanghai Justice Bureau upheld an earlier decision to suspend Guo's law license for one year after he was accused of "adopting positions and making statements contrary to the law and the Constitution" and "defiling and slandering" the Communist Party and government (see related story [here](#)). Shortly afterward, Shanghai police placed Guo under house arrest (see related story [here](#)). Boxun reports that Guo's house arrest was lifted at the end of March, shortly after one of his clients, journalist Shi Tao, was convicted of disclosing state secrets and sentenced (see related story [here](#)).

Three Chinese Districts Experiment With New Protections for Suspects During Interrogation

Public security offices in three Chinese districts have launched a pilot project that will allow criminal suspects to request the presence of an attorney for audio and videotaping during criminal interrogations, according to an [article](#) in the Legal Daily. Scholars from the Procedural Research Center at the Chinese University of Politics and Law in Beijing, which reportedly designed the project, chose Haidian district, Beijing; Baiyin district, Gansu; and Jiaozhu city, Henan as the three pilot districts. In at least one of the districts, organizers appear to have enlisted local law firms to assist.

Chinese legal scholars have long advocated such measures as a way to address the problem of torture, which is widespread in China. The issue has taken on increased prominence in recent months, as news of several wrongful convictions blamed in part on confessions coerced through torture has prompted domestic scrutiny of the criminal justice system and calls for protections against torture.

Communist Party and Government Officials Manipulate "Public Opinion" on the Internet

The publication Southern Weekend has reported that government agencies in several places in China have begun to employ "online commentators," apparently in an effort to manipulate public opinion on Internet forums and bulletin boards. According to a May 19 article entitled "Suqian: Practicing Guidance of Internet Public Opinion," Suqian, a city in Jiangsu province, has hired 26 "politically reliable" Communist Party propaganda officials and government spokespersons to "actively develop the guidance of public opinion at home, and work hard to establish Suqian's image abroad." Authorities have also established an "Online Commentary Supervision Office" and an "Internet News Management Office" pursuant to the recently promulgated "Opinion on Suqian Municipal Online Commentary Work Implementation," which is designed to "...implement day-to-day coordination of the ranks of online commentators..."

Southern Weekend also reports that these online commentators "guide public opinion in their capacity as ordinary Internet users," and quoted one such commentator as saying "More and more localities will begin to hire online commentators, and there are many who have already commenced operations, it is just that the outside world doesn't know."

The state-controlled press in China has long portrayed the Internet as an "ideological battlefield," and advocated that the government deploy personnel to "channel" and "guide" Internet public opinion in a manner beneficial to the Party and the government. In 2003, the [Liberation Army Daily](#) noted that, despite government efforts to block outside information, some was still getting through, and it was therefore necessary to create "ideological firewalls." More recently, editorials and opinion pieces making similar calls have appeared in Beijing's [People's Daily](#) and [Guangming Daily](#), Shanghai's [Liberation Daily](#) and [News Journalist](#) magazine, and the People's Liberation Army's [Military Journalist](#) magazine. This propaganda campaign concludes that:

- Its advantages notwithstanding, the Internet represents a threat to the Party's and government's monopoly on news publishing and propaganda dissemination.
- The government cannot block out all politically-sensitive information that the Party and the government find objectionable, no matter how desirable it would be to do so.
- When the government cannot block information that might affect public opinion in undesirable ways, public opinion must be channeled toward forums in which the government and Party can manipulate and control it.
- To achieve this end, the government and Party should train and deploy personnel to post opinions and information that will "guide" public opinion on the Internet in the desired direction.

Full Analysis >> <http://www.cecc.gov/pages/virtualAcad/newsletterListing.php?NLdate=20050601&show=ALL#id13485>

Hong Kong Appeals Court Overturns Convictions Stemming From 2002 Falun Gong Demonstration

The [Hong Kong Court of Final Appeal](#) (CFA), in a decision announced on May 5, [overturned the convictions](#) of eight Falun Gong practitioners for willful obstruction of police and assault. Hong Kong police arrested the practitioners in 2002 for obstructing a public thoroughfare in the course of a peaceful protest outside the Liaison Office of the Central People's Government. Several demonstrators resisted police efforts to arrest them for the obstruction. In 2002, a Hong Kong trial court convicted the demonstrators of obstructing a public place, willful obstruction of police, and (in the case of one demonstrator) assault. In 2003, a lower appeals court overturned the public obstruction convictions but upheld the willful obstruction and assault convictions. The CFA decision, which overturned these remaining convictions,

provides a stark contrast to recent official pronouncements on the mainland regarding the legality of various demonstrations that have taken place there in recent weeks (see related stories [1](#), [2](#), [3](#)).

In its decision, the CFA noted that public obstruction is only an offense if it takes place "without lawful authority or excuse." It stated that application of the law on public obstruction must "strike a balance between the possibly conflicting interests of different users of the highway based on a requirement of reasonableness" and found that fundamental, constitutionally protected rights enshrined in the [Hong Kong Basic Law](#), such as the rights to assembly and expression, must be given "substantial weight" in assessing reasonableness. As such, it endorsed the lower appeals court decision to overturn the public obstruction convictions and its holding that the trial magistrate "had failed to conduct the necessary evaluation of the reasonableness of the obstruction in deciding that the demonstrators had acted without lawful excuse; or, if he did make such an evaluation, no reasonable tribunal properly directing itself could have arrived at the conclusion reached by him." It then took the added step of concluding that because the underlying public obstruction arrest (which resulted in the resistance by the demonstrators) was unlawful, the convictions for willful obstruction of police and assault resulting from this initial, unlawful arrest should also be overturned. The full CFA decision and a summary of the judgment are available [here](#).

A May 7 South China Morning Post article indicates that Hong Kong police insiders welcomed the ruling because "they felt the ruling had cleared previously grey areas and would make it easier for them to decide whether a protest had caused an unreasonable obstruction to the public" and "hoped that with more clear-cut guidelines on what kind of protests should be stopped, the police would not be accused of acting under orders from Beijing in stopping events that mainland authorities may not like." Mainland news media, however, expressed displeasure with the CFA's decision. A China Daily [editorial](#) decried the ruling, finding it "regrettable that CFA has deviated from the principle that all are equal before the law and has failed to strike a fair and reasonable balance between the public interest and the demonstrators' rights." The editorial suggests discomfort with the conclusion that the application of public obstruction laws must be reasonable, and that fundamental constitutional rights must be given substantial weight in considering reasonableness.

Full Analysis >> <http://www.cecc.gov/pages/virtualAcad/newsletterListing.php?NLdate=20050601&show=ALL#id12429>

New Official Restrictions on NGO Research Organizations Announced

The Beijing Bureau of Industry and Commerce (BIC) has instructed several non-governmental social science organizations that currently are registered as for-profit companies to re-register with the Ministry of Civil Affairs (MOCA), according to a [report](#) in the Asia Times. Local BIC branches have posted [official notices](#) on their Web sites confirming the cancellation of registrations for a number of research groups.

Many Chinese NGOs register as companies to avoid having to comply with burdensome regulations that govern registration of civil society organizations in China. The BIC move will make it more difficult for certain types of NGOs to operate outside of government controls on civil society groups.

Other reports suggest that government actions against research institutes may be part of a broader campaign to limit Chinese civil society. In May 2005, the Chinese government [created a national federation of Chinese environmental NGOs](#) that may be an effort to restrict a vocal set of critics who have challenged central government development plans. In March, authorities [ordered](#) a prominent NGO that has openly criticized the Chinese government's AIDS policy to change its name or have its registration cancelled.

Delegation of Chinese Protestants Attends International Mission Conference

For the first time, a Chinese delegation attended a World Council of Churches [Conference on World Mission and Evangelism](#). Speaking in Athens on May 11, Rev. Cao Shengjie, General Secretary of the China Christian Council (the state-approved Protestant church), addressed the theme of "Common Witness in China." According to [Ekklesia](#), a British news service, Rev. Cao said that Christianity is often seen as a "foreign" religion in China, and that the challenge for Chinese believers is to discover a distinctly Chinese perspective on mission and evangelism. She also said that the next phase of the development of the Protestant church will be marked by the extension of grassroots education, social witness, personal evangelism, and the renewal of theological thinking. Responding to questions about the Chinese government's regulation of religion, she said that religious freedom requires a legal framework to guarantee security and stability.

Rev. Cao's comments reflect certain aspects of the Chinese government's policy on religion: its effort to reshape Chinese Protestantism and Protestant theology so that it conforms to state policy and priorities, and its willingness to support some work by the churches in providing social services and education.

Workers Daily States New Incentives Needed To Retain Local Workers in Xinjiang

More than 200,000 of Xinjiang's most well-educated citizens have moved out of the autonomous region since 1979, according to a May 1 article in the [Workers Daily](#). Post-secondary schools outside Xinjiang admit more than 10,000

Xinjiang students each year, and fewer than half return to the autonomous region after graduation. The article says Xinjiang has 493,000 technically trained workers, just over half of whom are minorities.

The Xinjiang government once required all government employees wishing to transfer to the interior to purchase a "Xinjiang Exit Permit." This system was abolished in 2003. The Workers Daily article argues the Xinjiang government needs to increase incentives for workers to remain in the region rather than recruit workers from outside. The government has been [offering bonuses to Han Chinese willing to work in the Uighur Autonomous Region](#) since 1949, though the push to bring more Han into the area has increased greatly since the government launched the "Go West" campaign in 2000. The government emphasizes that Han Chinese are needed first to [assure the security of the region](#) and then to promote economic development and cultural exchanges. Many [Uighurs and outside analysts report](#) that ethnic Han Chinese are favored in hiring practices throughout Xinjiang, although the Regional Ethnic Autonomy Law explicitly forbids such discrimination.

Government and Communist Party Move to Increase Regulation of Reporters and Editors

In the first four months of 2005, the Chinese government has promulgated several laws to regulate news reporters and editors. While ostensibly intended to curb what the state-controlled news media portrays as rampant corruption and fraud in Chinese journalism, these new rules and regulations also dictate who may engage in journalism, what their political orientation must be, and when they must submit to Party and government censorship:

- On February 16, Xinhua reported that the [General Administration of Press and Publication](#) (GAPP) had [promulgated two new regulations](#): the "Measures for the Administration of Journalist Accreditation Cards," (Measures) and the "Measures for the Administration of News Bureaus." According to Xinhua, the Measures restrict "legal" news gathering and editorial activities to those holding a government-issued Journalist Accreditation Card.
- On March 22, Xinhua reported that the Communist Party's [Central Propaganda Department](#), the GAPP, and the [State Administration for Radio, Film, and Television](#) had [jointly issued a set of regulations](#) entitled "Interim Rules Regarding the Administration of Those Engaged in News Reporting and Editing." According to Xinhua, these rules require that news reporting and editing personnel must, among other things, support the leadership of the Party, focus on "correct propaganda" as their guiding principle, and have a firm grasp of "correct guidance of public opinion."
- On April 1, SARFT issued its ["Interim Implementation Rules for Administration of Those Employed as Radio and Television News Reporters and Editors."](#) These rules state: "With respect to reports on breaking events relating to minorities and minority areas, it is necessary to have a cautious grasp, and ask for instructions from the relevant government agency in a timely manner."

On April 23, the People's Daily [reported](#) how editors and managers from several primary central government and Party publications - including the People's Daily, Xinhua, the Guangming Daily, and the Economic Daily - were working to implement the Rules. It now appears that provincial level authorities are moving to carry out the requirements set forth in the Measures, and on May 9 the Gansu Daily [published](#) a summary of a meeting that authorities from Gansu's Propaganda Department, Press and Publication Administration, and Administration for Radio, Film, and Television convened together with editors from several of Gansu's primary news media organizations.

Full Analysis >> <http://www.cecc.gov/pages/virtualAcad/newsletterListing.php?NLdate=20050601&show=ALL#id12505>

Migrants Elected to Shenzhen People's Congress, Suggests Heightened Attention to Migrant Rights

Eight Shenzhen residents who hold temporary residence permits have been elected to the municipal local people's congress (LPC), according to a May 2 Beijing News [article](#). LPCs are legislative bodies with membership chosen through elections commonly subject to Party interference. Although LPC power is limited, the addition of migrant representatives to these bodies does represent an improvement in the field of migrant rights.

In China, an individual's hukou (residence permit) identification is linked to voting rights and the ability to stand for election. This linkage has limited the representation of migrants in China's urban legislative bodies, even when the migrants are established and hold temporary residence permits. Shenzhen appears to be one of a few localities experimenting with progressive changes aimed at addressing this problem.

Work Safety Administration Finds Negligence and Faulty Equipment Caused Deadly Mine Disaster

A Chinese government investigation into the Sunjiawan mine disaster determined that careless maintenance and leaking gas caused the explosion, according to the [Wall Street Journal](#). 214 miners died in the blast. The Deputy Director of the State Administration for Work Safety said that workers had failed to turn off the power during cable maintenance, in violation of safety rules. In addition, gas monitoring equipment was not working properly.

The report apparently does not address a claim published in [The Guardian](#) that the miners were ordered to keep

working even though they complained of residual fires and difficulty in breathing. One surviving miner told journalist Jonathan Watts that "We came up, but the bosses told us to go back. We all needed the money and there is a penalty of 100 yuan (\$12) for refusing to go down." Watts' report confirms what has become a common expression in China: "Life is cheap, coal is expensive."

State Council Issues Updated White Paper on Intellectual Property Rights

In April, the State Council issued an updated White Paper on intellectual property (IP) protection. The document, entitled "New Progress on China's Protection of Intellectual Property" (read it [in English](#) and [in Chinese](#)) is the latest official statement on this issue and covers the period since 1995 when the last White Paper was issued. The State Council has compiled statistics on IP protection in China that seek to support the claim that protection of IP is a high priority for the Chinese government. The Chinese government's legislative and enforcement activities occur in the context of domestic rates of infringement exceeding 90 percent for many products, as documented by the investigations of a number of [trade associations \(see page 4 for copyright industries\)](#). The White Paper frames IP infringement as a global problem about which China is concerned, while acknowledging at the end of the discussion that infringement is serious in some areas.

Additional background on the White Paper is available [here](#) and [here](#) (both in Chinese).

Media Summary: Chinese Authorities Seized Over 300,000 "Illegal Political Publications" in 2004

In January 2005, Xinhua reported that government officials [seized over 200,000,000 "illegal publications" in 2004](#), and a CECC review of official reports shows that authorities seized hundreds of thousands of these publications solely because of their political content. This censorship appears to be in addition to the General Administration of Press and Publication's banning of 170 publications with "problematic topic selections" in 2004 that [the People's Daily reported in February 2005](#). Instead, the Chinese agency responsible for this political censorship is called the [National Sweep Away Pornography and Strike Down Illegal Publications Task Force](#) (sometimes translated as the "Office for Eliminating Pornography and Illegal Publications," or the "Office of National Anti-Piracy and Pornography Working Committee"). The Task Force comprises 17 Communist Party and government agencies, including the [General Administration of Press and Publication](#) and the [Central Propaganda Department](#).

A review of Task Force and state controlled media reports indicates that the following cities and provinces have reported confiscating thousands of "illegal political publications":

Fuzhou: 2,000
Hubei: 7,632
Sichuan: 8,500
Anhui: 30,000
Xi'an: 260,000

The Task Force's focus in 2005, these reports also say, will be "stopping, investigating, and confiscating illegal political publications," and that Task Force members should use "legal weapons" as part of the campaign. The reports also provide insight into the policy objectives motivating the Party and the government to deploy tens of thousands of law enforcement personnel to censor political works:

Throughout the history of the process of building socialism with Chinese characteristics, international and domestic hostile forces have incessantly used publications to carry out political and cultural infiltration of our country, attempting to create ideological chaos, disrupting our country's political quietude and social stability, and thereby achieve their political scheme of westernization and division. Therefore, "Sweeping Away Pornography" and "Striking Down Illegal Publications" is first of all an anti-infiltration and anti-subversion political struggle.

Full Analysis >> <http://www.cecc.gov/pages/virtualAcad/newsletterListing.phpd?NLdate=20050601&show=ALL#id13227>

Asia News: Unregistered Catholic Priests Released in Hebei Province, but Bishop Detained

On April 28, public security bureaus in several Hebei province locations released seven unregistered Catholic priests who had been detained the previous day, reports [AsiaNews](#). Security officers detained the priests while they were [attending a religious retreat with Bishop Jia Zhiguo](#). Local sources said that public security officials detained the priests because the retreat was held outside their home county.

AsiaNews also reports that Yao Liang, auxiliary bishop of Xiwanzi in Hebei province, was detained on March 30, released about April 20, and subsequently detained again. According to the news account, Chinese security authorities are subjecting Bishop Yao to a program of "re-education" to force him to register with the Catholic Patriotic Association, the government-approved Catholic organization.

Official Says Unauthorized Publications Represent a Threat to China's Publishing Market

Illegal periodicals constitute a "threat," according to Liu Binjie, deputy director of the [General Administration of Press and Publication](#), and "they violate rules and regulations on press and publications, they contravene national laws, and the activities they engage in are all-in-all illegal publishing activities." Liu made the remarks in an [interview](#) in which a reporter asked why [the GAPP recently banned 60 newspapers and magazines](#).

Full Analysis >> <http://www.cecc.gov/pages/virtualAcad/newsletterListing.phpd?NLdate=20050601&show=ALL#id12516>

Zhejiang Province Allows Farmers Cooperatives to Register, Obtain Legal Status

Zhejiang authorities have registered China's first group of rural professional farmers cooperatives, according to a May 10 Beijing news [report](#). Rural cooperatives are associations of farmers that organize to protect their economic interests.

Zhejiang's provincial government passed the first regulations on rural cooperatives in 2004, as noted in a previous CECC [analysis](#). These regulations appear to be somewhat more liberal than corresponding national rules. The Zhejiang regulations require cooperatives to register with the local Bureau of Industry and Commerce, but do not include the requirement for a "sponsor organization" present in most other Chinese civil society regulations.

Tight restrictions on independent civil society organizations in China make it harder for farmers and other groups to organize and protect their interests. The Zhejiang government's move suggests that some local officials are attempting to support local farmers' efforts to form autonomous organizations.

Editorial Challenging Dalian Anti-Begging Regulation Raises Broader Questions About China's Legal System

Local regulations must conform to the Constitution and national law, concludes a [commentary](#) in the Hong Kong edition of the China Daily. The commentary takes aim at a new Dalian city regulation that [prohibits begging](#) in many parts of the city, citing objections on both policy and legal grounds. First, it argues that "people cannot help but ask whether it is discriminating to limit the personal freedom of a group just because of their unique way of living, despite the fact that they don't harm anyone." The commentary also challenges the legal legitimacy of the regulation, noting that under Chinese law (the [PRC Legislation Law](#)) "only the National People's Congress and its standing committee can make laws depriving or limiting citizens' rights or personal freedoms." A subsequent [commentary](#) on a similar regulation in Shaoxing, Zhejiang province goes further, concluding that "This is a dangerous pattern that has to be broken . . . because, as we have said, in the first place, such restrictions are against our Constitution. Since the Constitution promises all citizens freedom to act, no legislation, national or local, should set limits to this."

The commentaries touch on several broader issues facing China's legal system. In 2003, China abolished a form of administrative detention called "custody and repatriation" that police often used to detain and forcibly return beggars and migrants to their place of registered residence. Since then, many Chinese cities have witnessed an explosion of beggars, a trend that has sparked debates about how to balance the rights of beggars against those of city residents. The commentaries could be interpreted as an official statement that local governments should give weight to individual rights when they draft law and order regulations. They would also seem to have broader implications. If it is improper to "limit the personal freedom of a group [beggars] just because of their unique way of living, despite the fact that they don't harm anyone" a similar standard arguably should apply to unregistered religious practitioners or peaceful demonstrators. Some might also draw parallels to the [recent Hong Kong Court of Appeal decision](#) holding courts must give fundamental rights significant weight in assessing the reasonableness of police implementation of public obstruction laws.

The commentaries also raise issues about the efficiency of constitutional and legislative review in China. The commentary on Dalian notes that "there has not been an effective examination of such local regulations" and that "the only way to challenge such a local regulation is to have citizens or institutions apply to the NPC Standing Committee (NPCSC)." While it merely suggests that a citizen should raise the issue with the NPCSC and does not call for a different review mechanism, in the context of an ongoing discussion over the need for more robust constitutional review mechanisms in China, the commentary could lead some to question why provincial courts could not review such legislative conflicts more efficiently.

A recent [article](#) on a Ministry of Justice Web site indicated that Beijing would not establish anti-begging zones.

Chinese Data: Fewer Than One Percent of Witnesses Appear in Court

Fewer than one percent of Chinese witnesses who give depositions before trial subsequently appear in court to testify, according to survey data cited by the Chinese journal Democracy and Law (Issue No. 4, 2005). The article notes that the failure of witnesses to appear at trial is one of the major problems facing the legal system, and that the problem is becoming more serious. It is a particular concern in criminal trials, in which the court may have only a written

deposition to review. In such situations, defendants lose the benefit of their nominal right of cross-examination (click [here](#) for a related story).

According to the article, reasons for the low rate of witness attendance include fear of disrupting local relationships; fear that parties in civil suits, criminal defendants (if witnesses testify for the prosecution) or law enforcement personnel (if they testify for the defense) will seek retribution for adverse testimony; the lack of relevant legal rules to sanction witnesses who fail to appear; and the lack of systems to protect witnesses from external intimidation. The article discusses in detail how police and prosecutors often intimidate, threaten, detain, and in some cases may even torture, witnesses for the defense or witnesses who change their testimony at trial to the detriment of law enforcement.

The authors review a number of suggestions that Chinese scholars have made to address the problem. These include legal sanction for failure to appear; specific legal rules on when witnesses may be excused from appearing (such as when the opposing lawyer has no objections, or an attorney-client or spousal privilege is involved); hearsay rules that would exclude depositions from being used as evidence if witnesses do not appear; and new provisions to protect witnesses from threats and intimidation.

Chinese Orthodox Celebrate First Easter Service Since 1957

The Chinese community of Orthodox Christians conducted their first public Easter prayer service since 1957 in a Beijing Catholic Cathedral on May 2, report [RIA Novosti](#) and ITAR TASS. Beijing religious authorities granted permission for the prayer service (Easter matins, not the divine liturgy), which was conducted by laymen, since no Chinese Orthodox priests remain in Beijing and Chinese law forbids foreign priests from conducting religious services for Chinese citizens. The Catholic cathedral was the venue because the Chinese government has not permitted Orthodox churches in Beijing to reopen or a new church to be built.

Most observers think that the prospects for Orthodoxy in China are improving. Although the central Chinese government refuses to recognize Orthodox Christianity as one of China's five "official" religions, local governments have registered four Orthodox parishes in recent years (one each in Heilongjiang and Inner Mongolia and two in Xinjiang). About 15 Chinese Orthodox students are studying in Russian seminaries. They are said to have received some official assurances that they will be permitted to minister to Chinese Orthodox upon return to China. Estimates of the number of Chinese Orthodox run as high as 15,000 nationwide, and most are of Russian or mixed Russian descent.

Government-Run News Media Warn That BBS Operators Will Be Prosecuted for Illegal Content

The Southern Metropolitan Daily reports that on the eve of the May 1 International Labor Day holiday, Guangdong province's Communication Administration Office, Government News Department, and Public Security Office jointly issued a "Notice Regarding Stepping Up Strengthening of Regulation of the Dissemination of Harmful Information on the Internet." According to the report, the Notice confirmed the principle that "business operators shall be held responsible," and must strengthen their self-discipline.

The report cited a Communication Administration Office official as saying that a recurring problem has been some Internet forum moderators existing "in name only," and this situation has led to some forums not filtering out the "nine forbidden" types of postings, in particular those inciting demonstrations, and those containing pornographic, fraudulent, and Falun Gong related information. According to the report, the Notice also requires Internet content providers to monitor strictly the identities of those using their services, and limit users to a number that will allow them to be controlled.

Chinese Police Attempt to Arrest Son of Uighur Activist Rebiya Kadeer

Chinese authorities have begun what [Human Rights Watch](#) reports may be a politically motivated attack on the family and friends of Rebiya Kadeer, the recently released Uighur political prisoner now living in Washington, DC. Chinese authorities warned Kadeer before her release in March that her businesses and children would suffer the consequences if she revealed "sensitive" information overseas about the Muslim Uighurs. [Chinese government control over the Uighurs](#) has become increasingly repressive over the last decade, and Kadeer has pledged to bring the plight of "my children, the entire Uighur people" to the attention of the international community.

Eyewitnesses on May 11 saw police drag away two employees of the Kadeer Trade Center, Kadeer's multi-million dollar trading company, which is run by her son Ablikim Abdiriyim in Urumqi, Xinjiang's capital. More than 100 security personnel surrounded the Center the next day, confiscating "every piece of paper they could get their hands on," and searching for Kadeer's son, according to a witness. Witnesses report that Abdiriyim escaped into a crowd that blocked the police chasing him. Police beat Ahmatchan Mamteli, a friend, confiscating a videotape he had made of the raid.

The raid may be related to a loan the Bank of China recently made to the Kadeer Trading Company, according to the HRW report. Kadeer's family insists that it received the loan in full compliance with all relevant laws and regulations.

Government to Encourage Foreign Investment in Environmental Protection

Pan Yue, Deputy Director of the State Environmental Protection Administration, recently announced that the Chinese government will introduce mechanisms to attract foreign investment in environmental protection, according to a Xinhua [report](#). The announcement comes after the China Council for International Cooperation on Environment and Development (CCICED) [proposed plans](#) to increase the use of economic measures to promote environmental protection. The government officially encourages investment in environmental industries in the [Catalogue Guiding Foreign Investment](#).

The effort to encourage additional foreign investment in technologies to protect the environment may be a response to announcements that environmental protection investment targets for 2001-2005 will not be met, as [reported](#) in Xinhua in late March. While the focus on increased investment in environmental protection projects is positive, the absence of legislation to protect the projects and ensure proper implementation at the local level may prevent project goals from being realized, as the author of a China Daily [article](#) comments.

Multinationals' IP Rights Potentially Challenged by New Competition Law

The Ministry of Commerce (MOFCOM) official who heads the new Anti-Monopoly Investigations Office accused foreign multinational companies (MNCs) of intellectual property (IP) abuse. Shang Ming, who also directs MOFCOM's [Department of Treaty and Law](#), acknowledged that the National People's Congress (NPC) has [not yet enacted an anti-monopoly law](#). Shang accused MNCs, nonetheless, of [injuring the development of China's enterprises by limiting competition in China's domestic market](#). No current law proscribes IP abuse.

The latest draft of the Anti-Monopoly Law, which MOFCOM has sent to the State Council for review and submission to the NPC, has a provision proscribing IP abuse and permitting enforcement action against IP abusers. This provision does not define what behavior constitutes IP abuse, making Shang's statements particularly relevant and troubling. WTO members may proscribe IP abuse, but the [provision](#) in the WTO Agreement on Trade Related Aspects of Intellectual Property (TRIPs) that permits such proscription only provides an illustrative list of specifically impermissible activities.

Full Analysis >> <http://www.cecc.gov/pages/virtualAcad/newsletterListing.phpd?NLdate=20050601&show=ALL#id13780>

New State-Run Federation May Limit Environmental NGO Independence

Chinese authorities have established the All China Environment Federation (ACEF), a state-run alliance of environmental NGOs, according to an April 24 Xinhua [article](#). The ACEF's leadership is primarily current and former government officials; vice-directors include the current head of the State Environmental Protection Agency (SEPA), former directors and deputy directors of ministries such as Construction, Forestry, and Agriculture, and other officials with responsibilities touching on environmental issues.

The ACEF is designed in theory to ensure better cooperation between ministries in the environmental field, according to an April 25 [commentary](#) appearing in the 21st Century Business Herald. Officials also suggest that the ACEF will offer a more regularized channel for Chinese NGOs to provide input into the decisionmaking process. The presence of Politburo member Zeng Peiyan at the opening ceremonies appears to signal that top level leaders are behind the formation of the ACEF.

The creation of the ACEF, however, actually may be an effort by central authorities to restrain China's vocal environmental NGOs and curb the activities of an increasingly independent SEPA. Compelling NGOs and SEPA to operate within a larger, state-controlled organization may limit their ability to challenge central government environmental or development policies. Activist NGOs have recently [mobilized public support](#) to oppose major Chinese dam projects. (For more information, see the [Commission Roundtable on Environmental NGOs in China](#)). Recently, SEPA has also challenged Chinese development authorities. In January 2005, SEPA [blocked](#) 30 major development projects for failure to comply with environmental laws. In April, SEPA also held a [public hearing](#) on a Summer Palace restoration project in Beijing that had attracted significant public criticism.

Full Analysis >> <http://www.cecc.gov/pages/virtualAcad/newsletterListing.phpd?NLdate=20050601&show=ALL#id11757>

Procuratorial Daily Commentator Argues That 100 Percent Conviction Rates Should Not Be a Measure of Law Enforcement Effectiveness

A commentator in the Procuratorial Daily [criticized](#) the notion that 100 percent criminal conviction rates demonstrate the high quality of law enforcement in China. The commentator carefully discusses recent official praise for basic level procuratorates that have 100 percent conviction rates, citing four reasons why conviction rates should not be a measure of the quality of law enforcement.

- First, the evidentiary standard for bringing an indictment differs from the standard for securing a

conviction. A prosecutor may have enough evidence to bring a charge, but the evidence might not hold up under cross-examination and court evaluation. "Not guilty" verdicts signal progress in the rule of law, the commentator writes, but should not discourage prosecutors from bringing indictments.

- Second, new evidence can always arise that undermines a "guilty" or "not guilty" verdict.
- Third, when prosecutors obtain a guilty verdict only on the least serious of several charges, the guilty verdict may not be a sign of quality law enforcement work.
- Finally, when conviction rates are used to evaluate the effectiveness of law enforcement, police and prosecutors may be tempted to influence judges before trial or to cover up mistakes.

The commentator concludes by offering the view that criminal cases involve complicated facts and issues and many opportunities for error, and that it is unrealistic to expect perfection.

According to Chinese statistics, courts convicted more than 99 percent of criminal defendants in first-instance criminal trials in 2004. Appeals courts overturn very few convictions (see related story [here](#)). In recent months, Chinese news media have focused heavily on reports of several wrongful convictions and the roots of unjust verdicts. Domestic commentators place part of the blame for such problems on pressure on law enforcement to produce convictions. The Procuratorial Daily commentary appears to be an attempt to change the attitude that guilty verdicts are the only standard for measuring law enforcement success.

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