

# *China Human Rights and Rule of Law Update*

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## United States Congressional-Executive Commission on China

Senator Byron L. Dorgan, Chairman | Representative Sander M. Levin, Cochairman

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### Announcement

#### **[CECC Hearing: "China, the Internet, and Google," Wednesday, February 10, 2010, 2:30 p.m. to 4 p.m., 628 Dirksen Senate Office Building](#)**

Recent events, including the reported cyber attack on Google and on advocates for human rights, have highlighted the importance of China's Internet policy to a number of issues including, but not limited to, censorship, free expression and intellectual property protection. This hearing will examine the impact of China's Internet policies on the development of human rights and on the development of commercial rule of law in China. Witnesses include: Nicole Wong, Esq., Vice President and Deputy General Counsel, Google Inc.; Rebecca MacKinnon, Visiting Fellow, Center for Information Technology Policy, Princeton University; Alan Paller, Director of Research, SANS Institute; and Edward Black, President and CEO, Computer & Communications Industry Association.

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### CECC Updates

#### **[Chinese Official Calls Chinese Internet "Open" in Response to Google Issue](#)**

Google announced in mid-January 2010 that it would no longer censor its Chinese search engine. In response, the Chinese government said that Google must comply with Chinese laws and that the Internet in China is "open." Chinese censorship of the Internet, which prevents its citizens from accessing political and religious information that the Chinese government and Communist Party deem too sensitive for public consumption, violates international standards for free expression. The Google case also has raised the question whether Internet censorship in China constitutes trade protectionism.

[Click here for the full analysis. This link will open in a new Web page.](#)

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### **Chinese Courts Use "Secrets" Law To Sentence Tibetan Online Authors to Imprisonment**

Following the wave of mostly peaceful Tibetan protests that began in March 2008 in the Tibetan autonomous areas of China, Chinese authorities have taken measures to prevent Tibetans from providing information to other Tibetans about the protests, the suppression of the protests by security forces, and the government's continuing crackdown in Tibetan areas. Security and judicial officials sometimes use vaguely worded laws on "state secrets" to punish attempts to share such information. In what appear to be separate cases, a court in Gansu province sentenced two Tibetan men on November 12, 2009, to prison terms of 15 and 5 years for allegedly violating laws prohibiting the disclosure of "state secrets." According to non-governmental organization reports and an Internet blogger based in Beijing, the cases involved using the Internet to post Tibetan-language content about the reported deaths and imprisonment of Tibetan protesters. Commission staff have not observed any Chinese government or state-run media reports on either case.

[Click here for the full analysis. This link will open in a new Web page.](#)

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### **Liu Xiaobo Appeals Sentence; Official Abuses Mar Case From Outset**

Prominent intellectual Liu Xiaobo submitted an appeal of his 11-year sentence to the Beijing High People's Court on December 29, 2009. The court will have until mid-February to make its decision, although a ruling could come at any time. As detailed below, Liu was sentenced on Christmas Day 2009 for his peaceful use of the Internet to advocate for political reforms and human rights. Liu argued in his appeal that he was exercising his constitutional right to free speech and that the court should have credited his more than six months under "residential surveillance" toward his time served.

[Click here for the full analysis. This link will open in a new Web page.](#)

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### **Trials Continue in Xinjiang, Press Reportedly Warned Against Independent Reporting**

A court in the far western region of Xinjiang handed down the death penalty to 10 people—5 with a two-year reprieve—and sentenced 12 others to prison terms in late December after finding them guilty of committing crimes during unrest in Xinjiang in July. The court reportedly gave one-day notice of some of the trials, in violation of Chinese law, and warned journalists who attended the trials not to report extensively on the event. The same court tried 13 more people in late January, sentencing 5 to death—1 with a two-year reprieve—and others to prison terms. The late December and January trials follow trials in October and early December also connected to events in July, and the sentences from those trials since have been upheld. The trials have been marked by violations of international standards for due process including judges selected for "political reliability" and curbs on independent legal defense.

[Click here for the full statement. This link will open in a new Web page.](#)

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### **Shenzhen Authorities Issue Circular Outlining Punishments for "Abnormal Petitioning"**

China's petitioning system (*xinfang*—"letters and visits") permits citizens to seek redress for grievances by submitting petitions directly to Party and government authorities. In November 2009, local government entities in Shenzhen reportedly issued a circular that identified 14 types of prohibited "abnormal petitioning" behavior and corresponding punishments. Some observers have alleged that Shenzhen officials overstepped their authority by including specific provisions in the circular that are broader in scope than those found in relevant national regulations, and that may impose unlawful restrictions on citizens' rights to freedom of person. According to Chinese law, administrative penalties that restrict freedom of person may be established only through legislation passed by the National People's Congress or the National People's Congress Standing Committee

[Click here for the full analysis. This link will open in a new Web page.](#)

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### **Jiangsu Court Affirms 10-Year Sentence of Guo Quan for Organizing Political Party Online**

In December 2009, the Jiangsu Provincial High People's Court affirmed a lower court's 10-year sentence of former professor and past member of the state-approved China Democratic League, Guo Quan, after he attempted to organize the "China New Democracy Party" and used the Internet to seek members and disseminate his political views. The appellate court did not open its proceedings to the public and waited beyond the 45-day limit provided under Chinese law before handing down its decision. Chinese citizens who attempt to form independent political parties and use the Internet to organize and peacefully express their opposition to the Communist Party frequently are targeted for harassment, detention, and imprisonment by the Chinese government. In addition, abuses in the Chinese criminal justice system frequently deny criminal defendants—particularly in politically sensitive cases—a fair trial.

[Click here for the full analysis. This link will open in a new Web page.](#)

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## **All-China Women's Federation Proposes, Highlights Need for Draft Anti-Domestic Violence Legislation**

The All-China Women's Federation announced in November 2009 a proposal for national anti-domestic violence legislation and called for the draft legislation to be included on the National People's Congress legislative agenda. China currently does not have specific anti-domestic violence legislation in place at the national level, leaving the definition of domestic violence and the responsibilities of various government departments and social organizations in preventing and curbing domestic violence unclear. Treatment of domestic violence cases therefore varies by locality and government entity.

[Click here for the full analysis. This link will open in a new Web page.](#)

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## **Number of Trials for State Security Crimes in Xinjiang Increases in 2009**

The number of trials involving crimes of endangering state security increased in 2009 in the far western region of Xinjiang. Such crimes can carry harsh criminal sentences and have been used across China to punish peaceful activism and dissent. The figures from Xinjiang come from a year marked by unrest in the region, but none of the trials that took place in October and December 2009 that were connected to the suppressed demonstration and rioting in July has involved crimes of endangering state security. In recent months, Xinjiang authorities have reported taking steps to increase security in the region, targeting acts including those alleged to be state security crimes.

[Click here for the full analysis. This link will open in a new Web page.](#)

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## **Government Advances Civil Society-Related Reforms in Shenzhen**

The Ministry of Civil Affairs and the southern city of Shenzhen signed an agreement in July 2009 that provides for certain reforms to the local administration of civil affairs. Among other reforms, the agreement calls for the development of community-based social organizations and the establishment of a regulatory system for charities.

[Click here for the full analysis. This link will open in a new Web page.](#)

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## **Chinese Media Reports on Continued Demolition in Kashgar, Resettlement Numbers Vary**

Authorities in the far western region of Xinjiang have continued steps to demolish and "reconstruct" the Old City section of Kashgar and relocate residents, according to reports from Chinese media, while one article from overseas media reported that work on the project has stalled. Officials also launched a three-month project in October 2009 to survey cultural heritage in the Old City, almost a year after authorities first started the demolition project. The project has drawn opposition from Uyghur residents and other observers for requiring the resettlement of residents and for undermining heritage protection.

[Click here for the full analysis. This link will open in a new Web page.](#)

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## **Government Issues Procedures on Tax Deductions for Donations to NGOs**

Since 2007, the Chinese government has issued new procedures for NGOs seeking eligibility to receive tax-deductible donations. Existing regulations require NGOs to register with the government. The new procedures do not alter that requirement, but provide clearer guidance on how some types of NGOs registered with the government ("public welfare" foundations and social organizations) can become eligible to receive tax-deductible donations. At the same time, the number of NGOs meeting the eligibility requirements remains low, potentially limiting the impact of the new procedures.

[Click here for the full analysis. This link will open in a new Web page.](#)

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## **China Revises 2004 Auto Policy**

In 2009, the Chinese government issued two important documents concerning China's policy on development of the auto industry, one of which was a revision to the 2004 Automotive Industry Development Policy. The revised policy, which the Chinese government issued in August 2009, and which came into effect in September, is discussed below. China was required to revise the 2004 Policy in order to comply with the judgment against China at the WTO concerning import tariffs on auto parts. In March of 2009, the Chinese government issued a stimulus package for the auto industry called the Program for the Adjustment and Rejuvenation of the Auto Industry, which is discussed in the accompanying CECC analysis, "China Issues Auto Stimulus Program to Boost China's Auto Sector."

[Click here for the full analysis. This link will open in a new Web page.](#)

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## **China Issues Auto Stimulus Program to Boost the Auto Sector**

In 2009, the Chinese government issued two important documents concerning China's policy on development of the auto industry. The first, the Program for the Adjustment and Rejuvenation of the Auto Industry, was issued in March and is

discussed below. The second, issued in August and effective in September, was a revision to the 2004 Automotive Industry Development Policy, and is discussed in the accompanying CECC analysis, "China Revises 2004 Auto Policy."

[Click here for the full analysis. This link will open in a new Web page.](#)

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### **WTO Rules Against Chinese Trade Restrictions on Books, DVDs, Music, and Films**

A World Trade Organization (WTO) expert panel (Panel), in a report dated August 12, 2009, found that certain Chinese regulations that restrict foreign companies and Chinese-foreign joint ventures from importing or distributing products such as books, DVDs, and music, as well as from importing films for theatrical release, violate China's international trade obligations. The panel also found that certain Chinese regulations discriminate against publications imported into China to the benefit of publications produced in that country, which is contrary to China's WTO obligations. The United States, which originally lodged the complaint that led to the ruling, welcomed the decision, while China expressed dissatisfaction. Both the United States and China have appealed the ruling. The ruling did not challenge China's censorship of the content of the products in question or address China's compliance with international obligations to protect intellectual property rights.

[Click here for the full analysis. This link will open in a new Web page.](#)

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243 Ford House Office Building, 441 2nd St. SW, Washington DC 20515  
Phone: 202-226-3766 | Fax: 202-226-3804 | Web site: [www.cecc.gov](http://www.cecc.gov)