

## CHINA

The People's Republic of China (PRC), with a population of approximately 1.3 billion, is an authoritarian state in which the Chinese Communist Party (CCP) constitutionally is the paramount authority. Party members hold almost all top government, police, and military positions. Ultimate authority rests with the 25-member Political Bureau (Politburo) of the CCP and its nine-member Standing Committee. Hu Jintao holds the three most powerful positions as CCP general secretary, president, and chairman of the Central Military Commission. Civilian authorities generally maintained effective control of the security forces.

A negative trend in key areas of the country's human rights record continued, as the government took additional steps to rein in civil society, particularly organizations and individuals involved in rights advocacy and public interest issues, and increased attempts to limit freedom of speech and to control the press, the Internet, and Internet access. Efforts to silence political activists and public interest lawyers were stepped up, and increasingly the government resorted to extralegal measures including enforced disappearance, "soft detention," and strict house arrest, including house arrest of family members, to prevent the public voicing of independent opinions. Public interest law firms that took on sensitive cases also continued to face harassment, disbarment of legal staff, and closure.

Individuals and groups, especially those seen as politically sensitive by the government, continued to face tight restrictions on their freedom to assemble, practice religion, and travel. The government continued its severe cultural and religious repression of ethnic minorities in Xinjiang Uighur Autonomous Region (XUAR) and Tibetan areas. Abuses peaked around high-profile events, such as the awarding of the Nobel Peace Prize to democracy activist Liu Xiaobo and sensitive anniversaries.

As in previous years, citizens did not have the right to change their government. Principal human rights problems during the year included: extrajudicial killings, including executions without due process; enforced disappearance and incommunicado detention, including prolonged illegal detentions at unofficial holding facilities known as "black jails"; torture and coerced confessions of prisoners; detention and harassment of journalists, writers, dissidents, petitioners, and others who sought to peacefully exercise their rights under the law; a lack of due process in judicial proceedings, political control of courts and judges; closed trials; the use of administrative detention; restrictions on freedoms to assemble,

practice religion, and travel; failure to protect refugees and asylum-seekers; pressure on other countries to forcibly return citizens to China; intense scrutiny of, and restrictions on, nongovernmental organizations (NGOs); discrimination against women, minorities, and persons with disabilities; a coercive birth limitation policy, which in some cases resulted in forced abortion or forced sterilization; trafficking in persons; prohibitions on independent unions and a lack of protection for workers' right to strike; and the use of forced labor, including prison labor. Corruption remained endemic.

## **RESPECT FOR HUMAN RIGHTS**

### **Section 1    Respect for the Integrity of the Person, Including Freedom From:**

#### **a.    Arbitrary or Unlawful Deprivation of Life**

During the year security forces reportedly committed arbitrary or unlawful killings. No official statistics on deaths in custody were available. In April 2009 the Supreme People's Procuratorate (SPP) disclosed that at least 15 prisoners died "unnatural deaths" under unusual circumstances as of the 2009 disclosure. According to a Chinese press report, seven of the prisoners died of beatings, three were classified as suicides, two were described as accidents, and three remained under investigation.

On March 8, Zhou Lingguang, a Huazhou, Guangdong Province native died while in detention in Guangzhou. Zhou had been remanded to one year of reeducation through labor (RTL) in 2009 for gambling, but due to space limitations had been transferred to a Juvenile Detention Center. According to prison officials, Zhou's heart "abruptly stopped beating." Family members questioned the official explanation, and demanded an independent autopsy. When the family viewed Zhou's body, they reported his corpse was covered except for the head and that he was enclosed in a glass case. They were not permitted to take photographs. Prison officials refused the family's request to release surveillance footage.

On March 31, Yang Xiuan, an inmate serving a mandatory drug rehabilitation sentence died in a treatment center in Ziyang, Sichuan Province. A center official said he had died of natural causes, but his family doubted the official cause of death claiming that when they saw Yang's body his face was badly bruised.

On May 3, authorities notified Fu Changping's family that he died in an RTL facility in Jixi, Heilongjiang Province. Although facility officials claimed he died

"normally," Fu's family said his body was covered in cuts and bruises. Medical records from when Fu entered the camp weeks earlier noted Fu was in good health. Authorities threatened to withhold compensation for Fu's death if the family continued to suggest Fu was murdered.

On August 8, detainee Ren Aiguo was discovered dead in a detention center located in Heshun County, Jinzhong, Shanxi Province. An inspection team organized by local officials ruled the death a suicide. Ren's family challenged the ruling, claiming inspectors failed to properly investigate the death and ignored critical questions. The family questioned the lack of surveillance footage, although the room in the detention center where Ren was found was equipped with a video camera. The inspection team claimed the monitoring equipment in the facility had been out of service.

There were no known developments in the 2009 deaths in custody of Lin Guojiang, Li Qiaoming, Li Wenyan, all of whom died under suspicious or unexplained circumstances, or regarding the allegation that Tibetan monk, Phuntsok Rabten, was beaten to death by police.

In June Guangxi Litang Prison authorities reported the April 2009 death of He Zhi, a Falun Gong practitioner who was sentenced to eight years' imprisonment in 2005. Authorities at Guangxi Litang Prison, where many Falun Gong practitioners reportedly are imprisoned, stated the cause of death was "falling from bed," but He's brother claimed he found other injuries and bruises on He's body.

According to a media report, Yu Weiping, an inmate at Rushan Detention Center in Weihai, Shandong Province, died in November 2009. His family found small holes in his chest and bruises on his body. Authorities told the family the holes were scars left from pimples; however, an autopsy revealed that sharp objects pierced Yu's chest, rupturing his heart. The family reported the death to the Weihai Public Security Bureau and demanded an investigation. By year's end there was no reported response.

According to official media reports, 197 persons died and 1,700 were injured during the July 2009 rioting in Urumqi. In November 2009 eight ethnic Uighurs and one ethnic Han were executed without due process for crimes committed during the riots. At year's end 26 persons had been sentenced to death; nine others reportedly received suspended death sentences. Of these, three were reportedly ethnic Hans and the rest were Uighurs. In April a Uighur woman became the second woman sentenced to death for involvement in the violence. In December

Uighur journalist Memetjan Abdulla was sentenced to life in prison for transmitting information about the riots because he translated an article from a Chinese-language Web site and posted it on a Uighur-language Web site. *China Daily* reported that, according to the president of the XUAR Supreme People's Court, courts in the XUAR had tried 376 individuals in 2010 for "crimes against national security" and their involvement in the July 2009 violence.

Defendants in criminal proceedings were executed following convictions that sometimes lacked due process and adequate channels for appeal.

b. Disappearance

According to a January NGO report and media accounts, Guo Yongfeng, a Shenzhen democracy activist and organizer of the Citizens' Association for Government Oversight, disappeared in September 2009 after being called in to a police station for questioning. Friends of Guo claimed that he had been sentenced to 18 months' detention in an RTL camp; however, security officials would neither confirm nor deny this claim.

In February 2009 authorities detained rights lawyer Gao Zhisheng, who had represented Christians and Falun Gong practitioners. At year's end his whereabouts and legal status remained unknown. According to NGO and media reports, he was seen in his hometown in August 2009 under heavy police escort. Gao was seen briefly in Beijing in March and April, but subsequently disappeared again.

In an October 2009 report, the NGO Human Rights Watch documented the disappearances of hundreds of Uighur men and boys following the July 2009 protests in Urumqi.

On July 7, authorities released underground Catholic bishop Julius Jia Zhiguo of Zhengding, Hebei Province, who had been detained since March 2009.

The whereabouts of underground Catholic priests Zhang Li and Zhang Jianlin, from Zhangjiakou, Hebei Province, whom authorities detained in 2008, remained unknown.

At year's end the government had not provided a comprehensive, credible accounting of all those killed, missing, or detained in connection with the violent suppression of the 1989 Tiananmen demonstrations. In October the Duihua Foundation, an international human rights NGO, estimated that fewer than a dozen

continued to serve sentences for offenses committed during the demonstration, although other estimates were higher. Many activists who were involved in the demonstrations continued to suffer from official harassment.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits the physical abuse of detainees and forbids prison guards from extracting confessions by torture, insulting prisoners' dignity, and beating or encouraging others to beat prisoners. On July 1, new rules went into effect excluding evidence, including confessions, obtained under torture in certain categories of criminal cases. However, during the year there were reports that officials used electric shocks, beatings, shackles, and other forms of abuse.

In July the Ministry of Public Security (MPS) ordered local police officials to cease parading criminal suspects in public and called on local departments to enforce laws in a "rational, calm, and civilized manner." The new regulations were a response to the public outcry over "shame parades," in which individuals suspected of being prostitutes were shackled and paraded in public. According to press reports, in July, prior to the MPS order, police in Dongguan, Guangdong Province, forced arrested women in prostitution to parade in the streets barefoot and handcuffed and published their photos on the Internet.

On May 30, the Supreme People's Court, the SPP, the MPS, the Ministry of State Security, and the Ministry of Justice issued regulations regarding the use of evidence in criminal cases. In July the lawyer for Chongqing businessman Fan Qihang revealed evidence that Fan was tortured while in custody in June 2009 on corruption charges. Despite the new regulations that evidence obtained through torture could not be used as a basis for judgment in a criminal case, Fan was executed in September.

Henan activist Liu Shasha stated that on July 16 she was kidnapped outside People's University in Beijing. She identified those responsible as Beijing security officials and officials from Tongbai County, Henan Province, who hooded her and drove her to an unknown location outside Beijing. There, she said, her hands were bound and she was beaten. Liu's cell phone and bank card were taken, and she was dropped off in Ci County, outside Handan, Hebei Province. She returned to Beijing on July 18, and filed a police report regarding the incident.

On July 8, lawyers met with imprisoned activist Guo Feixiong (aka Yang Maodong) in Guangdong Province's Meizhou Prison. During the meeting, Guo presented the lawyers a copy of a document stating his reasons for seeking a review of the judgment, including that he was subjected to torture during the investigation of his case.

According to a July 7 NGO report, democracy activist Xu Wanping, who founded the China Action Party after the 1989 Tiananmen massacre and was serving a 12-year sentence for "inciting subversion of state power," was repeatedly subjected to solitary confinement in Yuzhou Prison, Jiangbei District, Chongqing. The longest period of such confinement reportedly lasted 11 months. Xu's mental and physical health have deteriorated, and he reportedly has not received adequate medical attention while incarcerated. Xu has been denied release on medical parole.

In March lawyer Gao Zhisheng revealed to journalists that he had been tortured during a period of illegal detention beginning in February 2009 (see section 1.b.).

According to an NGO report, Shen Pailan, a Shanghai-based activist and petitioner was tortured and beaten while in detention between March 24 and April 9. On March 24, Shen was kidnapped by employees of the Maqiao municipal government in Minhang District, Shanghai. While detained at a hotel, Shen was tortured and beaten. Shen was later transferred to Zhuanqiao Town Police Station and then to Minhang District Detention Center, where the police announced that she would be subjected to 15 days of administrative detention and fined RMB 500 (approximately \$75) for "assault."

According to a November 2009 Human Rights Watch report, in March 2009 An Weifeng was released for medical treatment from Bancheng Prison in Chengde, Henan Province, after being severely beaten and subjected to torture by police.

In November 2008 the UN Committee Against Torture (UN CAT) stated its deep concern about the routine and widespread use in the country of torture and mistreatment of suspects in police custody, especially to extract confessions or information used in criminal proceedings. UN CAT also acknowledged government efforts to address the practice of torture and related problems in the criminal justice system. Many acts of torture allegedly occurred in pretrial criminal detention centers or RTL centers. Sexual and physical abuse and extortion occurred in some detention centers.

There were widespread reports of activists and petitioners being committed to mental health facilities and involuntarily subjected to psychiatric treatment for political reasons. According to *China News Weekly*, the MPS directly administers 22 high-security psychiatric hospitals for the criminally insane (also known as anfang facilities). From 1998 to May 2010, more than 40,000 persons were committed to anfang hospitals. In May an MPS official stated in a media interview that detention in anfang facilities was not appropriate for patients who did not demonstrate criminal behavior. However, political activists, underground religious believers, persons who repeatedly petitioned the government, members of the banned Chinese Democracy Party (CDP), and Falun Gong adherents were among those housed with mentally ill patients in these institutions. Regulations governing security officials' ability to remand a person to an anfang facility were not clear, and detainees had no mechanism for objecting to claims of mental illness by security officials. Patients in these hospitals reportedly were medicated against their will and forcibly subjected to electric shock treatment.

According to a June 29 NGO report, Liao Meizhi was detained in February by individuals allegedly engaged by the Qianjiang Bureau of Health and the Laoxin Town Public Health Clinic while she was in petitioning with family members. She subsequently was committed to a psychiatric hospital. Liao had previously been detained in psychiatric institutions for petitioning. It was not known whether an independent doctor assessed her mental health.

On June 5, a Beijing Chaoyang District Court ruled that China Petroleum and Chemical Corporation (Sinopec) had not violated the rights of former employee Chen Miaocheng, who died after 13 years of detention in a psychiatric institution. Chen, was involuntarily hospitalized in 1995 for "paranoid schizophrenia" but cleared for release in December 1996 by doctors at Beijing's Huilongguan Hospital. However, the hospital refused to discharge Chen unless his employer, Sinopec, agreed to his release. Sinopec refused, and Chen died in the hospital 12 years after being cleared for discharge. It remains unclear why Chen's employer needed to clear his release, or why this was withheld. Chen's widow filed a lawsuit against Sinopec, arguing that by having Chen involuntarily committed to a psychiatric institution, Sinopec had violated Chen's rights to life, liberty, and health. The court ruled that Sinopec had not violated the law when it committed Chen to the hospital and was not liable for his death since Chen died from pneumonia.

According to an NGO report, on March 29, officials in Wuhan, Hubei, illegally detained petitioner Liu Caixia in a psychiatric institution. Liu, a former accountant

at Central China University of Science and Technology in Wuhan, traveled to Beijing on March 26 to petition the government over losing her job. Liu was detained in Beijing by officials from the Beijing Liaison Office of the Hongshan District Government and forcibly returned to Wuhan. Liu reportedly was detained in the psychiatric ward of the Huashan Town Health Clinic in Hongshan District.

### Prison and Detention Center Conditions

Conditions in penal institutions for both political prisoners and criminal offenders were generally harsh and often degrading. Prisoners and detainees were regularly housed in overcrowded conditions with poor sanitation. Inadequate prison capacity remained a problem in some areas. Food often was inadequate and of poor quality, and many detainees relied on supplemental food and medicines provided by relatives. Some prominent dissidents were not allowed to receive such goods. Adequate, timely medical care for prisoners remained a serious problem, despite official assurances that prisoners have the right to prompt medical treatment.

Article 53 of the Prison Law mandates that a prison shall be ventilated, allow for natural light, and be clean and warm. However, in many cases there were inadequate provisions for sanitation, ventilation, heating, lighting, basic and emergency medical care, and access to potable water.

Forced labor remained a serious problem in penal institutions. Many prisoners and detainees in penal and RTL facilities were required to work, often with no remuneration. Information about prisons, including associated labor camps and factories, was considered a state secret.

In response to claims that the organs of executed prisoners were harvested for transplant purposes, Vice Minister of Health Huang Jiefu in August 2009 stated that inmates were not a proper source for human organs and that prisoners must give written consent for their organs to be removed.

Conditions in administrative detention facilities, such as RTL camps, were similar to those in prisons. Beating deaths occurred in administrative detention and RTL facilities. According to NGO reports, conditions in these facilities were similar to those in prisons, with detainees reporting beatings, sexual assaults, lack of proper food, and no access to medical care.

Information on the prison population is not made public. In 2004 then minister of justice Fan Fangping reportedly said there were more than 670 prisons housing



"more than 1.5 million prisoners." According to domestic media reporting, a Ministry of Justice survey estimated that the prison population as of the end of 2005 was 1.56 million. The law requires juveniles be housed separately from adults, unless facilities are insufficient. In practice children were sometimes housed with adult prisoners and required to work. Political prisoners were housed with the general prison population and reported being beaten by other prisoners at the instigation of guards.

Many prisoners and detainees did not have reasonable access to visitors and were not permitted religious observance. Under Article 52 of the Jail Law, "considerations shall be given to the special habits and customs of prisoners of minority ethnic groups." The Detention Center Regulation Article 23 had similar requirements. However, little information was available about the implementation of these regulations.

Prisoners and detainees are legally entitled to submit complaints to judicial authorities without censorship and request investigation of credible allegations of inhumane conditions. Article 47 of the Prison Law further states that letters from a prisoner to higher authorities of the prison or to the judicial organs shall be free from examination. The law further states that a prison "shall set up medical [facilities], living and sanitary facilities, and institute regulations on the life and sanitation of prisoners." It also states that the medical and health care of prisoners shall be put into the public health and epidemic prevention program of the area in which the prison is located. However, authorities did not investigate credible allegations of inhumane conditions nor document the results of such investigations in a publicly accessible manner.

The law requires the government to investigate and monitor prison and detention center conditions, and an official from the Prosecutor's Office is designated responsible for investigating and monitoring prison and detention center conditions.

The government generally did not permit independent monitoring of prisons or RTL camps, and prisoners remained inaccessible to local and international human rights organizations, media groups, and the International Committee of the Red Cross (ICRC).

d. Arbitrary Arrest or Detention

Arbitrary arrest and detention remained serious problems. The law grants police broad administrative detention powers and the ability to detain individuals for extended periods without formal arrest or criminal charges.

### Role of the Police and Security Apparatus

The main domestic security agencies include the Ministry of State Security, the MPS, and the People's Armed Police. The People's Liberation Army was primarily responsible for external security but also had some domestic security responsibilities. Local jurisdictions also frequently used civilian municipal security forces, known as "urban management" officials, to enforce laws.

The MPS coordinates the country's police force, which is organized into specialized police agencies and local, county, and provincial jurisdictions. Judicial oversight of the police was limited, and checks and balances were absent. Corruption at the local level was widespread. Police and urban management officials engaged in extrajudicial detention, extortion, and assault. In 2009 the Supreme People's Procuratorate acknowledged continuing widespread abuse in law enforcement. In 2009 domestic news media reported the convictions of public security officials who had beaten to death suspects or prisoners in their custody.

### Arrest Procedures and Treatment While in Detention

The law allows police to detain suspects for up to 37 days before formal arrest. After arrest, police are authorized to detain a suspect for up to an additional seven months while the case is investigated. After the completion of a police investigation, an additional 45 days of detention are allowed for the procuratorate to determine whether to file criminal charges. If charges are filed, authorities can detain a suspect for an additional 45 days before beginning judicial proceedings. As a result, pretrial detention periods of a year or longer are not uncommon. In practice the police sometimes detained persons beyond the period allowed by law. The law stipulates that detainees be allowed to meet with defense counsel before criminal charges are filed. Police often violated this right.

The criminal procedure law requires a court to provide a lawyer to a defendant who has not already retained a lawyer; who is blind, deaf, mute, a minor; or who may be sentenced to death. This law applies whether or not the defendant is indigent. Courts may also provide lawyers to other criminal defendants who cannot afford them, although courts often did not appoint counsel in such circumstances.

Criminal defendants are entitled to apply for bail while awaiting trial. However, in practice few suspects were released on bail.

The law requires notification of family members within 24 hours of detention, but individuals were often held without notification for significantly longer periods, especially in politically sensitive cases. Under a sweeping exception, officials are not required to provide notification if doing so would "hinder the investigation" of a case.

The law protects the right to petition the government for resolution of grievances. However, citizens who traveled to Beijing to petition the central government were frequently subjected to arbitrary detention, often by police dispatched from the petitioner's hometown. Some provincial governments operated facilities in Beijing or in other localities where petitioners from their districts were held in extrajudicial detention. Some local governments took steps to restrict petitioning. According to a May 27 Shanxi provincial government report, the Shanxi Provincial People's Congress adopted regulations that listed eight types of "prohibited" petitioning, including "illegally gathering, encircling or rushing into government offices or important public spaces, stopping cars or hindering public transportation, linking up with others to petition," and similar acts. The regulations also stated that petitioners suspected of "misrepresenting facts to frame others" could be subject to criminal charges.

According to NGO reports, Luan Chuyu of Nantong, Jiangsu Province, a villager facing forced eviction, was detained by police while petitioning in Beijing; she was held in a "black jail" from June 16-18 and then forcibly returned to Nantong, where she was detained illegally in a local black jail for an additional month. Luan was released after local officials pressured her into signing an agreement consenting to the demolition of her home.

On September 5, Liu Yujie a petitioner from Shiyan, Hubei Province, who had been demanding a meeting with Supreme People's Court President Wang Shengjun after losing her home in what she believed to be an unjust court ruling, was detained by police outside the Supreme People's Court in Beijing per a human rights NGO report. Liu was reportedly taken to a black jail in Jiujingzhuang, Beijing. Shiyan municipal officials in Beijing took custody of Liu and moved her to a black jail operated by the Beijing Liaison Office of Tanghe County, Henan Province. At year's end her status remained unclear.

According to NGO reports, on October 6, petitioner Liu Xianzhi of Henan Province, was detained in Beijing and forcibly returned to her hometown of Nanco Township. While in Beijing Liu was reportedly held in a black jail operated by local government officials where she was beaten and sustained head and neck injuries.

In July 2009 Noor-Ul-Islam Sherbaz, a minor, was detained and accused of participating in the July riots in Urumqi. In contravention of the law on the detention of juveniles, Sherbaz's parents had no contact with their son after his arrest and were not allowed to be present during police interrogations. On April 13, Aksu Intermediate People's Court found Sherbaz guilty of murder, at a trial that reportedly lasted 30 minutes, and sentenced him to life imprisonment.

The law permits nonjudicial panels, known as "labor reeducation panels," to remand persons to RTL camps or other administrative detention programs for up to three years without trial. Labor reeducation panels are authorized to extend these administrative sentences for up to one year. Detainees are technically allowed to challenge administrative RTL sentences and appeal for sentence reduction or suspension. However, appeals were rarely successful. Other forms of administrative detention include "custody and education" (for women engaged in prostitution and those soliciting prostitution) and "custody and training" (for minor criminal offenders). The 2008 Anti-Drug Law established a system of "compulsory isolation for drug rehabilitation." The minimum stay in such centers is two years and the law states that this treatment can include work. Public security organs authorize detention in these centers and it often is meted out as an administrative rather than criminal measure. Administrative detention was used to intimidate political activists and prevent public demonstrations.

Shanghai housing activist Mao Hengfeng was detained early in the year and sentenced to 18 months of RTL on March 4 for "disturbing social order." Mao's family members and lawyer were prevented from visiting her for extended periods during the year.

On August 6, a district court in Baoding, Hebei Province, heard a suit brought by reporter and activist Xu Yishun (also known by his pen name Kong Fanzhong). Xu challenged a Baoding RTL Management Committee's May 25 decision to sentence him to 18 months RTL for fraud. The hearing ended without issuance of a verdict.

Authorities arrested persons on allegations of revealing state secrets, subversion, and other crimes as a means to suppress political dissent and public advocacy.

These charges remain ill defined, including what constitutes a state secret. Citizens also were detained under broad and ambiguous state secrets laws for, among other actions, disclosing information on criminal trials, meetings, and government activity.

Human rights activists, journalists, unregistered religious leaders, and former political prisoners and their family members were among those targeted for arbitrary detention or arrest.

The government continued to use extrajudicial house arrest against dissidents, former political prisoners, family members of political prisoners, petitioners, underground religious figures, and others it deemed politically sensitive. Numerous dissidents, activists, and petitioners were placed under house arrest during the October National Day holiday period and at other sensitive times, such as during the Shanghai Expo and the December Nobel Prize ceremony. Conditions faced by those under house arrest varied but sometimes included complete isolation in their homes under police guard. In some instances security officials were stationed inside the homes of subjects under house arrest. Others were occasionally permitted to leave their homes to work or run errands but were required to ride in police vehicles. When permitted to leave their homes, subjects of house arrest were usually under police surveillance.

In March several Beijing dissidents, including Cha Jianguo, Gao Hongming, Li Hai, Xu Yonghai, and Qi Zhiyong, were placed under house arrest to prevent them from commemorating the 1989 Tiananmen massacre.

On April 3, security guards at a Beijing housing compound prevented artist and activist Yan Zhengxue from leaving his residence to attend an arts exhibition. When Yan argued with the guards blocking his exit, they beat him, inflicting multiple injuries. Beijing artist and activist Yang Licai was also placed under house arrest in late March with a police vehicle and five police officers stationed outside his home. Retired Shandong University professor Sun Wenguang was placed under house arrest at his home in Jinan, Shandong.

On September 9, blind human rights lawyer Chen Guangcheng was released after completing a prison sentence of three years and four months on politically motivated charges of "disrupting traffic." Since his release, Chen, his wife, and his mother have been under house arrest and prevented from communicating with others. Chen was not allowed to seek medical attention for a gastrointestinal condition he developed in prison.

On December 10, ethnic Mongolian activist Hada was released from prison after serving a 15-year prison sentence for espionage and separatism. Hada founded the Southern Mongolia Democracy Alliance, which called for a referendum on the future of the province of Inner Mongolia. At year's end neither he, his wife, nor his son have been seen publicly since his release.

After the announcement of the awarding of the 2010 Nobel Peace Prize to imprisoned writer Liu Xiaobo, his wife, Liu Xia, was placed under extrajudicial house arrest. At year's end she had not been seen in public since October, and her electronic and telephone communication ceased in November.

Police surveillance, harassment and detentions of activists increased around politically sensitive events. Shanghai residents experienced more stringent security measures during the Shanghai World Expo from May 1 to October 31. In the period leading up to, and during the Expo, several prominent Shanghai activists, including Feng Zhenghu and Zheng Enchong, were placed under house arrest. Others were prevented from entering the city. Authorities prevented blogger Wen Kejian and artist Ai Weiwei from entering Shanghai on separate occasions during the Expo. Authorities prevented activists from departing China prior to the December 10 Nobel Peace Prize award ceremony, and briefly detained a number of prominent rights activists immediately before and during the Nobel ceremony. The annual plenary session of the National People's Congress (NPC) and the Chinese People's Political Consultative Conference (CPPCC), the anniversary of the Tiananmen massacre, the October announcement of the Nobel Peace Prize triggered similar security responses. Authorities in the XUAR used house arrest and other forms of arbitrary detention against those accused of supporting the "three evils" of religious extremism, "splittism," and terrorism.

e. Denial of Fair Public Trial

The law states that the courts shall exercise judicial power independently, without interference from administrative organs, social organizations, and individuals. However, in practice the judiciary was not independent. Legal scholars have interpreted President Hu Jintao's doctrine of the "Three Supremes" as stating that the interests of the Party are above the law. Judges regularly received political guidance on pending cases, including instructions on how to rule, from both the government and the CCP, particularly in politically sensitive cases. The CCP Law and Politics Committee has the authority to review and influence court operations at all levels of the judiciary.

Corruption also influenced court decisions. Safeguards against judicial corruption were vague and poorly enforced. Local governments appoint and pay local court judges and, as a result, often exerted influence over the rulings of judges in their districts.

Courts are not authorized to rule on the constitutionality of legislation. The law permits organizations or individuals to question the constitutionality of laws and regulations, but a constitutional challenge can only be directed to the promulgating legislative body. As a result, lawyers had little or no opportunity to use the constitution in litigation.

On February 9, Tan Zuoren was sentenced to five years in prison and three years' deprivation of political rights for "inciting subversion of state power" in a trial that was closed to the public (see Political Prisoners section). Tan had attempted to collect the names of students who died in the May 2008 Sichuan earthquake. The sentence was upheld by the Sichuan High People's Court on June 9.

On July 23, an Urumqi court sentenced Uighur journalist Gheyret Niyaz to 15 years in prison for "endangering state security." Niyaz, detained since October 2009, was reportedly not allowed access to defense counsel during his trial.

Nobel Peace Prize laureate Liu Xiaobo, coauthor of the Charter 08 manifesto, which called for increased political freedoms and human rights in China, was found guilty of the crime of "inciting subversion of state power" in a December 2009 trial that included serious due process violations. The Beijing High People's Court denied Liu's appeal on February 11.

### Trial Procedures

There was no presumption of innocence, and the criminal justice system was biased toward a presumption of guilt, especially in high-profile or politically sensitive cases. According to the *China Law Yearbook*, in 2009 the combined conviction rate for first- and second-instance criminal trials was 99.9 percent. Of 997,872 criminal defendants tried in 2009, 1,206 were acquitted. In many politically sensitive trials, courts handed down guilty verdicts with no deliberation immediately following proceedings. Courts often punished defendants who refused to acknowledge guilt with harsher sentences than those who confessed. The appeals process rarely resulted in overturned convictions. Appeals processes failed

to provide sufficient avenues for review, and there were inadequate remedies for violations of defendants' rights.

Supreme People's Court regulations require all trials to be open to the public, with the exceptions of cases involving state secrets, privacy issues, and minors. Authorities used the state-secrets provision to keep politically sensitive proceedings closed to the public and sometimes even to family members and to withhold access to defense counsel. Court regulations state that foreigners with valid identification should be allowed to observe trials under the same criteria as Chinese citizens. In practice foreigners were permitted to attend court proceedings only by invitation. As in past years, foreign diplomats and journalists unsuccessfully sought permission to attend a number of trials. In some instances the trials were reclassified as "state secret" cases or otherwise closed to the public. Foreign diplomats requested but were denied permission to attend the February 2009 trial of human rights advocate Huang Qi on charges of illegally possessing state secrets. Huang was sentenced in November 2009 to three years' imprisonment. His appeal was denied by the Chengdu Intermediate Court on February 8. According to NGO reports, Huang was not granted a formal appeal hearing before the decision was made. Requests by foreign diplomats to attend the February appeal hearing in the case of Liu Xiaobo were denied. Some trials were broadcast, and court proceedings were a regular television feature. A few courts published their verdicts on the Internet.

The law grants most defendants the right to seek legal counsel upon their initial detention and interrogation, although police frequently violated this right. Individuals who face administrative detention do not have the right to seek legal counsel. Human rights lawyers reported that they were denied the ability to defend certain clients or threatened with punishment if they chose to do so.

Both criminal and administrative defendants were eligible for legal assistance although 70 percent or more of criminal defendants went to trial without a lawyer. According to the *China Law Yearbook*, the number of legal-aid cases in 2009 totaled 542,686, a slight decrease from the previous year. Legal-aid personnel totaled 13,081, a slight increase over 2008, the vast majority of whom majored in law. Despite these slight shifts, the number of legal-aid personnel remained inadequate to meet demand. Non-attorney legal advisors provided the only legal-aid options in many areas.

Some lawyers declined to represent defendants in politically sensitive cases, and such defendants frequently found it difficult to find an attorney. The government



took steps to discourage lawyers from representing defendants in sensitive cases. Following the July 2009 unrest in the XUAR, the Beijing Municipal Judicial Bureau posted a notice on its Web site urging justice bureaus, the Beijing Municipal Lawyers Association, and law firms in Beijing to "exercise caution" in representing defendants facing charges related to the riots. Similar measures were taken with respect to Tibetan defendants. Certain Beijing-based rights lawyers were told they could not represent jailed Tibetans. Tibetan filmmaker Dhondup Wangchen was denied counsel of his choosing as the attorney hired by his family was replaced with a government-appointed lawyer for his 2009 trial and 2010 appeal. Certain local governments in the XUAR and Tibetan areas implemented regulations stipulating that only locally registered attorneys were authorized to represent local defendants.

When defendants were able to retain counsel in politically sensitive cases, government officials sometimes prevented attorneys from organizing an effective defense. Tactics employed by court and government officials included unlawful detentions, disbarment, harassment and physical intimidation and denial of access to evidence.

In August security guards barred lawyer Zhang Kai from entering a courthouse in Linfen County, Shanxi Province, to file an administrative lawsuit on behalf of members appealing the potential destruction of a church building. According to domestic media, on April 7, when two lawyers tried to file a suit at the Heilongjiang High People's Court on behalf of villagers who believed they were unfairly compensated in a land requisition case, court police assaulted them, detaining one of the lawyers for two hours. The lawyers believed the attack was intended to prevent them from filing the lawsuit.

In April 2009 Beijing lawyer Cheng Hai was attacked and beaten while on his way to meet with a Falun Gong client in Chengdu, Sichuan Province. According to Cheng, those responsible for the attack were officials from the Jinyang General Management Office, Wuhou District, Chengdu.

The annual licensing review process was used to withhold licenses, and therefore the ability to practice law, from a number of human rights and public interest lawyers. According to the Beijing Lawyers Association, 95 percent of Beijing attorneys were re-licensed in the 2010 annual review process. However, attorneys whose licenses were not renewed included a number of prominent human rights lawyers including Jiang Tianyong, Teng Biao, Wen Haibo, Zhang Lihui, Tong Chaoping, Yang Huiwen, and Li Jinsong. Shanghai rights lawyers Zheng Enchong

and Guo Guoting were denied the renewal of their licenses as the result of a similar administrative finding in 2008.

On April 30, the Beijing Municipal Bureau of Justice permanently revoked the licenses of lawyers Liu Wei and Tang Jitian who had been active in defending human rights and religious freedom-related cases. On May 4, Liu and Tang filed a criminal complaint claiming that by revoking their licenses the Bureau of Justice Lawyers Management Department had abused its power in retaliation for their activism on behalf of lawyers.

Defense attorneys may legally be held responsible if their client commits perjury, and prosecutors and judges have wide discretion to decide what constitutes perjury. In some sensitive cases, lawyers had no pretrial access to their clients, and defendants and lawyers were not allowed to communicate with one another during trials. In practice criminal defendants were frequently not assigned an attorney until a case was brought to court. Despite a 2008 statement by SPC Vice President Zhang Jun that 37 percent of criminal defendants were represented by lawyers, in 2009 only one in seven criminal defendants reportedly had legal representation.

Mechanisms allowing defendants to confront their accusers were inadequate. Only a small percentage of trials involved witnesses and less than 10 percent of subpoenaed witnesses appeared in court. In most criminal trials, prosecutors read witness statements, which neither the defendants nor their lawyers had an opportunity to rebut. Although the criminal procedure law states that pretrial witness statements cannot serve as the sole basis for conviction, prosecutors relied heavily on such statements to support their cases. Defense attorneys had no authority to compel witnesses to testify or to mandate discovery, although they could apply for access to government-held evidence relevant to their case. Pretrial access to information by defense attorneys was minimal. Denial of due process by police and prosecutors led to particularly egregious consequences in capital cases.

At year's end the Criminal Code contained 68 capital offenses, including nonviolent financial crimes such as counterfeiting currency, embezzlement, and corruption. In August state media reported that a pending amendment to the capital-punishment law would remove 13 nonviolent economic crimes--ranging from smuggling relics and endangered animals to falsifying tax receipts--from the list of capital crimes. Persons above the age of 75 would be eligible for the exemption from the death penalty. There was no public information on how many defendants were either sentenced to the death penalty or executed during the year.

In 2007 the Supreme People's Court (SPC) resumed the practice of reviewing all convictions that resulted in death sentences before executions may be carried out; with the exception of death sentences with a two-year reprieve. SPC spokesman Ni Shouming stated that, since reassuming the death penalty reviews, the SPC had returned 15 percent of death sentences to lower courts for further review based on unclear facts, insufficient evidence, inappropriate use of the death penalty, and inadequate trial procedures. Because official statistics remained a state secret, it was not possible to evaluate independently the implementation and effects of the procedures.

An international human rights NGO estimated that approximately 5,000 persons were executed during 2009.

### Political Prisoners and Detainees

Government officials continued to deny holding any political prisoners, asserting that authorities detained persons not for their political or religious views but because they violated the law. However, the authorities continued to imprison citizens for reasons related to politics and religion. Tens of thousands of political prisoners remained incarcerated, some in prisons and others in RTL camps or administrative detention. The government did not grant international humanitarian organizations access to political prisoners.

Foreign NGOs estimated that several hundred persons remained in prison for "counterrevolutionary crimes," which were repealed from the criminal code in 1997. Thousands of others were serving sentences under state security statutes. Foreign governments urged the Chinese government to review the cases of those charged before 1997 with counterrevolutionary crimes and to release those who had been jailed for nonviolent offenses under repealed provisions of the criminal law. At year's end no systematic review had occurred. The government maintained that prisoners serving sentences for counterrevolutionary crimes and endangering state security were eligible to apply for sentence reduction and parole. However, political prisoners were granted early release at lower rates than prisoners in other categories. Persons were believed to remain in prison for crimes in connection with their involvement in the 1989 Tiananmen prodemocracy movement. The exact number was unknown because related official statistics were never made public.

On January 15, Zhou Yongjun, a former Tiananmen Square student leader, was sentenced to nine years in prison for "fraud" by a Shehong County, Sichuan Province court, following his November 2009 trial. Zhou had been detained in

2008 in Hong Kong while attempting to enter the country on a forged Malaysian passport in order to visit his ailing father. Although cleared by Hong Kong authorities of involvement in bank fraud, he was transferred to the custody of PRC authorities.

In August 2009 activist Tan Zuoren went on trial for defaming the CCP, the charge resulting from his social advocacy work. On February 9, Tan was sentenced to five years in prison and three years' deprivation of political rights for "inciting subversion of state power."

In July Charter 08 signatory and activist Liu Xianbin was indicted for subversion for an article he wrote following his 2009 release from a previous prison term. At year's end Liu was detained and awaiting trial in Suining, Sichuan Province. Liu was reportedly denied access to his lawyers during his detention.

In March 2009 labor activist and lawyer Yuan Xianchen was convicted of "inciting subversion of state power" and sentenced to four years in prison and five years' deprivation of political rights, on the basis of articles he had written on implementing constitutional democracy.

Many political prisoners remained in prison or under other forms of detention at year's end, including rights activists Hu Jia and Wang Bingzhang; Alim and Ablikim Abdureyim, sons of Uighur activist Rebiya Kadeer; journalist Shi Tao; democratic reform advocate Wang Xiaoning; land rights activist Yang Chunlin; Internet commentator Xu Wei; labor activists Hu Mingjun, Huang Xiangwei, Kong Youping, Ning Xianhua, Li Jianfeng, Li Xintao, Lin Shun'an, Li Wangyang, and She Wanbao; Catholic bishop Su Zhimin; Christian activist Zhang Rongliang; Uighur activist Dilkex Tilivaldi; and Tibetan Tenzin Deleg.

In September rights lawyer Chen Guangcheng was released from prison following the completion of his sentence and was immediately placed under house arrest, along with his wife. In November democracy activist Qin Yongmin was released in Wuhan, after serving a 12-year sentence for "endangering state security." According to media reports, police officers confiscated his prison writings and warned him not to speak to reporters or meet other dissidents. At year's end Zhao Lianhai, who had been indicted on criminal charges for his advocacy on behalf of victims of tainted milk, was released on medical parole, but his whereabouts and welfare remained unconfirmed.

Criminal punishments continued to include "deprivation of political rights" for a fixed period after release from prison, during which time the individual is denied rights of free speech and association. Former prisoners sometimes found their ability to find employment, freedom to travel, access to residence permits and social services severely restricted. Former political prisoners and their families frequently were subjected to police surveillance, telephone wiretaps, searches, and other forms of harassment.

### Civil Judicial Procedures and Remedies

Courts deciding civil matters faced the same limitations on judicial independence as in criminal cases. The State Compensation Law provides administrative and judicial remedies for plaintiffs whose rights or interests have been infringed by government agencies or officials, including wrongful arrest or conviction, extortion of confession by torture, unlawful use of force resulting in bodily injury, illegal revocation of a business license, or illegal confiscation or freezing of property. In April the National People's Congress Standing Committee amended the law to allow for compensation for wrongful detention, mental trauma, or physical injuries inflicted by detention center or prison officials. In civil matters successful plaintiffs often found it difficult to enforce court orders.

Companies affected by a July 16 oil spill in Dalian, Liaoning Province, were prevented from filing lawsuits for damages resulting from the spill. City officials visited one company to urge it to drop its claims, according to domestic media. In August police in Beijing intercepted fishermen and other Dalian residents impacted by the spill when they attempted to file a petition seeking compensation.

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law states that the "freedom and privacy of correspondence of citizens are protected by law"; however, in practice authorities often did not respect the privacy of citizens. Although the law requires warrants before law enforcement officials can search premises, this provision frequently was ignored. The Public Security Bureau (PSB) and prosecutors are authorized to issue search warrants on their own authority without judicial review. Cases of forced entry by police officers continued to be reported.

Authorities monitored telephone conversations, fax transmissions, e-mail, text messaging, and Internet communications. Authorities also opened and censored

domestic and international mail. Security services routinely monitored and entered residences and offices to gain access to computers, telephones, and fax machines.

The monitoring and disruption of telephone and Internet communications were particularly widespread in the XUAR and Tibetan areas. Authorities frequently warned dissidents and activists, underground religious figures and former political prisoners not to meet with foreign journalists or diplomats, especially before sensitive anniversaries, at the time of important government or party meetings, and during the visits of high-level foreign officials. Security personnel also harassed and detained the family members of political prisoners, including following them to meetings with foreign reporters and diplomats and urging them to remain silent about the cases of their relatives.

Family members of activists, dissidents, Falun Gong practitioners, journalists, unregistered religious figures, and former political prisoners were targeted for arbitrary arrest, detention, and harassment (see section 1.d.).

Forced relocation because of urban development continued and in some locations increased during the year. Protests over relocation terms or compensation were common, and some protest leaders were prosecuted. In rural areas relocation for infrastructure and commercial development projects resulted in the forced relocation of millions of persons.

Property-related disputes between citizens and government authorities, which often turned violent, were widespread in both urban and rural areas. These disputes frequently stemmed from local officials colluding with property developers to pay little or no compensation to displaced residents, combined with a lack of effective government oversight or media scrutiny of local officials' involvement in property transactions, as well as a lack of legal remedies or other dispute resolution mechanisms for displaced residents. The problem persisted despite central government efforts to impose stronger controls over illegal land takings and to standardize compensation. International media and other observers have raised doubt whether development of historically or culturally sensitive land, such as the Old City area in Kashgar, XUAR, was carried out in a transparent, fair manner.

In November Chinese media reported that a woman committed suicide by self-immolation in Chengdu, Sichuan Province, after district authorities ordered the house of her ex-husband be forcibly demolished following failed negotiations with the landlord. In December Chinese media reported a case of self-immolation to protest a forced eviction in Beijing. In this case, in an attempt to stop the forced

demolition of his family's house in Beijing's Haidian district, the individual reportedly burned himself, but survived. His mother and his wife were injured during the confrontation with workers carrying out the demolition order. Local media reported that the head of the district where the demolition happened also had an interest in the real estate development company responsible for development of the area.

National law prohibits the use of physical coercion to compel persons to submit to abortion or sterilization. However, intense pressure to meet birth limitation targets set by government regulations resulted in instances of local family-planning officials using physical coercion to meet government goals. Such practices included the mandatory use of birth control and the abortion of unauthorized pregnancies. In the case of families that already had two children, one parent was often pressured to undergo sterilization.

A U.S.-based human rights organization reported that in August, the one-month-old daughter of a mother in Changfeng County, Anhui Province, was detained by local family-planning officials until the woman signed a document consenting to a sterilization procedure.

In April as reported by a regional investigative newspaper affiliated with the newspaper *Southern Daily* and later in the international press, local family-planning officials in Puning, Guangdong Province, initiated an "education campaign" to encourage nearly 9,559 "most serious violators of family-planning policies" to undergo sterilization procedures. Reportedly, 1,300 persons were detained during this process, including family members of couples who had unauthorized births, until at least one member of the couple in violation submitted to a sterilization procedure.

In late-April officials in Pingxiang, Jiangxi Province, levied a RMB 2,000 (\$300) fine and threatened to demolish the home of the parents of a migrant worker who failed to submit his family-planning paperwork.

Laws and regulations forbid the termination of pregnancies based on the sex of the fetus, but because of the intersection of birth limitations and a traditional preference for male children, particularly in rural areas, many families used ultrasound technology to identify female fetuses and terminate these pregnancies. National Population and Family Planning Commission (NPFPC) regulations ban non-medically necessary determinations of the sex of the fetus and sex-selective abortions, but some experts believed that the penalties for violating the regulations

were not severe to deter unlawful behavior. According to government estimates released in February, the national average for the male-female sex ratio at birth was 119 to 100 in 2009 (compared with norms elsewhere of between 103 and 107 to 100). The Chinese Academy of Social Sciences estimated that by 2020, there could be as many as 24 million more men than women of marriageable age (ages 19-45) in China. In September Vice Premier Li Keqiang announced that the government would "launch measures to narrow the widening ratio of men and women."

Regulations requiring women who violate family-planning policy to terminate their pregnancies still exist in the 25th, 42nd, and 22nd provisions of the Population and Family Control Regulation of Liaoning, Jilin, and Heilongjiang provinces, respectively. An additional 10 provinces--Fujian, Guizhou, Guangdong, Gansu, Jiangxi, Qinghai, Sichuan, Shanxi, Shaanxi, and Yunnan--require unspecified "remedial measures" to deal with unauthorized pregnancies (see section 6).

## Section 2    Respect for Civil Liberties, Including:

### a.     Freedom of Speech and Press

The law provides for freedom of speech and of the press, although the government generally did not respect these rights in practice. The government continued to control print, broadcast, and electronic media tightly and used them to propagate government views and CCP ideology. During the year the government increased censorship and manipulation of the press and the Internet during sensitive anniversaries.

Foreign journalists were generally prevented from obtaining permits to travel to Tibet except for highly controlled, government-organized press visits. While foreign journalists were allowed access to Urumqi, XUAR after the July 2009 riots, and during the year, local and provincial authorities continued to strictly control the travel, access, and interviews of foreign journalists, even forcing them to leave cities in parts of the XUAR. Media outlets received regular guidance from the Central Propaganda Department, listing topics that should not be covered. After events such as the July 2009 riots, the 2008 Sichuan earthquake, or the 2010 Yushu earthquake media outlets were told to cover the stories using content carried by government-controlled Xinhua and China Central Television.



The General Administration of Press and Publication; the State Administration of Radio, Film, and Television, and the CCP remained active in issuing restrictive regulations and decisions constraining the content of broadcast media.

The range of permissible public discourse continued to expand, with significant exceptions including speech that challenged the government or the CCP. Political topics could be discussed privately and in small groups without punishment. However, those who made politically sensitive comments in public speeches, academic discussions, and comments to the media remained subject to punitive measures. Authorities frequently intervened to halt public speeches and lectures on politically sensitive topics.

In March 2009 police detained Zhang Shijun, a former PLA soldier for publishing an open letter to President Hu Jintao expressing regret over his involvement in the Tiananmen massacre and urging the CCP to reconsider its condemnation of the 1989 demonstrations. At year's end his whereabouts remained unknown.

The government also frequently monitored gatherings of intellectuals, scholars, and dissidents where political or sensitive issues were discussed. Individuals who aired views critical of the government or the CCP, particularly those who shared such views with foreign audiences, risked punishments ranging from disciplinary action in the workplace to police interrogation and detention. In 2008 to commemorate International Human Rights Day, a group of 303 intellectuals and activists released a petition entitled "Charter 08," calling for the CCP to respect human rights and implement democratic reforms in China. Many Charter 08 signers continued to report official harassment, especially around sensitive dates, such as the 2010 Nobel Peace Prize ceremony.

In addition to the arbitrary detention of activists during the 2010 World Expo, Shanghai authorities also prevented some local activists from participating in Expo seminars hosted by foreign governments. Activists reported that they were told by the authorities not to attend Expo events, including forum discussions on civil society and the rule of law hosted by a foreign government.

The CCP directed the domestic media to refrain from reporting on certain subjects, and all broadcast programming required government approval. Nearly all print media, broadcast media, and book publishers were affiliated with the CCP or a government agency. There were a small number of privately owned print publications but no privately owned television or radio stations.

International media were not allowed to operate freely and faced heavy restrictions.

In early June, a foreign journalist was allowed to interview victims of the Sichuan earthquake only in the presence of foreign affairs and propaganda officials.

In February police harassed a group of nine Hong Kong journalists attempting to cover the sentencing in Chengdu of activist Tan Zuoren . When the journalists attempted to interview Tan's lawyer and relatives outside the courthouse police reportedly used physical force to move them into a courthouse holding room, injuring one journalist in the process.

Authorities barred foreign journalists from filming in, or entering, Tiananmen Square during sensitive periods.

Authorities continued to enforce tight restrictions on Chinese citizens employed by foreign news organizations. In February 2009 the government issued a code of conduct for Chinese employees of foreign media organizations. The code threatens dismissal and loss of accreditation for Chinese employees who engaged in "independent reporting" and instructed them to provide their employers with information that projects a good image of the country. The Foreign Correspondents' Club of China denounced the code of conduct as part of a government effort to intimidate their Chinese employees.

Officials can be punished for unauthorized contact with journalists. Official guidelines for journalists were often vague, subject to change at the discretion of propaganda officials, and retroactively enforced. Propaganda authorities have forced newspapers to fire editors and journalists responsible for articles deemed inconsistent with official policy and have suspended or closed publications. The system of post-publication review by propaganda officials encourages self-censorship by editors, in an effort to avoid the losses associated with penalties for inadvertently printing unauthorized content.

Government officials used criminal prosecution, civil lawsuits, and other punishments, including violence, detention, and other forms of harassment, to intimidate authors and journalists and to prevent the dissemination of controversial writings.

A domestic journalist can face demotion or job loss for publishing views that challenge the government.

In August cartoonist Kuang Biao was reportedly reprimanded, fined RMB 1,500 (approximately \$224), and demoted by his employer, the *Southern Metropolis Daily*, for publishing a cartoon in his personal blog. The cartoon depicted journalist Chang Ping tied up and in a stranglehold in a reference to Chang's 2008 removal as deputy editor of the *Southern Metropolis Weekly* after publishing an opinion piece on Tibet in the *Financial Times*.

Journalists who remained in prison included Lu Gengsong, Lu Jianhua, Huang Jinxiu, and Shi Tao. During the year journalists working in traditional and new media sources were also imprisoned.

According to government information, Uighur journalist Memetjan Abdulla was sentenced to life in prison in April reportedly for transmitting "subversive" information related to the July 2009 riots. Abdulla, an employee of the Uighur-language service of Chinese National Radio, was reportedly sentenced in a closed-door trial (see section 1.a.).

In July Uighur webmasters Dilshat Perhat, Nureli, and Nijat Azat were convicted of "endangering state security," receiving sentences of five, three, and 10 years, respectively. The verdicts were reportedly handed down at closed door trials in the Urumqi Intermediate Court.

In March the *Economic Observer* fired deputy editor in chief Zhang Hong for orchestrating a joint editorial published by 13 Chinese newspapers calling for reform of the household-registration, or hukou, system and characterizing the system as unconstitutional and unfair to rural residents.

Journalists and editors who exposed corruption scandals frequently faced retaliation. In July Zhejiang Province public security officials placed *Economic Observer* reporter Qiu Ziming on a national "wanted" list on charges of libel after Qiu published a series of reports alleging theft of state assets and insider trading in a publicly listed company. The *Economic Observer* issued a public statement criticizing the warrant and defending the stories as accurate. Other newspapers expressed public support for the *Economic Observer*, and the incident was widely discussed on the Internet. Local officials later rescinded the warrant and publicly apologized.

Authorities continued to confiscate "unauthorized publications," but due to data collection methods, which put potentially politically sensitive documents in the

same category as pornography and pirated materials, it is difficult to determine how much of the reported 65 million confiscated items in 2009 were in each category. Officials continued to censor, ban, and sanction reporting on labor, health, environmental crises, and industrial accidents. Authorities restricted reporting on stories such as the melamine milk scandal, schools destroyed during the Sichuan earthquake, and the July 2009 riots in Urumqi. Authorities also continued to ban books with content they deemed controversial.

Widespread attention in the press to suicides at a Shenzhen factory and the waves of strikes that hit Guangdong factories in May and June prompted the government to pressure domestic media outlets not to report on labor disputes.

The law permits only government-approved publishing houses to print books. The State Press and Publications Administration (PPA) controlled all licenses to publish. Newspaper, periodicals, books, audio and video recordings, or electronic publication may not be printed or distributed without the approval of the PPA and relevant provincial publishing authorities. Individuals who attempted to publish without government approval faced imprisonment, fines, confiscation of their books, and other sanctions. The CCP exerted control over the publishing industry by preemptively classifying certain topics as state secrets.

Many intellectuals and scholars exercised self-censorship, anticipating that books or papers on political topics would be deemed too sensitive to be published. The censorship process for private and government media also increasingly relied on self-censorship and, in a few cases, post-publication sanctions.

According to the PEN American Center, Korash Huseyin, former editor of the Uighur-language *Kashgar Literature Journal*, was released in 2008 after having served a full three year sentence, but his whereabouts remained unknown. Huseyin was sentenced in 2005 to three years in prison for publishing a short story that authorities considered critical of CCP rule of Xinjiang.

Authorities continued to jam, with varying degrees of success, Chinese-, Uighur-, and Tibetan-language broadcasts of the VOA, BBC, and Radio Free Asia (RFA). English-language broadcasts on VOA generally were not jammed. Government jamming of RFA and BBC appeared to be more frequent and effective. Internet distribution of streaming radio news and podcasts from these sources often was blocked. Despite jamming overseas broadcasts, VOA, BBC, RFA, Deutsche Welle, and Radio France International had large audiences, including human rights advocates, ordinary citizens, and government officials.

Television broadcasts of foreign news, largely restricted to hotels and foreign residence compounds, were occasionally subject to censorship. Such censorship of foreign broadcasts also occurred around the anniversary of the 1989 crackdown in Tiananmen Square. Individual issues of foreign newspapers and magazines were occasionally banned when they contained articles deemed too sensitive.

Politically sensitive coverage in Chinese, and to a lesser extent in English, was censored more than coverage in other languages. The government prohibited some foreign and domestic films deemed too sensitive.

Authorities continued to limit media reporting on disasters. Following a plane crash in Yichun, Heilongjiang, that killed 42 persons on August 24, local authorities attempted to prevent domestic reporters from covering the disaster. According to domestic media, local police detained four journalists from three separate domestic news organizations who were attempting to cover the crash. Police later apologized for the detentions. However, documents leaked to foreign media suggested that the CCP issued orders that only the CCP newspapers *Heilongjiang Daily*, *People's Daily*, and *Yichun Daily* would be authorized to send reporters to Yichun to cover the crash.

According to the August 17, 2009 issue of *Caijing* magazine, the government plans to provide 300 million users with high speed fiber optic cable Next Generation Broadcasting broadband and cable television in approximately 10 years at a cost of RMB 100 billion (approximately \$15.2 billion). According to comments made by a Shanghai China Telecom Deputy Chief Engineer "through the end of 2010, Shanghai Telecom city fiber optic cable network was capable of covering 1.5 million homes and had 300,000 users. During the 12th Five Year Plan period, Shanghai Telecom will...finish the overall coverage of optic cable access." Some analysts believe that broadband and cable television could reduce the use of satellite dishes that the government has suggested threaten the moral and political security of the country. Another strategy implemented in part to protect the country's information security was the launch in 2008 of the Chinasat 9 broadcast satellite that uses a unique digital broadcast standard so individuals who buy boxes to decode the satellite signal will not be able to watch programming on other satellites with less restricted content.

There was also a government program called "connecting the villages" that has been replacing the many illegal albeit heretofore tolerated individual satellite dishes with community satellite cable systems. In January 2009 persons in rural

Guizhou reported that this program was not popular there, since private dishes and receivers were inexpensive and brought in 60 channels while a community cable system often brings in only 20 or so channels.

An unofficial source described a government campaign to tear down some of the illegal satellite dishes, which were common throughout the country. The campaign has been most rigorous in minority areas. There is also a phenomenon known as "insertion broadcasting"--whereby politically incorrect parts of a broadcast from Hong Kong are replaced by material favored by the government before broadcasting on Guangdong television. It also could refer to illegal insertion of programming into cable television systems.

### Internet Freedom

In June the Information Office of the State Council released its first White Paper on the Internet; it outlined the government's endeavors to guarantee certain freedoms of speech on the Internet as long as the speech did not endanger state security, subvert state power, damage state honor and interests, jeopardize state religious policy, propagate heretical or superstitious ideas, or spread rumors and other content forbidden by laws and administrative regulations among other caveats.

The China Internet Network Information Center announced in June that the number of Internet users had increased to 420 million, 364 million of whom had broadband access. Xinhua News Agency reported that users of Internet-capable mobile phones had reached 277 million and accounted for 65.9 percent of total Internet users in the country. In this rapidly expanding networked environment, the CCP continued to increase efforts to monitor Internet use, control content, restrict information, block access to foreign and domestic Web sites, encourage self-censorship, and punish those who violate regulations. According to news sources, more than 14 government ministries participated in these efforts, resulting in the censorship of thousands of domestic and foreign Web sites, blogs, cellphone text messages, social networking services, online chat rooms, online games, and e-mail. These measures were not universally effective.

A 2005 State Council regulation deemed personal blogs, computer bulletin boards, and cellphone text messages as part of the news media, which subjected these media to state restrictions on content. Internet service providers were instructed to use only domestic media-news postings, to record information useful for tracking

users and their viewing habits, to install software capable of copying e-mails, and to end immediately transmission of "subversive material."

The Ministry of Public Security, which monitors the Internet under guidance from the CCP, employed thousands of persons at the national, provincial, and local levels to monitor electronic communications. Officials considered tools like social networking, micro-blogging, and video-sharing sites a major vulnerability for social stability and political control. The Information Office announced the formation of a new bureau in April. This new agency, officially called the Internet News Coordination Bureau, often referred to as Bureau Nine, operates under the State Council Information Office and is mainly responsible for "guidance, coordination, and other work related to the construction and management of Web culture." Previously, the Information Office operated a single Bureau of Internet Affairs which supervised sites that published news in China.

During the year provinces in northeast China strengthened control of the Internet, especially at Internet cafes. According to media reports, Liaoning Province successfully implemented a program to force independent Internet cafes to join larger franchises controlled by state-owned enterprises (SOEs). Liaoning Province also implemented regulations to ensure that the identities of all Internet cafe patrons could be verified and that software could be installed to allow authorities to monitor Internet use in real time and remotely control cafe computers.

Major news portals, which reportedly were complying with secret government orders, required users to register using their real names and identification numbers to comment on news articles. Individuals using the Internet in public libraries were required to register using their national identity card. Internet usage reportedly was monitored at all terminals in public libraries. Internet cafes were required to install software that allows government officials to monitor customers' Internet usage. Internet users at cafes were often subject to surveillance. Many cafes sporadically enforced regulations requiring patrons to provide identification. In June 2009 the Ministry of Industry and Information Technology (MIIT) issued a directive instructing Internet cafes and schools to install "Green Dam" software designed to censor objectionable Internet content based on an updatable central database. The software had been intended for installation in all computers sold in the country; however, objections from industry groups, Internet users, and foreign governments related to privacy and security concerns appeared to contribute to the postponement of enforcement of the directive. In July MIIT announced that it stopped funding the distribution and maintenance of the software.

The government consistently blocked access to Web sites it deemed controversial, especially those discussing Taiwan and Tibetan independence, underground religious and spiritual organizations, democracy activists, and the 1989 Tiananmen massacre. The government also at times blocked access to selected sites operated by major foreign governments, news outlets, health organizations, educational institutions, and social networking sites, as well as to search engines, that allow rapid communication or organization of users.

Some Web sites included images of cartoon police officers that warn users to stay away from forbidden content. Operators of Web portals, blog-hosting services, and other content providers engaged in self-censorship to ensure their servers were free from politically sensitive content. Domestic Web sites that refused to self-censor political content were shut down, and many foreign Web sites were blocked.

During the year particularly during periods around sensitive events, authorities maintained tight control over Internet news and information. Access to foreign and domestic social networking sites was limited around Google's announcement it was considering leaving the country, the anniversary of the July 2009 riots in Xinjiang, the announcement of Liu Xiaobo's Nobel Peace Prize and the December prize ceremony, and other major events. In the wake of the riots in Urumqi, the government asserted that information spread on the Internet had contributed to the violence, resulting in the complete shutdown of all Internet access, text messaging, and international telephone calls from the region. By January restrictions on international long-distance telephone calls to and from the XUAR had been lifted. Full Internet service was restored to the XUAR in May--10 months after it was blocked.

Authorities employed an array of technical measures to block sensitive Web sites based in foreign countries. The ability of users to access such sensitive sites varied from city to city. The government also automatically censored e-mail and Web chats based on an ever-changing list of sensitive key words, such as "Falun Gong" and "Tibetan independence." While such censorship was effective in keeping casual users away from sensitive content, it was defeated easily through the use of various technologies. Software for defeating official censorship was readily available inside the country. Despite official monitoring and censorship, during the year dissidents and political activists continued to use the Internet to advocate and call attention to political causes such as prisoner advocacy, political reform, ethnic discrimination, corruption, and foreign policy concerns. Web users spanning the political spectrum complained of censorship. The blogs of a number of prominent



activists, artists, scholars, and university professors were periodically blocked during the year.

Given the limitations of technical censorship, self-censorship by Internet companies remained the primary means for authorities to restrict speech online. All Web sites are required to be licensed by or registered with MIIT, and all Internet content providers faced potential suspension of their licenses for failing to adequately monitor users of e-mail, chat rooms, and instant messaging services. The Internet Society of China, a group composed of private and state-run Internet companies, government offices, and academic institutions, cosponsored a Web site in 2009, China Internet Illegal Information Reporting Centre, which invited members of the public to report illegal online activity. Users were able to use the site to report not only crimes, such as pornography, fraud, and gambling, but also "attacks on the party and government." Self-censorship by blog-hosting services intensified prior to sensitive events.

On January 3, authorities disconnected labor activist Zhang Shanguang's Internet service by orders of the Ministry of State Security. His Internet service was restored January 5, but problems remained with his service. Zhang was sentenced to 10 years in prison in 1998 for "illegally providing intelligence to hostile organizations overseas" and "incitement to overthrow the government," charges believed to be connected to his labor activism and contacts with foreign journalists and human rights organizations.

In July the Urumqi Intermediate People's Court convicted three Uighur webmasters--Dilshat Perhat, webmaster and owner of Diyarim; Nureli, webmaster of Salkin; and Nijat Azat, webmaster of Shabnam--of "endangering state security." Dilshat Perhat received five years in prison; Nureli and Nijat Azat received three years and 10 years, respectively. The convictions reportedly were linked to posting politically sensitive language on the Web sites. The trials were reportedly closed.

Authorities continued to jail numerous Internet writers for peaceful expression of political views. Starting February 26, police in Yunxi County, Hubei, detained Chen Yonggang and held him for eight days on suspicion of "insulting and slandering others" after Chen posted articles online alleging that local officials and businessmen had been colluding to embezzle huge funds of money in the name of engineering projects.

On May 17, Tang Lin, the parent of a one-year-old tainted milk victim, wrote about the "Sanlu Milk Power Incident" in a QQ (on-line chat) group saying that he

would "take extreme action." Police in Chongqing arrested him May 19 and claimed that Tang's discussion in the group intended to "spread terrorizing information and create a terrorizing atmosphere." He was punished with one-year of RTL. Tang's online message was deleted and there was no way for the public to know what he said to "spread terrorizing information."

On May 28, National Security officers summoned Suining, Sichuan Province, dissident Liu Xianbin for articles he wrote and posted on overseas Web sites, as well as for his involvement with a recent seminar in Beijing regarding the case of three Fujian persons who were imprisoned for Internet postings. On June 28, Liu was formally detained, and at year's end, Liu remained in detention, awaiting a hearing on charges of "subversion of state power."

On July 14, Web site managers at Sohu, Sina, and other major domestic Internet portals shut down the blogs of at least 100 prominent scholars, lawyers, and activists. Well-known bloggers, including He Weifang, Liu Junning, Pu Zhiqiang, Xu Zhiyong, and Zhang Zuhua, were among those whose blogs were removed.

On July 29, Nanjing resident Huang Yiyu was detained for an online post regarding an explosion at a Nanjing chemical factory. The explosion, which took place on July 28, killed at least a dozen workers and injured hundreds, according to state media reports; Huang's post, entitled "News from the Secret Information Office: Nanjing Chemical Factory Explosion Kills 259 People," claimed that the number of fatalities from the blast was far higher. Huang was believed to have been released on August 2. Reportedly, local officials took extreme measures to prevent citizens from reporting on the incident, including dispatching armed police to search the homes of nearby residents with the aim of deleting any images or video of the scene.

On October 1, the revised State Secrets Law came into effect. An article published on Xinhua Net stresses the responsibility of providers of telecommunications services, especially Internet companies, to "stop the leaking of state secrets on the Internet in a timely fashion." According to the revised law, Internet companies must cooperate with investigations of suspected leakages of state secrets, stop the transmission of such information once discovered, and report the crime to the authorities. Furthermore, they must comply with the authorities' orders when told to delete such information from their Web sites. Internet companies which fail to comply with the revised law will be punished by the relevant departments such as the police and the Ministry of State Security.

In November Cheng Jianping was sentenced to a year in RTL for "re-tweeting" a message related to a dispute between China and Japan. Her purported crime was "disturbing social order."

Following his written support for Liu Xiaobo on the Internet, Zhao Dagong, a Charter 08 signatory, was detained by the Shenzhen Police in January. Police raided his house and took his computers for investigation. Authorities released Zhao from detention two weeks later.

In July 2009 Fan Yanqiong, along with two other bloggers, was charged with "false allegations with intent to harm" for reporting that a young woman was raped and killed by a group of men that included local officials. In April a court in Fuqing, Fuzhou Province, sentenced them to imprisonment on charges of defamation and leaking state secrets. Fan received a two-year sentence; authorities released Fan on medical parole in August, and at year's end she remained under house arrest in Nanping. Access to Fan remained controlled.

Tibetan Internet writers Kunchok Tsephel and Kunga Tseyang were sentenced to 15 years and five years in prison, respectively, in separate cases in November 2009. Kunchok Tsephel was convicted on "state secrets" charges, while Kunga Tseyang was convicted on multiple charges, including writing and posting splittist articles on the Internet and having contact with a monk in India. Internet writer and environmental activist Chen Daojun was sentenced to three years in prison in 2008.

According to Reporters Without Borders 2010 statistics, there were 30 reporters and 74 cyber dissidents in prison.

Regulations prohibit a broad range of activities that authorities interpret as subversive or slanderous to the state.

#### Academic Freedom and Cultural Events

The government continued restrictions on academic and artistic freedom and political and social discourse at colleges, universities, and research institutes. Instructors generally were told not to raise certain sensitive topics in class, such as the 1989 Tiananmen massacre. The General Administration of Press and Publications, the State Administration of Radio, Film, and Television, and the Central Propaganda Department were active in issuing restrictive regulations and decisions that constrained the flow of ideas and people.

Authorities on a few occasions blocked entry into the country of speakers deemed politically sensitive and declined to issue passports to individuals selected for international exchange programs who were seen as politically unreliable, in particular individuals from minority nationality areas.

Information outreach, educational exchanges, and other cultural and public diplomacy programs organized by foreign governments occasionally were subject to government interference. Foreign experts invited to participate in foreign government-sponsored programs on certain topics were denied visas.

A foreign media expert who was on a speaking tour in the country, in which she had already spoken in Beijing, Shanghai, and Guangzhou, was denied reentry to the mainland from Hong Kong.

A minority student from the XUAR who was selected for a foreign government-sponsored academic exchange program was unable to participate because authorities from his university in Xinjiang refused to recommend granting him a passport.

A number of other foreign government-sponsored exchange selectees, particularly those from minority provinces, encountered difficulties gaining approval to travel to participate in their programs.

In April the Chinese Embassy in Moscow declined to issue a visa to a Russian filmmaker invited to participate in a foreign government-sponsored film festival in Beijing.

The Chinese Academy of Social Sciences (CASS) restricted access to its computer networks and library databases for foreign scholars for a period of several months. CASS officials stated that the problem was a technical network security issue; affected scholars claimed there was political motivation.

The government used political attitudes and affiliations as criteria for selecting persons for the few government-sponsored study abroad programs but did not impose such restrictions on privately sponsored students. The government and the party controlled the appointment of high-level officials at universities. While party membership was not always a requirement to obtain a tenured faculty position, scholars without party affiliation often had fewer chances for promotion.

Researchers residing abroad also were subject to sanctions, including denial of visas, from the authorities when their work did not meet with official approval.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The law provides for freedom of peaceful assembly; however, the government severely restricted this right in practice. The law stipulates that such activities may not challenge "party leadership" or infringe upon the "interests of the state." Protests against the political system or national leaders were prohibited. Authorities denied permits and quickly suppressed demonstrations involving expression of dissenting political views.

Citizens continued to gather publicly to protest evictions, relocations, and compensation in locations throughout the county, often resulting in conflict with authorities or other charges (see section 1.f.).

On April 29, approximately 500 villagers from Changchunling, Heilongjiang Province, blocked railroad tracks to protest an announced land requisition. More than 2,000 police, firefighters, and paramilitary troops reportedly responded to the protest. The ensuing riot resulted in injuries to both police officers and villagers. According to some reports, following the riots, police surrounded the village and shutdown communications networks including cell phones.

In mid-July citizens held a mass protest in Suzhou's Tong'an Township, surrounding government offices and clashing with riot police. The demonstrators were protesting relocation compensation rates.

On October 11, clashes between thousands of construction workers and police began in Dujiangyan, after a confrontation between laborers and management over unpaid wages left at least one worker dead. After company staff allegedly beat and killed one of their ranks, hundreds of workers blockaded a local road and subsequently clashed with police sent to restore order.

On consecutive Sundays in late July and early August, more than 2,000 persons gathered in Guangzhou to protest a Guangdong Chinese People's Political Consultative Conference proposal to scale down Cantonese-language programming on Guangzhou television channels. Police dispersed the crowd without incident on the first Sunday, but clashed with demonstrators and detained journalists on the

second Sunday. Online comments and news coverage of the rallies, except for a government press conference claiming there was no intention to eliminate Cantonese and promote Mandarin, were removed from the Internet.

All concerts, sports events, exercise classes, or other meetings of more than 200 persons require approval from public security authorities. Although peaceful protests are legal, in practice police rarely granted approval. Despite restrictions, there were many demonstrations, but those with political or social themes were broken up quickly, sometimes with excessive force. The number of "mass incidents" or violent protests against local government increased during the year. As in past years, the vast majority of demonstrations concerned land disputes; housing issues; industrial, environmental, and labor matters; government corruption; taxation; and other economic and social concerns. Others were provoked by accidents or related to personal petition, administrative litigation, and other legal processes.

The ability of an individual to petition the government is protected by law; however, persons petitioning the government continued to face restrictions on their rights to assemble and raise grievances. Most petitions addressed grievances about land, housing, entitlements, the environment, or corruption. Most petitioners sought to present their complaints at national and provincial "letters and visits" offices. According to press accounts on April 12, more than 1,000 petitioners from villages in Zhuanghe knelt before the municipal government headquarters while waiting to have their petitions heard. They accused village leaders of corruption, embezzlement, and negligence related to local land development schemes. Zhuanghe's Mayor, Sun Ming, was forced to resign in the wake of the incident.

Although regulations banned retaliation against petitioners, reports of retaliation continued. This was partly due to incentives provided to local officials by the central government to prevent petitioners in their regions from raising complaints to higher levels. Incentives included provincial cadre evaluations based in part on the number of petitions from their provinces. This initiative aimed to encourage local and provincial officials to resolve legitimate complaints but also resulted in local officials sending security personnel to Beijing and forcibly returning the petitioners to their home provinces. Such detentions occurred before and after the enactment of the new regulations and often went unrecorded. In August 2009 the General Office of the State Council issued new guidelines for handling petitioners. The rules mandate sending officials from Beijing to the provinces to resolve petition issues locally, thereby reducing the number of petitioners entering Beijing.

Other new rules include a mandated 60-day response time for petitions and a regulation instituting a single appeal in each case.

In July according to domestic media reports, police in Hubei severely beat Chen Yulian, the wife of a provincial law enforcement officer, mistaking her for a petitioner. Six public security officers beat Chen when she tried to enter her husband's office building, which houses the Hubei provincial party headquarters. The Communist Party chief of the district bureau stated that the incident was a "total misunderstanding," as "police officers never realized that they were beating the wife of a senior leader."

### Freedom of Association

The law provides for freedom of association, but the government restricted this right in practice. CCP policy and government regulations require that all professional, social, and economic organizations officially register with, and be approved by, the government. In practice these regulations prevented the formation of truly autonomous political, human rights, religious, spiritual, labor, and other organizations that might challenge government authority.

The government maintained tight controls over civil society organizations. Legal and surveillance efforts aimed at controlling them increased. On March 1, new regulations issued by the State Administration for Foreign Exchange (SAFE) on foreign exchange donations to or by domestic institutions came into effect. According to the regulations, foreign exchange donations must "comply with the laws and regulations...and shall not go against social morality or damage public interests and the legitimate rights and interests of other citizens." For donations between a domestic organization and a foreign NGO, the regulations required all parties and the banks to approve additional measures prior to a transaction being processed.

To register, an NGO must find a government agency to serve as its organizational sponsor, have a registered office, and hold a minimum amount of funds. Some organizations with social or educational purposes that previously registered as private or for-profit businesses reportedly were requested to find a government sponsor and re-register as NGOs during the year. Although registered organizations all came under some degree of government control, some NGOs were able to operate with a degree of independence.

The number of NGOs continued to grow, despite tight restrictions and regulations. According to the Ministry of Civil Affairs (MCA), as of the end of 2009, the country had 431,000 legally registered social organizations including social groups (238,000), civil nonbusiness units (190,000), and foundations (1,843). During the year an MCA official wrote, "in 2007, China started to use the term "social organization" instead of "civil organization" because "civil" contrasts with "official" and reflected the opposing roles of civil society and government in the traditional political order. The Sixteenth and Seventeenth CCP Congresses changed the name to "social organization." NGOs existed under a variety of formal and informal guises, including national mass organizations created and funded by the CCP, known as "government NGOs" or GONGOs.

The lack of legal registration created numerous logistical challenges for NGOs, including difficulty opening bank accounts, hiring workers, and renting office space. NGOs that opted not to partner with government agencies could register as commercial consulting companies, which allowed them to obtain legal recognition at the cost of forgoing tax-free status. Security authorities routinely warned domestic NGOs, regardless of their registration status, not to accept donations from the U.S. government-funded National Endowment for Democracy and other international organizations deemed sensitive by the government. Authorities supported the growth of some NGOs that focused on social problems, such as poverty alleviation and disaster relief, but remained concerned that these organizations might emerge as a source of political opposition. Many NGOs working in the Tibet Autonomous Region (TAR) were forced to leave because their project agreements were not renewed by their local partners following unrest in Lhasa and other Tibetan communities in 2008.

No laws or regulations specifically govern the formation of political parties. However, the CDP remained banned, and the government continued to monitor, detain, and imprison current and former CDP members.

c. Freedom of Religion

For a complete description of religious freedom, see the *2010 International Religious Freedom Report* at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons



The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation; however, the government generally did not respect these rights in practice. The government sometimes cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) in providing protection and assistance to refugees, asylum seekers, and other persons of concern.

Authorities heightened restrictions on freedom of movement periodically, particularly to curtail the movement of individuals deemed politically sensitive before key anniversaries and visits of foreign dignitaries, and to forestall demonstrations. Freedom of movement continued to be extremely limited in the TAR and other Tibetan areas. Police maintained checkpoints in most counties and on roads leading into many towns, as well as within major cities such as Lhasa.

Although the government maintained restrictions on the freedom to change one's workplace or residence, the national household registration system (hukou) continued to change, and the ability of most citizens to move within the country to work and live continued to expand. Rural residents continued to migrate to the cities, where the per capita disposable income was more than four times the rural per capita income, but many could not officially change their residence or workplace within the country. Most cities had annual quotas for the number of new temporary residence permits that could be issued, and all workers, including university graduates, had to compete for a limited number of such permits. It was particularly difficult for rural residents to obtain household registration in more economically developed urban areas.

The household registration system added to the difficulties rural residents faced even after they relocated to urban areas and found employment. The National Bureau of Statistics reported that there were 225 million migrant workers at the end of 2008. These economic migrants lacked official residence status in cities, and it was difficult for them to gain full access to social services, including education and health care, despite laws, regulations, and programs meant to address their needs. Migrant workers had little recourse when subject to abuse by employers and officials. Some major cities maintained programs to provide migrant workers and their children access to public education and other social services free of charge, but migrants in some locations reported that it was difficult to obtain for these benefits in practice.

Under the "staying at prison employment" system applicable to recidivists incarcerated in RTL camps, authorities denied certain persons permission to return

to their homes after serving their sentences. Some released or paroled prisoners returned home, but they were not permitted freedom of movement.

The government permitted legal emigration and foreign travel for most citizens. There were reports that some academics and activists continued to face travel restrictions around sensitive anniversaries. In the fall, most notably in the time period between the Nobel Peace Prize announcement on October 8 and the December 10 Nobel ceremony, a large number of activists, lawyers, artists, authors, or other dissidents were prevented from leaving the country on the grounds that their doing so would damage the country's national security. Some were stopped at the airport, others were explicitly told prior to travel that they would be prevented from leaving the country (see section 1.e.).

Most citizens could obtain passports, although those whom the government deemed threats, including religious leaders, political dissidents, and ethnic minorities, were refused passports or otherwise prevented from traveling overseas. Uighur residents of the XUAR reported difficulties at the local level in getting a passport application approved. Some residents of the XUAR and other citizens have reportedly had valid passports seized. In Tibetan regions of Qinghai, Gansu, and Sichuan provinces, in addition to the TAR, ethnic Tibetans experienced great difficulty applying for passports. The unwillingness of the PSB in Tibetan areas to issue or renew passports for ethnic Tibetans created, in effect, a ban on foreign travel for a large segment of the Tibetan population. Han residents of Tibetan areas, however, did not experience the same difficulties.

The law neither provides for a citizen's right to repatriate nor otherwise addresses exile. The government continued to refuse reentry to numerous citizens who were considered dissidents, Falun Gong activists, or "troublemakers." Although some dissidents living abroad were allowed to return, dissidents released on medical parole and allowed to leave the country often were effectively exiled. Activists residing abroad were imprisoned upon their return to the country.

In December 2009 the Royal Government of Cambodia, at the request of PRC authorities, forcibly returned a group of 20 Uighur asylum seekers to the country. At year's end their whereabouts and welfare remained unknown.

The government continued to try to prevent many Tibetans from leaving and detained many who were apprehended in flight (see Tibet Addendum). By year's end 874 Tibetans had arrived at the UNHCR reception center in Kathmandu. Flows to Nepal increased slightly during the year but were lower than the levels prior to

the 2008 Lhasa crackdown. For the first time since 2003, there was a confirmed forcible return of three Tibetans from Nepal in June.

In January videographer and Sun Yat-sen University professor Ai Xiaoming received the Prix Simone de Beauvoir (international human rights prize for women's freedom), but authorities did not allow her to travel abroad to attend the award ceremony.

### Protection of Refugees

Although the country is a party to the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, the law does not provide for the granting of refugee or asylum status, and the government has not established a system for providing protection to refugees. The government largely cooperated with the UNHCR when dealing with the resettlement of ethnic Han Chinese or ethnic minorities from Vietnam and Laos residing in the country. During the year the government and the UNHCR continued discussions concerning the granting of citizenship to these residents.

While the government officially acknowledged that 37,000 residents of Kokang, in northeastern Burma, fled across the border into Yunnan during the Burmese army crackdown in August 2009, they were not officially designated as refugees. The government did not respond to a UNHCR request for access to the border areas.

The government continued to consider all North Koreans "economic migrants" rather than refugees or asylum seekers, and the UNHCR continued to have limited access to North Korean refugees inside China. The lack of access to durable solutions and options, as well as constant fear of forced repatriation by authorities, left North Korean refugees vulnerable to human traffickers. Even refugees under UNCHR care were subjected to harassment and restrictions by authorities. The government continued to deny the UNHCR permission to operate along its northeastern border with North Korea.

In practice the government did not provide protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. Some North Koreans were permitted to travel to third countries after they entered diplomatic compounds in the country. The intensified crackdown begun in 2008 against North Korean refugees reportedly extended to harassment of religious communities along the border. The undocumented children

of some North Korean asylum seekers and of mixed couples (i.e., one Chinese parent and one North Korean parent) reportedly did not have access to health care, public education, or other social services. The government arrested and detained individuals who provided food, shelter, transportation, and other assistance to North Koreans. According to reports, some activists or brokers detained for assisting North Koreans were charged with human smuggling, and in some cases the North Koreans were forcibly returned to North Korea. There were also reports that North Korean agents operated clandestinely within the country to forcibly repatriate North Korean citizens.

Although the government does not grant refugee or asylum status, it allowed the UNHCR more latitude in assisting non-North Korean refugees. At the end of 2009 UNHCR Beijing had processed refugee claims for approximately 100 non-North Korean refugees in China (from Pakistan, Iraq, Somalia, and Eritrea). However, because these individuals were not officially recognized refugees, they remained in the country as illegal immigrants unable to work, with no access to education, and deportable by the host government at anytime.

### Section 3    Respect for Political Rights: The Right of Citizens to Change Their Government

The constitution states that "all power in the People's Republic of China belongs to the people" and that the organs through which the people exercise state power are the NPC and the people's congresses at provincial, district, and local levels. However, the law does not provide citizens with the right to change their government peacefully, and citizens cannot freely choose or change the laws and officials that govern them. The CCP continued to control appointments to positions of political power.

#### Elections and Political Participation

According to the law, the NPC is the highest organ of state power. Formally, the NPC, composed of 2,987 deputies, elects the president and vice president, the premier and vice premiers, and the chairman of the State Central Military Commission. In practice the NPC Standing Committee, which is composed of 175 members, oversaw these elections and determined the agenda and procedure for the NPC.

The NPC Standing Committee remained under the direct authority of the party, and most legislative decisions require the concurrence of the CCP's nine-member

Politburo Standing Committee. Despite its broad authority under the state constitution, the NPC does not set policy independently or remove political leaders without the party's approval.

According to statistics from the MCA, almost all of the country's more than 600,000 villages had implemented direct elections for members of local sub-government organizations known as village committees. The direct election of officials by ordinary citizens remained narrow in scope and strictly confined to the local level. The government estimated that one-third of all elections had serious procedural flaws. Corruption, vote buying, and interference by township-level and party officials continued to be problems. The law permits each voter to cast proxy votes for up to three other voters.

The election law governs legislative bodies at all levels. Under this law citizens have the opportunity to vote for local people's congress representatives at the county level and below, although in most cases the nomination of candidates in those elections was controlled by higher-level government officials or CCP cadres. At higher levels, legislators selected people's congress delegates from among their ranks. For example, provincial-level people's congresses selected delegates to the NPC. Local CCP secretaries generally served concurrently as the head of the local people's congress, thus strengthening party control over legislatures.

On October 28, the NPC Standing Committee passed revisions to the law on deputies to the NPC and to lower-level people's congresses. Among other provisions the revisions stipulate that deputies may not serve as professional legislators but must have separate full-time jobs, and deputies may not maintain individual constituent liaison offices.

Official statements asserted that "the political party system [that] China has adopted is multiparty cooperation and political consultation under" the CCP leadership. However, the CCP retained a monopoly on political power, and the government forbade the creation of new political parties. The government officially recognized nine parties founded prior to 1949, and 30 percent of NPC seats were held by parties other than the CCP. The establishment of new parties is functionally prohibited, and activists attempting to support unofficial parties have been arrested, detained, or confined.

In September 2009 in Hunan Province, dissident Xie Changfa, who tried to organize a national meeting of the banned China Democratic Party, was sentenced to 13 years in prison. Guo Quan remained imprisoned following his October 2009

sentence to 10 years in prison and three years' deprivation of political rights for "subversion of state power." Guo, a former Nanjing University professor and founder of the China New Democracy Party, published articles criticizing the country's one-party system. At year's end more than 30 current or former CDP members remained in prison or held in RTL camps, for their connection to a 2002 open letter calling for political reform and a reappraisal of the 1989 Tiananmen uprising, including Chen Shuqing, Sang Jiancheng, Yang Tianshui, and Jiang Lijun. In January 2009 CDP member Wang Rongqing was sentenced to six years' imprisonment for "subversion against the state" after publishing articles critical of the political system.

The government placed no special restrictions on the participation of women or minority groups in the political process. However, women held few positions of significant influence in the CCP or government structure. Among the 2,987 delegates of the 11th NPC (term 2008-13), 637 are women (21.3 percent of the total). There was one female member of the CCP's 25-member Politburo, who also concurrently served as one of five state councilors. There are three women ministers within the 28 organs of the State Council: Minister of Supervision Ma Wen, Minister of Justice Wu Aiyong, and Head of the National Population and Family Planning Commission Li Bin. According to government-provided information there were more than 230 female provincial and ministerial officials, more than 670 female mayors--twice the number in 1995--and more than 15 million female CCP cadres (approximately one-fifth of the total party membership).

The government encouraged women to exercise their right to vote in village committee elections and to run in those elections, although only a small fraction of elected members were women. In many locations a seat on the village committee was reserved for a woman, usually given responsibility for family planning.

A total of 411 delegates from 55 ethnic minorities were members of 11th NPC, accounting for 13.76 percent of the total number of delegates. All of the country's officially recognized minority groups were represented. The 17th Communist Party Congress elected 40 members of ethnic minority groups as members or alternates on the Central Committee. The only ministerial-level post held by an ethnic minority member was in the State Ethnic Affairs Commission, headed by Yang Jing, an ethnic Mongol from Inner Mongolia. In addition, there was one ethnic minority member, Vice Premier Hui Liangyu, of the Hui ethnic group, on the

Politburo. Minorities held few senior party or government positions of significant influence.

#### Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity. Many cases of corruption involved areas that were heavily regulated by the government and therefore susceptible to fraud, bribery, and kickbacks, such as land usage rights, real estate, and infrastructure development. On December 29, the Information Office of the State Council released its first white paper on *Efforts to Combat Corruption and Build Clean Government*.

Court judgments often could not be enforced against powerful special entities including government departments, state-owned enterprises, military personnel, and some members of the CCP. The Supreme Court during 2008-09 stated that there was a backlog of 330,000 cases, with a total of RMB 343 billion (\$50 billion) at stake.

In its 2009 annual work report, the Supreme People's Procuracy reported that procuratorates nationwide had investigated 32,439 corruption, dereliction of duty, and infringement of human rights cases, a decrease of 3.3 percent from the previous year, involving 41,531 suspects, an increase of 0.9 percent. Among them, 2,670 suspects of embezzlement or bribery were officials at or above county- and director-level, including 204 at director general- or deputy director general-level and eight at the minister- (governor) or deputy minister- (vice governor) level; 9,355 were suspected of dereliction of duty or infringement of human rights. The SPP also investigated 10,218 cases of commercial bribery involving state functionaries. Within the SPP itself, 247 prosecutors were disciplined and 25 of them were charged criminally, though how many of these cases were corruption related was not specified.

The party's Central Commission for Discipline Inspection (CCDI), its lead body for countering corruption among members, reported that 106,000 members had been found guilty of corruption in 2009, an increase of 2.5 percent over 2008. Of these, 85,353 received "party discipline" punishment and 29,718 received "administrative punishment."

In an August 28 speech to government officials, Premier Wen Jiabao described corruption as "the greatest danger for a ruling party." In July the government and party issued a regulation requiring officials in government agencies or state-owned enterprises at the county-level or above to report their ownership of property, including property in their spouses' or children's names, as well as their family's investment in financial assets and in enterprises. Also in July the government and party announced it would introduce a new collective decision-making procedure into state-owned enterprises, requiring all important decisions, including allocations of capital, arrangements for major projects, and personnel decisions, to be jointly decided by collective leadership. In the wake of the trial and conviction for corruption of former SPC Vice President Huang Songyou in January, the SPC reported that it had strengthened internal supervision by appointing anticorruption monitors, sending inspection task forces to local courts, and promulgating more discipline. The SPC reported that in 2009, 795 staff members in the court system were disciplined, and 137 of them were transferred to judicial organs as criminal suspects, but how many of these cases were corruption related was not specified.

There were numerous cases of public officials and leaders of state-owned enterprises, who generally also hold high party rank, investigated for corruption during the year.

In May Huang Guangyu, the founder of Gome Electrical Appliance Holding, who was detained in November 2009 on unspecified charges of "economic crimes," was convicted of illegal business operation, insider trading, and bribery, sentenced to 14 years in prison, fined RMB 600 million (approximately \$90 million), and had RMB 200 million (approximately \$30 million) in personal assets confiscated. Former Guangdong provincial police chief and chairman of the Guangdong provincial committee of the CPPCC, Chen Shaoji, who was detained along with Huang Guangyu in November 2009, was sentenced to death with a two-year suspension after being found guilty of accepting bribes.

Among the eight minister- or deputy minister-rank officials investigated for corruption in 2009 were former SPC Vice President Huang Songyou, sentenced to life imprisonment for taking bribes and embezzlement; Wang Yi, former vice president of state-owned China Development Bank, who received a suspended death sentence for taking bribes; and Wang Huayuan, former secretary of the Guangdong and Zhejiang provincial party commissions for discipline inspection, who was sentenced to death, suspended for two years. Also Zhang Chunjiang, the party chief at China Mobile, the world's largest mobile phone operator by subscribers, was removed from his post and expelled from the CCP after a CCDI



inspection found him culpable of taking bribes in September. In 2009 35 senior executives of China's large SOEs, such as former Sinopec chairman Chen Tonghai, faced corruption charges.

As part of efforts to increase transparency in the hiring process for party and government officials, Jilin Province instituted an "open selection" system for 800 positions in June. The online system allowed any qualified member of the public to apply--a departure from similar programs that required applicants be nominated by their work unit.

The Ministry of Supervision and the CCDI are responsible for combating government corruption.

In September People's University in Beijing inaugurated its first semester of "anticorruption" postgraduate courses taught by the CCP's leading antigraft officials. He Jiahong, deputy director of the university's criminal law research center, said that courses would be taught on advanced investigation techniques, such as "how to obtain testimony from witnesses," "the observation of facial expressions," and "lie-detection techniques." Leading prosecutors of the SPP including Chen Lianfu, director of the SPP's Bureau of Anti-Embezzlement and Bribery, and seven other antigraft prosecutors were brought to teach their techniques and give guidance. The course had 30 students and "plays a positive role in social anticorruption," according to professor Lin Zhe at the CCP Party School. All students selected for the program "met strict criteria and were tested for aptitude," the official *Global Times* reported.

Since 2008 the country has had freedom of information regulations in effect, which allow citizens to request information from the government. While limited in comparison to freedom of information regulations in many other countries, the regulations did require government authorities to create formal channels for information requests and include an appeal process if requests were rejected or not answered. Publicly released provincial- and national-level statistics for freedom of information requests showed wide disparities in numbers of requests filed and in official documents released in response.

The November 2009 report of the UN Group of Experts (UNGOE) on the Democratic Republic of the Congo (DRC) presented information indicating that Huaying Trading Company (HTC), a Chinese-run mineral exporting company based in eastern DRC, sources minerals that originated in eastern DRC under the control of the Democratic Liberation Forces of Rwanda (FDLR). The FDLR,

whose leaders continued to include architects of the 1994 Rwandan genocide, has committed numerous, serious human rights abuses in eastern DRC and Rwanda.

In December 2010 an international NGO, Global Witness, published a report that stated that the export records of the DRC government's Division of Mines showed that two Chinese companies and one Hong Kong company purchased 100 percent of the 41.4 tons of columbite-tantalite (or "coltan") that originated in the conflict-affected North Kivu Province in May 2010. According to Global Witness, the three companies were Fogang Jiata Metals, Star 2000 Services, and Hong Kong-based Unilink Trading Hong Kong. The UNGOE interim report of May 2010 stated that "in the Kivu provinces, it appears, almost every mining deposit is controlled by an armed group."

#### Section 5 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

The government sought to maintain control over civil society groups, halt the emergence of independent NGOs, hinder the activities of civil society and rights' activist groups, and prevent what it has called the "westernization" of the country. The government did not permit independent domestic NGOs to monitor openly or to comment on human rights conditions; in addition, domestic NGOs were harassed. The government tended to be suspicious of independent organizations and increased scrutiny of NGOs with financial and other links overseas. Most large NGOs were quasi-governmental, and all official NGOs had to be sponsored by government agencies. Some grassroots NGOs registered as companies to avoid regulations requiring NGOs to have a sponsoring government agency.

An informal network of activists around the country continued to serve as a credible source of information about human rights violations. The information was disseminated through organizations such as the Hong Kong-based Information Center for Human Rights and Democracy, the foreign-based Human Rights in China Chinese Human Rights Defenders, and via the Internet.

The government remained reluctant to accept criticism of its human rights record by other nations or international organizations. It criticized reports by international human rights monitoring groups, claiming that such reports were inaccurate and interfered with the country's internal affairs. Representatives of some international human rights organizations reported that authorities denied their visa requests or restricted the length of visas issued to them.

The government did not have a human rights ombudsman or commission. The government-established China Society for Human Rights is an NGO whose mandate is to defend the government's human rights record. The government maintained that each country's economic, social, cultural, and historical conditions influence its approach to human rights.

The ICRC operated an office in Beijing, but the government did not authorize the ICRC to visit prisons. The government continued unofficial discussions on human rights and prisoner issues with a foreign-based human rights group, although the government's cooperation with the group was not as extensive as in previous years.

The government continued to participate in official diplomatic human-rights dialogues with foreign governments.

## Section 6 Discrimination, Societal Abuse, and Trafficking in Persons

There were laws designed to protect women, children, persons with disabilities, and minorities. However, some discrimination based on ethnicity, sex, and disability persisted.

### Women

Rape is illegal, and some persons convicted of rape were executed. The law does not recognize expressly or exclude spousal rape. The government has not made available official statistics on rape or sexual assault, leaving the scale of sexual violence difficult to determine. Migrant female workers were particularly vulnerable to sexual violence.

Violence against women remained a significant problem. According to a 2008 survey by the All-China Women's Federation (ACWF), domestic violence affected one-third of China's 267 million families. The government supported shelters for victims of domestic violence, and some courts were beginning to provide protections to victims. However, official assistance did not always reach victims, and public security forces often ignored situations of domestic violence. According to reports, 30 to 37 percent of families suffered from domestic violence, and more than 90 percent of the victims were women. The ACWF reported that it alone received 50,000 domestic violence complaints annually. Spousal abuse typically went unreported; an ACWF study found that only 7 percent of rural women who suffered domestic violence sought help from police. While domestic violence tended to be more prevalent in rural areas, it also took place among the highly

educated urban population. The ACWF reported that approximately one-quarter of the 400,000 divorces registered each year were the result of family violence.

The number of victims' shelters grew. According to ACWF statistics, in 2008 there were 27,000 legal-aid service centers, 12,000 special police booths for domestic violence complaints, 400 shelters for victims of domestic violence, and 350 examination centers for women claiming to be injured by domestic violence nationwide. Most shelters were operated by the government, some with NGO participation. During the year the government provided 680,000 office spaces in government buildings for women's resource centers.

Both the Marriage Law and the Law on the Protection of Women's Rights and Interests have stipulations that directly prohibit domestic violence; however, some experts complained that the stipulations are too general, fail to define domestic violence, and are difficult to implement. Because of the judicial standard of ruling out "all unreasonable doubt," even if a judge was certain that domestic violence was occurring, he or she could not rule against the abuser without the abuser's confession. Only 10 percent of accused abusers confessed to violent behavior in the family, according to 2009 data from the Institute of Applied Laws, a think tank associated with the court system. Collecting evidence in domestic violence cases remained difficult: the institute reported that 40 to 60 percent of marriage and family cases involved domestic violence; however, less than 30 percent were able to supply indirect evidence, including photographs, hospital records, police records, or children's testimony. Witnesses seldom testified in court.

In April 2009 the Hunan High People's Court reportedly issued the first provincial-level guiding opinion concerning domestic violence cases, which was aimed at strengthening protections for female victims during judicial proceedings related to such abuse. In June 2009 a district court in Zhejiang Province granted the province's first anti-domestic violence court order to a female victim. Following similar 2008 orders in Jiangsu and Hunan, the order prohibits the abuser from intimidating or beating the spouse and opens the way for security forces to intervene to protect the victim's safety.

After the Law on the Protection of Women's Rights was amended in 2005 to include a ban on sexual harassment, the number of sexual harassment complaints increased significantly.

The government restricted the rights of parents to choose the number of children they have. The national family-planning authorities shifted their emphasis from

lowering fertility rates to maintaining low fertility rates and emphasized quality of care in family-planning practices. In May a representative of the National Population and Family Planning Commission reported that 85 percent of women of childbearing age used some form of contraception. Of those, 70 percent used a reversible method. However, the country's birth limitation policies retained harshly coercive elements, in law and practice. The financial and administrative penalties for unauthorized births were strict.

From February to April, Xuzhou, Jiangsu Province was the site of a high-profile court proceeding in which a 30-year-old female plaintiff sued the local family-planning bureau, claiming that she had been barred from a civil service position in the county government for giving birth to a child before marriage. Although she married the father soon after the child's birth, the court ruled that the family-planning bureau's original decree citing the birth as out of wedlock held, which did make her ineligible for the government position.

Although the government announced adjustments would be implemented to address the problem of unequal birth sex ratios, it also affirmed the orientation of its family-planning policy at the highest levels, including maintaining the policy as part of the 12th Five-Year Plan that will be in effect 2011-15. In September Vice Premier Li Keqiang emphasized, however, that the policy would be "better coordinated" to take into account long-term economic and social developments.

In 2007 *China Daily* reported, "although sex selection is banned by the Population and Family Planning Law and the Law on Maternal and Infant Health, there are currently no provisions on the applicable punishment for such acts."

The NPFPC has been trying for many years to criminalize illegal sex identification and sex-selective abortion (commonly referred to as the "Two Nons"), which currently are prohibited only under administrative law. Members of the NPFPC have been working on the issue of legal reform related to sex-selective abortion since its inception and have proposed amendments to the Criminal Code to the National People's Congress (NPC) dealing with sex-selective abortion each year since 2006.

The use of ultrasounds to determine the sex of fetuses was prohibited. This ban, which carried administrative fines and penalties for healthcare workers found to have violated it, has been in place since 1995. Another similar ban on sex selective abortions was imposed by the NPFPC in 2004, although neither carried specific criminal penalties.

The 2002 National Population and Family-planning Law standardized the implementation of the government's birth limitation policies; however, enforcement varied significantly. The law grants married couples the right to have one birth and allows eligible couples to apply for permission to have a second child if they meet conditions stipulated in local and provincial regulations. The one-child limit was more strictly applied in urban areas, where only couples meeting certain conditions are permitted to have a second child (e.g., if each of the would-be parents are themselves an only child). In most rural areas, the policy was more relaxed, with couples permitted to have a second child in cases where the first child was a girl. Ethnic minorities are subject to less stringent rules. Countrywide, 35 percent of families fell under the one-child restrictions, and more than 60 percent of families were eligible to have a second child, either outright or if they met certain criteria. The remaining 5 percent were eligible to have more than two children. According to government statistics, the average fertility rate for women nationwide was 1.8 (representing the number of children each woman of child-bearing age has); in the country's most populous and prosperous city, Shanghai, the fertility rate was 0.8.

While all provinces eliminated the birth-approval process for a first child, thus allowing parents to choose when to start having children, some provinces continued to regulate the period of time required between births. This adjustment signaled an end to the former family-planning quota system, in which some couples previously had to delay pregnancies if the allotted birth quota for that locality had already been exceeded.

The law requires each person in a couple that has an unapproved child to pay a "social compensation fee," which can reach 10 times a person's annual disposable income. The law grants preferential treatment to couples who abide by the birth limits.

Social compensation fees were set and assessed at the local level. The law requires family-planning officials to obtain court approval before taking "forcible" action, such as detaining family members or confiscating and destroying property of families who refuse to pay social compensation fees. However, in practice this requirement was not always followed, and national authorities remained ineffective at reducing abuses by local officials.

The population control policy relied on education, propaganda, and economic incentives, as well as on more coercive measures. Those who violated the child

limit policy by having an unapproved child or helping another do so faced disciplinary measures such as social compensation fees, job loss or demotion, loss of promotion opportunity, expulsion from the party (membership is an unofficial requirement for certain jobs), and other administrative punishments, including in some cases the destruction of private property.

In order to delay childbearing, the law sets the minimum marriage age for women at 20 years and for men at 22 years. It continued to be illegal in almost all provinces for a single woman to have a child, with fines levied for violations. The law states that family-planning bureaus will conduct pregnancy tests on married women and provide them with unspecified "follow-up" services. Some provinces fined women who did not undergo periodic pregnancy tests.

Officials at all levels remained subject to rewards or penalties based on meeting the population goals set by their administrative region. Promotions for local officials depended in part on meeting population targets. Linking job promotion with an official's ability to meet or exceed such targets provided a powerful structural incentive for officials to employ coercive measures to meet population goals. An administrative reform process initiated pilot programs in some localities that sought to remove this linkage for evaluating officials' performance.

Although the family-planning law states that officials should not violate citizens' rights in the enforcement of family-planning policy, these rights, as well as penalties for violating them, are not clearly defined. By law citizens may sue officials who exceed their authority in implementing birth-planning policy. However, there exist few protections for whistleblowers against retaliation from local officials. The law provides significant and detailed sanctions for officials who help persons evade the birth limitations.

During the year Puning City, Guangdong Province conducted two campaigns of "sterilization of married couples that have two children" during the year. According to the Puning government, the city conducted 8,916 sterilization procedures in April and more than 3,000 in September. Meanwhile, a report by the *Southern Rural News*, a paper belonging to the Nanfang Daily Group, indicated that if two-child couples identified for sterilization did not cooperate with family-planning officials or fled the area, authorities confiscated the couples' property or detained their family members. Detained family members were forced to take family-planning policy-learning sessions--officials forced at least 1,300 persons related to two-child couples to attend the learning sessions in April.

Government regulations implemented in 2008 make family-planning services, including reproductive health information and services, contraception devices, and family-planning technical services, available and free to migrants in their temporary residences. Previously, migrants were often forced to return to the place of their legal household registrations to receive services.

According to 2008 UN statistics, the maternal mortality ratio was an estimated 38 per 100,000 live births. Regional differences indicated that the maternal mortality ratio in rural areas was much higher than in urban areas and also higher in poorer than in developed regions.

According to a 2008 UN Development Fund (UNDP) report, China established specific objectives for infant and maternal mortality rates as well as for immunization coverage in the 11th National Development Plan (2006-2010). In 2003 the country implemented a health plan called the New Cooperative Medical Scheme (NCMS) meant to cover the entire rural population by 2010. Medical financial aid to fund and subsidize participation in NCMS by the poor was also introduced. Public funding for NCMS reportedly covered 85.7 percent of counties and had 730 million subscribers. Still, rural, poor, migrant, and ethnic minority women continued to suffer the greatest mortality rates due to a lack of access to quality health services. There were reportedly more than 3,000 mother-child health centers nationwide, employing 500,000 staff in a three-tiered network of county-, township-, and village-level services providing mother and child health care.

The constitution states that "women enjoy equal rights with men in all spheres of life." The Law on the Protection of Women's Rights and Interests provides for equality in ownership of property, inheritance rights, and access to education. The ACWF was the leading implementer of women's policy for the government, and the State Council's National Working Committee on Children and Women coordinated women's policy. Nonetheless, many activists and observers were concerned that the progress made by women over the past 50 years was eroding. They asserted that the government appeared to have made the pursuit of gender equality a secondary priority as it focused on economic reform and political stability. Women continued to report that discrimination, sexual harassment, unfair dismissal, demotion, and wage discrepancies were significant problems.

Authorities often did not enforce laws protecting the rights of women. According to legal experts, it was difficult to litigate a sex discrimination suit because the vague legal definition made it difficult to quantify damages, so very few cases were brought to court. Some observers noted that the agencies tasked with



protecting women's rights tended to focus on maternity-related benefits and wrongful termination during maternity leave rather than on sex discrimination, violence against women, and sexual harassment. Women's rights advocates indicated that in rural areas women often forfeited land and property rights to their husbands in divorce proceedings. In principle, rural contract law and laws protecting women's rights stipulate that women enjoy equal rights in cases of land management, but experts argued that in practice this was rarely the case, due to the complexity of the law and difficulties in its implementation.

Many employers preferred to hire men to avoid the expense of maternity leave and child care, and some lowered the effective retirement age for female workers to 50 (the official retirement age for men was 60 and for women 55, with the exception of men and women involved in physically demanding jobs, for which the retirement age was 55 and 45, respectively). In addition, work units were allowed to impose an earlier mandatory retirement age for women than for men. Lower retirement ages also reduced pensions, which generally were based on the number of years worked. Job advertisements sometimes specified height and age requirements for women.

Women earned less than men, despite government policies mandating nondiscrimination in employment and occupation. The Ministry of Human Resources and Social Security and the local labor bureaus were responsible for ensuring that enterprises complied with the labor law and the employment promotion law, each of which contains antidiscrimination provisions.

A high female suicide rate continued to be a serious problem. According to the World Bank and the World Health Organization, there were approximately 500 female suicides per day in 2009. The Beijing Suicide Research and Prevention Center reported in 2009 that the suicide rate for females was three times higher than for males. Many observers believed that violence against women and girls, discrimination in education and employment, the traditional preference for male children, birth-limitation policies, and other societal factors contributed to the high female suicide rate. Women in rural areas, where the suicide rate for women was three to four times higher than for men, were especially vulnerable. Government research indicating that 58 percent of all suicides involved the use of pesticide led to the implementation of a trial program in Hunan and Zhejiang provinces to control its sale and storage to attempt to reduce suicide attempts.

The UN Economic and Social Council reported that less than 2 percent of women between the ages of 15 and 24 were illiterate. According to 2008 official

government statistics, women comprised more than 70 percent of all illiterate persons above the age of 15. In some underdeveloped regions, the female literacy rate lagged behind the male literacy rate by 15 percent or more.

While the gap in the education levels of men and women narrowed, differences in educational attainment remained a problem. Men continued to be overrepresented among the relatively small number of persons who received a university-level education. According to Ministry of Education statistics, in 2008 women accounted for 50 percent of undergraduate and college students, 46 percent of postgraduate students, and nearly 35 percent of doctoral students. Women with advanced degrees reported discrimination in the hiring process as the job distribution system became more competitive and market-driven.

### Children

Citizenship is derived from the parents. Parents must register their children in compliance with the national household registration system within one month of birth. Children not registered cannot access public services. No data was available on the number of unregistered births.

The law provides for nine years of compulsory education for children. However, in economically disadvantaged rural areas, many children did not attend school for the required period and some never attended at all. Public schools were not allowed to charge tuition; however, faced with insufficient local and central government funding, many schools continued to charge miscellaneous fees. Such fees and other school-related expenses made it difficult for poorer families and some migrant workers to send their children to school.

According to a 2008 UNDP report, the urban-rural gap in literacy rates of young persons had narrowed, from 6 percent in 1990 to 1.6 percent in 2005. The proportion of girls attending school in rural and minority areas was reportedly smaller than in cities; in rural areas 61 percent of boys and 43 percent of girls completed education higher than lower middle school. The government reported that nearly 20 million children of migrant laborers followed their parents to urban areas. Most children of migrant workers who attended school did so at schools that were unlicensed and poorly equipped.

Female babies suffered from a higher mortality rate than male babies, contrary to the worldwide norm. State media reported that infant mortality rates in rural areas

were 27 percent higher for girls than boys and that neglect was one factor in their lower survival rate.

The Law on the Protection of Juveniles forbids infanticide; however, there was evidence that the practice continued. According to the National Population and Family-planning Commission, a handful of doctors have been charged with infanticide under this law. Female infanticide, sex-selective abortions, and the abandonment and neglect of baby girls remained problems due to the traditional preference for sons and the coercive birth limitation policy.

Kidnapping and buying and selling children for adoption increased over the past several years, particularly in poor rural areas. There were no reliable estimates of the number of children kidnapped; however, according to media reports, as many as 20,000 children were kidnapped every year for illegal adoption. Most children kidnapped internally were sold to couples unable to have children, particularly sons. Those convicted of buying an abducted child may be sentenced to three years' imprisonment. In the past most children rescued were boys, but increased demand for children reportedly drove traffickers to focus on girls as well. In 2009 the Ministry of Public Security started a DNA database of parents of missing children and children recovered in law enforcement operations in an effort to reunite families.

By law those who force young girls (under age 14) into prostitution may be sentenced to 10 years or more in prison or given a life sentence, in addition to a fine or confiscation of property. If the case is especially serious, they are to be given a life sentence or sentenced to death, in addition to confiscation of property. Those inducing young girls (under age 14) into prostitution are to be sentenced to five years or more in prison in addition to a fine. Those who visit young female prostitutes (under age 14) are to be sentenced to five years or more in prison in addition to paying a fine.

According to the law, the minimum age of consensual sex is 14.

Pornography of any kind is illegal, including child pornography. Under the criminal code, those producing, reproducing, publishing, selling, or disseminating obscene materials with the purpose of making a profit may be sentenced up to three years in prison or put under criminal detention or surveillance, in addition to paying a fine. If the case is serious, they are to be sentenced to from three to 10 years in prison, in addition to paying a fine. If the case is especially serious, they are to be sentenced to 10 years or more in prison or given a life sentence, in

addition to a fine or confiscation of property. Persons found disseminating obscene books, magazines, films, audio or video products, pictures, or other kinds of obscene materials, if the case is serious, may be sentenced up to two years in prison or put under criminal detention or surveillance. Persons organizing the broadcast of obscene motion pictures or other audio or video products may be sentenced up to three years in prison or put under criminal detention or surveillance, in addition to paying a fine. If the case is serious, they are to be sentenced to three to 10 years in prison in addition to paying a fine.

Those broadcasting or showing obscene materials to minors less than 18 years of age are to be severely punished.

There were more than 150,000 urban street children, according to state-run media and the Ministry of Civil Affairs. This number was even higher if the children of migrant workers who spend the day on the streets were included. In 2008 state media reported that the number of children in rural areas left behind by their migrant-worker parents totaled 58 million.

The law forbids the mistreatment or abandonment of children. The vast majority of children in orphanages were girls, many of whom were abandoned. Boys in orphanages were usually disabled or in poor health. Medical professionals sometimes advised parents of children with disabilities to put the children into orphanages.

The government denied that children in orphanages were mistreated or refused medical care but acknowledged that the system often was unable to provide adequately for some children, particularly those with serious medical problems. Adopted children were counted under the birth limitation regulations in most locations. As a result, couples that adopted abandoned infant girls were sometimes barred from having additional children.

The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at [http://travel.state.gov/abduction/resources/congressreport/congressreport\\_4308.html](http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.html).

Anti-Semitism

There were no reports of anti-Semitic acts during the year. The government does not recognize Judaism as an ethnicity or religion. According to information from the Jewish Virtual Library the country's Jewish population was 1,500 in 2006.

### Trafficking in Persons

For information on trafficking in persons, please see the Department of State's annual *Trafficking in Person's Report* at [www.state.gov/g/tip](http://www.state.gov/g/tip).

### Persons with Disabilities

The law protects the rights of persons with disabilities and prohibits discrimination; however, conditions for such persons lagged far behind legal dictates, failing to provide persons with disabilities access to programs designed to assist them.

The MCA and the China Disabled Persons Federation, a government-organized civil association, were the main entities responsible for persons with disabilities. In September 2009 government officials confirmed that there were 83 million persons with disabilities living in the country. According to government statistics, in 2008 there were 3,731 vocational education and training facilities, which provided training and job-placement services for 774,000 persons with disabilities. More than 4.5 million persons with disabilities were employed in cities and towns; 17.2 million were employed in rural areas. Government statistics stated that 7.4 million persons with disabilities enjoyed the minimum life guarantee; nearly three million had social insurance.

The law prohibits discrimination against minors with disabilities and codifies a variety of judicial protections for juvenile offenders. In 2007 the Ministry of Education reported that nationwide there were 1,618 schools for children with disabilities. According to NGOs, there were approximately 20 million children with disabilities, only 2 percent of whom had access to special education that could meet their needs. In 2008 there were 419,000 children with disabilities in schools. NGOs claimed that while the overall school enrollment rate was 99 percent, only 75 percent of children with disabilities were enrolled in school. Nationwide, 243,000 school-age children with disabilities did not attend school. Nearly 100,000 organizations existed, mostly in urban areas, to serve those with disabilities and protect their legal rights. The government, at times in conjunction with NGOs, sponsored programs to integrate persons with disabilities into society.

The physical abuse of children can be grounds for criminal prosecution. However, misdiagnosis, inadequate medical care, stigmatization, and abandonment remained common problems. According to reports, doctors frequently persuaded parents of children with disabilities to place their children in large government-run institutions, where care was often inadequate. Those parents who chose to keep children with disabilities at home generally faced difficulty finding adequate medical care, day care, and education for their children. Government statistics showed that almost one-quarter of persons with disabilities lived in extreme poverty.

Unemployment among adults with disabilities remained a serious problem. Under the Employment Promotion Law, local governments were required to offer incentives to enterprises that hired persons with disabilities. Regulations in some parts of the country also required employers to pay into a national fund for the disabled when the employees with disabilities did not make up the statutory minimum percentage of the total workforce.

Standards adopted for making roads and buildings accessible to persons with disabilities were subject to the Law on the Handicapped, which calls for their "gradual" implementation; however, compliance with the law was lax. Students with disabilities were discriminated against in access to education. The law permits universities legally to exclude otherwise qualified candidates from higher education.

The law forbids the marriage of persons with certain acute mental illnesses, such as schizophrenia. If doctors find that a couple is at risk of transmitting disabling congenital defects to their children, the couple may marry only if they agree to use birth control or undergo sterilization. The law stipulates that local governments must employ such practices to raise the percentage of healthy births.

#### National/Racial/Ethnic Minorities

Most minority groups resided in areas they traditionally inhabited. Government policy calls for members of recognized minorities to receive preferential treatment in birth planning, university admission, access to loans, and employment. However, the substance and implementation of ethnic minority policies remained poor, and discrimination against minorities remained widespread.

Minority groups in border and other regions had less access to education than their Han counterparts, faced job discrimination in favor of Han migrants, and earned

incomes well below those in other parts of the country. Government development programs often disrupted traditional living patterns of minority groups and included, in some cases, the forced relocation of persons. Han Chinese benefited disproportionately from government programs and economic growth. As part of its emphasis on building a "harmonious society," the government downplayed racism and institutional discrimination against minorities, which remained the source of deep resentment in the XUAR, Inner Mongolia Autonomous Region, and Tibetan areas. In September 2009 the State Council issued a white paper on ethnic policy, common prosperity, and development of all ethnic groups. The report stated that the country's ethnic policy ensured equality among all ethnic groups.

According to 2007 government statistics, 36.3 percent of Guangxi Province's cadres were ethnic minorities. In 2008 all five of the country's ethnic minority autonomous regions had governors from minority groups for the first time in history. However, the Communist Party secretaries of these five autonomous regions were all Han. Han officials continued to hold the majority of the most powerful party and government positions in minority autonomous regions, particularly the XUAR.

The government's policy to encourage Han Chinese migration into minority areas significantly increased the population of Han in the XUAR. In recent decades the Han-Uighur ratio in the capital of Urumqi has shifted from 20 to 80 to 80 to 20 and continued to be a source of Uighur resentment. Discriminatory hiring practices gave preference to Han and discouraged job prospects for ethnic minorities. According to 2005 statistics published by XUAR officials, eight million of the XUAR's 20 million official residents were Han. Hui, Kazakh, Kyrgyz, Uighur, and other ethnic minorities constituted approximately 12 million XUAR residents. Official statistics understated the Han population, because they did not count the tens of thousands of Han Chinese who were long-term "temporary workers." While the government continued to promote Han migration into the XUAR and fill local jobs with migrant labor, overseas human rights organizations reported that local officials under direction from higher levels of government deceived and pressured young Uighur women to participate in a government-sponsored labor transfer program.

The XUAR government took measures to dilute expressions of Uighur identity, including reduction of education in ethnic minority languages in XUAR schools and the institution of language requirements that disadvantaged ethnic minority teachers. The government continued to apply policies that prioritized standard Chinese for instruction in school, thereby reducing or eliminating ethnic-language

instruction. Graduates of minority language schools typically needed intensive Chinese study before they could handle Chinese-language course work at a university. The dominant position of standard Chinese in government, commerce, and academia put graduates of minority-language schools who lacked standard Chinese proficiency at a disadvantage.

During the year authorities continued to implement repressive policies in the XUAR and targeted the region's ethnic Uighur population. Officials in the XUAR continued to implement a pledge to crack down on the government-designated "three forces" of religious extremism, splittism, and terrorism and outlined efforts to launch a concentrated antiseparatist reeducation campaign.

It was sometimes difficult to determine whether raids, detentions, and judicial punishments directed at individuals or organizations suspected of promoting the three forces were actually used to target those peacefully seeking to express their political or religious views. The government continued to repress Uighurs expressing peaceful political dissent and independent Muslim religious leaders, often citing counterterrorism as the reason for taking action.

Uighurs continued to be sentenced to long prison terms, and in some cases executed, on charges of separatism and endangering state security. The government reportedly sought the repatriation of Uighurs outside the country, who faced the risk of persecution if repatriated.

Freedom of assembly was severely limited during the year in the XUAR.

In September 2009 the government announced it would demolish three buildings owned by the family of exiled Uighur leader Rebiya Kadeer, president of the World Uighur Conference. The government blamed Kadeer, a Uighur businesswoman in exile, for orchestrating the July 2009 riots in Urumqi. At year's end the buildings had not been demolished.

Possession of publications or audiovisual materials discussing independence or other sensitive subjects was not permitted. Uighurs who remained in prison at year's end for their peaceful expression of ideas the government found objectionable included Mehbube Ablesh, Abdulla Jamal, Adduhelil Zunun, Abdulghani Memetemin, and Nurmuhemmet Yasin.

During the year XUAR and national-level officials defended the campaign against the three forces of religious extremism, splittism, and terrorism and other



emergency measures taken as necessary to maintain public order. Officials continued to use the threat of violence as justification for extreme security measures directed at the local population, journalists, and visiting foreigners.

In September 2009 state media reported that XUAR authorities approved the Information Promotion Bill, making it a criminal offense to discuss separatism on the Internet and prohibiting use of the Internet in any way that undermines national unity. The bill further bans inciting ethnic separatism or harming social stability. The bill requires Internet service providers and network operators to set up monitoring systems or strengthen existing ones and report transgressions of the law.

Han control of the region's political and economic institutions also contributed to heightened tension. Although government policies continued to allot economic investment in, and brought economic improvements to the XUAR, Han residents received a disproportionate share of the benefits.

(For specific information on Tibet, please see the Tibet addendum.)

#### Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

No laws criminalize private homosexual activity between consenting adults. Homosexuality was decriminalized in 1997 and removed from the official list of mental disorders in 2001. Due to societal discrimination and pressure to conform to family expectations, most gay individuals refrained from publicly discussing their sexual orientation. Individual activists and organizations working on HIV/AIDS and lesbian, gay, bisexual, and transgender (LGBT) issues continued to report discrimination and harassment from the authorities. In May HIV/AIDS activist Wan Yanhai, founder and director of the Beijing-based NGO Aizhixing, left the country, reportedly in response to increased pressure by authorities on himself and his organization.

In January police blocked an event to choose a delegate to the Worldwide Mr. Gay pageant, shutting down the first-ever Mr. Gay China pageant just before the event. Police cited a lack of permits.

In March, Li Yinhe, an activist and sexologist for the third time presented a proposal to the NPC and CPPCC advocating the legalization of same-sex marriage. Li had previously presented the proposal in 2003 and 2006. To date, no NPC

debate has been held on the proposal.

On May 17, a small number of events were held across the country in universities to mark the International Day against Homophobia. The events were covered in English-language domestic media, but Chinese-language coverage was subdued.

In September police raided a park frequented by gays in Beijing, allegedly as part of a security sweep ahead of the October National Day holiday. Reports suggested approximately 80 men were taken to a local police station, most were released without charge.

In March and April 2009, approximately 50 gays were reportedly detained in Renmin Park in Guangzhou and questioned by police. In August 2009 police in Guangzhou tried again to remove a group of gays from Renmin Park. The men refused, and after a nonviolent standoff, the police desisted.

In June 2009 the first gay pride festival took place in Shanghai. Also in June 2009 the Beijing Queer Film Festival was held. Police had blocked previous attempts to hold the festival.

LGBT plotlines and scenes are not allowed on broadcast television. However, in May a play with a lesbian theme was staged in a mainstream Beijing theatre.

Although there is no legal prohibition against the registration of LGBT student groups, none were allowed to register at any university.

In July 2009 a group of lesbians organized an online petition calling on the government to rescind a 1998 law banning gays and lesbians from donating blood.

#### Other Societal Violence or Discrimination

The Employment Promotion Law, which went into effect in 2008, improves protection against discrimination in employment, and local governments began modifying their regulations to reflect the new law. Under the law and adopted regulations, employment discrimination against persons carrying an infectious disease is prohibited, and provisions allow such persons to work as civil servants. While the law improves protection against discrimination in employment, it does not address some common types of discrimination in employment, including discrimination based on height, physical appearance, or place of origin.

In April the country eliminated a 20-year travel ban that barred individuals with HIV/AIDS from entering the country. The State Council posted a statement on its Web site announcing that the government had passed amendments on April 19, revising the Border Quarantine Law, as well as the Law on Control of the Entry and Exit of Aliens; the changes were effective immediately.

Despite provisions in the Employment Promotion Law, discrimination against persons with HIV/AIDS and hepatitis B carriers (including 20 million chronic carriers) remained widespread in many areas. Persons with HIV/AIDS suffered discrimination, and local governments sometimes tried to suppress their activities. At the same time, international involvement in HIV/AIDS prevention, care, and treatment, as well as central government pressure on local governments to respond appropriately, brought improvements in some localities. Some hospitals that previously refused to treat HIV/AIDS patients had active care and treatment programs because domestic and international training programs improved the understanding of local healthcare workers and their managers. In Beijing dozens of local community centers encouraged and facilitated HIV/AIDS support groups.

Some NGOs working with HIV/AIDS patients and their family members continued to report difficulties with local governments, particularly in Henan Province. Henan authorities provided free treatment to persons with HIV/AIDS, but foreign and local observers noted that local governments were reluctant or even hostile toward coordinating efforts with NGOs and preferred to work independently.

On February 10, a nationwide rule banning mandatory hepatitis B virus tests in job and school admissions applications was promulgated.

## Section 7 Worker Rights

### a. The Right of Association

The law does not provide for freedom of association, as workers were not free to organize or join unions of their own choosing. Independent unions are illegal, and the right to strike is not protected in law.

The All-China Federation of Trade Unions (ACFTU), which is controlled by the CCP and chaired by a member of the Politburo, is the sole legal workers' organization. The trade union law gives the ACFTU control over all union organizations and activities, including enterprise-level unions and requires the

ACFTU to "uphold the leadership of the Communist Party." ACFTU constituent unions were generally ineffective in protecting the rights and interests of members. The ACFTU was active in advocating for government policies to better protect rights and interests of workers. Following widespread criticism of the ACFTU's response to several high-profile labor disputes that occurred primarily at automotive parts suppliers in Guangzhou, the union has advocated for reform of laws to better equip the union to protect workers' rights and interests.

The ACFTU and its provincial and local branches continued to aggressively organize new unions and add new members. According to the latest available official ACFTU data, as of the end of 2009 there were 1.8 million trade unions with 226 million registered ACFTU members, and about 84 million of the estimated 230 million migrant workers in the country had joined trade unions. Further, the ACFTU claimed that 79 percent of foreign-invested companies, 78.5 percent of private companies, and 87 percent of the "Fortune 500" companies' China headquarters had established trade unions by the end of 2009.

One of the 12 Taiwan employees who became a member of the Xiamen General Labor Union in 2009 (the first time a mainland ACFTU-affiliated labor union accepted Taiwan members) was invited to attend the 12th Fujian Provincial Trade Union Conference in May. He was the only Taiwan worker representative at this ACFTU conference. During the year the Xiamen government awarded "May 1st Labor" medals to six Taiwan workers. The medals, which usually are awarded to mainland workers, were for the first time awarded to workers from Taiwan in 2009.

Although the law states that trade union officers at each level should be elected, most factory-level officers were appointed by ACFTU-affiliated unions, often in coordination with employers, and were drawn largely from the ranks of management. Direct election by workers of union leaders continued to be rare, occurred only at the enterprise level, and was subject to supervision by higher levels of the union or Communist Party. In enterprises where direct election of union officers took place, regional ACFTU offices and local party authorities retained control over the selection and approval of candidates.

The inability to directly elect their representatives was a key issue raised by workers in several labor disputes in Guangzhou. In July striking workers at three Honda auto components factories in the Pearl River Delta region not only demanded and obtained a large wage increase, they also succeeded in obtaining a promise of democratic union elections in which workers directly elect union

leaders at the enterprise level. The Guangdong Federation of Trade Union indicated Honda's Nanhai plant will be a pilot site for remodeling the ACFTU and allowing union members to elect their own union chair. A senior ACFTU official was quoted by official media as saying the ACFTU hopes to end the practice of companies appointing union leaders or assigning someone from their human resources department to act as union leader.

Following the heightened restrictions and surveillance reported by labor NGOs in 2009 surrounding politically sensitive anniversaries, several labor rights NGOs reported fewer restrictions during the year and in some cases said they were able to engage directly with high-level government officials. However, authorities in the south increased restrictions on some labor NGOs in the aftermath of the large number of high-profile strikes in Guangdong factories.

Despite more relaxed rules on NGO registration that Shenzhen implemented in 2008, labor NGOs still reported that they were unable to register as civil organizations and had little alternative but to register as businesses and be subject to taxation.

According to local press accounts, Luo Xi, a former primary school teacher from Hunan Province who was previously sentenced to a lengthy RTL term following his participation in the 1989 Tiananmen incident, was arrested on January 8, for participating in and instigating a teachers' strike in Hunan in December 2008 to demand the same wages and benefits as civil servants. Luo was sentenced to two years' reeducation through labor in late January for "disrupting social order." According to an NGO, on February 10, Xue Mingkai, a 20-year-old factory worker, was sentenced to one and a half years' imprisonment for subversion of state power by the Shenzhen Intermediate Court. Authorities claimed he had joined the China Democracy Party in 2009 and had recruited others to join. They also alleged he planned to organize a "Democratic Workers' Party."

Labor activists detained in previous years reportedly remained in detention at year's end, including Wang Sen, Hu Mingjun, Li Wangyang, Kong Youping, Ning Xianhua, Li Jianfeng, Lin Shun'an, Chen Wei, She Wanbao, Zhu Fangming, Zhao Dongming, Ren Fengyu, Liu Jian, Wang Miaogen, Feng Xinchun, Huang Zhuyu, Xu Haiyan, Wang Jun, Huang Yunmin, Li Xintao, Liu Jian, Liu Jianjun, Yang Chunlin, Yu Changwu, Xu Zexin, Yuan Xianchen, You Jingyou, Zhang Qizhong, and Zhao Wuhu.

While work stoppages are not expressly prohibited in law, article 53 of the constitution has been interpreted as a ban on labor strikes by obligating all citizens to "observe labor discipline and public order." Local government interpretations of the law varied, with some jurisdictions showing some tolerance for strikes while others continue to treat worker protests as illegal demonstrations. Without a clearly defined right to strike, workers had only a limited capacity to influence the negotiation process.

As in past years, in spite of the unclear legal status of worker strikes, there were hundreds of reports of workers throughout the country engaging in strikes, work stoppages, and other protest actions. Most of the complaints were economic in nature, with demands for pay increases and better benefits being the most common. In many instances, workers successfully won concessions from companies and saw significant wage increases.

Figures released by the Guangdong Province Human Resource and Social Security Department indicate 36 strikes involving more than 600 workers demanding higher pay occurred over 48 days (May 25-July 12). These strikes were mainly in car parts factories and electronics plants of the Pearl River Delta. Labor Department officials at the provincial and municipal levels in Guangdong identified 142 more enterprises with unstable labor relations (120 in Guangzhou, 14 in Shenzhen, and eight in Zhuhai). While official media continued to aggressively publicize worker protests, the strikes in Guangdong Province led the government to institute a media ban on all reports of strikes in the area.

Several small labor protests in Jiangsu Province in May and June heightened anxiety in the Yangtze River Delta region. On June 8, workers at a Taiwan-owned machinery factory in Kunshan clashed with police. The 2,000-plus workers had walked off the assembly line to demand better pay and improved working conditions. Approximately 50 protesters reportedly were injured. Prior to the incident in Kunshan, there had been reports in mid-May that 44 employees of the Taiwan-based company, Wintek Corporation, planned to sue the company for poisoning them after a Suzhou factory manager made them use n-hexane to clean iPhone screens ordered by Apple Corporation. Workers at Nikon Imaging company in nearby Wuxi also protested because of their dissatisfaction with the handling of a poisonous gas incident at the plant.

The 2008 Labor Contract Law and the global financial crisis both contributed to the growth in labor disputes in the court system. According to the Supreme People's Court, courts nationwide handled 295,500 labor dispute cases in 2008, a

one-year increase of 95.3 percent. The number of labor dispute cases increased another 7.8 percent in 2009, to 318,600. From January to August, courts recorded 207,400 new labor dispute cases.

b. The Right to Organize and Bargain Collectively

The labor law permits collective bargaining for workers in all types of enterprises; however, in practice collective bargaining fell short of international standards. Under labor and trade union laws, collective contracts are to be developed through collaboration between the labor union and management and should specify such matters as working conditions, wage scales, and hours of work.

The trade union law specifically addresses unions' responsibility to bargain collectively on behalf of workers' interests. Regulations required the union to gather input from workers prior to consultation with management and to submit collective contracts to workers or their congress for approval. There is no legal obligation for employers to negotiate, and some employers refused to do so. A key article of the 2008 labor contract law requires employers to consult with labor unions or employee representatives on matters that have a direct bearing on the immediate interests of their workers.

Despite the collective bargaining article in the 2008 Labor Contract Law, many employers prefer to deal with individual employees directly, allowing for widespread employer abuse of labor contracts. Common cases of noncompliance with the Labor Contract Law during the year included forcing employees to sign blank contracts and not providing workers a copy of their contract. Lack of government resources also undermined effective implementation and enforcement of the Labor Contract Law.

In July the Guangdong provincial government issued guidelines on enterprise collective wage bargaining, which included requiring employers to give employee representatives information regarding a company's operations, including employee pay and benefits, to be used in wage bargaining. The guidelines also gave employees and employers the right to request the labor bureau to act as a mediator to help determine wage increase distribution among employees.

In August the Beijing ACFTU instructed lower-level Beijing trade unions to initiate collective wage bargaining with companies that pay low average monthly wages. According to the Beijing Municipal Federation of Trade Unions,

enterprises in Beijing with an average wage of less than RMB 1,100 per month (approximately \$165) will be required to conduct collective negotiations.

The ACFTU reported that 1.4 million collective contracts were signed by the end of September, covering 2.43 million enterprises and 185 million workers.

The 2008 Labor Dispute Mediation and Arbitration Law provides for labor dispute resolution through a three-stage process: mediation between the parties, arbitration by officially designated arbitrators, and litigation. The 2008 law improved workers' access to and streamlined this three-stage process. The number of labor disputes nationwide continued to rise as workers' awareness of the laws increased.

The Trade Union Law provides specific legal remedies against antiunion discrimination and specifies that union representatives may not be transferred or terminated by enterprise management during their term of office. Collective contract regulations provide similar protections for employee representatives during collective consultations.

There are no special laws or exemptions from regular labor laws in export processing zones.

### c. Prohibition of Forced or Compulsory Labor

The law prohibits forced and compulsory labor and contains provisions relevant to forced labor and trafficking for labor purposes. However, there were reports that such practices occurred. Punishment for forced labor offenses under the criminal code ranged from an administrative fine to a maximum of three years' imprisonment, which was deemed "insufficiently dissuasive" by the International Labor Organization's Committee of Experts on the Application of Standards.

There were reports that employers withheld wages, or required unskilled workers to deposit several months' wages as security against the workers departing early from their labor contracts. These practices often prevented workers from exercising their right to leave their employment and made them vulnerable to forced labor. Implementation of new labor laws, along with workers' increased knowledge of their rights under these new laws, continued to reduce these practices.

On September 13, the Supreme People's Court issued an interpretation intended to help workers substantiate claims of not being paid for overtime work. Among the key issues addressed, the ruling provided that for overtime claims, while



employees have the initial burden of proving that overtime work was performed, the burden shifts to the employer if the employee can demonstrate that the employer had control over the evidence proving that the work was performed.

Examples of continued reports of forced labor included: The freeing by police in May of 34 migrant workers who had been forced to work in slave-like conditions in a brick kiln in Hebei Province. A total of 11 suspects including the kiln's owner were arrested. The discovery by local Xinjiang reporters in December of 12 mentally ill workers forced to work in slave labor-like conditions at a Chemical Factory in Tuokexun. The factory owner and his son were arrested, along with a labor trafficker from Sichuan's Qu County who allegedly sold the workers to the factory. The workers were rescued and placed in care, and the trafficker's "Beggars Adoption Agency" was closed down.

Forced labor remained a serious problem in penal institutions according to the International Trade Union Confederation (ITUC). Many prisoners and detainees in RTL facilities were required to work, often with no remuneration. In addition, there were credible allegations that prisoners were forced to work for private production facilities associated with prisons. These facilities often operated under two different names: a prison name and a commercial enterprise name. There was no effective mechanism to prevent the export of goods made under such conditions.

The Ministry of Justice discussed allegations of exported prison labor goods with foreign government officials, but information about prisons, including associated labor camps and factories, was tightly controlled.

Also see the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/g/tip](http://www.state.gov/g/tip).

#### d. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits the employment of children under the age of 16, but child labor remained a problem. The government does not publish statistics on the extent of child labor.

The Labor Law specifies administrative review, fines, and revocation of business licenses of those businesses that illegally hire minors, and provides that underage children found working should be returned to their parents or other custodians in their original place of residence. However, a significant gap remained between

legislation and implementation. Workers between the ages of 16 and 18 were referred to as "juvenile workers" and were prohibited from engaging in certain forms of physical work, including in mines.

Social compliance auditors working for foreign buyers continued to report some use of child labor in factories producing for export. There continued to be some reports that schools supplied factories with illegal child labor under the pretext of vocational training. There are reports that spot labor shortages, rising wage levels, and more demands made by adult workers compounded by continued fierce competition, induced some small enterprises to run the risk of hiring child labor, and some local authorities to ignore this practice to protect against employers moving to other areas.

ITUC alleged that there was substantial employment of children under the age of 16 as a result of poor conditions in the rural education system that caused parents to send their children to work because their education was unaffordable. Additionally, work-study programs allow schools in poor areas to set up income generating schemes in agriculture and manufacturing, employing children to earn money for their school fees. Many of these programs resulted in abuses such as child labor that is forced and in dangerous and labor-intensive industries such as agriculture, construction, and factories in which the employed children worked long hours under harsh conditions.

An April National Labor Committee report on KYE Systems Corporation, a consumer electronics factory in Dongguan City, Guangdong Province, (also known as Dongguan Kunying Computer Products Company Ltd.), claimed that dozens of work-study students employed at the factory over the past three years, purportedly 16 and 17 years old, actually were 14 and 15 years of age and worked 15-hour shifts, six and seven days a week. The report also alleged that the factory prohibited bathroom breaks during working hours, restricted the off-compound movement of workers, provided inadequate bathroom and dormitory facilities (a bucket and sponge were provided for showering and 14 workers shared each dorm room), and forced workers who made mistakes to clean the bathrooms.

In April local media reported a 15-year-old in Panjin city, Liaoning Province, was severely injured by a gas explosion in a restaurant where he was working. In May a local journalist in Hebei Province discovered that a 14-year-old child laborer was hired to work seven days a week as a welder by a local factory. In July a popular newspaper in Guangzhou reported that a 13-year-old child laborer drowned while

he was trying to escape from the local police in Guangzhou who were cracking down on an illegal workshop where he was employed to produce cigarettes.

According to an official Xinhua news article, local labor inspection teams in Hainan Province found five girls, between ages 13 and 15, employed as waitresses in a hotel in Zhanzhou City.

Also see the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/g/tip](http://www.state.gov/g/tip).

e. Acceptable Conditions of Work

There was no national minimum wage, but the labor law requires local and provincial governments to set their own minimum wage according to standards promulgated by the Ministry of Human Resources and Social Security (MOHRSS). The regulation states that labor and social security bureaus at or above the county level are responsible for enforcement of the law. It provides that where the ACFTU finds an employer in violation of the regulation, it shall have the power to demand that the relevant labor bureaus deal with the case.

Due to changing economic and demographic conditions, almost all local and provincial governments raised minimum wage levels significantly during the year. Additionally, increased economic activity, spot shortages of skilled labor, increased inland investment, and successful strikes led to generally increased wage levels for workers in all parts of the country.

While minimum wage laws apply to all workers, wage arrears remained a common problem. Governments at various levels continued their efforts to prevent arrears and recover payment of missing wages and insurance contributions. Many of the estimated 230 million migrant workers and their families faced numerous other obstacles with regard to working conditions and labor rights. Many were unable to access public services, such as public education or social insurance, in the cities where they lived and worked because they were not legally registered urban residents.

The labor law mandates a 40-hour standard workweek, excluding overtime, and a 24-hour weekly rest period. It also prohibits overtime work in excess of three hours per day or 36 hours per month and mandates a required percentage of additional pay for overtime work. However, in practice compliance with the law was weak, and standards were regularly violated.

While many labor laws and regulations on worker safety are fully compatible with international standards, implementation and enforcement were generally poor due to a lack of adequate resources. For example, MOHRSS reported that in 2008 there were only 23,000 fulltime professional inspectors, and indicated that there were areas in which a single labor inspector would be responsible for more than 50,000 workers.

Inadequately enforced occupational health and safety laws and regulations continued to put workers' health and safety at risk. The State Administration for Work Safety (SAWS) sets and enforces occupational health and safety regulations. The work safety law states that employees have the right, after finding an emergency situation that threatens their personal safety, to evacuate the workplace. Employers are forbidden to cancel the labor contracts or reduce the wages or benefits of any employee who takes such action. In practice such protective provisions were poorly enforced at the local level.

The State Council issued an order requiring local governments and companies to strengthen standards by improving corporate safety management, providing technical support and enhancing supervision in an effort to prevent accidents in high-risk industries, such as mines and chemical factories. The 32-item order requires, among other items, that at least one senior manager accompany miners underground at all times and that workers in high-risk industries receive professional training and possess valid certification. If any unqualified and untrained workers are found employed in such workplaces, the company may be shut down. Factories or mines that have an accident that kills more than three persons or two fatal accidents in a year will be blacklisted. This information will then be released to departments related to land resources, construction, finance, investment, and banks to use as an important reference in future loan agreement negotiations. Also, seven national mine emergency teams will be established across the country to provide timely rescue work in the event of a serious accident.

The State Council's Work Safety Committee orchestrated a nationwide campaign to improve work safety. In a July 20 report, the committee acknowledged that there were problems in the nationwide workplace-safety check system and in resolving work safety problems. During the year inspectors reportedly uncovered 9.34 million unreported "work safety dangers" while inspecting 6.42 million work units (danwei), including 2.12 million industrial and mining facilities. Reportedly, 3,327 of the serious hidden dangers were not adequately resolved by year's end.

The coal industry continued to have a high incidence of accidents and fatalities, but the government continued efforts to consolidate the industry into larger, better-regulated mining companies, including the campaign jointly carried out by the National Development and Reform Commission, the State Energy Administration, SAWS, and the State Administration of Coal Mine Safety to target small mines with an annual production capacity of less than 300,000 tons. According to statistics from the National Energy Administration (NEA), 620 small coalmines were shut down from January to May, eliminating production of 75.4 million tons of coal.

Also according to the NEA, the death rate per million tons of mined coal for the first half of the year was 0.788, a decrease of almost 15 percent from the previous year. It reported 71 accidents in total, killing 602 persons. Many of these accidents were attributed to production by illegal small mines and by overproduction of large mines. Independent labor groups stated the actual casualty figures could be much higher, since many accidents were covered up.

The head of the SAWS said that illegal production, operations, and construction caused 502 major work-related accidents during the first half of the year, an increase of 75 accidents over the same period last year. According to official statistics, a total of 2,652 persons were reported injured, killed or missing in these 502 accidents, an increase of 576 victims over the first half of 2009. From January to June, large production accidents rose 36.4 percent from last year to reach 45, resulting in 764 individuals killed or listed as missing, up 53.4 percent from the same period in 2009.

As an example of the many reported coal mine accidents, in one weekend in July five separate mining incidents killed more than 40 miners and left 13 trapped. Twenty-eight miners were killed at a privately owned mine in Hancheng City, Shaanxi Province, while a fire at a mine in Henan Province killed eight workers. The following day, two miners were killed following a gas explosion at a coal mine in Hunan Province, 13 workers were trapped in a flooded colliery in Gansu Province, and four miners died at a mine explosion at state-owned Nanpiao Coal and Electricity Co.'s Dayaogou Mine in Huludao City, Liaoning Province. Media later in the week reported the dismissal of Hancheng's mayor and the city government's action to halt production at 33 coalmines until safety concerns were addressed.

In March 153 miners were trapped underground after an accident at the Wangjialing Coal Mine in Shanxi Province. After eight days, 115 of them were rescued.

According to the Ministry of Health, more than 14,000 workers were diagnosed with pneumoconiosis, or black lung disease, in 2009, accounting for 80 percent of new occupational disease cases during the year. Many of these miners had difficulty obtaining compensation as many of the mines were privately operated, and had closed. When the mines closed, many workers had no certificate to prove they once worked in the mine, and without the certificate a hospital cannot make an occupational disease assessment report, without which there can be no compensation.

## **TIBET**

The United States recognizes the Tibet Autonomous Region (TAR) and Tibetan autonomous prefectures and counties in other provinces to be a part of the People's Republic of China (PRC). The Tibetan population within the TAR was approximately 2.7 million and outside the TAR was an estimated 2.9 million. The government strictly controlled information about, and access to, the TAR and Tibetan areas outside the TAR, making it difficult to determine accurately the scope of human rights abuses.

There was severe repression of freedoms of speech, religion, association, and movement. The intensified controls applied following the March 2008 riots and unrest in Tibetan areas eased somewhat after the second anniversary of the unrest and its suppression. Authorities continued to commit serious human rights abuses, including extrajudicial killings, torture, arbitrary arrests, extrajudicial detention, and house arrest. The preservation and development of Tibet's unique religious, cultural, and linguistic heritage remained a concern.

The fallout from the March 2008 protests continued to affect the human rights situation in Tibetan regions of the PRC. A number of Tibetans, especially monks, remained incarcerated for their role in the 2008 protests and riots. People's Armed Police (PAP) presence remained at historically high levels in many communities across the Tibetan Plateau. In March all major monasteries in Lhasa were guarded by security forces. On March 14, many shops in the city closed to mark the anniversary of the demonstrations and the police crackdown. Students in many

areas protested; in southern Gansu Province, students reportedly protested for freedom, human rights, and in support of the Dalai Lama.

### Deprivation of Life

There were numerous reports that the government or its agents committed arbitrary or unlawful killings; however, it was not possible to verify independently these reports. There were no reports that officials investigated or punished those responsible for the killings.

In August police shot and killed a Tibetan during a mining protest in Phayul County in Ganzi (Kardze) Prefecture. State media claimed the Tibetan was shot accidentally when police fired warning shots at protesters.

In December 2009 33-year-old Tibetan nun Yangkyi Dolma died of unknown causes in a Chengdu hospital after eight months in police custody. She was severely beaten by police and arrested in March 2009 after she joined a protest in Ganzi County, Ganzi Prefecture, Sichuan Province calling for human rights and the swift return of the Dalai Lama.

No further information was available regarding the January 2009 death of Pema Tsepag following his beating by authorities; the March 2009 killing of Phuntsok Rabten by public security agents; the March 2009 killing of Panchou Lede in a clash between soldiers and farmers; and the August 2009 death of Kalden following his torture in a Lhasa prison.

Following the outbreak of protests in March 2008, the government reported that 22 persons were killed in the Lhasa violence, including 18 civilians, one police officer, and three rioters. However, outside observers, including Tibetan exile groups and nongovernmental organizations (NGOs), variously placed the number of persons killed in Tibetan areas due to official suppression that began March 10 at between 100 and 218.

There were reports of persons tried, found guilty, and executed for their activities during the 2008 protests. Trials and executions were not transparent, and requests by foreign observers to attend trials were denied. There was not enough information available to determine whether they were afforded due process.

### Disappearance

Following the 2008 riots in Lhasa, authorities arbitrarily detained Tibetans, including monks and nuns, many of whom remained missing. Official statistics for the number detained were incomplete and covered only limited areas. In February 2009 official media reported that 953 persons were detained or had surrendered to police in Lhasa following the riots. The report stated that 76 persons were sentenced to prison in connection with the unrest, and an additional 116 were awaiting trial. Official sources have not reported the fates of these 116 persons. On December 21, an NGO reported that Jampel Wangchuk, 55, the disciplinarian at Drepung's Loseling College, had been sentenced to life in prison; Konchok Nyima, 43, the scripture teacher at Drepung's Gomang College, had been sentenced to 20 years; and 38-year-old Ngawang Choenyi, the scripture teacher at Drepung's Ngakpa College, was believed to be serving a sentence of 15 years.

There was no information on the whereabouts of five monks, including Sonam Rabgyal, Damdul, and Rabgyal, who disappeared following a 2008 midnight raid on the Ramoche Temple in Lhasa. The whereabouts of Paljor Norbu, a Tibetan traditional painter sentenced to seven years in prison after a secret trial in 2008, remained unknown at year's end. No new information was available on the whereabouts of Phuntsok Gyaltsen, the deputy head of Phurbu Township, Palgon County, who was detained in 2007.

The whereabouts of the Panchen Lama, Gendun Choekyi Nyima, Tibetan Buddhism's second-most prominent figure after the Dalai Lama, and his family remained unknown. In October 2009 government officials in Tibet told a visiting foreign delegation that Gendun Choekyi Nyima was "growing up very well, loves Chinese culture and is enjoying his life." The officials asserted that his identification as the 11th Panchen Lama was "illegal."

#### Torture and Other Cruel and Degrading Treatment

The security regime employed torture and degrading treatment in dealing with some detainees and prisoners. Tibetans repatriated from Nepal reportedly suffered torture, including electric shocks, exposure to cold, and severe beatings, and were forced to perform heavy physical labor. Prisoners were subjected routinely to "political investigation" sessions and were punished if deemed insufficiently loyal to the state.

In March 2009 police severely beat 21-year-old Tibetan nun Lobsang Khandro from the Gema Dra-wok Nunnery for carrying out an individual protest in Ganzi Prefecture. She allegedly carried pamphlets and prayer flags and shouted calls for



freedom and support for the Dalai Lama as she walked to the Ganzi Prefecture government headquarters.

On June 22, well-known businessman and environmentalist Karma Samdrup, on trial for alleged grave robbing and theft of cultural artifacts, accused his jailers of beatings, sleep deprivation, administration of drugs that made his ears bleed, and other mistreatment. On June 24, he was sentenced to 15 years in prison.

Late in the year four monks from Lutsang Monastery were released from confinement in Qinghai Province. The four were arrested and sentenced to reeducation through labor (RTL) following a February 2009 protest by Lutsang monks outside a government office.

In May 2009 according to an NGO report, police injured six persons in Tawu County of Ganzi Prefecture while breaking up a protest against a hydroelectric project.

According to numerous sources, many of those detained after the rioting in 2008 were subjected to extrajudicial punishments such as severe beatings and deprivation of food, water, and sleep for long periods. In some cases detainees suffered broken bones and other serious injuries at the hands of PAP and Public Security Bureau (PSB) officers. According to eyewitnesses, the bodies of persons killed during the unrest or subsequent interrogation were disposed of secretly rather than returned to their families.

Phurbu Tsering Rinpoche, head of Pangri and Yatseg nunneries in Ganzi, told of police abuse during his April 2009 trial. He claimed that after his arrest in 2008, police handcuffed him with arms outstretched to an iron pillar and forced him to stand while they interrogated him continuously for four days and four nights. They told Phurbu Tsering Rinpoche that if he did not confess his wife and son would be detained. His trial was later postponed indefinitely. Foreign diplomats asked to observe the trial but received no reply. In late December 2009 a court sentenced Phurbu Tsering Rinpoche to eight-and-a-half years in prison for illegal possession of weapons and ammunition (see Denial of Fair Public Trial section).

In May 2009 Tibetan monk Jigme Guri from Labrang Monastery was released from prison. He alleged that prison authorities beat him repeatedly during two months of detention beginning in 2008. According to Jigme, the beatings left him unconscious for six days, and he required two hospitalizations.

## Prison Conditions

In December 2009 the deputy director of the TAR Justice Bureau told a foreign diplomat that there were 3,000 prisoners in the five TAR prisons, which are separate from the RTL system.

The mass detentions connected with the March 2008 unrest amplified already crowded and harsh prison conditions. Some prisons, including those in the RTL system, used forced labor to which prisoners may be assigned for three years (with the possibility of a one-year extension) without court review. The law states that prisoners may be required to work up to 12 hours per day, with one rest day every two weeks, but sometimes these regulations were not enforced; conditions varied from prison to prison.

According to numerous sources, political prisoners in Tibetan areas endured unsanitary conditions and often had little opportunity to wash or bathe. Many prisoners slept on the floor without blankets and sheets. Prisoners reported being confined side by side with 20 to 30 cellmates for many days.

Former detainees reported that prisoners were not provided with enough food. According to sources, prisoners rarely received medical care unless they had a serious illness. Prisoners also complained that they often failed to receive money, food, clothing, and books sent by their families because such items were routinely confiscated by prison guards.

## Arbitrary Arrest and Detention

During the year arbitrary arrest and detention continued in Tibetan areas. With a detention warrant, police legally may detain persons for up to 37 days without formally arresting or charging them. Police must notify the relatives or employer of a detained person within 24 hours of the detention. Following the 37-day period, police must either formally arrest or release the detainees. In practice police frequently violated these requirements.

Official state media reported the detentions of 4,434 persons in Tibetan areas (1,315 in Lhasa) between March and April 2008. In 2008 official media reported that approximately 1,317 persons were arrested in the March-April time frame, 1,115 of whom were released afterwards. Overseas organizations placed the total number detained at more than 5,600.

Many prisoners were subject to the RTL system or other forms of detention not subject to judicial review.

### Denial of Fair Public Trial

Legal safeguards for Tibetans detained or imprisoned were inadequate in both design and implementation. According to a TAR Bureau of Justice official, all seven cities and prefectures had established legal assistance centers that offered services in the Tibetan language. Prisoners may request a meeting with a government-appointed attorney, but in practice many defendants did not have access to legal representation.

According to the *Tibet Daily*, the TAR was strengthening the Communist Party's leadership over lawyers in the region in order to ensure that the work of lawyers "goes in the correct direction." Of the 18 law firms in the TAR, 11 had their own Communist Party committee and six shared a Communist Party committee with the Justice Bureau in their prefecture. A party development leader was assigned to the law firm that had no party organization.

Ethnic Han lawyers who volunteered to represent detainees involved in the 2008 protests received warnings from authorities not to take on such cases. Authorities threatened some with punishment or placed them under police surveillance. In cases that authorities claimed involve state security, trials often were cursory and closed. Authorities denied multiple requests from foreign diplomats to observe the trials of those charged with crimes related to the 2008 unrest. By law maximum prison sentences for crimes such as "endangering state security" and "splitting the country" are 15 years for each count, not to exceed 20 years in total. Authorities sentenced Tibetans for alleged support of Tibetan independence regardless of whether their activities involved violence.

### Political Prisoners and Detainees

Due to the lack of independent access to prisoners and prisons, it was impossible to ascertain the number of Tibetan political prisoners. A number of the Tibetans arrested or detained in the days and weeks following the spring 2008 protests were sentenced throughout 2010. Many prisoners were held in the extrajudicial RTL prisons operated by the Ministry of Public Security and never appeared in public court.

Based on information available from the U.S. Congressional Executive Commission on China's political prisoner database, as of September 3, there were 824 Tibetan political prisoners imprisoned in Tibetan areas. Of these, 765 were Tibetans detained on or after March 10, 2008, and 59 were Tibetans detained prior to March 10, 2008. Of the 765 Tibetan political prisoners who were detained on or after March 10, 2008, 443 (approximately 58 percent) were Tibetan Buddhist "religious professionals" (monks, nuns, and trulkus, or high-ranking reincarnated lamas). Sentencing information was available for 152 of the 824 Tibetans. Of the 152 Tibetan political prisoners for whom sentencing information is available, 116 were detained on or after March 10, 2008. According to an NGO report, as of December 30, there were 831 known political prisoners in Tibet, of whom 360 were known to have been convicted by courts; 12 Tibetans were serving life sentences. The actual number of Tibetan political prisoners and detainees was believed to be much higher. An unknown number of prisoners continued to be held under the RTL system.

In January authorities sentenced singer Tashi Dhondrup to 15 months' hard labor for writing, recording, and distributing songs with lyrics such as: "The occupation and denial of freedom of Tibetans/This is torture without trace."

On April 6, at Northwest Nationalities University in Lanzhou, authorities detained Tashi Rabten, editor of the banned literary magazine *Eastern Snow Mountain*, which discussed the 2008 protests.

On April 23, authorities detained the Tibetan writer Tagyal (pen name Shogdung) in Xining. Shogdung is the author of the banned book *Opening of Earth and Sky*, which severely criticized PRC government policies in Tibetan areas and praised the 2008 protests against the government. Authorities considered the book subversive for its criticism of the PRC government: On October 14, Tagyal was released on bail, and at year's end was awaiting trial.

On May 20, authorities arrested writer Doku Tsultrim apparently because of material he was preparing to publish on Tibetan youth after the April 14 Yushu earthquake.

On May 25, the Lhasa Intermediate Court sentenced Sonam Tsering to death with two years reprieve to consider his post-sentencing behavior for inciting and participating in the Lhasa riot; five others were sentenced to between three and seven years in prison.

On June 26, authorities sentenced businessman Dorje Tashi, owner of the Yak Hotel in Lhasa, to life in prison. Although the authorities kept the charges against him secret, they reportedly involved helping exile groups.

In February 2009 authorities handed down sentences of 18 months to three years in prison to six Tibetans in Ganzi Prefecture for participating in protests.

In May 2009 according to an NGO report, authorities sentenced Tsultrim Gyatso, a monk of Labrang Monastery in southern Gansu Province, to life imprisonment for "endangering state security."

According to the Agence France Presse, early in 2009 authorities handed down sentences ranging from three years to life in prison to a total of 76 persons involved in the March 2008 riots.

An NGO reported that in July 2009 the Lithang County, Ganzi Prefecture Intermediate People's Court sentenced Tibetan monk Jamyang Tenzin of Yonru Geyden Rabgayling Monastery, Lithang County, to three years' imprisonment for opposing a work team sent to conduct a "patriotic education campaign" at his monastery.

In August 2009 an NGO reported that eight Tibetans in Machen County were sentenced to one to seven years in prison following protests related to the suicide of Tashi Sangpo, which was reportedly triggered by his inhumane treatment at the hands of the police.

In December 2009 authorities sentenced filmmaker Dhondup Wangchen to six years in prison for "splittism" for his film *Leaving Fear Behind*, which documented the lives of Tibetans in China and their views on the Dalai Lama.

In 2009 in Barkham County, Aba (Ngaba) Prefecture, four students were imprisoned for working on a student newspaper at their Tibetan high school. One of the students was sent to an RTL camp in Mianyang. Charges were not brought against the other three. Three teachers at the high school were fired in connection with this case.

Wangdu (Wangdui), a former employee of an HIV/AIDS prevention project run by a foreign NGO, who in 2008 was sentenced to life imprisonment for engaging in "espionage" on behalf of the "Dalai clique," remained in prison. Migmar Dhondup,

another former employee of a foreign NGO, also remained in prison on the same charge.

Prominent Buddhist figure Tenzin Delek Rinpoche was serving a life sentence in a Sichuan prison on separatism, firearms, and explosives charges. According to Tibetan sources, the firearms were left at his temple by a group who had renounced hunting.

Dozens of monks and nuns who resisted "patriotic education" campaigns before the 2008 protests continued serving prison terms.

According to an NGO, the PSB arrested Kunga Tsangyang, a monk from the Labrang Monastery, during a late-night raid in March 2009. The reported arrest was part of a continuing sweep of Tibetan Internet writers that began after the 2008 unrest. In November 2009 he was sentenced to five years in prison on charges of disclosing state secrets in a closed-door trial by the Gannan Intermediate People's Court in Gansu Province.

In December 2009 Phurbu Tsering Rinpoche, a senior religious leader who allegedly had been tortured to extract a false confession, was sentenced to seven years for misappropriation of public assets and one-and-a-half years for illegal possession of ammunition after dozens of nuns at a nunnery he headed staged a peaceful protest in May 2008. Prosecutors maintained that a pistol and ammunition were found during a police raid, but Phurbu Tsering Rinpoche maintained that he had been framed. The monk's lawyer stated he had given a false confession after police deprived him of sleep for four days (see Torture section).

Late in 2008 the Ganzi Tibetan Autonomous Prefecture Intermediate People's Court sentenced Dorje Kangzhu, a 34-year-old nun, to seven years in prison for "inciting secession." She was arrested for distributing Tibetan independence leaflets and shouting pro-Tibet slogans in 2008.

The following political prisoners remained incarcerated: Rongye Adrak, Adak Lupoe, Lama Jigme Tenzin (Jinmei Danzeng) aka Bangri Chogtrul, Jarib Lothog, monk Lodroe, Khenpo Jinpa, art teacher and musician Kunkhyen, Buchung; Penpa, Bangri Chogtrul Rinpoche, monk Choeying Khedrub (Quyín Kezhu), Dawa (also called Gyaltzen Namdak), monk Lobsang Palden, teacher Dolma Kyab, Sherab Yonten, Sonam Gyelpo, retired physician Yeshe Choedron (Yixi Quzhen), monk Tenzin Bucheng (Danzeng Puqiong), monk Lobsang Ngodrub, and monk Tsering Dhondup.

## Freedom of Speech and Press

Tibetans who spoke to foreign reporters, attempted to relay information to foreigners outside the country, or passed information regarding the 2008 protests were subject to harassment or detention. During 2009, 59 individuals were convicted for "creating and spreading rumors" after the 2008 unrest.

The government severely restricted travel by foreign journalists to Tibetan areas. In the TAR, foreign journalists can gain access to the region only by participating in highly structured government organized tours, where the constant presence of government minders makes independent reporting difficult. Outside the TAR, foreign journalists frequently were expelled from Tibetan areas despite government rules, adopted in 2008, stating that foreign journalists do not need the permission of local authorities to conduct reporting. In June the Foreign Correspondents Club of China (FCCC) called on China to apply its own reporting regulations and open the TAR to foreign journalists. An FCCC survey found that 86 percent of respondents said that it was not possible to report accurately and comprehensively about Tibet. Respondents submitted 35 applications for travel to the TAR over the past two years; only four were approved. Some foreign media were able to report from Yushu immediately after the earthquake without serious government interference.

In March 2009 the FCCC urged the government to halt detentions of journalists and open Tibetan areas for news coverage. Reporters from at least six different news organizations were detained or had their property confiscated when they attempted to visit Tibetan areas of Gansu, Sichuan, and Qinghai provinces ahead of the first anniversary of social unrest in Tibet.

Tibetans noted that the authorities had ordered that coverage of the Yushu relief efforts should focus on the army's efforts and should downplay the work of Tibetan monks.

On April 6, two Tibetan writers, Tashi Rabten and Druklo, were taken into custody by police during a raid at their hostel at the Northwest University for Nationalities in Lanzhou, Gansu Province. Tashi Rabten was one of four Tibetan writers whose arrest the NGO Reporters Without Borders reported in August 2009. The other three were Zhuori Cicheng, the monk Gang Ni, and Kang Gongque. Kang Gongque was sentenced to two years in a Sichuan Province prison.

On December 30, the Aba Intermediate Court found three Tibetan writers, Jangtse Dhonko, Bhudha and Kalsang Jinpa, guilty of splittism. Jangtse and Bhuda were each sentenced to four year' imprisonment; Kalsang Jinpa was given a three-year sentence.

The government continued to jam radio broadcasts of Voice of America's (VOA) and Radio Free Asia's (RFA) Tibetan- and Chinese-language services and the foreign-based Voice of Tibet. Some Tibetans reported that at times they were able to receive such radio broadcasts despite frequent jamming. One monk in Sichuan observed that he might be able to hear VOA/RFA broadcasts "if he bought a better radio"; however, "if he were caught with a better radio he would be punished." In Tibetan areas of southern Gansu Province and the Ganzi Tibetan Autonomous Prefecture in Sichuan Province police confiscated or destroyed satellite dishes suspected of receiving VOA Tibetan-language television as well as VOA and RFA audio satellite channels. The dishes have been replaced with government-controlled cable television systems. Some Tibetans were able to listen to overseas Tibetan-language radio and television on the Internet.

Domestic journalists did not report on repression in Tibetan areas; bloggers who did so faced punishment.

### Internet Freedom

In August the Internet magazine *Tibetan Review* reported that Internet cafes across Tibet had been ordered to finish installing a "state-of-the-art" surveillance system by the end of the month. The system would not only restrict content that could be viewed but would also monitor users' Internet activities. Identity cards belonging to the person using the Internet must be swiped to allow online access, and viewed content could then be traced back to that identity. The order reportedly has been implemented.

During major religious, cultural, and political festivals in Tibetan areas, many Web sites were shut down and Internet cafes were closely monitored.

The Internet blog of well-known Tibetan poet and journalist, Tsering Woeser, remained inaccessible to Internet users inside China due to official Internet filtering. Authorities continued to refuse to issue Woeser a passport. Most foreign Tibet-related Web sites critical of official policy in Tibetan areas were blocked to users in China throughout the year.



Official censorship greatly hampered the development of Tibetan-language Internet sites. Although the government funded projects designed to improve Tibetan-language computer interfaces, security agencies responsible for monitoring the Internet often lacked the language skills necessary to monitor Tibetan content. As a result, Tibetan-language blogs and Web sites were subject to indiscriminate censorship, with entire sites closed down even when the content did not appear to touch on sensitive topics.

In March authorities cut off both Internet and cell phone text messaging in various parts of Ganzi and Aba prefectures in Sichuan Province and in the TAR. In June when the two sons of the leader of the Sakya school of Tibetan Buddhism made a short visit to the Sakya Monastery in the TAR, cell phone connections and the Internet in Sakya County were completely shut down.

In February 2009 police in Machu County, Gannan Tibetan Autonomous Prefecture, arrested Kunchok Tsephel Gopey Tsang, owner of the Tibetan cultural and literary Web site The Lamp, which was taken off the Internet for several months. In November 2009 he was sentenced to 15 years in prison on charges of disclosing state secrets.

In 2009 according to an NGO, Gonpo Tserang was sentenced in Dechen, TAR, to three years in prison for "inciting separatism" by sending e-mail and text messages about the March 2008 protests. The verdict from the trial stated that "Gonpo Tserang used the Internet to deliberately fabricate rumors, distorting the true situation to incite separatism."

Tibet activists inside and outside of China have been harassed by well-organized computer-hacking attacks originating from within China according to a foreign-based study group.

Cell phone and Internet service in the TAR and the Tibetan areas of Sichuan, Qinghai, and Gansu provinces were curtailed at times during the March period of sensitive anniversaries and the new "Serf Liberation Day" (see Academic Freedom and Protection of Cultural Heritage).

#### Academic Freedom and Protection of Cultural Heritage

Authorities in Tibetan areas required professors and students at institutions of higher education to attend political education sessions in an effort to prevent separatist political and religious activities on campus. Ethnic Tibetan academics

were frequently encouraged to participate in government propaganda efforts, such as by making public speeches supporting government policies or accepting interviews by official media. Academics who failed to cooperate with such efforts faced diminished prospects for promotion. Academics in China who publicly criticized the Chinese Communist Party's (CCP) policies on Tibetan affairs faced official reprisal. The government controlled curricula, texts, and other course materials as well as the publication of historically or politically sensitive academic books. Authorities frequently denied permission to Tibetan academics to travel overseas for conferences and academic/cultural exchanges.

Planned urban economic growth, rapid infrastructure development, the growing non-Tibetan population, the expanding tourism industry, the forced resettlement of nomads and farmers, the weakening of Tibetan-language education at the middle and high school levels, and the introduction of more modern cultural influences continued to disrupt traditional living patterns and customs and marginalized the local population.

In March the authorities in Lhasa launched another in a series of "Strike Hard" campaigns. According to official reports, in the early days of the campaign, they raided 4,115 rented accommodations; checked 60 crime-prone areas; carried out comprehensive checks on 7,347 nonpermanent residents of the city; raided more than 70 guest houses, Internet cafes, entertainment centers, and bars; and detained 435 persons. Although ostensibly an anticrime operation, police searched private homes, guest houses, hotels, bars, and Internet cafes for photographs of the Dalai Lama and other politically forbidden items. Police examined the cell phones of Lhasa residents to search for "reactionary music" from India and photographs of the Dalai Lama. Human rights groups believed the motive behind the "strike hard" campaign was to harass human rights activists and supporters of Tibetan independence.

On March 28, the TAR marked its second annual observance of "Serf Emancipation Day," the day in 1959 that China's rulers formally abolished the Dalai Lama's regional government. During the official celebration, Tibetan officials denounced the Dalai Lama.

The Dalai Lama and other observers expressed concern that development projects and other central government policies disproportionately benefited non-Tibetans and continued to promote a considerable influx of Han, Hui, and other ethnic groups into the TAR.

Residents lacked the right to play a role in protecting their cultural heritage, including their environment. In 2007 the TAR government revised the TAR Cultural Relics Protection Regulations, asserting ownership over religious relics and monasteries.

Tibetans protested against mining or other industrial activities that harm the environment. In September Radio Free Asia reported that Tibetan demonstrators in Driru County, TAR protested construction of a dam. In August police shot and killed 47-year-old protester Babo at a mine in a Tibetan area of Sichuan. Local Tibetans said that three Tibetans were shot in the incident. On May 25, police opened fire on Tibetans at a cement factory in Xiahe (Labrang) County in Gansu Province; 15 Tibetans sustained gunshot wounds or injuries from police beatings according to an exile source in contact with Tibetans in the area.

Tibetan and Mandarin Chinese are official languages in the TAR, and both languages appeared on some, although not all, public and commercial signs. In most cases, Chinese signage was in large characters, with Tibetan in small letters, sometimes misspelled, and often there was no Tibetan at all. Inside official buildings and businesses, including banks, post offices, and hospitals, very little signage in Tibetan could be found and in many instances, forms and documents for use by citizens or customers were available only in Mandarin. Mandarin was widely spoken and was used for most official communications. The illiteracy rate among Tibetans was more than five times higher (47.6 percent) than the national average (9.1 percent), according to 2000 census data. In many rural and nomadic areas, children received only one to three years of Tibetan-language education before continuing their education in a Mandarin-language school. According to official figures, the illiteracy rate among youth and working-age adults fell from 30.9 percent in 2003 to 2.4 percent in 2008.

According to a 2006 report by the Xinhua News Agency, a looser definition of literacy was used for Tibetan speakers than for Mandarin speakers in rural Tibet. Tibetan-speaking peasants and nomads were considered literate by PRC government standards if they could read and write the 30 basic letters of the Tibetan alphabet and read and write simple notes. However, Tibetan writing commonly stacks letters on top of one another creating an additional 89 letters beyond the basic 30. Tibetans regard persons who only recognize the 30 letters as semiliterate. Mandarin-speaking nomads and herders were considered literate if they could recognize 1,500 Chinese characters.

The Primary/Middle School Tibetan-language Curriculum Committee of the Five Provinces (TAR, Sichuan, Qinghai, Gansu, and Yunnan) established a national Tibetan-language curriculum for primary and middle schools in Tibetan areas that was predominantly translated directly from a standard Chinese curriculum, offering Tibetan students very little insight into their own culture, history, and values. Few elementary schools in Tibetan areas used Tibetan as the primary language of instruction. In Kangding (Dartsedo), capital of Ganzi Prefecture, there were no elementary schools where Tibetan children could study in Tibetan. Tibetan students were required to study Mandarin, which generally was used to teach most subjects. In middle and high schools--even some officially designated as Tibetan schools--teachers nearly always used Tibetan only to teach classes in Tibetan language, literature, and culture, and taught all other classes in Mandarin. Of more than 15 middle and high schools in Aba Prefecture of Sichuan Province, in only three was the curriculum taught primarily in Tibetan.

On October 19, a provincial government decision to replace Tibetan with Mandarin as the main medium of instruction in Tibetan schools in Qinghai Province set off protests by several thousand Tibetan students in Tongren (Rebkong), Huangnan (Malho) Tibetan Autonomous Prefecture in Qinghai. The protesters held banners in both Mandarin and Tibetan calling for "Equality for Nationalities" and "Expand the Use of the Tibetan Language" and "Freedom for the Nationalities."

As a practical matter, proficiency in Mandarin was essential to qualify for higher education. China's most prestigious universities provided no instruction in Tibetan or other ethnic minority languages. Lower-ranked universities established to serve ethnic minority students only offered Tibetan-language instruction in courses focused on the study of the Tibetan language or culture. At the minority universities, Tibetans and other ethnic minority students typically achieved high proficiency in Mandarin, as it was the medium for much of the curriculum, such as computer and business courses.

Leading universities generally required English-language proficiency for matriculation. Most graduates of Tibetan schools, however, learned only Mandarin and Tibetan and were thus unable to attend the better universities. This resulted in a shortage of Tibetans trained in science and engineering and, consequently, a near-total reliance on imported technical specialists from outside Tibetan areas to work on development projects.

On April 3, Tibetan students of the Machu Tibetan Middle School protested the firing of the school's headmaster Kyabchen Dedrol and two Tibetan assistants Do Re and Choekyong Tseten. Chinese authorities fired them following a student-led protest. In China, school authorities were held strictly accountable for the political activities of their students.

### Freedom of Religion

For a complete discussion of religious freedom, please see the *2010 International Religious Freedom Report* at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

### Freedom of Movement

The law provides for the freedom to travel; however, in practice the government strictly regulated travel and freedom of movement of Tibetans.

Freedom of movement, particularly for monks and nuns, was limited severely within Lhasa and throughout the TAR, and in Tibetan areas of Qinghai, Gansu, and Sichuan provinces. It was less of a problem in Yunnan, where there were many fewer monasteries and nunneries than other Tibetan areas. The PAP and local PSBs set up multiple roadblocks and checkpoints on major roads, in cities, and on the outskirts of monasteries. Tibetans traveling in religious attire were subject to extra scrutiny by police at roadside checkpoints. Several Tibetan monks reported that it remained difficult to travel outside their home monasteries, with officials frequently denying permission for outside monks to stay temporarily at a particular monastery for religious education. After the Yushu earthquake, many monks from neighboring counties and provinces were forced to leave, although local Tibetans needed their help to conduct funeral ceremonies for the many earthquake victims.

Many Tibetans, particularly prominent religious figures, scholars, and dissidents, as well as those from rural areas, continued to report difficulties obtaining passports. It has been more difficult for Tibetans to obtain new or renew existing passports following the 2008 protests. In some cases, in order to obtain passports Tibetans had to promise not to travel to India. In other cases, Tibetan students with scholarships to foreign universities could not study abroad because authorities refused to issue them passports. Some Tibetans were able to obtain passports only after paying substantial bribes to government officials.

Tibetans continued to encounter substantial difficulties and obstacles in traveling to India for religious, educational, and other purposes. Ethnic Tibetan government

and CCP cadres in the TAR and Ganzi Prefecture were not allowed to send their children to study abroad. In addition to passport restrictions, reinforcement of border posts made travel, such as pilgrimages via Nepal to India to see the Dalai Lama, more difficult.

The government restricted the movement of Tibetans during sensitive anniversaries and events, and increased controls over border areas at these times. There were reports of arbitrary detentions of persons, particularly monks and nuns, returning from India and Nepal. Detentions generally lasted for several months, although in most cases authorities did not bring formal charges against prisoners.

Tight border controls sharply limited the number of persons crossing the border into Nepal and India. The Tibetan Reception Center in Kathmandu received 874 new Tibetan arrivals. In 2009 there were 838 arrivals, in 2008 there were 596, and in 2007 there were 2,156.

The Dalai Lama, the Karmapa, Sakya Trizin, Kyabje Trulshuk Rinpoche, and Gyalwa Menri Trizin--leaders of all the schools of Tibetan Buddhism--remained in exile. The whereabouts of the Panchen Lama, Gedhun Choekyi Nyima, remained unknown.

Many non-Tibetan Chinese citizens worked in Tibetan regions. Buddhist monks, particularly Han, were allowed only temporary visits to Tibetan Buddhist monasteries. Local religious affairs authorities often forbid Han or foreign Buddhists from staying in monasteries for long-term study.

The government also regulated foreign travel to the TAR. In accordance with a 1989 regulation, foreign visitors were required to obtain an official confirmation letter issued by the government before entering the TAR. Most tourists obtained such letters by booking tours through officially registered travel agencies.

Authorities halted nearly all foreign travel to Lhasa for several months following the 2008 demonstrations. Foreign tourists were again banned from the TAR in March 2009 during the 50th anniversary of the 1959 Tibetan uprising. After March the number of foreign tourists traveling to the TAR increased, but authorities enforced more tightly than before existing rules that foreign visitors must remain with tour groups.

Foreign nationals who were granted official permission to travel to Lhasa had their movements restricted within the city and surrounding areas. Officials continued to

restrict severely the access of diplomats and journalists to Tibet. Foreign officials and reporters were able to travel to the region only on closely chaperoned trips arranged by the Tibet Foreign Affairs Office. Foreign diplomats must obtain permission from the TAR's Foreign Affairs Office for each visit to the TAR; permission was difficult to obtain. During the year three-quarters of the U.S. requests for official travel to the TAR were denied. In September authorities approved a visit to Lhasa by the U.S. Ambassador.

Official visits to the TAR were supervised closely, and delegation members were afforded very few opportunities to meet local residents not previously approved by the authorities. For those diplomatic trips that were approved, the TAR Foreign Affairs Office required some high-level delegations to stay at the government-affiliated Lhasa Hotel, in the western, predominantly ethnic Han portion of Lhasa, rather than hotels in the Tibetan quarter.

With the exception of a few highly controlled trips, authorities repeatedly denied requests for international observers to visit Tibetan areas.

#### National Minorities

Although TAR census figures showed that Tibetans made up 92 percent of the TAR's permanently registered population, official figures did not include a large number of long-, medium-, and short-term Han residents, such as cadres, skilled workers, unskilled laborers, military and paramilitary troops, and their dependents. Chinese social scientists estimated the number of this floating population, including tourists and visitors on short-term business trips, for Lhasa alone was more than 200,000 (nearly half the population of Lhasa and more than 10 percent of the TAR's population) during the May to November high season for tourism and migrant workers. According to a Lhasa city official, 260,000 of the 450,000 individuals living in downtown Lhasa during the year belonged to the floating population.

Migrants to the TAR overwhelmingly were concentrated in urban areas, where government economic policies disproportionately benefited ethnic Han Chinese. Small businesses, mostly restaurants and retail shops, run by ethnic Han and Hui migrants predominated in cities throughout Tibetan areas. Tibetans continued to make up nearly 98 percent of the rural population, according to official census figures.

The government continued its campaign to resettle Tibetan nomads into urban areas across the TAR and other Tibetan areas. Officials offered nomads monetary incentives to kill or sell their livestock and move to newly created Tibetan communities. However, there were reports of compulsory resettlement where promised compensation was either inadequate or not paid at all.

According to a December 2009, China News Net report, 230,000 households in the TAR, including 1.2 million farmers and herders, had been resettled into permanent housing--80 percent of the target population.

Improving housing conditions and education for Tibet's poorest were among the goals of resettlement, yet a requirement that villagers build houses according to strict official specifications within two or three years often forced resettled families into debt to cover construction costs.

Although a state media report during the year noted that Tibetans and other minority ethnic groups made up 70 percent of government employees at the provincial level in the TAR, ethnic Han continued to hold the top CCP positions in nearly all counties and prefectures, including that of TAR party secretary. Within the TAR, ethnic Han continued to hold all the top security, military, financial, economic, legal, judicial and educational positions. Tibetans holding government and party positions were often prohibited from openly worshipping at monasteries or practicing their religion.

The economic and social exclusion of Tibetans was a major reason why such a varied cross section of Tibetans, including business operators, workers, students, university graduates, farmers, and nomads participated in the 2008 protests. Some Tibetans reported that they experienced discrimination in employment, and some job advertisements in the TAR noted that Tibetans need not apply. Some claimed that ethnic Han Chinese were hired preferentially for many jobs and received greater pay for the same work. Some Tibetans reported that it was more difficult for ethnic Tibetans than Han to obtain permits and loans to open businesses. Continued discriminatory treatment of Tibetans' applications for passports is another source of dissatisfaction. The use of Mandarin was widespread in urban areas, and many businesses limited employment opportunities for Tibetans who did not speak Mandarin. Restrictions on international NGOs that provide assistance to Tibetan communities resulted in the elimination of many NGO programs and the expulsion of many foreign NGO workers from the TAR.



The TAR tourism bureau continued its policy of refusing to hire Tibetan tour guides educated in India or Nepal. Government officials stated that all tour guides working in the TAR were required to seek employment with the Tourism Bureau and pass a licensing exam on tourism and political ideology. The government's stated intent was to ensure that all tour guides provided visitors with the government's position opposing Tibetan independence and the activities of the Dalai Lama. Some ethnic Tibetan tour guides in the TAR complained of unfair competition from government-sponsored "Help Tibet" tour guides brought in from outside the TAR and put to work after receiving a crash course on Tibet.

### Women and Children

There were no formal restrictions on women's participation in the political system, and women held many lower-level government positions. However, women were underrepresented at the provincial and prefecture levels of government. According to an official Web site, female cadres in the TAR accounted for more than 30 percent of the TAR's total cadres.

There was no information on the incidence of rape or domestic violence. In a Tibetan area of Sichuan Province, a resident said that sex-based violence, including rape, was common among Tibetan herders and often went unreported.

The TAR Health Bureau reported 102 cases of HIV/AIDS in the TAR between 1993 and 2009. Lack of knowledge about HIV transmission and economic pressures on women and girls engaged in prostitution led them to engage in unprotected sex. Diagnosis and treatment of sexually transmitted diseases, including HIV/AIDS, appeared to be nondiscriminatory.

Family-planning policies permitted Tibetans and members of other relatively small minority groups to have more children than ethnic Han. Some urban Tibetans who have permanent employment, as well as CCP members and government officials, and some ethnic Han living in Tibetan areas, generally were limited to two children. Rural Tibetans were encouraged, but not required, to limit births to three children.

According to official policy, primary education was compulsory, free, and universal. According to official TAR statistics, 96.5 percent of children between the ages of six and 13 attended school, and 90 percent of the TAR's 520,000 primary school students completed lower middle school, for a total of nine years of education. In 2003 the UN special rapporteur on the right to education reported

that official PRC education statistics did not accurately reflect attendance and were not independently verified.

The TAR is one of the few areas of the PRC that does not have a skewed sex ratio resulting from sex-selective abortion and inadequate health care for female infants.

## HONG KONG

Hong Kong, with a population of approximately seven million, is a Special Administrative Region (SAR) of the People's Republic of China (PRC). The 1984 Sino-British Joint Declaration on the Question of Hong Kong and the SAR's charter, the Basic Law of the SAR (the Basic Law), specify that Hong Kong will enjoy a high degree of autonomy except in matters of defense and foreign affairs. The Fourth Term Legislative Council (LegCo) was elected from a combination of geographic and functional constituencies in 2008 elections that were generally free and fair. Security forces reported to civilian authorities.

There were few reports of serious human rights abuses, but the following human rights problems were reported: limited ability of citizens to participate in and change their government, press self-censorship, limited power of the legislature to introduce or amend legislation and inability to approve executive appointments, disproportionate political influence of certain sectors of society in LegCo, and societal prejudice against certain ethnic minorities.

## RESPECT FOR HUMAN RIGHTS

Section 1    Respect for the Integrity of the Person, Including Freedom From:

a.    Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed any politically motivated killings.

On May 25, a jury ruled that the death of ethnic Nepali Dil Bahadur Limbu was a lawful killing. In March 2009 a police constable shot and killed Limbu during an altercation in which he violently resisted a police constable's request to examine his identity documents. Limbu's family and activists expressed concern at what they believed was improper limitation of the scope of the inquest, unwillingness by

the coroner to admit relevant evidence, and a decision not to include recommendations to the police regarding handling cases involving ethnic minorities (a key point of contention in the case was that the constable's warnings prior to shooting were given in Cantonese, which Limbu did not speak). The High Court (Court of First Instance) granted Limbu's family a judicial review of the inquest finding in September; the hearing was pending at year's end.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The Basic Law prohibits torture and other forms of abuse, and the government generally observed the prohibition in practice. In the first half of the year, the police force's Complaints Against Police Office (CAPO) received 168 allegations of assault by police officers on persons in detention. Eleven cases were found "not pursuable," 39 were withdrawn, and 118 were pending investigation and endorsement by the Independent Police Complaints Council (IPCC). There were 48 allegations of assault by police officers on persons not in custody. Seven were found "not pursuable," nine were withdrawn, and 32 were pending investigation as of June.

CAPO, monitored by the IPCC, continued to investigate an August 2009 incident in which narcotics officers reportedly entered a house without presenting identification or search warrant until the search had already been underway for an hour. Officers reportedly handcuffed and beat two residents in the course of a search for narcotics, reportedly leaving one resident with a ruptured right eardrum. As of year's end, neither body had made public the results of its investigation.

Police continued following a revised policy and guidelines regarding strip searches implemented in 2009. Some legislators and activists contended that police should only conduct such searches based on a "reasonable suspicion," but police officials defended searches on safety and security grounds. Some activists reported complaints from prostitutes that they were routinely subjected to full strip searches, which they contended was meant to humiliate them.

Prison and Detention Center Conditions

Prison conditions generally met international standards. The government permitted monitoring visits by independent human rights observers. No human rights organizations requested such visits during the year.

According to government statistics, as of June the total adult (over age 21) population in prison, rehabilitation, or pretrial detention was 7,232--4,884 male and 2,348 female inmates. As of June a total of 66 juveniles under age 16 were serving sentences in penal, retraining, or rehabilitation facilities.

Through June the average prison occupancy rate was 91 percent. Overcrowding occurred in some prisons, particularly in maximum-security prisons, pretrial detention facilities, and institutions for female inmates.

There were five reported deaths of persons in custody of the Correctional Services Department; abuse did not appear to be a factor. Inquest results had not been reported by year's end.

Prisoners and detainees were able to send out and receive an unrestricted number of letters, receive regular visits, manifest their religious beliefs or practices in public, and attend available religious services. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of credible allegations of inhumane conditions. Authorities investigated credible allegations of inhumane conditions and documented the results of such investigations in a publicly accessible manner. The government investigated and monitored prison and detention center conditions.

The Correctional Services Department arranged a visit by the media to a penal institution as part of the department's annual press conference. Separately, justices of the peace (JPs) are permitted to make unannounced visits to penal institutions, and 247 such visits took place between January 1 and June 30. JPs may make suggestions and comments on matters such as physical environment facilities, overcrowding, staff improvement, training and recreational programs and activities, and other matters affecting the welfare of inmates.

The 1,400-place Lo Wu Correctional Institution opened in July, bringing the average occupancy of female detention facilities down 23 percent to an average of 92 percent. Police also commenced renovations to station holding cells following complaints by NGOs about conditions.

d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest or detention, and the government generally observed these prohibitions.

### Role of the Police and Security Apparatus

Civilian authorities maintained effective control over the police, and the government had generally effective mechanisms to investigate and punish abuse and corruption.

There were no reports of impunity involving the security forces during the year. The IPCC, which oversees CAPO, observes, monitors, and reviews complaints and actions taken in connection with such complaints. It may identify any fault or deficiency in police practices or procedures and make recommendations in respect to such practices or procedures. The IPCC can require the police to investigate or reinvestigate complaints and provide other information as it deems necessary. The IPCC also advises or makes recommendations to the commissioner of police or the SAR chief executive (CE) as appropriate. IPCC members and observers are also empowered to attend any interview conducted by the police concerning a complaint and observe the collection of evidence by the police in the investigation of a complaint at any time and without prior appointment.

Human rights activists and some legislators expressed concern that all IPCC members are appointed by the CE and that the IPCC's lack of power to conduct independent investigations limits its oversight capacity. The IPCC cannot compel officers to participate in its investigations, and the media reported cases of police officers declining to do so. In response, IPCC chair Jat Sew-tong told the media he was confident that, if needed, he could approach the police commissioner and the officer would be ordered to participate.

On April 1, in response to a number of serious offenses committed by police officers in 2008-09, the police force began conducting psychometric screening of applicants for the posts of probationary inspectors and recruit police constables.

### Arrest Procedures and Treatment While in Detention

Suspects were apprehended openly with warrants based on sufficient evidence and issued by a duly authorized official. Suspects must be charged within 48 hours or released, and the government respected this right in practice. Interviews of suspects are required to be videotaped. The law provides accused persons with the right to a

prompt judicial determination, and authorities respected this right effectively in practice. Detainees were promptly informed of charges against them. There was a functioning bail system, and detainees were allowed prompt access to a lawyer and family members.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected judicial independence in practice. The judiciary provided citizens with a fair and efficient judicial process. The courts may interpret those provisions of the Basic Law that address matters within the limits of the SAR's autonomy. The courts also interpret provisions of the Basic Law that touch on central government responsibilities or on the relationship between the central authorities and the SAR. However, before making final judgments on these matters, which are not subject to appeal, the courts must seek an interpretation of the relevant provisions from the Standing Committee of the National People's Congress (NPC/SC). The Basic Law requires that courts follow the NPC/SC's interpretations, although judgments previously rendered are not affected. As the final interpreter of the Basic Law, the NPC/SC also has the power to initiate interpretations of the Basic Law.

The NPC/SC's mechanism for interpretation is its Committee for the Basic Law, composed of six Mainland and six Hong Kong members. The CE, LegCo president, and chief justice nominate the Hong Kong members. Human rights and lawyers' organizations expressed concern that this process, which can supersede the Court of Final Appeal's power of final adjudication, could be used to limit the independence of the judiciary or could degrade the court's authority.

Trial Procedures

The law provides for the right to a fair public trial, and an independent judiciary generally enforced this right in practice. The judiciary was an active participant in the international community of common law jurisprudence. A roster of 15 nonpermanent judges from other common law jurisdictions served the Court of Final Appeal, providing a fifth judge to join panels with four permanent justices to hear cases and participate in the drafting of decisions. Legal precedents from other common law jurisdictions were routinely cited in the courts, while Hong Kong precedents were cited in other common law jurisdictions.

Trials are by jury except at the magistrate and district court level. An attorney is provided at the public's expense if defendants cannot afford counsel. Defendants

can confront and question witnesses testifying against them and present witnesses to testify on their behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases. Defendants have the right of appeal.

Defendants enjoy a presumption of innocence except in official corruption cases. Under the Prevention of Bribery Ordinance, a current or former government official who maintained a standard of living above that commensurate with his official income, or who controls monies or property disproportionate to his official income, is guilty of an offense unless he can satisfactorily explain the discrepancy. In practice the courts upheld this ordinance. Court proceedings are conducted in either Chinese or English, the SAR's two official languages.

#### Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

#### Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary for civil matters and access to a court to bring lawsuits seeking damages for, or the cessation of, human rights violations.

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits such actions, and the government generally respected these prohibitions in practice.

The Personal Data (Privacy) Ordinance provides that no personal data may be used for a purpose other than that stated at the time of its collection without the data subject's prescribed consent. Specific exemptions allow SAR authorities to transfer personal data to allow prevention, detention, or prosecution of a crime when certain conditions are met. Data may be transferred to a body outside of the SAR for purposes of safeguarding the security, defense, or international relations of the SAR or for the prevention, detection, or prosecution of a crime, provided conditions set out in the ordinance are met. The Office of the Privacy Commissioner for Personal Data (PCPD) worked to prevent the misuse, disclosure, or matching of personal data without the consent of the subject individual or the commissioner.

The appointment of former postmaster Allan Chiang Yam-wang to replace Roderick Woo Bun as privacy commissioner for personal data drew criticism from activists and legislators after the media reported Chiang had been involved in improper surveillance and data transfers while serving as postmaster general. The government declined to reconsider his appointment, and he took office on August 4.

In May the private company Octopus, provider of transport and stored-value cards, admitted that customer data was improperly shared without consent of its customers, provoking widespread criticism from legislators and the public. The PCPD conducted an investigation but declined to issue an enforcement notice on grounds that Octopus was unlikely to reoffend. In his October 13 policy address, the CE pledged both that the PCPD would issue new guidance and that his administration would legislate more-specific personal data protections through amendments to the Personal Data (Privacy) Ordinance.

The use of covert surveillance and the interception of telecommunications and postal communications can be granted only to prevent or detect "serious crime" or protect "public security." The law establishes a two-tiered system for granting approval for surveillance activities, under which surveillance of a more intrusive nature requires the approval of a judge, and surveillance of a less intrusive nature requires the approval of a senior law-enforcement official. Applications to intercept telecommunications must involve crimes with a penalty of at least seven years' imprisonment, while applications for covert surveillance must involve crimes with a penalty of at least three years' imprisonment or a fine of at least HK\$1 million (approximately \$128,000). In 2009 a total of 1,781 interceptions and 208 surveillances were authorized, leading to 366 arrests. There were 12 reported instances of noncompliance or irregularities in executing interceptions or surveillances. There were five reports that interceptions or surveillances might contain information subject to legal professional privilege (LPP) and two that might contain journalistic material (JM). Upon review by the commissioner, no cases involving LPP were confirmed, and only one case of interception of JM was confirmed. However, the commissioner noted he could not yet review the actual interceptions and recommended that he be permitted to do so, both in reported cases of possible violations and to conduct random reviews. Overall, his conclusion was that, when violations occurred, they were due either to technical problems, inadvertent or careless mistakes, or unfamiliarity with regulations and procedures, rather than deliberate disregard for law or regulation.



## Section 2 Respect for Civil Liberties, Including:

### a. Freedom of Speech and Press

The law provides for freedom of speech and of the press, and the government generally respected these rights in practice. The independent media were active and expressed a wide variety of views without official restriction. International media organizations operated freely. Foreign reporters needed no special visas or government-issued press cards.

The code of ethics of the Hong Kong Journalists Association (HKJA) states that "a journalist shall not lend himself/herself to the distortion or suppression of the truth because of advertising or other considerations." However, reports of media self-censorship continued during the year. Most media outlets were owned by businesses with interests on the Mainland, which led to claims that they were vulnerable to self-censorship, with editors deferring to the perceived concerns of publishers regarding their Mainland business interests. In its 2010 report, Freedom House again rated the press as "partly free."

In July the HKJA publicly criticized what it saw as an increasing reliance by government officials and agencies on "off-the-record" or background briefings, at which no photos or recordings were permitted and officials could not be quoted by name. While the organization recognized the role of background briefings to allow more junior officials to speak on highly technical subjects, it called on senior officials to brief on the record concerning new government policies to allow journalists to perform their duty to inform the public. In response, the director of government information services, Michael Wong Wai-lun, stated, "It has been our practice to hold press conferences to announce major policies and measures and update the community on significant incidents." The HKJA questioned this assertion, noting that the more frequent press "stand-ups" did not offer the same opportunities to ask questions as a formal press conference. The HKJA reported an increase in the number of press conferences following its complaint.

The HKJA also singled out the police force as failing to meet earlier commitments to provide timely notification of incidents. When the police switched to encrypted digital radio in 2004 (effectively ending journalists' ability to monitor police activity through scanners), the police reportedly undertook to release an average of 100 reports per day. An HKJA study of reports issued between July and December 2009 indicated an average of only 2.7 reports were being issued per day and were often not timely or were watered down. The HKJA also accused police of

withholding news involving prominent persons. In response, the police stated that "in deciding what information should be disseminated, police will take into consideration the public's right to know, the requirement of the code on access to information, and the principles that the information would not involve personal privacy and affect judicial procedures."

On August 13, the government promulgated the revised charter of government-owned broadcaster Radio Television Hong Kong (RTHK), which stated that RTHK "would provide an open forum for the exchange of views without fear or favor." Section 6.C. of the charter specifies that "RTHK is editorially independent." While editorial authority lies with the program director (a government appointee), a new "Board of Advisers," appointed at the time as the revised charter was promulgated, is empowered to advise the director "on all matters relating to editorial principles." In announcing the revised charter and appointment of the board, the Commerce and Economic Development Bureau (the parent government agency for RTHK) stated that "the government attaches great importance to safeguarding RTHK's editorial independence, which is enshrined in the charter." Activists and RTHK staff, however, expressed concern that, as a body appointed by the government, the board can exert influence on the broadcaster's editorial independence. RTHK staff also complained they did not have a seat on the board.

In December the Office of the Telecommunications Authority (OFTA) again ordered unlicensed station Citizens' Radio to cease broadcasting, reporting that the station's transmissions had interfered with Civil Aviation Department transmissions. Citizens' Radio, whose equipment had been repeatedly seized and whose staff had frequently faced charges for unlicensed broadcasting, believed they were denied a fair chance to receive a proper license. After a 2008 court decision found the previous system was inconsistent with the Basic Law, amendments to the Telecommunications Ordinance passed in January laid out the specific criteria by which license applications will be considered. However, sole authority to grant or refuse the license remains with the Chief Executive (in consultation with the Executive Council), and there is no legal obligation to explain the ground for a refusal.

### Internet Freedom

There were no government restrictions on access to the Internet; there was some monitoring of the Internet to combat sexual exploitation of children (see section 6, Children). Commercial Internet service was widely available, including a number

of government-supplied wireless (WiFi) "hot spots" and public and commercial venues in which WiFi or other access was provided at no charge to visitors and customers. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. According to Nielsen/NetRatings statistics for the year, approximately 69 percent of the SAR's inhabitants used the Internet.

### Academic Freedom and Cultural Events

There were generally no restrictions on academic freedom and cultural events.

Some scholars suggested Hong Kong-based academics practiced some self-censorship in their China-related work to preserve good relations and research and lecturing opportunities in the Mainland.

#### b. Freedom of Peaceful Assembly and Association

##### Freedom of Assembly

The law provides for freedom of assembly and association, and the government generally respected these rights in practice. The government routinely issued the required "Letter of No Objection" for public meetings and demonstrations, and the overwhelming majority of protests occurred without serious incident. Government statistics indicate that between July 1997 (Hong Kong's return to China) and June 2010, an average of seven to eight "public events" occurred every day. However, activists and pandemocratic legislators expressed concern that the government took a more restrictive view of protests happening at the Central Government Liaison Office (CGLO), which saw several clashes with protesters end in arrests. Activists alleged the police were acting under instructions from Beijing, which police denied.

In March police arrested six activists from the Alliance in Support of the Patriotic Democratic Movement in China on charges of "unlawful assembly" stemming from a December 2009 protest outside the CGLO in support of Liu Xiaobo. Twenty activists entered the grounds, at which point there was a scuffle with police and CGLO security guards. On December 20, a magistrate acquitted the six, but the government announced it would appeal the verdict. Police charged activists under section 18 of the Public Order Ordinance, a vaguely worded law that allows authorities to declare any gathering of more than three persons an "unlawful

assembly" should they act in a "disorderly, intimidating, insulting, or provocative manner."

Regarding assault charges, activists and some lawmakers expressed concern about the lack of clear guidelines about whether an alleged offender would be charged under the Police Force Ordinance (PFO) or the Offences Against the Person Ordinance (OAPO). Both criminalize assault on a police officer on duty, but while the PFO carries a maximum penalty of six months' imprisonment and a HK\$5,000 (\$643) fine, the OAPO carries a maximum penalty of two years' imprisonment. Some activists also alleged that police faced no penalty for making arrests that ultimately were not prosecuted or that resulted in cases dismissed by the courts, allowing them to use arrest as a means of intimidation and to discredit protesters.

In December the media reported that the police force was completing work on a new *Public Order Manual*, which would guide police in handling public demonstrations. The media quoted a prominent human rights NGO and a member of the Independent Police Complaints Council as expressing concern that the contents of the manual would not be made public.

Well over 100,000 persons joined the annual vigil commemorating the June 4 Tiananmen massacre, the highest turnout in many years. Approximately 30,000 persons joined the annual July 1 democracy march. Both events were conducted peacefully.

Immediately prior to the June 4 commemorative events, Food and Environmental Health Bureau officials ordered the seizure of statues used by activists. The officials declared that the statues, which had been used by activists for years without incident, constituted a "public entertainment" requiring insurance that the activists had not obtained. Pandemocratic legislators and activists, as well as editorial opinion, condemned the move. Ultimately, the police (who were in physical possession of the statues) returned them to activists prior to June 4.

In September SAR authorities twice prevented members of the Action Committee for Defending the Diaoyu Islands (Senkaku Islands in Japanese) from leaving Hong Kong waters in a fishing vessel to protest Japanese detention of a Chinese fishing crew in the disputed Senkaku Islands. Unlike earlier voyages, which the government halted on grounds that fishing boats are not rated to carry passengers, the group traveling in September was made up solely of persons qualified in some respect as sailors. An earlier judicial appeal, which challenged the government's action in halting a vessel in May 2009 as a violation of the Basic Law's guarantee

of freedom of movement, failed in a lower court in February. However, in December the High Court (Court of First Instance) reversed the decision, ruling that the evidence cited by the government as grounds to stop the vessel was "very weak."

In December 2009 activists staged a protest on behalf of Mainland activist Liu Xiaobo at the Lo Wu border crossing. During an ensuing scuffle between the SAR and the Mainland, activists alleged that Mainland law enforcement officers dragged activists across the border. Six activists ended up in Mainland custody, although they were released that same evening. SAR authorities requested Mainland assistance in determining whether officers had indeed crossed the border. As of year's end, no response from the Mainland had been received.

### Freedom of Association

The law provides for this right, and the government generally respected it in practice. In the first half of the year, 1,375 societies were registered or exempted from registration under the Societies Ordinance. No applications were rejected by the police.

#### c. Freedom of Religion

For a complete description of religious freedom, please see the *2010 International Religious Freedom Report* at [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

### Societal Abuses and Discrimination

There were no reports of societal abuses or discrimination based on religious affiliation, belief, or practice, including anti-Semitic acts against the small Jewish community, during the year. Please see [www.state.gov/g/drl/irf/rpt](http://www.state.gov/g/drl/irf/rpt).

#### d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides residents freedom of movement, freedom of emigration, and freedom to enter and leave the SAR, and the government generally respected these rights in practice, with some prominent exceptions.

Under the "one country, two systems" framework, the SAR continued to administer its own immigration and entry policies and made determinations regarding claims under the Convention Against Torture (CAT) independently.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing temporary permission to enter the SAR and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

There continued to be cases in which persons traveling to the SAR for reasons that did not appear to contravene the law were refused entry by the Immigration Department. The Immigration Department, as a matter of policy, declined to comment on individual cases. Activists, some legislators, and others contended the refusals, usually of persons holding critical views of the Mainland, were made at the behest of the PRC authorities. The Security Bureau countered that, while the Immigration Department exchanges information with other immigration authorities, including the Mainland, it makes its decisions independently.

In January authorities denied visas to six technicians of a music and dance troupe contracted by the Epoch Group (a media organization with ties to Falun Gong) to present several performances in Hong Kong. The Immigration Department stated that the visas were refused in accordance with laws protecting the employment of local workers and that the troupe could hire competent staff locally. The Epoch Group cancelled the show and requested a judicial review of the refusals. The review was granted, and the case was scheduled to be heard in January 2011.

On June 1, foreign citizen Chen Weiming, the sculptor who designed the Goddess of Democracy statue used by activists to commemorate June 4, was denied entry to the SAR. Chen's lawyer, Democratic Party legislator James To Kun-sun, told the media he was unable to file a legal challenge before Chen was put on a departing flight on June 2. Secretary for Security Ambrose Lee Siu-kwong repeated the government's long-standing denial that it maintains an immigration "blacklist," stating that it was "totally unrelated to so-called political suppression."

Most residents easily obtained travel documents from the SAR government. However, the PRC authorities did not permit some Hong Kong human rights activists and most prodemocracy legislators to visit the Mainland. Eleven incumbent legislators were denied "Home Return Permits" to visit the Mainland.

Forty-two legislators, including four pan-democrats without home return permits, visited the Mainland on May 8-10, principally to visit the Shanghai Expo.

Government policy was to repatriate undocumented migrants who arrive from the Mainland, and authorities did not consider them for refugee status. As of July 31, 3,752 immigration offenders and illegal immigrants were repatriated to the Mainland. The government does not recognize the Taiwan passport as valid for visa endorsement purposes, although convenient mechanisms exist for Taiwan passport holders to visit Hong Kong.

The law does not provide for forced exile, and the government did not use it.

### Protection of Refugees

The SAR is not a party to the 1951 Convention relating to the Status of Refugees or its 1967 Protocol and has no temporary protection policy. The director of immigration has discretion to grant refugee status or asylum on an ad hoc basis but only in cases of exceptional humanitarian or compassionate need. The Immigration Ordinance does not provide foreigners the right to have asylum claims recognized. In practice the government provided some protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The government's practice was to refer refugee and asylum claimants to a lawyer or the UNHCR.

The government does not recognize a legal obligation to grant protection under Article 3 of the CAT, leaving this to the discretion of the Director of Immigration, but in practice has generally reviewed claims made under CAT. As of August there were 6,600 such claims pending determination by the Immigration Department. In December 2009 the department established new screening procedures, and by August 60 claims had been reviewed; none were granted. The SAR has granted protection under CAT to only one applicant, in 2008.

After a 2008 court decision found that the Immigration Department's process was not sufficiently "certain and accessible," a new review mechanism for CAT claims was put into effect in December 2009. Claimants have access to legal counsel from the Duty Lawyer Service, whose lawyers have received training in refugee and torture claims from the Hong Kong Academy of Law. There is also a system to appeal Immigration Department decisions, with the reviews conducted by experienced magistrates. Several observers, including the bar association and the

law society, suggested processing refugee and CAT claims at the same time to avoid duplicate filings.

The government, in collaboration with nongovernmental organizations (NGOs) and on a case-by-case basis, offered in-kind assistance, including accommodation, food, clothing, and other basic necessities, as well as appropriate transport allowance and counseling and medical services, to asylum seekers and torture claimants who were deprived of basic needs while their claims were being processed. As of June 30, approximately 5,400 persons were receiving assistance.

Those whose claims are pending have no legal right to work, and those granted either refugee status by the UNHCR or relief from removal under CAT are permitted to work only if specifically permitted by the director of immigration. They are also ineligible for training by either the Employees Retraining Board or Vocational Training Council. Applications to attend school or university are considered on a case-by-case basis, at the discretion of the director of immigration. In November local lawyers assisting the SAR's only CAT protection recipient and four applicants recognized as refugees by the UNHCR challenged the restriction in court; the court reserved judgment, and no verdict had been announced by year's end.

A May 30 High Court (Court of Appeal) decision upheld a March 2009 decision by the High Court (Court of First Instance) that the government could not charge asylum or CAT claimants found to be working with "overstaying"; the decision was based on grounds that their release on recognizance constituted authority from the director of immigration to remain in the SAR. The government indicated it would study the judgment before determining whether to appeal. LegCo had previously passed legal amendments in November 2009 making it illegal for claimants--who are otherwise regarded as illegal immigrants by the government--to work or establish a business.

### Section 3    Respect for Political Rights: The Right of Citizens to Change Their Government

The right of residents to change their government peacefully is limited by the Basic Law. Reforms passed in June expanded from 800 to 1,200 the number of members in the committee that selects the CE. A second reform added five seats to the 30 elected directly from the five geographic constituencies. An additional five seats were also added to the functional constituency (FC) representing the district councils. These new seats are to be nominated by elected district councilors and



then elected by all voters who do not have a vote in another FC. Specific implementing legislation on both reforms was pending at year's end.

The remaining 30 LegCo seats are elected by 28 FCs, which represent key economic and social sectors. These 30 seats are elected by fewer voters than the electorate in a single geographic constituency. The vast majority of FC voters are represented by the three largest FCs, while the four smallest have fewer than 200 voters. Some of these latter organizations allow "corporate voting," meaning the chief executive officer of a corporation or organization votes on behalf of the entire entity. Persons with interests in more than one sector represented by an FC may be able to cast three votes (one in their geographic constituency, one in an FC as an individual voter, and one as the authorized representative of a corporate elector). In addition, such electors may be able to control or influence the votes of other authorized representatives of corporate electors in other FCs in which they have interests.

The government repeatedly stated that the current method of selecting legislators for these seats does not conform to principles of universal suffrage, but it took no steps to reform the "traditional" FCs. The High Court (Court of First Instance) struck down a legal challenge to corporate voting in December 2009, ruling that the election systems did not contravene the Basic Law.

District councils are responsible for advising the government on matters affecting the well-being of district residents, the provision and use of public facilities, and the use of public funds allocated for local public works and community activities. The District Council Ordinance gives the CE authority to appoint 102 of the 529 district councilors, and he exercised this power. Pan-democrats contended that the CE uses appointments to dilute their influence on the councils and repeatedly called for the abolition of the appointed seats.

The SAR sends 36 deputies to the NPC and has 126 delegates in the Chinese People's Political Consultative Conference.

The approval of the CE, two-thirds of LegCo, and two-thirds of the SAR's delegates to the Mainland's NPC are required to place an amendment of the Basic Law on the agenda of the NPC, which has the sole power to amend the Basic Law.

### Elections and Political Participation

In 2007 the CE Election Committee selected incumbent Donald Tsang Yam-kuen, and the PRC's State Council formally appointed him. In 2008 voters in five geographic constituencies elected 30 legislators, half of the total LegCo, in elections that were generally free and fair. A record number of candidates, both party affiliated and independent, contested the elections. Of the 30 FC seats, 14 incumbents returned uncontested.

In March five legislators resigned to force a by-election they declared to be a "referendum" on political reform, particularly on achieving universal suffrage. While the government stated that neither the Basic Law nor local law establishes a legal process by which to conduct a referendum, on May 16, the government held the by-election. Supporters of the by-election criticized the government for not making the traditional efforts to encourage citizens to vote in the by-election. They also criticized the publicly announced decision of the CE and senior officials not to cast ballots in the election. The by-election itself, which saw a turnout of approximately 17 percent, was generally free and fair, and the five "incumbents" were reelected.

The Basic Law prohibits LegCo from putting forward bills that affect public expenditure, political structure, or government policy. Bills that affect government policy cannot be introduced without the CE's written consent. The government has adopted a very broad definition of "government policy" to block private member bills. On occasion, and on advice of LegCo's legal advisors, the LegCo president has challenged the administration's assertion that a motion was out of order and allowed it to come to vote. When private member bills are considered, passage requires separate majorities among members of both the geographical constituencies and the FCs.

Seven of the 30 executive councilors (cabinet ministers and "nonofficial" councilors) were women. Seven of the 30 directly elected LegCo members were women, and women held four of the 30 FC seats. Women made up between 17 and 23 percent of the membership in the major political parties. Two political parties represented in LegCo were headed by women, and several women were party vice chairs. Four of the 22 most senior government officials were women.

There is no legal restriction against non-Chinese running for electoral office or participating in the civil service, although most elected or senior appointed positions require that the office holder have legal right of abode only in the SAR. There were no members of ethnic minorities in LegCo. The government regards ethnic origin as irrelevant to civil service appointment and does not collect data on

the number of nonethnic Chinese serving in the civil service, a practice that some observers criticized as preventing the government from monitoring hiring and promotion rates for nonethnic Chinese.

#### Section 4 Official Corruption and Government Transparency

There were isolated reports of government corruption, and the government sought to combat official corruption through the Prevention of Bribery Ordinance and the Independent Commission against Corruption (ICAC).

From the beginning of the year through September, ICAC received 787 reports of corruption involving government institutions or personnel. As of June, 311 were under investigation (including one that was being prosecuted, 168 were deemed nonpursuable, and 43 were found to be unsubstantiated. Eighteen cases of election-related corruption were reported in the first half of the year, with 13 under investigation, four deemed nonpursuable, and one found to be unsubstantiated.

There are no legal protections for whistleblowers. In an April 2009 submission to LegCo, the government argued that existing procedures protected staff from being penalized for making complaints or suggestions "in good faith" and that those reporting crime or corruption also were protected under the law.

The SAR requires the 27 most senior civil service officials to declare their financial investments annually and the approximately 3,100 senior working-level officials to do so biennially. Policy bureaus may impose additional reporting requirements for positions seen as having a greater risk of conflict of interest.

There is no freedom of information legislation. An administrative code on Access to Information serves as the framework for the provision of information by government bureaus and departments and the ICAC. However, they may refuse to disclose information if disclosure would cause or risk causing harm or prejudice in several broad areas: national security and foreign affairs (which are reserved to the central government); immigration issues; judicial and law enforcement issues; direct risks to individuals; damage to the environment; result in improper gain or advantage; management of the economy; management and operation of the public service; internal discussion and advice; public employment and public appointments; research, statistics and analysis; third-party information; business affairs; premature requests; and information on which legal restrictions apply. Political inconvenience or the potential for embarrassment are not a justifiable basis for withholding information.

In a January report, *Effectiveness of Administration of Code on Access to Information*, the ombudsman cited "deficiencies among certain departments, displaying considerable misunderstanding of the provisions and unfamiliarity with the procedural requirements of the code after well over a decade of implementation. Some have refused requests for information without giving any reason or with reasons not specified in the code; others have misused the reasons specified in the code." In the first half of the year, the Office of the Ombudsman reported receiving 16 code-related complaints. In response, the Constitutional and Mainland Affairs Bureau cited the ombudsman's statistics that, of the 25,125 requests made under the code between March 1995 and September 2009, 23,986 (95.5 percent) had been met in full, 563 (2.2 percent) had been met in part, and only 576 (2.3 percent) were refused under reasons set out in the code. In its annual report, the HKJA again called on the government to pass a formal freedom of information law.

Company registry documentation and the November 2009 report by the UN Group of Experts (UNGOE) on the Democratic Republic of the Congo (DRC) indicated that Huaying Trading Company (HTC), a Chinese-run mineral exporting company based in eastern DRC, maintained a presence in Hong Kong. According to UNGOE reporting, HTC purchased minerals from mines controlled by the Democratic Liberation Forces of Rwanda (FDLR), which controlled several mines in the eastern DRC provinces of North and South Kivu. The FDLR, whose leaders continued to include architects of the 1994 Rwandan genocide, has committed numerous, serious human rights abuses in eastern DRC and Rwanda. The UNGOE report also presented information indicating that Refractory Metals Mining Company Ltd. (RMMC), also based in Hong Kong, financed trading activities of Africa Ventures Ltd., which bought minerals from suppliers that purchased such material from FDLR mines.

In addition, according to UNGOE's May interim report, "in the Kivu provinces, it appears, almost every mining deposit is controlled by an armed group." In December the international NGO Global Witness reported that the export records of the DRC government's Division of Mines showed that a Hong Kong-based company, Unilink Trading Hong Kong, was one of three companies that purchased columbite-tantalite (or "coltan") exported from conflict-affected North Kivu Province in May.

Section 5     Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A wide variety of domestic and international human rights groups generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials generally were cooperative and responsive to their views. Prominent human rights activists critical of the central government also operated freely and maintained permanent resident status in the SAR.

During the year the government prepared independent submissions and responses to queries from UN bodies and foreign consulates resident in the SAR.

There is an Office of the Ombudsman and an Equal Opportunity Commission (EOC), both appointed by the government but independent in their operations. Both organizations operated without interference from the government and published critical findings in their areas of responsibility. In a change welcomed by activists, the new EOC commissioner, Lam Woon-kwong, was a vocal public advocate on minority rights, access to public and commercial buildings for persons with disabilities, and other issues within the EOC's responsibility.

## Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

The law provides that all residents are equal, and the government enforced this in practice. The EOC is responsible for implementing the Sex Discrimination Ordinance (SDO), the Disability Discrimination Ordinance, the Family Status Discrimination Ordinance, and the Race Discrimination Ordinance.

### Women

Rape, including spousal rape, is criminalized under the law, and police enforced the law effectively. From January to June, 54 rape cases and 775 indecent assault cases were reported to the police. Of these, 52 rape cases and 546 indecent assault cases were detected, leading to 63 and 515 arrests, respectively.

The government regarded domestic violence against women as a serious concern and took measures to prevent and prosecute offenses. It effectively enforced criminal statutes prohibiting domestic violence against women and prosecuted violators. Between January and June, there were 1,105 cases of domestic violence involving heterosexual partners reported to, and investigated by, the police. The Domestic Violence Ordinance allows victims to seek a three-month injunction, extendable to six months, against an abuser. The ordinance does not criminalize

domestic violence directly, although abusers may be liable for criminal charges under other ordinances, including the Crime Ordinance and the Offences Against the Person Ordinance. The government enforced the law and prosecuted violators, but sentences typically consisted only of injunctions or restraining orders.

The 2008 Domestic Violence (Amendment) Ordinance expands the scope of previous law to cover molestation between married couples and heterosexual cohabitants, former spouses or cohabitants, and immediate and extended family members. The revised law provides better protection for victims under age 18, allowing them to apply for an injunction in their own right, with the assistance of an adult guardian, against molestation by their parents, siblings, and specified immediate and extended family members. The 2008 law also empowers the court to require the abuser to attend an antiviolence program. In cases in which the abuser caused bodily harm, the court may attach an authorization of arrest to an existing injunction, and both injunctions and authorizations for arrest can be extended to two years.

The government maintained programs that provide intervention and counseling to batterers. There were eight integrated family service centers and family and child protective services units, which offered services to domestic violence victims and batterers. The government also continued its public information campaign to strengthen families and combat violence and increased public education on the prevention of domestic violence. In March the director of social welfare announced that the government would increase spending on services to victims of domestic violence with a HK\$5 million (\$643,000) grant to the social service NGO Po Leung Kuk to provide support to victims.

The SDO prohibits sexual harassment or discrimination on the basis of sex, marital status, and pregnancy. The law applies to both males and females. The SDO also provides for the establishment of the EOC to work towards the elimination of discrimination and harassment as well as to promote equal opportunity between men and women. As of September 30, the EOC had received 230 new complaints and handled 351 complaints (including complaints carried forward from the previous year) under the SDO.

In March EOC commissioner Lam Woon-kwong declared to the media that he was concerned about instances of pregnant women being unfairly dismissed from their jobs. He indicated there were approximately 150 such cases a year reported under the SDO, with 170 cases reported in 2009.

Couples and individuals had the right to decide the number, spacing, and timing of children and had the information and means to do so free from discrimination, coercion, and violence. Access to information on contraception, skilled attendance at delivery, and prenatal and postpartum care were widely available. According to the SAR Department of Health, the maternal mortality rate in 2009 was 2.4 deaths per 100,000 births. Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections, including HIV.

As of March 31, women filled 32 to 35 percent of the civil service at all ranks. Women made up 66 percent of the LegCo Secretariat workforce and 54 percent of the senior "directorate" ranks. Twenty-two percent of the judges and judicial officers were women, although none sat on the bench of the Court of Final Appeal.

In June the government raised its gender benchmark for participation by women in advisory and statutory bodies from 25 to 30 percent. However, activists and legislators complained that women remained underrepresented, with 40 such bodies having no government-appointed female members at all.

While the law treats men and women equally in terms of property rights in divorce settlements and inheritance matters, in practice women faced discrimination in employment, salary, welfare, inheritance, and promotion. Women reportedly formed the majority of the working poor and those who fall outside the protection of labor laws.

There was a Women's Commission that served as an advisory body for policy making, and a number of NGOs were active in raising problems of societal attitudes and discrimination against women.

### Children

All Chinese nationals born in Hong Kong or abroad to parents, of whom at least one is a PRC national Hong Kong permanent resident, acquire both PRC citizenship and Hong Kong permanent residence, the latter of which allows right of abode in the SAR. Children born in Hong Kong to non-Chinese parents, at least one of whom is a permanent resident, acquire permanent residence and qualify to apply for naturalization as PRC citizens. Registration of all such statuses was routine.

From January to June, there were 832 cases of crimes against children reported to police: 325 involved physical abuse (referring to victims younger than 14 years of

age), and 507 involved sexual abuse (referring to victims younger than 17 years of age). The Domestic Violence Ordinance mandates protection for victims of acts of child abuse such as battery, assault, neglect, abandonment, and sexual exploitation, and the government enforced the law. Section 153P of the Crimes Ordinance allows for prosecution of certain sexual offenses, included those against minors that are committed outside the territory of the SAR.

The government provided parent education programs, including instruction on child abuse prevention, in all 50 of the Department of Health's maternal and child health centers. It also provided public education programs to raise awareness of child abuse and alert children about how to protect themselves. The Social Welfare Department provided child psychologists for its clinical psychology units and social workers for its family and child protective services units. The police maintained a child abuse investigation unit and a child witness support program. A law on child-care centers helped prevent unsuitable persons from providing child-care services.

The media reported on a growing number of boys engaged in "compensated dating," which was already a concern among minor girls. The majority of cases involved teenage girls, both above and below the age of consent, who advertised escort services that might include sex, either to support themselves or for extra pocket money. Some women and girls involved in the trade reported being beaten or abused by clients. In response to this trend, police continued monitoring Internet chat rooms and Web sites used by both individuals and syndicates to advertise services, with officers assigned to gather evidence against the operations and determine the techniques used by syndicates to recruit the girls.

In September police arrested 19 adults and minors involved in luring teens and others into the sex trade through the Internet, in some cases forcing the victims into prostitution.

The legal age of consent for heterosexuals is 16. Under the Crimes Ordinance, a person having "unlawful sexual intercourse" with a victim under 16 is subject to five years' imprisonment, while having unlawful sexual intercourse with a victim under 13 results in imprisonment for life.

The Prevention of Child Pornography Ordinance makes it an imprisonable offense to possess, produce, copy, import, or export pornography involving a child under 18 years of age, or to publish or cause to be published any advertisement that conveys or is likely to be understood as conveying the message that any person has



published, publishes, or intends to publish any child pornography. The penalty for creation, publication, or advertisement of child pornography is eight years' imprisonment, while possession carries a penalty of five years' imprisonment.

The SAR is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance at [http://travel.state.gov/abduction/resources/congressreport/congressreport\\_4308.htm](http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.htm) as well as country-specific information at [http://travel.state.gov/abduction/country/country\\_3781.html](http://travel.state.gov/abduction/country/country_3781.html).

### Anti-Semitism

There were no reports of anti-Semitic acts against the small Jewish community during the year.

### Trafficking in Persons

For information on trafficking in persons, please see the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/g/tip](http://www.state.gov/g/tip).

### Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, access to health care, or the provision of other state services, and the government effectively enforced these provisions. The government effectively implemented laws and programs to ensure that persons with disabilities have access to buildings, information, and communications.

The Social Welfare Department, directly or in coordination with NGOs and employers, provided a range of services and training to assist persons with disabilities in finding work commensurate with their abilities. As of March a total of 15,158 persons were participating in these various programs.

As of March the government employed 3,316 civil servants with disabilities, including 17 at the senior directorate grade, in a total workforce of 156,573. Persons with disabilities filled 2 percent of LegCo Secretariat positions, 1 percent of judicial positions, and 2 percent of nonjudicial positions in the judiciary.

Instances of discrimination against persons with disabilities persisted in employment, education, and the provision of some public services. The Disability Discrimination Ordinance calls for improved building access and sanctions against those who discriminate. As of September 30, the EOC had received 396 complaints under the ordinance and handled 560 cases (including cases carried over from the previous year).

Despite inspections and the occasional closure of noncompliant businesses under the Buildings Ordinance, access to public buildings (including public schools) and transportation remained a serious problem for persons with disabilities.

On September 9, EOC commissioner Lam Woon-kwong called on the government to lead the way in addressing access for people with disabilities. He cited an EOC study of 60 government buildings that he contended "were doing a far from satisfactory job" in providing barrier-free facilities. He specifically cited the lack of access for persons with disabilities at 15 percent of polling stations used in the LegCo by-election. He also criticized one of Hong Kong's largest owners of shopping centers and carparks for failing to address access issues.

The media, legislators, and activists championed the cause of injured worker Lee Shing-leung, who lost his leg in an industrial accident in 2007. Because the government ruled he was only "60 percent disabled," Lee did not qualify for a disability allowance. On September 20, the High Court ruled against Lee in a judicial review, but the judge expressed sympathy for his case and urged greater flexibility in the welfare system.

#### National/Racial/Ethnic Minorities

Although 95 percent ethnic Chinese, the SAR is a multiethnic society with persons from a number of ethnic groups recognized as permanent residents with full rights under the law. Discrimination based on race is prohibited by law, and the EOC oversees implementation and enforcement of the 2008 Race Discrimination Ordinance. The Race Relations Unit, which is subordinate to the Constitutional and Mainland Affairs Bureau, served as secretariat to the Committee on the Promotion of Racial Harmony and implemented the committee's programs. The unit also maintained a hotline for inquiries and complaints concerning racial discrimination.

The Race Discrimination Ordinance and various implementing regulations entered into force in July 2009, when the EOC was empowered to handle complaints. The code of practice (along with selected other EOC materials) was available in Hindi,

Thai, Urdu, Nepali, Indonesian, and Tagalog in addition to Chinese and English. Between July 2009 (when the ordinance entered into force) and September 30, the EOC received 63 complaints and handled 73 cases.

The Constitutional and Mainland Affairs Bureau sponsored a cross-cultural learning program for non-Chinese speaking youth through grants to NGOs.

The government had a policy to integrate non-Chinese students into the regular education system. The government also provided a special grant for designated schools with a critical mass of non-Chinese students to develop their own programs and to share best practices with other schools, as well as to develop supplementary curriculum materials and to set up the Chinese-language support centers to provide after-school programs. However, activists expressed concern that there was no formal government-provided course to prepare students for the General Certificate for Secondary Education exam in Chinese, a passing grade from which is required for most civil service employment.

Beginning in 2009 the government provided HK\$8 million (\$1 million) to sponsor NGOs to set up four support service centers that teach ethnic minority groups special skills, including English and Cantonese, and HK\$16 million (\$2 million) per year to fund their annual operating costs.

In January the media reported cases of ethnic Pakistanis with Hong Kong residency attempting to open personal accounts but faced difficulties or refusals from banks on grounds that they were from a "third world" or "terrorist" country. The Hong Kong Monetary Authority deputy chief executive declared that the entity had advised all banks to review their existing policies and procedures to ensure compliance with the Race Discrimination Ordinance.

In May the media reported that an ethnic minority applicant to the police force who, in addition to being able to speak English and three South Asian languages, had a A\* grade in Chinese in the officially recognized British General Certificate of Secondary Education, was rejected for inadequate ability in Chinese. In August the media reported that parents of an ethnic South Asian student with straight A grades in preschool was denied a place at a school after being given zero marks in a Chinese assessment. The student, who had been instructed in spoken and written Chinese in preschool and scored 85 percent on a comparable test, was reportedly not asked any Chinese-related questions at his entry assessment. The family reported that the Education Bureau failed to take action on their complaint and took the case to the EOC.

In June the respected minority-rights advocacy NGO Unison reported racist statements and threats of physical violence posted on line and in e-mail messages following Unison's support of the family of Dil Bahadur Limbu, who was killed during an altercation with police in 2009 (see section 1.a.). The EOC responded by warning bloggers and Internet service providers that they might incur liability under the Race Discrimination Ordinance if they allowed the posting of such comments. The EOC also requested the names of individuals posting such comments or sending hate e-mails. The posts were removed, and the overall case was moved to the police for investigation as "vilification" under the race discrimination ordinance. No conclusion to the investigation had been announced by year's end.

In June the media reported that approximately 30 students and their parents filed a complaint with the EOC over restrictions by schools regarding varying official uniforms to suit cultural or religious customs. Only 17 primary schools that were designated as having a majority student population of ethnic minorities routinely allowed such variations.

Activists reported that citizens of South Asian descent faced discriminatory treatment and racial profiling from police on patrol, including repeated checks of identity documents and the use of disparaging terms for South Asians. South Asians carrying large amounts of money were on some occasions treated as suspicious and asked to explain the source of the money.

Activists and the government disputed whether new immigrants from the Mainland should be considered as a population of concern under antidiscrimination legislation. While concerns have been raised that new immigrants do not qualify to receive social welfare benefits until they have resided in the SAR for seven years, the courts have upheld this legal standard. Such immigrants can apply on a case-specific basis for assistance.

#### Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

There are no laws criminalizing same-sex relationships. In 2005 the High Court (Court of First Instance) ruled that maintaining an age of consent for male-male relations at 21 rather than 16 violated the Bill of Rights Ordinance. The Law Reform Commission continued a review of sexual offenses in common and statute law. In the interim, enforcement of the law was in accordance with the 2005

decision. There are no specific laws governing age of consent for female-female relations.

The SAR does not register or recognize same-sex marriages. In October the High Court (Court of First Instance) ruled against a transsexual woman who sued the government to be allowed to marry. The woman completed gender-reassignment surgery and changed her identity documents to "female." However, since the law does not allow her to change her birth certificate, she cannot legally marry her male partner. The court ruled that there was insufficient evidence "to demonstrate a shifted societal consensus...regarding marriage to encompass a postoperative transsexual...the court must not rush to substitute its own judgment in place of that of...the government or legislature of Hong Kong."

There were no reports of societal violence or official discrimination based on sexual orientation. Laws on domestic violence apply to same-sex cohabitant relationships.

#### Other Societal Violence or Discrimination

There were no reports of societal violence or discrimination against persons with HIV/AIDS.

#### Section 7 Worker Rights

##### a. The Right of Association

The law allows workers to form and join independent unions of their choice without previous authorization or excessive requirements. The law was effectively applied. Trade unions must register under the Trade Unions Ordinance and must have a minimum membership of seven persons for registration. At the end of 2009, there were 812 registered trade unions, consisting of 768 employee unions, 18 employers' associations, and 26 mixed organizations of employees and employers. During the first half of the year, 10 new unions were registered and four unions were deregistered upon request.

Government statistics indicated that, at the end of 2009, there were 730,519 salaried employees and wage earners (totaling 22.5 percent of the workforce) claiming affiliation with a union.

The 1997 Employment and Labor Relations (Miscellaneous Amendments) Ordinance prohibits the use of union funds for political purposes, requires the CE's approval before unions can contribute funds to any trade union outside of the SAR, and restricts the appointment of persons from outside the enterprise or sector to union executive committees.

Work stoppages and strikes are legal. There are some restrictions on this right for civil servants. Although there is no legislative prohibition of strikes, in practice most workers had to sign employment contracts that typically stated that walking off the job is a breach of contract, which could lead to summary dismissal. In addition, there is no legal entitlement to reinstatement in the case of unfair dismissal. One strike, involving 35 workers, took place during the first half of the year.

b. The Right to Organize and Bargain Collectively

The law does not guarantee the right to collective bargaining. According to an International Trade Union Congress report issued during the year, although almost 25 percent of the workforce was unionized, unions were not strong enough to force management to engage in collective bargaining. Thus, less than 1 percent of workers were covered by collective agreements, and those that existed were not legally binding. The government did not engage in collective bargaining with civil servants' unions, although it consulted relevant employee organizations on compensation matters. A 2009 motion supported by union activists in LegCo that called on the government to promote collective bargaining and legislate on the right to collective bargaining failed due to opposition by the government and business representatives.

The Workplace Consultation Promotion Unit in the Labor Department facilitated communication, consultation, and voluntary negotiation between employers and employees. Tripartite committees for each of the nine sectors of the economy included representatives from some trade unions, employers, and the Labor Department.

Antiunion discrimination did not occur in practice. However, there is no provision guaranteeing reinstatement of workers dismissed because of their trade union membership.

There are no export processing zones in the SAR.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor. There were concerns that some migrant workers were lured to the SAR with false promises of employment but then forced into prostitution. There were also concerns that some migrant workers faced high levels of indebtedness assumed as part of the terms of employment, creating a risk they could fall victim to debt bondage. Some Hong Kong-licensed employment agencies are suspected of colluding with Indonesian agencies to profit from the debt scheme. Some Hong Kong agencies illegally confiscated passports, employment contracts, and ATM cards of domestic workers and withheld them until their debt had been repaid.

The SAR's Employment Ordinance mandates one 24-hour period of rest within each seven-day period, but there were reports some employers compelled domestic workers to work seven days a week. There also were reports that some employers illegally forbade domestic workers to leave the residence of work for nonwork-related reasons, effectively preventing them from reporting exploitation to authorities. SAR authorities actively pursued reports of such violations.

For more information, please see the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/g/tip](http://www.state.gov/g/tip).

d. Prohibition of Child Labor and Minimum Age for Employment

There are laws to protect children from exploitation in the workplace, and the government effectively enforced these laws. The Employment of Children Regulations prohibits employment of children under the age of 15 in any industrial establishment. The regulations limit work hours in the manufacturing sector for persons 15 to 17 years of age to eight hours per day and 48 hours per week between 7 a.m. and 7 p.m. They also prohibit overtime in industrial establishments with employment in dangerous trades for persons less than 18 years of age.

Children 13 and 14 years of age may work in certain nonindustrial establishments, subject to conditions aimed at ensuring a minimum of nine years of education and protection of their safety, health, and welfare. The Labor Department conducted regular workplace inspections to enforce compliance with the regulations. In contrast with 2009, no employers were convicted of offenses involving employment of children 13 to 14 years of age without written parental consent and valid school attendance certificates.

e. Acceptable Conditions of Work

LegCo passed legislation establishing a statutory minimum wage in July, and the initial hourly rate was set at HK\$28 (\$3.60), to be implemented in May 2011. Domestic workers of foreign origin have a minimum wage set under separate legislation. In April amendments to the Employment Ordinance made it a criminal offense, punishable by a maximum fine of HK\$350,000 (\$45,000) and three years' imprisonment, to willfully default on Labor Tribunal and Minor Employments Claims Adjudication Board awards. Some employers provided workers with various kinds of allowances, meals, medical treatment, and subsidized transport. Two-income households were the norm. There are no regulations concerning working hours, paid weekly rest, rest breaks, or compulsory overtime. Workweeks of up to 60 hours and more were not uncommon. In his policy address during the year, the CE stated that, having established a minimum wage, the government would begin consultations on maximum working hours. As of year's end, the consultations had not begun.

Unionists alleged that workers were tricked by employers into signing contracts that changed their terms of employment to "self-employed," and thus they were not entitled to employer-provided benefits such as paid leave, sick leave, medical insurance, workers' compensation, or Mandatory Provident Fund payments.

The Occupational Safety and Health Branch of the Labor Department is responsible for safety and health promotion, enforcement of safety management legislation, and policy formulation and implementation. The Factories and Industrial Undertakings Ordinance, the Occupational Safety and Health Ordinance, the Boilers and Pressure Vessels Ordinance, and their 35 sets of subsidiary regulations regulate safety and health conditions. During the first half of the year, the Labor Department's Occupational Safety and Health Branch conducted 64,044 workplace inspections. There were 709 convicted summonses, resulting in fines totaling HK\$5.3 million (\$687,000). In addition to prosecuting offenses under the safety legislation, the Labor Department also issued improvement notices requiring employers to remedy contraventions of safety laws within a specified period and suspension notices directing removal of imminent risks to life and limb in workplaces. During the first half of the year, 703 improvement notices and 66 suspension notices were served.

Although worker safety and health continued to improve, serious problems remained, particularly in the construction industry. In the first quarter of the year, the Labor Department reported 9,327 occupational injuries, including 2,972



classified as industrial accidents. In the same period, there were seven fatal industrial accidents. Employers are required under the Employee's Compensation Ordinance to report any injuries sustained by their employees in work-related accidents. There is no specific legal provision allowing workers to remove themselves from dangerous work situations without jeopardy to continued employment.

There are no laws restricting work during typhoon or rainstorm warning signals except for a Labor Department recommendation that employers have only essential staff come to work during certain categories of typhoon or rainstorm warnings. Both pro-Beijing and pan-democratic unions called for a review of protections for workers during inclement weather, including legal protections.

The minimum wage for foreign domestic workers was HK\$3,580 per month (\$460). The standard workweek was 48 hours, but many domestic workers worked much longer hours. The standard contract law requires employers to provide foreign domestic workers with housing, worker's compensation insurance, travel allowances, and food or a food allowance in addition to the minimum wage, which together provided a decent standard of living. Foreign domestic workers can be deported if dismissed. After leaving one employer, workers have two weeks to secure new employment before they must leave the SAR. Activists contended this restriction left workers vulnerable to a range of abuses from employers. Workers who pursue complaints through legal channels may be granted leave to remain; however, they are not able to work, leaving them either to live from savings or to depend on charitable assistance.

Domestic workers were required to live with their employers (who do not always provide separate accommodation for the worker), which made it difficult to enforce maximum working hours per day or overtime.

The government contended that the "two-week rule" was necessary to maintain effective immigration control and prevent migrant workers from overstaying and taking up unauthorized work. Regarding maximum hours and rest periods, the government stated that the Employment Ordinance rules on these issues cover local and migrant workers. However, in its explanation of why live-in domestic helpers (both local and foreign) would not be covered by the statutory minimum wage, the government explained that "the distinctive working pattern--round-the-clock presence, provision of service-on-demand, and the multifarious domestic duties expected of live-in domestic workers--makes it impossible to ascertain the actual hours worked so as to determine the wages to be paid."

During the first six months of the year, four employers were convicted for labor law mistreatment violations under the Employment Ordinance relating to the employment of foreign domestic workers. During the first seven months of the year, 97 foreign domestic workers filed criminal suits, 42 of which were against employers, for maltreatment including rape (one), indecent assault (10), and injury and serious assault (31).

## MACAU

Macau, with a population of approximately 544,600, is a Special Administrative Region (SAR) of the People's Republic of China (PRC) and enjoys a high degree of autonomy, except in defense and foreign affairs, under the SAR's constitution (the Basic Law). Chief Executive Fernando Chui Sai-on, who took office in December 2009, headed the government after being elected in July 2009 by a 300-member commission. Security forces reported to civilian authorities.

The following human rights problems were reported: limits on citizens' ability to change their government and lack of progress in prosecuting cases of trafficking in persons. National security legislation, passed in 2009 in accordance with article 23 of the Basic Law, remained a source of concern, but by year's end no cases had been brought under the law.

## RESPECT FOR HUMAN RIGHTS

Section 1    Respect for the Integrity of the Person, Including Freedom From:

a.    Arbitrary or Unlawful Deprivation of Life

There were no reports that the government or its agents committed arbitrary or unlawful killings.

b.    Disappearance

There were no reports of politically motivated disappearances.

c.    Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits such practices, and the government generally respected these rights.

During the first six months of the year, there were 20 complaints of police mistreatment; three were referred as criminal cases, two resulted in disciplinary proceedings, six were pending investigation, and nine were dismissed for lack of evidence or not pursued.

#### Prison and Detention Center Conditions

Prison and detention center conditions generally met international standards, and the government permitted monitoring visits by independent human rights observers. No such visits were made during the year. Judges and prosecutors made monthly visits to prisons to hear complaints from the prisoners.

The SAR has a maximum prison capacity of 1,323 persons; the occupancy rate was approximately 71 percent during the year. The age of criminal responsibility is 16. The total prison population for persons of this age and above for the first half of the year was 136 female and 784 male inmates. Offenders between the ages of 12 and 16 were subject to an "education regime" under the Institute of Minors (IM), which could include incarceration depending on the offense. Between January 2009 and June 2010, there were 29 boys and six girls in IM programs, of whom 28 boys and six girls were incarcerated. IM programs involved educational and vocational training programs, for which the youths received normal educational reports (i.e., their participation in an IM program was not part of their academic record).

#### d. Arbitrary Arrest or Detention

The law prohibits arbitrary arrest and detention, and the government generally observed these prohibitions.

#### Role of the Police and Security Apparatus

Civilian authorities maintained effective control over the Public Security Police (general law enforcement) and Judiciary Police (criminal investigations), and the government has effective mechanisms to investigate and punish abuse and corruption. There were no reports of impunity involving the security forces during the year.

### Arrest Procedures and Treatment While in Detention

Persons were apprehended openly with warrants based on sufficient evidence and issued by a duly authorized official. Detainees were allowed access to a lawyer of their choice or, if indigent, to one provided by the government. Detainees also were allowed prompt access to family members. Police must present persons in custody to an examining judge within 48 hours of detention. The examining judge, who conducts a pretrial inquiry in criminal cases, has a wide range of powers to collect evidence, order or dismiss indictments, and determine whether to release detained persons. The law provides that cases must come to trial within six months of an indictment. The criminal procedure code mandates that pretrial detention is limited to between six months to three years, depending on the charges and progress of the judicial system. Judges often refused bail in cases where sentences could exceed three years.

#### e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected judicial independence in practice. The courts may rule on matters that are "the responsibility of the PRC government or concern the relationship between the central authorities and the SAR," but before making their final judgment, which is not subject to appeal, the courts must seek an interpretation of relevant provisions from the National People's Congress (NPC) Standing Committee. When the Standing Committee makes an interpretation of the provisions concerned, the courts, in applying those provisions, "shall follow the interpretation of the Standing Committee."

Both Portuguese and Chinese are official languages. The need to translate laws and judgments into Chinese and Portuguese and a shortage of local bilingual lawyers and magistrates hampered the development of the legal system. There also was a severe shortage of judges.

#### Trial Procedures

The law provides for the right to a fair trial, and an independent judiciary generally enforced this right.

Defendants enjoy a presumption of innocence and have access to government-held evidence relevant to their cases and a right to appeal. Trials are public and are by

jury except at the magistrate-court level. Defendants have the right to be present at their trials and to confront witnesses. They also have the right to consult with an attorney in a timely manner; public attorneys are provided for those who are financially incapable of engaging lawyers or paying expenses of proceedings. The law extends these rights to all residents.

The judiciary provides citizens with a fair and efficient judicial process; however, due to an overloaded court system, a period of up to a year often passed between filing a civil case and its scheduled hearing.

#### Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

#### Civil Judicial Procedures and Remedies

There is an independent and impartial judiciary for civil matters, and citizens have access to a court to bring lawsuits seeking damages for, or cessation of, a human rights violation.

#### f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The law prohibits such actions, and the government generally respected these prohibitions in practice. Activists and a local prodemocracy political party complained in the media that they were subjected to heightened surveillance during the November visit of PRC premier Wen Jiabao, including the police warning some activists not to attend certain events. The Public Security Police denied the allegations.

### Section 2 Respect for Civil Liberties, Including:

#### a. Freedom of Speech and Press

The law provides for freedom of speech and of the press, and the government generally respected these rights in practice.

The Law on Safeguarding National Security, which entered into force in February 2009, criminalizes both committing and "acts in preparation" to commit, treason, secession, subversion of the PRC government, and theft of state secrets. The crimes of treason, secession, and subversion specify the use of violence, and the

government stated that the law would not infringe on peaceful political activism or media freedom.

Activists and some legislators expressed concern about the vagueness of the term "acts in preparation," which they saw as possibly criminalizing a broad range of activities. Activists and some legislators also were concerned about the use of "prying into" to define one type of illegally acquiring state secrets and the lack of an explicit "public interest defense" for journalists publishing classified information. In addition, there was concern that the PRC's broad definitions of state secrets, as well as its ability retroactively to declare formerly unclassified material to be secret, would affect enforcement of the law. As of year's end, no one had been charged with a crime under the law.

The independent media were active and expressed a wide variety of views without restriction, and international media operated freely. Major newspapers were heavily subsidized by the government and tended to closely follow the PRC government's policy on sensitive political issues, such as Taiwan; however, they reported freely on the SAR government, including reports critical of the government.

#### Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by e-mail. According to the World Internet Project statistics for 2009, approximately 70 percent of the SAR's inhabitants used the Internet. The SAR reportedly also offered affordable access to broadband Internet.

The Strike against Computer Crime Law, passed in June 2009, criminalizes a range of cybercrimes and empowers the police, with a court warrant, to order Internet service providers to save and then provide a range of data. Some legislators expressed concern that the law grants police the authority to take these actions without a court order under some circumstances.

The media reported that several Web sites, among them Facebook, YouTube, and Skype, which are blocked on the PRC mainland, were blocked on government-provided free WiFi service. The government denied any intention to restrict access, stating that the main problem was available bandwidth and pointing out that the

"mobile" version of Facebook was available. Twitter, which is banned on the mainland, also was available on the service.

### Academic Freedom and Cultural Events

There were no government restrictions on academic freedom or cultural events.

#### b. Freedom of Peaceful Assembly and Association

##### Freedom of Assembly

The law provides for freedom of assembly, and the government generally respected this right in practice. The law requires prior notification, but not approval, of demonstrations. In cases in which authorities tried to restrict access to public venues for demonstrations or other public events, the courts generally ruled on the side of the applicants. Police may redirect march routes, and organizers had the right to challenge such decisions in court.

On May 1, protesters representing a range of labor and other problems clashed violently with police. Activists ascribed the clash to a police ruling that the protesters could not use one of the main thoroughfares, claiming the prohibition was made too late for the groups to be able to challenge it in court. Marchers chose to use their original route, resulting in the conflict. Police used water cannons, pepper spray, and batons to disperse the marchers; some protesters resisted by using bamboo scaffolding and other materials to attack police. A total of 41 persons were reported injured, including 32 police officers and two journalists.

Activists reported that more than 500 participants took part in the annual candlelight vigil commemorating June 4 (the date of the 1989 Tiananmen Square massacre), the largest turnout since the 1999 handover and an increase over the 300 who attended the 20th anniversary in 2009. However, activists were denied access to all but one of the eight locations where they had displayed banners regarding the incident in previous years. The Civil and Municipal Affairs Bureau declared that it sent a letter to event organizers, the Union for the Democratic Development of Macau, declaring that four of the venues were "not suitable for banners" and three had been reserved for other purposes; organizers told the media they had not received the letter.

In September there were media reports that an internal document circulating within the Security Bureau proposed limiting protests on public order grounds. The topic was widely covered and criticized in the media, leading the Security Bureau to

issue a statement claiming the document was an examination of the existing legal regime (as opposed to proposals for new laws) and that the government respected the rights of assembly and demonstration.

Labor protesters marching on October 1 (PRC National Day) generally accepted a police recommendation to alter their routes from one of the main thoroughfares, although the marches concluded at Government House as originally planned. The marches, involving a total of a few hundred participants, occurred without incident.

#### Freedom of Association

The Basic Law and the civil code provide for freedom of association. No authorization is required to form an association, and the only restriction is that the organization not promote violence, crime, or disruption of public order.

#### c. Freedom of Religion

For a complete description of religious freedom, please see the *2010 International Religious Freedom Report* at [www.state.gov/g/drl/irf/rpt/](http://www.state.gov/g/drl/irf/rpt/).

#### d. Freedom of Movement, Internally Displaced Persons, Protection of Refugees, and Stateless Persons

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. Persons denied entry into the SAR have the right to contact their consulate or other representative of their country, to have assistance with language interpretation, and to consult a lawyer. The Immigration Department cooperated with the Office of the UN High Commissioner for Refugees in handling refugees.

The law prohibits forced exile, and the government generally respected the law in practice.

The Internal Security Law grants police the authority to prevent entry and to deport nonresidents who are regarded under the law as unwelcome, deemed to constitute a threat to internal security and stability, or are suspected of transnational crimes. Legislators and activists alleged that police used this law to prevent Hong Kong democracy and rights activists from entering the SAR, including when the purpose of travel was merely tourism or personal business. Police declined to discuss the circumstances of individual cases.



In August Leung Li, a Hong Kong Democratic Party (DPHK) district councilor, was stopped at the border for three hours as officials investigated "problems with his ID card." Leung voluntarily returned to Hong Kong but told the media he believed the problem was his DPHK membership. He noted that he had traveled across the land border between Hong Kong and Guangdong several times using the same card without incident. Government officials indicated at the time that their investigation was continuing but denied that Leung's party affiliation was the problem.

The media reported that on October 1, Nano Yeung Pui-yan, a Hong Kong social worker traveling to Macau with her family, was denied entry. Officials reportedly questioned her about her political party affiliation (none) and told her she had chosen "the wrong time to visit." Yeung was instructed to sign a paper indicating she had been refused entry under the Internal Security Law.

### Protection of Refugees

The law provides for the granting of asylum or refugee status in accordance with the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. Persons granted status enjoyed the same rights as other SAR residents, while persons with pending applications were eligible to receive government support, including basic needs, medical care, and education for children.

### Section 3    Respect for Political Rights: The Right of Citizens to Change Their Government

The law limits citizens' ability to change their government. Only a small fraction of citizens play a role in the selection of the chief executive (CE). The head of government is chosen by a 300-member Election Committee, consisting of 254 members elected from four broad societal sectors (which have a limited franchise) and 46 members chosen from among the SAR's legislators and representatives to the NPC and Chinese People's Political Consultative Congress.

### Elections and Political Participation

In June 2009, following discussions within the sectors and their subordinate units responsible for selecting the Election Committee, exactly 254 candidates were nominated, thus constituting the committee without an election. By virtue of securing 286 of the 300 nominating votes, and thus precluding any other candidate from winning the 50 nominations required to stand for election, former secretary for social affairs and culture Fernando Chui Sai-on ran unopposed for CE. In July 2009 he received 282 votes from the Election Committee; he took office in December 2009.

In September 2009 the SAR also elected parts of its 29-member Legislative Assembly. Sixteen electoral "slates" representing 123 candidates (the SAR does not have formal political parties for elections, and candidates form ad hoc rosters to contest elections) competed for the 12 directly elected seats. The election, open to all registered SAR residents, was considered generally free and fair. Ten indirectly elected legislators were returned uncontested after internal consultation among the four broad sectors that elect these seats. Seven seats were filled by CE appointment.

There are limits on the types of legislation that legislators may introduce. The law stipulates that legislators may not initiate legislation related to public expenditure, the SAR's political structure, or the operation of the government. Proposed legislation related to government policies must receive the CE's written approval before it is submitted. The legislature also has no power of confirmation over executive or judicial appointments.

A 10-member Executive Council functions as an unofficial cabinet, approving draft legislation before it is presented in the Legislative Assembly. The Basic Law stipulates that the CE appoint members of the SAR Executive Council from among the principal officials of the executive authorities, members of the legislature, and public figures.

There were no registered political parties; politically active groups registered as societies or companies. These groups were active in promoting their political agendas, and those critical of the government did not face restrictions. Such groups participated in protests over government policies or proposed legislation without restriction.

There were four women in the 29-member Legislative Assembly. Women also held a number of senior positions throughout the government, including the secretary for justice and administration, the second-highest official in the SAR

government. Fourteen of the SAR's 29 judges were women. Women made up more than 41 percent of the senior-level executive, 48 percent of the judicial, and 100 percent of the senior legislative staff (i.e., not including legislators) work forces. There were three members of ethnic minorities in the Legislative Assembly. One Executive Council member was from an ethnic minority, as was the police commissioner.

#### Section 4 Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, there were instances of officials engaging in corruption.

The Commission against Corruption (CCAC) investigated the public and private sectors and had the power to arrest and detain suspects. Initially chartered only to handle public-sector corruption, in March the CACC gained competence over private-sector corruption under the Prevention and Suppression of Bribery in the Private Sector Law of 2009. The Ombudsman Bureau within the CCAC reviewed complaints of maladministration or abuse by the CCAC. There was also an independent committee outside the CCAC, called the Monitoring Committee on Discipline of CCAC Personnel, which accepted and reviewed complaints about CCAC personnel.

By law the CE, his cabinet, judges, members of the Legislative Assembly and Executive Council, and executive agency directors are required to disclose their financial interests upon appointment, promotion, and retirement, and at five-year intervals while in the same position.

The law does not provide for public access to government information. However, the executive branch published online, in both Portuguese and Chinese, extensive information on laws, regulations, ordinances, government policies and procedures, and biographies of government officials. The government also issued a daily press release on topics of public concern. The information provided by the legislature was less extensive.

#### Section 5 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic and international groups monitoring human rights generally operated without government restriction, investigating and publishing their

findings on human rights cases. Government officials often were cooperative and responsive to their views.

The government sent delegations to join the PRC delegation at UN human rights fora throughout the year. The government also cooperated with diplomatic missions in researching human rights matters.

## Section 6 Discrimination, Societal Abuses, and Trafficking in Persons

The law stipulates that residents shall be free from discrimination based on race, gender, disability, language, or social status, and many laws carry specific prohibitions against discrimination; the government effectively enforced the law.

### Women

The law criminalizes rape, including spousal rape, and the government effectively enforced the law. In the first half of the year, there were 12 rape investigations opened by prosecutors, four of which had gone to indictment by midyear. The police and courts acted promptly on rape cases.

Although there is not a specific law on domestic violence, laws that criminalize the relevant behaviors, including "ill-treatment of minors or spouses," were used by the government effectively to prosecute domestic violence. However, various nongovernmental organizations (NGOs) and government officials considered domestic violence against women to be a growing problem. In the case of spousal abuse or violence against minors, the penalty is two to eight years' imprisonment; if the abuse leads to the death of the victim, the penalty is five to 15 years. In the first half of the year, 189 cases of crimes related to domestic violence were reported to police.

The government made referrals for victims to receive medical treatment, and medical social workers counseled victims and informed them of social welfare services. The government funded NGOs to provide victim support services, including housing, until their complaints were resolved. The government also supported two 24-hour hotlines, one for counseling and the other for reporting domestic violence cases.

NGOs and religious groups sponsored programs for victims of domestic violence, and the government supported and helped to fund these organizations and programs. The Bureau for Family Action, a government organization subordinate to the Department of Family and Community of the Social Welfare Institute,

helped female victims of domestic violence by providing a safe place for them and their children and advice regarding legal actions against perpetrators. A range of counseling services was available to persons who requested them at social centers. Two government-supported religious programs also offered rehabilitation programs for female victims of violence.

There is no law specifically addressing sexual harassment, excepting the use of a position of authority to coerce performance of physical acts. Harassment in general is prohibited under laws governing equal opportunity, employment and labor rights, and labor relations. Between January and June, one complaint of gender discrimination was filed with the Labor Affairs Bureau but was later withdrawn.

Couples and individuals had the right to decide the number, spacing, and timing of their children and had the information and means to do so free from discrimination or coercion. Access to contraception, prenatal care, and skilled attendance at delivery and in postpartum care were widely available. According to the World Health Organization, in 2009 the maternal mortality rate was zero. Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections, including HIV.

Equal opportunity legislation mandates that women receive equal pay for equal work; however, observers estimated that there was a significant difference in salary between men and women, particularly in unskilled jobs. The law allows for civil suits, but few women took their cases to the Labor Affairs Bureau or other entities. Discrimination in hiring practices based on gender or physical ability is prohibited by law, and penalties exist for employers who violate these guidelines.

### Children

In accordance with the Basic Law, children of Chinese national residents of Macau born in or outside the SAR and children born to non-Chinese national permanent residents inside the SAR are regarded as permanent residents. There is no differentiation between these categories in terms of access to registration of birth. The government protected the rights and welfare of children through the general framework of civil and political rights legislation that protects all citizens.

The law specifically provides for criminal punishment for sexual abuse of children and students, statutory rape, and procurement involving minors. The criminal code sets 14 as the age of sexual consent and 16 as the age for participation in the legal sex trade. Child pornography is prohibited by law.

The SAR is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information on international parental child abduction, please see the Department of State's annual report on compliance with the convention at

[http://travel.state.gov/abduction/resources/congressreport/congressreport\\_4308.html](http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.html) as well as country-specific information at [http://travel.state.gov/abduction/country/country\\_3781.html](http://travel.state.gov/abduction/country/country_3781.html).

#### Anti-Semitism

The Jewish population was extremely small, and there were no reports of anti-Semitic acts.

#### Trafficking in Persons

For information on trafficking in persons, please see the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/g/tip](http://www.state.gov/g/tip).

#### Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, or the provision of other state services, and the government generally enforced these provisions in practice. The law mandates access to buildings, information, and communications for persons with disabilities. The government enforced the law effectively. The Social Welfare Institute was primarily responsible for coordinating and funding public assistance programs to persons with disabilities. There was a governmental commission to rehabilitate persons with disabilities, with part of the commission's scope of work addressing employment.

#### Societal Abuses, Discrimination, and Acts of Violence Based on Sexual Orientation and Gender Identity

There are no laws criminalizing any sexual orientation, and no prohibition against lesbian, gay, bisexual, or transgender persons forming organizations or associations. There were no reports of violence against persons based on their sexual orientation.

#### Other Societal Violence or Discrimination

The law prohibits discrimination against persons with HIV/AIDS and limits the number of required disclosures of an individual's HIV status. Employees outside medical fields are not required to declare their status to employers. There were anecdotal reports that persons whose status became known, as well as organizations supporting them, faced some forms of discrimination. There were no reported incidents of violence against persons with HIV/AIDS.

## Section 7 Worker Rights

### a. The Right of Association

The law, including article 27 of the Basic Law, provides for the right of workers to form and join unions or "labor associations" of their choice without previous authorization or excessive requirements, and the government generally respected this right in practice. There is no law specifically defining the status and function of labor unions, nor are employers compelled to negotiate with them. While there are no legal restrictions preventing companies from refusing to hire union workers, union membership is not a legitimate basis for dismissal under the Law on Labor Relations.

Workers in certain professions, such as the security forces, are forbidden to form unions, take part in protests, or strike. Such groups had organizations that provided welfare and other services to members and that could speak to the government on behalf of their members.

Under article 27 of the Basic Law, workers have the right to strike, but there is no specific protection in the law from retribution if workers exercised this right. The government argued that striking employees are protected from retaliation by labor law provisions, which require an employer to have "justified cause" to dismiss an employee. In contrast with 2009, there were no reports that the government failed to enforce these provisions during the year. Strikes, rallies, and demonstrations were not permitted in the vicinity of the CE's office, the Legislative Assembly, and other key government buildings, although in practice some protests occurred near government headquarters.

Workers who believed they were dismissed unlawfully may bring a case to court or lodge a complaint with the Labor Department or the Office of the High Commissioner against Corruption and Administrative Illegality, which also functions as ombudsman. However, migrant workers have no right to such recourse.

b. The Right to Organize and Bargain Collectively

The law provides that agreements concluded between employers and workers shall be valid, but there is no specific statutory protection that provides for the right to collective bargaining. In practice companies often negotiated with unions, although the government often acted as an intermediary. Pro-PRC unions traditionally have not attempted to engage in collective bargaining. Migrant workers and public servants do not have the right to bargain collectively.

The law prohibits antiunion discrimination and employer interference in union functions, and the law was enforced in practice. However, the Union for Democracy Development Macau expressed concern that the law contains no explicit provisions that bar discrimination against unions. There are no export processing zones.

c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, and there were no reports that such practices occurred. Also see the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/g/tip](http://www.state.gov/g/tip).

d. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits minors under the age of 16 from working, although minors between the ages of 14 and 16 can be authorized to work on an "exceptional basis." Some children reportedly worked in family-operated or small businesses. Local laws do not establish specific regulations governing the number of hours these children can work, but International Labor Organization conventions were applied. The Labor Department enforced the law through periodic and targeted inspections, and violators were prosecuted.

e. Acceptable Conditions of Work

Local labor laws establish the general principle of fair wages and mandate compliance with wage agreements. There is no mandatory minimum wage, except for government-outsourced security guards and cleaners. Average wages provided a decent standard of living for a worker and family. The law also sets maximum hours, rest days, statutory holidays, and premium pay rules. Article 70 of the 2008 Labor Relations Law allows employers to dismiss staff "without just cause"



provided that economic compensation, indexed to the employee's length of service, is paid.

Local customs normally favored employment without the benefit of written labor contracts, except in the case of migrant workers, who were issued short-term contracts. Labor groups reported that employers increasingly used temporary contracts to circumvent obligations to pay for workers' benefits, such as pensions, sick leave, and paid holidays. The short-term nature of the contracts also made it easier to dismiss workers by means of nonrenewal.

Labor legislation provides for a 48-hour workweek, an eight-hour workday, paid overtime, annual leave, and medical and maternity care. Although the law provides for a 24-hour rest period each week, workers frequently agreed to work overtime to compensate for low wages. The Labor Department provided assistance and legal advice to workers upon request.

The Labor Department enforced occupational safety and health regulations, and failure to correct infractions could lead to prosecution. Although the law includes a requirement that employers provide a safe working environment, no explicit provisions protect employees' right to continued employment if they refused to work under dangerous conditions.

Local migrant worker associations and the International Labor Organization expressed concern about the Law on the Employment of Nonresident Workers, which requires foreign workers who left their jobs for any cause not held to be "just," to depart the SAR for six months. Labor officials stated that the law, meant to deter "job hopping" by migrant workers, was implemented only if the worker could not demonstrate just cause for wishing to terminate the contract himself (such as abuse, nonpayment of wages, and contract violation) or if the employer dismissed the worker after three days' unauthorized absence (in accordance with the labor law). However, the lack of coordination between the Labor Affairs Bureau, which handled complaints, and the Immigration Department, which granted or withdrew permission for migrant workers to remain in the SAR, meant that workers filing complaints could be dismissed from their positions, lose their immigration status, and be forced to depart prior to the resolution of their complaints. While the government noted that workers under such circumstances could apply for special extensions to remain, Labor Affairs Bureau director Shun Ka Hung was quoted in the media as stating that dissatisfied workers "can always go back to their homeland to find another job."