

# CHINA 2012 HUMAN RIGHTS REPORT

## EXECUTIVE SUMMARY

The People's Republic of China (PRC) is an authoritarian state in which the Chinese Communist Party (CCP) constitutionally is the paramount authority. CCP members hold almost all top government and security apparatus positions. Ultimate authority rests with the 25-member Political Bureau (Politburo) of the CCP and its seven-member Standing Committee. Xi Jinping holds two of the three most powerful positions as CCP general secretary and chairman of the Central Military Commission; during the March 2013 meeting of the National People's Congress (NPC), Xi was expected to assume the third key position by becoming president of the PRC. Civilian authorities generally maintained effective control of the military and internal security forces.

Repression and coercion, particularly against organizations and individuals involved in rights advocacy and public interest issues, were routine. Individuals and groups seen as politically sensitive by authorities continued to face tight restrictions on their freedom to assemble, practice religion, and travel. Efforts to silence and intimidate political activists and public interest lawyers continued to increase. Authorities resorted to extralegal measures such as 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 continued to face harassment, disbarment of legal staff, and closure. There was severe official repression of the freedoms of speech, religion, association, and harsh restrictions on the movement of ethnic Uighurs in the Xinjiang Uighur Autonomous Region (XUAR) and of ethnic Tibetans in the Tibet Autonomous Region (TAR) and other Tibetan areas. Abuses peaked around high-profile events, such as the visit of foreign officials, sensitive anniversaries, and in the period leading up to the meeting of the 18th Party Congress in November.

As in previous years, citizens did not have the right to change their government, and citizens had limited forms of redress against the government. Other 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 lawyers, journalists, writers, dissidents, petitioners, and others who sought to exercise peacefully 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 freedom to assemble, practice religion, and travel; failure to protect refugees and asylum seekers; pressure on other countries to forcibly return PRC 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 that in some cases resulted in forced abortion (sometimes at advanced stages of pregnancy) 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 widespread.

Authorities prosecuted a number of abuses of power, particularly with regard to corruption. However, the internal disciplinary procedures of the CCP were opaque and only selectively applied to senior officials.

## **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 (see Tibet annex). In many instances few or no details were available.

According to a Radio Free Asia (RFA) report, an 11-year-old ethnic Uighur boy named Mirzahid died after being taken into police custody on May 20 for attending an unregistered Islamic school. While official reports claimed he died due to beatings by his religious teacher, overseas rights groups alleged police tortured him to death.

It was not clear to what extent impunity was a problem. Following cases of police killings there often was an announcement that an investigation was to be conducted. However, it was not clear whether there were any findings of police malfeasance or any cases in which police were disciplined.

There were conflicting accounts of a February 28 clash in Yecheng, XUAR, in which knife-wielding assailants killed 13 pedestrians and injured many others. According to an official news report, during an exchange of gunfire with the attackers, police killed seven Uighur men and captured one. Overseas groups claimed that the attack was spurred by Uighur anger over the migration of ethnic Han to the area and targeted security personnel. While official reports did not specify the ethnicity of the attackers or victims, an exile group claimed that 10

Uighurs, seven police officers, and five others were killed in the incident. RFA separately reported that Uighurs had killed three ethnic Han and that police killed 12 young Uighurs.

While the government did not report official statistics regarding deaths in custody, some cases garnered media coverage.

On June 19, a Nigerian man died while in custody at a Guangzhou police station in connection with his involvement in a fight over a disputed motorbike fare. The Guangzhou Public Security Bureau published a statement on its Web site claiming that, after police apprehended the man, he later “passed out,” and a rescue team was unable to resuscitate him. The official Xinhua News Agency announced that officials launched an investigation into the death, but authorities never publicly released findings.

On November 6, Zhang Yaodong, a petitioner from Henan Province, died after “black security guards” (agents employed unofficially or indirectly by local and provincial authorities to prevent persons from their jurisdictions from petitioning central authorities in Beijing about a variety of grievances) beat him to death in a van returning him home from Beijing. Beijing police restricted the medical examination of Zhang’s body to an external one, which could not determine the cause of death. Officials in Henan offered to pay compensation of 3.3 million RMB (\$530,000) to the family if it conceded that Zhang had died of disease and agreed not to seek further compensation or petition the central government on the matter.

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

## **b. Disappearance**

In May Beijing public security officials detained Song Ze for disturbing public order after he aided petitioners and transported Chen Kegui’s wife (Chen Kegui is the nephew of blind activist Chen Guangcheng, see section 1.e.) to Beijing to avoid abuse by local government officials. Public security officials subsequently transferred Song to residential surveillance at an unknown location. At year’s end Song’s whereabouts 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 May the Duihua Foundation, an international human rights NGO, estimated that fewer than a dozen remained in prison, 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. In March the NPC enacted amendments to the criminal procedure law that exclude evidence, including confessions, obtained through illegal means, including under torture in certain categories of criminal cases. The amendments were scheduled to go into effect on January 1, 2013.

Numerous former prisoners and detainees reported that they were beaten, subjected to electric shock, forced to sit on stools for hours on end, deprived of sleep, and otherwise subjected to physical and psychological abuse. Although ordinary prisoners were subjects of abuse, political and religious dissidents were singled out for particularly harsh treatment. In some instances close relatives of dissidents also were singled out for abuse.

Following fall from power of Chongqing Party Secretary and Politburo member Bo Xilai, defense lawyer Li Zhuang, who ran afoul of the Bo-led Chongqing City leadership in 2009, recounted being strapped into a "tiger seat," a device that immobilizes the subject in an upright position, for three days and three nights during his interrogation. According to Li, other persons were interrogated in tiger seats for even longer periods, and at least one person was suspended by handcuffs from the ceiling with his feet barely touching a table. Li was subsequently convicted on a charge of having persuaded one of his clients to claim falsely he had been tortured.

In April police detained three Guangzhou-based residents charged with illegal assembly for staging a demonstration calling on officials to disclose publicly their financial assets (see section 4). Authorities reportedly prevented one of the detainees, activist Xiao Yong, from sleeping for up to five days, causing multiple medical complications. Xiao was later remanded to two years of reeducation through labor (RTL) in Shaoyang, Hunan Province.

On June 6, an explosion injured 12 students during a police raid at an Islamic school located in a residential building in Hotan, XUAR. According to overseas human rights groups, the explosion resulted when tear gas used by police during the raid of the school combusted. According to a report in the official press, “suspects” at the “illegal Koran teaching camp” started a fire with explosives, causing injuries to 12 students and three police officers.

On June 20, activist Hu Jia was beaten as he was leaving his Beijing apartment by men he identified as state security personnel.

In August, Beijing police arrested a group of activists trying to submit an application for information about the formulation of China’s second National Human Rights Action Plan. Peng Lanlan of Hunan Province was charged with obstructing official business and was tortured by being bound to a tiger seat.

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 *Legal Daily*, the Ministry of Public Security directly administered 24 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 2010 an official of the Ministry of Public Security 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 practitioners were among those housed with mentally ill patients in these institutions.

In October the government passed legislation banning involuntary mental health examinations and inpatient treatment except in cases in which patients express an intent to harm themselves or others. However, critics maintained that the law still does not provide meaningful legal protections for persons sent to psychiatric facilities. The March amendments to the criminal procedure law require procuratorate review and a court decision for the psychiatric commitment of persons who have committed serious offenses but are exempt from criminal responsibility under the law. The amendments, scheduled to go into effect in January 2013, include a provision for appealing compulsory medical treatment decisions. Implementing regulations will affect how the amendments are carried out in practice.

According to a human rights NGO, officials from Xiangxiang City, Hunan Province, seized Gu Xianghong in July while she was petitioning in front of a foreign embassy and forcibly committed her to Kangning Psychiatric Hospital in Xiangxiang. Gu has reportedly been sent to psychiatric hospitals 10 times since 1999 in retaliation for her petitioning against family planning policies and her mother's forced eviction from her home.

In March officials from Inner Mongolia forcibly committed Yang Yamei to Hulunbuir Municipal Mental Health Center in Yakeshi City, Hulunbuir, Inner Mongolia, after returning her from Beijing where she was petitioning. Officials have subjected Yang to RTL and multiple detentions in psychiatric hospitals since 2004 for petitioning about economic grievances and her subsequent detentions. Ankang doctors forced her to take drugs that ultimately aggravated her heart disease and caused intense headaches.

Between April 11 and 13, petitioner Zhu Guiqin from Fushun City, Liaoning Province, was reportedly kidnapped, raped, and held in Beijing by unidentified men hired by the Fushun government. She was then transported back to Fushun where she was met by a local official and detained for three days. Zhu alleged that she reported her case to the Fushun and Beijing police, who refused to investigate.

### **Prison and Detention Center Conditions**

Conditions in penal institutions for both political prisoners and criminal offenders were generally harsh and often degrading.

Advocacy groups continued to report instances of organ harvesting from prisoners. In March, Vice Minister of Health Huang Jiefu reportedly pledged to abolish within three to five years the practice of taking human organs for transplant from death row prisoners. In November, Ministry of Health official Wang Haibo reportedly called the use of prisoner organs "unethical" and stated that the phasing out of the country's reliance on prisoners via a new donation system would begin in early 2013.

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.

Physical Conditions: Prisoners and detainees were regularly held in overcrowded conditions with poor sanitation. Food often was inadequate and of poor quality,

and many detainees relied on supplemental food, medicines, and warm clothing provided by relatives. Prisoners often reported sleeping on the floor because there were no beds or bedding. Adequate, timely medical care for prisoners remained a serious problem, despite official assurances that prisoners have the right to prompt medical treatment.

Information on the prison population is not made public. In a report to the NPC Standing Committee, the Minister of Justice stated that the country had 681 prisons with 1.64 million inmates. The International Center for Prison Studies (ICPS) reported that in 2009, in addition to sentenced prisoners, 650,000 persons were held in detention centers and that estimates of pretrial detainees were between 100,000 and 260,000 persons. The ICPS reported that in mid-2010 female prisoners made up approximately 5.1 percent of the prison population, and in 2005 juveniles made up 1.4 percent. The law requires juveniles be held separately from adults, unless facilities are insufficient. In practice children were sometimes held with adult prisoners and required to work. Political prisoners were held with the general prison population and reported being beaten by other prisoners at the instigation of guards. Some prominent dissidents were not allowed to receive supplemental food, medicine, and warm clothing from relatives.

The law mandates that a prison shall be ventilated, allow for natural light, and be clean and warm. The law further provides that a prison “shall set up medical, 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, in many cases provisions for sanitation, ventilation, heating, lighting, basic and emergency medical care, and access to potable water were inadequate.

Conditions in administrative detention facilities, such as RTL camps, were similar to those in prisons. Beating deaths occurred in administrative detention and RTL facilities. Detainees reported beatings, sexual assaults, lack of proper food, and no access to medical care.

Administration: It was unclear whether recordkeeping on prisoners was adequate. Authorities employ alternatives to incarceration for both violent and nonviolent offenders. According to Vice Minister of Justice Zhao Dacheng, more than one million convicts have served their sentences in community corrections programs since 2003. There were no prison ombudsmen per se; however, prisoners and detainees are legally entitled to submit complaints to judicial authorities without

ensorship and request investigation of credible allegations of inhuman conditions. The law states that letters from a prisoner to higher authorities of the prison or to the judicial organs shall be free from examination. While authorities occasionally investigated credible allegations of inhuman conditions, the results were not documented in a publicly accessible manner. Many prisoners and detainees did not have reasonable access to visitors and were not permitted religious observance. Under article 52 of the prison law, “considerations shall be given to the special habits and customs of prisoners of minority ethnic groups.” Detention Center Regulation article 23 has similar requirements. Little information was available about the implementation of these regulations.

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

Information about prisons, including associated labor camps and factories, was considered a state secret, and the government generally did not permit independent monitoring of prisons or RTL camps. Prisoners remained inaccessible to local and international human rights organizations and media groups. Authorities did not allow the International Committee of the Red Cross to have access to prisoners or perform authentic prison visits in the country.

#### **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. Throughout the year human rights activists, journalists, unregistered religious leaders, and former political prisoners and their family members continued to be among those targeted for arbitrary detention or arrest.

On May 4, Zhao Guangjun from Liaoning Province was reportedly seized and taken to a black jail (an unofficial detention center) at Jiujiangzhuang after he attempted to see Chen Guangcheng at the Chaoyang Hospital in Beijing. Government officials from Liaoning reportedly escorted Zhao back to his hometown of Panjin to serve 10 days of administrative detention at a detention center.



In February, Shanghai dissident Feng Zhenghu was placed under unofficial house arrest at his apartment in Shanghai. According to Western media reports and other sources, Feng was not allowed to leave his apartment and had limited communication with the outside world, although he did not face any criminal charges. Feng was previously detained without charge under unofficial house arrest during Shanghai's 2010 World Expo. Dozens of Shanghai petitioners reportedly were illegally detained throughout the year in Beijing, often held in unofficial detention centers before being forcibly returned to Shanghai. Shanghai dissident and former lawyer Zheng Enchong also remained under unofficial house arrest and reportedly was not allowed to leave his house without specific permission from security officials. Rights lawyer Gao Zhisheng remained in prison in Xinjiang for allegedly violating the terms of a suspended prison sentence. Authorities sharply limited access to him and at times concealed his whereabouts.

Ma Daqin, auxiliary bishop of the Shanghai Diocese, was detained at the Sheshan Seminary in July after he publicly renounced his position in the Chinese Catholic Patriotic Association, the government organization that oversees the Roman Catholic Church. Ma reportedly remained detained at the seminary and was not permitted to perform religious duties or receive visitors following his announcement.

On September 30, petitioner Mao Hengfeng was arrested in Beijing and forcibly returned to Shanghai. She was not permitted to meet with relatives or her lawyer. In early November her husband was informed that Mao had been ordered to serve 18 months in an RTL camp for "gathering a crowd to disturb the public order." At year's end she remained in detention.

### **Role of the Police and Security Apparatus**

The main domestic security agencies include the Ministry of State Security, the Ministry of Public Security, and the People's Armed Police. The People's Liberation Army is primarily responsible for external security but also has some domestic security responsibilities. Local jurisdictions also frequently used civilian municipal security forces, known as "urban management" officials, to enforce administrative measures. The Ministry of Public Security coordinates the country's civilian police force, which is organized into specialized police agencies and local, county, and provincial jurisdictions. Procuratorate 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 prisoners or suspects in their custody.

In May the Ministry of Supervision, the Ministry of Human Resources and Social Security, and the Ministry of Justice jointly issued regulations stating that police in prisons and RTL facilities face dismissal if they are found to have beaten, applied corporal punishment, abused inmates, or instigated such acts.

In August a court in Kaifeng City sentenced police officers Wang Songlin and Guo Shouhai to two years in prison and Ding Zhongqiu, Luo Mingzhu, and Zhou Minghan to sentences ranging from 12 to 18 months. The five police officers were among those who tortured Zhao Zuohai, a farmer in Zhecheng County, for 33 days before he confessed to killing a man who was subsequently found alive. Zhao spent 11 years in prison. A sixth police officer was acquitted.

Oversight of urban management officials is highly localized and ad hoc. By law the officials can be criminally prosecuted for abuses of power, but such cases were rarely pursued in practice. In multiple incidents throughout the country, street vendors clashed, often physically, with urban management officials. In some cases mediation resulted in compensation being paid to victims of urban management officials.

### **Arrest Procedures and Treatment While in Detention**

Police detention beyond 37 days requires prosecutorial approval of a 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. In practice police sometimes detained persons beyond the period allowed by law. Pretrial detention periods of a year or longer were common. 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, or a minor; or who may be sentenced to death. The revised criminal procedure law scheduled to take

effect on January 1, 2013, adds defendants facing a life sentence and who are mentally ill. 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 (also translated as “a guarantor pending trial”) 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 revised criminal procedure law limits this exception to cases involving state security or terrorism.

The law allows for residential surveillance rather than detention in a formal facility under certain circumstances. Under the revised criminal procedure law, with the approval of the next higher-level authorities, officials can enforce “residential surveillance” on a suspect at a designated place of residence (i.e., a place other than the suspect’s home) for up to six months, when they suspect crimes of endangering state security, terrorism, or serious bribery, and residential surveillance at the suspect’s residence would impede the investigation. Authorities must notify relatives of individuals placed under formal arrest or residential surveillance in a designated abode within 24 hours, unless notification is impossible. They are not required to specify the grounds for or whereabouts of the detention. Authorities can also prevent defense lawyers from meeting with suspects in these categories of cases.

The law provides for 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 2010 Shanxi provincial government report, the Shanxi Province People’s Congress adopted regulations that list 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 Shanxi

regulations also state that petitioners suspected of “misrepresenting facts to frame others” could be subject to criminal charges.

Online reports claimed Guangdong provincial authorities rewarded local officials for active engagement in intercepting petitioners.

Authorities in Shaoguan, Guangdong, held a rights defense representative in a black jail for more than 10 weeks after he was forcibly returned from Beijing in March for petitioning during the sessions of the NPC and the Chinese People’s Political Consultative Congress (CPPCC) on behalf of fellow villagers who claimed local officials did not provide adequate compensation for government-requisitioned land. A resident of Guangdong’s Jiangmen Municipality attempting to petition her case to Beijing was kidnapped by unidentified men on May 23 and sent back to Jiangmen, where she was detained for days.

According to multiple online reports, authorities seized and then sent to Beijing’s Jiujiangzhang black jail four elderly petitioners from Guangxi who were in the capital in early March to petition officials about requisitioned land, evictions, and demolitions in the petitioners’ hometown. After the petitioners refused authorities’ orders to return to Guangxi, security guards hired by local Guangxi officials reportedly forcibly drove them out of Beijing. In November foreign media reported on a couple held in a Shanghai hotel used as a black jail after they attempted to petition authorities in Beijing about the amount of compensation they received for the destruction of their home during the expansion of a Shanghai area airport. Prior to the Party Congress in November, several petitioners from Shanghai were seized in Beijing and held in black jails before being returned to Shanghai.

Kim Young-hwan, a South Korean advocate for democracy in North Korea, and three other South Korean activists were arrested in the northeastern part of the country on March 29 and held until July 20 on charges of endangering national security. During the 114-day detention, South Korean officials claimed, Kim and the others were initially denied proper access to consular services. Kim also alleged that security officials tortured him while he was in custody.

Nonjudicial panels, known as “labor reeducation panels,” may 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 law establishes a system of “compulsory isolation for drug rehabilitation.” The minimum stay in such centers is two years, and the law states that treatment can include labor. Public security organs authorize detention in these centers, and it often was meted out as an administrative rather than criminal measure. Authorities used administrative detention to intimidate political activists and prevent public demonstrations.

In January and February, hundreds of Tibetans returning by land from Nepal were reportedly subjected to arbitrary detention and mandatory patriotic education (see the Tibet annex).

Arbitrary Arrest: 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--including what constitutes a state secret--remained ill defined. Citizens and foreigners also were detained under broad and ambiguous state secrets laws for, among other actions, disclosing information on criminal trials, meetings, commercial activity, and government activity. Authorities sometimes retroactively labeled a particular action as a violation of a state secret. According to an RFA report, local officials in Dujiangyan, Sichuan Province, detained Zhou Xingrong, whose child died in the 2008 Sichuan earthquake, for nine hours in April for allegedly revealing “state secrets” by microblogging about efforts by bereaved parents to obtain compensation for their children’s earthquake-related deaths.

Hunan activist Zhu Chengzhi was formally arrested for “inciting subversion of state power” in July after two months of incommunicado detention. Zhu was among those who called into question the suspicious death of 1989 labor leader Li Wangyang, which police initially ruled a suicide and later an “accidental death.”

Authorities placed into custody or otherwise detained at least a dozen human rights and democracy activists associated with a land expropriation dispute in eastern Guangdong’s Wukan Village. According to multiple reports, authorities detained both Guangzhou and Shenzhen activists for periods of 10-15 days for participating in Guangzhou-based protests during the December 2011 demonstrations in Wukan, consulting with Wukan villagers as the villagers staged elections in March, and providing financial support to newly elected officials cut off from official district-level funding.

According to foreign press reports, in April local police seized a Guangzhou Internet user for publicly calling on officials to disclose their financial assets and held him until early July on charges of “inciting subversion of state power.” While in detention the individual was reportedly not allowed to meet with his lawyers and was permitted only one visit with his family. Police never provided formal documentation about his detention, and at year’s end he remained under residential surveillance.

In September authorities detained Guangdong lawyer Tang Jingling for five days, depriving him of sleep and destroying his cellphone, laptop, and camera. Tang was also placed in detention for eight hours to prevent him from attending a national day event at a foreign embassy.

Authorities placed numerous dissidents, activists, and petitioners under house arrest during the October National Day holiday period and at other sensitive times, such as during the visits of senior foreign government officials or in the period preceding the once-a-decade leadership transition during the 18th Party Conference, the annual plenary sessions of the NPC and the CPPCC, the anniversary of the Tiananmen massacre, and sensitive anniversaries in Tibetan areas and the XUAR.

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. For example, Guangzhou police placed webmaster Ye Du under house arrest on October 13 and did not allow him to leave his apartment or have visitors until the conclusion of the 18th Party Congress on November 15. Others under house arrest occasionally were permitted to leave their homes to work or run errands but were required to ride in police vehicles. In some cases police or plainclothes security officers escorted the children of politically sensitive individuals to and from school. When permitted to leave their homes, subjects of house arrest were usually under police surveillance. 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.

On February 17, authorities disrupted the activities of several Guangzhou activists in connection with their involvement in a commemorative gathering at Guangzhou’s Martyrs’ Park of 1,000 veterans of China’s 1979 war with Vietnam. Local police reportedly seized one activist who was observing the event; searched

the home of another observer, confiscating the camera she used at the event; and detained a third activist to prevent him from attending the gathering.

In advance of and during the anniversary of the Tiananmen massacre, according to multiple reports, Guangxi rights activists placed under residential detention by local police went on hunger strikes; the online distribution of a Guangzhou artist's work was restricted due to its political content; and police detained two activists from Fujian Province who participated in a public march.

In July authorities in Beijing detained approximately 10 Fujian Province petitioners for staging protests calling for political reforms and attempting to visit a prominent activist, according to online reports. The petitioners, who reportedly faced harassment and mistreatment while being held in an unofficial Beijing jail, faced various sentences for their actions, from five-day administrative detentions to one year in an RTL camp.

In May authorities either detained or placed under police surveillance members of the Guizhou Human Rights Symposium, including Li Renke, Wu Yuqin, Mi Chongbiao, Huang Yanming, and Lu Yongxiang, according to the NGO Human Rights in China.

Pretrial Detention: Pretrial detention can last as long as one year. Defendants in “sensitive cases” reported being subjected to prolonged pretrial detention.

### **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 interpreted President Hu Jintao's doctrine of the “Three Supremes” as stating that the interests of the CCP 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 be directed only to the promulgating legislative body. As a result, lawyers had little or no opportunity to use the constitution in litigation.

### **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 Supreme People's Court, in 2011 the combined conviction rate for first- and second-instance criminal trials was 99.9 percent. Of 1,051,638 criminal defendants tried in 2011, 891 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 reversed convictions. Appeals processes failed to provide sufficient avenues for review, and remedies for violations of defendants' rights were inadequate.

Regulations of the Supreme People's Court 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, 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 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 secrets" cases or otherwise closed to the public. Foreign diplomats were refused access to the July 27 appeal hearing of Ni Yulan, which reduced her sentence by two months but upheld convictions for "making trouble" and fraud.

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 initial detention and interrogation, although police frequently violated this right. Chen Kegui was repeatedly denied access to an attorney of his choosing, and several lawyers who tried to represent him were threatened with disbarment. Local officials insisted that Chen could only be represented by a court-appointed defense attorney who refused to provide his family with any information.

The revised criminal procedure law, set to take effect on January 1, 2013, makes clear that a criminal suspect may retain a lawyer immediately after an initial police interrogation or after his or her freedom has been officially limited. Investigators are required to inform suspects of their right to retain counsel. The police must also arrange meetings between a defense lawyer and his or her client within 48 hours of a request from defense counsel.

Individuals facing administrative detention do not have the right to seek legal counsel. Both criminal and administrative defendants were eligible for legal assistance, although more than 50 percent of criminal defendants went to trial without a lawyer. According to the Ministry of Justice, in 2011 there were approximately 110,000 criminal cases of more than 800,000 total legal aid cases. The revised criminal procedure law expanded requirements for legal aid to include cases that could result in life imprisonment and cases involving individuals suffering from mental illness.

Human rights lawyers reported that authorities did not permit them to defend certain clients or threatened them with punishment if they chose to do so. The government suspended or revoked the licenses of lawyers or their firms to stop them from taking sensitive cases, such as defending prodemocracy dissidents, house church activists, Falun Gong practitioners, or government critics. In at least one case, a Beijing-based rights lawyer attempting to visit a client in a major coastal city was turned back by local security authorities, who told him that the individual would be allowed to hire a local lawyer only.

The government continued to require law firms with three or more CCP members to form a CCP unit within the firm. Firms with one or two CCP members may establish joint CCP units with other firms. In smaller counties and cities with few lawyers, CCP members may join local Justice Bureau CCP units. This rule also applies to private companies and other organizations.

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

the July 2011 Wenzhou train crash, law firms in Wenzhou received an urgent message in the names of the Wenzhou Judicial Bureau and the Wenzhou Lawyers Association ordering lawyers not to take cases representing family members of the crash victims. Lawyers were told to inform the Wenzhou Judicial Bureau and the Wenzhou Lawyers Association of any contact with victims who sought legal assistance. After the order was leaked to the press and social media sites, a popular uproar forced the organizations to rescind the order. Similarly, certain Beijing-based rights lawyers were told they could not represent Tibetan defendants. On July 17, a court in Gannan Tibetan Autonomous Prefecture, Gansu Province, told attorneys Wang Yajun and Zhang Kai that local court-appointed lawyers were representing their client, Tibetan Buddhist monk Jigme Gyatso, and that they should return to Beijing, according to an RFA report. 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 and to clients.

Authorities released three of the four defense lawyers from Guangxi's Beihai City detained in June 2011 on suspicion of "obstructing testimony" in connection with their defense of individuals accused in a beating death. However, the fourth defense lawyer remained under house arrest in a location other than his home, and authorities prohibited his wife from seeing him.

The annual licensing review process administered by the Beijing Lawyers Association was used to withhold or delay the renewal of professional lawyers' licenses, which restricted the ability to practice law of a number of human rights and public interest lawyers. Judicial authorities refused to renew the law license of attorney Liu Xiaoyuan for a period after he began representing artist Ai Weiwei in 2011. By year's end Liu's license had been renewed. However, the association did not also issue a license for his firm, Qijian Law. In October under government pressure, Liu moved to dissolve Qijian.

Government officials continued to harass lawyers for their involvement in high-profile, rights-related cases.

In May, Guangdong authorities canceled the renewal of a Guangzhou lawyer's license for representing Chen Kegui. The lawyer, whose law firm was forced to cancel his employment contract, has since been detained and interrogated by police on several occasions.

In June police blocked efforts by a Guangzhou-based lawyer to represent the family of Li Wangyang, who died under suspicious circumstances in Dayang Hospital in Shaoyang City, Hunan Province, and whose death police ruled a suicide. While Shaoyang authorities denied the lawyer access to the hospital and forced him to leave town, Guangzhou police harassed the lawyer's family on a daily basis at their home.

Defense attorneys may be held legally 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. According to a Ministry of Justice official, in 2011 lawyers represented fewer than half of criminal defendants, and, in some provincial-level administrative regions, only an estimated 12 percent of criminal suspects had lawyers.

Mechanisms allowing defendants to confront their accusers were inadequate. Only a small percentage of trials involved witnesses, and fewer than 10 percent of subpoenaed witnesses appeared in court. The revised criminal procedure law, scheduled to take effect on January 1, 2013, contains a provision to compel witnesses to appear in court and includes protections for witnesses and financial allowances for performing the duties of a witness. In most criminal trials prosecutors read witness statements, which neither the defendants nor their lawyers have an opportunity to rebut. Although the 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.

The criminal code contains 55 capital offenses, including nonviolent financial crimes such as embezzlement and corruption. There was no publicly available government information on how many defendants were either sentenced to death or executed during the year. Official figures on execution are classified as a state

secret. An international human rights NGO estimated that approximately 4,000 persons were executed annually in recent years, a marked decrease in the years following the Supreme People's Court retrieval of its authority to conduct final reviews of death sentences in 2007. Lethal injection and shooting were employed as execution methods.

### **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, 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 removed from the criminal code in 1997. Thousands of others were serving sentences under state security statutes. The government apparently has neither reviewed the cases of those charged before 1997 with counterrevolutionary crimes nor released persons jailed for nonviolent offenses under repealed provisions of the criminal law. The government maintained that prisoners serving sentences for counterrevolutionary crimes and endangering state security are eligible to apply for sentence reduction and parole. However, political prisoners were granted early release at lower rates than prisoners in other categories. Observers believed that persons remained in prison for crimes in connection with their involvement in the 1989 Tiananmen prodemocracy movement, although the number was unknown because related official statistics were never made public.

In 2010 activist Liu Xianbin, signatory of Charter '08 (a manifesto calling for human rights and democracy), was indicted for subversion for an article he wrote following his 2009 release from a previous prison term. In March 2011 he was sentenced to 10 years in prison for inciting "subversion of state power." Formally detained in 2010, Liu was charged for articles he wrote and posted on overseas Web sites, as well as for involvement with a Beijing seminar regarding three Fujian persons imprisoned for Internet postings. Liu was reportedly denied access to his lawyers during his detention.

In December 2011 two veteran human rights activists, Chen Xi in Guizhou and Chen Wei in Sichuan, were sentenced to 10 and nine years respectively on charges of “inciting subversion of state power.” The sentencing was reportedly linked to their publication of prodemocracy writings that were deemed particularly sensitive in the aftermath of the Arab Spring when there were calls for “Jasmine”-like protests across China.

Chengdu dissident writer Ran Yunfei, detained in February 2011 on suspicion of “subversion,” was held without charges for nearly six months until being released into residential surveillance, a form of house arrest. Although he was not charged, his freedom of speech and association remained restricted.

Many political prisoners remained in prison or under other forms of detention at year’s end, including rights activist Wang Bingzhang; Ablikim Abdureyim, son of Uighur activist Rebiya Kadeer; journalist Shi Tao; democratic reform advocate Wang Xiaoning; former Tiananmen Square student leader Zhou Yongjun; land rights activist Yang Chunlin; labor activists Hu Mingjun, Huang Xiangwei, Kong Youping, Ning Xianhua, Li Jianfeng, Li Xintao, Lin Shun’an, and She Wanbao; Sichuan rights activist Liu Xiaoyuan; Roman Catholic bishop Su Zhimin; Christian activist Zhang Rongliang; Uighur activist Dilkex Tilivaldi; and Tibetan Buddhist reincarnate lama Tenzin Delek Rinpoche, who was reportedly in poor health.

Nobel Peace Prize laureate Liu Xiaobo, coauthor of the Charter ‘08 manifesto that called for increased political freedoms and human rights, remained in Jinzhou Prison in Liaoning Province. Beijing-based human rights attorney Mo Shaoping, whose firm represented Liu, reported that Liu’s wife Liu Xia was allowed to travel from Beijing to Jinzhou to see him monthly. However, she remained under 24-hour surveillance, and police escorted her whenever she was allowed to leave her home.

Criminal punishments continued to include “deprivation of political rights” for a fixed period after release from prison, during which time the individual was denied rights of free speech, association, and publication. Former prisoners reported that their ability to find employment, travel, obtain residence permits, rent residences, and access social services was severely restricted. Former political prisoners and their families frequently were subjected to police surveillance, telephone wiretaps, searches, and other forms of harassment or threats.

### **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 government agencies or officials have infringed. In 2010 the NPC Standing Committee amended the law to allow compensation for wrongful detention, mental trauma, or physical injuries inflicted by detention center or prison officials. Citizens seldom applied for state compensation because of the high cost of bringing lawsuits, low credibility of courts, and citizens' lack of awareness of the State Compensation Law. Victims' claims were difficult to assess because of vague definitions in the law and difficulties in obtaining evidence of injury or damage. Judges were reluctant to accept state compensation cases, and government agencies seldom implemented court judgments in favor of plaintiffs.

#### **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, 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 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 and 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.

According to foreign media reports, the Ministry of Public Security used 10s of millions of surveillance cameras in the country, many installed in 2011. Authorities justified the expansion and upgrading of network security cameras as a way to improve public safety, crime fighting, traffic management, and “social stability.” Human rights groups stated authorities increasingly relied on the cameras to monitor and intimidate political dissidents, Tibetans, and Uighurs.

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 throughout the country not to meet with foreign journalists or diplomats, especially before sensitive anniversaries, at the time of important government or

CCP meetings, and during the visits of high-level foreign officials. Security personnel 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.).

Family members of Guizhou activists also reportedly experienced extreme pressure from authorities. Zhang Qunxuan and Chen Renjie, the wife and daughter of imprisoned Guizhou activist and Charter '08 signer Chen Xi, were placed under strict police surveillance beginning with the June anniversary of the 1989 protests at Tiananmen Square, according to Human Rights in China.

Guangzhou security personnel continued to harass the wife of Guangzhou activist Tang Jingling. In December 2011 and January, police detained her along with Tang for more than 10 days in connection with protests in the Guangdong village of Wukan. During Tang's June investigation of the death of Li Wangyang in Hunan, police came to their Guangzhou home and harassed her on a daily basis until Tang returned home.

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' collusion 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 the central government's efforts to impose stronger controls over illegal land takings and to standardize compensation. The redevelopment in traditional Uighur neighborhoods in cities throughout the XUAR, such as the Old City area in Kashgar, resulted in the destruction of historically or culturally sensitive areas. Some residents voiced opposition to the lack of proper compensation provided by

the government and coercive measures used to obtain their agreement to redevelopment.

For information on the government's family planning policies and their consequences, see section 6, Women.

The Ministry of Public Security continued to report child abductions by child-trafficking gangs. In December the Ministry of Public Security reported that it had rescued 89 abducted children from nine trafficking rings, arresting 355 suspects in an operation across multiple provinces. Harsh penalties exist for traffickers. If the parents of trafficked children could not be found, the children were placed into orphanages (see section 6, Children, Trafficking).

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

### **a. Freedom of Speech and Press**

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

Freedom of Speech: With significant exceptions, including speech that challenged the government or the CCP, political topics could be discussed privately and in small groups without official punishment. Some independent think tanks, study groups, or seminars reported pressure to cancel some sessions on sensitive topics during the year. Those who made politically sensitive comments in public speeches, academic discussions, and comments to the media remained subject to punitive measures.

The government frequently monitored gatherings of intellectuals, scholars, and dissidents where political or sensitive issues were discussed. In March the Ministry of Justice announced that every new lawyer had to swear an oath of allegiance to the party. Individuals who expressed 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. Many Charter '08 signers continued to report official harassment, especially around sensitive dates.

Cao Haibo, a manager of an Internet cafe in Yunnan Province and creator of an online group promoting democracy and constitutionalism, was tried in May and sentenced in October to eight years in prison for subversion of state power.

Also in May, Nanchang municipal officials in Jiangxi Province detained an Internet user for eight days on suspicion of “inciting subversion of state power.” The accused had, among other things, distributed at Jiangxi University leaflets critical of Communist Party rule and promoting human rights.

In December a court in Hainan Province found environmental writer Liu Futang guilty of illegally profiting from self-published books that exposed environmental degradation caused by government-backed projects. Liu was sentenced to three years in prison with a full reprieve and fined 17,000 RMB (\$2,730) under an agreement to avoid imprisonment. Authorities also shut down his blog on environmental problems.

In February 2011 Liang Haiyi made a speech in front of the Harbin Municipal Building calling for freedom, democracy, and equality. She was detained in the Harbin Number 2 Detention Center for “inciting subversion of state power.” At year’s end authorities had not made public the status of her case and her whereabouts. A posting by an Internet user in May indicated that Liang remained at Harbin Number 2 Detention Center awaiting sentencing.

Freedom of Press: All books and magazines require state-issued publication numbers, which were expensive and often difficult to obtain. Nearly all print media, broadcast media, and book publishers were affiliated with the CCP or a government agency. There were a small number of print publications with some private ownership interest but no privately owned television or radio stations. The CCP directed the domestic media to refrain from reporting on certain subjects, and all broadcast programming required government approval.

Violence and Harassment: Restrictions on foreign journalists by central and local CCP propaganda departments remained strict, especially during sensitive times and anniversaries. Foreign press outlets reported that local employees of foreign news agencies were also subject to official harassment and intimidation.

In May the authorities refused to renew a visa for a foreign national journalist working for the English-language arm of *Al-Jazeera*, resulting in her departure from the country. In commenting on the refusal, a foreign ministry spokesperson said that “foreign journalists must abide by the relevant laws and regulations” but did not indicate what rule the journalist might have violated.

In 2011, according to the Foreign Correspondents Club, 20 percent of the foreign respondents surveyed experienced visa threats or visa delays. Some reporters were explicitly told that issuance of their visa was related to the content of their reporting. Among the correspondents surveyed, 70 percent experienced interference or harassment during the year; 40 percent said their sources were harassed, detained, or called in for questioning for interacting with foreign journalists; and 33 percent said their Chinese assistants encountered pressure from officials or experienced harassment.

The government limited attendance at official government press briefings to domestic media; foreign media and diplomats were only allowed to attend briefings conducted by the Ministry of Foreign Affairs and a handful of press briefings held around special events.

Authorities continued to enforce tight restrictions on citizens employed by foreign news organizations. The code of conduct for Chinese employees of foreign media organizations threatens dismissal and loss of accreditation for Chinese employees who engaged in “independent reporting” and instructed them to provide their employers information that projects a good image of the country.

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 forced newspapers to fire editors and journalists responsible for articles deemed inconsistent with official policy, and suspended or closed publications. The system of postpublication review by propaganda officials encouraged self-censorship by editors seeking 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.

Following the publication in August of a front-page article about Olympic hurdler Liu Xiang, the editor in chief, assistant editor in chief, and “news supervisors” of the *Oriental Vanguard* were dismissed under pressure from authorities. The report stated that the Chinese Olympic Team, China Central Television (CCTV), and Liu Xiang himself had all known beforehand that he might not be able to finish the preliminary heats of the Olympic Men’s 110-meter hurdles and that CCTV had prepared four alternative scripts accordingly.

Leading investigative reporters from a number of news outlets resigned under pressure or due to frustration with censorship. In July, Liu Jianfeng, who reported on the Wukan protests, left the *Economic Observer*. In September, Jian Guangzhou, an investigative journalist who previously reported on tainted milk, resigned from the *Oriental Daily* and announced that he was ending his reporting career.

In February local propaganda authorities in Hunan Province removed the editor in chief and two deputy editors in chief of the *Biancheng Evening Newspaper* after the newspaper published a report citing citizen dissatisfaction in Huaihua City with increased inflation and the lack of any official Lunar New Year celebration activities.

Journalists who remained in prison at year’s end included Shi Tao, Yang Tongyan, and Dhondup Wangchen. Uighur webmasters Dilshat Perhat, Nureli, and Nijat Azat continued to serve sentences for “endangering state security.” Uighur journalist Memetjan Abdulla was sentenced to life in prison in 2010 reportedly for transmitting “subversive” information related to the 2009 riots. During the year journalists working in traditional and new media were also imprisoned. In December the Prison Census of the Committee to Protect Journalists reported that, of 32 known journalists imprisoned in the country, 12 were ethnic Tibetan, seven were ethnic Uighur, and one was ethnic Mongolian. The committee documented two new imprisonment cases during the year.

In November security officers detained Li Yuantong, a former journalist for the *Bijie Daily* in Guizhou Province, and his wife and forced them to leave Guizhou. Li had written an online report about five boys who died of carbon monoxide poisoning after taking shelter in a dumpster. Li was previously imprisoned in 2005 for two years for writing too many negative stories about Bijie and remained unemployed after his release.

In December unknown persons destroyed data and a number of electronic devices in the hotel rooms of reporters for *Der Spiegel* staying in Guiyang. The reporters had been following the story of the five boys who died of carbon monoxide poisoning and had met with Li Yuantong.

Censorship or Content Restrictions: Authorities continued to confiscate “unauthorized publications.” According to the National Office Against Pornographic and Illegal Publications, 45 million illegal publications were confiscated and more than 3.7 million pieces of online information involving pornography or other illegal content were deleted during the year.

Foreign journalists were denied permits to travel to the TAR, except for a very few highly controlled, government-organized press visits. Travel to Tibetan areas outside the TAR became increasingly difficult for foreign journalists, whom local officials often forced to leave. While foreign journalists were allowed access to Urumqi, XUAR, local and provincial authorities continued to control strictly 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 on topics that should not be covered.

Officials continued to censor, ban, and sanction reporting on labor, health, environmental crises, and industrial accidents. Following the July 2011 train crash in Wenzhou, Zhejiang Province, authorities issued instructions to keep the coverage upbeat and focused on the salvage and recovery efforts. Nonetheless, many domestic media outlets ignored the instructions and provided heavy coverage of the crash, its causes, and the authorities’ much-criticized response. The Ministry of Railroads contacted media outlets to prohibit them from visiting the scene of the accident and limited its contacts to state-controlled media organizations.

Following a flood that killed 77 persons in Beijing in July, the State Council Information Office issued instructions to media outlets and Internet companies to guide online discussions in light of increasing attacks on the Communist Party and the government by removing hostile and malicious messages while leaving general messages questioning the situation untouched.

In December the Central Propaganda Department ordered media outlets to adhere strictly to the information provided by authoritative departments when reporting on

officials suspected of involvement in graft or bribery or related problems. The orders included instructions for media outlets not to investigate or report on their own.

At various times throughout the year, the Central Propaganda Department also advised media organizations not to publish reports or commentary on the election of Hong Kong's Chief Executive, the self-immolation of Tibetans, the house arrest and escape of Chen Guangcheng, and the Bo Xilai scandal.

As they did in response to May-June 2011 riots in the Guangdong cities of Chaozhou and Zengcheng, authorities deleted microblog postings and media reporting regarding June riots between the Sichuan migrant worker community and police in the Guangdong town of Shaxi.

Authorities continued to ban books with content they deemed controversial. The law permits only government-approved publishing houses to print books. The State Press and Publications Administration (PPA) controlled all licenses to publish. Newspapers, periodicals, books, audio and video recordings, or electronic publications 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, postpublication sanctions.

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.

Authorities continued to jam, with varying degrees of success, Chinese-, Uighur-, and Tibetan-language broadcasts of the Voice of America (VOA), the BBC, and RFA. English-language broadcasts on VOA generally were not jammed. Internet distribution of streaming radio news and podcasts from these sources often was blocked. Despite the jamming of overseas broadcasts, VOA, the 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 Tiananmen massacre and during the 18th Party Congress. Individual issues of foreign newspapers and magazines were occasionally banned when they contained articles deemed too sensitive. Articles on *Bloomberg.com* and in the *New York Times* detailing the family wealth of Xi Jinping and Wen Jiabao, respectively, led to the blocking of the publications' Web sites in China.

Politically sensitive coverage in Chinese, and to a lesser extent in English, were censored more than coverage in other languages. The government prohibited some foreign and domestic films deemed too sensitive or selectively censored parts of films before they were released.

### **Internet Freedom**

In 2010 the Information Office of the State Council released its first White Paper on the Internet outlining the government's endeavors to allow 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 Internet was widely available and widely used; the International Telecommunication Union reported that 38 percent of individuals used the Internet and 31 percent of households had access to the Internet in 2011.

The CCP underscored the importance of maintaining security and promoting core socialist values on the Internet in its official decision adopted at the Sixth Plenum of the 17th CCP Congress in October 2011. The document called for developing a "healthy and uplifting network culture" that entail measures such as "step[ping] up guidance and management over social networks and instant messaging tools, standardiz[ing] the transmission order of information on the Internet, and foster[ing] a civilized and rational network 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 ran afoul of political sensitivities. 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, cell phone text messages, social networking services, online chat rooms, online games, and e-mail. These measures were not universally effective. On top of its own extensive system of Internet censorship, the government imposed more responsibilities on Internet companies to implement online censorship and surveillance regimes, and it sought to prohibit anonymous expression online.

A State Council regulation deems personal blogs, computer bulletin boards, and cell phone 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.”

Under guidance from the CCP, the government employed thousands of persons at the national, provincial, and local levels to monitor electronic communications. Official monitoring focused on such tools as social networking, microblogging, and video-sharing sites. Internet companies also employed thousands of censors to implement CCP directives.

In July 2011 central government authorities ordered all public spaces offering free wireless Internet access to install costly software that would enable police to identify users of the service. Authorities warned Beijing cafe and restaurant owners they would face a fine of 20,000 RMB (approximately \$3,210) if they offered wireless Internet access without installing the software. In December the NPC ratified a law requiring persons to give their real names when signing up for Internet, fixed telephone line, or mobile telephone services. Providers must also require persons’ names when allowing them to post information publicly.

Major news portals require users to register using their real names and identification numbers to comment on news articles. Individuals using the Internet in public libraries are required to register using their national identity card, and usage reportedly was monitored at all public library terminals.

The government consistently blocked access to Web sites it deemed controversial, especially those discussing Taiwan, the Dalai Lama, 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 foreign governments, news outlets, health organizations, educational institutions, NGOs, and social networking sites, as well as to search engines that allow rapid communication or organization of users.

In June, following the publication of an expose on the financial affairs of Xi Jinping's family, the government blocked access to *Bloomberg.com*. In October the government blocked access to the English and Chinese versions of *The New York Times* after it published an article on Wen Jiabao's family fortunes. The Web sites remained blocked at year's end.

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. Millions of citizens had Twitter-like microblogs that circulated some news banned in the national media. The microblogs themselves were censored but often hours or days after the posting.

In July the State Internet Information Office and the State Administration of Radio, Film and Television issued a circular requiring online video content providers to review videos before making them available online and holding them responsible for the online video content on their sites.

In March, in the wake of the removal of Bo Xilai on corruption charges, government authorities shut down 16 Web sites and detained six persons for "fabricating or disseminating online rumors." Sina and Tencent's microblogging sites' commentary sections were disabled for three days in April.

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," "Dalai Lama," and "Tibetan independence." While such censorship was effective in keeping casual users away from sensitive content, it was defeated through the use of various technologies. Information on proxy servers outside China and software for defeating official censorship was readily available inside the country. However, the government increasingly blocked access to the Web sites and proxy servers of commercial virtual private network providers. Despite official monitoring and censorship, during the year dissidents and political activists continued to use the Internet to call attention to political causes such as prisoner advocacy, political reform, ethnic discrimination, and corruption. Web users spanning the political spectrum complained of censorship. Authorities sometimes



blocked or closed the blogs of a number of prominent activists, artists, scholars, and university professors during the year.

There were numerous press reports of purported cyber attacks against foreign Web sites that carried information offensive to the government.

Authorities continued to jail numerous Internet writers for peaceful expression of political views.

On January 7, local police in Fujian Province's Xiamen municipality detained an online activist for blogging about alleged corruption behind forced home evictions and demolitions in the city's Jimei district. The blogger had previously refused to comply with authorities' requests to remove claims of corruption from her blog.

On February 10, Zhu Yufu, a writer based in Hangzhou, Zhejiang Province, received a sentence of seven years for "inciting subversion," after a one-day trial on January 31. The court referred to a poem Zhu published online entitled "It's Time," and interviews Zhu gave in early 2011 that expressed views supporting political action. The Hangzhou City High People's Court rejected Zhu's appeal. Zhu previously served two other prison terms, including a seven-year sentence for "inciting subversion."

In November authorities detained Zhai Xiaojun and seized his computer after he posted a comment suggesting that the next *Final Destination* movie would be about the Great Hall of the People collapsing on delegates to the 18th Party Congress. The government began investigating him for "spreading terrorist information," a charge that can lead to a maximum five-year prison term.

The State Secrets Law obliges Internet companies to cooperate with investigations of suspected leakages of state secrets, stop the transmission of such information once discovered, and report the crime to authorities. Furthermore, the companies must comply with authorities' orders to delete such information from their Web sites, and failure to do so is punishable by relevant departments such as the police and the Ministry of Public Security.

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

Following an April 9 police crackdown on approximately 1,400 farmers demonstrating against the sale of commonly owned farmland in Mudanjiang City

in Heilongjiang Province, news of the protest was blocked in the print, Internet, and social media.

From May 10 to 12, Baidu Tieba's online forums for Liaoning Province and Chongqing were reportedly shut down, and searches were redirected to a Web page citing maintenance to remove illegal information, occurrences that were consistent with Internet censorship.

### **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 unrest in the Middle East or the 1989 Tiananmen massacre. The General Administration of Press and Publications, the State Administration of Radio, Film, and Television, and the Central Propaganda Department issued restrictive regulations and decisions that constrained the flow of ideas and people. Some academics self-censored their publications, faced pressure to reach predetermined research results, or were unable to hold conferences with international participants during politically sensitive periods.

Authorities on a few occasions blocked entry into the country of individuals deemed politically sensitive and declined to issue passports to Chinese citizens selected for international exchange programs who were considered politically unreliable, in particular ethnic Tibetans and Uighurs and individuals from other minority nationality areas.

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.

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 CCP membership was not always a requirement to obtain a tenured faculty position, scholars without CCP affiliation often had fewer chances for promotion.

Researchers, authors, and academics residing abroad reported they were subject to sanctions, including denial of visas, from authorities when their work did not meet

with official approval. Thirteen foreign academics asserted that they were blacklisted and blocked from obtaining visas to travel to China due to their having contributed scholarly essays to a book on Xinjiang published in 2004. Other scholars claimed they continued to be blacklisted or face difficulties obtaining visas because of their politically sensitive work on China.

## **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 country, often resulting in conflict with authorities or other charges (see section 1.f.).

On July 1, hundreds of student demonstrators assembled in front of municipal buildings in Shifang, Sichuan Province, to protest plans to construct a copper smelting plant in the area. Over the next few days, thousands of banner-bearing demonstrators joined the protest. The official media reported that the protests turned violent with demonstrators overturning police vehicles and throwing bricks at government buildings. Police fired tear gas and stun grenades into the crowd and detained 27 protesters. Videos and images circulated online showed protesters bloodied and beaten. On July 3, local authorities announced that the copper plant construction would be suspended and later that day released 21 of the 27 detainees.

In October thousands of protesters took to the streets in opposition to the expansion of a petrochemical plant in Ningbo and its production of paraxylene. During the three days of protests, police fired tear gas and detained more than 100 demonstrators. According to press reports, most of those arrested were subsequently released. Authorities subsequently agreed to halt the expansion of the plant.

In April a training event for 50 public-interest lawyers organized by Nanjing NGO Tianxiagong (Justice for All) was delayed at the last moment when the host hotel

in Suzhou abruptly canceled the participants' hotel rooms and conference room, saying the government had requisitioned them. Two backup venues also canceled their reservations. Attempts to secure other locations in Suzhou were unsuccessful. Eventually the public interest lawyers were forced to hold a shortened training event outdoors in a park in a nearby city.

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" and protests, including some violent protests, against local governments increased during the year, according to an international NGO. As in past years, the vast majority of demonstrations concerned land disputes; housing problems; 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.

During anti-Japanese protests over the Senkaku Islands in September, authorities selectively silenced participants who used the rallies to promote human rights problems. Police in Shenzhen took in for questioning on suspicion of disrupting social order protesters who displayed banners promoting democracy.

Disputes over land expropriation continued to trigger large-scale clashes between police and protesters. Examples of such clashes included: the December 2011 sweep of Xinxing Village in Liuzhou City, Guangxi Province, when approximately 3,000 armed police officers took 31 individuals into custody; the May 4 eviction of residents of Nanning's Yongning District from their homes; the violent suppression in May of a protest against land expropriation by residents of Dongjingong Village in Fujian Province's Xianyou County; and a June clash between riot police and residents of Zuotan Village, Guangdong Province, over a development plan that allowed government officials to rezone and commercially rent out the villagers' land.

The law protects an individual's ability to petition the government; however, persons petitioning the government faced 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.

Although banned by regulations, retaliation against petitioners reportedly continued. This was partly due to incentives the central government provided to local officials to prevent petitioners 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 to prevent them from filing complaints against local officials with the central government. Such detentions often went unrecorded. Rules issued by the General Office of the State Council mandate sending officials from Beijing to the provinces to resolve petition problems locally, thereby reducing the number of petitioners entering Beijing; the rules also mandate a 60-day response time for petitions and provide for a single appeal in each case.

Petitioners from outside of Beijing faced harassment, illegal detention, and even more severe forms of punishment when attempting to travel to Beijing to present their grievances. In August, as part of a larger-scale crackdown on petitioners in the period leading to the 18th Party Congress, Yunnan's Xuanwei City reportedly detained 40 would-be petitioners and sent some to psychiatric hospitals. Yunnan petitioner Cai Huaxian reportedly was sentenced to one year of RTL.

On February 27, authorities prevented seven residents of Fujian Province from distributing leaflets exposing alleged judicial corruption in Sanming City, Fujian, in front of a foreign embassy. Police forcibly returned four of the protesters to their hometowns in Fujian, where they were placed in administrative detention.

### **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 receive approval from the government. In practice these regulations prevented the formation of truly autonomous political, human rights, religious, spiritual, labor, and other organizations that the government believed might challenge its authority.

The government maintained tight controls over civil society organizations.

According to regulations issued by the State Administration for Foreign Exchange, foreign exchange donations to or by domestic institutions 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 require all parties and the banks to approve additional measures prior to a transaction being processed. Application of the regulation was varied, with some NGOs successfully navigating the requirements, others identifying other options by which to receive funds, and some severely limiting or shutting down operations.

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 reregister as NGOs during the year. Finding a government sponsor could be very difficult, since the government department would not want to take the risk if the NGO were to engage in sensitive behavior.

Throughout the year Guangdong provincial government officials initiated proposals aimed at facilitating the operations and work of nonlabor NGOs, including, for example, simplifying registration procedures so that certain categories of NGOs could register directly with the Ministry of Civil Affairs. Implementation of regulations associated with these proposals was inconsistent. Although some NGOs enjoyed increased opportunities, others continued to face traditional interference from authorities. Meanwhile, labor NGOs in Shenzhen experienced even harsher treatment from local authorities, who shut down at least seven labor NGOs that focused on the rights of migrant workers. After these NGOs refused to vacate their offices, authorities cut off their water and power.

In July 2011 the Ministry of Civil Affairs submitted a new version of the registration regulation to the State Council proposing to allow charity and social organizations to register directly with the ministry without need for an organizational sponsor. In addition to Guangdong Province, several cities, including Shenzhen, Shanghai, and Beijing, tested the policy in 2011. In other provinces NGOs faced increased scrutiny, which made registration with the government extremely difficult.

According to Ma Hong, Shenzhen Bureau of Civil Affairs director of the NGO management department, nearly 61 NGOs in Shenzhen registered directly in the first half of the year. It appeared the regulation did not apply to all sectors and was not applied to NGOs working on potentially politically sensitive problems.

Although registered organizations all came under some degree of government control, some NGOs were able to operate with a greater degree of independence.

The number of NGOs continued to grow, despite the restrictions and regulations. The government uses the term “social organization” to categorize social groups (shehui tuanti), such as trade and professional associations; civil noncommercial units (minban fei qiye danwei), which are the equivalent of nonprofit service providers; and foundations (jijinhui). The last category included two types of foundations: public fundraising and private fundraising foundations. The government continued to impose fundraising limits on private foundations.

According to the Ministry of Civil Affairs, as of the end of 2011, the country had approximately 462,000 legally registered social organizations, including 255,000 social groups, 204,000 civil noncommercial units, and 2,614 foundations. During the year an official of the Ministry of Civil Affairs 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 16th and 17th 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.’”

The lack of legal registration created numerous logistical challenges for NGOs, including difficulty opening bank accounts and receiving foreign funding, hiring workers, fundraising, 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 foreign-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. NGOs working in the TAR and other Tibetan areas faced an increasingly difficult operating environment, and many were forced to curtail their activities altogether due to travel restrictions, official intimidation of staff members, and the failure of local partners to renew project agreements.

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**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/j/drl/irf/rpt](http://www.state.gov/j/drl/irf/rpt).

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

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation; however, the government generally did not respect these rights in practice. While seriously restricting its scope of operations, the government occasionally cooperated with the Office of the UN High Commissioner for Refugees (UNHCR), which maintained an office in Beijing, to provide protection and assistance to refugees, asylum seekers, and other persons of concern.

In-country Movement: Authorities heightened restrictions on freedom of movement, particularly to curtail the movement of individuals deemed politically sensitive, before key anniversaries, visits by foreign dignitaries, or major political events and to forestall demonstrations. Freedom of movement continued to be very 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. After two Tibetans from other provinces self-immolated in front of a Lhasa monastery on May 27, the TAR expelled an unknown number of Tibetans originally from other provinces who had been living in the TAR, including some who held TAR residence cards. Tibetans from other provinces reported being subject to onerous documentation requirements in order to enter the TAR, and Tibetans who were not residents of Lhasa were required to obtain permission to enter the city and were often forced to stay in specially designated accommodations, requirements not imposed on Han Chinese visitors to the TAR.

Prominent Tibetan poet and blogger Woesser, a Beijing resident, was required to leave Beijing and return to Lhasa for three months before and during the 18th Party Congress in Beijing. Uighur economics professor Ilham Tohti was also required to leave Beijing during the Party Congress.



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. According to the 2011 *Statistical Communique of the People's Republic of China on 2011 National Economic and Social Development* published in February by the Ministry of Human Resources and Social Security, in 2011, 252.78 million rural residents worked in nonagricultural jobs, of whom 158.63 million worked outside of their home district. Many migrant workers and their families faced numerous 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. Poor treatment and difficulty integrating into local communities contributed to increased social unrest among migrant workers in the Pearl River Delta. Migrant workers had little recourse when abused 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 difficulty in obtaining these benefits due to the onerous bureaucratic processes involved in obtaining access to urban services.

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 were not permitted freedom of movement.

Foreign Travel: The government permitted legal emigration and foreign travel for most citizens. Some academics and activists continued to face travel restrictions, especially around sensitive anniversaries (see section 1.e.). The government exercised exit control for departing passengers at airports and other border crossings and utilized this exit control to deny foreign travel to dissidents and

persons employed in sensitive government posts. Throughout the year lawyers, artists, authors, and other activists were at times prevented from freely exiting the country. Border officials and police cited threats to “national security” as the reason for refusing permission to leave the country. Authorities stopped most persons at the airport at the time of the attempted travel. Well known artist Ai Weiwei was denied a passport to attend an exhibition of his work in the United States in October. Some foreign travel restrictions on certain dissidents were relaxed. A Charter ‘08 signatory from Hangzhou, who had not been allowed to leave the country for several years, was permitted to attend an academic conference abroad in May.

Most citizens could obtain passports, although those whom the government deemed potential threats, including religious leaders, political dissidents, petitioners, and ethnic minorities, reported routinely being refused passports or otherwise prevented from traveling overseas.

Ethnic Uighurs, particularly those residing in the XUAR, reported that it was very difficult to get a passport application approved at the local level. They were frequently denied passports to travel abroad, particularly to Saudi Arabia for the Hajj, other Muslim countries, or Western countries for academic or other purposes. Authorities reportedly seized valid passports of some residents of the XUAR and other citizens.

In the TAR and Tibetan areas of Qinghai, Gansu, and Sichuan provinces, ethnic Tibetans experienced great difficulty acquiring passports. The unwillingness of Chinese authorities 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 did not experience the same difficulties.

Exile: The law neither provides for a citizen’s right to repatriate nor 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. Some activists residing abroad were imprisoned upon their return to the country. Authorities reportedly detained and deported to Nepal some ethnic Tibetans with Chinese citizenship who had attempted to reenter China after visiting India by way of Nepal.

Emigration and Repatriation: The government continued to try to prevent many Tibetans and Uighurs from leaving the country and detained many who were apprehended in flight (see Tibet Addendum). During the year 241 Tibetans transited the UNHCR reception center in Kathmandu. There also were reports of the forcible return of Uighur asylum seekers from Malaysia. Of a group of 20 Uighurs returned from Cambodia in 2009, three persons, a woman and two children, were reportedly freed, and 16 others received prison sentences in September 2011 ranging from 16 years to life. Chinese authorities continued to refuse to provide information regarding the whereabouts of the remaining individual.

### **Protection of Refugees**

Access to Asylum: The law does not provide for the granting of refugee or asylee status, and the government did not establish a system for providing protection to refugees. Although the government does not grant refugee or asylee status, it allowed the UNHCR more latitude in assisting non-North Korean and non-Burmese refugees. The UNHCR office in Beijing recognized approximately 100 refugees in China from Pakistan, Iraq, Somalia, and Eritrea and was processing approximately 100 additional individuals who requested refugee status. However, because the PRC did not officially recognize these individuals as refugees, they remained in the country as illegal immigrants unable to work, with no access to education, and subject to deportaton by the government at any time.

Refoulement: In practice the government did not provide protection against the expulsion or forcible return of vulnerable refugees and asylum seekers, especially North Korean and Kachin 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 continued to consider all North Koreans “economic migrants” rather than refugees or asylum seekers, and the UNHCR continued to have no access to North Korean or Burmese 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. Reports of various exploitation schemes targeting North Korean refugees, such as forced marriages, labor, and prostitution, were common. The government continued to deny the UNHCR permission to operate along its borders with North Korea and Burma.

Some North Koreans who entered diplomatic compounds in the country were permitted to travel to foreign countries after waiting for periods of up to two years.

From March 8-10, authorities returned to North Korea 31 North Korean defectors who were arrested in Shenyang. Foreign Ministry spokesperson Hong Lei said they were not refugees, but illegal immigrants with economic motives.

In August authorities pressured the Kachin Independence Organization, the political arm of the Kachin Independence Army, to accept the repatriation of thousands of Burmese refugees from Yunnan and then dismantled the makeshift camps where they had been living. These refugees, the majority of whom were ethnic Kachin, had sought shelter in several camps along the Yunnan border area following the resumption of hostilities between the Burma Army and Kachin Independence Army in neighboring Kachin and Northern Shan States in June 2011. Authorities refused international aid organizations access to the refugees.

Refugee Abuse: The intensified crackdown begun in 2008 against North Korean refugees reportedly extended to harassment of religious communities along the border. 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 repatriate North Korean citizens forcibly.

Access to Basic Services: Undocumented children of some North Korean asylum seekers and of mixed couples (i.e., one Chinese parent and one North Korean parent) did not have access to health care, public education, or other social services due to lack of legal status.

Durable Solutions: 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 since the Vietnam War era. During the year the government and the UNHCR continued discussions concerning the granting of citizenship to these long-term residents and their children, many of whom were born in China.

### **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. While the law provides citizens the right to change their government peacefully, citizens cannot freely choose or change the laws or officials that govern them. In practice the CCP controls virtually all elections. The CCP continued to control appointments to positions of political power.

### **Elections and Political Participation**

Recent Elections: The NPC, composed of up to 3,000 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 consisted 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 CCP, and most legislative decisions require the concurrence of the CCP’s seven-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 CCP’s approval.

According to Ministry of Civil Affairs statistics, almost all of the country’s more than 600,000 villages had implemented direct elections for members of local subgovernment 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 serious procedural flaws marred one-third of all elections. Corruption, vote buying, and interference by township-level and CCP 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, although compliance and enforcement of the election law were uneven across the country. Under this law citizens have the opportunity to vote for local people’s congress representatives at the county level and below every five years, although in most cases higher-level government officials or CCP cadres controlled the nomination of candidates in those elections. 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 within the leadership team of the local people's congress, thus strengthening CCP control over legislatures.

During the year the local governments kept independent candidates--those without official government backing--off the ballots despite meeting nomination criteria. No declared independent candidates won election by year's end. Election officials pressured independent candidates to renounce their candidacies, manipulated the ballot to exclude independent candidates, refused to disclose electorate information to independent candidates, and sometimes adjusted electoral districts to dilute voter support for independent candidates.

Chengdu authorities harassed many independent candidates who attempted to run for local people's congress elections in February. On February 8, security officers beat Gan Xingyan as she attempted to register her candidacy in Chengdu's rural Shuangliu County. Local police reportedly refused to investigate her case.

In other areas of Chengdu, serious violations were reported throughout the election process. Independent candidates were denied nomination forms, or the deadline for turning in nominations was suddenly changed. Several candidates withdrew after authorities threatened individuals who had signed their petitions.

In April an independent People's Congress candidate from Foshan City, Guangdong Province who was detained in September 2011 on a charge of undermining elections, was released on bail and taken to a hospital for medical treatment. The candidate had been tried in February but no verdict was announced and four bail applications were not approved.

After violent December 2011 protests, in March residents in Guangdong Province's Wukan Village carried out village-level elections that were transparent and free of government manipulation. An election board selected by village residents oversaw the selection of candidates, and the counting of ballots was publicly conducted in the presence of foreign media.

Political Parties: Official statements asserted that "the political party system [that] China has adopted is multiparty cooperation and political consultation under" 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 parties other than the CCP held 30 percent of NPC seats. The establishment of new parties is

functionally prohibited, and activists attempting to support unofficial parties were arrested, detained, or confined.

During the year authorities took measures to restrict the participation of independent candidates.

In 2009 in Hunan Province, dissident Xie Changfa, who tried to organize a national meeting of the banned CDP, was sentenced to 13 years in prison. Guo Quan, a former Nanjing University professor and founder of the China New Democracy Party, remained imprisoned following his 2009 sentence to 10 years in prison and three years' deprivation of political rights for "subversion of state power." Guo published articles criticizing the country's one-party system. Other current or former CDP members, including Yang Tianshui, remained in prison or in RTL camps for their calls for political reform and their affiliation with the CDP.

Participation of Women and Minorities: 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 were women (21 percent).

Four women were in ministerial or higher ranked positions: State Councilor Liu Yandong, Minister of Supervision Ma Wen, Minister of Justice Wu Aiyong, and Head of the National Population and Family Planning Commission Wang Xia. According to government-provided information, there were more than 230 female provincial and ministerial officials, 10 percent of the overall total; 670 female mayors and vice mayors, twice the number in 1995; one party secretary at the provincial level, Sun Chunlan in Fujian Province; and one provincial governor, Li Bin in Anhui Province. A total of 37 women were members of provincial standing committees, constituting 9 percent of standing committee members. Following the 18th Party Congress in November, there were two female members of the CCP's 25-member Politburo, Liu Yandong, who concurrently served as a state councilor, and Sun Chunlan, who was Tianjin party secretary. There were no women in the Standing Committee of the Politburo. There were approximately 15 million female CCP cadres, approximately one-fifth of the CCP 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, who was usually given responsibility for family

planning. The election law provides a general mandate for quotas for female and ethnic minority representatives; however, achieving these quotas often required election authorities to violate the election procedures specified in the election law. During the 2011-12 local people's congresses elections, many electoral districts in which independent candidates campaigned used these quotas as justification to thwart the candidacies of these independent candidates.

A total of 411 delegates from 55 ethnic minorities were members of 11th NPC, accounting for 14 percent of the total number of delegates. All of the country's officially recognized minority groups were represented.

The 18th Communist Party Congress elected 10 members of ethnic minority groups as members 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. Until November, Hui Liangyu, of the Hui ethnic group, was a member of the Politburo. Minorities held few senior CCP or government positions of significant influence.

#### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for corruption by officials; however, the government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity. Many cases of corruption involved areas heavily regulated by the government and therefore susceptible to fraud, bribery, and kickbacks, such as land usage rights, real estate, and infrastructure development.

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.

In its 2011 annual work report, the Supreme People's Procuratorate reported that procuratorates nationwide had investigated 32,567 work-related cases involving 44,506 suspects. Of the crimes, 18,464 involved bribery and major embezzlement. Among them, 2,524 suspects were officials at the county level or above, 198 were officials at the prefectural level, and seven officials were at the provincial and ministerial levels.



In 2011 the Central Commission for Discipline Inspection (CCDI), the CCP's lead body for countering corruption among members, investigated 137,859 corruption-related cases. A total of 142,893 persons were disciplined. Of this total, 118,006 persons were subject to party disciplinary action while 35,934 were subject to government discipline. In September, He Guoqiang, then head of the CCP's CCDI, visited major antigraft newspapers and magazines and encouraged editorial staff to make greater contributions to anticorruption public education. He Guoqiang described antigraft public education as fundamental work in the CCP's endeavor to build a clean government.

In October the government established a "frugal working style" rule barring government officials from spending public money on luxury items such as lavish banquets and luxury cars and from accepting expensive gifts.

A 2010 regulation requires 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 families' investment in financial assets and enterprises. According to article 23 of the regulations, the monitoring bodies are the CCDI, the Organization Department of the CCP, and the Ministry of Supervision. The regulations do not state that declarations are to be made public but rather go to a higher level and a human resource department. Punishments for not declaring information vary from education on the regulations, warning talks, and adjusting one's work position, to being relieved from one's position. Regulations further state that officials should report all of their income, including various kinds of allowances, subsidies, bonuses, as well as income from other jobs, such as giving lectures, writing, consulting, reviewing articles, painting and calligraphy, etc. They, their spouse, and children who live together with them also should report their real estate properties, and financial investments, such as stocks, funds, insurances, and other financial products. The spouse and children who live with the government officials should also report their investments in listed companies and enterprises and their registered private commercial units, enterprises, or partnership business. Government officials should report their marriage status, records of traveling abroad for personal purposes, marriage status of their children, and if the spouses are from Hong Kong, Taiwan, or a foreign country. In addition they must report whether their children live abroad, their children's work status, and their grandchildren's work status and positions (including those who live abroad). Officials should report changes of personal status within 30 days after such changes occur. Officials are also required to report every year.

In December officials announced that Guangdong Province would pilot a program in select districts requiring all CCP and government officials publicly to report their assets. Officials who refused to disclose their assets or misrepresented their assets would be relieved of their posts and subjected to further investigations.

In February the NPC's Standing Committee amended the criminal law to make citizens and companies paying bribes to foreign government officials and officials of international public organizations subject to criminal punishments of up to 10 years' imprisonment and a fine.

In an April magazine article, Premier Wen Jiabao said that corruption was the biggest threat facing the CCP. The article outlined steps the government took to fight corruption. Wen also stated that corruption still thrived in the system and that corruption among leading officials was still prominent. On October 25, the *New York Times* published an article reporting that Wen's family collectively had accumulated a fortune of almost 17 billion RMB (\$2.7 billion). Wen reportedly asked for an investigation of the report.

During the year the Supreme People's Court urged local courts to ban family members of officials and judges from being lawyers under the local court's jurisdiction. The Higher People's Court of Chongqing Municipality announced a regulation forbidding judges' family members from accepting money from lawyers. The Higher People's Court of Fujian Province also announced a regulation to forbid judges from meeting privately with representatives in a case.

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

In February the Jilin Province Procuratorate detained Lu Xiangdong, vice president and executive director of the state-owned China Mobile company, on suspicion of corruption. He resigned from his positions in March and was helping "judicial authorities in the investigation of suspected financial-related issues," according to China Mobile.

In July former Jilin vice governor Tian Xueren was reported to have been stripped of both his party membership and government position for taking bribes. Tian's case was transferred to the criminal justice system.

Also in July, Liu Zhuozhi, former government head and CCP chief of Xilingol League in western Inner Mongolia, was sentenced to life imprisonment for taking more than 8.17 million RMB (\$1.3 million) in bribes.

In May the Politburo of the CCP Central Committee expelled former railroads minister Liu Zhijun from the CCP after the CCDI confirmed Liu's involvement in corruption. Liu had been under investigation since February 2011, when he was removed from his government post. Following the 2011 high-speed train accident in Wenzhou, Liu came under scrutiny for his mismanagement of the country's high-speed train network.

In December the CCDI removed Li Chuncheng from his position as deputy party secretary of Sichuan Province for suspected "serious discipline violations." Li was also an alternate member of the CCP's Central Committee. Allegations of Li's corrupt practices, which were widely reported, included receiving bribes, nepotism, and approving land sales to family at below-market rates. Li Chuncheng became the first senior party official dismissed by the CCDI following the 18th Party Congress and Xi Jinping's public comments highlighting the need to fight corruption.

During the year the term "naked official" was banned from the country's version of Twitter. The term refers to government officials who remain in China to work but send their family and financial assets abroad.

In June the Supreme People's Procuratorate stated it would strengthen measures to recover and freeze illegal assets transferred abroad by corrupt officials.

Corruption scandals linked to the 2008 Sichuan earthquake continued to emerge. In May the Hong Kong media reported that Shehong County obtained more than 100 million RMB (\$16 million) in central government relief funds by exaggerating the destruction caused by the earthquake. Villagers who attempted to expose the corrupt practices faced official retribution and in some cases imprisonment.

In February the Supreme People's Procuratorate announced the availability of a national bribery database listing individuals and companies found guilty of certain bribery offenses, including bribing an individual, bribing an entity, and facilitating bribery. Companies and individuals must apply in writing to have the procuratorate check nationwide to determine whether a particular individual or company has been convicted of bribery offenses in the PRC. Companies must provide a copy of their business license.

In February, Guangdong Province initiated an anticorruption campaign to crack down on commercial bribes, the production and selling of counterfeit goods, and the control of markets by triads (organized criminal gangs), leading to the arrests and detentions of more than one thousand provincial, city, and county government officials. The campaign, which covered a wide range of sectors, targeted activities such as illegal monopolies, forced transactions, the collection of protection fees, market intervention by bribed government officials, and the production and distribution of counterfeit goods, including fake drugs and food. Government officials implicated in corruption primarily were at section chief or director ranks (although at least six were at the director general or deputy director general level) and covered zoning, infrastructure construction, distribution, and medical care portfolios where officials can either spend government funds or collect money from the public.

Open government information regulations allow citizens to request information from the government. The regulations require government authorities to create formal channels for information requests and include an appeal process if requests are rejected or not answered. They stipulate that administrative agencies should reply to requests on the spot to the extent possible. Otherwise, the administrative agency should provide the information within 15 working days, with the possibility of a maximum extension of an additional 15 days. In cases in which third-party rights and interests are involved, the time needed to consult the third party does not count against the time limits. According to the regulations, administrative agencies may collect only cost-based fees (as determined by the State Council) for searching, photocopying, postage, and similar expenses when disclosing government information on request. Citizens requesting information can also apply for a fee reduction or exemption. The regulations include exceptions for state secrets, commercial secrets, and individual privacy.

Publicly released provincial- and national-level statistics for open government information requests showed wide disparities in numbers of requests filed and official documents released in response.

If information requestors believe that an administrative agency has violated the regulations, they can report it to the next higher-level administrative agency, the supervision agency, or the department in charge of open government information. In August 2011 the Supreme People's Court ruled that citizens could sue any government department that refused to provide unclassified information. In September 2011 a Tsinghua University graduate student sued three government

ministries after her requests for information regarding the duties of 14 ministries for use in her thesis were denied. A court delayed consideration of her case pending further research, and she withdrew her lawsuit in October 2011 after the ministries provided the requested information.

In January, Wang Chen, a senior propaganda department official, stated that in an effort to be more transparent, the government would expand the use of spokespersons and employ social media.

### **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 called the "Westernization" of the country. The government did not permit independent domestic NGOs to monitor openly or to comment on human rights conditions, and harassed domestic NGOs. The government tended to be suspicious of independent organizations, and it 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, although the government introduced new registration procedures in Shenzhen, Shanghai, and Beijing during the year that removed the requirement that NGOs must have a government sponsoring agency to register (see section 2.b.).

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, and 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 continued to participate in official diplomatic human rights dialogues with foreign governments.

Government Human Rights Bodies: 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 influenced its approach to human rights.

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

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

### **Women**

Rape and Domestic Violence: Rape is illegal, and some persons convicted of rape were executed. The penalties for rape can range from three years in prison to a death sentence with a two-year reprieve and forced labor. The law does not address 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 reports at least a quarter of families suffered from domestic violence, and more than 85 percent of the victims were women. Domestic violence against women included verbal and psychological abuse, restrictions on personal freedom, economic control, physical violence, and rape. The government supported shelters for victims of domestic violence, and some courts were beginning to provide protections to victims. For example, on February 22, a district court in Zhuhai, Guangdong Province, issued a restraining order prohibiting a perpetrator of domestic violence from going within 300 feet of his victim, the first case of its kind in the country. In March, Shaanxi Province designated the Number Two People's Hospital as an antidomestic-violence service station to treat victims of domestic violence, the first designation of its kind. However, official assistance did not always reach victims, and public security forces often ignored domestic violence. In 2010 the All China Women's Federation (ACWF) reported that it 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. Almost 30 percent of respondents in a recent study felt that domestic violence should be kept a private matter.

While domestic violence tended to be more prevalent in rural areas, it also occurred 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.

According to ACWF statistics, nationwide in 2008 there were 12,000 special police booths for domestic violence complaints, 400 shelters for victims of domestic violence, and 350 examination centers for women claiming to injuries by domestic violence. Many domestic violence shelters had inadequate facilities, required extensive documentation, or were generally unused. The government operated most shelters, some with NGO participation. During the year the government provided 680,000 office spaces in government buildings for women's resource centers.

There was no strong legal mechanism to protect women from domestic abuse. According to the ACWF, laws related to domestic violence were not specific enough to prevent domestic violence, since there was no national provision for dealing with offenders. During the year the creation of such mechanisms was added to the NPC's legislative agenda, the fifth time the ACWF submitted such a proposal. 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 standards of evidence, even if certain that domestic violence was occurring, a judge 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. 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.

Public support increased in the fight against domestic violence. A recent survey found that more than 85 percent of respondents believed that further antidomestic violence legislation was needed. A high-profile case, Kim Lee's case against her celebrity husband, Li Yang, led to public outcry when she posted pictures of her injuries on a social networking site. After months of waiting, Lee was granted a civil protection order forbidding her husband from approaching within 200 yards of her.

Sexual Harassment: The law bans sexual harassment, and the number of sexual harassment complaints has increased significantly. A 2009 Harvard University study showed that 80 percent of working women in the country experienced sexual harassment at some stage of their career. The same study found that only 30 percent of sexual harassment claims by women succeeded.

Sexual harassment was not limited to the workplace. According to a *China Youth Daily* survey reported in September, approximately 14 percent of women had been sexually harassed while riding the subway, and 82 percent of those polled believed the problem existed. At a Hainan Province festival on August 23, a dozen women were pinned down by a crowd of men who mauled the women and stripped off their clothes in broad daylight. Police escorted the women away, but no other action was taken.

According to information on the ACWF Web site, the Internet and hotlines have made it easier for women who have been sexually harassed to obtain useful information and legal service. A Beijing rights lawyer told the ACWF that approximately 100 to 200 million women in the country had suffered or were suffering sexual harassment in the workplace, but very few legal service centers provided counseling.

Reproductive Rights: The government restricted the rights of parents to choose the number of children they have. 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.

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 2010 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, a survey taken in September found that only 12 percent of women between ages 20 to 35 had a proper understanding of contraceptive methods. The country's birth-limitation policies retained harshly coercive elements in law and practice. The National Population and Family Planning Commission reported that 13 million women annually underwent abortions caused



by unplanned pregnancies. The financial and administrative penalties for unauthorized births were strict.

In 2010 Xuzhou in 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 upheld the family-planning bureau's decree that the birth of an out-of-wedlock child made her ineligible for the government position. Later that year in Taizhou, Jiangsu, in a similar case involving a male plaintiff, the court ruled that the male plaintiff also was ineligible for a civil service position.

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 were permitted to have a second child (e.g., if each of the would-be parents was an only child). In most rural areas, the policy was more relaxed, with couples permitted to have a second child in cases where their first child was a girl. Ethnic minorities were subject to less stringent rules. Nationwide, 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; in the country's most populous and prosperous city, Shanghai, the fertility rate was 0.8.

The National Population and Family Planning Commission reported that all provinces eliminated the birth-approval requirement before a first child is conceived, but provinces may still continue to require parents to "register" pregnancies prior to giving birth to their first child. This registration requirement can be used as a de facto permit system in some provinces, as some local governments continued to mandate abortion for single women who became pregnant. Provinces and localities imposed fines of various amounts on unwed mothers.

Regulations requiring women who violate family-planning policy to terminate their pregnancies still exist in the 25th and 22nd provisions of the Population and Family Control Regulation of Liaoning 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.

In April government officials in Fujian City seized a woman and forced her to abort her child. In June authorities forcefully took a seven-month pregnant woman, Feng Jianmei, from her home to a hospital in Shaanxi Province and induced the abortion of her child. In response to national and international media attention, the government launched an investigation, which determined that the local family planning bureau had violated her rights. Two local officials were fired and five otherwise sanctioned. Feng was awarded 70,000 RMB (\$11,230) in compensation.

In June family planning officials in Changsha, Hunan Province, forcefully took Cao Ruyi from her home and beat her to pressure her into having an abortion. The officials stopped short of inducing an abortion after a public outcry but forced Cao to sign a document agreeing to pay unspecified fines. Local officials also pressured her husband's employer into firing him.

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.

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, 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 CCP (membership is an unofficial requirement for certain jobs), and other administrative punishments, including in some cases the destruction of private property.

To delay childbearing the law sets the minimum marriage age for women at 20 and for men at 22. 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 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 removed 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, few protections for whistleblowers against retaliation from local officials exist. The law provides significant and detailed sanctions for officials who help persons evade the birth limitations.

According to online reports, women who registered newborns in Nanhai District, Foshan, Guangdong Province, were requested to insert an IUD (intrauterine device). Many posted online complaints that officials threatened to not register the baby if the mother did not comply, even when the newborn was the mother’s only child.

Discrimination: 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 expressed concern that discrimination was increasing. 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 sex discrimination suits because of vague legal definitions. 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. 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. An August 2011 interpretation of the country's marriage law by the Supreme People's Court exacerbated the gender wealth gap by stating that after divorce, marital property belonged solely to the person registered as the homeowner in mortgage and registration documents--in most cases the husband. In determining child custody in divorce cases, judges make determinations based on the following guidelines: Children under age two should live with their mothers; children two to nine years of age should have custody determined by who can provide the most stable living arrangement; and children 10 and over should be consulted when determining custody.

Many employers preferred to hire men to avoid the expense of maternity leave and childcare (paid paternity leave exists for men in some localities, but there is no national provision for paternity leave). Work units were allowed to impose an earlier mandatory retirement age for women than for men, and some employers lowered the effective retirement age for female workers to 50 (in general, the official retirement age for men was 60 and for women 55). Lower retirement ages also reduced pensions, which generally were based on the number of years worked. Job advertisements for women sometimes specified height and age requirements.

Despite government policies mandating nondiscrimination in employment and occupation, women reportedly earned 66 percent as much as men. 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. There were approximately 590 female suicides per day, according to a report released in September by the Chinese Center for Disease and Control and Prevention. This was more than the approximately 500 per day reported in 2009. The report noted that the suicide rate for women 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.

The World Bank reported that in 2009, 99 percent of women between the ages of 15 and 24 were literate. Women above the age of 15 were 91 percent of literate, compared with 97 percent of men above the age of 15.

Women faced discrimination in higher education. The required score for the National Higher Entrance Exam was lower for men than for women at several Chinese universities and often based on subject. According to Ministry of Education statistics, women accounted for 49.6 percent of undergraduate students and 50.3 percent of master's students during the year but only 35 percent of doctoral students in 2010. Women with advanced degrees reported discrimination in the hiring process as the job distribution system became more competitive and market driven.

Gender-biased Sex Selection: According to the 2010 national census, the national average male-female sex ratio at birth was 118 to 100. Sex identification and sex-selective abortion (commonly referred to as the “two nons”) were prohibited, but the practices continued because of traditional preference for male children and the birth-limitation policy.

## **Children**

Birth Registration: Citizenship is derived from 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.

Education: 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.

In 2010 the literacy rate for youth (15-24) was 99 percent. 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 at a grade higher than lower middle school. The government reported that nearly 20 million children of migrant laborers followed their parents to urban areas. Denied access to state-run schools, most children of migrant workers who attended school did so at unlicensed and poorly equipped schools.

Medical Care: 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.

Child Abuse: The physical abuse of children can be grounds for criminal prosecution. 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. The Ministry of Public Security maintained a DNA database of parents of missing children and children recovered in law enforcement operations in an effort to reunite families.

Child Marriage: The legal minimum age for marriage is 22 for men and 20 for women. Child marriage was not known to be a problem. (However, there were reports of babies sold to be future brides; that is, families would adopt and raise them for eventual marriage to their sons.)

Sexual Exploitation of Children: By law those who force young girls under age 14 into prostitution may be sentenced to 10 years to life in prison, in addition to a fine or confiscation of property. If the case is especially serious, violators can receive a life sentence or sentenced to death, in addition to confiscation of property. Those inducing girls under age 14 into prostitution can be sentenced to five years or more in prison in addition to a fine. Those who visit female prostitutes under age 14 are subject 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, including child pornography, is illegal. 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. Offenders in serious cases may receive prison sentences of three to 10 years in addition to paying a fine. In especially serious cases offenders 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 age 18 are to be severely punished.

Infanticide or Infanticide of Children with Disabilities: 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 were 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.

Displaced Children: There were between 150,000 and one million urban street children, according to state-run media. This number was even higher if the children of migrant workers who spent the day on the streets were included. In 2010 the ACWF reported that the number of children in rural areas left behind by their migrant-worker parents totaled 58 million, 40 million under the age of 14.

Institutionalized Children: 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 who adopted abandoned infant girls were sometimes barred from having additional children.

International Child Abductions: The country is not a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

### **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 2010.

### **Trafficking in Persons**

See the Department of State's *Trafficking in Person's Report* at [www.state.gov/j/tip](http://www.state.gov/j/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 Ministry of Civil Affairs and the China Disabled Persons Federation (CDPF), a government-organized civil association, are the main entities responsible for persons with disabilities. In June the CDPF stated that, based on 2010 census figures, 85 million persons with disabilities lived in the country. According to government statistics, in 2011 there were 5,254 vocational training facilities, which provided training for 299,000 persons with disabilities. Of the 32 million persons with disabilities of working age, more than 22 million were employed. Government statistics stated that 7.4 million persons with disabilities enjoyed "minimum-life-guarantee" stipends; nearly three million had social insurance.

The law prohibits discrimination against minors with disabilities and codifies a variety of judicial protections for juveniles. 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.

According to the CDPF, in 2010 more than 519,000 school-age children with disabilities received compulsory education, 68 percent of them in inclusive education, and 32 percent in 1,705 special schools and 2,775 special classes. NGOs claimed that while the overall school enrollment rate was 99 percent, only 75 percent of children with disabilities were enrolled in school. Nationwide, an estimated 243,000 school-age children with disabilities did not attend school. In 2011, 7,150 persons with disabilities were admitted to standard colleges and universities. 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.

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. The Employment Promotion Law requires local governments to offer incentives to enterprises that hire persons with disabilities. Regulations in some parts of the country also require employers to pay into a national fund for persons with disabilities when the employees with disabilities do not make up the statutory minimum percentage of the total workforce.

Standards adopted for making roads and buildings accessible to persons with disabilities are subject to the Law on the Handicapped, which calls for their “gradual” implementation; however, compliance with the law was lax. The law permits universities to exclude candidates with disabilities who were otherwise qualified.

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” and maintaining social stability, the government downplayed racism and institutional discrimination against minorities, which remained the source of deep resentment in the XUAR, the Inner Mongolia Autonomous Region (IMAR), the TAR, and other Tibetan areas.

Ethnic minorities represented approximately 14 percent of delegates to the NPC and more than 15 percent of NPC Standing Committee members, according to an official report issued in July 2011. A November 2011 article in the official online news source for overseas readers stated that ethnic minorities comprised 41 percent of cadres in the Guangxi Zhuang Autonomous Region, 25 percent of cadres in Ningxia Hui Autonomous Region, and 51 percent of cadres in the XUAR. According to a July 11 article from the official Xinhua News Agency, 32 percent of cadres in Yunnan Province were members of an ethnic minority. During the year all five of the country’s ethnic minority autonomous regions had chairmen (equivalent to the governor of a province) from minority groups. The CCP secretaries of these five autonomous regions were all Han. Han officials continued to hold the majority of the most powerful CCP 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 reversed from 20/ 80 to 80/20 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 official results of the 2010 national census, 8.75 million, or 40 percent, of the XUAR's 21.8 million official residents were Han. Hui, Kazakh, Kyrgyz, Uighur, and other ethnic minorities constituted approximately 13 million XUAR residents, or 60 percent of the total population. Official statistics understated the Han population, because they did not count the tens of thousands of Han Chinese who were long-term "temporary workers." As the government continued to promote Han migration into the XUAR and filled local jobs with domestic migrant labor, local officials coerced young Uighur women to participate in a government-sponsored labor transfer program to cities outside the XUAR, according to overseas human rights organizations.

The XUAR government took measures to dilute expressions of Uighur identity, including reducing the use of ethnic minority languages in XUAR schools and instituting Mandarin Chinese 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. 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, ethnic separatism, and terrorism and outlined efforts to launch a concentrated antiseparatist reeducation campaign. It was believed that some raids, detentions, and judicial punishments ostensibly directed at individuals or organizations suspected of promoting the "three forces" were actually used to target groups or individuals 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 without due process, on charges of separatism and endangering state

security. The government reportedly pressured foreign countries to repatriate Uighurs, who faced the risk of oppression upon return.

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

Reportedly at year's end one son of exiled Uighur leader Rebiya Kadeer, president of the World Uighur Conference, whom the government blamed for orchestrating the 2009 riots in Urumqi, remained in prison.

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 Abdulla Jamal, Adduhelil Zunun, 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.

The Information Promotion Bill, approved by XUAR authorities in 2009, criminalizes discussion of separatism on the Internet and prohibits use of the Internet in any way that undermines national unity. The regulation further bans inciting ethnic separatism or harming social stability. It requires Internet service providers and network operators to set up monitoring systems or strengthen existing ones and report violations 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.

Reuters News Agency reported that on April 3, police used "brutal force" to break up a demonstration by hundreds of ethnic Mongolians who were protesting land seizures near Tongliao in the IMAR. The foreign-based Southern Mongolian Human Rights Information Center stated that five protesters were seriously injured and that "police violently beat the protesters with batons." Similar protests were staged throughout the year across the IMAR, often resulting in detentions and

police abuse, as the regional government sought to implement Beijing's policy of resettling China's nomadic population.

On November 7, RFA cited a report from the Southern Mongolia Human Rights Information Center stating that the wife and son of detained Mongolian rights activist Hada had disappeared two weeks earlier, in the immediate lead-up to the 18th Party Congress. Their whereabouts remained unknown at year's end.

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

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

No laws criminalize private consensual same sex activities between adults. Due to societal discrimination and pressure to conform to family expectations, most gay, lesbian, bisexual, and transgender (LGBT) persons refrained from publicly discussing their sexual orientation. Individual activists and organizations working on LGBT problems continued to report discrimination and harassment from authorities.

In June the Beijing LGBT center was notified by property management that its lease would be terminated early due to complaints that it was too noisy. Neighbors reportedly pressured management to terminate the lease after learning that it was an LGBT organization. The center was only able to recoup less than the half of its 11,000-RMB (\$1,765) investment for the move.

As was the case in 2011, the sixth Beijing Queer Film Festival was forced underground due to harassment from local police, officers from the Bureau of Industry and Trade, and officials from the Culture Bureau. The police deemed the event "illegal." Organizers were forced to close the event to the general public and show the films to invited guests only. The venue of the festival was also changed every night to avoid police detection. However, police did not intervene in an April same-sex marriage rally at Guangzhou's People's Park that included kissing among gays and lesbians to attract the attention of passersby.

In September a unit of the Hangzhou Education Bureau and the Hangzhou Education Research Institute published a book, *Parents, Please Walk Your Children through Puberty*, that referred to homosexual behavior as "sexual deviance" and called on parents to "prevent such behavior." The book indicated that reparative therapy was possible.

### **Other Societal Violence or Discrimination**

The 2008 Employment Promotion Law, prohibits discrimination against persons carrying infectious diseases, and allows such persons to work as civil servants. The law does not address some common types of discrimination in employment, including discrimination based on height, physical appearance, or place of origin.

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, and local governments sometimes tried to suppress their activities. In August a man who was refused employment after it was discovered he had hepatitis was awarded 8,000 RMB (\$1,280) in damages by a Xi'an court. The man originally asked for 50,000 RMB (\$8,020) in compensation.

HIV/AIDS activist Wan Yanhai, founder and director of the Beijing-based NGO Aizhixing, remained overseas after leaving the country in May 2010. The organization continued to come under pressure from the government.

Persons with HIV/AIDS were routinely denied admission to hospitals for medical care. The hospitals feared that, should the general population find out that they were treating HIV/AIDS patients, persons would choose to go to other hospitals. It was common practice for general hospitals to refer patients to specialty hospitals working with infectious diseases.

International involvement in HIV/AIDS prevention, care, and treatment, as well as central government pressure on local governments to respond appropriately, brought improvements in many 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.

In March, Zhejiang Province eliminated its mandatory HIV testing for suspects arrested for drug charges. The move was seen as a step in protecting the privacy of the individuals.

In February, Guangxi Zhuang Autonomous Region drafted legislation for real name registration for HIV testing and required that individuals who tested positive tell their spouses.

Despite a 2010 nationwide rule banning mandatory hepatitis B virus tests in job and school admissions applications, 61 percent of state-run companies in February 2011 continued to use hepatitis B testing as a part of their preemployment screen.

In September 2011 a report from a Beijing-based NGO stated that 32 percent of kindergartens surveyed would refuse to enroll children infected with hepatitis B.

In July a widely used public health Web site for persons infected with hepatitis was blocked within the country. The Web site had been blocked two times earlier, in 2007 and 2008. The Web site's main goal is to eliminate discrimination of hepatitis carriers and provide a social forum to build awareness of the disease.

## **Section 7. Worker Rights**

### **a. Freedom of Association and the Right to Collective Bargaining**

The law does not protect freedom of association, since workers are 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 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. While there were no publicly available official statistics on the enforcement of these laws, there were periodic domestic media reports of courts awarding monetary compensation for wrongful terminations of union representatives.

Regulations require a 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.

The 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. A key article of this 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.

The Trade Union Law specifically addresses unions' responsibility to "coordinate the labor relations and safeguard the labor rights and interests of the enterprise employees through equal negotiation and collective contract system" and to represent employees in negotiating and signing collective contracts with enterprises or public institutions.

The All-China Federation of Trade Unions (ACFTU), which the CCP controls and a member of the Politburo chairs, 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. In response to widespread criticism of the ACFTU's response following several high-profile labor disputes in 2010, the ACFTU advocated for government policies and legal reform to better equip the union to protect workers' rights. The ACFTU played a visible role in revisions to the Labor Contract Law intended to enhance protection of misclassified workers. On December 28, the NPC adopted amendments to the Labor Contract Law to limit the use of dispatch (contract) workers.

The ACFTU and its provincial and local branches continued aggressively to organize new constituent unions and add new members, especially in large, multinational enterprises. According to the ACFTU, nearly one of every five Chinese are members of trade unions. More than 18 million workers joined labor unions through 2011, bringing the total trade union membership to 258 million. More than 96 million members were migrant workers, and trade union organizations have been established in more than 1.7 million businesses.

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 CCP. As is true in all types of enterprises, in state-owned enterprises the CCP had a variety of mechanisms by which it could influence the selection of trade union officers. In enterprises where direct election of union officers took place, regional ACFTU offices and local CCP authorities retained



control over the selection and approval of candidates. The inability to elect their representatives directly continued to be a key problem raised by workers throughout the country.

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 tolerance for strikes while others continued to treat worker protests as illegal demonstrations. Without a clearly defined right to strike, workers had only a limited capacity to influence labor negotiations.

As in past years, in spite of the unclear legal status of worker strikes, there were reports of workers throughout the country engaging in strikes, work stoppages, and other protest actions. Although there were no publicly available figures for the number of strikes and protests each year since the government restricts release of that data, the ACFTU confirmed that the frequency of “spontaneous” strikes had increased in recent years, especially in Shenzhen and other areas with developed labor markets and large pools of sophisticated, rights-conscious workers. Strikes primarily continued to be resolved directly between workers and management without the involvement of the ACFTU or its constituent local trade unions. Where labor relations disputes were resolved without resorting to strikes, factory management continued the trend of engaging directly with workers via employer-worker committees rather than through the legally approved ACFTU-affiliated trade union. The Ministry of Human Resources and Social Security voiced support for the expansion and establishment of employer-worker committees throughout all enterprises.

The Labor Contract Law provides that labor unions “shall assist and direct the employees” in establishing “a collective negotiation mechanism,” and that collective contracts can include “matters of remuneration, working hours, breaks, vacations, work safety and hygiene, insurance, benefits, etc.” It further provides that there may be industrial or regional collective contracts “in industries such as construction, mining, catering services, etc. in the regions at or below the county level.” The labor law allows for collective bargaining for workers in all types of enterprises. If no agreement is reached, the employer does not have a right to lock out the workers, and the workers do not have a right to strike. The trade unions, according to the ACFTU, do not encourage strikes but rather are involved in investigations and go to the Ministry of Human Resources and Social Security for help in resolving disputes. While no law or rule allows trade unions to carry out a

strike and government entities cannot encourage strikes, it is not illegal for workers to strike spontaneously. For this reason many employers preferred to deal with individual employees directly, resulting in some positive outcomes when employees were organized but also allowing for widespread employer abuse of labor contracts. The ACFTU stated it was promoting laws for collective bargaining on core worker interests. Many autonomous regions and municipalities enacted local rules allowing collective wage negotiation, and some limited form of collective bargaining was more or less compulsory in 25 of 31 provinces, according to the ACFTU. Common cases of noncompliance with the Labor Contract Law continued to include 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.

The number of labor disputes nationwide continued to rise as workers' awareness of the laws increased. The Labor Contract Law and the global financial crisis both contributed to the growth in labor disputes in the court system. According to figures from the Ministry of Human Resources and Social Security, as of September there were more than 3,000 labor arbitration units and 25,000 labor arbitrators. Through 2011 the Ministry of Human Resources and Social Security handled 1.3 million "labor and personnel disputes." Of these, 589,000 were registered arbitration cases, of which 93.9 percent were resolved.

The Guangdong provincial government guidelines on enterprise collective wage bargaining require 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 allow the local labor bureau to act as a mediator to help determine wage increases if requested by the employees and employers. To date, however, there was no progress in advancing the stalled debate over collective bargaining legislation in the Guangdong provincial legislature. Observers considered Guangdong, traditionally a leader in reforms and pilot projects, a barometer of the direction other parts of the country might be heading.

In March, working through an informal representative who negotiated with factory management, striking workers at a Shenzhen electronics factory received not only a pay increase but also the promise that they would be able to elect representatives to the enterprise-level labor union directly. The outcome generated optimism among scholars, but many labor NGOs cautioned that this was an isolated case. The workers were able to elect one union representative, but it was not clear whether this would become an institutionalized process.

Labor activists detained in previous years reportedly remained in detention at year's end, including: Chen Yuqian, Feng Xinchun, Gonpo Lhundrub, Gonpo Thar, Jalo, Tselo, Kong Youping, Li Jianfeng, Liu Jian, Memet Turghun Abdulla, Wang Diangang, Wang Miaogen, Xing Shiku, Xue Mingkai, Zuo Xiaohuan, Zhou Decai, and Zhu Chengzhi.

Although creative strategies by some multinational purchasers provided new approaches to reducing the incidence of labor violations in supplier factories, insufficient government oversight of both foreign affiliated and purely domestic supplier factories continued to contribute to poor working conditions.

Abuse of the student-worker system continued as well. One international labor NGO reported that even among students working in domestic companies in the supply chains of multinational electronics manufacturers, where there was greater scrutiny, most did not have the formal written contracts required by law. The media reported allegations that schools and local officials were improperly facilitating the supply of student laborers.

There was a wide variety of experimentation at the provincial and local level. For example, throughout the year Guangdong initiated a number of proposals aimed at facilitating the operations and work of NGOs, including simplifying registration procedures so that certain categories of NGOs could register directly with the Ministry of Civil Affairs. These initiatives included outreach to the Pearl River Delta's (PRD's) labor NGOs. Implementation of regulations associated with these proposals across the province was inconsistent, since some NGOs reportedly faced greater difficulties, while others elsewhere enjoyed increased opportunities and engagement with civil society. In February, Shenzhen officials initiated a campaign of harassment of labor NGOs working on sensitive rights problems; at year's end the harassment campaign continued. Many of the affected NGOs were forced to suspend operations after local authorities forcibly evicted them, shut off their utilities, or subjected them to constant financial investigations.

Workers in the PRD and elsewhere, particularly in the construction industry, increasingly went on strike to demand the payment of past wages as an economic downturn led to diminishing profits, more factory closures, and abandoned construction projects. At the end of August disputes over unpaid wages triggered a public protest in Guangzhou by Guangdong Province Highway Administration workers, a work stoppage at a construction equipment factory in Heshan, Guangdong Province, a demonstration by laborers in front of the Xiamen, Fujian

Province People's Court, and a protest in Foshan, Guangdong Province, by workers who blocked traffic and called on the local government to mediate their cases with recently closed factories.

Workers' protests also started to move beyond the realm of wage arrears, sufficient pay, and working conditions. In April, Guangzhou media reported that workers at a Nanhai, Foshan City, shoe factory staged demonstrations because factory management had insulted them during negotiations over the factory's move to another Foshan location. In July workers at a Huizhou, Guangdong Province, lighting company protested the removal of the company's chief executive, claiming the investors who ousted the former chief executive and who were running the company's three factories during the year had weakened the company's financial standing, leading to falling share prices.

During the year strikes remained primarily economic in nature (e.g., increased wages, subsidies for food and housing), but other problems such as workplace conditions and social welfare became more prominent. In January, Hong Kong media reported that thousands of workers from the Panzhihua Iron and Steel Group in Chengdu took to the streets to demand wage increases. Authorities deployed 1,000 police to suppress the march and dispersed the crowd after a confrontation with the protesters. On June 29, construction workers rallied in front of the municipal government building in Shenzhen, Guangdong Province, to call for improved pension benefits. The government's response to worker protests continued to be a mixture of mediation, conciliation, and coercion. While some jurisdictions sought to develop more flexible strategies to resolve labor disputes, others continued to rely on more repressive measures.

As in other regions, labor tensions also appear to be rising in the eastern region, with small-scale worker protests and strikes regularly reported in Shanghai, Zhejiang, Jiangsu, and Anhui. For example, more than 1,000 migrant workers in Wenzhou, Zhejiang Province, led a march on May 29 to protest the death of a worker supposedly killed as the result of a wage dispute with his employer. In September 6,000 employees of a Singaporean factory in Shanghai went on strike to protest plans to move the factory to a neighboring province where labor conditions allegedly were worse. In Anhui Province in early September, plainclothes security forces employed by the railroad allegedly severely beat migrant workers demanding wage negotiations with the China Railway Sixth Organization.

## **b. 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.

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 amended labor laws, along with workers' increased knowledge of their rights under these new laws, continued to reduce these practices.

In February police in Harbin, Heilongjiang Province, rescued 18 laborers whom criminal organizations forced to work without payment. Most of the laborers were migrant workers or homeless persons.

Forced labor in penal institutions remained a serious problem according to the International Trade Union Confederation. 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. No effective mechanism prevented the export of goods made under such conditions. Goods and materials likely to be produced by forced labor included toys, garments and textiles, electronics, bricks, and coal.

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.

There were many cases of the labor reeducation system being used to persecute innocent persons and illegally punish protestors. For example, in August in Hunan Province, a woman was sentenced to 18 months in an RTL center after she demanded local officials impose tougher sentences on seven men convicted of abducting, raping, and forcing her 11-year-old daughter to work as a prostitute. The woman was eventually released from detention following a public outcry from academics, the Internet, and state-controlled media.

On November 20, a Chongqing court rejected the wrongful imprisonment suit brought by Ren Jianyu, who had been released the day before from an RTL center

one year into his two-year sentence for “incitement to subvert state power” for posting online statements critical of the political system.

According to a July 2011 article published on the Web site of the Bureau of Reeducation Through Labor Administration, as of the end of 2008, 160,000 persons were imprisoned in 350 RTL centers.

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

### **c. 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. However, based on print media and online reports, use of child labor was most prevalent in the electronics manufacturing industry, although many reports indicated it occurred in a number of sectors.

The law specifies administrative review, fines, and revocation of business licenses of those businesses that illegally hired 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 dangerous work, including in mines.

In February the local *Modern Express* newspaper in Suzhou, Jiangsu Province, reported that local labor authorities found an electronics factory to be employing child laborers. The report claimed that children as young as 12 years old were working 12-hour days on an electronics assembly line and that an organizer forwarded the children’s wages to their families in their home villages. In September an international labor NGO issued a report accusing Shenzhen suppliers of a multinational electronics company of using up to 100 underage workers, some of whom were using fake identities to gain employment. After the report was published, one multinational electronics maker stepped up internal audits of all of its Chinese company suppliers and announced a “zero tolerance” policy for child-labor violations at its suppliers, saying it would stop doing business with any company found to hire minors.

NGOs continued to report some use of child labor in factories producing for export. As in past years, there continued to be some reports that schools supplied factories with illegal child labor under the pretext of vocational training. After an internal audit, one multinational electronics company admitted it had violated the labor law after interns between the ages of 14 and 16 were discovered to be working at its subsidiary in Yantai, Shandong Province. A news report stated interns from a local vocational college had been working at the factory since 2010 as part of a local government initiative to help ease a labor shortage. There were reports that spot labor shortages, rising wage levels, and more demands 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 prevent employers from moving to other areas.

Also see the Department of Labor's *Findings on the Worst Forms of Child Labor* at [www.dol.gov/ilab/programs/ocft/tda.htm](http://www.dol.gov/ilab/programs/ocft/tda.htm).

#### **d. Acceptable Conditions of Work**

There was no national minimum wage, but the 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. Monthly minimum wages varied greatly with Shenzhen, Guangdong Province, the highest scheduled to rise to 1,600 RMB (\$257) as March 1, 2013, and towns in remote Ningxia Province the lowest at 750 RMB (\$120). During the year the country increased its "rural poverty level" to 192 RMB (\$31) per month. A 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 local labor bureaus deal with the case.

In practice almost all local and provincial governments raised minimum wage levels significantly during the year, as a result of changing economic and demographic conditions. 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. A decrease in the migration of workers into Guangdong contributed to a changing factory workforce that was older and more likely to be married and have children. As the tenure of the PRD's workers continued to increase, their skills improved, adding additional upward pressure on wages.

The 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 premium pay for overtime work. However, compliance with the law was weak, and standards were regularly violated. While excessive overtime occurred, in many cases workers encouraged noncompliance by requesting greater amounts of overtime to increase their overall wages.

The labor law and Labor Contract Law include language supporting the principle of equal pay for equal work. Specifically with regard to dispatch (contract) workers, a series of NPC amendments to the Labor Contract Law on December 26 were intended to strengthen enforcement of this principle.

The State Administration for Work Safety (SAWS) sets and enforces occupational health and safety regulations. Companies that violate the regulation have their operations suspended or are deprived of business certificates and licenses.

Effective May 2, the SAWS and the Ministry of Finance jointly issued the *Measures on Incentives for Safe Production Reporting* (Measures), which authorize cash rewards to whistleblowers reporting companies for such violations as concealing workplace accidents, operating without proper licensing, operating unsafe equipment, or failing to provide workers with adequate safety training. The Measures warn against false accusations, but also stipulate protection under the law for legitimate whistleblowers who report violations.

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. Inadequately enforced labor laws and occupational health and safety laws and regulations continued to put workers' livelihoods, health, and safety at risk.

Wage disputes and nonpayment of wages remained a problem in many areas. Governments at various levels continued efforts to prevent arrears and recover payment of unpaid wages and insurance contributions.

Questions related to acceptable working conditions continued to plague electronics manufacturers such as Foxconn. Following unfavorable international media coverage of working conditions at its plants in China, Foxconn allowed the international, nonprofit Fair Labor Association (FLA) to conduct an audit of the company's labor practices, including working hours and health and safety



mechanisms. The FLA's report, released in March, confirmed the existence of poor workplace conditions and provided a lengthy list of recommendations. In August the FLA reported that Foxconn had completed 280 action items on time or ahead of schedule. It added that Foxconn promised to reduce workers' hours to 49 per week and stabilize pay by July 2013.

Local governments, in order to incentivize Foxconn to establish operations in their cities, promised to help recruit workers for Foxconn's labor-intensive operations. In September the media reported that students in Shandong and Jiangsu provinces complained that their universities made it mandatory that they serve 45-day internships on assembly lines in Foxconn factories to meet Foxconn's production demands.

Guangdong Province continued to implement programs associated with the Guangdong Provincial Communist Party Committee's July 2011 "Decision on Strengthening Social Construction" that was in part a response to June 2011 migrant worker riots in Zengcheng and Chaozhou. As with Guangdong Province's new NGO registration policy, efforts to address the social dislocation facing migrant workers and to absorb migrant workers through grassroots organizations or employment as civil servants were inconsistent among municipalities in the province. During the year most municipal governments, as well as the provincial government, increased the number of civil servant positions open to migrant workers.

Tension between migrant workers and local communities in the PRD continued and sometimes led to clashes between migrant workers and police. In June the beating of a migrant youth by local security personnel in the Guangdong town of Shaxi triggered rioting by Sichuan migrant workers who clashed with police, smashed police cars, and effectively shut down Shaxi for three days.

In recent years authorities have pressed mines to improve safety measures and mandated greater investments in safety. According to SAWS the casualty rate for coal-mine production was down by 33.7 percent during the year. Local media estimated 1,300 coal-mine deaths during the year, the first time in the history of the country's coal-mine industry that deaths were below 1,500. Small coal mines, accounting for approximately 85 percent of 12,000 total coal mines, were responsible for two-thirds of deaths. In August, SAWS announced its goal of closing hundreds of small coal mines during the year in an attempt to reduce the number of deadly accidents.

Despite consistent reductions in mining deaths, there continued to be many coal-mine accidents throughout the country. For example, in March online reports indicated an accident in a mine in Hezhou, Guangxi Province, left one miner dead and five injured. In Liaoning Province, a March 22 gas explosion at the Dahuang Coal Mine in Liaoyang City killed five and trapped 17. In Heilongjiang Province a May 2 underground flood at the Junyuan Coal Mine in Hegang City killed 13 workers. In Jilin Province, an August 13 gas explosion at the Jisheng Coal Mine in Baishan City killed 17 workers and trapped three. Also in August a gas explosion killed 45 miners in a coal mine in the city of Panzhihua, Sichuan Province. A week later in Pingxiang, Jiangxi Province, a coal mine explosion killed at least another 15 miners. In October four miners and three rescuers suffocated from carbon dioxide poisoning in a poorly ventilated manganese mine that had been closed in Yongzhou, Hunan Province.

Instances of pneumoconiosis, or black lung disease, remained high with a charitable NGO that helped to treat migrant workers estimating that the disease affected approximately six million rural residents. The ACFTU occupational disease experts estimated that 200 million workers worked in hazardous environments. The Law on Prevention and Control of Occupational Diseases requires employers to provide free health checkups for employees working in hazardous conditions and inform them of the results, but according to the Chinese Center for Disease Control and Prevention, only an estimated 10 percent of eligible employees received regular occupational health services. Small and medium-sized enterprises, the largest employers, often fail to provide the required health services.

## TIBET 2012 HUMAN RIGHTS REPORT

### EXECUTIVE SUMMARY

The United States recognizes the Tibet Autonomous Region (TAR) and Tibetan autonomous prefectures (TAPs) and counties in other provinces to be a part of the People's Republic of China (PRC). Tibet policies in the PRC are overseen by the Chinese Communist Party (CCP) Central Committee's United Front Work Department, headed since September by Ling Jihua. Chen Quanguo, an ethnic Han from Henan Province, became the TAR party secretary in August 2011. Ethnic Han encumbered the party secretary position in nine of the 10 TAPs, which are located in Gansu, Qinghai, Sichuan, and Yunnan provinces. One TAP, in Qinghai Province, had an ethnic Tibetan party secretary. As in other predominantly minority areas of the PRC, ethnic Han CCP members held almost all top party, government, police, and military positions in the TAR and other Tibetan areas. Ultimate authority rests with the 25-member Central Committee Political Bureau (Politburo) of the CCP and its seven-member Standing Committee in Beijing. Civilian authorities generally maintained effective control of the security forces.

During the year the government's respect for and protection of human rights in the TAR and other Tibetan areas deteriorated markedly. Under the banner of maintaining social stability, the government engaged in the severe repression of Tibet's unique religious, cultural, and linguistic heritage by, among other means, strictly curtailing the civil rights of China's ethnic Tibetan population, including the freedoms of speech, religion, association, and movement. The government routinely vilified the Dalai Lama and blamed the "Dalai clique" and "other outside forces" for instigating the 83 self-immolations by Tibetan laypersons, monks, and nuns that occurred throughout the year. In an October 23 article, the official Xinhua News Agency quoted a central party official as stating that Tibet-related issues were of paramount importance for the CCP, stability and development should be stressed in Tibetan regions, and China should exert greater effort in combating the influence of the "Dalai Lama clique."

Other serious human rights abuses included extrajudicial killings, torture, arbitrary arrests, extrajudicial detentions, and house arrests. There was a deepening perception among Tibetans that they were systemically targeted for economic marginalization and educational and employment discrimination. The presence of the People's Armed Police (PAP) and other security forces remained at high levels

in communities across the Tibetan Plateau. Repression was severe throughout the year but increased in the periods before and during politically and religiously sensitive anniversaries and events. In March all major monasteries in the TAR and other Tibetan areas outside the TAR were guarded by security forces due to the anniversary of the 2008 demonstrations and subsequent police crackdown. Students, monks, laypersons, and others in many Tibetan areas were detained after reportedly demanding freedom and human rights and expressing their support for the Dalai Lama. In the period before and during the 18th Party Congress and the related central leadership transition, oppressive security measures taken by authorities across the Tibetan Plateau contributed to a further deterioration of the human rights situation. 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. Because of these restrictions and the government's many denials of visits to Tibetan areas by foreigners, many of the incidents and cases mentioned in this report could not be independently verified.

Disciplinary procedures were opaque, and it was not clear that security or other authorities were punished for behavior defined under Chinese laws and regulations as abuses of power and authority. Impunity appeared to be a problem.

### **Tibetan Self-Immolations**

The total number of reported self-immolations by Tibetan Buddhist laypersons and clergy during the year, 83, was more than six times that of 2011. In addition to an increase in the incidence of self-immolation, the geographic range of such incidents extended across the Tibetan Plateau (and in one case, to Beijing), and there was an increase in self-immolations by laypersons (as opposed to current or former Buddhist monks or nuns), the majority of whom were age 21 or older. A particularly alarming surge in self-immolations took place from October through early December, when 43 Tibetans reportedly self-immolated, 35 of them laypersons, including 18 in Gansu Province (which had previously seen only two such incidents), 16 in Qinghai Province, six in Sichuan Province, and three in the TAR. The vast majority of these incidents resulted in death.

Prior to March all of the reported self-immolators were current or former monks or nuns. However, as highlighted in the U.S. Congressional-Executive Commission on China (CECC) August 22 report *Tibetan Self-Immolation--Rising Frequency, Wider Spread, Greater Diversity*, self-immolation by laypersons grew markedly during the spring. By year's end laypersons represented more than half of the self-

immolations committed in 2012. On the basis of data assembled by Beijing-based writer and blogger Tsering Wooser, who collected and published the last words of 26 self-immolators, noted Tibetologist Wang Lixiong observed that 14 of the 26 self-immolators who left final statements saw their act as a form of protest to affect change, 10 saw their act in religious terms and expressed devotion to the Dalai Lama, and five expressed desperation with conditions they found unbearable. While some of the laypersons who self-immolated reportedly made statements that echoed those of many monastic self-immolators (for example, calling for “freedom” for Tibetans and the Dalai Lama’s return to Tibet), some reportedly protested specific mining or infrastructure projects on the Tibetan Plateau that adversely affected them personally or that they believed were harmful to the environment; others protested social and economic conditions that they believed unfairly disadvantaged Tibetans. For example, in June, Dickyi Choezom, a mother of two in her forties, died after self-immolating in Yushu (Yulshul) TAP, Gansu Province, reportedly to protest government expropriation of family property. On September 13, another woman from the same area, 62-year-old Passang Lhamo, was reportedly injured when she set herself on fire in Beijing in a similar protest; her condition remained unknown.

The Chinese government responded harshly to self-immolations. In March the head of the Aba (Ngaba) Tibetan and Qiang Autonomous Prefecture (T&QAP) government, Wu Zegang, asserted that Tibetans who committed self-immolation were being “used by separatists to create chaos.” Alleging that the self-immolators had been in communication with the Tibetan exile community, Wu stated that “the Dalai Lama clique and overseas splittist forces are viciously leading Tibetan Buddhism onto the track of extremism. By touting self-immolators as so-called heroes and performing religious rituals to make amends for the sins of the dead, they support and inspire self-immolations. They instigate people to emulate and will not hesitate to use the terroristic behavior of sacrificing people’s lives to reach their splittist objective.”

An editorial in the December 3 *Gansu Daily*, an online news site, noted that the Supreme People’s Court, the Supreme People’s Procuratorate, and the Ministry of Public Security had jointly issued the *Opinion on Handling Cases of Self-Immolation in Tibetan Areas According to Law*, which criminalizes various activities associated with self-immolation, including “organizing, plotting, inciting, compelling, luring, instigating, or helping others to commit self-immolation,” each of which may be prosecuted as “intentional homicide.” According to the opinion, the motive of self-immolators was “generally to split the country” and the act itself

constituted criminal behavior, as it posed a threat to public safety and public order. The opinion stated that “ringleaders” would be targeted for “major punishment.”

According to various overseas rights groups, on November 14, the government of Huangnan (Malho) TAP in Qinghai Province issued a notice to local party members and government officials ordering them to discipline bereaved family members of self-immolators by withholding public benefits, including disaster relief. The notice also called for the punishment of laypersons, monastic personnel, family members, and officials who organize or participate in burial or mourning activities. Villages where self-immolations take place are subject to the cancellation of publicly funded development and disaster relief projects, and monasteries found to have participated in or organized fundraising activities or prayer ceremonies for self-immolators or their families are subject to cancellation of public funding or even closure.

Not long after the issuance of the November 14 notice, a number of friends, relatives, and associates of self-immolators across the Tibetan Plateau were detained, arrested, or sentenced. For example, the official Xinhua News Agency reported on December 9 that police had detained Kirti Monastery monk Lorang Konchok and his nephew, Lorang Tsering, and accused them of instigating self-immolations. On December 14, *Phayul* (a news Web site maintained by Tibetan exiles) reported that Chinese officials arrested five Tibetans in connection with the December 9 self-immolation of 17-year-old Bhenchen Kyi, a student in Zeku (Tsekhog) County, Huangnan (Malho) TAP, Qinghai Province. The whereabouts of the five were unknown. On December 27, *Phayul* reported that the father and grandfather of Gonpo Tsering, who self-immolated on November 26 in Luqu County, Gannan (Kanlho) TAP, Gansu Province, were detained in early December. Their whereabouts were unknown.

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

There were reports that the government or its agents committed arbitrary or unlawful killings. There were no reports that officials investigated or punished those responsible for such killings.

A number of Tibetans lost their lives during incidents that occurred around the time of Chinese New Year in late January and early February. On January 23, security forces in Luhuo (Draggo) County, Ganzi (Kardze) TAP, Sichuan Province, fired at a crowd of protesters, wounding at least 32 and killing at least one, Norpa Yonten, overseas media and human rights groups reported. According

to some reports, the protesters were demonstrating against the arbitrary detention of Tibetans and calling for additional self-immolations if Tibetans' concerns were ignored. In separate incidents on February 9, brothers Yeshe Rigsel and Yeshe Samdup were reportedly shot and killed, and monk Tsering Gyaltzen was beaten to death, during an official sweep for Tibetans suspected of participating in the January 23 demonstration in Luhuo, according to *Phayul*.

Overseas media reported that up to five protesters were killed and 40 injured when PAP officers fired on demonstrators in Seda (Serthar) County, Ganzi (Kardze) TAP, Sichuan Province, on January 24. According to the official Xinhua News Agency, one "rioter" was killed when the "mob" he was a part of stormed the Chengguan Police Station in Seda. According to other reports, PAP officers shot at protesters calling for a free Tibet and the return of the Dalai Lama.

### **Disappearance**

Authorities across Tibetan areas continued to arbitrarily detain Tibetan monks and laypersons for indefinite periods of time. Several of these detentions appeared to be linked to the government's attempts to punish those suspected of being associated with the self-immolations or those who refused to cooperate with official demands to hand over the remains of self-immolation victims.

The whereabouts of the Panchen Lama, Gedun Choekyi Nyima, Tibetan Buddhism's second-most prominent figure after the Dalai Lama, remained unknown. In 2010 a government official in Tibet stated that Gedun Choekyi Nyima was "living a very good life in Tibet" and that he and his family "want to live an ordinary life."

### **Torture and Other Cruel and Degrading Treatment**

According to the PRC's constitution, "the State respects and protects human rights." However, judges cannot apply the constitution in court cases since its interpretation is reserved exclusively to the Standing Committee of the National People's Congress.

The police and prison authorities in Tibetan areas employed torture and degrading treatment in dealing with some detainees and prisoners.

Torture: There were reports during the year that some Tibetans who returned from Nepal either voluntarily or as a result of refoulement suffered torture while

incarcerated or otherwise in the custody of Chinese officials, including electric shocks, exposure to cold, and severe beatings, as well as being forced to perform heavy physical labor. Security forces routinely subjected detainees and prisoners to “political investigation” sessions and punished them if they were deemed insufficiently loyal to the state.

On March 29, Gongbo Renzeng from Luhuo (Draggo) County, Ganzi (Kardze) TAP, committed suicide, reportedly to avoid arrest and possible torture, according to the overseas-based Voice of Tibet. Local authorities who had reportedly photographed him participating in the January 23 protests had pressured him to turn himself in and undergo “legal education.”

The Voice of Tibet reported that Gonpo Dargye, who had been serving a five-year sentence in the TAR since 2009, was released on medical parole early in the year but had lost the use of his legs as a result of torture inflicted during his detention.

### **Prison and Detention Center Conditions**

In 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 Reform through Labor (RTL) system.

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 or sheets. Former prisoners reported being confined with 20 to 30 cellmates for many days, isolated in a small cell for as long as three months, and deprived of sunlight and adequate food, water, and blankets. In addition, prison authorities banned religious observances.

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

There were continued reports that authorities were suspected of abusing some detainees in Tibetan areas through the forced use of psychiatric drugs.

There were many cases of persons detained and imprisoned who were denied visitors, including both family members and legal counsel. This policy was



apparently applied to many detainees and prisoners, but more routinely and stringently to political detainees and prisoners.

As elsewhere in the PRC, the authorities did not permit independent monitoring of prisons.

### **Arbitrary Arrest or Detention**

Arbitrary arrest and detention was a growing problem in Tibetan areas. With a detention warrant, police may legally 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 detainee. In practice police frequently violated these requirements. Many detainees were held under the RTL system operated by the Ministry of Public Security or under other forms of detention not subject to judicial review.

During the sustained official crackdown on the Kirti Monastery in Sichuan's Aba (Ngaba) County after the self-immolation of a Tibetan monk there in March 2011, authorities forcibly removed hundreds of monks from the monastery, sending some back to their hometowns and detaining others. Following the crackdown, the several hundred remaining monks were required to participate in regular "legal education" sessions led by government officials.

Several monks associated with Draggo Monastery in Luhuo (Draggo) County, Ganzi (Kardze) TAP, Sichuan Province, were detained following the January 23 protests in Luhuo County. According to *The Tibet Post International* (an online publication of Tibetan journalists in exile), four Draggo Monastery monks (Tulku Lobsang Tenzin Rinpoche, Geshe Tsewang Namgyal, Thinley, and Dalha) were detained in Chengdu a few days after the January 23 protests. Their whereabouts and the charges against them remained unknown. Radio Free Asia (RFA) reported that on April 2, Geshe Tenzin Pelsang, a senior monk at Draggo Monastery, was detained on suspicion of organizing the January 23 protests. His whereabouts remained unknown.

According to an RFA report, in February police began a series of raids on Dzogchen Monastery in Zhuqing (Dzogchen) Township, Dege (Derge) County, Ganzi (Kardze) TAP, Sichuan Province, during which the police beat, interrogated, and took monks into custody. On April 24, several thousand monks and laypersons gathered at the township's police station and government offices to

protest the raids and demand the release of those who had been detained. In October local contacts expressed concern for the few monks they said remained in police custody, but further information was not available.

Jamyang Tenzin, a monk at Yonru Geyden Rabgaylhing Monastery in Litang (Lithang) County, Ganzi (Kardze) TAP, Sichuan Province, who was openly critical of China's Tibet policies, disappeared on August 28, according to *The Tibet Post International*, which noted that local officials confirmed he had been arrested but refused to provide information on his well-being or whereabouts, both of which remained unknown.

According to a source cited by the Voice of Tibet, on August 30, public security authorities detained more than 70 monks at Jiare, Jide, Sangzhu, and Xiatang monasteries in Gongjue (Gonjo) County, Changdu (Chamdo) Prefecture, TAR, reportedly to undergo 15 days of legal education in Gongjue County.

### **Denial of Fair Public Trial**

Legal safeguards for detained or imprisoned Tibetans were inadequate in both design and implementation. In 2009 a TAR Justice Bureau official claimed that all seven city- and prefecture-level administrative divisions in the TAR had established legal assistance centers that offered services in the Tibetan language. Prisoners had the right to request a meeting with a government-appointed attorney, but in practice many defendants, particularly political defendants, did not have access to legal representation. During the year the heads of the TAR Legal Affairs Committee, Justice Department, Procuratorate, and Public Security Department were all ethnic Han. The deputy head of the TAR Justice Department, who concurrently served as general director of the TAR Lawyers' Association, was also ethnic Han.

The family of a Tibetan named Kalsang (also known as Gonkar) from Aba Township, Aba (Ngaba) T&QAP, Sichuan Province, who had disappeared in April 2011, reportedly learned in January that he had been secretly convicted on unknown charges and sentenced to a three-year prison term. In the time following his disappearance, his family had received no information regarding his detention, trial, or sentence, nor had they been permitted to visit him in prison.

### **Trial Procedures**

In cases that authorities claimed involved “endangering state security” or “separatism,” trials often were cursory and closed. Authorities denied multiple requests from foreign diplomats to observe the trials of those charged with crimes related to political protests. Authorities sentenced Tibetans for alleged support of Tibetan independence regardless of whether they were alleged to have committed violent acts.

According to the *Tibet Daily* (the official TAR party newspaper), the TAR was implementing a policy of strengthening the CCP’s management of lawyers in the region to ensure their work was carried out “in the correct direction.” According to an April 2011 *Tibet Daily* article, as of 2009 there were 17 law firms and 101 attorneys in the TAR as well as 72 government law offices operating under the direct supervision of the TAR Justice Bureau. Of the 17 law firms, 11 had their own CCP committee, and six shared a CCP committee with the Justice Bureau in their prefecture. As is required throughout the PRC, a CCP development leader was assigned to law firms that had no party organization. On June 30, the TAR Justice Department conducted a ceremony in which 300 practicing TAR attorneys swore an oath to support socialism and improve their “political ideology.”

### **Political Prisoners and Detainees**

An unknown number of Tibetans were detained, arrested, and/or sentenced as a result of their political or religious activity. Many prisoners were held in extrajudicial RTL prisons and never appeared in public court.

Based on information available from the CECC political prisoner database, as of September 1 a total of 626 Tibetan political prisoners were imprisoned, most in Tibetan areas. The actual number of Tibetan political prisoners and detainees was believed to be much higher, but the lack of access to prisoners and prisons, as well as the dearth of reliable official statistics, made a determination difficult. An unknown number of persons continued to be held under the RTL system. Of the 626 Tibetan political prisoners tracked by the CECC, 597 were ethnic Tibetans detained on or after March 10, 2008, and 29 were Tibetans detained prior to March 10, 2008. Of the 597 Tibetan political prisoners who were detained on or after March 10, 2008, a total of 308 were believed or presumed to be detained or imprisoned in Sichuan Province; 188 in the TAR, 66 in Qinghai Province, 33 in Gansu Province, one in the Xinjiang Uighur Autonomous Region, and one in Beijing Municipality. There were 140 persons serving known sentences, which ranged from 18 months to life imprisonment; the average sentence length was

seven years and two months. Of the 140 persons serving known sentences, 65 were monks, nuns, or Tibetan Buddhist teachers.

On April 6, Khenpo Gyewala, abbot of the Gyegyel Zogchen Monastery and founder of a school serving local children in Zaduo (Zatoe) County, Yushu (Yushu) TAP, Qinghai Province, was sentenced to a two-year prison term on unspecified charges, according to the Dharamsala-based Tibetan Center for Human Rights and Democracy (TCHRD). The abbot had disappeared on March 8 and was held incommunicado for 20 days after students and teachers at his school protested an official prohibition on celebrating a religious festival.

According to the TCHRD, on April 29, 16 monks and laypersons from Luhuo (Draggo) County, Ganzi (Kardze) TAP, Sichuan Province, were sentenced to prison terms ranging from three years to life imprisonment. The individuals had allegedly participated in the January 23 protests in Luhuo in which demonstrators called for Tibetan freedom and the Dalai Lama's return.

According to the TCHRD, on June 18, Yuntan Gyatso, a monk from Khashi Geyphel Samtenling Monastery in Aba (Ngaba) T&QAP, Sichuan Province, received a seven-year prison sentence for disseminating photographs and information regarding the October 2011 self-immolation of nun Tenzin Wangmo. Yuntan Gyatso, who was arrested in October 2011, had reportedly been severely beaten and tortured while in detention prior to sentencing.

On August 6, 17-year-old Jigme Dolma, who was severely beaten on June 24 in Ganzi County, Ganzi TAP, Sichuan Province, after she staged a protest and distributed leaflets calling for the release of political prisoners, the return of the Dalai Lama, and freedom for Tibet, received a three-year prison term for committing "splittist" activities, according to an RFA report.

### **Status of Freedom of Speech and Press**

Freedom of Speech: Tibetans who spoke to foreign reporters, attempted to provide information to persons outside the country, or communicated information regarding protests or other expressions of discontent through cell phones, e-mail, or the Internet were subject to harassment or detention. The whereabouts of 59 individuals convicted in 2009 for "creating and spreading rumors" after the 2008 unrest remained unknown. Lhasa residents reported they avoided sensitive topics, even in private conversations in their own homes.

Freedom of Press: The government severely restricted travel by foreign journalists to Tibetan areas. The entire TAR and many Tibetan counties of Sichuan, Qinghai, and Gansu provinces were closed to foreigners through much of the year. A few foreign journalists reported they could visit the TAR by participating in highly structured, government-organized tours, where the constant presence of government minders made independent reporting difficult. Outside the TAR foreign journalists frequently were barred from entering or were expelled from Tibetan areas despite government rules, adopted in 2008, which state that foreign journalists do not need the permission of local authorities to conduct reporting.

According to a July 16 RFA report, security officers took Tashi Dondrub and Kelsang Gyatso, known also by their nicknames Mewod and Gomkul, into custody on July 14 at Palyul Monastery in Ganzi (Kardze) TAP, Sichuan Province. The two monks wrote books critical of Chinese policies in Tibet; their whereabouts remained unknown.

The government continued to jam radio broadcasts of Voice of America (VOA) and RFA Tibetan- and Chinese-language services in some Tibetan areas, as well as the Voice of Tibet. In Tibetan areas of southern Gansu Province and the Ganzi (Kardze) TAP 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. Some dishes were replaced with government-controlled cable television systems. Some Tibetans reported they were able to listen to overseas Tibetan-language radio and television broadcasts through the Internet.

Authorities in the TAR and Tibetan areas throughout Sichuan, Qinghai, and Gansu provinces launched several campaigns cracking down on illegal satellite dishes and publications, as well as Internet and mobile phone communications, to “ensure national security and social stability.”

Domestic journalists generally did not report on repression in Tibetan areas; the postings of bloggers who did so were promptly censored, and their authors sometimes faced punishment. Security officials placed Beijing-based Tibetan blogger and poet Woesser, a recipient of the 2011 Prince Claus Award, under de facto house arrest in early March to prevent her from attending a private award ceremony to be held at the Beijing residence of the Dutch ambassador. Woesser, who has documented Tibetan protests and self-immolations and advocated for human rights for Tibetans, environmental protection for the Tibetan Plateau, and the preservation of Tibetan culture and religion, remained under house arrest through the end of the National People’s Congress in mid-March. Woesser spent

three months in Lhasa after being forced by authorities to leave Beijing in the period before and during the 18th Party Congress in November, a situation her husband, Wang Lixiong, described in an opinion piece, *Unwelcome at the Party*, which appeared in the *New York Times* newspaper on November 6.

Official media rarely referred to unrest in Tibetan areas, although some official publications targeting the overseas Chinese community published articles blaming the “Dalai clique” and other “outside forces” for instigating the Tibetan self-immolations. Journalists who worked for the domestic press were tightly controlled and could be hired and fired on the basis of political reliability. For example, on March 5, the official television channel of the TAR released a job announcement seeking 19 media employees. Applicants had to meet five conditions, the first of which was that they must support the CCP party line, principles, and policies; safeguard national unity; and be politically steadfast.

Violence and Harassment: On February 15, Tibetan writer and schoolteacher Gangkye Drubpa Kyab reportedly was taken into custody by more than 20 security officers who came to his home in Seda (Serthar) County, Ganzi (Kardze) TAP, Sichuan Province. The reason for his detention and his whereabouts were unknown.

In July 2011 Public Security Bureau (PSB) officers reportedly removed writer Pema Rinchen from his home in Luhuo (Draggo) County, Ganzi (Kardze) TAP, Sichuan Province. He was brought the next day to the county hospital for emergency treatment for injuries sustained during severe beatings while in police custody. The status and whereabouts of Pema Rinchen were unknown at year’s end.

Dhondup Wangchen, a filmmaker who was sentenced to six years in prison in 2009 on charges related to his production of a 25-minute documentary, *Leaving Fear Behind*, that documented human rights problems in Tibetan areas, remained in prison and was said to be suffering from hepatitis.

### **Internet Freedom**

Cell phone and Internet service in the TAR and Tibetan areas of Sichuan, Qinghai, and Gansu provinces were curtailed during times of unrest and politically sensitive periods, such as the March anniversaries of the 2008 protests and “Serf Liberation Day” (see Academic Freedom and Cultural Events), around the Dalai Lama’s birthday in July and during the 18th Party Congress in November. In addition

many Web sites were shut down and Internet cafes closely monitored during major religious, cultural, and political festivals in Tibetan areas. For example, according to an article, *Monks Run Amok*, that appeared on February 3 in the *Global Times*, a commercially focused newspaper affiliated with the official daily of the CCP Central Committee, Internet and mobile phone signals were cut off for more than 30 miles around Luhuo (Draggo) and Seda (Serthar) Counties, Ganzi (Kardze) TAP, Sichuan Province, where protests took place on January 23 and 24.

Most foreign-based, Tibet-related Web sites critical of official policy in Tibetan areas were blocked to users in China throughout the year. Tibet activists inside and outside of China were harassed by well-organized computer hacking attacks originating from China, according to a foreign-based study group. Security agencies responsible for monitoring the Internet often lacked the language skills necessary to efficiently 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. Some teachers and scholars in Sichuan Province reported receiving official warnings after using their iPhones to exchange what was deemed to be sensitive information in Tibetan script.

In April 2011 official media reported that the Internet Security Supervision Detachment of the Lhasa PSB required the owners of 104 Lhasa Internet cafes to attend an “Internet cafe security management” meeting, where they had to sign a “responsibility document” pledging to ensure Internet security. The stated purpose of the meeting was to “purify the Internet, safeguard national security, and ensure social stability.” Also in April 2011, law enforcement officials in Changdu (Chamdo) County, TAR, raided 15 Internet cafes, confiscating equipment used to promote illegal “separatist” or “Tibet independence” content.

### **Academic Freedom and Cultural Events**

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 making public speeches supporting government policies or accepting interviews by official media. Academics who refused to cooperate with such efforts faced diminished prospects for promotion. Academics in the PRC who publicly criticized 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 or cultural exchanges.

At a January 30 meeting in Lhasa chaired by TAR Party Secretary Chen Quanguo to discuss propaganda priorities for the year, TAR party and government leaders were urged to “ensure the security of Tibetan ideological and cultural fields,” continue to criticize the “Dalai clique,” investigate and prevent the influx of “toxic” cultural influences, and promote such themes as “communism, socialism, and the People’s Liberation Army are good” and “love the party and the motherland.” In an August speech, the general party secretary of the TAR Academy of Social Sciences called on scholars to fight against separatism and unite with the party in ideology and action.

In an opinion piece published in official media in January 2011, the director of the TAR State Security Bureau called for the development of Tibet’s tourism and cultural industries to combat the weakening of national identity and other “negative” effects of placing “too much emphasis on the promotion of Buddhist religious faith.” At the same time, the TAR Tourism Bureau continued its policy of refusing to hire ethnic Tibetan tour guides who had been 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 from inland China, apparently for their greater political reliability, and put to work after receiving a crash course on Tibet.

Policies promoting planned urban economic growth, rapid infrastructure development, the influx of non-Tibetans to traditionally Tibetan areas, expansion of the tourism industry, forced resettlement of nomads and farmers, and weakening of Tibetan-language education at the middle and high school levels continued to disrupt traditional living patterns and customs.

From May to August, authorities in Lhasa launched another in a series of “strike hard” campaigns. According to official reports, in the early days of the campaign, police raided 160,000 apartments and 13,800 hotels. 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. Even certain ringtones were reportedly deemed subversive and could lead to detention.

On March 28, the TAR marked its fourth annual observance of “Serf Emancipation Day,” commemorating the day in 1959 that China’s rulers formally dissolved the Kashag, the Tibetan government. During the official celebration, government officials and representatives from rural villages and monasteries were required to denounce the Dalai Lama.

There were continued reports of government shutdowns of privately run Tibetan schools. A school in Zaduo (Dzatoe) County in Qinghai Province’s Yushu (Yushul) TAP was shut down in February. The Voice of Tibet reported that on April 2, authorities forcibly closed a privately run Tibetan school in Laima Village, Ganzi County, Ganzi (Kardze) TAP, Sichuan Province, and arrested its principal, Yama Ciren, and a Tibetan-language teacher. The RFA reported that in May Chinese authorities closed an orphanage school in Luqu (Luchu) County in Gansu Province’s Gannan (Kanlho) TAP, detaining the two teachers in charge of the school, Sangye Dondrub and Jamyang. The school’s previous director, Atsun Tsondu Gyatso, had reportedly disappeared in January 2011.

According to an August 9 Voice of Tibet report, local authorities shut down an organization established in 2011 by Tibetans and monks from the Baishiya Monastery in Ganja Village, Gannan (Kanhlo) TAP, Gansu Province, to promote use of the Tibetan language.

Observers continued to express concern that development projects and other central government policies disproportionately benefited non-Tibetans and resulted in a considerable influx of ethnic Han and Hui people into the TAR. Infrastructure upgrades such as improved roads, more frequent air service, and the TAR-Qinghai railway, which made travel more affordable, increased the frequency with which non-Tibetans from other parts of the PRC visited the TAR. According to the official Xinhua News Agency, in 2006 there were 180,000 ethnic Han with household registration in the TAR. According to an official TAR report, by 2011 this number had increased to 245,000. Many people from outside the TAR who had spent years living in the TAR maintained their official registration in another province and thus were not counted as TAR residents. The government continued to significantly improve public services provided to the migrant population in the TAR, particularly in the areas of education and health care, and provided financial support to new businesses established by migrants. During a public security

inspection on August 18, the TAR party chief, Chen Quanguo, visited ethnic Han business owners in Lhasa and offered them assurances that he was working to improve public security in the TAR to better protect their businesses.

Even in areas officially designated as “autonomous,” Tibetans generally lacked the right to play a meaningful role in the protection of their cultural heritage and unique natural environment and faced arrest and intimidation if they protested against mining or other industrial activities that they believed were harmful to the environment or sacred sites. In 2010 a total of 15 Tibetans, including five monks from nearby Lingka Monastery, were detained and several others injured when armed riot police and PSB officials were dispatched to suppress hundreds of Tibetans who attempted to disrupt operations at the controversial Xietongmen (Shethongmon) copper-mining project near Rikaze (Shigatse), TAR. The detained monks, Khenpo Kelsang, Jamyang Tsering, Tsewang Dorje, Rigzin Pema, and Jamyang Rigsang, reportedly were taken to detention centers in Xietongmen (Shethongmon) and Rikaze (Shigatse). Their well-being remained unknown at year’s end.

On August 15, approximately 1,000 Tibetans marched to a mining site in Mangkang (Markham) County, Changdu (Chamdo) Prefecture, TAR, to protest the large operation, which they believed to be environmentally hazardous. Security personnel responded by firing tear gas and live rounds, causing the death of Tibetan Nyima, and arrested six others, including five who were identified as Dawa, Atsong, Phuntsog Nyima, Jamyang Wangmo, and Kelsang Yudron. Their whereabouts and condition remained unknown.

Tibetan and Mandarin Chinese are official languages in the TAR, and both languages appeared on some, but not all, public and commercial signs. Inside official buildings and businesses, including banks, post offices, and hospitals, signage in Tibetan was frequently lacking, and in many instances forms and documents were available only in Mandarin. Mandarin was widely spoken and was used for most official communications. 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 a February 20 article posted on *ChinaTibetNews.com*, a TAR Department of Education official announced at a conference that the illiteracy rate in the TAR had fallen to 1 percent by the end of 2011. Official figures published in June by the Qinghai Province Statistical Bureau indicated that the illiteracy rate in Tibetan areas of the province dropped to 13.69 percent in 2010, compared with 25.12 percent in 2000. Many observers questioned these figures, and some contended

that the actual illiteracy rate in the TAR was approximately 40 percent and as high as 50 percent in Tibetan areas of Gansu and Sichuan Provinces.

The Tibetan-language curriculum for primary and middle schools in Tibetan areas was predominantly translated directly from the standard national Mandarin-language curriculum, offering Tibetan students little insight into their own culture and history. Few elementary schools in Tibetan areas used Tibetan as the primary language of instruction. In Kangding (Dartsedo), Ganzi (Kardze) TAP, Sichuan Province, elementary schools did not offer instruction in Tibetan. Despite guarantees of cultural and linguistic rights, in middle and high schools--even some officially designated as Tibetan-language schools--Tibetan was usually used only to teach classes on Tibetan language, literature, and culture, and all other classes were taught in Mandarin. Of more than 15 middle and high schools in Aba (Ngaba), T&QAP, Sichuan Province, only three taught primarily in Tibetan. Early in 2011 the TAR government began an effort to strengthen free compulsory bilingual preschool education in rural areas by establishing 217 bilingual kindergartens. Qinghai Province and Ganzi (Kardze) TAP and Aba (Ngaba), T&QAP, Sichuan Province, announced similar programs in 2011.

On March 14, approximately 4,000 students in Gangca (Kangtsa) County, Haibei TAP, Qinghai Province, demonstrated against the increased use of Mandarin Chinese as the language of instruction in schools. This was the largest such protest since 2010, when thousands of Tibetan middle and primary school students from four Tibetan prefectures in Qinghai Province demonstrated for several days for similar reasons. In August authorities sentenced Tashi Tsering and Choeyang Gonpo to three years in prison, reportedly for organizing the March protest.

According to various reports, between 500 and “several thousand” students at a medical college in Gonghe (Chabcha) County, Hainan TAP, Qinghai Province, staged a demonstration on November 26, reportedly protesting a written pamphlet and related questionnaire they were asked to fill out that contained inflammatory statements about self-immolation, the Dalai Lama, and bilingual education. Local PAP officers reportedly responded with force, injuring as many as 20 students. On December 12, *Phayul* cited overseas sources who reported that eight of the students received five-year sentences for their alleged roles in the November 26 protest and that the school remained under strict surveillance.

Proficiency in Mandarin was essential to qualify for higher education and obtain a government job in the PRC. China’s most prestigious universities provided no instruction in Tibetan or other ethnic minority languages. “Nationalities”

universities, established to serve ethnic minority students and ethnic Han students interested in ethnic minority subjects, offered Tibetan-language instruction only in courses focused on the study of the Tibetan language or culture. Since Tibetan-language instruction was not offered in other higher-education subjects, there was a dearth of technically trained and qualified ethnic Tibetans, and jobs in Tibetan areas that required technical skills and qualifications were typically filled by migrants from other areas of China. Tibetan Buddhist monks, in some cases leading scholars on Tibetan studies, were barred from teaching at universities due to their religious office and lack of academic credentials recognized by the Ministry of Education.

According to overseas Tibetan sources cited by *Phayul*, three popular Tibetan singer-performers were arrested, reportedly in connection with the political content of their lyrics. Ugyen Tenzin was arrested in Ganzi (Kardze) TAP, Sichuan Province, in February, and Lo Lo was arrested in Yushu (Yushul) TAP, Qinghai Province, on April 19. A third performer, Chogsel, was reportedly taken into custody on July 29 at an Internet cafe in Xining, Qinghai Province, and accused of “inciting separation within nationalities” through his music. According to sources cited by RFA, popular singer Amchok Phuljung was taken into custody on August 3 in Ma’erkang (Barkham) County, Aba (Ngaba) T&QAP, Sichuan Province, reportedly in connection with the May release of his latest album, which included songs praising the Dalai Lama. At year’s end his whereabouts remained unknown, although one local contact claimed he was being held at Ma’erkang Detention Center.

### **Freedom of Religion**

See the Department of State’s *International Religious Freedom Report* at [www.state.gov/j/drl/irf/rpt](http://www.state.gov/j/drl/irf/rpt).

### **Freedom of Movement**

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation; however, in practice the government severely restricted travel and freedom of movement of ethnic Tibetans, particularly Tibetan Buddhist monks and nuns.

In-country Movement: Freedom of movement for all Tibetans, but particularly for monks and nuns, declined severely throughout the TAR, as well as in Tibetan areas of Qinghai, Gansu, and Sichuan provinces. Anecdotal evidence indicated this was

less of a problem in Yunnan Province's sole TAP, Diqing (Deqen) TAP, where Tibetans made up 40 percent of the population and rarely protested against government policies. The PAP and local PSBs set up roadblocks and checkpoints on major roads, in cities, and on the outskirts of cities and monasteries, particularly around sensitive dates. Tibetans traveling in monastic attire were subject to extra scrutiny by police at roadside checkpoints.

Following the May 27 self-immolation in Lhasa, TAR, of two young Tibetans from Tibetan areas of Sichuan and Gansu provinces (the first instances of self-immolation in Lhasa in recent years), Tibetans from outside the TAR, particularly monks and nuns, were largely banned from traveling to the TAR without first obtaining special official travel documents. Many Tibetans reported encountering difficulties in obtaining the required travel documents. This not only made it impossible for Tibetans to make pilgrimages to sacred religious sites in the TAR but also obstructed land-based travel to India through Nepal. In addition many nonlocal Tibetan monks, nuns, and laypersons who had resided in the TAR for as long as 15 years were expelled. For example, in December a young Tibetan artist in Chengdu reported that government officials had recently ejected him from the TAR after discovering that he was originally from Sichuan Province's Ganzi (Kardze) TAP. The artist had worked for two years at a famous TAR monastery painting and restoring sacred thangka paintings. Even outside the TAR, Tibetan monks and nuns reported that it remained difficult to travel outside their home monasteries, with officials frequently denying permission for visiting monks to stay temporarily at a monastery for religious education.

Nonethnic Tibetans, particularly ethnic Han Tibetan Buddhists, were allowed only temporary visits to Tibetan Buddhist monasteries. Implementation of this restriction was especially rigorous in the TAR and Sichuan Province's Ganzi TAP. Local religious affairs authorities often prohibited ethnic Han or foreign Tibetan Buddhists from staying in monasteries for long-term study.

Foreign Travel: Many Tibetans, particularly prominent religious and cultural figures, scholars, and activists, as well as those from rural areas, continued to report increased difficulties obtaining new or renewing existing passports. Some Tibetans reported they were able to obtain passports only after paying substantial bribes or making promises not to travel to India. In other cases Tibetan students with scholarships to foreign universities were precluded from study abroad because authorities refused to issue them passports. Some Tibetans who left the PRC for India without proper documentation reported being able to return on a limited basis and then allowed to leave again for India through Nepal.

Chinese authorities reportedly detained hundreds of Tibetans who attended an important “Kalachakra” Buddhist teaching conference in India convened by the Dalai Lama on December 31, 2011, to January 10, 2012. Detainees, many of whom had traveled to India legally with valid travel documentation, were reportedly detained as they reentered China or in the months following their return and forced to attend “political education” sessions while in detention. According to sources cited by RFA, on May 26, Chinese border officials forcibly sent back to Nepal nine Tibetan pilgrims who had attended the Kalachakra and were attempting to return to China. Chinese authorities reportedly beat the pilgrims severely and detained them for a week before handing them over to Nepalese officials.

Tibetans continued to encounter substantial difficulties and obstacles in traveling to India for religious, educational, and other purposes. According to reports, ethnic Tibetan government and CCP cadres in the TAR and Ganzi (Kardze) TAP, Sichuan Province, were not allowed to send their children to study abroad. Tight border controls sharply limited the number of persons crossing the border into Nepal and India. During the year 241 Tibetan refugees transited Nepal through the Tibetan Reception Center, run by the Office of the UN High Commissioner for Refugees in Kathmandu, en route to permanent settlement in India, down from 739 in 2011 and 874 in 2010.

The government restricted the movement of Tibetans in the period before and 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 without travel documents issued by Chinese embassies and consulates. Detentions generally lasted for several months, although in most cases authorities did not bring formal charges against detainees. Travel became increasingly difficult and communications were sometimes cut off, particularly in Sichuan’s Aba (Ngaba), T&QAP, as the series of self-immolations that began at Kirti Monastery in March 2011 continued.

There were reports of Chinese authorities deporting Tibetans who attempted to reenter China from Nepal without Chinese “travel documents.” In March public security and border police arrested five Tibetans and held them in a detention center in Rikaze (Shigatse) Prefecture, TAR, for approximately four months, according to the Voice of Tibet. On August 23, Chinese armed police reportedly delivered the five to Nepalese authorities at Zhangmu (Dram) Port on the Nepal-China border. The five were then transferred to the immigration office in Kathmandu and required to pay a fine before being released.

The government regulated travel by foreigners to the TAR. In accordance with a 1989 regulation, foreign visitors must 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. Apart from those who entered from Nepal, foreign tourists were permitted to enter the TAR only by airplane or rail, and generally only in groups of four or more people, all of whom must be of the same nationality. It was rare for foreigners to obtain permission to enter the TAR by road.

In what has become an annual practice, foreign tourists were banned from the TAR in the period before and during the March anniversary of the 1959 Tibetan uprising and the dual anniversaries in July of the founding of the CCP and the “peaceful liberation” of Tibet. Unlike in prior years, however, the ban on foreign tourists remained in place through much of the rest of the year, with some exceptions granted under highly restricted conditions. During the times that foreign tourists were permitted to enter the TAR, the requirement that they remain with organized tour groups was enforced more strictly than in the past. Foreign tourists also faced restrictions traveling to Tibetan areas outside the TAR, particularly Aba (Ngaba) T&QAP and Ganzi (Kardze) TAP in Sichuan Province, although the government never issued publicly available formal prohibitions on travel to these areas. Anecdotal evidence suggested that the decline in the number of foreign tourists to the TAR was more than offset by an increase in domestic visitors to the TAR. Unlike foreign tourists, ethnic Han tourists do not need special permits to visit the TAR, nor are they subject to rules governing the size of their group or the means of transport used to enter the TAR.

Officials continued to restrict severely the access of diplomats and journalists to Tibet. Foreign officials were able to travel to the region only with the permission of the TAR Foreign Affairs Office and even then only on closely chaperoned trips arranged by that office. Such permission was difficult to obtain. U.S. government officials submitted more than 10 requests for diplomatic access to the TAR between May 2011 and December 2012, but none was granted, and U.S. diplomatic personnel have not been permitted to visit since spring 2011. Foreign diplomats who legally traveled in some Tibetan areas outside the TAR, such as Sichuan Province’s Ganzi (Kardze) TAP and Aba (Ngaba) T&QAP, were repeatedly approached by local police and sometimes forced to leave without reasonable explanation. With the exception of a few highly controlled trips, authorities repeatedly denied requests for international journalists and observers to visit the TAR and other Tibetan areas.

## Discrimination and Societal Abuses

### Women

Rape and Domestic Violence: There was no confirmed information on the incidence of rape or domestic violence in Tibetan areas, although a Tibetan resident of a Tibetan area of Sichuan Province said that gender-based violence, including rape, was common among Tibetan herders and often went unreported.

Reproductive Rights: Family planning policies permitted ethnic Tibetans and members of some other minority groups to have more children than ethnic Han. Some ethnic Tibetans who had permanent employment in urban areas, or were CCP members or served as government officials, were limited to two children, as were some ethnic Han living in Tibetan areas. Depending upon the county, rural Tibetans in the TAR were sometimes encouraged to limit births to three children. Unlike other areas in the PRC where gender ratios were skewed by sex-selective abortion and inadequate health care for female infants, the TAR did not have a skewed gender ratio.

Sex work in Tibetan areas is not uncommon, and lack of knowledge about HIV transmission and economic pressure led many female sex workers to engage in unprotected sex. Other female sex workers were aware of the risks in unprotected sex but often agreed to forego protection in exchange for higher pay.

Discrimination: There were no formal restrictions on women's participation in the political system, and women held many lower-level government positions. Women were underrepresented at the provincial and prefectural levels of government, however. 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 believed to be little gender wage gap in companies owned by Tibetans that employed Tibetans. However, Tibetan women employed by companies owned by ethnic Han frequently earned less than male or female ethnic Han employees in the same job.

### Children

According to official policy, primary education was compulsory, free, and universal. According to official TAR statistics, 99.2 percent of children between the ages of six and 13 attended school, and 90 percent of the TAR's primary school



students attended 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.

### **Societal Violence**

Feuds among Tibetan herders and the resulting violence, in some cases including killings, was a serious problem. Some Tibetans in Ganzi (Kardze) TAP, Sichuan Province, commented that lack of police protection in cases of violence among Tibetans was also a serious issue.

According to RFA, on October 5, Tibetan Buddhist monks led as many as 200 Tibetan villagers to attack ethnic Hui Muslims at the construction site of a new mosque in Langmusi Township, Luqu County, Gannan TAP, Gansu Province. Local sources cited by the Web site Molihua.org claimed that more than 12 Hui Muslims were injured in the brawl, six of them seriously.

In December 2011 a fight broke out between ethnic Han and ethnic Tibetan students at the Chengdu Railway Vocational High School in Chengdu, Sichuan Province. Reportedly the culmination of tensions relating to ethnic bullying and anger at preferential treatment given to minority students, the brawl resulted in an unknown number of injuries.

### **Ethnic Minorities**

Although TAR census figures showed that, as of November 2011, Tibetans made up 90.5 percent of the TAR's permanently registered population, official figures did not include a large number of long-, medium-, and short-term ethnic Han residents, such as cadres (government and party officials), skilled and unskilled laborers, military and paramilitary troops, and their respective dependents. According to a Lhasa city official, 260,000 of the 450,000 individuals living in downtown Lhasa during the year belonged to this "floating" population.

Migrants to the TAR were overwhelmingly concentrated in urban areas. Government policies to subsidize economic development often benefited ethnic Han more than ethnic Tibetans, causing resentment. In many predominately ethnic Tibetan cities across the Tibetan Plateau, as many as 60 to 80 percent of the small businesses, restaurants, and retail shops were owned and managed by ethnic Han or Hui migrants. Ethnic Tibetans continued to make up nearly 98 percent of those

registered as permanent residents in rural areas, 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 also offered nomads monetary incentives to kill or sell their livestock and move to newly created Tibetan communities in rural areas. There were reports of compulsory resettlement where promised compensation was either inadequate or not paid. According to a December 29 Xinhua report, more than 408,000 households in the TAR, including 2.1 million farmers and herders, were covered by a resettlement project that provided funds for the construction of permanent housing. The official press claimed that such resettlement programs were the “foundation for fighting the Dalai clique,” and that resettled farmers and herders would “pray to Buddha less and study culture and technology more.”

Improving housing conditions, health care, and education for Tibet’s poorest were among the stated goals of resettlement, although there was a pattern of settling herders near townships and roads and away from monasteries, which were the traditional providers of community and social services. A requirement that villagers build houses according to official specifications within two or three years often forced resettled families into debt to cover construction costs.

Although a 2010 state media report noted that ethnic Tibetans and other minority ethnic groups made up 70 percent of government employees at the provincial level in the TAR, the top CCP position of TAR party secretary continued to be held by an ethnic Han, and the corresponding position in approximately 90 percent of all TAR counties was also held by an ethnic Han. Also within the TAR, ethnic Han continued to hold a disproportionate number of the top security, military, financial, economic, legal, judicial, and educational positions. Tibetans holding government and CCP positions were often prohibited from openly worshipping at monasteries or otherwise practicing their religion. Of Qinghai Province’s six TAPs, five were headed by ethnic Han party secretaries and one by an ethnic Tibetan party secretary. Gansu Province’s one TAP, Sichuan Province’s two TAPs, and Yunnan Province’s one TAP were headed by ethnic Han party secretaries. There were several ethnic Tibetan party secretaries at the county level in Tibetan areas of Qinghai, Sichuan, Gansu, and Yunnan provinces.

Economic and social exclusion was a major source of discontent among a varied cross section of ethnic Tibetans, including business operators, workers, students, university graduates, farmers, and nomads. Some ethnic Tibetans continued to

report discrimination in employment, and some job advertisements in the TAR expressly noted that ethnic Tibetans were not welcome to apply. Some claimed that ethnic Han were hired preferentially for jobs and received higher salaries for the same work. The problem intensified after May, as many Tibetans from outside the TAR were expelled from the TAR, creating more job and business opportunities for non-Tibetans in the TAR. Some Tibetans reported that it was more difficult for ethnic Tibetans than ethnic Han to obtain permits and loans to open businesses. Restrictions on international nongovernmental organizations (NGOs) that provided assistance to Tibetan communities resulted in the elimination of many beneficial NGO programs and the expulsion of most foreign NGO workers from the TAR and other Tibetan areas.

Government propaganda against alleged Tibetan “proindependence forces” contributed to growing Chinese societal discrimination against ordinary Tibetans. Sources reported that security personnel targeted individuals in monastic attire for arbitrary questioning and other forms of harassment on the streets of Lhasa and other cities and towns. Many Tibetan monks and nuns chose to wear nonreligious garb to avoid such harassment when traveling outside their monasteries and around China. Some Tibetans in Chengdu reported that taxi drivers refused to stop for them and hotels refused to give them rooms.

## HONG KONG 2012 HUMAN RIGHTS REPORT

### EXECUTIVE SUMMARY

Hong Kong 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. On March 25, a Chief Executive Election Committee composed of 1,193 members selected C.Y. Leung as Hong Kong's third chief executive (CE). The fifth-term Legislative Council (LegCo) was elected September 9 from a combination of directly elected seats and limited franchise or "small circle" functional constituencies. Security forces reported to civilian authorities.

The most important human rights problems reported were the limited ability of citizens to participate in and change their government, an increase in arbitrary arrest or detention and other aggressive police tactics hampering the freedom of assembly, and a legislature with limited powers in which certain sectors of society wield disproportionate political influence.

Other areas of reported concern include limitations on freedom of the press and self-censorship, denial of visas for political reasons, alleged election fraud, trafficking in persons, and societal prejudice against certain ethnic minorities.

The government took steps to prosecute and punish officials who committed abuses.

### **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 Basic Law prohibits torture and other forms of abuse, but there were some reports that government officials employed them. In the first half of the year, the police force's Complaints Against Police Office received 1,139 complaints -- a 10-fold increase over the same period last year. Of those, four were substantiated as reported, one not fully substantiated, nine unsubstantiated, two false, 17 no fault, 134 not pursuable, 574 withdrawn, and 398 pending investigation and endorsement by the Independent Police Complaints Council (IPCC). There were 22 allegations of assault by police officers on persons not in custody, of which one was found unsubstantiated, five not pursuable, and three were withdrawn. Thirteen allegations were pending investigation as of June. There were also 141 allegations of assault by police officers against persons in custody. Of those, two were found to be false, four no fault, 26 not pursuable, and 66 pending investigation as of June.

### **Prison and Detention Center Conditions**

Prison and detention center conditions generally met international standards, and the Correctional Services Department (CSD) permitted visits by independent human rights observers. Nevertheless, the nongovernmental organization (NGO) Society for Community Organization (SoCO) called on the government to enact legislation to better protect prisoners. SoCO voiced its concerns to the LegCo's Public Complaints Office, alleging "widespread use of solitary confinement in prisons," and a "lack of labor-protection legislation for inmates who work."

Physical Conditions: During the year the CSD managed 24 penal institutions (comprising minimum, medium, and maximum security prisons; a psychiatric center; and training, detention, rehabilitation, and drug addiction treatment centers) with a certified accommodation capacity of 11,544 places. As of June 30, the total prison population was 9,436, of which 8,521 were adults 21 years old or older (6,854 males and 1,667 females). Of the 8,521 adults, 1,193 (including 997 males and 196 females) were remanded persons. As of June 30, a total of 61 (50 male and 11 female) young offenders under age 16 were admitted to penal institutions, including prison, training centers, detention centers, and drug addiction treatment centers. Among them, 26 (including 22 males and four females) were remanded persons.

The average occupancy rate for all penal institutions was 82 percent. The CSD admitted overcrowding was a problem in certain types of penal institutions, such as remand (pretrial detention) facilities and maximum-security institutions.

Prisoners generally had access to potable water.

There were no reports of any deaths in police custody in the first six months, but there were eight reported deaths of persons in custody of the CSD. Inquest results had not been reported by year's end.

The average length of pretrial incarceration (remand) of persons in CSD custody whose trial was concluded in the first half of the year was 93 days.

Administration: Prisoners and detainees were able to send and receive letters, receive regular visits, manifest their religious beliefs or practices, and attend available religious services in correctional institutions. According to the CSD, every prisoner has unrestricted access to internal and external complaint channels. Authorities permitted prisoners and detainees to submit complaints to judicial authorities without censorship, request investigation of credible allegations of inhumane conditions, and initiate legal action against any alleged inhuman conditions. Judicial authorities investigated credible allegations of inhuman conditions and documented the results of such investigations in a publicly accessible manner. The government investigated and monitored prison and detention center conditions, and there was an external Office of the Ombudsman. There were no reports of any problems regarding recordkeeping or the use of alternatives to sentencing for nonviolent offenders.

Monitoring: The government permitted human rights groups to conduct prison visits. In the first six months of the year, there were 19 media visits and 217 visits by justices of peace (all 217 of which were unannounced). Justices of the peace 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. There were no requests from any human rights organizations to visit any prison.

#### **d. Arbitrary Arrest or Detention**

The law prohibits arbitrary arrest or detention, but a number of incidents during the year resulted in an increased occurrence of arbitrary arrest and detention.

## **Role of the Police and Security Apparatus**

Civilian authorities maintained effective control over the Hong Kong Police Force, and the government had effective mechanisms to investigate and punish abuse and corruption.

There were no reports of impunity involving the security forces during the year.

Human rights activists and some legislators expressed concern that all IPCC members were appointed by the CE and that the IPCC's lack of power to conduct independent investigations limited 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.

The IPCC received six complaints against officers who handled the annual July 1 rally on the anniversary of Hong Kong's handover to the PRC and the visit of President Hu Jintao the previous day. IPCC Chairman Jat Sew-tong said the allegations involved neglect of duty, improper behavior, and offensive language. Police also detained a reporter for 15 minutes at the Kai Tak cruise terminal after the reporter shouted a question at President Hu about the 1989 Tiananmen Square massacre.

## **Arrest Procedures and Treatment While in Detention**

Suspects generally were apprehended openly with warrants based on sufficient evidence and issued by a duly authorized official. They 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 informed promptly of charges against them. There was a functioning bail system, and authorities allowed detainees ready access to a lawyer of their choice, as well as to family members.

Arbitrary Arrest: In December the IPCC released a report investigating complaints arising from PRC Vice Premier Li Keqiang's August 2011 visit to Hong Kong, during which the police were criticized for detaining a number of students and their rough treatment of other individuals. The report recommended punishing 12 police officers through disciplinary hearings, verbal warnings, or advice. This led to further criticism because the IPCC chairman publicly stated that police officers had been told "to prevent any embarrassment" for Li and ensure events he attended

were “conducted in a smooth and dignified manner.” Observers viewed these comments as implicit instructions to prevent protesters from airing their views for the sake of a PRC official visitor’s trip. Critics also claimed the punishments were too lenient and only indicated the police would continue giving way on human rights issues.

#### **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 PRC’s 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 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. Trials were by jury except at the magistrate and district court level. An attorney is provided at the public’s expense if defendants cannot afford counsel. Several activists complained that legal aid did not provide attorneys who were interested in committing significant attention to their pro bono clients. Otherwise, defendants have adequate time and facilities to prepare a defense. 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 law a current or former government official who maintained a standard of living above that commensurate with his or her 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 were conducted in either Chinese or English, the SAR's two official languages.

### **Political Prisoners and Detainees**

There were very limited 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. However, activists regularly raised concerns about the independence of Hong Kong's courts, which are endowed with a high degree of autonomy under the Basic Law.

In October former secretary for justice and national people's congress standing committee basic law committee vice chair Elsie Leung Oi-sie criticized Hong Kong's legal profession, including judges, for lacking an understanding of the Beijing-Hong Kong relationship, leading to "mistaken rulings." The Bar Association and the Law Society in turn issued strong defenses of the city's independent judiciary and warned about repeatedly seeking Beijing's interpretations over Basic Law disputes.

In December Justice Secretary Rimsky Yuen set off another wave of criticism when he requested that the Court of Final Appeal ask the NPC Standing Committee to clarify the meaning of a 1999 interpretation of Article 24 of the Basic Law, which deals with permanent residency. Legal experts and prodemocracy leaders immediately condemned his position, expressing fears for Hong Kong's judicial independence.

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

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

The law 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 consent. Specific exemptions allowed SAR authorities to transfer personal data to permit prevention, detection, or prosecution of a crime when certain conditions were 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 were met. The Office of the Privacy Commissioner for Personal Data worked to prevent the misuse, disclosure, or matching of personal data without the consent of the subject individual or the commissioner.

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 (\$129,000).

In November the media reported that law enforcement's requests to Google for users' data increased sharply, citing a Google report that said law enforcement had made 192 requests to the company for users' data during the first half of the year, a jump of 56 percent when compared with the 123 requests in the same period in 2011. The yearly number surged 85 percent from 213 to 394 for the 12 months to June compared with the previous year. Law enforcement asked for the information to use in criminal investigations and said the increase was due to an increase in technology-related crime. A spokesman for the Office of the Privacy Commissioner said it had received more complaints on data access requests and had issued guidance on the procedures. Prodemocracy LegCo member James To called for a probe by the privacy commissioner into the rise and possible "abnormal surveillance," adding that exemptions from the Personal Data (Privacy) Ordinance for obtaining data for preventing or remedying serious improper conduct should be reviewed.

Between January 1 and August 31, the privacy commissioner investigated 1,168 complaints. Of these, five cases were found to have violated the law, one was successfully prosecuted leading to fines, 524 were resolved or rejected after preliminary inquiries, 38 resolved or rejected after formal investigations, and 262 withdrawn or found not pursuable. The remaining complaints were under consideration.

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

### **a. Freedom of Speech and Press**

The law provides for freedom of speech and press, and the government generally respected these rights in practice. An independent press, an effective judiciary, and a generally supportive government combined to ensure freedom of speech and of the press. Nevertheless, throughout the year there were complaints lodged by free media groups about what they viewed as increasing challenges in this area.

Freedom of Press: A Hong Kong Journalists' Association survey published in June found that 87 percent of reporters, photographers, editors, and management surveyed said that media freedoms had deteriorated in the past several years. Approximately 36 percent said they or their supervisors practiced self-censorship, and 93 percent responded that government controls over the information flow hindered media coverage. More than 67 percent held that the Central Government Liaison Office interfered with press freedom.

Journalists and press freedom activists complained that the assignment of Wang Xiangyang, a mainlander and a Chinese People's Political Consultative Congress member, as editor in chief of the *South China Morning Post* was another sign that press freedom was deteriorating. Media watchers cited Wang's June 7 decision to reduce reports about the suspicious June 6 death of Tiananmen Square dissident Li Wangyang to a short blurb as evidence of pressure from Beijing's liaison office in Hong Kong, a troubling sign, they alleged, for press freedom.

In an October University of Hong Kong survey, 24 percent of those interviewed said they were dissatisfied with the state of Hong Kong's press freedom, the highest rate since the survey started in September 1997. Respondents were particularly concerned about the media's lack of confidence in criticizing the central and local governments.

Censorship or Content Restrictions: 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 business interests.

Free speech activists alleged that political pressure from Beijing forced the Digital Broadcasting Corporation (DBC), run by founder Albert Cheng King-hon, known for challenging the Central and Hong Kong governments, to close over an alleged “bookkeeping” issue. In late October organizers estimated 70,000 protesters gathered outside government headquarters to protest the Hong Kong government’s refusal to keep the station open and to protest Beijing’s political interference. Activists claimed the Central Government Liaison Office had pressured DBC’s largest shareholder to shut the company to silence Cheng and his supporters for being “too provocative.” Cheng criticized the Hong Kong government for refusing to intervene to keep the station running. Financially strapped and without a Hong Kong government bailout, DBC went off the air in late October.

### **Internet Freedom**

There were no government restrictions on access to the Internet; there was some monitoring of the Internet. Democratic activists claimed central government authorities closely monitored their e-mails and Internet use. The Internet was widely available and used extensively.

### **Academic Freedom and Cultural Events**

A proposed “moral and national education” curriculum set off street protests in July that continued into August and September. Opponents argued the plan would gloss over difficult periods in Chinese history, such as the Great Leap Forward, Cultural Revolution, and Tiananmen Square massacre, and “brainwash” schoolchildren to love the Chinese Communist Party. Protest organizers claimed that the public outcry was the largest student class boycott since 1989 and eventually gathered 120,000 demonstrators at government headquarters. Chief Executive C. Y. Leung announced on October 8 that the government would shelve the curriculum guide on national education. He pledged not to reintroduce the guide during his five-year tenure because the row had “divided society and hindered school operations.”

In general there were 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. Falun Gong-affiliated cultural groups also reportedly encountered problems due to government pressure (see section 2.d.).

## **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 indicated that 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 at the Central Government Liaison Office, which saw several clashes with protesters end in arrests. Activists alleged police acted under instructions from Beijing, which police denied.

From January to June 2011, the most recent period for which data was available, 3,817 public order events (public meetings and public processions) were held. Hong Kong’s major gatherings are held in June and July and are, therefore, not counted in these statistics. The number of protesters arrested during the year increased from 57 in 2010 to 440 in 2011. Authorities claimed these figures reflected the growth in “radical protests.”

Demonstrators continued to claim that their ability to protest had become increasingly difficult due to Hong Kong Police Commissioner Andy Tsang. According to organizers, 400,000 persons participated in the annual July 1 demonstration, denouncing Beijing’s growing interference and the selection of C.Y. Leung as CE. Police estimates put the number at 63,000. Following complaints during the march, police admitted using pepper spray canisters with more powerful jets at close range against protesters and even some journalists during President Hu Jintao’s July visit.

Activists and some lawmakers expressed concern about the lack of guidelines as to whether a person arrested on assault charges related to public demonstrations 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 (\$644) 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 were dismissed by the courts, allowing them to use arrest to intimidate and discredit protesters. The Civil Human Rights Front NGO alliance reported that law enforcement charged an increasing number of protest participants under the tougher OAPO.

### **Freedom of Association**

The law provides for this right, and the government generally respected it in practice. From January to June, 1,170 societies were newly registered, and no application was refused.

#### **c. Freedom of Religion**

See the Department of State's *International Religious Freedom Report* at [www.state.gov/j/drl/irf/rpt/](http://www.state.gov/j/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 SAR, foreign travel, emigration, and repatriation, 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 make determinations regarding claims under the UN Convention Against Torture (CAT) independently. As of September 30, there were approximately 5,300 torture claims pending Immigration Department processing. Additionally, there were 132 individuals categorized as refugees and 657 pending asylum claims. Of all the torture claims processed in Hong Kong, the Immigration Department found only one claim as substantiated (in December 2009). Applicants were increasingly upset over the bureaucracy's slow processing of their cases and complained of very limited subsidies.

The government cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection

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 that the refusals, usually of persons holding views critical 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 March 2011 the High Court overturned the Immigration Department's 2010 decision to deny visas to six technicians of the Shen Yun Performing Arts company, a Falun Gong-affiliated music and dance troupe. Nevertheless, the local Falun Gong leadership claimed that Shen Yun has not performed in Hong Kong since the decision because the government has pressured performance venues to not allow Shen Yun the use of their spaces.

In September 2011, in a landmark decision on the controversial issue of the right of abode for foreign domestic workers, the Court of First Instance granted Filipina domestic helper Evangeline Banao Vallejos, who lived in Hong Kong for 26 years, the right to apply for permanent residency. On March 28, however, the Court of Appeal overturned the ruling, preventing foreign domestic workers from having the right to apply for permanent residency. Vallejos will appeal at the Court of Final Appeal in February 2013.

On March 30, approximately 300 activists protested to highlight the challenges refugees faced in Hong Kong. They urged reform of the legal system and denounced the practice of returning foreigners to their home countries, where possible torture awaited. The march followed the September suicide of a Pakistani who took his own life after the government rejected his application for protection. Of approximately 3,000 claims that have passed through Hong Kong's refugee screening system, the government has not recognized a single case with refugee status.

On November 27, the Court of Appeal ruled against five refugees, deciding they did not have the right to work in Hong Kong because they had no right to enter or remain. The two Pakistanis, two Sri Lankans, and one Burundian claimed they were unable to go anywhere else or to engage in any economic activity in Hong

Kong or in other places. They launched their case to challenge what they said was an unlawful blanket immigration policy barring recognized refugees and torture claimants from working in the city. One of the Sri Lankans is the only torture claimant recognized by the Immigration Department and cannot be expelled, while the other four appellants are refugees validated by the United Nations High Commissioner for Refugees, but not recognized as such by the Hong Kong government.

Foreign Travel: Most residents easily obtained travel documents from the SAR government. However, PRC authorities did not permit some human rights activists and most prodemocracy legislators to visit the mainland. Eleven legislators were denied “Home Return Permits” to visit the mainland.

Emigration and Repatriation: Government policy is to repatriate undocumented migrants who arrived from the mainland, and authorities did not consider them for refugee status. As of July 31, 2,551 immigration offenders and illegal immigrants were repatriated to the Mainland. The government did not recognize the Taiwan passport as valid for visa endorsement purposes, although convenient mechanisms existed for Taiwan passport holders to visit. Beginning in September Taiwan visitors were able to register online and stay for a month if they held a mainland travel permit.

## **Protection of Refugees**

Access to Asylum: The SAR has a firm policy of not granting asylum or refugee status and has no temporary protection policy. The government’s practice was to refer refugee and asylum claimants to a lawyer or the UNHCR.

The government recognizes a legal obligation to grant nonrefoulement protection under the CAT, as the CAT has applied to Hong Kong since 1992. In 2009 the Immigration Department introduced an “enhanced screening mechanism” for torture claims to meet the “high standards of fairness” for required by Hong Kong’s courts. Claimants had access to legal counsel from the Duty Lawyer Service, whose lawyers received training in refugee and torture claims from the Hong Kong Academy of Law. There was also a system to appeal decisions by the Immigration Department, with reviews conducted by experienced magistrates. Several observers, including the Bar Association and the Law Society, suggested processing refugee and CAT claims simultaneously to avoid duplicate filings.



Access to Basic Services: The government, in collaboration with a local NGO, offered in-kind assistance, including temporary accommodation, food, clothing, appropriate transport allowance, counseling, medical services, and other basic necessities, to asylum seekers and torture claimants while their claims were being processed. As of August 31, 5,100 persons were receiving assistance.

Employment: The government defines CAT claimants and asylum seekers as illegal immigrants or overstayers in Hong Kong and, as such, have no legal right to work in the city. Those whose claims were pending have no legal right to work, and those granted either refugee status by the UNHCR or relief from removal under the CAT were permitted to work only with approval from the director of immigration. They were also ineligible for training by either the Employees Retraining Board or Vocational Training Council. Applications to attend school or university were considered on a case-by-case basis at the discretion of the director of immigration. Beginning in December, after commencement of the new Immigration (Amendment) Ordinance, a CAT claimant whose torture claim was accepted may apply to the director of immigration for securing permission to work in Hong Kong.

On September 4, four refugees and a successful torture claimant who were seeking authority to work brought suit in the Court of Appeal. Their action followed a 2011 Court of First Instance's ruling that the government was not obligated to permit them to work and that the director of immigration had full discretion in granting such permission on a case-by-case basis. The five complainants, who remained unemployed for between seven and 12 years, challenged what they claimed was the unlawful blanket policy of the Immigration Department in prohibiting recognized refugees and torture claimants from working. They also claimed that their right to work was provided for in the Basic Law, in the Hong Kong Bill of Rights, in the International Covenant on Civil and Political Rights, and in the International Covenant on Economic, Social, and Cultural Rights.

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

The Basic Law limits the right of residents to change their government peacefully. A portion of the LegCo was elected by a subset of voters representing "functional constituencies" (FCs) that speak for key economic and social sectors. Under this structure some individuals were able to control multiple votes for LegCo members. The constituencies that elected the 30 FC LegCo seats had fewer voters in total than the constituency for a single Geographical Constituency (GC) seat, of which

there were 30 in LegCo. Beginning in September voters were able to elect five newly created FC seats in the District Council sector, known as “super seats.” These five LegCo members were returned by voters who were not otherwise represented in any FC. The government stated that the current method of selecting FC legislators did not conform to principles of universal suffrage, but it took no steps to eliminate the FCs. In addition to the five new FC seats, five additional GC seats were added, bringing the previous 60-member legislative body to 70 seats.

The Basic Law prohibits LegCo members from introducing bills that affect public expenditure, political structure, or government policy. The SAR sends 36 deputies to the mainland’s National People’s Congress (NPC) and had 199 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 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.

The CE used his authority to appoint 68 of the 534 members of the District Councils, the SAR’s most grassroots-level elected bodies, despite earlier promises to eliminate all appointed seats. The government stated that it would work on phasing out the nonelected seats in two tranches in 2016 and 2020, but pandemocrats complained that this was a violation of a previous understanding between the LegCo and the government to eliminate all appointed district councilors immediately.

### **Elections and Political Participation**

Recent Elections: On March 25, in a process widely criticized as undemocratic, the 1,193-member CE Election Committee, dominated by pro-Beijing electors and their allies, selected former Executive Council Convenor C. Y. Leung to be Hong Kong’s Chief Executive. The PRC’s State Council formally appointed him, and President Hu Jintao swore in Leung on July 1.

The September 9 elections for a new 70-member LegCo were considered generally free and fair according to the standards established in the Basic Law. Of the 35 FC seats, 16 incumbents, all progovernment, returned uncontested. When combined with 35 GC seats, pro-Beijing and proestablishment candidates won 43 of 70 LegCo seats, while prodemocracy candidates won 27 seats.

In 2010 five legislators resigned to force a by-election they declared to be a “referendum” on political reform, particularly on achieving universal suffrage.

Arguing that the pandemocrats used a loophole to abuse the electoral system and waste public money, in February the government presented draft legislation to eliminate by-elections. The bill passed on June 8 with 29 progovernment legislators voting in favor, and all pandemocrats boycotting the vote. Commencing from the fifth term of LegCo in October, a lawmaker who has voluntarily resigned from office is prohibited from standing in any by-elections in the same LegCo term within six months of resignation.

Between January and September 30, the Independent Commission Against Corruption (ICAC) received 1,732 reports concerning alleged breaches of provisions under the Elections (Corrupt and Illegal Conduct) Ordinance. Among these, examples included bribing voters, voting after giving false or misleading information to an elections officer, incurring election expenses by persons other than the candidate or his agent, publishing false or misleading statements about a candidate, publishing election advertisements that do not meet certain requirements, failure to lodge election returns, and providing others with refreshments and entertainment at elections. As of September 30, 204 were under investigation, 30 were nonpursuable, and 1,498 were unsubstantiated after investigation. During the same period, 45 individuals in two election cases were prosecuted over issues relating to the November 2011 District Council elections for offenses relating to giving false or misleading information to an electoral officer. Of these individuals 28 were convicted, 13 were waiting trial, and four were acquitted.

Political Parties: Pandemocratic parties faced a number of institutional challenges preventing them from holding a majority of the seats in the LegCo or having one of their members become CE. The voting process ensures probusiness representatives and Beijing's allies control a majority. Additionally, the central government and its business supporters provided generous financial resources to parties that support Beijing's political agenda in Hong Kong, ensuring these organizations will control the levers of government and all senior positions.

Participation of Women and Minorities: Six of the 31 members of the Executive Council (cabinet-level secretaries and "nonofficial" councilors who advise the CE) were women. Nine of the 35 directly elected LegCo members were women, and women held two of the 35 FC seats. Thirteen of the 44 most senior government officials (secretaries, under secretaries, and permanent secretaries) were women.

Many Hong Kongers hailed the election of the city's first gay LegCo member in the September races as a sign of the public's greater acceptance of lesbian, gay, bisexual, and transgender (LGBT) persons.

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 officeholder have a legal right of abode only in the SAR. There were no members of ethnic minorities in the LegCo. The government regarded ethnic origin as irrelevant to civil service appointment and did 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. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for official corruption, and the government generally implemented it effectively. Hong Kong continues to be viewed as relatively uncorrupt. However, there were several major arrests during the year, and many observers held that corruption in general seemed to be on the rise. An ICAC spokesman said that some prominent corruption cases widely reported in the media might have affected perception of Hong Kong.

Between January 1 and September 30, there were 936 corruption reports involving government personnel concerning alleged breaches of provisions under the Prevention of Bribery Ordinance. Of the 936 reports received, as of September 30, 378 were under investigation, 315 were nonpursuable, and 243 were unsubstantiated after investigation. During the same period, nine government personnel in nine cases were prosecuted regarding reports received in 2010 and 2011. Five were convicted, three awaited trial, and one was acquitted. Overall, corruption complaints against government departments increased by 13 percent in the first 11 months of the year compared with the same period last year, according to the ICAC.

On March 29, the ICAC arrested former chief secretary for administration Rafael Hui on charges of misconduct in public office for accepting more than HK\$34 million (four million dollars) in bribes from property magnates Thomas and Raymond Kwok and two others in return for favors. At year's end the case was continued.

In July Secretary for Development Mak Chai-kwong, in office for less than two weeks, resigned shortly before his arrest by the ICAC for abuse of government rental allowance. The ICAC also arrested Highways Department Assistant Director Tsang King-man, as well as Mak's and Tsang's wives for conspiracy to defraud the government of private tenancy allowances between 1985 and 1990. The two were alleged to have cheated the government of more than HK\$700,000 (\$90,000) by concealing their financial and proprietary interests in apartments they rented from each other's wives. Mak also faced two counts of acting as an agent using a document with intent to deceive his principal, contrary to the Prevention of Bribery Ordinance, while Tsang faced three similar charges.

The issue of unauthorized building works (UBWs) at private residences became an increasingly larger political issue during the year, with the media highlighting a number of senior government figures who had illegal structures added to their homes without going through the legal process. According to at least one newspaper, one-third of the Executive Council's members were involved in UBW scandals, including Laura Chan, Cheung Hok-ming, and Jeffrey Lam.

Many government ministers also had UBWs added to their homes. The media highlighted that Secretary for Food and Health Ko Wing-man knocked down an internal wall between two apartments he owned without prior permission, and his predecessor in the job, York Chow, had UBWs in his home at least until a month before leaving office in June. In another case the government's Buildings Department had allegedly given Secretary for Commerce and Economic Development Gregory So preferential treatment to carry out work to-- ironically-- remove illegal structures at his home. In August the wife of Secretary for Development Paul Chan received removal orders from the Buildings Department to eliminate UBWs in two subdivided apartments her company owned. On November 26, Permanent Secretary for Transport and Housing and Duncan Pescod removed a glass canopy and an awning from a house he owned after media reports said they could be unauthorized structures. Pescod was the most senior non-Chinese official and the 11th official accused of having an illegal structure at a home in the past two years.

CE Leung won the March 25 selection process after reports of chief rival Henry Tang's scandals over illegal structures at Tang's home. After Leung's victory, however, the media discovered illegal structures at Leung's home. The ensuing uproar prompted prodemocracy CE challenger Albert Ho to file an election petition to overturn the selection results. Ho was unsuccessful, but on November 23, Leung issued a 14-page statement explaining details of and blaming a memory

lapse for confusion over the illegal structures at his home. By year's end the scandal had not ended with the most recent allegations claiming that Buildings Department staff was involved in a cover-up of Leung's UBW.

On November 4, in a separate case involving a public figure and a non-UBW housing issue, Executive Council member Franklin Lam requested a leave of absence under mounting pressure to step down since it emerged that he put two apartments for sale just weeks before the government announced new measures to cool residential property prices. At year's end the ICAC was investigating Lam's actions.

Former chief executive Donald Tsang was also mired in a series of scandals about an alleged close relationship with local tycoons and alleged acceptance of entertainment and travel benefits. In May an independent commission to review the situation determined that it was "totally inappropriate" for the chief executive to be above anticorruption laws and it should be made a criminal offence if Hong Kong's leader receives favors without approval.

During 2011 the ICAC received 4,010 corruption reports, an increase of 13 percent from 3,535 reports in 2010. Pursuable reports increased by 12 percent to 3,072. Of the reports, 2,664 concerned the private sector, 1,117 were related to government departments, and 229 involved public bodies. A total of 283 persons were prosecuted with convictions in 84 percent of the cases.

There are no legal protections for whistleblowers.

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 doing so would cause or risk causing harm or prejudice in several broad areas: national security and foreign affairs (which were reserved to the central government); immigration issues; judicial and law enforcement issues; direct risks to individuals; damage to the environment; 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 were not a justifiable basis for withholding information.

Through September the Constitutional and Mainland Affairs Bureau received 1,372 requests for information under the administrative code, of which 76 requests were withdrawn by requestors, and 74 requests covered cases in which the government bureau or department concerned did not hold the requested information. Of the 1,222 remaining requests, at the end of June, 1,118 requests were met in full (1,094 requests) or in part (24 requests). Of the remaining cases, 74 requests were still being processed and 30 were refused.

### **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.

Government Human Rights Bodies: 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. EOC Commissioner Lam Woon-kwong continued to serve as 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 permanent residents are equal, and the government enforced this in practice. The EOC is responsible for enforcing the relevant laws.

#### **Women**

Rape and Domestic Violence: Rape, including spousal rape, is criminalized under the law, and police enforced the law effectively. Through August 83 rape cases and 942 indecent assault cases were reported to the police.

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. From January to June, 961 cases of domestic violence were reported to the police. The law 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. The government enforced the law and prosecuted violators, but sentences typically consisted only of injunctions or restraining orders.

The law covers molestation between married couples and heterosexual cohabitants, former spouses or cohabitants, and immediate and extended family members. It protects 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 law also empowers the court to require that the abuser 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 provided intervention and counseling to batterers. Eight integrated family service centers and family and child protective services units offered services to domestic violence victims and batterers. The government continued its public information campaign to strengthen families and combat violence, and increased public education on the prevention of domestic violence.

Sexual Harassment: The law prohibits sexual harassment or discrimination on the basis of sex, marital status, and pregnancy. The law applies to both males and females.

Reproductive Rights: 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.



Discrimination: Women enjoy the same legal status and rights as men. As of March 31, women filled 35.6 percent of the civil service at all ranks and 33.2 percent at the directorate level. Women made up 64 percent of the LegCo Secretariat workforce and 54 percent of its senior “directorate” ranks, including the secretary general and assistant secretary general. Twenty-three percent of judges and judicial officers were women, while women represented 70 percent of the nonjudges and judicial officer staff of the courts.

According to gender rights activists and public policy analysts, 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. Despite the fact that the law makes it illegal to discriminate against persons of both sexes, a study by the University of Hong Kong found that women were paid 24 percent less, even after adjusting for age, education, industry, and occupation, than men.

The law establishes the EOC to work towards the elimination of discrimination and harassment as well as to promote equal opportunity between men and women. There was a Women’s Commission that served as an advisory body for policies related to women, and a number of NGOs were active in raising problems of societal attitudes and discrimination against women.

## **Children**

Birth Registration: 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 allowing 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.

Child Abuse: Through June 706 cases of crimes against children were reported to police: 296 involved physical abuse (referring to victims younger than 14 years old), and 410 involved sexual abuse (referring to victims younger than 17 years old). The law mandates protection for victims of child abuse such as battery, assault, neglect, abandonment, and sexual exploitation, and the government

enforced the law. The law allows for the prosecution of certain sexual offenses, including against minors, committed outside the territory of the SAR.

The government provides 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 clinical 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 in collaboration with the Social Welfare Department, ran a child witness support program. A law on child-care centers helped prevent unsuitable persons from providing child-care services.

Sexual Exploitation of Children: 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.

The legal age of consent for heterosexuals is 16. Under the law 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 law makes it an offense to possess, produce, copy, import, or export pornography involving a child under 18 years old, 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.

International Child Abductions: The SAR is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of

State's country-specific information at [http://travel.state.gov/abduction/country/country\\_495.html](http://travel.state.gov/abduction/country/country_495.html).

### **Anti-Semitism**

The Jewish community numbered approximately 5,000 to 6,000 persons and reported few acts of anti-Semitism during the year. There were concerns within the Jewish community about some religious sermons in the otherwise moderate Muslim community.

### **Trafficking in Persons**

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

### **Persons with Disabilities**

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

Further, although the central government has signed the UN Convention on the Rights of Persons with Disabilities, the SAR still adheres to its own Disability Discrimination Ordinance, which human rights groups argue is much narrower and does not oblige the government to promote equal opportunities.

The Social Welfare Department, directly or in coordination with NGOs and employers, provided training and vocational rehabilitation services to assist persons with disabilities. As of September a total of 16,774 persons were participating in these various programs.

As of March 31, the government employed 3,391 civil servants with disabilities in a total workforce of 159,195, or 2.13 percent of the government workforce. 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 law calls for improved building access and sanctions against those who discriminate.

Despite inspections and the occasional closure of noncompliant businesses, access to public buildings (including public schools) and transportation remained a serious problem for persons with disabilities. Persons with disabilities protested that the government discriminated against them. They claimed persons with severe disabilities who lived with their families could qualify for social security only by moving out of their families' homes and living alone or if every member of their families quit their jobs. The government firmly refuted this claim, noting the government instituted a disability allowance scheme for the severely disabled (those with "100 percent loss of earning capacity") to help persons with disabilities meet special needs arising from their condition. Additionally, as with all Hong Kongers facing financial hardship, persons with disabilities may apply for Comprehensive Social Security Assistance (CSSA).

From September 17 to 28, a group of NGOs attended UN Committee on Human Rights of Persons with Disabilities hearings and submitted a report accusing the government of failing to address limited education and employment opportunities, along with accessibility issues and limited legal protection for the disabled. According to the group, support for children with special needs in the education system is half-hearted, with schools not providing adequate guidance or support that special-needs students require to move into mainstream education. Further, only 20 percent of high school graduates with disabilities applied to university.

According to the EOC, Hong Kong trailed other developed economies in providing equal opportunities for students with disabilities, despite having operated an integrated education policy since 1997. Particularly lacking were adequate resources, training of educators, and government support, EOC Policy and Research Committee Convenor John Tse Wing-ling noted. A Hong Kong Institute of Education Center for Special Educational Needs and Inclusive Education study released in November showed that 43 percent of teachers were unwilling to accept students with special education needs, while two-thirds of teachers and more than half of principals did not see excluding such students as discriminatory.

### **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 law. The Race Relations Unit, which is subordinate to the Home 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 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.

The Race Relations Unit 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 Hong Kong's schools. The government also provided a special grant for designated schools with a critical mass of non-Chinese students to develop their own programs, share best practices with other schools, develop supplementary curriculum materials, and 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. Activists also noted that government programs encouraging predominantly Chinese schools to welcome minority students backfired, turning whole schools into "segregated institutions." These schools did not teach Chinese to the nonethnically Chinese students. Students who did not learn Chinese had significant difficulty entering university and the labor market, leading to a cycle of problems including unemployment and poverty, according to reports from the government and NGOs.

The EOC established a working group on Education for Ethnic Minorities in 2010, which presented a set of recommendations to the Education Bureau in March and July 2011. According to activists and the EOC, the Education Bureau stressed that it was a parental decision to choose between mainstream and designated schools. It agreed that support measures in both types of schools should be strengthened to enhance non-Chinese students in learning Chinese, but it expressed reservation about the proposed development of an alternative Chinese curriculum on the grounds of low recognition by international universities. A number of high-profile South Asian professionals complained that while several Caucasian foreign-born residents were able to secure a SAR passport, the Immigration Department had prevented the South Asian professionals from doing so, and they alleged racial discrimination.

Minority group leaders and activists complained that government requirements that all job applicants speak Chinese kept nonnative Chinese speakers out of civil service and law enforcement positions. During the year police recruited the first nonethnic Chinese police constable since 1997. Despite the fact that both English and Chinese were official languages, reports indicated that little more than one-third of government departments regularly issued their press releases in both.

Activists and the government disputed whether new immigrants from the mainland should be considered as a population of concern under antidiscrimination legislation. While concerns were raised that new immigrants do not qualify to receive social welfare benefits until they have resided in the SAR for seven years, the courts 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 consensual same-sex sexual activity. In 2005 the Court of First Instance ruled that maintaining an age of consent for male-male relations at 21 years old rather than 16 years old violated the Bill of Rights Ordinance. There were no specific laws governing age of consent for female-female relations.

Gay rights groups continued to complain that the government's sponsoring of seminars on "homosexual conversion therapy" demonstrated the government's antigay rights views. According to gay rights groups, the seminars' contents explained homosexuality as deriving from "unhealthy parent-children relationships," "experience of sexual abuse or same-sex sexual behavior," or "serious emotional harm caused by the opposite sex."

In May Secretary for Constitutional and Mainland Affairs Raymond Tam said that a law against sexual orientation discrimination "will only lead to arguments, divisions, and conflicts," and the time was not yet "ripe to take the legislative route." On November 7, the LegCo voted down a motion moved by prodemocracy lawmaker Cyd Ho, urging the government to launch a public consultation on enacting a law to safeguard equal opportunities for and the basic rights of persons of different sexual orientations. Every prodemocracy member except for one (who abstained) voted for the motion, while only five pro-Beijing members supported it.

The pro-Beijing Democratic Alliance for Betterment and Progress of Hong Kong (DAB) and members of the probusiness Liberal Party said they opposed the motion as “mainstream society does not accept gays.” DAB’s LegCo member, Starry Lee, held that legislations might “not help change the attitude of the public, and it may even lead to discrimination and narrow room for discussion.”

Following the motion’s defeat, and coinciding with “Pink Season,” the largest LGBT festival in Asia, an estimated 4,000 persons marched from Victoria Park to Central November 10, up from 2,500 in 2011, according to organizers. Pink Season was supported by the Hong Kong Tourism Board, which was striving to make Hong Kong a “LGBT-friendly tourist destination.”

While Hong Kong has legislation that bans discrimination on the grounds of race, sex, disability, and family status, there is no law that prohibits companies from discriminating on grounds of sexual orientation. A May survey of 1,002 persons by NGO Community Business found that 27 percent of respondents said LGBT persons should “keep their sexual orientation to themselves.” Almost 80 percent said LGBT persons faced discrimination in the community and at work. LGBT professionals are permitted to bring partners to Hong Kong only on a “prolonged visitor visa.” Successful applicants, however, cannot work, obtain an ID card, or qualify for permanent residency.

The government claimed public education was sufficient to protect the rights of the LGBT community, and legislation was not necessary. While acknowledging that same-sex partners did not enjoy the same rights as heterosexual married couples, the Society for Truth and Light--the bill’s major opponent and which has long opposed any kind of legislation--said rather than introducing a law, government departments should “change their policies.” The society claimed any bill could make it “illegal to disagree with homosexuality.”

The Federation of Parent-Teacher Associations of Yau Tsim and Mong Kok districts claimed legislation might mean it would be illegal for schools, including religiously affiliated institutions, to “teach that homosexuality was wrong, as it would be seen as discriminatory.”

### **Other Societal Violence or Discrimination**

There were no reports of societal violence or discrimination against persons with HIV/AIDS or against other groups not covered above.

## Section 7. Worker Rights

### a. Freedom of Association and the Right to Collective Bargaining

The law, including related regulations and statutory instruments, protects the right of workers to form and join independent unions without previous authorization or excessive requirements, and conduct legal strikes. However, the law does not provide for the right to collective bargaining. Trade unions must register with the government's Registry of Trade Unions and must have a minimum membership of seven persons for registration. Unions could affiliate, and workers were not prevented from unionizing. In the first three quarters of the year, 11 new trade unions registered while one was deregistered at the union's request.

The law allows the use of union funds for political purposes provided a union has the authorization of the majority of its voting members at a general meeting.

The law provides for the right to strike, although there are some restrictions on this right for civil servants. According to the Employment Ordinance (EO), an employer cannot fire, penalize, or discriminate against an employee who exercises his union rights and cannot prevent or deter the employee from exercising his union rights. Additionally, under the EO an employee who is unreasonably and unlawfully dismissed (including on the grounds of the employee exercising his trade union rights) is entitled to remedy in the form of an order for reinstatement or reengagement but subject to mutual consent of the employer and the employee.

The law provides for reinstatement and or compensation not exceeding HK\$150,000 (\$19,230) for unreasonable and unlawful dismissal. In the first three quarters of the year, there was one strike recorded involving 150 workers.

The Workplace Consultation Promotion Division 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. During a labor dispute, the Labor Relations Division in the Labor Department facilitates conciliation so that dispute could be settled with minimum friction and disruption.

Worker organizations were independent of the government and political parties. However, according to prodemocracy labor activists, only progovernment unions were able to participate substantively in the tripartite process, while the democratic



Hong Kong Confederation of Trade Unions was consistently excluded. Antiunion discrimination did not occur in practice.

Although there was no legislative prohibition against strikes, and the right and freedom to strike are enshrined in article 27 of the Basic Law, in practice most workers had to sign employment contracts that typically stated that walking off the job was a breach of contract, which could lead to summary dismissal. Various sections of the EO prohibit firing an employee for striking and void any section of an employment contract that would punish a worker for striking. As in past years, thousands of workers participated in the annual May 1 Labor Day march calling for a raise in the minimum wage and better worker protections. According to the government, there were no reports of any workers being fired for participating in a strike during the year.

Firefighters staged a sit-in protest at the government headquarters in August to demand their working hours be cut from 54 hours to 48 per week. The government countered with an offer of 51 hours instead.

Local trade unions and NGOs escalated efforts to advocate for legislation that would provide for collective bargaining rights, but as of year's end there was no progress on a bill addressing this concern.

### **b. Prohibition of Forced or Compulsory Labor**

The law prohibits all forms of forced or compulsory labor, and the government effectively enforced such laws. There were 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. The SAR prohibits the collection of employment-related debt, but prosecution was hampered by looser restrictions in some countries that send workers. Some locally licensed employment agencies were suspected of colluding with Indonesian agencies to profit from a debt scheme, and some local agencies illegally confiscated the passports, employment contracts, and automatic teller machine cards of domestic workers and withheld them until their debt had been repaid. The government conveyed its concerns about these cases to a number of foreign missions. In January a local agency was fined HK\$5,000 (\$641) for overcharging a domestic worker and was also ordered to pay compensation of HK\$2,626 (\$337) to the job seeker concerned. In March its license was revoked.

There also were reports that some employers illegally forbade domestic workers from leaving the residence of work for nonwork-related reasons, effectively preventing them from reporting exploitation to authorities. SAR authorities claimed they encouraged aggrieved workers to lodge complaints and make use of government conciliation services, as well as actively pursued reports of any labor violations.

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

### **c. Prohibition of Child Labor and Minimum Age for Employment**

There were laws to protect children from exploitation in the workplace. Regulations prohibit employment of children under the age of 15 in any industrial establishment. Other regulations limit workhours in the manufacturing sector for persons 15 to 17 years old to eight hours per day and 48 hours per week between 7 a.m. and 7 p.m. and prohibit overtime in industrial establishments with employment in dangerous trades for persons less than 18 years old.

Children 13 and 14 years old 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 effectively enforced these laws and regularly inspected workplaces to enforce compliance with the regulations. In the first nine months of the year, the Labor Department conducted 100,231 inspections, in which no irregularities were detected.

### **d. Acceptable Conditions of Work**

The SAR's first statutory minimum hourly wage, HK\$28 (\$3.60), came into force in May 2011. Approximately 760,000 Hong Kong residents live under the locally defined poverty line (annual income of about HK\$47,213 (\$6,053) for an individual, HK\$75,598 (\$9,692) for a two-person unit, HK\$100,168 (\$12,842) for a three-person family).

On November 9, the government announced the establishment of the Commission on Poverty, which is tasked with setting a poverty line as a tool for gauging the poverty situation and assessing the effectiveness of possible policies to address it.

In practice wages were often set by employers and employer associations. Additionally, some activists claimed that employers used employment contracts that defined workers as “self-employed” to avoid employer-provided benefits such as paid leave, sick leave, medical insurance, workers’ compensation, or Mandatory Provident Fund payments. According to the Labor Department, there were cases in which employers faced heavy court fines for such behavior. The department held that it was seeking to promote public awareness, consultation, conciliation services, and tougher enforcement to safeguard employees’ rights.

There is no law concerning working hours, paid weekly rest, rest breaks, or compulsory overtime for most employees. For certain groups and occupations, such as security guards and certain categories of drivers, there are regulations and guidelines on working hours and rest breaks. According to the General Household Survey conducted by the Census and Statistics Department during the year, approximately 17 percent of employees worked 60 hours or more per week. The law stipulates that employees are entitled to 12 days of statutory holidays and employers must not make payment in lieu of granting holidays.

The minimum wage for foreign domestic workers was HK\$3,920 per month (\$506). The government’s Standard Employment Contract 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 could 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 pursued complaints through legal channels may be granted leave to remain; however, they were not able to work, leaving them either to live from savings or to depend on charitable assistance.

The government contended that the “two-week rule” was necessary to maintain effective immigration control and prevent migrant workers from overstaying and taking unauthorized work. Regarding maximum hours and rest periods, the government stated that the 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--made it impossible to ascertain the actual hours worked so as to determine the wages to be paid.”

Domestic workers were often 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.

During the first nine months of the year, two employers were convicted for wage default and failure to pay the sum awarded by the Labor Tribunal relating to the employment of foreign domestic workers. From January to June, 83 foreign domestic workers filed criminal suits, 36 of which were against employers for maltreatment including rape (five), indecent assault (nine), and injury and serious assault (22).

Laws exist to ensure health and safety of workers in the workplace, and these laws were effectively enforced.

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. In the first three quarters, Labor Department conducted 87,967 workplace inspections. In the first half of the year, there were 965 convicted summonses, resulting in fines totaling HK\$7.78 million (\$1 million). In addition to prosecuting offenses under the safety legislation, the Labor Department also issued 1,225 improvement notices requiring employers to remedy contraventions of safety laws within a specified period and 485 suspension notices directing removal of imminent risks to life and limb in workplaces.

In the first half of the year, the Labor Department recorded 19,433 occupational injuries, including 6,145 classified as industrial accidents. In the same period, there were seven fatal industrial accidents. Employers are required to report any injuries sustained by their employees in work-related accidents. Labor activists raised the issue of the increase in deadly industrial accidents, mainly due to construction and infrastructure projects in Hong Kong.

There are no laws restricting work during typhoon or rainstorm warning signals. Nevertheless, the Labor Department issues a Code of Practice on work arrangements in times of severe weather, including the recommendation that employers have only essential staff come to work during certain categories of typhoon or rainstorm warnings. Both pro-Beijing and pandemocratic unions called for a review of protections for workers during inclement weather, including legal protections.

## MACAU 2012 HUMAN RIGHTS REPORT

### EXECUTIVE SUMMARY

Macau 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 took office in 2009, after his selection by a 300-member Election Committee. Security forces reported to civilian authorities.

Three prominent human rights abuses reported during the year were: limits on citizens' ability to change their government, constraints on press freedom, and failure to enforce laws regarding working conditions and workplace abuses.

Trafficking in persons remained a problem, although authorities were building capacity to pursue trafficking cases. There were concerns that national security legislation, passed in 2009 in accordance with Article 23 of the Basic Law, could compromise various civil liberties, but by year's end prosecutors had brought no cases based on the 2009 legislation.

The government took steps to prosecute and punish officials who committed abuses. There was no impunity for government officials.

### **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 there were no reports that government officials employed them.

There were seven cases involving police mistreatment by off-duty officers in the first half of the year; five involved assault and two were intimidation cases. At year's end the Procuratorate was still investigating the cases. The Commission for Disciplinary Control of the Security Forces and Services of Macau (CFD) received two complaints of police mistreatment but dismissed both cases due to lack of evidence. During the first half of the year, the Commission against Corruption (CAC) received one complaint of police mistreatment, which it determined was legally unsubstantiated.

The government reported that one detainee died while in police custody during the year. At year's end the Procuratorate was still investigating the death, which police alleged was a suicide. In addition, in the first half of the year police received three complaints alleging offences committed by police officers against persons in custody. Although none of these complaints resulted in disciplinary proceedings, police transferred two of them to the Procuratorate, which rejected one, while the other remained pending. Neither the CFD nor the CAC received any complaints alleging assault by police officers against persons in custody in the first half of the year.

In the first half of the year, local authorities received one complaint that police officers abused a person not in their custody. They did not forward the case to the Procuratorate or initiate disciplinary proceedings. In the same period, the CFD also recorded one allegation of a police offence against persons not in custody, which remained pending. The CAC did not receive any allegations of police offenses against persons not in custody in the first half of the year.

### **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.

Physical Conditions: The SAR has a maximum prison capacity of 1,341 persons, and the occupancy rate was approximately 81 percent during the year. In the first half of the year, the number of inmates who were 16 (the age of criminal responsibility) and older was 1,092; of these, 917 were men and 175 women. Offenders between the ages of 12 and 16 were subject to an "education regime," which could include incarceration depending on the offense. During the first half of the year, authorities held 26 youths in the Youth Correctional Institution. Press reports indicated that at times bed shortages forced as many as six to seven female

inmates to sleep on the floor. The SAR reported that prisoners had access to potable water.

Administration: Ombudsmen are able to serve on behalf of prisoners and detainees. The government's recordkeeping procedures were adequate. The government increased its use of alternative sentencing for nonviolent offenders. Authorities allowed prisoners and detainees reasonable access to visitors and permitted religious observance. The law allows prisoners and detainees to submit complaints to judicial authorities without censorship and to request investigation of alleged deficiencies, and judges and prosecutors made monthly visits to prisons to hear prisoner complaints.

Monitoring: According to the government, no independent human rights observers requested or made any visit to the SAR's only prison, the Macau Prison. Judges and prosecutors visited the Macau Prison monthly and the Youth Correctional Institution (for offenders between the ages of 12 and 16) every three months.

Improvements: The authorities expanded the women's section of the prison with a further 100 beds.

#### **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 official abuse and corruption. There were no reports of impunity involving the security forces during the year.

#### **Arrest Procedures and Treatment While in Detention**

Authorities detained persons openly with warrants issued by a duly authorized official based on sufficient evidence. Detainees were allowed access to a lawyer of their choice or, if indigent, to one provided by the government. Detainees 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 wide powers to collect evidence, order or dismiss indictments, and determine whether to release detained persons. According to the government, courts should try defendants within the “shortest period of time.” The Procuratorate’s investigations should end with charges or dismissal within eight months, or six months when the defendants are in detention; the pretrial inquiry stage must be concluded within four months, two months if there are detained defendants. By law the maximum limits for pretrial detention range from six months to three years, depending on the charges and progress of the judicial process. Judges often refused bail in cases where sentences could exceed three years.

Law enforcement officials received three complaints accusing police officers of offenses toward persons in custody in the first half of the year. Officials brought disciplinary proceedings against the officers in both cases; one case was closed, and one awaited the initiation of criminal proceedings at year’s end. There was one complaint in the first half of the year that a police officer assaulted a person in custody.

#### **e. Denial of Fair Public Trial**

The law provides for an independent judiciary, and the government generally respected judicial independence in practice. During the year the president of the Court of Final Appeal, the SAR’s highest court, reminded attorneys to respect article 8 of the lawyers’ code of ethics, which stipulates that lawyers should not publicly discuss through mass media or comment upon, or encourage others to discuss or comment upon, cases in front of the courts to avoid possible influences on judicial independence.

The courts may rule on matters that are the responsibility of the PRC government or concern the relationship between central authorities and the SAR, but before making their final judgment, which is not subject to appeal, the courts must seek an interpretation of the 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.”

#### **Trial Procedures**



The law provides for the right to a fair trial, and an independent judiciary generally enforced this right. A case may be presided over by one judge or a group of judges, depending on the type of crime and the maximum penalty involved.

Under the law defendants enjoy a presumption of innocence, have access to government-held evidence relevant to their cases, and have a right to appeal. The law provides that trials are to be public and by jury except when the court rules otherwise to “safeguard the dignity of persons, public morality, or to ensure the normal functioning of the court.” Defendants have the right to be present at their trials, confront witnesses, and 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. There were no reports of defendants lacking adequate time or facilities to prepare their defense. There were no reports of defendants being compelled to testify or confess guilt.

The judiciary provided 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 the filing of 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. The Office for Personal Data Protection acknowledged a continuing increase in complaints and inquiries regarding data protection.

## **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 criminalizes treason, secession, subversion of the PRC government, and theft of “state secrets,” as well as “acts in preparation” to commit these offenses. 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.

Freedom of Press: The independent media were active and expressed a wide range of views, 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 generally reported freely on the SAR, including criticism of the government.

Violence and Harassment: Some journalists who wrote disparagingly of the government complained about disciplinary actions, such as temporary suspension, delayed promotion, and assignment to cover less important stories.

Censorship or Content Restrictions: Activists raised concerns over media self-censorship, particularly because news outlets and journalists worried that certain types of critical coverage might limit government funding. Activists also reported that the Macau government had co-opted senior media managers to serve in various consultative or election committees, which also resulted in self-censorship. Journalists expressed concern that the government’s limiting of news releases about its own activities and its publishing of legal notices only in preferred media outlets influenced editorial content. In September, following public pressure, the government withdrew portions of a controversial media bill that would establish a “press accountability board” with a nebulous mandate for enforcing journalistic ethics.

## **Internet Freedom**

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chat rooms.

At least 40 percent of the population had an Internet subscription. As of October, according to the Statistics and Census Service, there were 227,682 Internet subscribers in a population of 576,700. This total did not take into account

multiple Internet users for one subscription, nor did it factor in those who have access to the Internet through mobile devices.

The law criminalizes a range of cybercrimes and empowers 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 granted 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 mainland, were blocked on the 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, was available on the service. Activists reported they freely used Facebook and Twitter to communicate. However, activists also reported that the government had installed enterprise-grade software capable of censoring, decrypting, and scanning secured transmissions on its free WiFi service without notifying users.

### **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 that involve the use of public roads, public places, or places open to the public. In cases in which authorities tried to restrict access to public venues for demonstrations or other public events, the courts generally ruled in favor of the applicants. Police may redirect march routes, and organizers have the right to challenge such decisions in court.

Activists reported that police routinely attempted to intimidate demonstrators by ostentatiously taking videos of them and advising bystanders not to participate in protests. Activists also stated that authorities gave orders to demonstrators verbally rather than through written communication, which made it difficult to challenge their decisions in court. Some organizers complained that police set up

“restricted security zones” without notifying participants, which led to the arrest of at least one protester for intruding a restricted area. The Workers’ Self-Help Union reported that officers harassed its members during demonstrations and while members were gathering petition signatures.

On June 4, approximately 700 persons participated in a vigil to remember the 1989 Tiananmen Square massacre. Organizers stated that it was the largest number of participants in the annual commemoration in 10 years. On October 1, at least 2,000 protesters demonstrated, calling for more public housing, less corruption, and more public assistance. Organized by the SAR’s seven labor unions, participants in the protests were described by observers as more diverse than in previous gatherings. On December 20, approximately 1,100 people participated in an annual demonstration demanding government attention to social livelihood issues.

### **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 restrictions are that the organization not promote racial discrimination, violence, crime, or disruption of public order, or be military or paramilitary in nature. During the first half of the year, the Identification Bureau registered 383 new associations. Of these, it did not issue “proof of adoptable name of association” in 33 cases because the intended group names were the same or similar to registered organizations.

#### **c. Freedom of Religion**

See the Department of State’s *International Religious Freedom Report* at [www.state.gov/j/drl/irf/rpt](http://www.state.gov/j/drl/irf/rpt).

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

The law provides for freedom internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. The law prohibits forced exile of permanent residents. 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 (UNHCR) and other humanitarian organizations in

providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The Internal Security Law grants police the authority to deny entry to, or to deport, nonresidents whom they regard under the law as unwelcome, as a threat to internal security and stability, or as possibly implicated in transnational crimes. Legislators and activists alleged that police used this law during the year to deny entry to a Hong Kong prodemocracy activist, a politician, an artist, and a journalist, including on occasions when the purpose of travel was merely tourism or personal business. In the artist's case, he claimed that Macau's Cultural Affairs Bureau had invited him to attend an event, but immigration authorities nevertheless denied him entry. Police declined to discuss the circumstances of individual cases.

According to the International Trade Union Confederation's annual survey of violations of trade union rights, the government denied entry into Macau of labor leaders or democratic activists from Hong Kong. It continued to ban Hong Kong Legislative Council member Lee Cheuk-yan, a prominent labor leader, from entering the SAR. The government maintained that the commander of the Public Security Police "based on the public interest...may refuse entry of any nonresident whose status is found to be inappropriate."

### **Protection of Refugees**

Access to Asylum: The law provides for the granting of asylum or refugee status, and the government has established a system for providing protection to refugees. In theory persons granted refugee status would ultimately enjoy the same rights as other SAR residents. However, the UNHCR reported that the SAR had not granted any asylum seekers refugee status through year's end. Pending eventual final decisions on their asylum claims, the government registered asylum seekers and provided protection against their expulsion or return to their countries of origin. Persons with pending applications were eligible to receive government support, including basic needs such as housing, medical care, and education for children.

The government has the responsibility to conduct refugee status determinations, but this process appeared to stall during the year, according to the UNHCR. Five applications for refugee status were pending, but their determination would likely take several years to process. One Afghan asylum seeker was in his ninth year of waiting. Paul Pun Chi, secretary general of the Caritas social welfare organization, stated that the process was "long and drawn out" and that the procedures and isolation it entailed pushed applicants into a "hopeless situation."

In December 2011 the Court of Second Instance overturned Chief Executive Chui's June 2010 decision to uphold a Macau Refugees Commission ruling denying, on procedural grounds, refugee status to the family of a Kurdish human rights activist from Syria. The court's unanimous verdict strongly criticized the commission for claiming there was no evidence of Syrian discrimination directed at Kurds and for ignoring a UNHCR report that sided with the asylum seekers. The court returned the case to the commission for reassessment, where it was pending at year's end.

### **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, who was chosen in 2009 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 Conference.

#### **Elections and Political Participation**

Recent Elections: The most recent election, held in 2009 for 12 directly elected seats in the 29-member Legislative Assembly, was generally free and fair.

In August the government approved a bill to increase the number of indirectly elected seats from 10 to 12 and of directly elected seats from 12 to 14. Most observers assessed the move as preserving the status quo rather than as a real political reform. The legislation also increases the number of Election Committee members from 300 to 400. Critics viewed this change as nothing more than expanding the size, rather than broadening the representativeness of the pro-Beijing-dominated body.

There are limits on the types of bills 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. The political adjustments in August were permitted only because the National People's Congress Standing Committee gave its approval. Proposed legislation related to government policies must receive the chief executive's written approval before it is

introduced. The Legislative Assembly 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 chief executive appoint members of the Executive Council from among the principal officials of the executive authorities, members of the legislature, and public figures.

Political Parties: The SAR has no laws on political parties; politically active groups therefore 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.

Participation of Women and Minorities: 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. In January the chief executive appointed the first female judge to the Court of Final Appeal. Fifteen of the SAR's 36 judges were women. The Public Administration and Civil Service Bureau stated that women made up 40 percent of the SAR government, 47 percent of the judiciary, and 57 percent of the senior staff of the Legislative Assembly. There were two members of ethnic minorities in the Legislative Assembly. One Executive Council member was from an ethnic minority, as was the police commissioner general.

#### **Section 4. Corruption and Lack of Transparency in Government**

The law provides criminal penalties for official corruption, and there were few reported instances of officials engaging in corruption.

The CAC investigated the public and private sectors and had the power to arrest and detain suspects. The ombudsman bureau within the CAC reviewed complaints of maladministration or abuse by the CAC. There was also an independent committee outside the CAC, called the Monitoring Committee on Discipline of CAC Personnel, which accepted and reviewed complaints about CAC personnel. In June prosecutors opened a case against two prominent Hong Kong businesspersons charged with bribing public officials and money laundering. The SAR's former public works chief, already in jail on graft convictions, was

sentenced to an additional 29 years for corruption and money laundering in relation to dealings with these business persons.

By law the chief executive, 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.

### **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. The law does not address discrimination based on sexual orientation or gender identity.

#### **Women**

Rape and Domestic Violence: The law criminalizes rape, including spousal rape, and the government effectively enforced the law. In the first half of the year, police received nine complaints of rape. Police and courts acted promptly on rape cases, arresting four individuals accused of rape.

Although there is not a specific law on domestic violence, laws that criminalize the relevant behaviors, including “mistreatment of minors or spouses,” were used



effectively by the government to prosecute domestic violence. Various nongovernmental organizations (NGOs) and government officials considered domestic violence against women to be a growing problem. Domestic violence falls under several crimes in the criminal code, including the crime of mistreatment of minors, persons with incapacity, or spouses. These crimes are punishable with imprisonment ranging from one to five years. If mistreatment leads to serious physical injuries or death of the victim, the penalties may be increased to imprisonment of two to eight years in cases involving physical injury and five to 15 years in those resulting in death. During the first half of the year, 164 complaints of crimes related to domestic violence were reported to police. Of these, 123 involved spousal abuse. In February the Women's General Association of Macau released a survey reporting that 80 percent of the women in its shelter had suffered physical, psychological, or sexual abuse. In November the government released the results of its public consultations it conducted in 2011 on a draft bill to combat domestic violence.

The government made referrals for victims to receive medical treatment, and medical social workers counseled victims and informed them of social welfare services. During the first half of the year, the Social Welfare Bureau handled 24 domestic violence cases. The government funded NGOs to provide victim support services, including medical services, family counseling, and 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 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 in addition to advice regarding legal actions against perpetrators. A range of counseling services was available to persons who requested them at social service centers. Two government-supported religious programs also offered rehabilitation programs for female victims of violence.

Sexual Harassment: There is no law specifically addressing sexual harassment, unless it involves the use of a position of authority to coerce the performance of physical acts. Harassment in general is prohibited under laws governing equal opportunity, employment and labor rights, and labor relations. There were no complaints of discrimination filed with police, the Public Administration and Civil Service Bureau, or the Labor Affairs Bureau (LAB) in the first half of the year.

The CAC received one complaint of gender discrimination, which was dismissed as legally unsubstantiated.

Reproductive Rights: Couples and individuals have the right to decide the number, spacing, and timing of their children as well as 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.

Discrimination: 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 cases to the LAB 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. No complaints of discrimination were filed with police, the LAB, or the CAC.

## **Children**

Birth Registration: 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.

Child Marriage: The minimum age of marriage is 16. Children between the age of 16 and 18 who wish to get married must get approval from their parents or guardians.

Sexual Exploitation of Children: 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. During the first half of the year, there were five complaints of sexual abuse of children and nine complaints of sexual acts with minors filed with police. Law enforcement authorities arrested three individuals for sexual abuse of children and eight individuals for sexual acts with minors.

International Child Abductions: The SAR is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction.

## **Anti-Semitism**

The Jewish population was extremely small, and there were no reports of anti-Semitic acts.

## **Trafficking in Persons**

See the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/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, public facilities, information, and communications for persons with disabilities. The government enforced the law effectively. The government built and reconstructed public facilities such as the ferry terminal and overpasses for persons with disabilities. New buses accommodated spaces for passengers with wheelchairs. 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. There were no reports of children with disabilities encountering obstacles to attending school.

## **National/Racial/Ethnic Minorities**

Although the government has made efforts to address the complaints of individuals of Portuguese descent and the Macanese minority, members of these two groups continued to claim they were not treated equally by the Chinese majority. While they participated in political and cultural circles, some activists claimed businesses refused to hire employees who were not ethnically Chinese.

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

There are no laws criminalizing sexual orientation and no prohibition against lesbian, gay, bisexual, and transgender (LGBT) persons forming organizations or

associations. There were no reports of violence against persons based on their sexual orientation.

LGBT rights activists organized the SAR's first gay rights protest in December. During the Macau Rainbow Equality Parade, 12 participants protested against the government's decision to remove protection to same-sex cohabitants in its draft antidomestic violence bill. The SAR's civil society groups alleged that the government discriminated against the local LBGT community when it failed to invite them to participate during public consultation on the bill or provide input into its decision to remove same-sex partners from the bill.

### **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. Freedom of Association and the Right to Collective Bargaining**

The law, including related regulations and statutory instruments, provides workers the right to form and join unions or "labor associations" of their choice without previous authorization or excessive requirements. However, in order to register as an official union, the government requires an organization to provide the names and personal information of its leadership structure. There is no law specifically defining the status and function of labor unions, nor are employers compelled to negotiate with them. According to the law, employees or job seekers shall not be prejudiced, deprived of any rights, or exempted from any duties on the basis of their membership in an association.

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 the law migrant workers enjoy treatment equal to that of local workers, including the same rights, obligations, and remuneration. All workers, including migrants, have access to the courts in cases of unlawful dismissal, if an employer fails to pay compensation, or a worker believes that his/her legitimate interests have been violated. The law also seeks to protect migrant workers from unfair dismissal by stipulating compensation based on the number of years or days of the work relationship.

Workers have the right to strike, but there is no specific protection in the law from retribution if workers exercise this right. The government asserted that striking employees are protected from retaliation by provisions of the law that require an employer to have justified cause to dismiss an employee.

The law provides that agreements between employers and workers shall be valid, but there is no specific statutory provision giving workers the right to collective bargaining. Independent lawmakers continued to push for the government to introduce a trade union and collective bargaining law.

Workers who believed they were dismissed unlawfully could bring a case to court or lodge a complaint with the Labor Department or the CAC, which also has an Ombudsman Bureau that handles complaints over administrative illegalities. The bureau made recommendations to the relevant government departments after its investigation.

There were no reports that the government failed to respect strike provisions during the year. Although strikes, rallies, and demonstrations were not permitted in the vicinity of the chief executive's office, the Legislative Assembly, and other key government buildings, some protests occurred near government headquarters.

While laws exist protecting worker rights, the government did not respond to official complaints on working conditions or abuse, nor did the government punish employers that withheld pay when employees made such complaints. In addition, the LAB could charge the union a fee to process such complaints. Union leaders also claimed that the government maintained a "blacklist" of labor "agitators."

Even without formal collective bargaining rights, companies often negotiated with unions, although the government regularly acted as an intermediary. Pro-PRC unions traditionally have not attempted to engage in collective bargaining. Migrant workers do not have the right to bargain collectively.

### **b. Prohibition of Forced or Compulsory Labor**

The law prohibits forced or compulsory labor, and there were no reports that such practices occurred. See the Department of State's annual *Trafficking in Persons Report* at [www.state.gov/j/tip](http://www.state.gov/j/tip).

### **c. Prohibition of Child Labor and Minimum Age for Employment**

A chief executive's order prohibits minors under the age of 16 from working, although minors between the ages of 14 and 16 can be authorized to work in "exceptional circumstances" if they obtain a health certificate to prove they have the "necessary robust physique to engage in a professional activity." The decree does not define "exceptional circumstances." 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 law governing the number of working hours (eight hours a day, 40 hours a week) was equally applicable to adults and minors, but minors cannot work overtime hours.

Minors are forbidden from certain types of work, including but not limited to domestic work, any employment between 9 p.m. and 7 a.m., and at places where admission of minors is forbidden. Employers are required to conduct an assessment of the nature, extent, and duration of risk exposure at work before commencing labor relations. The Labor Department enforced the law through periodic and targeted inspections, and violators were prosecuted. Employers are also obligated to provide professional training and working conditions appropriate to a minor's age to prevent situations that undermine his/her education and that can endanger his/her health, safety, and physical and mental development.

### **d. 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 and foreign domestic workers. The law also sets maximum hours, rest days, statutory holidays, and premium pay rules. Employers can dismiss staff "without just cause" provided that they provide economic compensation, indexed to an employee's length of service. Local law requires employers provide equal pay for equal work, regardless of gender.

All local workers, whether under a term contract or an indefinite contract, are entitled to such benefits as specified working hours, weekly leave, statutory holidays, annual leave, and sick leave. The law does not define “temporary contract” or “short-term contract.” It states only that a labor contract may be either for a defined term or of indefinite duration. Cases of labor-related malpractices are referred to the LAB.

Labor legislation provides for a 48-hour workweek (many businesses operated on a 40-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.

Local custom favored unwritten labor contracts of indefinite duration, except in the case of migrant workers, who were issued written contracts for specified terms. Labor groups reported that employers increasingly used temporary contracts to circumvent obligations to pay for such workers’ benefits as pensions, sick leave, and paid holidays. The short-term nature of the written contracts made it easier to dismiss workers through nonrenewal.

The Labor Department enforced occupational safety and health regulations, and failure to correct infractions could lead to prosecution. The law includes a requirement that employers provide a safe working environment.

According to official statistics, at the end of April, there were 99,503 nonresident workers, who accounted for approximately 29 percent of the population. They came mostly from the Mainland, Hong Kong, Indonesia, the Philippines, and Vietnam. Most of them worked in the restaurant and hotel industry, but others found employment as domestic servants, in the gaming and entertainment sectors, or in construction and retail trade. They often complained of discrimination in the workplace. The Macau Lawyers Association claimed that foreign workers were often paid less than their Macau counterparts.

Nonresident 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 before they could start new employment. Labor officials responded that the law, meant to deter “job hopping,” was not implemented if a worker could demonstrate a just cause, such as abuse,

nonpayment of wages, or contract violation, for wishing to terminate a contract. However, the lack of coordination between the LAB, which handled complaints, and the Immigration Department meant that workers filing complaints could be dismissed, deprived of their immigration status, and forced to depart before their complaints could be resolved.