



## China (includes Tibet, Hong Kong, and Macau)

Country Reports on Human Rights Practices - [2006](#)

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(The section for [Tibet](#), the report for [Hong Kong](#), and the report for [Macau](#) are appended below.)

The People's Republic of China (PRC) is an authoritarian state in which, as specified in its constitution, the Chinese Communist Party (CCP) is the paramount source of power. Party members hold almost all top government, police, and military positions. Ultimate authority rests with the 24-member political bureau (Politburo) of the CCP and its nine-member standing committee. General Secretary Hu Jintao holds the three most powerful positions as CCP general secretary, president, and chairman of the Central Military Commission. The party's authority rested primarily on the government's ability to maintain social stability; appeals to nationalism and patriotism; party control of personnel, media, and the security apparatus; and continued improvement in the living standards of most of the country's 1.3 billion citizens. Civilian authorities generally maintained effective control of the security forces.

Although the constitution asserts that "the state respects and preserves human rights," the government's human rights record remained poor, and in certain areas deteriorated. There were an increased number of high-profile cases involving the monitoring, harassment, detention, arrest, and imprisonment of journalists, writers, activists, and defense lawyers, many of whom were seeking to exercise their rights under law. The government tightened restrictions on freedom of speech and the press, including stricter control and censorship of the Internet. Nongovernmental organizations (NGOs), both local and international, continued to face increased scrutiny and restrictions. As in previous years, citizens did not have the right to change their government. Other serious human rights abuses included instances of extrajudicial killings; torture and coerced confessions of prisoners; and the use of forced labor, including prison labor. Legal reforms continued to stall, as the party and state exercised strict political control of courts and judges, and maintained closed trials and administrative detention. Executions often took place on the day of conviction or immediately after the denial of an appeal. A lack of due process and new restrictions on lawyers further limited progress toward rule of law. Individuals and groups, especially those considered politically sensitive, continued to face tight restrictions on their freedom to assemble; their freedom to practice religion, including strengthened enforcement of religious affairs regulations implemented in 2005; and their freedom to travel. The government continued its coercive birth limitation policy, in some cases resulting in forced abortion and sterilization.

The government failed to adequately protect refugees, and the forced repatriation of North Koreans continued to be a grave problem. Serious social conditions that affected human rights included endemic corruption, trafficking in persons, and discrimination against women, minorities, and persons with disabilities. The government continued its severe cultural and religious repression of minorities in Tibetan areas and Xinjiang; in Xinjiang, trials and executions of Uighurs charged with separatism continued.

The government continued to pursue some criminal and judicial reforms. China's highest court, the Supreme People's Court (SPC), began implementing new appellate procedures for hearing death penalty cases and took concrete steps towards reclaiming the death penalty review power from provincial courts. In July the Supreme People's Procuratorate (SPP) issued new regulations that detail criteria for prosecuting official abuses of power, and clarified that police are accountable when they use torture to coerce confessions.

### RESPECT FOR HUMAN RIGHTS

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

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

During the year politically motivated and other arbitrary and unlawful killings occurred, although no official statistics on deaths in custody were available.

On September 30, People's Armed Police at the Nangpa La pass fired at a group of approximately 70 Tibetans attempting to cross into Nepal, killing 17-year-old nun Kelsang Namtso and wounding others (see Tibet Addendum).

In December 2005 police shot and killed at least three protesters in Dongzhou Village, Guangdong Province. Villagers claimed that as many as 20 villagers were shot and killed by paramilitary riot police, with approximately 40 others missing. The government said the shooting occurred after protesters threw explosives at police and claimed that three protesters were killed. On May 24, 13 villagers from Dongzhou were sentenced to prison terms ranging from three to seven years for alleged crimes during the protest. Four government officials were given internal warnings, but only the deputy director of the local Public Security Bureau (PSB) was removed from his position.

Trials involving capital offenses sometimes took place under circumstances involving severe lack of due process and with no meaningful appeal. Some executions took place on the day of conviction or failed appeal. In past years executions of Uighurs whom authorities accused of separatism, but which some observers claimed were politically motivated, were reported (see sections 1.e. and 5). The government regarded the number of death sentences it carried out as a state secret. However, in March 2004 a National People's Congress (NPC) deputy asserted that nearly 10,000 cases per year "result in immediate execution," a figure SPC and Ministry of Justice officials stated was exaggerated. Foreign experts estimated that the country executed between 5,000 and 12,000 persons each year. Media reports stated that approximately 10 percent of executions were for economic crimes, especially corruption. The SPC began implementing new appellate procedures requiring it to review all death sentences, thus consolidating and reclaiming the death penalty review power from provincial courts. The SPC and SPP issued a joint interpretation to establish specific guidelines for how local courts and procuratorates should handle death penalty appeals. The SPC added three new tribunals to conduct reviews of death sentences and hired hundreds of personnel to staff the new tribunals, but at year's end it had not begun exercising its reclaimed review authority. The SPC has not issued a judicial interpretation to settle unresolved issues in the death penalty review process and to clarify its own procedures for final review (see section 1.e.).

#### b. Disappearance

Tsewangnorbu, a Web master for a Web site run by the Snow Country Tibetans, was not heard from after Gansu Province security authorities shut down the Web site in March 2005, according to NGOs. His whereabouts remained unknown. In October Shi Xiaoyu was reportedly detained in Zhejiang Province after writing about labor disputes online. His status remained unknown. Shanghai petitioner Chen Xiaoming was detained by police in February, and his whereabouts remain 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.

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

The law forbids prison guards from extorting confessions by torture, insulting prisoners' dignity, and beating or encouraging others to beat prisoners. However, police and other elements of the security apparatus employed widespread torture and degrading treatment when dealing with some detainees and prisoners. UN Rapporteur on Torture Manfred Nowak's March report to the UN Commission on Human Rights blamed the prevalence of torture on institutional weakness and lack of judicial independence in a system that pressures police to solve cases and allows them wide discretion in matters of arrest and detention.

Former detainees credibly reported that officials used electric shocks, beatings, shackles, and other forms of abuse. In January four teenagers from Anhui Province were released from custody. Media reports said authorities were investigating three police officers on suspicion of using torture to coerce false confessions from the teenagers. Public security officials acknowledged that the teenagers' cases were mishandled. In June authorities charged Alim, Ablikim, and Qahar Abdurehim, three of Uighur businesswomen Rebiya Kadeer's sons, with state security and economic crimes. Authorities beat Alim and Ablikim, and Alim confessed to the charges against him after reportedly being tortured. In October 2005 Falun Gong adherents Liu Boyang and Wang Shuohui of Changchun, Jilin Province reportedly died in custody after being tortured by police. Beijing-based petitioner leader Ye Guozhu was reportedly tortured and abused in prison, including beatings with electric batons, suspension from the ceiling by his arms, and shackled and forced to sit in extreme positions for extended periods of time. Inner Mongolian cultural activist Hada was also reportedly tortured. Approximately half of all alleged acts of torture occurred in pretrial criminal detention centers or reeducation-through-labor centers.

In February the Ministry of Justice established punishments for prison and reeducation-through-labor police who beat, or induce others to beat, prisoners.

In March UN Special Rapporteur Nowak reaffirmed earlier findings that torture remained widespread. Nowak reported that beatings with fists, sticks, and electric batons continued to be the most common tortures. He also found that prisoners

continued to suffer cigarette burns, prolonged periods of solitary confinement, and submersion in water or sewage, and that they were made to hold extreme positions for long periods, were denied medical treatment, and were forced to do hard labor. Death row inmates were shackled or handcuffed 24 hours per day and systematically abused to break their will and force confession. According to Nowak, officials specifically targeted house church groups, Falun Gong adherents, Tibetans, and Uighur prisoners for abuse. Nowak found that procedural and substantive measures to prevent torture were inadequate.

Since the crackdown on Falun Gong began in 1999, estimates of the numbers of Falun Gong adherents who died in custody due to torture, abuse, and neglect ranged from several hundred to a few thousand (see section 2.c.). UN Special Rapporteur Nowak reported in March that Falun Gong practitioners accounted for 66 percent of victims of alleged torture while in government custody.

The Ministry of Public Security (MPS) began audio and video taping of police interrogations in homicide and organized crime cases in an attempt to prevent coerced confessions. In May the government concluded a campaign to curb coerced confessions. The campaign exposed 3,700 cases of official abuse and resulted in 1,924 prosecutions and 1,450 convictions.

On November 29, the PSB punished 100 alleged prostitutes and their procurers in an act of public shaming in the southern city of Shenzhen. Officials paraded the women in front of jeering crowds, revealed their names and alleged crimes over a loudspeaker, and then sentenced them to administrative detention without trial. According to reports, the purpose of this campaign was to dissuade women from turning to prostitution and intimidate men who patronized brothels.

Sexual and physical abuse and extortion were reported in some detention centers. Falun Gong activists reported that police raped female practitioners, including an incident in November 2005 at the Dongchengfang police station in Tunzhou City, Hebei Province, in which two women were raped while in detention.

According to foreign researchers, the country had 20 anfang institutions (high-security psychiatric hospitals for the criminally insane) directly administered by the Ministry of Public Security. Persons committed to these institutions had no mechanism for objecting to public security officials' determinations of mental illness. Some dissidents, persistent petitioners, and others were housed with mentally ill patients in these institutions. Patients in these hospitals were reportedly given medicine against their will and forcibly subjected to electric shock treatment. The regulations for committing a person into an anfang psychiatric facility were not clear. Credible reports indicated that a number of political and trade union activists, underground religious believers, persons who repeatedly petitioned the government, members of the banned China Democratic Party, and Falun Gong adherents were incarcerated in such facilities during the year. These included Wang Miaogen, Wang Chanhao, Pan Zhiming, and Li Da, who were reportedly held in an anfang facility run by the Shanghai PSB. Activists sentenced to administrative detention also reported they were strapped to beds or other devices for days at a time, beaten, forcibly injected or fed medications, and denied food and use of toilet facilities.

#### Prison and Detention Center Conditions

The Ministry of Justice administered more than 700 prisons with a population of more than 1.8 million inmates, according to 2005 official statistics. In addition, 30 jails for juveniles held approximately 22,000 juvenile offenders. The country also operated hundreds of administrative detention centers, which were run by security ministries and administered separately from the formal court system (see section 2.d.).

Conditions in penal institutions for both political prisoners and common criminals generally were harsh and degrading. Prisoners and detainees often were kept in overcrowded conditions with poor sanitation. Prison capacity was an increasing problem in some areas. Food often was inadequate and of poor quality, and many detainees relied on supplemental food and medicines provided by relatives; some prominent dissidents were not allowed to receive such goods.

During the year new reports from overseas medical and legal experts asserted that the government harvested organs from executed prisoners without consent. At least one formal complaint was filed with the government by a family alleging that their executed son's organs were harvested before the body was returned to the family for burial. In July 2005 Vice Minister of Health Huang Jiefu confirmed that the majority of organs used in transplants in the country come from executed prisoners. A Ministry of Health directive prohibits buying and selling human organs and tissues and requires that organ donations from deceased individuals be "handled according to society's ethical and moral principles." However, new regulations that went into effect in July focus on organ trade, which refers to persons voluntarily selling their organs, a practice rare in China, but leave intact old provisions that legalize organ harvesting if no one claims the body for burial. Critics also assert that the regulations apply to Ministry of Health hospitals but not military hospitals, where it is alleged that transplants for foreigners were conducted.

Adequate, timely medical care for prisoners remained a serious problem, despite official assurances that prisoners have

the right to prompt medical treatment. Labor activist Xiao Yunliang remained in prison in very poor health. Other prisoners with health concerns included democracy activists Qin Yongmin, Hua Di, Wang Sen, and He Depu; Internet writers Yang Zili and Luo Yongzhang; labor activists Hu Shigen and Zhang Shanguang; Inner Mongolian activist Hada; foreign residents Yang Jianli and Wang Bingzhang; and religious prisoners Zhang Rongliang, Liu Fenggang, and Gong Shengliang.

Acknowledging guilt was a precondition for receiving certain prison privileges, including the ability to purchase outside food, make telephone calls, and receive family visits. Prison officials often denied privileges to those, including political prisoners, who refused to acknowledge guilt.

Conditions in administrative detention facilities, such as reeducation-through-labor camps, were similar to those in prisons. Beating deaths occurred in administrative detention and reeducation-through-labor facilities.

The law requires juveniles to be held separately from adults, unless facilities are insufficient. In practice, children sometimes were held with adult prisoners and required to work (see sections 1.d. and 6.c.). Political prisoners were segregated from each other and placed with common criminals, who sometimes beat political prisoners at the instigation of guards. Newly arrived prisoners or those who refused to acknowledge committing crimes were particularly vulnerable to beatings.

The government generally did not permit independent monitoring of prisons or reeducation-through-labor camps, and prisoners remained inaccessible to most international human rights organizations. In July 2005 the International Committee of the Red Cross (ICRC) opened a regional delegation in Beijing, although the government did not grant the ICRC access to prisons.

#### d. Arbitrary Arrest or Detention

Arbitrary arrest and detention remained serious problems. The law permits police and security authorities to detain persons without arresting or charging them. Because the government tightly controlled information, it was impossible to determine accurately the total number of persons subjected to arbitrary arrest or detention. According to 2005 official statistics, 500,000 persons were held in 310 reeducation-through-labor camps. In 2004, special administrative detention facilities held more than 350,000 offenders. The government also confined some Falun Gong adherents, petitioners, labor activists, and others to psychiatric hospitals.

#### Role of the Police and Security Apparatus

The security apparatus is made up of the Ministries of State Security and Public Security, the People's Armed Police, the People's Liberation Army (PLA), and the state judicial, procuratorial, and penal systems. The Ministries of State Security and Public Security were responsible for internal security. SPP and SPC officials admitted that courts and prosecutors often deferred to the security ministries on policy matters and individual cases. The PLA was responsible for external security, but also had some domestic security responsibilities.

The MPS coordinates the country's law enforcement, which is administratively organized into local, county, provincial, and specialized police agencies. Recent efforts have been made to strengthen historically weak regulation and management of law enforcement agencies; however, judicial oversight was limited, and checks and balances were absent. Corruption at the local level was widespread. Police officers reportedly coerced victims, took individuals into custody without just cause, arbitrarily collected fees from individuals charged with crimes, and mentally and physically abused victims and perpetrators.

The SPP acknowledged continuing widespread abuse in law enforcement. In July the SPP issued new standards for prosecuting official abuses of power. Domestic news media reported the convictions of several public security officials who had beaten to death suspects or prisoners in their custody. Nonetheless, investigation of misconduct typically only came in response to publicity, public pressure, and persistent efforts by relatives of victims to petition the government. In July an SPP spokesperson said there were many abuse of power cases that the procuratorates did not dare handle.

#### Arrest and Detention

Public security organs do not require court-approved warrants to detain suspects under their administrative detention powers. After detention, the procuracy can approve formal arrest without court approval. The courts, the procuracy, and public security organs grant bail only in a small minority of cases. Access to lawyers is limited before formal charges are filed, and lawyers generally cannot discuss the substance of a detainee's case with the detainee before formal charges are filed.

Administrative detention was frequently used to intimidate political activists and prevent public demonstrations (see section 2.b.). The government was reforming its administrative punishment system, but reforms seek to codify rather than abolish it. In March the new public order administrative punishment law went into effect. The law provides for administrative review of detention decisions, bans administrative detention of minors, the elderly, pregnant women, and nursing mothers, places limits on interrogation, and limits the maximum period for public order detentions to 20 days. However, the law also establishes more severe punishments and creates 165 new offences subject to administrative punishment, including illegal demonstrations, disturbing social order in the name of religion, invasion of privacy, and publication that incites ethnic or national hostility or discrimination. Police continued to hold individuals without granting access to family members or lawyers, and some trials continued to be conducted in secret. Detained criminal suspects, defendants, their legal representatives, and close relatives were entitled to apply for bail; however, in practice few suspects were released on bail pending trial.

Extended, unlawful detention remained a problem. In January the government reported to UN Special Rapporteur Nowak that there were no serious cases of extended detention lasting more than three years and that cases of persons held beyond lawful time limits were at an all-time low. In May the SPP acknowledged that unlawful extended detentions remain a problem and that authorities misused legal provisions to hide this. Law enforcement officials continued to detain citizens for long periods without formal charge or trial. A number of politically sensitive individuals were held for periods longer than the time authorized by law, which varied depending on the stage a case is in. In some cases, investigating security agents or prosecutors sought repeated extensions, resulting in pretrial detention of a year or longer.

The government used incommunicado detention. 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 were not required to provide notification if doing so would "hinder the investigation" of a case. In some cases police treated those with no immediate family more severely.

Citizens who were reportedly detained with no or severely delayed notice included HIV/AIDS activist Hu Jia, blind legal activist Chen Guangcheng, attorney Zhu Jiuhe, petitioner advocate Hou Wenzhuo, and writer Guo Feixiong (also known as Yang Maodong). On February 16, Hu Jia was detained and held incommunicado for 41 days, until March 28 (see sections 1.d. and 4). During Hu's detention, police questioned him about his contacts with rights lawyer Gao Zhisheng. On August 15, Gao was likewise detained and thereafter held incommunicado by government authorities.

The law permits nonjudicial panels, called labor reeducation panels, to sentence persons without trial to three years in reeducation-through-labor camps or other administrative detention programs. The labor reeducation committee is authorized to extend a sentence up to one year. Defendants could challenge reeducation-through-labor sentences under the administrative litigation law and appeal for a reduction in, or suspension of, their sentences (see section 1.e.). However, appeals rarely succeeded. Many other persons were detained in similar forms of administrative detention, known as "custody and education" (for prostitutes and those soliciting prostitutes) and "custody and training" (for minors who committed crimes). Administrative detention was frequently used to intimidate political activists and prevent public demonstrations (see section 2.b.). A special form of reeducation centers was used to detain Falun Gong practitioners who had completed terms in reeducation through labor but whom authorities decided to continue detaining.

Authorities arrested persons on charges of revealing state secrets, subversion, and common crimes to suppress political dissent and social advocacy. Citizens also were detained and prosecuted under broad and ambiguous state secrets laws for, among other actions, disclosing information on criminal trials, meetings, and government activity. Information could retroactively be classified a state secret by the government. Citizens writing on the Internet were detained, arrested, and sentenced on state secrets and subversion charges during the year (see section 2.a.).

Among those specially targeted for arbitrary detention or arrest during the year were current and former China Democracy Party (CDP) activists, Falun Gong practitioners, domestic and foreign journalists, unregistered religious figures, and former political prisoners and their family members. Gao Zhisheng was detained and questioned several times during the year. On August 15, authorities reportedly abducted Gao from his sister's home in Shandong Province and thereafter detained him. Gao's wife and children were under house arrest in Beijing. On November 24, Gao Zhisheng's wife, Geng He, was attacked by local officials while shopping in Beijing. In February activist Hu Jia disappeared after launching a hunger strike protesting government abuses. Officials held Hu for 41 days at an undisclosed location without any legal formalities or notice to his family (see section 1.b.).

The government continued to use house arrest as a nonjudicial punishment and control measure against dissidents, former political prisoners, family members of political prisoners, petitioners, underground religious figures, and others it deemed politically sensitive. In some cases house arrest involved constant monitoring, but the target of house arrest was occasionally permitted to leave the home to work or run errands. When outside the home, the subject of house arrest was usually, but not always, under surveillance. House arrest encompassed varying degrees of stringency but sometimes included complete isolation in one's own home or another location under lock and guard. In some instances security officials assumed invasive positions within the family home, rather than monitoring from the outside.

Former senior leader Zhao Ziyang died in January 2005, after spending more than 15 years under house arrest in Beijing for his support of student demonstrations at Tiananmen in 1989. Zhao's former aide Bao Tong remained under similar surveillance in his home. In September 2005 blind legal advisor and family planning whistleblower Chen Guangcheng was placed under house arrest without charge or trial for nine months. Local authorities did not formally notify Chen of his criminal detention until June 10 (see section 1.e.). On June 5, activist lawyer Zheng Enchong was released from prison and placed under house arrest. Several underground Catholic priests and bishops were under house arrest for varying periods during the year. The longest serving among them may be Bishop Su Zhimin, who has reportedly been detained in a form of house arrest in Baoding, Hebei Province, since 1997. An unverified press report circulated in June stated that Bishop Su had died in custody. The government did not respond to this report.

Police continued the practice of placing under surveillance, harassing, and detaining citizens around politically sensitive events, including before the first anniversary of Zhao Ziyang's death in January, the plenary sessions of the NPC and Chinese People's Political Consultative Conference (CPPCC) in March, and the anniversary of the founding of the PRC in October. Authorities in Xinjiang used house arrest and other forms of arbitrary detention against those accused of the "three evils" of extremism, splittism, and terrorism. Because authorities failed to distinguish carefully between peaceful activities supporting independence, "illegal" religious activities, and violent terrorism, it was difficult to determine whether raids, detentions, arrests, or judicial punishments were targeted at those peacefully seeking political goals, those seeking worship, or those engaged in violence (see section 5). Others held under house arrest for varying periods during the year included Tiananmen activist Qi Zhiyou, Internet writer Liu Di, underground Catholic bishops Jia Zhiguo and Wei Jingyi, members of the Tiananmen Mothers organization and of the Independent PEN Center for Freedom to Write. Family members of some detained political prisoners reported being under house arrest or other surveillance.

Officials deployed a wide range of tactics to obstruct the work of lawyers representing sensitive clients, including unlawful detentions, disbarment, intimidation, refusal to allow a case to be tried before a court and physical abuse. According to the law, defense attorneys can be held responsible if their client commits perjury, and prosecutors and judges have wide discretion to decide what constitutes perjury. According to the All-China Lawyers Association, since 1997 more than 500 defense attorneys have been detained. More than 80 percent were acquitted, but the prosecutions nevertheless had a chilling effect on attorneys' willingness to handle controversial defense cases. In 1990 Beijing attorneys handled an annual average of 2.64 criminal cases; by 2000 the figure had dropped to 0.78. Nationwide, attorneys handled an average of only 0.72 criminal cases in 2004.

On June 10, blind legal activist Chen Guangcheng, who publicized local officials' abuses in family planning policies, was formally arrested after nine months of informal house arrest. Local officials physically abused Chen several times after he tried to file lawsuits objecting to their abuses. Officials threatened attorneys and law professors who rallied to defend Chen. In June and July, local authorities obstructed attempts by lawyers to gather evidence in Chen Guangcheng's defense. The night before Chen's August 18 trial, local authorities detained Chen's lawyers on spurious charges, which were later dropped. The following day, court-appointed attorneys effectively conceded the case against Chen. On August 24, Chen was sentenced to four years' and three months' imprisonment on dubious charges of obstructing traffic and inciting others to destroy public property. Chen's case was later remanded for retrial, where he was represented by his own lawyers. However, courts affirmed Chen's original conviction and sentence on retrial and then again on appeal.

In February lawyer Tang Jingling was beaten by thugs after visiting Guo Feixiong, who was under house arrest after helping villagers attempt to recall the elected village head of Taishi, Guangdong Province. Police refused to investigate the incident. In April Tang, who had begun practicing law at a second firm, was stripped of his license to practice law and dismissed from that law firm.

According to the law, in routine criminal cases police can unilaterally detain persons for up to 37 days before releasing them or formally placing them under arrest. After a suspect is arrested, the law allows police and prosecutors to detain a person for up to seven months while public security organs further investigate the case. Another one and one-half months of detention are allowed where public security organs refer a case to the procuratorate to decide whether to file charges. If charges are filed, authorities can detain a suspect for an additional one and one-half month period between filing and trial. However, in practice the police detained persons beyond the time limits stipulated by law. In some cases, investigating security agents or prosecutors sought repeated extensions, resulting in pretrial detention of a year or longer. It was uncertain how many other prisoners were similarly detained. Beijing authorities held New York Times researcher Zhao Yan from September 17, 2004, until his trial on June 16. Authorities asserted that the pretrial extension was justified by special exceptions to the time limits, but Zhao and his lawyer claimed that the extended pretrial detention was unlawful.

#### 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. It received policy guidance from both the government and the CCP, whose leaders used a variety of means to direct courts on verdicts and sentences, particularly in politically sensitive cases. At both the central and local levels, the government and CCP

frequently interfered in the judicial system and dictated court decisions. Trial judges decide individual cases under the direction of the trial committee in each court. In addition, the CCP's law and politics committee, which includes representatives of the police, security services, procuratorate, and courts, had the authority to review and influence court operations at all levels of the judiciary; in some cases the committee altered decisions. People's congresses also had authority to alter court decisions, but this happened rarely.

Corruption often influenced judicial decision making, and safeguards against corruption were vague and poorly enforced (see section 3). In 2005 378 judges were investigated for taking bribes, and 66 were found criminally liable. Local governments appointed judges at the corresponding level of the judicial structure. Judges received their court finances and salaries from these government bodies and could be replaced by them. Local authorities often exerted undue influence over the judges they appointed and financed.

The SPC is followed in descending order by the higher, intermediate, and basic people's courts. These courts handle criminal, civil, and administrative cases, including appeals of decisions by police and security officials to use reeducation through-labor and other forms of administrative detention. There were special courts for handling military, maritime, and railway transport cases.

The CCP used a form of discipline known as shuang gui for violations of CPP discipline, but there were reports of its use against nonparty members. Shuang gui is similar to house arrest and can be authorized without judicial involvement or oversight. Shuang gui requires the CCP party member under investigation to submit to questioning at a designated place for a set period of time. According to regulations of the Central Discipline Inspection Commission (CDIC) governing shuang gui, corporal punishment is banned, the member's dignity must be respected, and he or she is regarded as a comrade unless violations are proved. Absent any legal oversight, it is unclear how these regulations were enforced in practice.

#### Trial Procedures

Trials took place before a judge, who often was accompanied by "people's assessors," lay persons hired by the court to assist in decision making. According to statistics published during the year, there were 48,211 people's assessors. According to law, people's assessors had authority similar to judges, but in practice they deferred to judges and did not exercise an independent jury-like function.

The law gives most suspects the right to seek legal counsel shortly after their initial detention and interrogation, although police often circumvented defendants' right to seek counsel. Individuals who faced administrative detention do not have the right to seek legal counsel.

The government expanded the scope of legal aid and required authorities to notify criminal defendants of their right to apply for legal aid. Both criminal and administrative cases remained eligible for legal aid, although 70 percent or more of criminal defendants still went to trial without a lawyer. According to the Ministry of Justice, during the first half of the year legal aid was granted in 124,800 cases. The number of government lawyers providing legal aid remained inadequate to meet demand. Nonattorney legal advisors and government employees provided the only legal aid options in many areas. According to government statistics, more than 10,000 employees provided legal aid at 3,155 legal aid centers. New regulations required law firms and private attorneys to provide some legal aid. During 2005 courts waived more than \$158 million (RMB 1.27 billion) in litigation costs.

Government-employed lawyers often refused to represent defendants in politically sensitive cases and defendants frequently found it difficult to find an attorney. When defendants were able to retain counsel in politically sensitive cases, government officials sometimes prevented effective representation of counsel. From June to August, local authorities obstructed lawyers' efforts to prepare Chen Guangcheng's defense and detained Chen's lawyers the night before his trial. During the trial, court-appointed defense counsel conceded much of the case against Chen (see section 1.d.). After the initial trial, officials obstructed Chen's lawyers' efforts to investigate and develop their case. In some sensitive cases, lawyers had no pretrial access to their clients, and defendants and lawyers were not allowed to speak during trials. In practice criminal defendants often were not assigned an attorney until a case was brought to court. For example, officials detained prominent rights attorney Gao Zhisheng on August 15 on "suspicion of involvement in criminal activity" and subsequently deprived Gao of his right to counsel by obstructing efforts to formalize Gao's representation. Officials later claimed that Gao declined representation by counsel. Even in nonsensitive criminal trials, only one of seven defendants had legal representation, according to credible reports.

The mechanism that allows defendants to confront their accusers was inadequate; according to one expert, only 1 to 5 percent of trials involved witnesses. In most criminal trials prosecutors read witness statements, which neither the defendant nor his lawyer have an opportunity to question. Approximately 95 percent of witnesses in criminal cases did not appear in court to testify, in part due to hardship or fear of reprisals. Although criminal procedure law says pretrial witness statements cannot serve as the sole basis for conviction, officials 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. In practice, pretrial access to information was minimal, and the defense often lacked adequate opportunity to prepare for trial.

The criminal justice system was biased toward a presumption of guilt, especially in high-profile or politically sensitive cases. The conviction rate for first-instance criminal cases rose slightly and remained above 99 percent in 2005. In many politically sensitive trials, which rarely lasted more than several hours, the courts handed down guilty verdicts immediately following proceedings. Courts often punished defendants who refused to acknowledge guilt with harsher sentences than those who confessed. There was an appeals process, but appeals rarely resulted in reversed verdicts. Appeals processes failed to provide sufficient avenue for review, and there were inadequate remedies for violations of defendants' rights. Nationwide, appeals resulted in changed verdicts in only 0.36 percent of all cases, including capital cases.

SPC regulations require all trials to be open to the public, with certain exceptions, such as cases involving state secrets, privacy, and minors. Authorities used the legal exception for cases involving state secrets to keep politically sensitive proceedings closed to the public and sometimes even to family members, and to improperly withhold access to defense counsel. Under the regulations, foreigners with valid identification are allowed the same access to trials as citizens, but in practice foreigners were permitted to attend court proceedings by invitation only. As in past years, foreign diplomats and journalists sought permission to attend a number of trials only to have court officials reclassify them as "state secret" cases, fill all available seats with security officials, or otherwise close them to the public. Some trials were broadcast, and court proceedings were a regular television feature. A few courts published their verdicts on the Internet.

There was no adversary system, no presumption of innocence, and judges and prosecutors typically used an inquisitorial style to question the defendant, who was often the only witness. The law affords no right to remain silent, no protection against double jeopardy, and no rules governing the type of evidence that may be introduced.

Police and prosecutorial officials often ignored the due process provisions of the law. The lack of due process was particularly egregious in death penalty cases. There were at least 68 capital offenses, including nonviolent financial crimes such as counterfeiting currency, embezzlement, and corruption. Executions were often carried out on the date of conviction. In February the Guangdong High Court announced that the death penalty could be applied in bag-snatching cases. Previously, the maximum sentence was three years.

Following reports of wrongful murder convictions in 2005, the SPC made reform of the death penalty review process a top priority. During the year the SPC began implementing new appellate procedures for hearing death penalty cases, in an effort to reclaim the death penalty review power from provincial courts. The SPC added three new tribunals to handle the death penalty review function and some provincial-level high courts began conducting hearings in death penalty cases. The government also strengthened institutions, including legal aid centers, to assist citizens with legal claims.

The government regarded the number of executions a state secret. Minors and pregnant women expressly were exempt from the death sentence, although in the past the government executed a few criminals who were under age 18 at the time they committed an offense.

Courts lacked the independence and authority to rule on the constitutionality of laws. The law permits organizations or individuals to question laws and regulations they believe contradict the constitution, but a constitutional challenge first requires consultation with the body drafting the questioned regulation and can only be appealed to the NPC. Accordingly, lawyers had little or no opportunity to use the constitution in litigation.

#### Political Prisoners and Detainees

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

Western NGOs estimated that approximately 500 persons remained in prison for the repealed crime of "counterrevolution," and thousands of others were serving sentences under the state security law, which authorities stated covers crimes similar to counterrevolution. Persons who continued to be detained for counterrevolutionary offenses included labor activist Hu Shigen; Inner Mongolian activist Hada; and dissidents Yu Dongyue, Zhang Jingsheng, and Sun Xiongying. Foreign governments urged the government to review the cases of those charged before 1997 with counterrevolution and to release those who had been jailed for nonviolent offenses under provisions of the Criminal Law, which were eliminated when the law was revised. To date, no such review has occurred. The government maintained that counterrevolutionary prisoners were eligible for parole and early release on an equal basis with other prisoners but provided no evidence to

support this assertion.

Amnesty International has identified by name more than 80 persons who remained imprisoned or on medical parole for their participation in the 1989 Tiananmen demonstrations; other NGOs estimated that as many as 200 persons remained in prison for political activities connected to the demonstrations.

Many political prisoners remained in prison or under other forms of detention during the year, including journalists Zhao Yan, Shi Tao, and Jiang Weiping; Internet writers Yang Zili and Xu Wei; labor activist Yao Fuxin; China Democracy Party cofounder Qin Yongmin; political dissident Yang Jianli; family planning whistleblower Chen Guangcheng; Su Zhimin and other underground Catholic bishops; house Christian activists Zhang Rongliang, Cai Zhuohua, and Liu Fenggang; Uighurs Tohti Tunyaz and Dilke Tilivaldi; Tibetans Jigme Gyatso, Tenzin Deleg, and Gendun Choekyi Nyima; and Inner Mongolian cultural activist Hada. Political prisoners obtained parole and sentence reduction much less frequently than ordinary prisoners.

Criminal punishments included "deprivation of political rights" for a fixed period after release from prison, during which the individual is denied the already limited rights of free speech and association granted to other citizens. Former prisoners sometimes found their status in society, ability to find employment, freedom to travel, and access to residence permits and social services severely restricted. Former political prisoners and their families frequently were subjected to police surveillance, telephone wiretaps, searches, and other forms of harassment, and some encountered difficulty in obtaining or keeping employment and housing (see section 1.f.).

#### Civil Judicial Procedures and Remedies

Courts deciding civil matters suffer from internal and external limitations on judicial independence. The State Compensation Law provides administrative and judicial remedies for deprivations of criminal rights, such as wrongful arrest or conviction, extortion of confession by torture, or unlawful use of force resulting in bodily injury. In civil matters, prevailing parties often find it difficult to enforce court orders, and resistance to the enforcement sometimes extends to forcible resistance to court police.

#### 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, the authorities often did not respect the privacy of citizens in practice. Although the law requires warrants before law enforcement officials can search premises, this provision frequently was ignored; moreover, the PSB and prosecutors could issue search warrants on their own authority without judicial consent, review, or consideration. Cases of forced entry by police officers continued to be reported.

During the year authorities monitored telephone conversations, facsimile transmissions, e-mail, text messaging, and Internet communications. Authorities also opened and censored domestic and international mail. The security services routinely monitored and entered residences and offices to gain access to computers, telephones, and fax machines. All major hotels had a sizable internal security presence, and hotel guestrooms were sometimes bugged and searched for sensitive or proprietary materials.

Some citizens were under heavy surveillance and routinely had their telephone calls monitored or telephone service disrupted. The authorities frequently warned dissidents and activists, underground religious figures, former political prisoners, and others whom the government considered to be troublemakers not to meet with foreigners. During the year police ordered many such citizens not to meet with foreign journalists or diplomats, especially before sensitive anniversaries, at the time of important government or party meetings, and during the visits of high-level foreign officials. Security personnel also harassed and detained the family members of political prisoners, including following them to meetings with foreign reporters and diplomats and urging them to remain silent about the cases of their relatives. In 2005 family members of prisoners were discouraged or prevented from meeting with the UN special rapporteur on torture.

Forced relocation because of urban development continued, and in some locations, increased during the year. Protests over relocation terms or compensation, some of which included thousands of participants, were common, and some protest leaders were prosecuted during the year (see sections 2.b. and 3). Many evictions in Beijing were linked to construction for the 2008 Olympics. In rural areas, relocation for major state projects, such as dams, and for commercial development resulted in the forced relocation of millions of persons.

The country's birth planning policies retained harshly coercive elements in law and practice. The laws restrict the rights of families to choose the number of children they have and the period of time between births. The penalties for violating the law are strict, leaving some women little choice but to abort pregnancies. In addition, implementation of the policy by local

officials resulted in serious violations of human rights. Reports of forced sterilizations and abortions, in violation of the national law, continued to be documented in rural areas. During the year officials in Chongqing municipality and in Fujian Province reportedly forcibly sterilized women. In June Western media reported that a woman fell to her death while fleeing Anhui authorities who were trying to force her to abort twins.

The law standardizes the implementation of the government's birth limitation policies; however, enforcement varied significantly from place to place. 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. Many provincial regulations require women to wait four years or more after their first birth before making such an application. According to the UN Population Fund (UNFPA), the spacing requirement was removed in eight and relaxed in 10 of 30 counties across 30 provinces participating in UNFPA's "Fifth Country Program." The law requires couples that have an unapproved child to pay a "social compensation fee," which sometimes reached 10 times a person's annual disposable income, and grants preferential treatment to couples who abide by the birth limits. Although the law states that officials should not violate citizens' rights, these rights, as well as penalties for violating them, are not clearly defined. The law provides significant and detailed sanctions for officials who help persons evade the birth limitations.

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

The one-child limit was more strictly applied in the cities, where only couples meeting certain conditions (e.g., both parents are only children) were permitted to have a second child. In most rural areas (including towns of under 200,000 persons), which included approximately 60 percent of the country's population, the policy was more relaxed, generally allowing couples to have a second child if the first was a girl or had a disability. Central government policy formally prohibits the use of physical coercion to compel persons to submit to abortion or sterilization, although reports of physical coercion to meet birth targets continued.

Provinces were responsible for implementation of the regulations. All provincial-level governments except the Tibet Autonomous Region (TAR) amended their regulations to conform to the new law. For example, Anhui Province passed a law permitting 13 categories of couples, including coal miners, some remarried divorcees, and some farm couples, to have a second child. Ethnic minorities like the Uighurs and the Tibetans are also allowed more than one child.

Seven provinces--Anhui, Hebei, Heilongjiang, Hubei, Hunan, Jilin, and Ningxia--require "termination of pregnancy" if the pregnancy violates provincial family planning regulations. An additional 10 provinces--Fujian, Guizhou, Guangdong, Gansu, Jiangxi, Qinghai, Sichuan, Shanxi, Shaanxi, and Yunnan--require unspecified "remedial measures" to deal with out-of-plan pregnancies.

In order to delay childbearing, the law sets the minimum marriage age for women at 20 years and for men at 22 years. It continued to be illegal in almost all provinces for a single woman to have a child. Social compensation fees were levied on unwed mothers.

The country's population control policy relied on education, propaganda, and economic incentives, as well as on more coercive measures such as the threat of job loss or demotion and social compensation fees. Psychological and economic pressures were common. According to provincial regulations, the fees ranged from one-half to 10 times the average worker's annual disposable income. Those who violated the child limit policy by having an unapproved child or helping another to do so faced disciplinary measures such as job loss or demotion, loss of promotion opportunity, expulsion from the party (membership in which was an unofficial requirement for certain jobs), and other administrative punishments, including in some cases the destruction of property. In the case of families that already had two children, one parent was often pressured to undergo sterilization. These penalties sometimes left women with little practical choice but to undergo abortion or sterilization. There were several rewards for couples who adhered to birth limitation laws and policies, including monthly stipends and preferential medical and educational benefits. The National Population and Family Planning Commission (NPFPC) expanded a number of programs to encourage smaller families. For example, new pension benefits were made available nationwide for those who adhered to birth limitation laws.

The law states that family planning bureaus will conduct pregnancy tests on married women and provide them with unspecified "follow-up" services. Some provinces fine women who do not undergo periodic pregnancy tests. For example, in Hebei fines range from \$25 to \$62.50 (RMB 200 to 500) and in Henan from \$6 to \$62.50 (RMB 50 to 500).

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 still depended in part on meeting population targets. There continued to be sporadic reports of violations of citizens' rights by local officials attempting to reduce the number of births in their region. The most egregious reports occurred in 2005 in Linyi, Shandong Province. International press reports alleged that local

official detained some 130,000 persons and forced them to submit to abortions or sterilization procedures. At least 7,000 persons were forcibly sterilized. Local officials profited from this illegal system by charging detention fees. Local rights activists documented several cases of forced late-term abortions.

According to law, citizens may sue officials who exceed their authority in implementing birth-planning policy. However, local officials retaliated with impunity against whistleblower Chen Guangcheng for his work in exposing the Linyi family planning abuses. In August Chen was sentenced to four years' and three months' imprisonment on dubious charges of obstructing traffic and damaging public property (see section 1.e.).

Laws and regulations forbid the termination of pregnancies based on the sex of the fetus, but because of the intersection of birth limitations with the traditional preference for male children, particularly in rural areas, many families used ultrasound technology to identify female fetuses and terminate these pregnancies (see section 5). The male-female birth ratio for first births was 118.58 to 100 (compared with norms of between 103 and 107 to 100), and in some parts of the country, the ratio was even more skewed. For second births, the national ratio was 152 to 100. While the NPFPC continued to deny a direct connection between family planning and skewed sex ratios at birth, it promoted expanded programs to raise awareness of the sex ratio imbalance and to improve protection of the rights of girls.

## Section 2 Respect for Civil Liberties, Including:

### a. Freedom of Speech and Press

The law provides for freedom of speech and of the press, although the government generally did not respect these rights in practice. The government interpreted the CCP's "leading role," as mandated in the constitution, as superseding and circumscribing these rights. The government continued to threaten, arrest, and imprison many individuals for exercising rights to free expression. Internet essayists and journalists in particular were targeted. Hunan writer Shi Tao, New York Times employee Zhao Yan, and Hong Kong-based journalist for the Singapore's Straits Times Ching Cheong remained in prison. In November Ching Cheong, who was tried in a closed hearing in August, had his appeal denied by the Beijing High People's Court. On December 19, Lu Jianhua, a former media commentator and researcher at a top state-run academic institution, was sentenced in closed proceedings to 20 years' imprisonment. Lu, who was originally detained in December 2005, was found guilty of leaking state secrets in August. The government continued to control print, broadcast, and electronic media tightly and used them to propagate government views and CCP ideology. Such controls tightened during the year, and it was increasingly difficult to express views that differed from the official line on the Internet, through broadcast media, and in print. Media outlets received regular guidance from the Central Propaganda Department, which listed topics that should not be covered, including politically sensitive topics. All media employees were under explicit orders to follow CCP directives and guide public opinion. These measures greatly restricted the freedom of journalists and Internet writers to report the news and led to a high degree of self-censorship.

So long as the speaker did not publish views that challenged the Communist Party or disseminate such views to overseas audiences, the range of permissible topics for private speech continued to grow. Political topics could be discussed privately and in small groups without punishment, and minor criticisms of the government were common topics of daily speech. However, public speeches, academic discussions, and speeches at meetings or in public forums covered by the media remained circumscribed. Those who aired views that disagreed with the government's position on controversial topics risked punishment ranging from disciplinary action at government work units to police interrogation and detention. These restrictions and more formal restrictions on freedom of the press and academic freedom had a chilling effect on freedom of speech.

Some citizens continued to speak out and publish on controversial topics, despite the government's restrictions. For example, in January Guangzhou Professor Yuan Weishi wrote an article in Freezing Point, a popular investigative segment in the China Youth Daily newspaper, calling for a reassessment of sensitive historical points, resulting in a six-week suspension of the publication.

Journalists who reported on topics that met with the government's or local authorities' disapproval continued to suffer harassment, detention, and imprisonment.

Yang Xiaoqing, a reporter for the Beijing-based China Industrial Economy News, was detained in January, charged with blackmail and extortion in February and sentenced in June to one year in prison. Yang reported for the newspaper on alleged corruption among county officials in Hunan Province. Other journalists who remained in prison included Huang Jinqui, Li Changqing, Yu Huafeng, Li Mingying, Cheng Yizhong, Yang Xiaoqing, and Shi Tao. International NGOs reported that at year's end 32 journalists and 50 cyberdissidents remained in prison.

Detention of journalists and Chinese employees working for foreign media outlets increased concern that the government was attempting to intimidate foreign correspondents and newspapers. In August the Beijing Intermediate Court sentenced

Hong Kong-born journalist Cheng Xiang (more commonly known as Ching Cheong) of the Singapore Straits Times to five years in prison for espionage. NGOs reported he was detained while researching a story about former leader Zhao Ziyang, while the government claimed he accepted money from overseas intelligence groups. New York Times employee Zhao Yan was sentenced in August to three years in prison for fraud after a Beijing court unexpectedly dismissed charges of divulging state secrets, which could have carried a 10-year sentence. Zhao maintained his innocence, and his lawyer criticized the courts for not allowing Zhao to testify, call on witnesses, or present evidence to the court.

In addition, to criminal prosecution of writers, some government officials used civil lawsuits and other punishments to intimidate authors and block controversial writings. On October 25, writer Li Jianping was sentenced to two years' imprisonment on the charges of "incitement to subvert state power." In April 2005 Li was detained in Zibo, Shandong Province, for posting articles critical of the CCP on foreign Web sites. No verdict has issued from the August 2004 libel trial of Anhui Province authors Chen Guidi and Wu Chuntao over their book *China Peasant Survey* (Nongmin Diaocha). The book, a best seller until it was banned, described abuse and extortion of farmers by local officials, one of whom sued the authors and their publishing house for libel.

The government continued to close publications and punish journalists for printing material deemed too sensitive. In January the propaganda department suspended publication of *Freezing Point*. A January 11 *Freezing Point* essay by Zhongshan University professor Yuan Weishi questioning key historical events recounted in school textbooks drew the attention of the censors. In March, following the removal of *Freezing Point*'s editor-in-chief Li Datong and deputy editor Lu Yuegang, the publication reappeared with a lengthy refutation of Yuan's January essay. In February Chen Jieren, editor of the *Public Interest Times*, was reportedly fired for publishing articles revealing financial misconduct among local officials in Shaanxi Province. Also in February, Li Yuanlong, a reporter for the *Bijie Daily* in Guizhou Province, was charged with "inciting to subvert state power," and in July he was sentenced to two years' imprisonment. Li was reportedly arrested in September 2005 for posting articles on the Internet about harsh living conditions in rural Guizhou.

Newspapers could not report on corruption without government and party approval, although authorities approved reports regarding some high-profile cases. In September, when Shanghai party secretary Chen Liangyu was dismissed from office, the Propaganda Department issued strict guidelines forbidding unsanctioned commentary and ordering all publications only to print Xinhua News Service reports. Publishers printed original material at their own risk. During the year journalists and editors who exposed corruption scandals frequently faced problems with the authorities.

Propaganda authorities also restricted reporting about public protests (see section 2.c.). Authorities also continued to block reporting and prevented journalists from covering violent protests, including student protests in June in Henan Province, where graduates rioted after learning their university reneged on a pledge to list a more prestigious school on their diplomas.

Officials continued to censor and ban some reporting on labor, health, and environmental crises.

Transparency in the health sector improved compared with the government's cover up of the initial Severe Acute Respiratory Syndrome (SARS) outbreak in 2003. Central government officials pledged to promptly report cases of avian influenza but acknowledged that local authorities did not do so in some cases. International observers acknowledged that transparency had improved with regard to avian influenza but expressed concern about delays in reporting some human and animal cases. Hong Kong media reported that the Guangzhou Bureau of Health told hospitals to submit detailed interview outlines and questions for approval two days before any media interview. Some academics were unable to publish results of independent research into contagious disease cases.

In 2005 the government banned dozens of newspapers and confiscated almost one million "illegal" political publications. There were a few privately funded print publications but no privately owned television or radio stations or Internet portals. The censorship process for private and government media increasingly relied on self-censorship and, in a few cases, post-publication sanctions. Nonetheless, the Central Propaganda Department continued to list areas that were off limits to media, and the government maintained authority to approve all programming.

By law, only government-approved publishing houses were permitted to print books. The State Press and Publications Administration (PPA) controlled all licenses to publish. No newspaper, periodical, book, audio, video, or electronic publication may be printed or distributed without the PPA and relevant provincial publishing authorities' approval of both the printer and distributor. 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 off limits; selectively rewarding with promotions and perks those publishers, editors, and writers who adhered to CCP guidelines; and punishing with administrative sanctions and blacklisting those who did not. Underground printing houses were targets of periodic campaigns to stop all illegal publications, including pornography and pirated computer software and audiovisual products.

Many intellectuals and scholars exercised self-censorship, anticipating that books or papers on political topics would be deemed too sensitive to be published. Overt intervention by the PPA and the Central Propaganda Department, which provides editorial guidelines for all media, usually occurred after publication.

In past years officials reportedly destroyed Uighur books on the grounds that Uighur groups used art and literature to distort historical fact and advocate ethnic separatism. Uighur writers and editors, including the editor of the Kashgar Literature Journal Korash Huseyin, were jailed in 2005 for publishing stories that authorities maintained advocated separatism (see section 5). Authorities continued to ban books containing content they deemed controversial. Among the most notable was *Serve the People*, a sexually explicit novel that officials said debased Chairman Mao's image and *Notes on Party History*, which exposed historical incidents that were reportedly embellished or fabricated by the CCP.

The authorities continued to jam, with varying degrees of success, Chinese-, Uighur-, and Tibetan-language broadcasts of the Voice of America (VOA), Radio Free Asia (RFA) and the BBC. English-language broadcasts on VOA generally were not jammed. Government jamming of RFA and BBC appeared to be more frequent and effective. Internet distribution of "streaming radio" news from these sources often was blocked. Despite jamming overseas broadcasts, VOA, BBC, RFA, and Radio France International had a large audience, including 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. Politically sensitive coverage in Chinese, and to a lesser extent in English, was censored more than coverage in other languages. "Public service announcements" frequently interrupted news items critical of the government, particularly in the south, where television programming from Hong Kong was available.

The government prohibited some foreign and domestic films from appearing in the country. In September the State Administration for Radio, Film and Television (SARFT) imposed a five-year filmmaking ban on director Lou Ye. SARFT banned Lou from showing his film *Summer Palace*, which is set during the 1989 Tiananmen protests, because he failed to obtain proper authorization. In February authorities detained filmmaker and foreign resident Wu Hao after Wu arranged an interview with rights attorney Gao Zhisheng. Wu, who was filming a documentary about unregistered churches, was released in July. Earlier in the year, SARFT banned distribution and screening of *Mission Impossible III*, on grounds that it depicted Shanghai in an unflattering light. Other foreign films banned during the year included *Brokeback Mountain*, based on its depiction of homosexuality and *Memoirs of a Geisha*, due to the controversy over ethnic Chinese actors playing Japanese characters.

Visas to enter the country were sometimes denied for political reasons. For example, some foreign academics and journalists critical of the country continued to be denied visas. Others who intended to discuss human rights or rule of law issues also were denied visas. Representatives of some international human rights organizations reported that authorities denied their visa requests or restricted the length of visas issued to them (see section 4).

#### Internet Freedom

At year's end the China Internet Network Information Center reported that the number of Internet users jumped to 140 million, the majority of which had broadband access to the Internet. While the government continued to encourage expanded use of the Internet, it also took steps to monitor its use, control content, restrict information, and punished those who violated regulations. New restrictions aimed at increasing government control over the Internet included stricter Web site registration requirements, enhanced official control of online content, and an expanded definition of illegal online content.

The country's Internet control system reportedly employed tens of thousands of persons. The government consistently blocked access to sites it deemed controversial, such as sites discussing Taiwan and Tibetan independence, underground religious and spiritual organizations, democracy activists, and the 1989 Tiananmen massacre. The government also at times blocked access to selected sites operated by major foreign news outlets, health organizations, and educational institutions.

The number of blocked sites appeared to increase around major political events and sensitive dates. The authorities reportedly began to employ more sophisticated technology enabling the selective blocking of specific content rather than entire Web sites. Such technology was also used to block e-mails containing sensitive content (see section 1.f.). The government generally did not prosecute citizens who received dissident e mail publications but detained individuals who forwarded such messages. Individuals using the Internet in public libraries were required to register using their national identity card. Internet usage reportedly was monitored at all terminals in public libraries.

The Ministry of Information Industry regulated access to the Internet while the Ministries of Public and State Security monitored its use. Regulations prohibit a broad range of activities that authorities interpret as subversive or slanderous to

the state, including the dissemination of information that harms national unity or endangers national security. Promoting "evil cults" was banned, as was providing information that "disturbs social order or undermines social stability." Internet service providers (ISPs) 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 so-called subversive material. Many ISPs practiced extensive self-censorship to avoid violating broadly worded regulations.

In January several individuals were detained or imprisoned for their Internet writing during the year. Former Fuzhou Daily journalist and Internet essayist Li Changqing was sentenced to three years in prison for "spreading alarmist information." His Internet articles supported jailed corruption whistleblower Huang Jingao. On March 17, Ren Zhiyuan was sentenced to 10 years' imprisonment for "subversion of state power" for an Internet article holding that persons may rightfully overthrow tyranny through violent means. Ren was also suspected of planning to organize an opposition group called the "Mainland Democratic Front." On May 17, Internet essayist Yang Tongyan (more commonly known as Yang Tianshui) was sentenced to 12 years in prison for posting on overseas Web sites articles calling for the release of Chinese dissidents. Also in May, Internet author Guo Qizhen, who was preparing to join a hunger strike to support lawyer Gao Zhisheng and others, was detained for posting essays on a Web site supporting human rights. On October 9, Guo was sentenced to four years' imprisonment and three years' deprivation of political rights on the charge of "inciting subversion of state power." On October 12, Internet writer Zhang Jianhong was arrested and charged with "inciting subversion of state power." The police took Zhang into custody on September 6, removed disk drives and a telephone book from his house, and questioned his wife about articles he posted on Web sites. On August 12, Zan Aizong, chief correspondent of the Hangzhou Bureau of the Beijing-based China Ocean News, was detained for publishing an Internet piece criticizing the demolition of a nearby church. Zan was released on August 18, but was promptly fired. In August Deng Yongliang, another Internet essayist, was detained in Shandong Province, where he had traveled to cover the trial of legal activist Chen Guangcheng. Authorities released Deng in September but confiscated his computer hard drive and mobile telephone.

During the year the government continued its efforts to get companies to sign a "Public Pledge on Self Discipline for China's Internet Industry." Several hundred companies signed the pledge, including popular Chinese Internet companies like Sina.com and Sohu.com and Yahoo's local partner Alibaba.com. Those who signed the pledge agreed not to spread information that "breaks laws or spreads superstition or obscenity." They also promised to refrain from "producing, posting, or disseminating pernicious information that may jeopardize state security and disrupt social stability." According to court documents, Yahoo provided information to security authorities, including access to private e-mail accounts, used in the prosecution of journalist Shi Tao for leaking state secrets. The company said it was required to provide the information under national law and customs.

On April 9, 14 major Internet portals, including Sina.com, Sohu.com, Baidu.com and Yahoo's Chinese Web site issued a joint proposal calling for the Internet industry to censor indecent and harmful information, spread the ideas of Hu Jintao, encourage "passionate love of the motherland," and accept government supervision. Chinese search engines such as Baidu.com and the China-based search engines of Yahoo!, MSN and Google filtered search results, including those relating to the Voice of America, Radio Free Asia, and human rights.

Official statistics showed that as of July, authorities shut down approximately 700 online forums. In June authorities shut down Sina.com and Sohu.com for several days to allow the popular Internet portals to upgrade their filtering capabilities after censors found that the portals failed to filter certain key words deemed politically harmful. In July the Beijing Communications Administration shut down the Century China Web site, a popular online forum for discussing current affairs and historical issues, and several other sites. In August authorities shut down China Consultation Net after the site published results of a poll asking visitors whether the general secretary of the Communist Party should be elected from among candidates competing for the position.

Internet cafes must install software that allows government officials to monitor customers' Internet usage. Internet users at cafes were often subject to surveillance. Many cafes sporadically enforced regulations requiring patrons to provide identification.

#### Academic Freedom and Cultural Events

The government did not respect academic freedom and increased controls on political and social discourse at colleges, universities, and research institutes. Scholars and researchers reported varying degrees of control regarding issues they could examine and conclusions they could draw. Law professors were warned not to propose abolition of the reeducation-through-labor system. Scholar Xu Zerong received a nine-month sentence reduction in September, but he remained in prison. Scholars studying religion reported that the official Protestant church blocked some publications it found objectionable. Authorities canceled university conferences involving foreign and domestic academics on short notice when they deemed the topics at issue to be too sensitive.

The government continued to use political attitudes as criteria for selecting persons for the few government-sponsored

study abroad programs but did not impose such restrictions on privately sponsored students. In August Independent Chinese Pen Center (ICPC) member Wu Wei was reportedly stopped at the Hong Kong border while on his way to attend the ICPC's annual meeting (see section 2.d.).

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

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

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.

#### Freedom of Assembly

At times police used excessive force against demonstrators. Demonstrations with political or social themes were often broken up quickly and violently. Widespread market reforms and rapid growth have resulted in increased social unrest, with large-scale public disturbances on the rise for more than a decade. As in past years, the vast majority of demonstrations during the year concerned land disputes, housing issues, industrial, environmental, and labor matters, government corruption, taxation, and other economic and social concerns. During the first half of the year, public security authorities reported 39,000 "public order disturbances," a 2.5 percent decrease from the same period in 2005, although these statistics were widely viewed as unreliable. While the scale of disturbances and incidents varied, some included thousands of participants. In April, for example, up to 3,000 riot police used tear gas and water cannons to disperse 4,000 villagers gathered to protest destruction of an unauthorized, farmer-initiated irrigation project in Bomei Village, Guangdong Province. Land protests involving hundreds or thousands of protesters also continued (see section 1.a.). In January one villager died and as many as 100 were injured when police disrupted 3,000 residents at a sit-in convened over a land dispute in Zhongshan City, Guangdong Province. In April more than 50 villagers were injured when 1,000 riot police confronted 2,000 villagers peacefully protesting a land dispute near Guangdong Province's Foshan City.

Authorities detained potential protesters before the June 4 anniversary of the Tiananmen massacre, the first anniversary of Zhao Ziyang's death in January, and the March plenary sessions of the NPC and CPPCC. Dissidents were detained around the time of other sensitive events to head off public demonstrations (see section 1.d.). Labor protests over restructuring of state-owned enterprises and resulting unemployment continued, as did protests over environmental degradation and major infrastructure projects, such as dams. All concerts, sports events, exercise classes, or other meetings of more than 200 persons required approval from public security authorities. In practice much smaller gatherings also ran the risk of being disrupted by authorities. Unlike previous years, there were no sizable incidents of anti-Japanese protests.

The government continued to wage a severe campaign against the Falun Gong movement. Falun Gong practitioners were subject to close scrutiny by local security personnel, and their personal mobility was tightly restricted, particularly at times when the government believed public protests were likely.

Persons petitioning the government continued to face restrictions on their rights to assemble and raise grievances. Official news media reported that citizens presented 12.7 million petitions to "letters and visits" offices in 2005, but only 0.2 percent of petitions filed received a response. Most petitions mentioned grievances about land, housing, entitlements, the environment, or corruption. Petitioners largely sought to present their complaints at national and provincial "letters and visits" offices but also targeted foreign embassies and media to bring attention to their complaints.

Petitioners continued to face harassment, detention, and incarceration. Petitioners in Liaoning and other provinces reported being accosted by plainclothes police and brought back to their homes before they could register their petitions in the capital. In June Fu Xiancai, who petitioned the government for compensation on behalf of 1.3 million persons forcibly relocated from their land due to the Three Gorges Dam project, was paralyzed from the neck down as a result of a beating he received at the hands of unidentified assailants.

Although regulations implemented in 2005 banned retaliation against petitioners, reports of retaliation continued. This was partly due to incentives provided to local officials by the central government to prevent petitioners in their regions from raising complaints to higher levels. Incentives included provincial cadre evaluations based in part on the number of petitions from their provinces. This initiative aimed to encourage local and provincial officials to resolve legitimate complaints but also resulted in local officials sending security personnel to Beijing and forcibly returning the petitioners to their home provinces. Such detentions occurred both before and after the enactment of the new regulations and often went unrecorded.

## Freedom of Association

The law provides for freedom of association, but the government restricted this right in practice. CCP policy and government regulations require that all professional, social, and economic organizations officially register with, and be approved by, the government. In practice these regulations prevented the formation of truly autonomous political, human rights, religious, spiritual, labor, and other organizations that might challenge government authority. Implementation of these regulations tightened during the year (see section 2.a.).

Authorities established a task force in 2005 to increase scrutiny over NGOs, especially those with links overseas. Published reports said the task force was part of a campaign initiated in response to the "color revolutions" in former Soviet republics and aimed to block NGOs from fomenting political change. Security ministries participated in this task force and questioned representatives of domestic and international NGOs about their activities. International foundations, NGOs involved in social and charitable activities, and groups dedicated to combating discrimination against women, persons with disabilities, and minorities were targets of the campaign, along with organizations that focused on human rights issues.

Since 2004 according to official statistics, the number of registered NGOs increased from 288,936 to 317,000. NGOs were required to register with the government. To register, an NGO must find a government agency to serve as the NGO's organizational sponsor, have a registered office, and hold a minimum amount of funds. Organizations with social or educational purposes that had previously been registered as private or for-profit businesses reportedly were requested to find a government sponsor and reregister as NGOs during the year (see section 4). Experts estimated that, including both registered and unregistered groups, there were perhaps as many as eight million quasi-governmental organizations and NGOs.

Authorities supported the growth of some civil society organizations that address social problems such as poverty and HIV/AIDS. Over the past two years, officials increased measures aimed at supervising and controlling civil society organizations; however, various NGOs were still able to develop their own agendas, although the registered organizations all came under some degree of government control. Prominent activist Hu Jia resigned from an organization he helped establish to assist HIV/AIDS orphans, citing pressure on the organization's international donors. On November 24, HIV/AIDS activist Wan Yanhai was detained for three days in Beijing. Wan was forced to cancel an HIV/AIDS rights related workshop planned for November 26. Officials reportedly were concerned because workshop attendees included human rights lawyers (see section 5). A number of NGOs had support from foreign secular and religious NGOs, and several were able to undertake limited advocacy roles in public interest areas like women's issues, the environment, health, and consumer rights. According to government guidelines, NGOs must not advocate nonparty rule, damage national unity, or upset ethnic harmony. Groups that disregarded guidelines and unregistered groups that continued to operate could face administrative punishment or criminal charges.

No laws or regulations specifically govern the formation of political parties. But the CDP remained banned, and the government continued to monitor, detain, and imprison current and former CDP members (see section 3). As in past years, individuals were charged with and convicted of "disclosing state secrets" after passing information to human rights NGOs based abroad (see section 4).

## c. Freedom of Religion

The constitution and laws provide for freedom of religious belief and the freedom not to believe. However, the government sought to restrict religious practice to government-sanctioned organizations and registered places of worship and to control the growth and scope of the activity of religious groups. The government recognized five main religions: Buddhism, Taoism, Islam, Protestantism, and Catholicism. A government-affiliated association monitored and supervised the activities of each of these faiths. Membership in these faiths as well as unregistered religious groups grew rapidly. The government tried to control and regulate religious groups, especially groups that were unregistered.

The extent of religious freedom continued to vary widely within the country. Freedom to participate in officially sanctioned religious activity continued to increase in most areas. Religious activity grew not only among the five main religions, but also among the Eastern Orthodox Church and folk religions. Bibles and other religious texts were available in most parts of the country. At the same time, some unregistered groups continued to experience varying degrees of official interference and harassment. Crackdowns against unregistered Protestants and Catholics, Muslims, and Tibetan Buddhists (see Tibet Addendum) continued. The government continued its repression of groups that it determined to be "cults" and of the Falun Gong spiritual movement in particular.

All religious venues were required to register with the State Administration for Religious Affairs (SARA) or its provincial or local offices (known as Religious Affairs Bureaus (RABs)). SARA and the RABs were responsible for monitoring and judging whether religious activity was "normal" and therefore lawful. SARA and the CCP's united front work department provided policy guidance and supervision over implementation of government regulations on religious activity.

New regulations governing religious affairs, which came into effect in March 2005, delineated regulatory activities governing religious affairs and consolidated official pronouncements within a legal framework. However, the regulations provide general protection only for freedom of "religious belief," and not for expressions of belief. The regulations protect only those religious beliefs categorized vaguely as "normal." In practice, party doctrine guides resolution of religious issues and implementation of the regulations. The regulations protect the rights of registered religious groups, under certain conditions, to possess property, publish literature, train and approve clergy, and collect donations. However, the regulations have not created additional room for lawful religious activity by groups not affiliated with the five main religions. In this regard, the regulations merely codify past practices and give authorities broad discretion to define which religious activities are permissible.

The law requires religious groups to register places of worship. Spiritual activities in places of worship that have not registered may be considered illegal and participants can be punished. Government officials stated that private homes where family and friends meet to study the Bible would not be required to register, but venues for formal worship services should be registered, even if such formal worship takes place in a private home. Clergy need not be approved by the government but must be reported to the government after being selected pursuant to the rules of the relevant government-affiliated religious association. Pressure on religious groups to register or to come under the supervision of official "patriotic" religious organizations continued during the year. Some groups registered voluntarily, while a number registered under pressure; several groups avoided officials in an attempt to avoid registration, and authorities refused to register others. Various unofficial groups reported that authorities refused them registration without explanation. The government contended that these refusals were mainly the result of failure to meet requirements concerning facilities and meeting spaces. Some religious groups were reluctant to comply with the regulations out of principled opposition to state control of religion or due to fear of adverse consequences if they revealed, as required, the names and addresses of church leaders and members.

Local authorities' handling of unregistered religious groups, especially Protestant "house churches," varied widely. In certain regions government supervision of religious activity was minimal, and registered and unregistered Protestant and Catholic churches existed openly side-by-side and were treated similarly by the authorities. In such areas many congregants worshipped in both types of churches; congregants in unregistered churches were also able to procure Bibles at official churches. In some parts of the country, unregistered house churches with hundreds of members met openly, with the full knowledge of local authorities, who characterized the meetings as informal gatherings. In other areas house church meetings of more than a handful of family members and friends were strictly proscribed. House churches often encountered difficulties when their membership grew, when they arranged for the regular use of facilities for the purpose of conducting religious activities, or when they forged links with other unregistered groups.

Leaders of unauthorized groups were sometimes the target of harassment, interrogation, detention, and physical abuse. Authorities frequently disrupted house church meetings and retreats, detained and questioned leaders and church members, and confiscated the personal property of house church leaders and members. During the year thousands of house church members were detained; a large number of these detentions occurred in Henan Province.

Henan Province house Christian pastor Zhang Rongliang was convicted in June of obtaining a passport through fraud and of illegal border crossing. He was sentenced to seven-and-a-half years in prison. Beijing-based house church Christian Liu Fenggang, who was convicted in August 2004 with Xu Yonghai and Zhang Shenqi on charges of disclosing state secrets, remained in prison. Liu provided an overseas Chinese magazine information about abuse of Christians in the country. In February Lou Yuanqi was reportedly detained for holding unauthorized church services in Xinjiang. In April Li Huimin was reportedly sentenced to reeducation in Henan Province for holding house church meetings at his home. In May several house church activists were detained in Henan Province's Fugou County, while several others remained under detention. Persons associated with Protestant Christian worship outside government-approved venues also were subject to detention or abuse.

In July and August, according to the China Aid Association, authorities in several provinces detained Protestant house church members. On July 19, Henan Province authorities reportedly raided a house church in Zhumadian, questioning more than 60 church members. On July 21, Hubei Province officials reportedly raided a house church meeting, questioning 20 church members. Officials later placed 10 church members under administrative detention lasting from 10 to 15 days. On July 24, Yunnan Province authorities reportedly detained four house church members. On July 27, Anhui Province officials reportedly raided a house church Sunday school, questioning approximately 40 individuals. Officials also placed pastors Cai Yili and Li Lizhong in administrative detention for 16 days. On August 19, officials from the Inner Mongolia Autonomous Region reportedly raided a house church, confiscating church property and warning church members that they could only meet at registered churches.

As in previous years, there were reports that a number of Catholic priests, lay leaders, and laypersons were beaten or otherwise abused. In some localities, authorities reportedly pressured unregistered clergy and laypersons to renounce ordinations approved by the Holy See, join the official church, or face a variety of punishments including fines, job loss, and detentions. On September 11, Bishop Wu Qinjing, who was ordained in October 2005 with approval from the Holy See but without government permission, was detained for five days and forced to sign a document stating that his ordination

was illegal.

Harassment of unregistered Catholic bishops, priests, and laypersons, including government surveillance and detentions, continued. On July 2, authorities detained unregistered Bishop Jia Zhiguo for the tenth time since 2004; he was released on September 27. Bishop Yao Liang, who is 82 years old, was arrested on July 30 and remained under detention at year's end. There was no new information about unregistered Bishop Su Zhimin, who has been unaccounted for since his reported detention in 1997. In June an unverified press report circulated that Bishop Su had died in custody. The government did not respond to requests for information in the case. Bishop An Shuxin, Bishop Su's auxiliary bishop, was released on August 24, after 10 years in prison. Officials permitted Bishop An's release when he accepted recognition by the government and did not force him to register with the Catholic Patriotic Association (CPA). In late September unregistered Catholic priests Shao Zhoumin and Jiang Sunian were detained in Shenzhen upon their return from Europe. Sources also reported that Bishop Zhang Weizhu, Father Cui Xing, and Father Wang Quanjun remained detained in Hebei Province. According to the foreign-based Cardinal Kung Foundation, the whereabouts of Bishop Zhao Zhendong, who was detained in December 2004, remained unknown. In Hebei Province, officials detained a total of seven Catholic clerics and 90 laypersons.

The government and the Holy See have not established diplomatic relations and there was no Vatican representative on the Mainland. The role of the pope in selecting bishops, the status of underground Catholic clerics, and Vatican recognition of Taiwan remained obstacles to improved relations.

Although the government insisted that it retains power to impose conditions on the appointment of Catholic bishops, registered Catholics increasingly acknowledged the spiritual authority of the Holy See, and the Vatican has approved most registered bishops appointed by the government prior to consecration. In April and May, CPA officials consecrated two Catholic bishops without Vatican approval, reportedly forcing registered Catholic clerics to participate in the consecrations. The CPA also installed a bishop in Fujian Province, even though he was consecrated in 2000 without Holy See approval.

In July officials demolished a large house church that was under constructed in Zhejiang Province and reportedly beat hundreds of house church members who arrived to protest the demolition. Officials repeatedly denied requests for permission to build a church. Traditional folk religions, such as Fujian Province's "Mazu cult," were still practiced in some locations. They were tolerated to varying degrees, often seen as loose affiliates of Taoism or as ethnic minority cultural practices. However, the government has labeled folk religions "feudal superstition" and sometimes repressed them. SARA established a new administrative division responsible for the activities of folk religions and religions outside the main five, including the Eastern Orthodox Church and the Church of Jesus Christ of Latter-day Saints.

Buddhists made up the largest body of organized religious believers. The traditional practice of Buddhism continued to expand among citizens in many parts of the country. Tibetan Buddhists in some areas had growing freedom to practice their faith. However, government restrictions remained, particularly in cases in which the government interpreted Buddhist belief as supporting separatism, such as in some Tibetan areas and parts of the Inner Mongolian Autonomous Region. In February emissaries of the Dalai Lama met with government officials, in the fifth round of dialogue between the two sides since 2002 (see Tibet Addendum).

Regulations restricting Muslims' religious activity, teaching, and places of worship continued to be implemented forcefully in Xinjiang. During the year authorities added women to the groups of persons prohibited from entering mosques. Other groups formally prohibited from entering mosques included children, CCP members, and government workers. However, in practice women and children were not uniformly barred from entering mosques. The government continued to use counterterrorism to justify religious repression of Uighur Muslims (see section 5). Xinjiang authorities continued to detain and arrest persons engaged in unauthorized religious activities and charged them with a range of offences including state security crimes. Xinjiang authorities often charged religious believers with committing the "three evils" of terrorism, separatism, and extremism. While targeted primarily at Muslims, the tight control of religion in Xinjiang affected followers of other religions as well.

The government strictly controlled the practice of Islam, while the state-controlled Islamic Association of China aligned Islamic practice to CCP goals. However, in contrast to the heavy-handed approach to Muslims in Xinjiang Province, officials in Ningxia, Gansu, and Qinghai provinces approached religious affairs cautiously and were reluctant to interfere overtly in Muslims' activities. Authorities reserved the right to censor imams' sermons, and imams were urged to emphasize the damage caused to Islam by terrorist acts in the name of the religion. Certain Muslim leaders received particularly harsh treatment. Authorities conducted monthly political study sessions for religious personnel and the program continued through the year. In May the IAC announced it would establish an office to manage pilgrimages to Mecca. In the same month the China Islamic Conference passed a measure requiring religious personnel to study "new collected sermons" compiled by an IAC committee, including messages on patriotism and unity aimed at building a "socialist harmonious society."

According to one overseas organization, 179 practitioners of the Sala order, a local Sufi branch of Islam, were arrested in

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August 2005 following a government ban on the movement. Although officials denied the ban, they considered the movement dangerous. In August 2004 eight Uighur Muslims in Hotan were reportedly charged with endangering state security and scores were detained on charges of engaging in "illegal religious activities." In addition to the restrictions on practicing religion placed on party members and government officials throughout the country, teachers, professors, and university students in Xinjiang were not allowed to practice religion openly.

Muslims were permitted to make pilgrimages abroad, but the government reportedly penalized those who arranged unauthorized pilgrimages. Official reports noted that more than 9,700 Chinese Muslims traveled to Mecca for the Hajj pilgrimage, which began on November 29. This figure likely did not include participants who were not organized by the government, which numbered thousands in previous years. Between July and September, thousands of Uighur Muslims, who traveled to Pakistan to circumvent government-imposed controls on Hajj participants, were stuck in Islamabad because they were denied visas by the Saudi Arabian Embassy. Following demonstrations by the visa applicants outside the Saudi Embassy, visas were granted to approximately 1,000 applicants, although many more were forced to return to Xinjiang.

The authorities permitted officially sanctioned religious organizations to maintain international contacts that do not involve "foreign control." However, what constitutes "control" is not defined. Regulations on religious practice by foreigners include a ban on proselytizing. Authorities generally allowed foreign nationals to preach to other foreigners, bring in religious materials for personal use, and preach to citizens at the invitation of registered religious organizations. Despite a ban on missionary activities, many foreign Christians teaching on college campuses openly professed their faith with minimum interference from authorities provided their religious activity remains discreet. Authorities permitted citizens who joined the Church of Jesus Christ of Latter-day Saints while they were outside of China to hold services after they returned.

The authorities continued a general crackdown on groups considered to be "cults." These "cults" included not only Falun Gong and various traditional Chinese meditation and exercise groups (known collectively as qigong groups), but also religious groups that authorities accused of preaching beliefs outside the bounds of officially approved doctrine. Groups that the government labeled cults included Eastern Lightning, the Servants of Three Classes, the Shouters, the South China Church, the Association of Disciples, the Full Scope Church, the Spirit Sect, the New Testament Church, the Way of the Goddess of Mercy, the Lord God Sect, the Established King Church, the Unification Church, and the Family of Love. Authorities accused some in these groups of lacking proper theological training, preaching the imminent coming of the apocalypse or holy war, or exploiting the reemergence of religion for personal gain. The government accused the Eastern Lightning group and some other unregistered Christian groups of involvement in violence.

Actions against such groups continued during the year. Police also continued their efforts to close down the underground evangelical group Shouters, an offshoot of a pre-1949 indigenous Protestant group. Action against the South China Church (SCC) continued. In August 2005 approximately 40 SCC members were detained in Hubei Province after meeting with foreigners. According to an anonymous petition submitted to the United Nations Working Group on Arbitrary Detention, SCC founder Gong Shengliang and other imprisoned SCC members suffered serious abuses in prison. Gong is serving a life sentence for rape, arson, and assault, even though the women who testified against him in his original trial in 2001 reported that police had tortured them into signing statements accusing Gong of raping them. During the year Gong's daughters reported that Gong was in poor health and had been beaten by another inmate.

Public Falun Gong activity in the country remained negligible, and practitioners based abroad reported that the government's crackdown against the group continued. Since the government banned the Falun Gong in 1999, the mere belief in the discipline (even without any public manifestation of its tenets) has been sufficient grounds for practitioners to receive punishments ranging from loss of employment to imprisonment. Although the vast majority of practitioners detained have been released, many were detained again after release (see section 1.e.). Falun Gong sources estimated that at least 6,000 Falun Gong practitioners had been sentenced to prison, more than 100,000 practitioners sentenced to reeducation through labor, and almost 3,000 had died from torture while in custody. Some foreign observers estimated that Falun Gong adherents constituted at least half of the 250,000 officially recorded inmates in reeducation-through-labor camps, while Falun Gong sources overseas placed the number even higher. In March UN Special Rapporteur Nowak reported that Falun Gong practitioners accounted for 66 percent of victims of alleged torture while in government custody.

Falun Gong members identified by the government as "core leaders" have been singled out for particularly harsh treatment. More than a dozen Falun Gong members have been sentenced to prison for the crime of "endangering state security," but the great majority of Falun Gong members convicted by the courts since 1999 have been sentenced to prison for "organizing or using a sect to undermine the implementation of the law," a less serious offense. Most practitioners, however, were punished administratively. Some practitioners were sentenced to reeducation through labor. Among them, Yuan Yuju and Liang Jinhui, relatives of a Hong Kong journalist working for a television station supportive of Falun Gong, were sentenced to reeducation through labor for distributing Falun Gong materials. Apart from reeducation through labor, some Falun Gong members were sent to "legal education" centers specifically established to "rehabilitate" practitioners who refused to recant their belief voluntarily after release from reeducation-through-labor camps. Government officials denied the existence of such "legal education" centers. In addition, hundreds of Falun Gong practitioners have been confined to mental hospitals, according to overseas groups (see section 1.d.).

Allegations of abuse of Falun Gong practitioners by the police and other security personnel continued during the year (see section 1.c.). In addition, multiple allegations of government-sanctioned organ harvesting from Falun Gong prisoners surfaced. In April overseas Falun Gong groups claimed that a hospital in Sujiatun, Shenyang, had been the site of a "concentration camp" and of mass organ harvesting, including from live prisoners (see section 1.c.). The government opened the facility to diplomatic observers and foreign journalists, who found nothing inconsistent with the operation of a hospital.

Police continued to detain current and former Falun Gong practitioners and place them in reeducation camps. Police reportedly had quotas for Falun Gong arrests and targeted former practitioners, even if they were no longer practicing. The government continued its use of high-pressure tactics and mandatory anti-Falun Gong study sessions to force practitioners to renounce Falun Gong. Even practitioners who had not protested or made other public demonstrations of belief reportedly were forced to attend anti-Falun Gong classes or were sent directly to reeducation-through-labor camps. These tactics reportedly resulted in large numbers of practitioners signing pledges to renounce the movement.

The government supported atheism in schools. In March 2005 a Foreign Ministry spokesman said the country had no national regulations preventing children from receiving religious instruction, but said religion should not interfere with public education. In practice local authorities in many regions barred school-age children from attending religious services at mosques, temples, or churches and prevented them from receiving religious education outside the home.

The law does not prohibit religious believers from holding public office; however, party membership is required for almost all high-level positions in government, state-owned businesses, and many official organizations. Communist Party officials have stated that party membership and religious belief were incompatible. Government and CCP officials reiterated that religious believers should resign their party membership. The Routine Service Regulations of the People's Liberation Army state explicitly that service members "may not take part in religious or superstitious activities." CCP and PLA personnel have been expelled for adhering to Falun Gong beliefs.

Despite regulations encouraging officials to be atheists, some party officials engaged in religious activity, most commonly Buddhism or a folk religion. The NPC included several religious representatives. NPC Standing Committee vice chairmen included Fu Tieshan, a bishop and vice-chairman of the Chinese Catholic Patriotic Association. Religious groups also were represented in the CPPCC, an advisory forum for "multiparty" cooperation and consultation led by the CCP, and in local and provincial governments. CPPCC Standing Committee vice chairmen included Pagbalha Geleg Namgyal, a Tibetan reincarnate lama.

Official religious organizations administered local religious schools, seminaries, and institutes to train priests, ministers, imams, Islamic scholars, and Buddhist monks. Students who attended these institutes had to demonstrate "political reliability," and all graduates must pass an examination on their political as well as theological knowledge to qualify for the clergy. The government permitted registered religions to train clergy and allowed an increasing number of Catholic and Protestant seminarians, Muslim clerics, and Buddhist clergy to go abroad for additional religious studies, but some religion students had difficulty getting passports or obtaining approval to study abroad. In most cases foreign organizations provided funding for such training programs.

Authorities continued to prohibit the teaching of Islam to elementary and middle school-age children in some areas, although children studied Arabic and the Koran without restriction in many others. Local officials stated that school-age children may not study religion or enter mosques in Xinjiang. In August 2005 a teacher, Aminan Momixi, and more than 30 students were reportedly detained for holding Koran study sessions during school vacation. Authorities confiscated their Korans and Muslim textbooks and the government declined to clarify Momixi's status. According to media reports, Xinjiang authorities confiscated religious publications on many other occasions, sometimes detaining those who possessed unapproved religious texts.

Religious organizations of all faiths, including those composed of foreigners, were encouraged to engage in charitable activities and social services. Religious organizations engaged in social services faced obstacles registering with local authorities. These difficulties were similar to those faced by nonreligious NGOs (section 2.b.).

The 2005 religious regulations permit authorized religious organizations and venues to compile and print materials for internal and public distribution, but require publications to be prepared in accordance with national regulations. These regulations, in turn, impose strict prior restraints on religious literature, even beyond the restrictions on other types of publications. The regulations also provide for government oversight of the appointment of religious personnel.

The government strictly punished the private publication of religious works. In April pastor Liu Yuhua from Shandong was detained in Linchu County on charges of operating an illegal business after he was found distributing religious texts. In May house church pastor Wang Zaiqing from Anhui was formally arrested. Foreign-based NGOs said the arrest was in connection with his work publishing Bibles and religious materials. In July 2005 Protestant Pastor Cai Zhuohua and two

other relatives were sentenced to three years, two years, and 18 months in prison for operating an illegal business, stemming from their large-scale publishing of Bibles and Christian literature without government approval. According to reliable reports, the CCP officials described the prosecution of Cai as one of the most important cases in the campaign to prevent foreign infiltration under the cover of religion.

Media reports stated that authorities confiscated illegal religious publications in Xinjiang. In February Xinjiang authorities reportedly raided a minority-language printing market and seized "illegally printed" religious posters. Also in February authorities announced that in 2005 they had seized 9,860 illegal publications involving religion, Falun Gong, or "feudal superstitions." The Xinjiang People's Publication House was the only publisher allowed to print Muslim literature.

The supply of Bibles was adequate in most parts of the country, but some members of underground churches complained that the supply and distribution of Bibles, especially in rural locations, was inadequate. Individuals could not order Bibles directly from publishing houses. Customs officials continued to monitor for the "smuggling" of religious materials into the country. There have been credible reports that the authorities sometimes confiscated Bibles, Korans, and other religious material.

#### Societal Abuses and Discrimination

There were no reports of societal abuses of religious practitioners or anti-Semitic acts during the year. The government does not recognize Judaism as an ethnicity or religion.

For a more detailed discussion, see the [2006 International Religious Freedom Report](#).

#### d. Freedom of Movement within the Country, Foreign Travel, Emigration and Repatriation

The law provides for some of these rights; however, the government generally did not respect them in practice. Although the government maintained restrictions on the freedom to change one's workplace or residence, the national household registration system continued to erode, and the ability of most citizens to move within the country to work and live continued to expand. However, the government retained the ability to restrict freedom of movement through other mechanisms. Authorities heightened restrictions periodically, particularly curtailing the movement of individuals deemed politically sensitive before key anniversaries, visits of foreign dignitaries, and to forestall demonstrations.

The system of national household registration (hukou) underwent further change during the year, as the country accumulated a more mobile labor force. Rural residents continued to migrate to the cities, where the per capita disposable income was more than quadruple the rural per capita cash income. Nonetheless, many could not officially change their residence or workplace within the country. Government and work unit permission were often required before moving to a new city. Most cities had annual quotas for the number of new temporary residence permits that would be issued, and all workers, including university graduates, had to compete for a limited number of such permits. It was particularly difficult for peasants from rural areas to obtain household registration in economically more developed urban areas.

The household registration system added to the difficulties rural residents faced in changing to urban residency, even when they have already relocated to urban areas and found employment. There remained a floating population of between 100 and 150 million economic migrants who lacked official residence status in cities. Without official residence status, it was difficult or impossible to gain full access to social services, including education. Furthermore, law and society generally limited migrant workers to types of work considered least desirable by local residents, and such workers had little recourse when subjected to abuse by employers and officials. Some major cities maintained programs to provide migrant workers and their children access to public education and other social services free of charge, but migrants in some locations reported that it is difficult to qualify for these benefits in practice. Many cities and provinces continued experiments aimed at abolishing the distinction between urban and rural residents in household registration documents.

House arrest continued to be used as a nonjudicial punishment and control measure against dissidents, family members of political prisoners, petitioners, and others whom the government or party deemed politically sensitive or "troublemakers" (see section 1.d.).

Under the "staying at prison employment" system applicable to recidivists incarcerated in reeducation-through-labor 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.

The government permitted legal emigration and foreign travel for most citizens. Most citizens could obtain passports, although those whom the government deemed threats, including religious leaders, political dissidents, and some ethnic minority members continued to have difficulty obtaining passports (see Tibet Addendum). There were reports that some

academics faced travel restrictions around the year's sensitive anniversaries, particularly the June 4 anniversary of the Tiananmen Square massacre. There were instances in which the authorities refused to issue passports or visas on apparent political grounds. Members of underground churches, Falun Gong members, and other politically sensitive individuals sometimes were refused passports and other necessary travel documents. In March an individual in Guangxi Province was reportedly barred from traveling outside the country because he authored Internet articles critical of the CCP. In August ICPC member Wu Wei was reportedly stopped at the Hong Kong border while on his way to attend the ICPC's annual meeting. In September passport control authorities without warning confiscated the passport of a prominent labor rights lawyer as he was boarding a train to Hong Kong.

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

While UNHCR reported that more than 2,000 Tibetans each year crossed into Nepal, the government continued to try to prevent many Tibetans from leaving (see Tibet Addendum).

#### Protection of Refugees

Although a signatory of the 1951 UN Convention relating to the Status of Refugees and its 1967 protocol, the law does not provide for the granting of refugee or asylum status. The government largely cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) when dealing with the resettlement of ethnic Han Chinese or ethnic minorities from Vietnam and Laos resident in the country. During the year the government and UNHCR continued ongoing discussions concerning the granting of citizenship to these residents. Since the late 1980s, the government has adopted a de facto policy of tolerance toward the small number of persons, fewer than 100 annually, from other nations who registered with the Beijing office of the UNHCR as asylum seekers. The government permitted these persons to remain in the country while the UNHCR made determinations as to their status and, if the UNHCR determined that they were bona fide refugees, while they awaited resettlement in third countries. However, the government continued to deny the UNHCR permission to operate along its northeastern border with North Korea, arguing that North Koreans who crossed the border were illegal economic migrants, not refugees.

During the year several thousand North Koreans were reportedly detained and forcibly returned to North Korea. Many faced persecution, and some may have been executed upon their return. Several hundred North Koreans were permitted to travel to third countries after they had entered diplomatic compounds or international schools in the country. There were numerous credible reports of harassment and detention of North Koreans in the country. The government also arrested and detained foreign journalists, missionaries, and activists, as well as some citizens, for providing food, shelter, transportation, and other assistance to North Koreans. The government continued to detain several foreigners in the Northeast, some on charges of alien smuggling, but most for helping North Koreans enter the country. Jilin Province's public security Web site reported that it had deported an estimated 2,000 "foreigners" in 2004, most of who were believed to be North Korean. According to NGOs, during the year North Korean agents operated within the country to forcibly repatriate North Korean citizens.

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

The law does not provide citizens with the right to change their government peacefully, and citizens cannot freely choose or change the laws and officials that govern them. The CCP continued to control appointments to positions of political power.

#### Elections and Political Participation

According to the law, the NPC is the highest organ of state power. Formally, it elects the president and vice president, selects the premier and vice premiers, and elects the chairman of the State Central Military Commission. In practice the NPC Standing Committee, which is composed of 153 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's nine-member Politburo Standing Committee. The NPC does not have the power to set policy or remove government or party leaders.

In 2003 the NPC confirmed CCP General Secretary Hu Jintao as president, and in 2004 Hu consolidated his power when he was also appointed chairman of the Central Military Commission.

All of the country's approximately one million villages were expected to hold competitive, direct elections for village committee officials. Most provinces already have held four or five rounds of village committee elections, according to the

Ministry of Civil Affairs. Foreign observers who monitored local village committee elections judged those they observed to have been generally fair. However, the government estimated that one-third of all elections had serious procedural flaws. Corruption, vote buying, and interference by township-level and party officials continued to be problems. The law permitted each voter to cast proxy votes for up to three other voters. Many rural voters cast the maximum number of proxy votes, especially in areas with significant out-migration.

Although the law includes a provision for recalling village committee members, local implementing regulations have proven sufficiently vague or cumbersome so as to prevent most attempted recalls. In cases of alleged corruption, a handful of local legislative deputies, but not village heads, have been recalled. In 2005 villagers in Guangdong Province's Taishi Village were subjected to severe abuse when they tried to recall village chief Chen Jinsheng, whom they accused of embezzling village funds. Authorities resorted to violence, intimidation, and other tactics to quash the recall attempt.

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

During the year independent candidates not selected by local authorities ran or attempted to run in people's congress elections held at the local level across the country. While a small number of independents were elected, in Hubei and Guangdong Provinces local officials reportedly manipulated and pressured some candidates, who mounted aggressive campaigns to prevent independents from being nominated, and if nominated, from winning. Local police detained and monitored independent candidates, seized campaign materials, and intimidated supporters, family members, and friends. Some activists also alleged that vote counts were rigged to ensure defeat. During the year Taishi villagers failed in their attempt to nominate an independent candidate for local people's congress representative, allegedly because of ballot tampering and an illegal refusal to allow proxy votes.

Although the party controlled appointments of officials to government and party positions at all levels, some township, county, and provincial elections featured experiments with increased competition, including self-nomination of candidates, campaign speeches by candidates, public vetting of nominees, and a two-tiered indirect election system.

The CCP retained a monopoly on political power and forbade the creation of new political parties. The government recognized nine parties founded prior to 1949, but not the CDP, an opposition party founded in 1998 and subsequently declared illegal. Dozens of CDP leaders, activists, and members have been arrested, detained, or confined. One of the CDP's founders, Qin Yongmin, remained in prison at year's end, as did others connected with a 2002 open letter calling for political reform and reappraisal of the 1989 Tiananmen massacre. On September 14, authorities released CDP leader Zhu Yufu after he completed a seven-year sentence for participating in prodemocracy activities. On the same day, authorities detained CDP leader Chen Shuqing on suspicion of inciting "to subvert state power." More than 30 current or former CDP members reportedly remained imprisoned or held in reeducation-through-labor camps, including Zhang Lin, Zhao Changqing, Sang Jiancheng, He Depu, Yang Tianshui, Wang Rongqing, and Jiang Lijun.

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. There was one female vice premier on the 24-member Politburo. There was also one woman among the five state councilors. The head of a key CCP organization, the United Front Work Department, was a woman. During the year women headed one of the country's 28 ministries, and 25 women served at the level of vice minister or higher.

The government encouraged women to exercise their right to vote in village committee elections and to stand for 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. At the end of 2005, there were 13.6 million female party members, making up 19.2 percent of the 70.8 million members of the Communist Party. Women constituted 20.2 percent of the NPC and 14.2 percent of the NPC Standing Committee. In 2002 the 16th Party Congress elected 27 women to serve as members or alternates on the 198 person Central Committee, a slight increase over the total of the previous committee.

Minorities constituted 13.9 percent of the NPC, although they made up approximately 8.4 percent of the population. All of the country's 55 officially recognized minority groups were represented in the NPC membership. The 16th Party Congress elected 35 members of ethnic minority groups as members or alternates on the Central Committee. The only ministerial-level post, held by an ethnic minority was the Ethnic Affairs post and there was one ethnic minority, Vice Premier Hui Liangyu, on the Politburo. Minorities held few senior party or government positions of significant influence (see section 5).

Government Corruption and Transparency

Corruption remained an endemic problem. The National Audit Office found that 48 ministerial level departments misused or embezzled approximately \$685 million (RMB 5.51 billion) from the central government's 2005 budget, a 70 percent increase over the amount reported in 2004. Corruption plagued courts, law enforcement agencies, and other government agencies. In March 2000 foreign citizen Jude Shao was sentenced to 16 years' imprisonment for tax evasion after allegedly refusing to pay bribes to local tax auditors. He remained in prison at year's end, despite receiving a one-year reduction in his sentence in September.

The courts and party agencies took disciplinary action against many public and party officials during the year. According to the SPP's March 11 report to the NPC, prosecutors filed and investigated 24,277 cases of embezzlement, bribery, or dereliction of duty; prosecuted 30,205 officials while investigating a total of 41,477 officials in 2005; and transferred 7,279 cases to judicial organs for prosecution. The CCP's CDIC reported that 110,000 officials were disciplined for breaking laws and party discipline in 2005. Inspection committees stripped 11,071 persons of CCP membership, more than twice the number in 2004. In some cases, sanctions administered by the CDIC reportedly substituted for sanctions by courts and other legal agencies.

The country had no national freedom of information law, but many local jurisdictions continued to enact freedom of information regulations aimed at improving the public's communication with and supervision over local government initiatives. Approximately 95 percent of government ministries, provincial governments and prefecture-level cities had Web sites, providing some, albeit restricted, public information. However, citizens, local media, and foreign journalists found it difficult to get information about government decision making, especially before decisions were formally announced.

The government experimented with various forms of public oversight of government, including telephone hot lines and complaint centers, administrative hearings, increased opportunity for citizen observation of government proceedings, and other forms of citizen input in the local legislative process, such as hearings to discuss draft legislation. Citizens continued to file administrative lawsuits to seek legal redress against government malfeasance. According to official statistics, 95,707 administrative lawsuits were filed against the government in 2005, slightly more than in the previous year. Petitioning officials directly and outside the court system was also a common avenue used by citizens to redress grievances. Official media reported that 12.7 million petitions were filed at the county level and above in 2005, down from 13.7 million in 2004 (see section 2.b.).

#### Section 4 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, and prevent what they have called the "westernization" of China. The government did not permit independent domestic NGOs to monitor openly or to comment on human rights conditions; existing domestic NGOs were harassed. The government tended to be suspicious of independent organizations and increased scrutiny of NGOs with links overseas. Most large NGOs were quasi-governmental in nature, and all NGOs had to be sponsored by government agencies (see section 2.b.).

During the year the government continued its intensified efforts to monitor and control NGOs and used strict regulations to limit the growth of independent civil society, which were first implemented in 2005.

An informal network of activists around the country continued to serve as a credible source of information about many human rights violations. The information was disseminated through organizations such as the Hong Kong-based Information Center for Human Rights and Democratic Movement in China and the New York-based Human Rights in China.

When permitted by authorities, the press reported about officials who exceeded their authority and infringed on citizens' rights. However, 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 (see section 2.d.). The government-established China Society for Human Rights is an NGO whose mandate was to defend the government's human rights record. The government maintained that each country's economic, social, cultural and historical conditions influence its approach to human rights.

The government permitted the ICRC to open an office in Beijing, although it did not authorize the ICRC to visit prisons. The government submitted to the UN its first compliance report on the International Covenant on Economic, Cultural and Social Rights. The government continued unofficial discussions on human rights and prisoner issues with a San Francisco-based human rights group, although the government's cooperation with the group was not as extensive as in previous years.

#### Section 5 Discrimination, Societal Abuse, and Trafficking in Persons

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

## Women

Violence against women remained a significant problem. There was no national law criminalizing domestic violence, but the Marriage Law provides for mediation and administrative penalties in cases of domestic violence. In August 2005 the NPC amended the Law on the Protection of Women's Rights specifically to prohibit domestic violence, although critics complained that the provision fails to define domestic violence. More than 30 provinces, cities, or local jurisdictions passed legislation aimed at addressing domestic violence. According to a 2004 survey by the All-China Women's Federation (ACWF), 30 percent of families had experienced domestic violence, and 16 percent of husbands had beaten their wives. The ACWF reported that it received some 300,000 letters per year complaining about family problems, mostly domestic violence. The actual incidence was believed to be higher because spousal abuse went largely unreported. According to experts, domestic abuse was more common in rural areas than in urban centers. In response to increased awareness of the problem of domestic violence, there were a growing number of shelters for victims. Most shelters were government run, although some included NGO participation.

Rape is illegal, and some persons convicted of rape were executed. The law does not expressly recognize or exclude spousal rape.

The 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 birth-planning officials using physical coercion to meet government goals (see section 1.f.). In addition, women faced a disproportionate burden due to the government's enforcement of its birth limitation laws and practices. Such laws and practices required the use of birth control methods (particularly IUDs and female sterilization, which according to government statistics, accounted for more than 80 percent of birth control methods employed) and the abortion of certain pregnancies.

Although prostitution is illegal, experts estimate that there were 1.7 to five million commercial sex workers in the country. The commercialization of sex and related trafficking in women trapped tens of thousands of women in a cycle of crime and exploitation and left them vulnerable to disease and abuse (see section 5, Trafficking). According to state-run media, one out of every five massage parlors in the country was involved in prostitution, with the percentage higher in cities. A 2004 Guangdong Province survey found that 74.2 percent of massage parlor workers were involved in prostitution. Unsafe working conditions were rampant among the saunas, massage parlors, clubs, and hostess bars in cities. Research indicated that up to 80 percent of prostitutes in some areas had hepatitis.

Although the government made some efforts to crack down on the sex trade, credible media reports claimed that some local officials were complicit in prostitution, owned prostitution venues, or received proceeds from such businesses. Prostitution involved organized crime groups and businesspersons as well as the police and the military. Actions to curtail prostitution had limited results. In 2004 according to state-run media, an investigation of prostitution at entertainment facilities in Guangdong Province led to the permanent closure of 15 percent and temporary closure of another 40 percent of the facilities investigated. Courts have prosecuted persons involved in organizing and procuring prostitutes.

The amended Law on the Protection of Women's Rights included a ban on sexual harassment, stating "the injured woman has the right to complain to the work unit and the relevant department" and may "bring a civil action in court for damages." Legal scholars and activists praised the amendment but emphasized the law should also specifically define what constitutes abusive behavior. Experts continued to suggest that many victims did not report sexual harassment out of fear of losing their jobs.

The government has made gender equality a policy objective since 1949. The constitution states "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. Policies that once allotted work-unit housing only to the husband have become gender-neutral, and an April 2005 Supreme Court interpretation emphasized that housing rights are shared equally, even in cases of divorce. The State Council's National Working Committee on Children and Women coordinated women's policy. The ACWF was the leading implementer of women's policy for the government. Nonetheless, many activists and observers were concerned that the progress made by women over the past 50 years was eroding. They asserted that the government appeared to have made the pursuit of gender equality a secondary priority as it focused on economic reform and political stability.

The Law on the Protection of Women's Rights and Interests was designed to assist in curbing gender-based discrimination. However, women continued to report that discrimination, sexual harassment, unfair dismissal, demotion, and wage discrepancies were significant problems. Social organizations and the government made efforts to educate women about their legal rights. In a high-profile case in September a Chinese actress made sexual harassment allegations

against a China Central Television (CCTV) director on her blog. Although the director threatened to sue the actress for "libel," the case has not gone to court. Hundreds of thousands of Internet users expressed support for the actress.

Women's networks, involving lawyers, activists, and the press, were active in Beijing, Shanghai, and other cities, highlighting problems and calling for solutions to gender-based discrimination.

Nevertheless, women frequently encountered serious obstacles to the enforcement of laws. According to legal experts, it was difficult to litigate a sex discrimination suit because the vague legal definition made it difficult to quantify damages. As a result very few cases were brought to court. Some observers noted 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.

The ACWF reported that 47 percent of laid-off workers were women, a percentage significantly higher than their representation in the labor force. Many employers preferred to hire men to avoid the expense of maternity leave and childcare, and some lowered the effective retirement age for female workers to 40 years of age (the official retirement age for men was 60 years and for women 55 years). In addition, work units were allowed to impose an earlier mandatory retirement age for women than for men, which limits women's lifetime earning power and career span. Lower retirement ages also reduced pensions, which generally were based on the number of years worked. Job advertisements sometimes specified height and age requirements for women.

Women have less earning power than men, despite government policies that mandate nondiscrimination in employment and occupation. According to the UN's 2005 Human Development Report, nationwide women's salaries overall were only 66 percent of men's salaries, while women in rural areas earned only 60 percent of the income earned by males. Average incomes of female executives and senior professionals were respectively only 58 percent and 68 percent of their male colleagues' salaries. Most women employed in industry worked in lower-skilled and lower-paid jobs and in sectors, such as textiles, which were particularly vulnerable to restructuring of state-owned enterprises and layoffs. Women accounted for 60 percent of those below the poverty line.

UNESCO reported that less than 2 percent of women between the ages of 15 and 24 were illiterate. According to 2005 official government statistics, women comprised 73.6 percent of all illiterate persons. In some underdeveloped regions, the female literacy rate lagged behind the male literacy rate by 15 percent or more.

A high female suicide rate continued to be a serious problem. According to the World Bank and the World Health Organization, there were approximately 500 female suicides per day. The suicide rate for females was 25 percent higher than for males. Many observers believed that violence against women and girls, discrimination in education and employment, the traditional preference for male children, the country's birth limitation policies, and other societal factors contributed to the especially high female suicide rate. Women in rural areas, where the suicide rate for women is three to four times higher than for men, were especially vulnerable.

While the gap in the education levels of men and women narrowed, differences in educational attainment remained a problem. According to a Chinese Academy of Social Sciences report, 61 percent of boys and 43 percent of girls in rural areas completed education higher than lower middle school. Men continued to be overrepresented among the relatively small number of persons who received a university-level education. According to official statistics, in 2005 women accounted for 47.1 percent of undergraduate and college students, 43.4 percent of postgraduate students, and 32.6 percent of doctoral students. Women with advanced degrees reported discrimination in the hiring process as the job distribution system became more competitive and market driven.

#### Children

The law prohibits maltreatment of children and provides for compulsory education. The State Council's National Working Committee on Children and Women was tasked with carrying out policy toward children.

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. Public schools were not allowed to charge tuition, but after the central government largely stopped subsidizing primary education, many public schools began to charge mandatory school-related fees to meet revenue shortfalls. Such fees made it difficult for poorer families and some migrant workers to send their children to school.

According to government statistics, 98.6 percent of children nationwide were enrolled in elementary school. In 2005 the government reported that 51.4 percent of primary school students, 45.7 percent of junior secondary school students, and

44.0 percent of senior secondary school students were female. It was widely believed that the proportion of girls attending school in rural and minority areas was smaller than in cities.

In 2003 the UN special rapporteur on the right to education visited and found that the government failed to provide education to many children of migrant workers and prohibited children from receiving religious education. The special rapporteur expressed serious concern about privatization of the costs of public education and reported that the government compelled parents to pay nearly half the costs of public education, making education inaccessible to many children. The special rapporteur also recommended the government immediately ban the practice of children performing manual labor at their schools to raise funds.

According to the UN Children's Fund (UNICEF) 2004 statistics, the infant mortality rate was 26 per 1,000 and the mortality rate for children under five years of age was 31 per 1,000 live births. The Law on the Protection of Juveniles forbids infanticide; however, there was evidence that the practice continued. According to the National Population and Family Planning Commission, a handful of doctors have been charged with infanticide under this law. The law prohibits discrimination against minors with disabilities and codifies a variety of judicial protections for juvenile offenders. The physical abuse of children can be grounds for criminal prosecution.

More than half of all boys and almost a third of all girls have been physically abused, according to survey results released at a May 2005 conference in Beijing. The survey reported that 10 percent of boys and 15 percent of girls have been sexually abused. These statistics were among those publicized at a National Consultation on Violence against Children, which the government and UNICEF sponsored. However, journalists were sanctioned for reporting on the rape of female students as young as 10 in Shanxi and Guangdong provinces. A media ban was also issued after a Nanjing newspaper publicized the forced sterilization of mentally challenged teenagers in Nantong, Jiangsu Province.

Despite government efforts to prevent kidnapping and the buying and selling of children, these problems persisted in some rural areas, and children were trafficked for labor purposes (see section 5, Trafficking).

According to official statistics, during the year juvenile crime fell after increasing sharply in 2005. In 2005 courts heard cases involving 82,692 juvenile offenders, up 18 percent from 2004 when courts heard cases involving 70,086 juvenile offenders. During the first eight months of the year, 11.4 percent fewer juveniles were convicted of crimes than during the same period in 2005. From 2000 to 2005, the annual increase in juvenile crime was approximately 11 percent. Abolition of the system of custody and repatriation in 2003 reduced the number of children detained administratively. Nonetheless, more than 150,000 "street children" lived in cities, according to state-run media. This number was even higher if the children of migrant workers, who spend the day on the streets were included. Juveniles were required by law to be held separately from adults, except when facilities were insufficient. In practice children sometimes were detained without their parents, held with adults, and required to participate in forced labor (see sections 1.c. and 6.c.).

Female infanticide, sex-selective abortions, and the abandonment and neglect of baby girls remained problems due to the traditional preference for sons and the birth limitation policy (see section 1.f.). Many families, particularly in rural areas, used ultrasound to identify female fetuses and terminate pregnancies, even though this practice remained illegal. An official study in Hainan Province found that 68 percent of abortions were of female fetuses. According to a 2002 survey, 35 percent of women in one rural township admitted to having an abortion because of a preference for a male child. Female babies also 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. Neglect of baby girls was one factor in their lower survival rate. One study found the differential mortality rates were highest in areas where women had a lower social status and economic and medical conditions were poor.

The law forbids the mistreatment or abandonment of children. The vast majority of children in orphanages were female; males in orphanages were usually disabled or in poor health. Medical professionals sometimes advised parents of children with disabilities to put the children into orphanages.

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

#### Trafficking in Persons

Although the law prohibits human trafficking, trafficking in persons remained a serious problem. The country was both a source and destination country for trafficking in persons. Most trafficking was internal for the purposes of forced labor and forced marriage. Some cases involved trafficking of women and girls into forced prostitution in urban areas, and some reports suggested that certain victims, especially children, were sold into forced labor. In many cases, women and children

were lured abroad with false promises of employment and then trafficked into prostitution or forced labor.

Domestic and cross-border trafficking continued to be significant problems, although the exact numbers of persons involved could only be estimated due to a huge itinerant population of approximately 150 million. The MPS opened 2,884 trafficking cases involving female children in 2005. During this same period, the MPS resolved 2,471 cases and rescued 3,977 women and children. During the year Vietnamese authorities reported that 167 women and children were rescued from traffickers in China, an increase of 64 percent from the same period in 2005.

Some experts and NGOs suggested that a shortage of marriageable women fueled the demand for abducted women, especially in rural areas. They argued that the serious imbalance in the male-female sex ratio at birth, the tendency for many village women to leave rural areas to seek employment, and the cost of traditional betrothal gifts all made purchasing a wife attractive to some poor rural men. Some men recruited women from poorer regions, while others sought help from criminal gangs. Criminal gangs either kidnapped women and girls or tricked them with promises of jobs and higher living standards, only to be transported far from their homes for delivery to buyers. Once in their new "family," these women were "married" and sometimes raped. Some accepted their fate and joined the new community; others struggled and were punished; a few escaped. Some former trafficking victims became traffickers themselves, lured by the prospect of financial gain.

According to UN reports, most women and girls trafficked from abroad came from North Korea and Vietnam. Others came from Burma, Laos, Russia, and Ukraine. They were trafficked into the country for sexual exploitation, forced marriage, and indentured servitude in domestic service or businesses. Past reports noted that trafficking of North Korean women and girls into the country to work in the sex industry was widespread in the northeastern part of the country, but reliable sources suggested that the practice has decreased. North Korean women reportedly were sold for approximately \$380 to \$1,260 (RMB 3,040 to 10,080). Women reportedly were also trafficked from Vietnam for the purpose of forced marriage. The UN reported that Chinese citizens were most often trafficked to Malaysia, Thailand, the United Kingdom, and the United States. Second-tier destinations included Australia, European countries, Canada, Japan, Italy, Burma, Singapore, South Africa, and Taiwan.

Trafficked persons became entangled with alien smuggling rings, which often had ties to organized crime and were international in scope. Persons trafficked by alien smugglers paid high prices for their passage to other countries, where they hoped that their economic prospects would improve. There were credible reports that some promised to pay from \$30,000 to \$50,000 (RMB 240,000 to RMB 400,000) each for their passage. Upon arrival, many reportedly were forced to repay traffickers for the smuggling charges and their living expenses by working in specified jobs for a set period of time. Living and working conditions for trafficked persons were generally poor. Traffickers restricted their movements and confiscated their travel documents. Threats to report trafficking victims to the authorities or to retaliate against their families if they protested made trafficked persons even more vulnerable. When arrested and brought to court, human smugglers received five- to ten-year jail sentences and fines up to \$6,000 (RMB 48,000). In very serious cases, courts imposed life imprisonment or the death penalty.

MPS officials stated that repatriated victims of trafficking no longer faced fines or other punishment upon their return. However, authorities acknowledged that errors sometimes occurred because of corruption among police, provisions allowing for the imposition of fines on persons traveling without proper documentation, and the difficulty in identifying victims. Trafficking victims often lacked proper identification, which made it difficult to distinguish them from person who illegally crossed borders.

Kidnapping and the buying and selling of children for adoption continued, particularly in poor rural areas. There were no reliable estimates of the number of children trafficked. Domestically, most trafficked children were sold to couples unable to have children, particularly sons. In the past, most infants rescued were male, but increased demand for children has reportedly driven traffickers to focus on females as well.

Children were also trafficked from poorer interior areas to relatively more prosperous areas for work. Traffickers reportedly often enticed parents to relinquish their children with promises of large remittances their children would be able to send home. Some children worked in factories but many ended up under the control of local gangs and were induced to commit petty crimes such as purse snatching.

The purchase of women was criminalized in 1991 when the NPC Standing Committee enacted its "Decision Relating to the Severe Punishment of Criminal Elements Who Abduct and Kidnap Women and Children." This decision made abduction and sale separate offenses.

Between 2001 and 2005, police opened more than 28,000 trafficking cases, arrested more than 25,000 suspected traffickers, and rescued more than 35,000 victims. In July, 28 members of a trafficking ring in Guangdong Province received sentences ranging from two years imprisonment to the death penalty. The ring had forced 10 women into

prostitution. In 2005 10 members of a Guangzhou baby smuggling ring were convicted of smuggling 37 male infants. According to several media reports the average price was US\$1,250 (RMB 10,000) per child, although other media reports quoted a range of prices from several thousand to a few hundred dollars per child.

Despite government efforts to eliminate trafficking in women and children, the problem persisted. There were reports of local officials' complicity in both alien smuggling and in prostitution, which sometimes involved trafficked women. In some cases, village leaders sought to prevent police from rescuing women who had been sold to villagers.

The two principal organs responsible for combating trafficking were the MPS and the State Council's Work Committee for Women and Children. In addition, the SPC, the SPP, the Ministry of Civil Affairs, the Central Office in Charge of Comprehensive Management of Public Order, and the Legislative Office of the State Council played roles in this area. It was central government policy to provide funds to provincial and local police to house victims and return them to their homes. Government-funded women's federation offices provided counseling on legal rights, including the options for legal action against traffickers, to some victims. The ACWF assisted victims in obtaining medical and psychological treatment.

#### 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 with access to programs designed to assist them. According to the official press, all local governments have drafted specific measures to implement the law.

The Ministry of Civil Affairs and the China Disabled Persons Federation, a government-organized civil association, were the main entities responsible for persons with disabilities. According to the China Disabled Persons' Federation, there were 60 million persons with disabilities. According to government statistics, 3,335 educational and vocational centers provided training and job-placement services for persons with disabilities. During the year 572,000 persons with disabilities received education or training. However, some 1.2 million urban and 3.4 million rural persons with disabilities were unemployed. Nationwide, 275,000 school-age children with disabilities did not attend school. Nearly 100,000 organizations exist, 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. However, misdiagnosis, inadequate medical care, stigmatization, and abandonment remained common problems.

According to reports, doctors frequently persuaded parents of children with disabilities to place their children in large government-run institutions, where care was often inadequate. Those parents who chose to keep children with disabilities at home generally faced difficulty finding adequate medical care, day care, and education for their children. Government statistics showed that almost one-quarter of persons with disabilities lived in extreme poverty. Unemployment among adults with disabilities remained a serious problem. Standards adopted for making roads and buildings accessible to persons with disabilities were subject to the Law on the Handicapped, which calls for their "gradual" implementation; compliance with the law was lax. Students with disabilities were discriminated against in access to education. The law permits universities legally to exclude otherwise qualified candidates from higher education.

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

#### National/Racial/Ethnic Minorities

According to the 2000 census, the population of the country's 55 officially recognized ethnic minorities totaled 106.4 million, or 8.4 percent of the total population. Additionally some citizens identified themselves as members of unrecognized ethnic minorities. Most minority groups resided in areas they traditionally inhabited. Government policy provides members of recognized minorities with preferential treatment in birth planning, university admission, access to loans, and employment. In May 2005 new regulations designed to enhance minority preferences in education became effective. Nonetheless, in practice the majority Han culture often discriminated against minorities. Most minorities in border regions were less educated, and job discrimination in favor of Han migrants remained a serious problem even in state-owned enterprises. In June the Xinjiang Production and Construction Corps announced that it would recruit 840 employees from the Xinjiang Uighur Autonomous Region, designating nearly all of the job openings for Han Chinese. Racial discrimination was the source of deep resentment in some areas, such as Xinjiang, Inner Mongolia, and Tibet. As part of the government's emphasis on building a "harmonious society," the government downplayed racism against minorities and tension among different ethnic groups. But even in the Yanbian Korean Autonomous Prefecture of Jilin Province, which the government recognized as the most "harmonious" ethnic area, there is a perceived ceiling in career advancement for ethnic Koreans.

Incomes in minority areas remained well below those in other parts of the country, particularly for minorities. Han Chinese benefited disproportionately from government programs and economic growth. Many development programs disrupted traditional living patterns of minority groups and included, in some cases, the forced relocation of persons (see section 2.d.).

The government's policy to encourage Han migration into minority areas resulted in significant increases in the population of Han Chinese in Xinjiang. According to 2005 statistics published by Xinjiang officials, nine million of Xinjiang's 19.6 million official residents were Uighur. Approximately 7.8 million Xinjiang residents were Han (40 percent of the total population), up from 300,000 Han in 1949 (6 percent of the total population). Significant numbers of Kazakhs, Hui, Kyrgyz, and other minorities also lived in Xinjiang. Official statistics underestimated the Han population because they did not count the tens of thousands of Han Chinese who were long-term "temporary workers." The migration of ethnic Han into Xinjiang in recent decades caused the Han-Uighur ratio in the capital of Urumqi to shift from 20 to 80 to 80 to 20 and was a source of Uighur resentment. According to 2005 figures, non-Tibetan residents of the TAR comprised 5.9 percent of the population, but that figure did not include a large number of long-term Han Chinese "temporary" residents. Their presence also caused resentment among some Tibetans (see Tibet Addendum).

Minorities constituted 14 percent of the NPC, which was higher than their percentage in the population. According to a 1999 government report, 2.7 million minority officials served in the government. A Xinhua report claimed that more than 25 percent of Inner Mongolia's cadres were ethnic minorities, even though ethnic minorities constituted only 21 percent out of the region's population of 23.79 million. A government report stated that ethnic minority representation in the NPC was 62.7 percent in Xinjiang, 68.2 percent in Tibet, 58.8 percent in Guangxi, 59.8 percent in Ningxia, and 40.7 percent in Inner Mongolia.

Nonetheless, Han officials held the most powerful party and government positions in minority autonomous regions, particularly Xinjiang. In April 2005 the government announced that 500 of 700 new government jobs in Southern Xinjiang would be reserved for Han Chinese. In September 2005 the Xinjiang Daily announced that 947 Han cadres were being sent to areas where ethnic unrest had occurred. Han Chinese also held a majority of positions in security services, including special border brigades and new counterterrorism brigades that had some police powers.

The government continued moving away from the two-track school systems that used either standard Chinese or the local minority language and toward a new system that required schools to teach both standard Chinese and local minority languages or to teach standard Chinese only. Prior to adopting the new policy, the vast majority of Uighur children in Xinjiang attended Uighur language schools and generally received an hour's Chinese-language instruction per day. Graduates of minority language schools typically needed intensive Chinese study before they could handle Chinese-language course work at a university. The dominant position of standard Chinese in government, commerce, and academia put graduates of minority-language schools who lacked standard Chinese proficiency at a disadvantage. Koranic education was tightly controlled and use of Arabic in public schools is forbidden (see section 2.c.). During the year the government allocated an additional \$15 million (RMB 120 million) to build new schools and support technical training for minority students who drop out before high school.

A campaign in Xinjiang targeting the "three evils" of religious extremism, splittism, and terrorism continued. Authorities in Xinjiang regularly grouped together individuals or organizations involved in the three evils, making it difficult to determine whether particular raids, detentions, or judicial punishments were targeted at those peacefully seeking to express their political and religious views or those who engaged in violence (see section 2.c.). The government's war on terror continued to be used as a pretext for cracking down harshly on Uighurs expressing peaceful political dissent and on independent Muslim religious leaders. In December 2003 the government published an "East Turkestan Terrorist List," which labeled organizations such as the World Uighur Youth Congress and the East Turkestan Information Center as terrorist entities. These groups openly advocated East Turkestan independence, but only one group, the East Turkestan Islamic Movement was designated by the UN as a terrorist organization.

Uighurs were sentenced to long prison terms and many were executed on charges of separatism. During a previous "strike hard" campaign, which officially concluded in 2003, authorities stated they prosecuted more than 3,000 cases in Xinjiang and held mass sentencing rallies attended by more than 300,000 persons. By its own account, from January to August 2004 the government broke up 22 groups engaged in what it claimed were separatist and terrorist activities and meted out 50 death sentences to those charged with separatist acts. In February 2005 Uighur writer Nurmuhemmet Yasin was sentenced to 10 years in prison after publishing a short story which authorities claimed advocated separatism. In April 2005 writer Abdulla Jamal was detained in Xinjiang, reportedly for writings that promoted Uighur independence. In August 2005 10 individuals reportedly were arrested for possession of pamphlets and audiotapes that called for an independent state. Later in the year, editor of the Kashgar Literature Journal Korash Huseyin was sentenced to three years in prison. In October 2005 Ismail Semed, an ethnic Uighur from Xinjiang, was reportedly convicted and sentenced to death on charges of "attempting to split the motherland" and other counts related to possession of firearms and explosives. In 2003 Uighur Shaheer Ali was executed after being convicted of terrorism.

In June authorities charged Alim, Ablikim, and Qahar Abdurehim, three of Uighur activist and businesswoman Rebiya Kadeer's sons, with state security and economic crimes. Authorities reportedly beat and tortured Alim and Ablikim, and Alim reportedly confessed to the charges. On July 10, officials indicted Alim and Qahar and placed other family members under house arrest and surveillance.

In 2004 Uighur Dilkex Tilivaldi was detained after meeting a foreign journalist. The government refused to clarify his whereabouts (see section 1.e.).

Possession of publications or audiovisual materials discussing independence or other sensitive subjects was not permitted. According to reports, possession of such materials resulted in lengthy prison sentences.

Officials in the region defended the campaign against separatism as necessary to maintain public order and continued to use the threat of violence as justification for extreme security measures directed at the local population and visiting foreigners.

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

Inner Mongolian cultural activist Hada continued to serve a 15-year sentence during the year (see sections 1.c. and 1.e.).

#### Other Societal Abuses and Discrimination

The household registration system continued to result in widespread discrimination against Chinese from rural areas. Because they could not change their household registrations, many migrants living and working in urban areas were denied access to public services such as education and health care, as well as pension benefits, unemployment, and other social insurance programs. Where public services were available to migrant families, they rarely reached a standard equal to those of registered urban residents.

No laws criminalize private homosexual activity between consenting adults. Societal discrimination and strong pressure to conform to family expectations deterred most gay individuals from publicly discussing their sexual orientation. Published reports stated that more than 80 percent of gay men married because of social pressure. In what officials said was a campaign against pornography, authorities blocked the overseas Web site gaychinese.net for three months. Other Internet sites on gay issues that were not sexually explicit were also blocked during the year.

Under the new contagious disease law and adopted regulations, employment discrimination against persons with HIV/AIDS and hepatitis B is forbidden, and provisions allow such persons to work as civil servants. However, discrimination against the estimated 650,000 persons with HIV/AIDS and approximately 10 million hepatitis B carriers remained widespread in many areas. Hospitals and physicians sometimes refused to treat HIV-positive patients. During the year a number of hepatitis B carriers sued local government institutions to enforce their rights to work and study. While they won judgments in some cases, widespread discrimination remains. In October the Ministry of Health criticized local officials in Urumqi, Xinjiang for expelling 19 hepatitis B carriers from public schools. The criticism was carried in the national press, but no remedies were reported. Persons with HIV/AIDS likewise suffered discrimination and local governments sometimes tried to suppress their activities. In April Jilin Province authorities blocked a group of HIV-positive persons from accepting free travel to visit the Great Wall. At the same time, international involvement in HIV/AIDS prevention, care, and treatment, as well as central government pressure on local governments to respond appropriately, brought improvements in some localities. Some hospitals that previously refused to treat HIV/AIDS patients now have 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 encourage and facilitate HIV/AIDS support groups.

Some NGOs working with HIV/AIDS patients and their family members continued to report difficulties with local government, particularly in Henan Province where thousands were infected in government-run blood selling stations during the 1990s. Henan authorities were successful in providing free treatment to persons with HIV/AIDS. However, foreign and local observers noted that local governments were reluctant or even hostile towards coordinating efforts with NGOs and preferred to work independently.

Scholarly studies by Chinese indicated that discrimination in employment based on height and physical appearance was both legal and common.

#### Section 6 Worker Rights

#### a. The Right of Association

Although the law provides for the freedom of association, in practice workers were not free to organize or join unions of their own choosing. The All-China Federation of Trade Unions (ACFTU), which was controlled by the CCP and chaired by a member of the Politburo, was 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." Independent unions are illegal. In some cases the ACFTU and its constituent unions influenced and implemented government policies on behalf of workers; however, the CCP used the ACFTU to communicate with and control workers.

Already established in the state-owned sector, where union representatives frequently held senior management positions, the ACFTU worked throughout the year to establish its unions in the nonstate-owned sector. Union membership is low in both domestic and foreign-invested private companies. During the year the ACFTU began a campaign to establish unions in foreign-invested enterprises. By year's end, the ACFTU claimed to have established unions in 60 percent of foreign-invested enterprises and 31 percent of all nonpublic enterprises. In 2005 the ACFTU reported that its membership had reached 150.3 million or 69 percent of the 217 million urban workers, an increase of 9.7 percent over the previous year.

Since 2004 ACFTU has made efforts to expand control over nonunionized workers. A large rural labor force, consisting of approximately 540 million persons, including 300 million agricultural workers, was unorganized; farmers had no union or similar organization. Few of the 130 million rural residents working in township and village enterprises were unionized. Of the 100 to 150 million rural migrants who worked in the cities, the ACFTU claimed that a total of 14 million had joined the union. The Ministry of Construction reported that 11 million of the 40 million migrant workers in the construction industry were union members. However, most migrants working in low-value-added jobs in the manufacturing and service sectors were not represented and were easily exploited. Although migrant workers were first permitted to join the union in 2003, by year's end only 13.8 percent of the migrant workforce was "unionized," and it was not clear what benefits they derived from union membership.

Although the law states that trade union officers at each level should be elected, most were appointed by higher levels of the ACFTU, often in coordination with employers. In areas where an experimental program allowed direct election of union officers, regional ACFTU offices and local party authorities retained control over the selection and approval of candidates.

Some workers acted outside the ACFTU structure to demand back wages, pension or health insurance contributions, or other benefits owed by employers. The government took action against some of these workers, especially when they engaged in organized campaigns. Some workers who complained to local labor and social security bureau offices about working conditions reported that they faced harassment from their employers and police, and sometimes from labor bureau officials. During the year labor rights activists complained throughout the year of police surveillance, including interviews with police and police background investigations of their family members. In November Shenzhen officials investigated the activities of five labor NGOs for their involvement in an organized petition drive to reduce labor arbitration fees. Shenzhen authorities confiscated several computers and shut down two of the NGOs.

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. The degree to which these provisions were enforced was unknown.

Labor activist Xiao Yunliang was released on February 23, three weeks before the end of his four year prison sentence. According to human rights NGOs, Xiao and his family continued to suffer harassment after his release. Other labor activists, detained in previous years, were reportedly still in detention at year's end. These included Yao Fuxin, Shao Liangchen, Hu Shigen, Wang Sen, Zhang Shanguang, He Chaohui, Yue Tianxiang, Miao Jinhong, Ni Xiafei, Huang Xiangwei, Li Xintao, Kong Jun and Du Hongqi, Gao Hongming, Hu Mingjun, Li Wangyang, Liu Zhihua, Luo Mingzhong, Luo Huiquan, Ning Xianhua, She Wanbao, Wang Miaoogen, Yang Jianli, and Zhao Changqing.

Civil rights lawyer Gao Zhisheng, who had defended the rights of Chinese workers, labor activists and other rights activists for many years, was detained in August and later arrested on September 21 on "suspicion of inciting subversion of state power." His office was suspended by the Beijing Bureau of Justice for one year in November 2005 shortly after he sent a letter to the president and premier, calling for an end to widespread detention of activists and after he had refused to withdraw from politically sensitive legal cases as demanded by Beijing officials.

#### b. The Right to Organize and Bargain Collectively

The labor law permits collective bargaining for workers in all types of enterprises; however, in practice, collective bargaining fell far short of international standards. Under the law, collective contracts are to be developed through

collaboration between the labor union and management and should specify such matters as working conditions, wage scales, and hours of work.

The trade union law specifically addresses unions' responsibility to bargain collectively on behalf of workers' interests. Regulations required the union to gather input from workers prior to consultation with management and to submit collective contracts to workers or their congress for approval, but it was not clear to what extent these provisions were carried out in practice. Moreover, without the right to strike, workers had only a limited capacity to influence the negotiation process. In the private sector, where official unions were few and alternative union organizations were unavailable, workers faced substantial obstacles to bargain collectively with management. The revised company law, which was passed in October 2005, recognizes the role of the labor union in representing employees in signing a collective agreement with a company. It also provides for employee congresses to enable employees to play a role in the democratic management of the company.

At the end of 2005 the ACFTU reported that collective contracts covered 103.8 million workers. Many of these contracts only covered wages. Officials estimated that 80 percent of collective contracts are prefabricated contracts adopted with no negotiation. Collective contracts generally served as minimum standards for individual contracts between employers and employees and generally mirrored the law and local minimum labor standards.

The law provides for labor dispute resolution through a three stage process: in-house mediation, labor arbitration, and litigation. The ACFTU reported that in all of 2005 there were 294,000 disputes, a 17 percent increase over 2004. Two-thirds of these concerned wage or social welfare insurance benefits. According to academics, collective disputes made up 6 percent of the total but accounted for 55 percent of the workers involved in the disputes. A smaller percentage of disputes settled through mediation in the workplace than in previous years, a fact some academics attributed to the conflict between the ACFTU's dual roles as convener of the mediation body and as worker representative.

The law does not provide for the right to strike. The trade union law acknowledges that strikes may occur, in which case the union is to reflect the views and demands of workers in seeking a resolution of the strike. Some observers interpreted this provision to offer a theoretical legal basis for the right to strike. However, the government continued to treat worker protests as illegal demonstrations, indicating that there was still no officially accepted right to strike.

Worker protests occurred throughout the year (see sections 2.b. and 3). Most involved actual or feared job loss, wage or benefit arrears, allegations of owner/management corruption, dissatisfaction with new contracts offered in enterprise restructuring, failure to honor contract terms, or discontent over substandard conditions of employment. In November the Hong Kong press reported that 1,000 laid-off former employees of a bankrupt automobile factory in Gansu Province surrounded the company headquarters, alleging that the company did not pay agreed severance compensation. In August bus drivers in Huaibei, Anhui Province started a spontaneous strike to protest changes in their wages and benefits. While some protests were tolerated, the government took swift action to halt protests that became large or that officials deemed embarrassing.

On February 10, more than 1,000 workers at a textile factory in Shandong staged a strike against low pay and pay disparity in favor of the managers. On March 13, 3,000 to 4,000 workers at a textile factory in Kunming staged a four-day strike against the plant's restructuring and compensation plans. On April 3, thousands of workers at a Hong Kong-owned furniture factory in Shenzhen staged a protest against long working hours and exploitative and abusive treatment. In July more than 1,000 workers at a plastic toy factory in Dongguan, Guangdong Province, rioted over allegations of inadequate pay and working conditions, particularly excessive overtime, and protesters clashed with police and company security. Dozens of workers were detained after the two-day protest. In August bus drivers in Huaibei, Anhui Province started a spontaneous strike to protest changes in their wages and benefits. On November 13, more than 1,000 workers of a state-owned, transportation enterprise in Gansu province staged a protest against the company's restructuring plan, which forced 1,448 workers to sign a "laid-off" agreement. In some cases protesting workers were offered payments that met at least a portion of their demands. On November 9, the Shenzhen Migrant Workers Association was forcibly closed down for organizing a mass petition to lower the government's labor dispute arbitration fee (see section 6.a.). Police sometimes detained protest leaders and dispersed demonstrations. In December 50 laid-off middle managers from a state-owned bank were detained when they tried to take a demonstration to the Beijing district where most senior government leaders lived.

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

#### c. Prohibition of Forced or Compulsory Labor

The law prohibits forced and compulsory labor, including by children; however, forced labor was a serious problem in penal institutions. Detainees in reeducation-through-labor facilities were required to work, often with little or no remuneration. In some cases prisoners worked in facilities directly connected with penal institutions; in other cases they were contracted to

nonprison enterprises. Former prison inmates reported that workers who refused to work in some prisons were beaten. Facilities and their management profited from inmate labor.

The government cooperated throughout the year to resolve a number of cases that alleged products produced with prison labor were exported to a foreign country. Although the government prohibits forced and compulsory labor by children, some child trafficking victims were reportedly sold into forced labor (see section 5).

It remained common for employers to withhold several months' wages, or to require unskilled workers to deposit several months' wages, as security against the workers departing early from their labor contracts. Although this practice was illegal, the government did not emphasize controlling it.

On March 27, 31 migrant workers, including child workers, were freed from a Shanxi Province brickworks where they were forced to work between 14 to 18 hours a day with no pay under close 24 hour scrutiny by a work gang leader and six guards.

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

The law prohibits the employment of children under the age of 16, but the government had not adopted a comprehensive policy to combat child labor. The labor law specifies administrative review, fines, and revocation of business licenses of those businesses that illegally hire minors. The law also stipulates that parents or guardians should provide for children's subsistence. Workers between the ages of 16 and 18 were referred to as "juvenile workers" and were prohibited from engaging in certain forms of physical work, including labor in mines.

A decree prohibiting the use of child labor provides that businesses illegally hiring minors or in whose employ a child dies will be punished via administrative review, fines, or revocation of their business license. The decree further provides that underage children found working should be returned to their parents or other custodians in their original place of residence.

According to a study by a Hong Kong-based labor rights NGO, the use of child labor is on the rise along the country's eastern coast in recent years. While poverty remains the main reason, inadequacy of the mandatory education system, rising market demand due to labor shortage and potential child labor supply outside the formal labor market also contribute to this long-term problem.

Reliable statistics on the prevalence of child labor are not available. The government acknowledged the problem of child labor, and noted that it was relatively prevalent in certain industries. The government also maintained that the country did not have a widespread child labor problem and that the majority of children who worked did so to supplement family income, particularly in impoverished rural areas. Although nine years of education (through age 16) is compulsory, the high cost of basic education caused some children to drop out of school to seek work; other children worked while in school. In March Premier Wen Jiabao pledged that the government would eliminate tuition fees for rural students receiving compulsory education by the end of the year, beginning with the poorest regions. Tuition fees have since been eliminated in many areas but other miscellaneous costs (food, textbooks, etc.) are a major burden, especially for rural residents.

State-run media reported on provincial bureau investigations into child labor cases, as well as punishment of factory owners who employed children. In one well-publicized case in August, authorities in Ningbo rescued more than 70 middle-school students used as laborers at a grape cannery under the guise of a summer work-study program. In general there was little follow-up on whether children involved in such cases continued to work outside the home.

#### e. Acceptable Conditions of Work

There was no national minimum wage. The labor law requires local governments to set their own minimum wage according to standards promulgated by the Ministry of Labor and Social Security. These standards include the minimum cost of living for workers and their families, levels of economic development and employment in the area, as well as the level of social insurance and other benefits contributions paid by the employees themselves. The regulation states that labor and social security bureaus at or above the county level are responsible for enforcement of the law. It provides that where the ACFTU finds an employer in violation of the regulation, it shall have the power to demand that the department of labor and social security deal with the case, although it was not clear how that provision was implemented in practice.

In March the NPC issued a report on the implementation of the labor law, based on an intensive 2005 survey of labor conditions. The report stated that the minimum wage system was not fully implemented, that there was no regular mechanism for increasing wages in many places, and that wage arrears continued to occur. However in many locations a shortage of unskilled labor continued to push wages up, causing several major cities in Guangdong province to increase the minimum wage by 17 to 42 percent during the year.

Wage arrearages to employees of state-owned and private enterprises remained common, especially among migrant workers. According to a government report published in April, 35 percent of rural migrant workers reported having difficulty obtaining wages on time, while nearly 16 percent had trouble obtaining wages. Some migrant workers received wages once a year, when settling with employers prior to returning to their home districts for the lunar New Year. The government continued its campaign to recover payment of missing wages and insurance contributions, and some localities took action to remedy wage arrears, with varying degrees of success. Some provinces promulgated regulations requiring companies to establish wage guaranty funds, in which employers are required to deposit a percentage of project costs into government-controlled accounts for use to pay back wage claims to workers. In February the Shenzhen city Labor and Social Security Bureau sanctioned 1,300 companies and imposed \$5.8 million (47 million RMB) in fines for not paying wages. In June Guangdong authorities blacklisted 30 construction companies for failure to pay wages, making them ineligible for city-funded projects. In August the SPC issued a judicial interpretation allowing unpaid workers holding vouchers from their employers to take their cases directly to court, without first going through the lengthy process of labor mediation and arbitration. Legal aid lawyers reported that this judicial decision has been very effective in reducing the time it takes to resolve wage arrears cases.

Other widespread, illegal practices effectively reduced workers' wages. These included arbitrary fines and wage deductions levied by employers for such breaches of company rules as talking to fellow employees, talking back to supervisors, or standing or sitting improperly on the job. Many employers used an "extended shift" system, in which the employer sets an unrealistic production target that workers cannot achieve within designated work hours. Workers must then work overtime without additional compensation to meet the target, sometimes resulting in actual hourly wages that are below the legal minimum wage.

The NPC report also found that excessive overtime was common. The labor law mandates a 40-hour standard workweek, excluding overtime, and a 24-hour weekly rest period. It also prohibits overtime work in excess of three hours per day or 36 hours per month and mandates a required percentage of additional pay for overtime work. However, these standards were regularly violated, particularly in the private sector and in enterprises that use low-skilled migrant or seasonal labor. A survey conducted by a human resources firm found that 80 percent of respondents worked overtime often, while only 30 percent were paid premium wages for overtime. Many areas of the country experienced shortages of migrant and skilled workers during the year, in part due to worker dissatisfaction with low wages and poor working conditions. Social auditors found that factories routinely falsified overtime and payroll records. In August a Shenzhen court accepted a libel complaint from an employer against two journalists who had reported on illegal overtime conditions in a factory, although the employer subsequently dropped the case.

The NPC report found that working conditions in locations it surveyed were substandard. The State Administration for Work Safety (SAWS) also acknowledged that occupational health and safety concerns remained serious. SAWS, which was elevated to ministry status in 2005, continued to develop the national framework for work safety. The Ministry of Health was responsible for the prevention and treatment of occupational illness, while SAWS was responsible for workplace health supervision. In June the law was amended to provide for criminal sanctions against individuals responsible for industrial accidents. In August SAWS announced a five-year, \$58 billion (467.4 billion RMB) plan to invest in safety projects, including coal mine accident prevention, in an effort to reduce the industrial accident rate.

While inadequate and poorly enforced occupational health and safety laws and regulations continued to put workers' health and lives at risk, there was a decline in reported accidents and fatalities compare to the previous year. During the year official statistics reported that industrial accidents killed 14,382 workers, a decrease of 9.4 percent from the previous year. There were 95 incidents involving more than 10 fatalities (a total of 1,570 fatalities), 49 percent fewer incidents than in 2005.

The coal industry continued to suffer the largest number of accidents and fatalities as soaring demand and increasing prices drove companies to increase production of coal. During the year the number of deaths in coal mine accidents fell to 4,746, a decline of 20 percent from 2005. The government took other steps throughout the year to improve mine safety. However, allegations of local government complicity in the cover-up of mining disasters continued.

The central government announced plans to close 2,652 unsafe small coal mines during the year, but extended the deadline to the first half of 2007 following resistance from local governments. Throughout the year, central and provincial authorities punished a number of mine managers and local government officials for their involvement in coal mine accidents.

Many factories that used harmful materials or processes not only failed to protect their workers against the ill effects of such materials or processes but failed to inform them about the hazards, neglected to provide them with health inspections as required by law, and when they fell ill, denied their claims for compensation. The Ministry of Health said that pneumoconiosis, a chronic respiratory disease caused by inhaling metallic or mineral particles, remained the single most prevalent occupational disease in China. The official number of pneumoconiosis cases was 440,000, although some observers reported that it may have affected as many as five million workers, including coal miners and jewelry

workers. In February SAWS ordered the closing of 35,842 companies due to safety concerns.

The government reported that 102 million workers participated in the country's work-injury insurance system, an increase of 17 percent over the previous year. However, NGOs reported that local labor and social security bureaus frequently rejected claims for compensation by workers because employers failed to provide them with documentation as required by law. Workers showed a willingness to use lawsuits to pursue injury and illness claims against employers, but there were few sources of legal aid available.

The work safety law states that employees have the right, after spotting an emergency situation that threatens their personal safety, to evacuate the workplace. Employers are forbidden to cancel the labor contracts or reduce the wages or benefits of any employee who takes such action. In practice such protective provisions were difficult to enforce. There were reports of serious accidents in which miners were killed when mine managers forced them to continue work under unsafe conditions.

The NPC report stated that infringement of workers' rights was widespread in 2005, and this situation continued during the year. In addition to citing poor labor law enforcement, the NPC noted that labor contracts are seldom executed, and when they were, that contract terms were too short and not in compliance with the law. NPC inspection results in 2005 showed that only 20 percent of employees signed labor contracts in small- and medium-sized nonpublic enterprises. This situation continued during the year. The lack of written labor contracts made it much more difficult for workers whose rights had been violated to seek redress through administrative processes or through the courts. The widespread use of labor contracting agencies to supply manpower also created legal gray areas that made labor law enforcement more difficult.

## TIBET

The United States recognizes the Tibet Autonomous Region (TAR) and Tibetan autonomous prefectures and counties in other provinces to be a part of the People's Republic of China. The Tibetan population within the TAR was 2.4 million, while in autonomous prefectures and counties outside the TAR the Tibetan population was 2.9 million. The government strictly controlled information about, and access to, Tibetan areas, making it difficult to determine accurately the scope of human rights abuses.

The government's human rights record in Tibetan areas of China remained poor, and the level of repression of religious freedom remained high. The government continued to strongly criticize the Dalai Lama and to associate Tibetan Buddhist religious activity with separatist sympathies. The preservation and development of the unique religious, cultural, and linguistic heritage of Tibetan areas and the protection of Tibetan people's fundamental human rights continued to be of concern. Authorities continued to commit serious human rights abuses, including torture, arbitrary arrest and detention, house arrest and surveillance of dissidents, and arbitrary restrictions on free movement.

Positive developments in Tibetan areas included a fifth round of dialogue between the government and envoys of the Dalai Lama. In March authorities permitted released political prisoner Phuntsog Nyidrol to travel overseas to receive medical treatment.

### Deprivation of Life

On September 30, People's Armed Police at the Nangpa La pass shot at a group of approximately 70 Tibetans, attempting to cross into Nepal, killing 17-year-old nun Kelsang Namtso and wounding others. Although officials claimed the police officers shot in self-defense, eyewitness accounts, including footage shot by a European film crew, showed that soldiers were unprovoked and fired at the Tibetans from a distance (see Torture and Freedom of Movement sections).

In April monastery and Religious Affairs Bureau (RAB) officials claimed Ngawang Jangchub's death in October 2005 was due to medical problems he had suffered from since childhood. According to other reports, he committed suicide. His death followed a heated dispute with the monastery's "work team" over the intensification of the patriotic education campaign at the monastery, the expulsion of five monks, and his refusal to denounce the Dalai Lama.

### Torture

The security apparatus employed torture and degrading treatment in dealing with some detainees and prisoners. Tibetans repatriated from Nepal reportedly continued to suffer torture and other abuse in detention centers, including electric shocks, exposure to cold, and severe beatings, and were forced to perform heavy physical labor. Many were required to pay fines upon release.

According to news reports, more than 30 of the 70 Tibetans fired upon by soldiers at Nangpa La were captured,

incarcerated, and tortured in a labor camp. A 15-year-old member of the group who later reached India reported to international media that three dozen of the Tibetans captured by soldiers were tortured with cattle prods and forced to do hard labor (see Deprivation of Life and Freedom of Movement sections).

According to a new report from the International Campaign for Tibet (ICT), a group of 50 refugees was previously fired upon by Chinese troops in October 2005 at the same pass. After the shooting began the group scattered, and 23 Tibetans were reportedly arrested, detained, tortured, and interrogated at an army camp in Dingri County. The whereabouts of the remaining 27 refugees were unknown (see Freedom of Movement section).

On August 15, Nun Phuntsog Nyidrol, who was released in 2005 after serving 15 years in prison for participating in peaceful protests, testified before the UN Human Rights Council that government authorities severely beat and tortured her while in prison.

Prison authorities reportedly subjected Jigme Gyatso to beatings and solitary confinement following a December 2005 meeting with UN Special Rapporteur on Torture Manfred Nowak in Drapchi Prison.

#### Prison Conditions

Prisoners in Tibetan areas were generally subject to the same prison conditions as in other areas of the country. Forced labor was used in some prisons, detention centers, reeducation through-labor facilities, and prison work sites. The law states that prisoners may be required to work up to 12 hours per day, with one rest day every two weeks, but these regulations often were not enforced. Conditions in administrative detention facilities, such as reeducation-through-labor camps, were similar to those in prisons.

Political prisoner Rinzin Wangyal (also known as Rinwang) reportedly died in prison in late 2004 of unknown causes. There was no official confirmation of Rinzin Wangyal's death, nor was his body handed over to his family.

#### Arbitrary Arrest or Detention

Arbitrary arrest and detention remained serious problems in Tibetan areas. The law permits police and security authorities to detain persons without arresting or charging them.

In August the ICT reported the March 2005 arrest of Lhasa history teacher Dolma Kyab. He was reportedly serving a 10-year sentence in Qushui Prison on charges of "endangering state security." In August Bureau of Justice authorities in Lhasa denied he was detained.

Authorities reportedly detained six Tibetans from Sichuan Province for allegedly handing out leaflets advocating Tibetan independence. In early June Yiga, a former nun, and two lay women, Sonam Choetso and Jampa Yangtso, all from Ganzi Prefecture in Sichuan, were detained in Lhasa. On June 1 and 2, respectively, Kayi Doega, a layman, and Sonam Lhamo, a nun from Geci Nunnery, were detained in Ganzi Prefecture on the suspicion they had organized the protest.

In late August authorities arrested Yiwang, a 16-year-old Tibetan girl from Ganzi Prefecture in Sichuan, for her involvement in the campaign. No information on her trial or sentence was available.

According to a report by Radio Free Asia (RFA), on August 23 security officials arrested Khenpo Jinpa, the abbot of Choktsang Taklung Monastery in Ganzi Prefecture, Sichuan Province. Khenpo Jinpa was reportedly arrested on suspicion of involvement in displaying proindependence posters at the monastery.

According to the Tibetan Centre for Human Rights and Democracy (TCHRD), on November 23 authorities reportedly arrested five monks who refused to take part in the "patriotic education campaign" that began in October 2005 at the Drepung Monastery in Lhasa. The monks, who were identified as Ngawang Namdrol, Ngawang Nyingpo, Ngawang Thupten, Ngawang Phelgey, and Phuntsok Thupwang, reportedly refused to denounce the Dalai Lama and recognize Tibet as part of China. In April monastery officials denied the five had been arrested and said they were expelled from the monastery and had returned to their homes (see Freedom of Religion section).

On February 24, eight Tibetans were detained in Sichuan Province during a fur-burning campaign. They were released in March without being charged (see Freedom of Religion section).

In August 2005 four Tibetans who were detained after the burning of a slaughterhouse in Sichuan Province reportedly remained in detention in Derge County. Sherab Yonten, Sonam Gyelpo, and two others whose names are unknown

continued to be held without charges and without access to relatives or defense counsel. Soepa, originally detained with the others, was released after going blind in custody due to alleged beatings and lack of access to medical care. Dawa, also originally detained with the others, was sentenced to five years' imprisonment (see Political Prisoners section).

In July 2005 monk Tsering Dhondup reportedly was detained after he allegedly wrote a "request for prayer" mentioning the Dalai Lama. According to RFA, the monastery disciplinarian who read the request for prayer, Changchup Gyaltsen, reportedly was also expelled from the monastery.

On May 23, 19-year-old monk Thubten Samten reportedly disappeared from his room in the Sera Monastery. According to the TCHRD, sources believe police arrested him for displaying pictures in his room of the Dalai Lama, the Panchen Lama, and the Tibetan national flag. His whereabouts remained unknown.

In June border police near Tingri reportedly arrested 13 Tibetans who were planning to cross the border to Nepal. The detainees were male and in their twenties and early thirties. There were no reports on the whereabouts of those arrested.

Jigme Gyatso continued to serve a sentence for counterrevolution despite a November 2000 UN Working Group on Arbitrary Detention statement that he was merely "exercising the right to freedom of peaceful assembly."

Chadrel Rinpoche remained under house arrest for leaking information about the selection of the Panchen Lama. Officials denied requests by diplomatic observers to visit with him.

On February 26, former nun and schoolteacher Nyima Choedron, who was detained in 1999 and sentenced to 10 years' imprisonment, had the remainder of her sentence commuted and was released from the TAR Prison.

On March 9, the ICT reported that Nyima Choedron's partner, Bangri Chogtrul Rinpoche, a schoolteacher and founder of the Gyatso children's home and school who was also detained in 1999, remained in prison on charges of "splittism."

#### Political Prisoners

Due to the lack of independent access to prisoners and prisons, it was difficult to ascertain the number of Tibetan political prisoners. According to the Congressional-Executive Commission on China's Political Prisoner Database (CECC PPD), in December there were 105 known cases of political prisoners, although the exact figure may be higher. Based on information available for 70 political prisoners, the average sentence was 10 years and 11 months, and 69 percent were monks or nuns. Approximately 52 political prisoners remained in prison in Lhasa, most serving sentences on the charge of "counterrevolution," which was dropped from the criminal law in 1997. Authorities have stated that acts previously prosecuted as counterrevolutionary crimes continue to be considered crimes under ant subversion laws. The CECC PPD showed that 57 Tibetan political prisoners were imprisoned in the TAR, 29 in Sichuan Province, 12 in Qinghai Province, four in Gansu Province, and three in Beijing. The overall number of reported political prisoners in Tibetan areas dropped to 105 from 117 in 2005.

An unknown number of Tibetans were serving sentences in reeducation-through-labor camps and other forms of administrative detention not subject to judicial review.

In October the TCHRD reported that Dawa (also called Gyaltsen Namdak) was sentenced to five years' imprisonment for allegedly distributing pamphlets containing political material. Dawa was arrested in May. He reportedly remained in Chushul Prison at year's end.

On September 6, authorities reportedly charged monk Lobsang Palden from Ganzi Monastery for initiating separatist activities. On August 15, he reportedly was arrested in Sichuan Province after police searched his room and found photographs of the Dalai Lama.

In May the Dui Hua Foundation released new information on the sentencing of monk Choeying Khedrub from Nagchu Prefecture. He was one of six men detained in 2000 for "endangering state security" and "supporting splittist activities." Choeying Khedrub reportedly was sentenced to life in prison in 2001. He was one of only two Tibetans known to be serving life sentences for political offenses. The other was Tenzin Delek Rinpoche, a senior monk. He initially was sentenced to death for allegedly causing explosions and inciting the separation of the state; in January 2005 his sentence was commuted to life imprisonment.

In November the TCHRD reported that Sonam Gyalpo, a Lhasa tailor arrested in 2005, was sentenced in the middle of the year to 12 years' imprisonment on charges of splittism and destroying national unity.

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Monk Namkha Gyaltsen, a chant master from Ganzi Monastery in Sichuan Province, was serving an eight-year sentence in Ganzi Prison for allegedly posting, displaying, and circulating Tibetan independence pamphlets in Ganzi in 2005. Authorities denied access to visitors, and his condition remained unknown.

In January a court in Gannan Prefecture, Gansu Province, reportedly sentenced five Tibetan monks and nuns to up to three years' imprisonment for displaying and distributing posters in 2005 that were critical of the government. According to the Free Tibet Campaign, nuns Choekyi Drolma and Tamdrin Tsomo and monk Dargyal Gyatso were sentenced to three years' imprisonment and nun Yonten Tsomo and monk Yamyang Samdrub to 18 months' imprisonment. Nun Yonten Tsomo was released at the end of the year. The charges against the monks and other nuns were unknown.

In January Gendun, a monk and teacher of traditional monastic dance from Amdo, was sentenced to four years in prison after he spoke about Tibetan culture and history at a teacher training college in February 2005. Twenty monks, students, and teachers detained in connection with his case reportedly were released soon after they were detained.

Other political prisoners in detention at year's end included: monk Sonam Phuntsog; Tashi Gyaltsen, Tsultrim Phelgyal, Tsesum Samten, Jhamphel Gyatso, and Lobsang Thargyal from Dakar Treltzong Monastery in Qinghai Province; Jigme Dasang, a monk from Kumbum Monastery in Qinghai Province; Ngawang Phulchung, a monk from Drepung Monastery; Tibetan Buddhist monk Jigme Gyatso; and Lobsang Khedrub and Gyalpo.

The status of the following persons arrested in 2004 remained unconfirmed at year's end: Nyima Dorjee and Lobsang Dorjee, who were arrested for hanging proindependence posters on government buildings; Choeden Rinzen, who was arrested for possessing pictures of the Dalai Lama and the Tibetan National flag; Dejour, Tsering Dawa, and Datsok, who were detained after clashing with Chinese workers over a mining project; and Nyima Tenzin and Sonam Nyidup, who protested their detention by shouting proindependence slogans in a bar.

#### Denial of Fair Public Trial

Legal safeguards for Tibetans detained or imprisoned were inadequate in both design and implementation. Most judges had little or no legal training. According to an official of the TAR Bureau of Justice, all seven cities and prefectures had established legal assistance centers, which offered services in the Tibetan language. Justice Bureau officials confirmed that there is a new prisoner appointment application by which prisoners may request a meeting with a government-appointed attorney. Nevertheless, many defendants still did not have access to legal representation. Moreover, their trials were cursory and closed if issues of state security were involved. Under the law, maximum prison sentences for crimes such as "endangering state security" and "splitting the country" were 15 years for each count, not to exceed 20 years in total. Such cases mainly concerned actions alleged to be in support of Tibetan independence, and activities did not have to be violent to be illegal or to draw a heavy sentence.

#### Freedom of Speech and Press, including Internet Freedom

The Tibetan-language services of Voice of America and RFA, as well as of the Oslo-based Voice of Tibet, suffered from the same jamming of their frequencies by authorities as Chinese-language services. However, Tibetans were able to listen to the broadcasts at least some of the time.

During the year the Tibet Culture Web site, a domestic site devoted to contemporary Tibetan culture, was shut down intermittently. In July authorities closed Internet blogs of well-known Tibetan author Oser. In press reports the writer speculated the closure was due to her posting of a picture of the Dalai Lama and expression of birthday wishes for him.

#### Freedom of Religion

The level of repression in Tibetan areas remained high, and the government's record of respect for religious freedom remained poor during the year. The law provides for freedom of religious belief, and the government's 2004 white paper on Regional Ethnic Autonomy in Tibet states, "Tibetans fully enjoy the freedom of religious belief." However, the government maintained tight controls on religious practices and places of worship in Tibetan areas. Although authorities permitted many traditional practices and public manifestations of belief, they promptly and forcibly suppressed activities they viewed as vehicles for political dissent or advocacy of Tibetan independence, such as religious activities venerating the Dalai Lama (which the government described as "splittism").

On August 8, the newly appointed party secretary in the TAR, Zhang Qingli, sharply criticized the Dalai Lama, describing him in an interview with a foreign magazine as a "false religious leader" and dismissing his "middle way" approach as "splittism." In a May 16 address to Party officials in Lhasa, Zhang said the Communist Party was engaged in a "fight to the death struggle" against the Dalai Lama and his supporters. According to the Xinhua News Agency, in a July press

conference TAR Chairman Champa Phuntsok described the Dalai Lama as a "politician in Buddhist robes and Italian shoes."

Approximately 615 Tibetan Buddhist religious figures held positions in local people's congresses and local Chinese people's political consultative conferences in the TAR. However, the government continued to insist that CCP members and senior employees adhere to the CCP's code of atheism, and routine political training for cadres continued to promote atheism. TAR officials confirmed that some RAB officers were members of the CCP and that religious belief was incompatible with CCP membership. However, some lower-level RAB officials practiced Buddhism.

The atmosphere for religious freedom varied from region to region. Conditions were more relaxed in some Tibetan areas outside the TAR.

Monks outside the TAR who want to study in the TAR are required to get official permission from the RAB, although such permission was not readily granted. Sources said that ethnic Han Chinese monks generally were not allowed to undertake religious study in the TAR. Although Tibetan monks were not allowed to conduct large-scale religious teachings outside Tibetan areas, many monks continued to give private teachings to audiences in non-Tibetan regions of China.

Monasteries in the TAR were not allowed to establish any relationship with other monasteries or hold joint religious activities. Monasteries are required to report to the local government and request permission to hold any large or important religious events or to build new temples.

In February and March Tibetan Buddhists in Qinghai and Sichuan Provinces and the TAR carried out animal pelt-burning campaigns to destroy wild animal pelts traditionally worn in Tibetan clothing. The activities were a response to a call from the Dalai Lama during January Kolachakara celebrations in India to increase awareness of wildlife protection. Authorities banned the public burnings, which they saw as demonstrations of loyalty to the Dalai Lama, and detained some participants in Ganzi, Sichuan Province (see Arbitrary Arrest and Detention section).

In June an overseas Web site reported that the government began a political education campaign for school children in Ganzi Prefecture, Sichuan Province, to prevent involvement in the animal pelt-burning campaign.

In February envoys of the Dalai Lama came to China for the fifth round of talks since 2002. In his public remarks, the Dalai Lama continued to call for a "middle way" approach, which included "meaningful autonomy" for Tibet but not independence.

Security was intensified during the Dalai Lama's birthday, sensitive anniversaries, and festival days in the TAR and in some other Tibetan areas as well. The prohibition on celebrating the Dalai Lama's birthday on July 6 continued. Government officials reportedly ordered Tibetans working for the government to refrain from going to temples during the Saga Dawa festival in May or risk losing their jobs.

In early September authorities permitted Buddhists in Gansu Province's Kanlho Tibetan Autonomous Prefecture to celebrate the festival of Kalachakara, which was originally scheduled for July 6, the birthday of the Dalai Lama, but then postponed by authorities.

In December Tibetan government workers, retired staff and cadres, students, and party members were banned from participating or observing celebrations of the Gaden Ngachoe Festival, which commemorates the death of a 14th-century Buddhist teacher and founder of the Gelugpa school of Tibetan Buddhism.

Government officials maintained that possessing or displaying pictures of the Dalai Lama was legal. However, authorities appeared to view possession of such photos as evidence of separatist sentiment when detaining individuals on political charges. Pictures of the Dalai Lama were not openly displayed in most major monasteries and could not be purchased openly in the TAR.

During the year international observers saw pictures of a number of religious figures, including the Dalai Lama, displayed more widely in some Tibetan areas outside the TAR. The government continued to ban pictures of Gendun Choekyi Nyima, the boy recognized by the Dalai Lama as the Panchen Lama. Photos of the "official" Panchen Lama, Gyaltzen Norbu, were not widely displayed, most likely because most Tibetans do not recognize him as the Panchen Lama.

TAR Ethnic and Religious Affairs Bureau officials confirmed that the TAR had approximately 46,000 Tibetan Buddhist monks and nuns and more than 1,700 venues for Tibetan Buddhist activities. Officials cited almost identical figures since 1996, although the number of monks and nuns has dropped at many sites due to the patriotic education campaign and the expulsion of many monks and nuns who refused to denounce the Dalai Lama or who were found to be "politically

unqualified." These numbers represented only the TAR, where the number of monks and nuns was strictly controlled. According to statistics collected by the China Center for Tibetan Studies, a government research institution, there were 1,535 monasteries in Tibetan areas outside the TAR.

Government officials closely associated Buddhist monasteries with proindependence activism in Tibetan areas of China. Spiritual leaders encountered difficulty reestablishing historical monasteries due to lack of funds, general limitations on monastic education, and lack of authorization to build and operate religious institutions; officials in some areas contended such religious institutions were a drain on local resources and a conduit for political infiltration by the Tibetan exile community.

The government stated there were no limits on the number of monks in major monasteries and that each monastery's democratic management committee (DMC) decided independently how many monks the monastery could support. However, the government exercised strict control over most monasteries through the DMCs and imposed strict limits on the number of monks in major monasteries, particularly within the TAR. The government had the right to disapprove any individual's application to take up religious orders, although there were no known reports of the government exercising this right during the year. Authorities limited the traditional practice of sending young boys to monasteries for religious training by means of regulations that forbade monasteries from accepting individuals under the age of 18. Nevertheless, many monasteries continued to admit younger boys, often delaying their formal registration until age 18.

The government continued to oversee the daily operations of major monasteries. The government, which did not contribute to the monasteries' operating funds, retained management control of monasteries through the DMCs and local RABs. Regulations restricted leadership of many DMCs to "patriotic and devoted" monks and nuns and specified that the government must approve all members of the committees. At some monasteries government officials also sat on the committees.

The quality and availability of high-level religious teachers in the TAR and other Tibetan areas remained inadequate; many teachers were in exile, older teachers were not being replaced, and those remaining in Tibetan areas outside the TAR had difficulty securing permission to teach in the TAR. DMCs at several large TAR monasteries used funds generated by the sales of entrance tickets or donated by pilgrims for purposes other than the support of monks engaged in full-time religious study. As a result, some "scholar monks" who had formerly been fully supported had to engage in income-generating activities. Some experts were concerned that, as a result, fewer monks will be qualified to serve as teachers.

Government officials claimed that the patriotic education campaign, which often consisted of intensive, weeks-long sessions conducted by outside work teams, ended in 2000. However, monks and nuns continued to undergo political education on a regular basis. Numerous credible sources reported that political education sessions intensified in Lhasa beginning in April 2005. In July 2005 18 monks were expelled from Sera Monastery, and eight others were detained before they were to be tested on the contents of political education materials. In October 2005 RFA reported that 40 of the approximately 50 nuns residing at the Gyarak Nunnery near Lhasa were expelled for refusing to participate in political education.

In August officials from the Bureau of Ethnic and Religious Affairs told diplomatic observers that political education was carried out for all citizens, not just monks and nuns. Because the primary responsibility for conducting political education shifted from government officials to monastery leaders, the form, content, and frequency of training at each monastery appeared to vary widely. However, conducting such training remained a requirement and has become a routine part of monastic management.

In April religious authorities in the TAR stated that five Drepung Monastery monks had been expelled from the monastery in October 2005 for failing to satisfactorily participate in political education classes. Reports from international media sources indicated that the monks had been detained (see Arbitrary Arrest and Detention section).

During the year the official Ganzi Prefecture government Web site reported that in 2005 the permanent work team at Serthar Buddhist Institute destroyed 74 illegal houses in the monastery during its "management of religious work." The same Web site reported that 853 houses were destroyed and 1,100 monks and nuns were evicted from the Yachen Monastery.

Diplomatic observers repeatedly have been denied access to Nenang Monastery to verify the well-being of Pawo Rinpoche, who was recognized by the Karmapa Lama in 1994 and has lived under strict government supervision since that time.

The government routinely asserted control over the process of finding and educating reincarnate lamas. The Panchen Lama is Tibetan Buddhism's second most prominent figure, after the Dalai Lama. The government continued to insist that Gyaltsen Norbu is the Panchen Lama's 11th reincarnation. The government continued to deny access to Gendun Choekyi

Nyima, who was recognized by the Dalai Lama as the 11th Panchen Lama, and his whereabouts were unknown. Government officials claimed he was under government supervision at an undisclosed location for his own protection and attended classes as a "normal schoolboy." While the overwhelming majority of Tibetan Buddhists recognized Gendun Choeki Nyima as the Panchen Lama, Tibetan monks claimed that they have been forced to sign statements pledging allegiance to Gyalsten Norbu, who the government selected. The CCP also urged its members to support the "official" Panchen Lama.

In 2005 diplomatic officials met the seven-year-old child approved by the government as the seventh reincarnation of Reting Rinpoche. His appointment was reportedly disputed by many of the monks at Reting Monastery in 2000 because the Dalai Lama did not recognize the selection. The Reting Rinpoche's religious training was closely supervised by the government through the selection of his religious and lay tutors.

In August Gyaltsen Norbu traveled to his home town in Nagchu Prefecture for the first time since 1995. According to press reports, he presided over a blessing ritual for 4,000 local persons.

The government claimed that since 1949 it has contributed approximately \$36 million (RMB 300 million) to renovate and open more than 1,400 monasteries and to repair cultural relics, many of which were destroyed before and during the Cultural Revolution.

Despite the government's efforts, many monasteries destroyed during the Cultural Revolution were never rebuilt or repaired, and others remained only partially repaired. Government funding of restoration efforts ostensibly supported the practice of religion but also promoted the development of tourism in Tibetan areas. Most recent restoration efforts were funded privately, although a few religious sites also received government support for reconstruction projects during the year.

#### Freedom of Movement

The law provides for the freedom to travel; however, in practice the government strictly regulated travel and freedom of movement of Tibetans, especially within the TAR. Many Tibetans, particularly those from rural areas, continued to report difficulties obtaining passports.

The government also regulated foreign travel to the TAR. In accordance with a 1989 regulation, foreign visitors (excluding individuals from Hong Kong, Macau, and Taiwan) were required to obtain an official confirmation letter issued by the government before entering the TAR. Most tourists obtained such letters by booking tours through officially registered travel agencies. While none of the TAR's 70 counties were officially closed to foreigners, access for foreigners to many areas of the TAR remained problematic.

Official visits to the TAR were supervised closely and afforded delegation members very few opportunities to meet local persons not previously approved by the authorities. Foreigners could travel freely in most Tibetan areas outside the TAR.

Tibetans continued to encounter substantial difficulties and obstacles in traveling to India for religious and other purposes. The government placed restrictions on the movement of Tibetans during sensitive anniversaries and events and increased controls over border areas at these times. There were reports that in January individuals returning to Tibet from the Kolachakara celebrations in India were required to register with authorities in the TAR. There were reports of arbitrary detention of persons, particularly monks, returning from Nepal. Detentions generally lasted for several months, although in most cases no formal charges were brought. In June border police near Tingri reportedly arrested 13 Tibetans who were planning to cross the border into Nepal (see Arbitrary Arrest and Detention section).

On September 30, Chinese border forces at the Nangpa La pass shot at a group of approximately 70 Tibetans who were attempting to cross into Nepal, killing 17-year-old nun Kelsang Namtso and injuring others. The group included monks, nuns, and children. Eyewitness accounts reported that soldiers fired at the group from a distance. These accounts appeared to contradict claims made shortly after the incident by state-controlled media, which claimed the group had attacked the border troops. Forty-three members of the group arrived in Katmandu. Other members of the group were caught by soldiers, and photographs of the incident showed soldiers standing watch over a group of children. A 15-year-old member of the group who later reached India reported to international media that three dozen of the Tibetans captured by soldiers were tortured with cattle prods and forced to do hard labor. The whereabouts of the remaining members of the group were unknown (see Deprivation of Life and Torture sections).

According to a report from the ICT, a group of 50 refugees was previously fired upon by Chinese troops in October 2005 at the same pass (see Torture section).

The Office of the UN High Commissioner for Refugees reported that during the year 2,405 Tibetans arrived at the Tibet Reception Center (TRC) in Nepal, compared with 3,395 in 2005. During the year departures were higher than arrivals, with 2,946 Tibetans departing the TRC for India. This was due to a backlog at the TRC at the end of 2005.

Nevertheless, thousands of Tibetans, including monks and nuns, visited India via third countries and returned to China after temporary stays. The majority of Tibetans who transited via Nepal to India were young, with ages ranging from six to 30, and the main reason they migrated was the lack of Tibetan-language educational facilities and opportunities for religious education.

The Karmapa Lama, leader of Tibetan Buddhism's Karma Kagyu sect and one of the most influential religious figures in Tibetan Buddhism, remained in exile following his 1999 flight to India. The Karmapa Lama stated that he fled because of the government's controls on his movements and its refusal either to allow him to go to India to be trained by his spiritual mentors or to allow his teachers to come to him.

#### National Minorities

Tibetans made up 94 percent of the population of the TAR. Government-sponsored development and new economic opportunities attracted migrant workers from China's large transient population to Tibetan areas. The result was a net increase in the non-Tibetan share of the TAR population from approximately 4 percent in 1990 to 6 percent in 2000. However, TAR census figures did not include a large number of long-term Han residents, such as cadres, skilled workers, unskilled laborers, military and paramilitary troops, and their dependents.

Migrants to the TAR were overwhelmingly concentrated in cities and towns, while Tibetans continued to make up nearly 98 percent of the rural population. One official estimate put the number of Han residents in Lhasa at 100,000 out of a total population of approximately 409,500, although many observers estimated that more than half of Lhasa's population was Han Chinese. Small businesses, mostly restaurants and retail shops, run by Han and Hui migrants predominated in cities throughout the Tibetan areas.

In Tibetan areas outside the TAR, Tibetans increased their majority share as natural population growth outpaced net migration by non-Tibetans.

Family planning policies permitted Tibetans and members of other minority groups to have more children than Han. Urban Tibetans, including Communist Party members, and some ethnic Han Chinese living in Tibetan areas were generally permitted to have two children. Rural Tibetans were encouraged, but not required, to limit births to three children.

The TAR is one of China's poorest regions, and Tibetans are one of the poorest groups; malnutrition among Tibetan children continued to be widespread in many areas of the TAR.

In 2005 the government launched a campaign known as Ramdrang Rangdrik (Do It Yourself program). Ostensibly aimed at relocating Tibetans and improving their housing conditions, the campaign required villagers to build houses according to strict official specifications within two to three years, often forcing them to go into debt to cover construction costs. According to Human Rights Watch, Tibetans were told that modern houses were necessary to make a good impression on visitors and tourists. However, many of the houses did not have water or electricity and were often smaller than traditional Tibetan homes.

In 2005 state media reported that Tibetans and other minority ethnic groups made up 75 percent of all government employees in the TAR. However, Han Chinese continued to hold key positions, including party secretary of the TAR. Tibetans holding government positions were prohibited from worshipping at monasteries or practicing their religion.

Some Tibetans reported that they experienced discrimination in employment and claimed Han Chinese were hired preferentially for many jobs and received greater pay for the same work. In recent years some Tibetans reported that it was more difficult for Tibetans than Han to get permits and loans to open businesses. The use of the Chinese language was widespread in urban areas, and many businesses limited employment opportunities for Tibetans who did not speak Chinese.

The TAR tourism bureau continued its policy of refusing to hire Tibetan tour guides educated in India or Nepal. Government officials have 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 provide visitors with the government's position opposing Tibetan independence and the activities of the Dalai Lama.

## Women and Children

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

Prostitution was a growing problem in Tibetan areas, and hundreds of brothels operated semi-openly in Lhasa. International development workers in the TAR reported there were no reliable data on the number of commercial sex workers employed in Lhasa and Shigatse, the TAR's two largest cities, although some estimates placed the number of sex workers as high as 10,000. Some of the prostitution occurred at sites owned by the CCP, the government, and the military. Most prostitutes in the TAR were Han women, mainly from Sichuan. However, some Tibetans, mainly young girls from rural or nomadic areas, also worked as prostitutes. The incidence of HIV/AIDS among prostitutes in Tibetan areas was unknown, but lack of knowledge about HIV transmission and economic pressures on prostitutes to engage in unprotected sex made them particularly vulnerable.

Both Tibetan and Chinese are official languages in the TAR, and both languages were used on public and commercial signs. However, the Chinese language was spoken widely and was used for most commercial and official communications. The use of both languages was also impacted by the rate of illiteracy among Tibetans, which the CECC Annual Report reported was more than five times higher (47.55 percent) than the national average (9.08 percent), according to the 2000 census data. The TAR rate of illiteracy (47.25 percent) was the highest in the country and was nearly twice as high as in the second-ranked Qinghai Province (25.22 percent). Primary school was the only level of educational attainment for which data showed Tibetans nearly on par with the national average. In practice many pupils in rural and nomadic areas received only one to three years of schooling. The illiteracy rate of youth and adults in the prime of life fell from 95 percent before 1959 to 22 percent at the end of 2004. However, the illiteracy rate for this group was much higher than 22 percent in some areas.

The government established a comprehensive national Tibetan-language curriculum, and many elementary schools in Tibetan areas used Tibetan as the primary language of instruction. Tibetan students were also required to study Chinese, and Chinese was generally used to teach certain subjects, such as arithmetic and science. In middle and high schools--even some officially designated as Tibetan schools--teachers often used Tibetan only to teach classes in Tibetan language, literature, and culture and taught all other classes in Chinese. As a practical matter proficiency in Chinese was essential to receive a higher education. China's most prestigious universities provided instruction only in Chinese, while the lower-ranked universities established to serve ethnic minorities allowed study of only some subjects in Tibetan. Opportunities to study at Tibetan-language schools were greater in the TAR, while opportunities to study at privately funded Tibetan-language schools and to receive a traditional Tibetan-language religious education were greater in Tibetan areas outside the TAR.

Authorities in Tibetan areas required professors and students at institutions of higher education to attend political education sessions and limited course studies and materials in an effort to prevent separatist political and religious activities on campus. Students at Tibet University were prohibited from engaging in religious practice. The government controlled curricula, texts, and other course materials.

## Protection of Cultural Heritage

Rapid economic growth, the expanding tourism industry, and the introduction of more modern cultural influences have disrupted traditional living patterns and customs and threatened traditional Tibetan culture. Residents lacked the right to play a role in protecting their cultural heritage.

The Dalai Lama, Tibetan experts, and other observers expressed concern that development projects and other central government policies would continue to promote a considerable influx of Han Chinese, Hui, and other ethnic groups into the TAR and benefit these groups disproportionately. There was widespread concern that the opening of the Qinghai-TAR railroad in April would increase this migration and threaten traditional culture and the demographic dominance of Tibetans.

On July 1, General Secretary Hu Jintao traveled to Lhasa to inaugurate the Qinghai-TAR railroad. In September official press reports stated that the line had carried 272,700 passengers and 37,400 tons of freight since entering service. Approximately 40 percent of the passengers were tourists, 30 percent business persons, and the remainder students, transient workers, traders, and persons visiting relatives in Tibet.

Although the government made efforts in recent years to restore some of the physical structures and other aspects of Tibetan Buddhism and Tibetan culture damaged or destroyed during the Cultural Revolution, repressive social and political controls continued to limit the fundamental freedoms of Tibetans and risked undermining Tibet's unique cultural, religious, and linguistic heritage.

## HONG KONG

Hong Kong, with a population of approximately seven million, is a Special Administrative Region (SAR) of the People's Republic of China (PRC). The 1984 Sino-British Joint Declaration on the Question of Hong Kong and the SAR's constitution, the Basic Law of the Hong Kong Special Administrative Region of the People's Republic of China (hereafter referred to as the Basic Law), specify that Hong Kong will enjoy a high degree of autonomy except in matters of defense and foreign affairs. In June 2005 following the resignation of former Chief Executive Tung Chee-hwa, Donald Tsang, the acting chief executive, was elected unopposed as chief executive. Legislative Council (Legco) members were elected in 2004 to four-year terms. Although the elections were generally considered free and fair, in the months leading up to the elections there were allegations of intimidation of voters and political commentators. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens, although core issues remain.

Residents were limited in their ability to change their government, and the legislature was limited in its power to affect government policies. Self-censorship remained a problem, as did violence and discrimination against women. Workers were also restricted from organizing and bargaining collectively.

## RESPECT FOR HUMAN RIGHTS

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

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

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

#### b. Disappearance

There were no reports of politically motivated disappearances.

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

The Basic Law and Hong Kong Bill of Rights prohibits torture and other abuse by the police, and the government generally observed the prohibition in practice. From January to June, there were 303 allegations of assault by police officers on persons in or not in custody; however, none alleged torture or were substantiated by the Complaints Against Police Office (CAPO) (see section 1.d.). In August an asylum seeker from Sri Lanka lodged a complaint with CAPO that he was assaulted by police when being pushed into a police car after being apprehended for overstaying in Hong Kong. As of year's end, the complaint was still being investigated.

### Prison and Detention Center Conditions

Prison conditions generally met international standards, and although the government permitted visits by independent human rights observers, there were no requests during the year. Media visit requests were permitted, and local justices of the peace regularly conducted unannounced prison inspections. Prison overcrowding continued to be a problem, although the construction of a new immigration detention center in Tuen Mun in 2005 eliminated the need to put immigration offenders in prison with convicted criminals. For the first six months of the year, the average prison occupancy rate for the 24 prisons was 104 percent. Overcrowding was most serious in maximum security prisons, which operated at an average occupancy rate of 119 percent.

#### d. Arbitrary Arrest or Detention

Common law, legal precedent, and the Basic Law provide substantial and effective legal protection against arbitrary arrest or detention, and the government generally observed these provisions in practice.

### Role of the Police and Security Apparatus

The police force is led by a uniformed police commissioner who reports to the secretary for security--a member of the chief executive's cabinet. The force had approximately 28,700 officers and was divided into five departments with both headquarters and regional formations. Corruption and impunity were not significant problems within the force. Police

officers are subject to disciplinary review by CAPO and the civilian Independent Police Complaints Council (IPCC) in cases of alleged misconduct.

Disciplinary action can range from warnings to dismissal. Criminal proceedings may be undertaken independently of the disciplinary process under Section 3 of the Crimes (Torture) Ordinance, punishable by life imprisonment. CAPO investigates allegations of excessive use of force, and IPCC monitors and reviews their work.

#### Arrest and Detention

Suspects were apprehended openly with warrants based on sufficient evidence and issued by a duly authorized official. Suspects must also be charged within 48 hours or released, and the government respected this right in practice. There is a functioning bail system, and detainees are allowed prompt access to a lawyer and family members. Incommunicado detention was not a problem. The law provides accused persons with the right to a prompt judicial determination. During the year the average length of preconviction incarceration was 63 days.

#### e. Denial of Fair Public Trial

The Basic Law provides for an independent judiciary, and the government generally respected judicial independence in practice. The judiciary, underpinned by the Basic Law's provision that the common law tradition be maintained, provided citizens with a fair and efficient judicial process. Under the Basic Law, 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 PRC central government responsibilities or on the relationship between the central authorities and the SAR. However, before making final judgments on these matters, which are not subject to appeal, the courts must seek an interpretation of the relevant provisions from the standing committee of the National People's Congress (NPC).

The Basic Law requires the courts to follow the standing committee's interpretation of Basic Law provisions, although judgments previously rendered are not affected. As the final interpreter of the Basic Law, the standing committee of the NPC also has the power to self-initiate interpretations of the Basic Law, as it did in April 2004 when it ruled out universal suffrage in Hong Kong's 2007 and 2008 elections (see section 3). The NPC's mechanism for interpretation is its Committee for the Basic Law, composed of six mainland and six Hong Kong members. The chief executive, the president of the Legco, and the chief justice nominate the Hong Kong members. Human rights and lawyers' organizations have expressed concern that this process, which circumvents the Court of Final Appeal's power of final adjudication, could be used to limit the independence of the judiciary or could degrade the courts' authority. In 2005 critics argued that the Basic Law and the resulting interpretation from the NPC standing committee on the question of Chief Executive Tung Chee-hwa's successor's term of office was an attempt to circumvent the judicial process. In response to the request, the NPC standing committee ruled in April that Tung's successor should serve out only the remaining two years of Tung's term rather than a full five-year term. Critics argued that the request, and the resulting NPC interpretation, sought to circumvent the judicial process. The government argued that the need to resolve the issue quickly left insufficient time for a lengthy judicial review.

The Court of Final Appeal is the SAR's supreme judicial body. An independent commission nominates judges. The chief executive is required to appoint those nominated, subject to endorsement by the legislature. Nomination procedures ensure that commission members nominated by the private bar have a virtual veto on the nominations. The Basic Law provides that, with the exception of both the chief justice and the chief judge of the high court, who are prohibited from residing outside Hong Kong, foreigners may serve on the courts. During the year approximately 18 percent of all judges and judicial officers were expatriates, with 15 of 16 Court of Final Appeal judges being expatriates. Judges have security of tenure until retirement.

Under the Court of Final Appeal is the high court, composed of the court of appeal and the court of first instance. Lower judicial bodies include the district courts, which have limited jurisdiction in civil and criminal matters; the magistrates' courts, which exercise jurisdiction over a wide range of criminal offenses; the coroner's court; the juvenile court; the lands tribunal; the labor tribunal; the small claims tribunal; and the obscene articles tribunal.

#### Trial Procedures

The Basic Law provides for the right to a fair public trial, and an independent judiciary generally enforced this right in practice. Trials are by jury except at the magistrate court level. The judiciary provides citizens with a fair and efficient judicial process. An attorney is provided at the public's expense if defendants cannot afford counsel. Defendants can confront and question witnesses testifying against them and present witnesses to testify on their behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases. Defendants have the right of appeal.

Defendants generally enjoy a presumption of innocence. However, under prosecution rules, there is a presumption of guilt in official corruption cases. Under the Prevention of Bribery Ordinance, a current or former government official who maintains a standard of living above that commensurate with his official income, or controls monies or property disproportionate to his official income is, unless he can satisfactorily explain the discrepancy, guilty of an offense. The courts have upheld this ordinance in practice.

According to the Basic Law, English may be used as an official language by the executive, legislative, and judicial branches. For historical reasons and because of the courts' reliance on common law precedents, almost all civil cases and most criminal cases were heard in English. In recent years the government has developed a bilingual legal system. It has increased the number of officers in the legal aid department proficient in spoken Cantonese and written Chinese, and extended the use of bilingual prosecution documents and indictments. All laws are bilingual, with English and Chinese texts being equally authentic. All courts and tribunals may operate in either Cantonese or English. Judges, witnesses, the parties themselves, and legal representatives may each decide which language to use at any point in the proceedings.

#### 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 there were no problems enforcing domestic court orders (see section 2.b.).

#### Property Restitution

The government enforced court orders with respect to restitution or compensation for taking private property under domestic law.

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

The Basic Law prohibits arbitrary interference with privacy, family, home, and correspondence, and the government generally respected these prohibitions in practice.

In February the high court ruled that a 2005 executive order authorizing covert surveillance activities by law enforcement agencies had no legal effect and a decades-old wiretapping law violated the Basic Law. This decision followed a series of court rulings in 2005 where government evidence collected through covert surveillance was barred from criminal trials because the courts said it was collected without legal authorization. In August Legco passed a new law regulating the use of covert surveillance and the interception of telecommunications and postal communications. 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 only the approval of a senior law enforcement official. Authorization to conduct covert surveillance can only be granted to prevent or detect "serious crime" or protect "public security." 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 \$128,000 (HK\$1 million). Some lawmakers and civil rights activists criticized the legislation for granting too much power to the police. The chief executive dismissed the criticism, saying the law was fairer and more protective of privacy than similar laws in the world's most open democracies. The government did not reveal the number of authorizations granted to conduct such activities. After taking office in August, Justice Woo Kwok-hing, the commissioner on interception of communications and surveillance, received multiple complaints citing unlawful surveillance activities. Justice Woo publicly vowed to investigate each complaint.

The Office of the Privacy Commissioner for Personal Data, established under the Personal Data (Privacy) Ordinance (PDPO), works to prevent the misuse, disclosure, or matching of personal data without the consent of the subject individual or the commissioner. PDPO is not applicable to PRC government organs in Hong Kong. As of year's end, the government was considering whether it should be made applicable to PRC bodies. Under certain exemptions for purposes related to safeguarding the security, defense, or international relations of Hong Kong, and for the prevention, detection, or prosecution of a crime, Hong Kong authorities may be allowed to transfer personal data to a PRC body.

#### 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. Accusations of media self-censorship continued during the year. Most media outlets were owned by businesses with interests on the mainland, making them vulnerable to self-censorship. The Hong Kong Journalist Association's 2005 annual report noted that there "is a continued perception that some sections of the media are engaged in self-censorship." In 2005 the University of Hong Kong conducted a public opinion poll that said that 50 percent of respondents believed the media practiced self-censorship.

In February four men broke into the offices of the Falun Gong-owned daily newspaper Epoch Times and destroyed a piece of machinery in the paper's print shop. Epoch Times had just opened the print shop a few weeks prior to the break-in after experiencing difficulties in hiring a local printing company. In 2005 the printing company that Epoch Times had been using refused to renew their contract, and the Falun Gong alleged the contract was canceled because the company feared business reprisals from its mainland clients. In addition to printing its daily paper, Epoch Times used the new shop to print large volumes of their Nine Commentaries on the Communist Party, a series of editorials offering a critical history of the Chinese Communist Party. At year's end police investigators had collected evidence at the crime scene but had made no arrests in connection with the break-in. After brief initial reports in local papers, the incident received no follow-up media coverage, which some observers said was an obvious case of media self-censorship.

The publishing or importation of print or other media in Hong Kong are subject to regulation by a few provisions to safeguard the interest of readers. For example, the Control of Obscene and Indecent Articles Ordinance guards against the inclusion of obscene materials in print and other media not regulated by the Broadcasting Ordinance. In August peephole-style photos of popular Hong Kong singer Gillian Chung, taken backstage at a concert in Malaysia and published in the Hong Kong weekly Easy Finder, sparked debate among government, local media, and women's rights activists on the proper balance between press freedom and the right to privacy. Gillian Chung filed a writ with Hong Kong's High Court (Obscene Articles Tribunal) on August 28, seeking an injunction against further publication and an order for Easy Finder to surrender all existing copies of the photos. At year's end the case had not been decided, but government officials, including the chief executive and Legco members, called for fresh discussions on the controversial legal nexus between privacy, press freedom, and covert surveillance.

In August legislator Albert Ho was attacked and beaten with clubs by three assailants in what appeared to be a premeditated attack. While the exact motivation for the assault remained a mystery, local observers said it was likely connected to his legal work rather than his government activities. The chief executive vowed that the assailants would be brought to justice. As of year's end, five arrests had been made in connection with the attack, but the investigation continued. In 2005 two employees of the local daily newspaper Ming Pao were slightly injured by a small package bomb that was addressed to the paper's editor. An accompanying letter denounced the paper's executives for publishing an unspecified article. As of November, the perpetrator's identity and exact motivation remained a mystery.

In 2005 a radio talk show host resigned from his position, saying that he was denied a primetime slot because of his outspoken views regarding greater democracy in Hong Kong. The same talk show host had previously resigned in 2004 for unexplained reasons but later returned to his job and was given a Saturday evening time slot. This followed the resignation in 2004 of two other popular radio talk show hosts, who were known for their antigovernment and antimainland rhetoric, due to alleged intimidation. The police investigated the allegations but determined there was not enough evidence to file charges.

Questions continued during the year over whether the government was infringing on the editorial independence of the government-owned Radio Television Hong Kong (RTHK). In February the government unveiled plans to set up an audit team to monitor RTHK following allegations of poor financial controls, management problems, and a failure to comply with government rules and procedures. Critics believed the government's August decision to replace the retiring RTHK deputy director with a civil servant lacking in journalism experience could further erode RTHK's editorial independence. In September the Committee on Review of Public Service Broadcasting proposed RTHK's governing board comprise up to 15 members, with up to four of them directly appointed by the chief executive and nine appointed based on nominations from professional sectors. These 13 board members would appoint the broadcaster's chief executive officer, who would serve on the board along with a staff representative. The proposal, according to the review committee's chairman, aimed to minimize political intervention in the broadcaster, but media pundits were mixed over the level of press freedom offered by the proposal.

International media organizations operated freely. Foreign reporters needed no special visas or government-issued press cards for Hong Kong.

#### Internet Freedom

There were no government restrictions on access to the Internet.

## Academic Freedom and Cultural Events

There were generally no restrictions on academic freedom and 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 government routinely issued the required permits for public meetings and demonstrations.

Under the Public Order Ordinance, demonstration organizers must notify the police of their intention to demonstrate one week in advance, unless an exception is granted. The police accept shorter notice if groups can satisfy the commissioner of police that earlier notice could not have been given for a march involving more than 30 persons and for an assembly of more than 50 persons. The police must explicitly object within 48 hours, and if there is no reply, it is assumed there is no objection. The ordinance also empowers police to object to demonstrations on national security grounds, although that portion of the law has never been invoked. If the police object, demonstration organizers may appeal to a statutory appeals board comprising members from different sectors of society. Both the board's proceedings and the police's exercise of power are subject to judicial review.

Falun Gong practitioners regularly conducted public protests against the crackdown on fellow practitioners in the PRC. In 2005 the Court of Final Appeal overturned the convictions of eight Falun Gong practitioners who had been charged with obstructing and assaulting police officers during a sit-in protest in 2002. The ruling was viewed as an important affirmation of Hong Kong's fundamental freedom of assembly, demonstration, and expression under the Basic Law. In August, 15 of the protesters arrested during the sit-in filed a \$192,000 (HK\$1.5 million) civil claim against the police for unlawful arrest and false imprisonment. At year's end the case was pending.

### Freedom of Association

The Basic Law provides for freedom of association, and the government generally respected this right in practice.

## c. Freedom of Religion

The Basic Law provides for freedom of religion, and the government generally respected these provisions in practice.

### Societal Abuses and Discrimination

While Falun Gong practitioners freely and openly practiced their beliefs, they have been routinely subjected to more subtle forms of discrimination. In February the offices of the Falun Gong-owned daily newspaper Epoch Times were attacked and vandalized (see section 2.a.). In 2005 an international hotel chain canceled a conference room reservation that Epoch Times had made for a forum on the future of China. A Falun Gong spokesperson said that once it became widely known that the Falun Gong had sponsored the conference, a replacement facility could not be found.

Hong Kong's small Jewish community had excellent relations with the rest of society, and there were no reports of anti-Semitic acts during the year.

For a more detailed discussion, see the [2006 International Religious Freedom Report](http://www.state.gov/g/drl/rls/hrrpt/2006/78771.htm).

## d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Basic Law provides residents freedom of movement, freedom of emigration, and freedom to enter and leave the territory, and the government generally respected these rights in practice, with some prominent exceptions. Most residents easily obtained travel documents from the SAR government. There were limits on travel to the mainland imposed by the PRC government.

The government does not recognize the Taiwan passport as valid for visa endorsement purposes.

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

Unlike in previous years, there were no reports that the government denied entry to persons it considered politically controversial. In 2005 Taipei Mayor Ma Ying-jeou was unexpectedly denied a visa to attend a University of Hong Kong seminar on culture and city management. The government refused to give a reason for the denial.

In 2004 a New Zealand citizen and Falun Gong practitioner was denied entry to Hong Kong for unspecified reasons. Also in 2004 the government barred 41 Falun Gong practitioners from entering the SAR for "security reasons." Most of the practitioners were attempting to attend Falun Gong's annual conference, which attracted approximately 700 persons. Four of those denied entry filed a judicial review. As of October the Court of Final Appeal had not issued a ruling in the case. Also in 2004 the government denied a request to allow two 1989 Tiananmen Square student leaders to enter the SAR to participate in a conference focused on the Tiananmen Square massacre. Earlier that year other Tiananmen Square student leaders had been allowed to enter to engage in uncontroversial activities.

PRC authorities do not permit some Hong Kong human rights activists and prodemocracy legislators to visit the mainland; however, this policy has been relaxed in recent years.

### Protection of Refugees

The 1951 UN Convention relating to the Status of Refugees and its 1967 protocol do not extend to Hong Kong, and the SAR eliminated its temporary protection policy. The director of immigration has discretion to grant refugee status or asylum on an ad hoc basis, but only in cases of exceptional humanitarian or compassionate need. The Immigration Ordinance does not provide foreigners any right to have asylum claims recognized. The government practice was to refer refugee and asylum claimants to a lawyer or to the Office of the UN High Commissioner for Refugees (UNHCR). Those granted refugee status, as well as those awaiting UNHCR assessment of their status, received a UNHCR subsistence allowance but were not allowed to seek employment or enroll their children in local schools. In May the UNHCR stopped providing financial support to those individuals awaiting status assessment due to budget cuts. In response, the government began offering limited allowances to adult claimants through its social welfare department. The UNHCR worked with potential host country representatives to resettle those few persons designated as refugees. Government policy is to repatriate all illegal immigrants, including those who arrive from the mainland, as promptly as possible. During the first half of the year, 1,486 illegal PRC immigrants were repatriated to the mainland.

In August six asylum seekers staged a hunger strike at an immigration detention center in protest of their detention while awaiting adjudication of their status. The detention center held approximately 120 asylum seekers, and about one-quarter of those had been held for more than six months while their claims for asylum under the UN Convention Against Torture were considered by the government. Legislators responded by passing a motion urging the government to cooperate with the UNHCR to speed up processing of asylum seekers.

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

The right of residents to peacefully change their government is limited by the Basic Law, which provides for the selection of the chief executive by an 800-person election committee (composed of individuals who are directly elected, indirectly elected, and appointed). The Basic Law provides for the direct election of only 30 of the 60 Legco members, and the inclusion of appointed members to the elected district councils. The approval of the chief executive, two-thirds of the legislature, and two thirds of Hong Kong's NPC delegates is required to place an amendment of the Basic Law on the agenda of the NPC, which, under the Basic Law, has the sole power to amend the Basic Law.

The Basic Law states that "the ultimate aim is the selection of the chief executive by universal suffrage upon nomination by a broadly representative nominating committee in accordance with "democratic procedures." Similarly, the Basic Law states that the "ultimate aim is the election of all the members of Legco by universal suffrage." However, in 2004 the NPC standing committee rejected universal suffrage in Hong Kong in the 2007 and 2008 elections.

The Committee on Governance and Political Development held its last meeting in late November. In early November, despite the chief executive's silence on a timetable for universal suffrage at the Policy Address, the chief secretary said that greater democracy and political reforms require "more on trust, and less on fundamentalism and posturing." In October the Committee on Governance and Political Development of the Commission on Strategic Development (CSD) held a workshop on models for implementing universal suffrage for the chief executive. Following the workshop, the secretary for constitutional affairs acknowledged that the CSD had made useful progress in narrowing the range of proposals under consideration for universal suffrage.

The government is authorized to exercise a high degree of autonomy and to enjoy executive, legislative, and independent judicial power. It contains an executive branch staffed by a professional and independent civil service and a two-tiered legislative branch consisting of the Legco and 18 district councils.

## Elections and Political Participation

In March 2005 Chief Executive Tung Chee-hwa unexpectedly resigned citing health concerns. Tung's resignation sparked a debate over the appropriate length of term for his replacement under the Basic Law. In 2004 the Hong Kong government took the explicit position that the "the term of the chief executive of the Hong Kong SAR shall be five years." The government abruptly changed that position following Tung's resignation, holding that the legislative intent of the Basic Law was that a chief executive returned through a by-election should only serve out the remaining term of the outgoing chief executive. After legislators raised the prospect of filing for judicial review by the Hong Kong courts, the government requested an interpretation by the NPC Standing Committee to clarify the issue. In April the Standing Committee of the NPC issued an interpretation of the Basic Law stating that Tung's replacement should only serve the remaining two years of Tung's term. The interpretation, which was regarded by many as inconsistent with the Basic Law, raised questions about the central government's commitment to the rule of law in Hong Kong and respect for Hong Kong's high degree of autonomy.

In June 2005, after a 10-day campaign, former chief secretary Donald Tsang secured 710 of the 800 election committee nominating votes. This was enough to ensure that his two declared challengers, Democratic Party Chairman Lee Wing-tat and Independent legislator Chim Pui-cheng, could not obtain the 100 nominations required to contest the election. Tsang was sworn in on June 24 in Beijing.

In April 2004 the NPC standing committee issued a self-initiated interpretation of the Basic Law, cutting short local debate and rejecting universal suffrage for Hong Kong in the 2007 and 2008 elections. The NPC also determined that the current 50-50 ratio for directly elected geographic seats and indirectly elected functional constituency seats in Legco must remain indefinitely in place. In addition, the NPC narrowed the circumstances in which Legco members would be permitted to initiate legislation. The NPC decision left room for amendments to the election processes, albeit strictly within the limits dictated by the NPC standing committee.

In December 2005 a government plan to make modest changes to the electoral procedures for selecting the chief executive and Legco members failed to gain the required two-thirds majority in Legco. The plan called for increasing the size of the chief executive election committee and adding five seats each to both the geographic and functional constituencies. All "no" votes came from prodemocracy members, who decried the legislation's lack of a roadmap and timeline for the introduction of universal suffrage.

Legco members were elected in 2004 to four-year terms, and despite some minor problems, including an insufficient supply of ballot boxes and intimidation of voters and political commentators, the elections were considered free and fair. Prodemocracy candidates won 18 of the 30 directly elected geographic seats and 25 seats overall. There were 199,539 persons eligible to vote in the functional constituencies.

The Basic Law substantially limits the ability of the legislature to influence policy by requiring separate majorities among members elected from geographical and functional constituencies to pass a bill introduced by an individual member. Another Basic Law provision prohibits Legco from putting forward bills that affect public expenditure, political structure, or government policy. Bills that affect government policy cannot be introduced without the chief executive's written consent. The government has adopted a very broad definition of "government policy" in order to block private member bills, and the president of Legco has upheld the government's position.

In August, legislator Leung Kwok-hung launched a judicial review challenging Legco President Rita Fan's refusal to table many private member amendments during debate over the Interception of Communications and Surveillance bill. Fan rejected the amendments on the grounds that they violated Article 74 of the Basic Law, which prohibits individual members from introducing legislation that affects government expenditure or existing government policy. However, because Article 74 places no explicit restrictions on the amendment process, Leung and his attorney argued that Fan's decision violated the Basic Law. Hearings on the case began in mid-November and were ongoing at year's end.

District councils are responsible for advising the government on matters affecting the well-being of district residents, the provision and use of public facilities, and the use of public funds allocated for local public works and community activities. The District Council Ordinance gives the chief executive authority to appoint 102 out of 529 of the district councilors, and he exercises this power in practice.

Hong Kong sends 36 delegates to the PRC's National People's Congress. In 2002 Hong Kong's NPC delegates were elected to a five year term by an NPC-appointed committee of 955 residents. Politicians and human rights activists criticized the election process as undemocratic and lacking transparency. In 2004 two local NPC delegates won directly elected seats in the Legco. One NPC delegate lost his bid for a directly elected Legco seat.

Women held 11 of the 60 Legco seats and made up between 17 and 23 percent of membership in the major political

parties. The president of the Legco was a woman, as were the heads of several government departments. More than one-third of civil servants were women, and two of the 15 most senior government officials were women.

There were no ethnic minorities in the Legco, but there were a number of ethnic minorities in senior civil service positions.

#### Government Corruption and Transparency

There were only isolated reports of government corruption during the year, and the government sought to combat official corruption through the Prevention of Bribery Ordinance and the ICAC. The law provides for access to government information, and in practice such information was provided to both citizens and noncitizens, with exceptions that are narrowly defined and could be appealed.

#### Section 4 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 were generally cooperative and responsive to their views. Prominent human rights activists critical of the PRC also operated freely and maintained permanent resident status in Hong Kong, but some overseas dissidents have in recent years had difficulty gaining entry to the SAR.

#### Section 5 Discrimination, Societal Abuses, and Trafficking in Persons

The law provides that all residents are equal, and the government enforced these rights in practice.

##### Women

The government continued to be criticized for failing to adequately address the growing problem of domestic violence. Local public health officials, politicians and women's groups remained concerned about violence against women, particularly among new immigrants from the mainland. The Domestic Violence Ordinance allows victims to seek a three month injunction, extendable to six months, against an abuser. The ordinance does not criminalize domestic violence directly, although abusers may be liable for criminal charges under other ordinances, including the Crime Ordinance and the Offences Against the Person Ordinance. The government enforced the law and prosecuted violators, but sentences typically consisted only of injunctions or restraining orders. Between January and March, there were 968 cases of domestic violence reported to the Social Welfare Department, which receives reports from the police, social workers, the health department, and volunteer organizations.

In November a man allegedly killed his wife and two children, despite four calls to police by the family following disputes in the two years preceding the killings. All four calls to police were referred by police to the Social Welfare Department, since none involved violence; however, press reports criticized both police and the department for a lack of sensitivity in handling domestic violence cases. Similarly, in 2004 a mother and her two daughters were killed in an act of domestic violence hours after unsuccessfully seeking help at a police station. The mother had previously sought help from government social workers. A 2005 coroner's inquest into the murder recommended sweeping changes to existing guidelines to combat domestic violence. The police department implemented some of the recommendations, and the Social Welfare Department announced a "zero tolerance policy" toward domestic violence. In 2005 the executive director of Harmony House, an NGO that provides services to victims of domestic violence, said that between April 2004 and April 2005, 263 women were admitted to shelters to escape domestic violence--the highest figure in five years. A 2005 University of Hong Kong survey found that one in five families had experienced some form of domestic violence.

In January the government-sponsored Women's Commission released a report providing a strategy for addressing domestic violence, including plans on empowering victims, preventing violence, timely and effective intervention, and community education and support.

In March the government introduced two pilot projects under the Batterer Intervention Program and a new 24-hour service for victims of sexual violence.

In August Permanent Secretary for Health and Welfare Sandra Lee told the UN Convention on the Elimination of All Forms of Discrimination against Women Committee that the government would seek to strengthen the Domestic Violence Ordinance in the following three areas: extend the scope of coverage to include ex-spouses and ex-cohabiters; extend the criteria for attachment of a power of arrest to an injunction order to psychological harm; and increase the duration of the injunction order. NGOs said there was an urgent need to amend the law to make domestic violence a crime directly under

the Domestic Violence Ordinance. The legislator representing the social welfare sector accused the government of doing too little to fight domestic violence.

These initiatives were in addition to other government programs that assisted women, such as family life education counseling, a hot line service, temporary housing, legal aid, and child protective services. The government also sponsored public education and media programs through the women's commission to promote public awareness of domestic violence and encouraged women to seek early professional assistance.

There were 38 cases of rape reported to the police during the first half of the year. The Statute Law (Miscellaneous Provisions) Bill criminalizes marital rape and the Crimes Ordinance expressly states that "unlawful sexual intercourse" could be applied both outside and inside the bounds of marriage. During the first half of the year, 554 indecent assault cases were reported to the police.

Prostitution is legal, but there are laws against activities such as causing or procuring another to be a prostitute, living on the prostitution of others, or keeping a vice establishment. Hong Kong is a transit and destination point for persons trafficked for the purposes of sexual exploitation (see section 5, Trafficking.).

The Sex Discrimination Ordinance prohibits sexual harassment of women seeking employment or already working in an organization. The Equal Opportunities Commission (EOC) reported 48 sexual harassment complaints.

Women faced discrimination in employment, salary, welfare, inheritance, and promotion. A survey released in 2004 found that nearly 80 percent of women workers believed they were victims of discrimination.

The percentage of women employed in professional fields, including sciences and engineering, law, teaching, accounting, social sciences, health, and medicine, increased slightly during the year. As of June, 37 percent of professionals employed in these fields were women, versus 33.5 percent in June 2005. Approximately 21 percent of judicial officers and judges were women. In the Legco, women held 11 of the 60 seats. According to a survey released in 2004, approximately three-quarters of private companies had women in senior management positions, and women occupied more than a quarter of senior management posts. Women were still disproportionately represented in the lower echelons of the work force.

The law treats men and women equally in terms of property rights in divorce settlements and in inheritance matters, although women still faced discrimination based on traditional practices, such as in the inheritance of homes in rural areas of the New Territories.

#### Children

The government supported children's rights and welfare through well-funded systems of public education, medical care, and protective services. The Education Department provided schooling for children between six and 15 years of age and placement services for non-Chinese speaking children. Education is free and compulsory through grade nine. Nearly 100 percent of school-age children attended school, and boys and girls attended in equal proportions. The government supported programs for custody, protection, day care, foster care, shelters, small group homes, and assistance to families.

The Domestic Violence Ordinance mandates substantial legal penalties for acts of child abuse such as battery, assault, neglect, abandonment, sexual exploitation, and child sex tourism, and the government enforced the law.

During the first half of the year, there were 616 child abuse cases reported to the police: A total of 264 involved physical abuses (referring to victims less than 14 years of age), and 352 involved sexual abuses (referring to victims less than 17 years of age). In 2005 a University of Hong Kong survey found that almost one in three children had been abused.

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

The Prevention of Child Pornography Ordinance criminalizes the making, production, distribution, publication, advertising, and possession of child pornography. It also prohibits the procurement of children for making pornography, extends the application of certain sexual offense provisions to acts committed against children outside of Hong Kong, and prohibits any arrangement or advertising relating to commission of those acts. The law carries a penalty of up to five years'

imprisonment and a fine of up to \$128,500 (HK\$1 million) for possession of child pornography.

In September 2005 the UN Committee on the Rights of the Child (UNCRC) recommended that the government create a single unified law or policy pertaining to children, establish a body representing children's views, ban corporal punishment, establish a poverty line, abolish life sentences for minors, and increase funding for child welfare programs. However, the government did not implement the UNCRC recommendations during the year.

The government provided subsidized, quality medical care for all children who were residents.

The age of criminal responsibility for children is 10 years of age. During the first half of the year, there were 59 youths under the age of 16 who were incarcerated: nine in prison; seven in training centers; 12 in detention centers; and 31 in rehabilitation centers.

#### Trafficking in Persons

There is no law prohibiting trafficking in persons. There are various laws and ordinances that allow law enforcement authorities to take action against traffickers. Despite robust efforts by the SAR government to stop such activities, Hong Kong was a point of transit and destination for a small number of persons trafficked for sexual exploitation from China and Southeast Asia. It was difficult for the government to identify trafficking victims from among the larger group of illegal immigrants.

Nearly all foreign prostitutes came to Hong Kong willingly to engage in prostitution. Most came from rural areas of the mainland, Thailand, or the Philippines on 14-day tourist visas, although a very small number entered using forged documents. The overwhelming majority were women, although an increasing number of young men were coming to Hong Kong to work as homosexual prostitutes. While many came on their own, some were lured to the SAR by criminal syndicates and promises of financial rewards. Prostitutes were typically required to repay the syndicates the cost of their airfare, lodging, and food. Some were forced to stay longer than they anticipated, or work more than they expected, to repay their debts. Prostitutes were sometimes required to give their passports to the syndicates until the debt was paid. When their visas expired, many would travel to Macau or Shenzhen for a day, and then reenter Hong Kong. Immigration officials were well aware of this practice and would deny reentry if they suspected such abuse. Despite the involvement of syndicates in bringing prostitutes to Hong Kong, very few women were forced, or coerced, to work as prostitutes.

During the year the government reported one suspected case of trafficking. Two Philippine women reported they were recruited by another Philippine woman to come to Hong Kong to work as bar waitresses. The alleged victims claimed they were forced to work as prostitutes upon arrival and they had successfully escaped after one week. The alleged victims filed affidavits to the Philippine Consulate General and left Hong Kong. The case was reported to the police. One suspect was arrested but denied the allegation, and the investigation was underway.

In recent years traffickers have used forged or illegally obtained travel documents to attempt to smuggle persons through the Hong Kong airport, but it was not a serious problem throughout the year. In 2004 the Immigration Department established the Anti-Illegal Migration Agency to target human smugglers and other travelers using fraudulent documents. The agency had 60 officers stationed at the Hong Kong International Airport. The number of fraudulent documents seized at the airport declined sharply during the first half of the year due to the presence of these officers. Authorities apprehended 834 persons with forged travel documents in the first half of the year, versus 1,288 during the same period in 2004. During the year there were no known reports of persons being trafficked into the SAR to work as domestic workers.

Provisions in the Immigration Ordinance, the Crimes Ordinance, and other relevant laws enabled law enforcement authorities to take action against trafficking in persons. The courts can impose heavy fines and prison sentences up to 14 years for activities such as arranging passage of unauthorized entrants; assisting unauthorized entrants to remain; using or possessing a forged, false, or unlawfully obtained travel document; and aiding and abetting any person to use such a document. The security bureau is responsible for combating migrant trafficking and overseeing the police, customs, and immigration departments, which are responsible for enforcing antitrafficking laws. Law enforcement officials received special training on handling and protecting victims and vulnerable witnesses, including victims of trafficking.

The government provided legal aid to those taking legal action against an employer, and immunity from prosecution for those who assist in the investigation and prosecution of traffickers. The Social Welfare Department and local NGOs also provided an array of social services to victims of trafficking. The government did not provide funding to foreign or domestic NGOs for services to victims. The government also tried to prevent trafficking by distributing pamphlets in a wide range of languages to workers about their rights.

#### Persons with Disabilities

Discrimination against persons with physical and mental disabilities persisted in employment, education, and the provision of some public services. The Disability Discrimination Ordinance calls for improved building access and sanctions against those who discriminate. Despite inspections and the occasional closure of noncompliant businesses under the Buildings Ordinance, access to public buildings (including public schools) and transportation remained a serious problem for persons with disabilities.

The government offered an integrated work program in sheltered workshops and provided vocational assessment and training. No comprehensive statistics were available on the number of persons with disabilities in the work force, but the last government survey conducted in 2000 estimated that there were approximately 269,500 persons with one or more disabilities, including 225,600 persons with physical disabilities and 52,700 with mental disabilities. According to the survey, of the 269,500 persons with disabilities, 52,500 were employed and 59,700 were considered "economically active," including small business owners and street vendors. However, a consortium of organizations representing persons with disabilities reported in 2002 that approximately 700,000 residents were disabled, approximately half of whom were able to work. As of March there were 3,256 persons with disabilities employed as civil servants out of a total civil service work force of 156,436. During the first half of the year, the Labor Department's Selective Placement Division found jobs for 1,637 of 2,670 disabled job seekers. As of September 2005, 1.32 percent of 795,000 students were disabled; approximately 37 percent of these students studied at mainstream schools.

The EOC sponsored a variety of activities to address discrimination against persons with disabilities, including youth education programs, distributing guidelines and resources for employers, carrying out media campaigns, and cosponsoring seminars and research.

## Section 6 Worker Rights

### a. The Right of Association

The law provides for the right of association and the right of workers to establish and join organizations of their own choosing. Trade unions must register under the Trade Unions Ordinance. The basic precondition for registration is a minimum membership of seven persons.

### b. The Right to Organize and Bargain Collectively

The law provides for the right to organize; however, it does not guarantee the right to collective bargaining. The 1997 Employment and Labor Relations (Miscellaneous Amendments) Ordinance removes the legal stipulation of trade unions' right to engage employers in collective bargaining. The ordinance bans the use of union funds for political purposes, requires the chief executive's approval before unions can contribute funds to any trade union outside of the SAR, and restricts the appointment of persons from outside the enterprise or sector to union executive committees. In a few trades, such as tailoring and carpentry, wage rates were determined collectively in accordance with established trade practices and customs rather than a statutory mechanism, but collective bargaining was not practiced widely. Unions were not powerful enough to force management to engage in collective bargaining. The government did not engage in collective bargaining with civil servants' unions.

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

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

There was one minor labor stoppage during the year. In June more than 200 bus drivers staged a one-day sit-in over wages, but a larger strike was averted when a last-minute agreement was reached. There are no export processing zones.

### c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor. Although the law does not specifically prohibit forced or compulsory labor by children, there were no reports that such practices occurred.

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

The Employment of Children Regulations prohibits employment of children under the age of 15 in any industrial establishment. Children ages 13 and 14 may work in certain nonindustrial establishments, subject to conditions aimed at ensuring a minimum nine years of education and protection of their safety, health, and welfare. The Labor Department conducted regular workplace inspections to enforce compliance with the regulations. During the first half of the year, the Labor Department conducted 79,968 inspections and discovered three suspected violations of the Employment of Children Regulations. Two cases involved the employment of children ages 13 and 14 without valid school attendance certificates and written parental consent, whereas the other case involved the employment of a child entertainer age 14 working beyond the stipulated hours of work. As of year's end, the government was assessing the evidence for prosecution. The regulations limit work hours in the manufacturing sector for persons 15 to 17 years of age to eight hours per day and 48 hours per week between 7 a.m. and 7 p.m. They also prohibit, for persons less than 18 years of age, overtime in industrial establishments with employment in dangerous trades.

#### e. Acceptable Conditions of Work

There is no statutory minimum wage except for domestic workers of foreign origin. Aside from a small number of trades where a uniform wage structure exists, wage levels customarily are fixed by individual agreement between employer and employee and are determined by supply and demand. Some employers provided workers with various kinds of allowances, free medical treatment, and free subsidized transport. The average wage provided a decent standard of living for a worker and family. Two-income households were the norm. There are no regulations concerning working hours, paid weekly rest, rest breaks, or compulsory overtime. In October the chief executive for the first time acknowledged the need to study the issue of a minimum wage and limits on working hours.

In 2001 the SAR government was criticized by the UN Committee on Economic, Social, and Cultural Rights for failure to establish regulations on a statutory minimum wage, maximum working hours, paid weekly rest, rest breaks, compulsory overtime, and protection against unfair dismissal. In 2004 the government referred the issue of a minimum wage and maximum working hours to the labor advisory board. As of October the board was still considering the issue. In early October as many as 50 trade unions and associations protested the government's slow progress towards a minimum wage and accused it of exploiting the underprivileged and colluding with big business. Moreover, there was no broad consensus in the community on these issues, which were debated by legislators, academics, and the public. Nevertheless, the Labor Department actively sought to improve working conditions by encouraging consultations, meetings, and seminars with industry-based committees comprising representatives of government, employers' associations, and trade unions. Such committees included the tripartite committee for the cargo transport industry and the committee for the property management industry.

The minimum wage for foreign domestic workers was approximately \$435 per month (HK\$3,400, as of June 2006). The standard workweek was 48 hours, but many domestic workers worked much longer hours. The standard contract law requires employers to provide foreign domestic workers with housing, worker's compensation insurance, travel allowances, and food or a food allowance in addition to the minimum wage, which together provide a decent standard of living. Foreign domestic workers can be deported if dismissed. During the first seven months of the year, four employers were convicted for labor law maltreatment violations under the Employment Ordinance relating to the employment of foreign domestic workers. During the first seven months of the year 124 foreign domestic workers filed criminal suits for other types of maltreatment, including rape, indecent assault, and wounding and serious assault, 75 of which were prosecuted.

The Occupational Safety and Health Branch of the Labor Department are responsible for safety and health promotion, enforcement of safety management legislation, as well as policy formulation and implementation.

The Factories and Industrial Undertakings Ordinance, the Occupational Safety and Health Ordinance, the Boilers and Pressure Vessels Ordinance, and their 35 sets of subsidiary regulations regulate safety and health conditions. During the first half of the year, the Labor Department conducted 63,156 workplace inspections and issued 959 summonses, resulting in a total of \$965,295 (HK\$7,529,300) in fines. Worker safety and health has improved over the years, but serious problems remained, particularly in the construction industry. During the first half of the year, there were 10,048 occupational injuries, of which 3,667 were classified as industrial accidents. There were five fatal industrial accidents. Employers are required under the Employee's Compensation Ordinance to report any injuries sustained by their employees in work-related accidents. There is no specific legal provision allowing workers to remove themselves from dangerous work situations without jeopardy to continued employment.

#### MACAU

Macau, with a population of approximately 500,000, is a Special Administrative Region (SAR) of the People's Republic of China (PRC). The 1987 Sino-Portuguese Joint Declaration on the Question of Macau and the SAR's 1993 constitution, the Basic Law of the Macau SAR (hereafter referred to as the Basic Law), specify that Macau will enjoy a high degree of autonomy, except in defense and foreign affairs. The government is led by a chief executive, chosen by a 300-member election committee, which in turn is chosen by a preparatory committee composed of 60 SAR and 40 mainland

representatives appointed by the National People's Congress (NPC). In 2004 Chief Executive Edmund Ho was reelected to a second five-year term. The Basic Law significantly circumscribes the power of the Legislative Assembly. In September 2005 voters elected 12 of the legislature's 29 members in direct elections based on geographical constituencies. Interest groups in functional constituencies elected 10 others, and the chief executive appointed the remaining seven members. The Basic Law does not posit the election of all members of the legislature by universal suffrage as an ultimate aim. The civilian authorities generally maintained effective control of the security forces.

The government generally respected the human rights of its citizens; however, some problems remained, most notably limits on citizens' ability to change their government.

## RESPECT FOR HUMAN RIGHTS

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

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

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

#### b. Disappearance

There were no reports of politically motivated disappearances.

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

The Basic Law, as well as the Criminal Code, prohibits such practices, and the government generally respected this law in practice. Between January and July, there were 11 reports of police brutality, compared with 18 reports for the same period in 2005, and none involved acts of rape, sexual abuse, medical abuse, or hazing. There were no reports of deaths in police custody.

#### Prison and Detention Center Conditions

Prison conditions generally met international standards, and although the government permitted visits by independent human rights observers, there were no requests during the year.

#### d. Arbitrary Arrest or Detention

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

#### Role of the Police and Security Apparatus

Civilian authorities, specifically the secretary for security, supervised and controlled the police. The Public Security Police were well disciplined and corruption and impunity were not problems. The Commission Against Corruption (CAC) acted to preclude problems with corruption.

#### Arrest and Detention

Police must present persons remanded in custody to an examining judge within 48 hours of detention. The examining judge, who conducts a pretrial inquiry in criminal cases, has a wide range of powers to collect evidence, order or dismiss indictments, and determine whether to release detained persons. The accused person's counsel may examine the evidence. The law provides that cases must come to trial within six months of an indictment. Data on the average length of pretrial incarceration was not available because courts do not keep detailed records on detention; however, the criminal procedure code mandates that pretrial detention is limited to between six months to three years, depending on the criminal charges and progress of the judicial system. Judges often refused bail in cases where sentences could exceed three years.

#### e. Denial of Fair Public Trial

The Basic Law provides for an independent judiciary, and the government generally respected judicial independence in

practice.

There are four courts: the primary court, with general jurisdiction of first instance; the administrative court, with jurisdiction of first instance in administrative disputes; the court of second instance; and the court of final appeal. The courts have the power of final adjudication in all cases that are within the authority of the SAR. The courts also may rule on matters that are "the responsibility of the Central People's Government or concern the relationship between the central authorities and the [Special Administrative] Region." However, before making their final judgment, one which is not subject to appeal, the courts must seek an interpretation of the relevant provisions from the NPC's 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." The Standing Committee must consult the NPC's Committee for the Basic Law of the SAR before giving an interpretation of the law. This committee is composed of 10 members, five from the SAR and five from the mainland. The chief executive, the president of the SAR Legislative Assembly, and the president of the court of final appeal nominate the SAR members.

The Basic Law provides for the use of Portuguese, in addition to Chinese, as an official language used by executive authorities, the legislature, and the judiciary. The need to translate laws and judgments from Portuguese and a severe shortage of local bilingual lawyers and magistrates hampered development of the legal system. At year's end there were 124 lawyers in private practice in the SAR: 66 spoke Cantonese, 19 could read and write Cantonese and Mandarin, and 117 could read and write Portuguese. The government sponsored a postgraduate training program for magistrates who had received legal training outside of the SAR. The judiciary was relatively inexperienced and lacked locally trained lawyers. There were 29 practicing judges, six of whom were Portuguese.

According to the Basic Law, the chief executive appoints judges at all levels, acting on the recommendation of an independent commission, which he appoints. The commission is composed of local judges, lawyers, and "eminent persons." The Basic Law stipulates that judges must be chosen on the basis of their professional qualifications. Judges may be removed only for criminal acts or an inability to discharge their functions. With the exception of the chief justice, who must be a Chinese citizen with no right of abode elsewhere, foreigners are permitted to serve as judges under the Basic Law.

#### Trial Procedures

The Basic Law provides for the right to a fair trial, and an independent judiciary generally enforced this right. By law trials are open to the public, except when publicity could cause great harm to the dignity of the persons, to public morals, or to the normal development of the trial. The Basic Law provides for an accused person's right to be present during proceedings and to choose an attorney or request that one be provided at government expense. The Organized Crime Ordinance provides that "certain procedural acts may be held without publicity and witness statements read in court are admissible as evidence." There also are additional restrictions on granting bail and suspended sentences in organized crime cases. Defendants enjoy a presumption of innocence, have access to government-held evidence relevant to their cases, and have a right of appeal.

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

A public prosecutor general heads the Public Prosecutions Office, which enjoys substantial autonomy from both the executive and the judiciary. The Basic Law stipulates that the Public Prosecutions Office's functions be carried out without government interference, and the government respected the law in practice.

#### Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

#### Civil Judicial Procedures

There is an independent and impartial judiciary for civil matters, and there were no problems enforcing domestic court orders.

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

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

## Section 2 Respect for Civil Liberties, Including:

### a. Freedom of Speech and Press

The Basic Law provides for freedom of speech and of the press, and the government generally respected these rights in practice and did not restrict academic freedom. An independent press and an effective judiciary contributed to freedom of speech and the press.

The dominant newspapers, mainly Chinese-language, supported PRC government positions in their editorial line. The Union for Democracy Development Macau (UDDM), a nongovernmental organization (NGO) headed by prodemocracy legislators, charged that newspapers did not give equal attention to liberal and prodemocracy voices. In February 2005 the chief editor of Open Magazine--which is openly critical of the mainland Chinese government--was refused entry to the SAR "based on Macau Special Administrative Region internal security guidelines," according to a letter from the government. The editor had been barred from the mainland for a number of years, although this was the first time he was barred from the SAR. At year's end the case was under investigation by the chief executive's office.

### Internet Freedom

There were no government restrictions on access to the Internet or reports that the government monitored e-mail or Internet chatrooms. Individuals and groups could engage in the peaceful expression of views via the Internet, including by electronic mail.

### Academic Freedom and Cultural Events

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

### b. Freedom of Peaceful Assembly and Association

The Basic Law provides for freedom of assembly and association, and the government generally respected these rights in practice.

### c. Freedom of Religion

The Basic Law provides for freedom of religion, and the government generally respected this right in practice.

### Societal Abuses and Discrimination

There were no reports of anti-Semitic acts during the year, and the size of the SAR's Jewish population remained extremely small.

For a more detailed discussion, see the [2006 International Religious Freedom Report](#).

### d. Freedom of Movement within the Country, Foreign Travel, Emigration, and Repatriation

The Basic Law provides for these rights, and the government generally respected them in practice.

In 2005 government immigration officials refused entry to a Hong Kong resident who was a spokesperson for the Falun Gong. The spokesperson had been granted entry to the SAR many times without incident. During the year the same practitioner was denied entry at least four times, although the specific reasons for denial were not made clear by the government. Some members of the media who were openly critical of the mainland government were also refused entry (see section 2.a.).

The Basic Law prohibits forced exile by guaranteeing the right of permanent residents to leave and enter the SAR, and the government generally respected the law in practice.

### Protection of Refugees

The Basic Law provides for the granting of asylum or refugee status in accordance with the 1951 UN Convention relating

to the Status of Refugees and its 1967 protocol, and the government has established a system for providing protection to refugees. In practice the government granted refugee status or asylum and provided protection against refoulement, the return of persons to a country where they feared persecution. The migration department cooperated with the UN High Commissioner for Refugees in handling refugees. There were no applications for refugee status during the year.

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

The Basic Law restricts citizens' ability to change their government. The government was led by a chief executive, chosen by a 300-member election committee, which in turn was chosen by a 100-member preparatory committee, composed of 60 SAR and 40 mainland representatives appointed by the NPC.

#### Elections and Political Participation

In 2004 Chief Executive Edmund Ho was reelected to a second five-year term.

In September 2005, in accordance with the Basic Law, the SAR's democratic development was enhanced when a record 58 percent of registered voters participated in the SAR's third legislative elections, and voters directly elected 12 of the 29 members of the Legislative Assembly from geographic constituencies. Local community interests, such as business, labor, professional, welfare, cultural, educational, and sports associations, indirectly elected 10 members, and the chief executive appointed seven members.

There are limits on the types of legislation that legislators may introduce. The Basic Law stipulates that legislators may not initiate legislation related to public expenditure, the SAR's political structure, or the operation of the government. Proposed legislation relating to government policies must receive the chief executive's written approval before they are submitted.

A 10-member executive council functions as an unofficial cabinet, approving all draft legislation before it is presented in the Legislative Assembly.

There were six women in the 29-member assembly, including the president of the assembly. Women also held a number of senior positions throughout the government. There were three ethnic minorities in the 29-member assembly. One member of the executive council was also an ethnic minority, as was the police commissioner.

#### Government Corruption and Transparency

The CAC investigates public sector corruption and has the power to arrest and detain suspects. Between January and August, the CAC received 309 complaints against public officials in a variety of agencies. The CAC pursued 28 of these complaints, 25 of which were criminal cases and three were administrative cases. The CAC transferred eight cases to the Public Prosecutions Office. A monitoring body established to review complaints of maladministration or abuse by the CAC did not receive any complaints during the same period.

The law does not provide for public access to government information. However, the executive branch published online, in both Chinese and Portuguese, an extensive amount of information including 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. For example, it did not publish a legislative agenda or a list of pending bills.

### Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of domestic human rights groups 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 5 Discrimination, Societal Abuses, and Trafficking in Persons

The Basic Law stipulates that residents shall be free from discrimination, irrespective of their nationality, descent, race, sex, language, religion, political persuasion, ideological belief, educational level, economic status, or social condition, and the government effectively enforced the law. In addition, many local laws carry specific prohibitions against discrimination, although there is no specific law for combating discrimination. For example, under the law that established the general framework for the educational system, access to education was stipulated for all residents regardless of race, religious, political, or ideological beliefs.

## Women

The government effectively enforced criminal statutes prohibiting domestic violence against women and prosecuted violators; however, various NGOs and government officials consider domestic violence against women to be a growing problem. In the first half of the year, 170 cases of spousal abuse were reported to the police; however, because there is no independent category of spousal abuse in the SAR's court case classification system, there was no data on convictions.

Domestic violence is punishable by one to 15 years in prison. In the case of spousal abuse and violence against minors, the penalty is two to eight years' imprisonment, and five to 15 years if the abuse leads to the death of the victim. There was no data on reported cases of spousal abuse and violence against minors.

The government provided hospital treatment for victims of abuse, and medical social workers counseled victims and informed them about social welfare services. The government may provide victims of domestic violence with public housing until their complaints are resolved, but it did not reserve facilities expressly for this purpose.

Private and religious groups sponsored programs for victims of domestic violence, and the government supported and helped to fund these organizations and programs. The Bureau for Family Action, a government organization subordinate to the Department of Family and Community of the Social Welfare Institute, helped female victims of domestic violence by providing a safe place for them and their children and furnishing advice regarding legal actions against the perpetrators. A family counseling service was available to persons who requested such services at social centers. Two government-supported religious programs also offered rehabilitation programs for female victims of violence.

The law criminalizes rape, including spousal rape, and the government effectively enforced the law. In the first half of the year, there were five reported rapes.

Prostitution is legal, but procuring is not. Trafficking in persons also is illegal; however, there were 10 suspected cases of trafficking in women involving 17 victims for the purposes of prostitution (see section 5, Trafficking).

There is no law specifically addressing sexual harassment, although there is a law prohibiting harassment in general. Sexual harassment was not considered to be a major problem.

Equal opportunity legislation applicable to all public and private organizations mandates that women receive equal pay for equal work, prohibits discrimination based on sex or physical ability, and establishes penalties for employers who violate these guidelines. The law allows for civil suits, but few women took their cases to the Labor Affairs Bureau or other entities. There were no reported cases alleging sexual discrimination during the first half of the year.

Women also have become more active and visible in business; however, wage discrimination occurred in certain sectors of the job market, notably construction.

## Children

The government protected the rights and welfare of children through the general framework of civil and political rights legislation that protects all citizens. The law specifically provides for criminal punishment for sexual abuse of children and students, statutory rape, and procurement involving minors.

School attendance is compulsory for all children between ages five and 15. Basic education was provided in government-run schools and subsidized private schools, and it covered the preprimary year, primary education, and general secondary education. The Education Department provided assistance to families that could not pay school fees. The children of illegal immigrants were excluded from the educational system. Experts believed this exclusion affected only a few children. Boys and girls attended school in equal proportions, and the government provided free medical care for all children.

Child abuse and exploitation were not widespread problems. In the first half of the year, nine cases of child abuse were reported to the Health Department and 80 cases of offenses against the physical integrity of minors were reported to the police. During the same period, the police received two reports of rape of minors and eight reports of sexual abuse of minors.

## Trafficking in Persons

The Basic Law makes trafficking in persons a crime punishable by two to 15 years in prison; however, there was no law that specifically addressed trafficking persons into the SAR. The law increases penalties by one-third (within minimum and

maximum limits) if the victim is under 18 years of age. If the victim is under 14 years of age, the penalty is increased by five to 15 years. If the trafficker rapes the victim, the two offenses are treated as different crimes. The government has other statutes that it can use to prosecute such traffickers. For example, although prostitution is not illegal, a "procurement" law makes it a crime to instigate, favor, or facilitate the practice of prostitution by another person for the purposes of profit or as a way of life.

The country is a transit and destination point for women trafficked for the purposes of prostitution. While the overwhelming majority of foreign prostitutes entered the country voluntarily, there was evidence that some had been deceived or coerced into participating in the country's commercial sex trade. During the year press reports and NGOs stated that some prostitutes lived in poor conditions under threats of violence and coercion.

No information was available on government investigations into cases of procurement. While most known cases involved women who were believed to be willing participants in the sex industry, 17 women claimed to have been brought to the SAR under false pretenses, and four complained of abuse. SAR authorities believed that Chinese, Russian, and Thai criminal syndicates were involved in bringing women to the SAR for the purposes of prostitution. Prostitutes were primarily from mainland China, Mongolia, Russia, Eastern Europe, Vietnam, and Thailand.

There were no government assistance programs for victims of trafficking, and no NGOs focused specifically on trafficking-related problems; however, there were charitable organizations that provided assistance and shelter to women and children who were the victims of abuse.

#### Persons with Disabilities

The law mandates access to buildings for persons with disabilities, and the government generally enforced these provisions in practice. There were no reports of discrimination against persons with disabilities in employment, education, or provision of state services.

#### National/Racial/Ethnic Minorities

Although no specific laws prohibit discrimination on the basis of racial or ethnic background, the government generally respected the rights of ethnic minorities, particularly the Macanese (Eurasians who comprise approximately 2 percent of the population). Although Portuguese officials no longer dominated the civil service, the government bureaucracy and the legal system placed a premium on knowledge of the Portuguese language, which was spoken by approximately 2 percent of the population. During the year the government conducted its first census since 2001, but updates on the racial and ethnic composition of the population had not been released as of year's end. The Chinese language has official status, and the use of Chinese in the civil service has grown in recent years.

#### Section 6 Worker Rights

##### a. The Right of Association

The law provides for the right of workers to form and join unions of their choice without previous authorization or excessive requirement, and the government generally respected this right in practice. The Basic Law stipulates that international labor conventions that applied before the handover remain in force. The UDDM expressed concern that the local law contains no explicit provisions that bar discrimination against unions. The law also specifically excludes public servants and migrant workers from labor law protections.

Nearly all private sector unions were part of the pro PRC Federation of Trade Unions (FTU), or the Macau Chamber of Commerce (both of which are listed as associations, commonly the case for unions), and they tended to stress the importance of stability and minimum disruption of the work force. The UDDM and some local journalists claimed that the FTU was more interested in providing social and recreational services than in addressing trade union problems such as wages, benefits, and working conditions. At the beginning of the year, there were 567 registered unions. All classes of workers have the right to join a union. There was no data on the percentage of unionized workers.

##### b. The Right to Organize and Bargain Collectively

The law provides that agreements concluded between employers and workers shall be valid, but there is no specific statutory protection that provides for the right to collective bargaining; however, the government did not impede or discourage collective bargaining. Market forces determined wages. Unions tended to resemble local traditional neighborhood associations, promoting social and cultural activities rather than workplace problems. Local customs normally favored employment without the benefit of written labor contracts, except in the case of migrant labor from the

mainland and the Philippines. Pro-PRC unions traditionally have not attempted to engage in collective bargaining.

There is no specific protection in local law from retribution if workers exercise their right to strike. The government argued that striking employees are protected from retaliation by labor law provisions, which require an employer to have "justified cause" to dismiss an employee; the government generally enforced these provisions. Strikes, rallies, and demonstrations were not permitted in the vicinity of the chief executive's office, the Legislative Assembly, and other key government buildings.

In May approximately 3,000 workers from eight independent labor unions representing unskilled laborers and construction workers held a demonstration against the chief executive. The demonstration turned violent when protesters confronted riot police as they attempted to march on government headquarters. The theme of the demonstration was to "drive out illegal workers and cut imported labor." Twenty-five police officers were reportedly injured and four protesters arrested during the demonstration. Prodemocracy legislator Antonio Ng voiced his support for the demonstration and called on the government to formulate labor importation policies in a transparent way with prior public consultation.

In December approximately 600 workers and citizens protested labor issues and corruption in Macau. In contrast to the labor demonstrations in May, the protests were nonviolent. Workers who believed that they were dismissed unlawfully may bring a case to court or lodge a complaint with the Labor Department or the high commissioner against corruption and administrative illegality, who also functions as an ombudsman.

There are no export processing zones.

#### c. Prohibition of Forced or Compulsory Labor

The law prohibits forced or compulsory labor, including by children, and there were no reports that such practices occurred.

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

The law prohibits minors under the age of 16 from working, although minors between the ages of 14 and 16 can be authorized to work on an "exceptional basis." Some children reportedly worked in family-run businesses and on fishing vessels, usually during summer and winter vacations. Local laws do not establish specific regulations governing the number of hours these children can work, but International Labor Organization conventions were applied. The Labor Department enforced the law through periodic and targeted inspections, and violators were prosecuted. In July 2005 the Labor Department Inspectorate conducted a special inspection specifically aimed at enforcing child labor laws. During this inspection 476 companies were visited, and 17 were found to have violated child labor laws by employing 29 minors ages 14 to 16. A similar inspection was conducted during the year, but data from it was not available at year's end.

#### e. Acceptable Conditions of Work

Local labor laws establish the general principle of fair wages and mandate compliance with wage agreements, but there was no mandatory minimum wage. Average wages provided a decent standard of living for a worker and family. In his policy address in November, Chief Executive Ho stated that government cleaning and security contractors would enjoy a minimum wage starting next year but did not say what the wage would be.

Labor legislation provides for a 48-hour workweek, an eight-hour workday, paid overtime, annual leave, and medical and maternity care. Although the law provides for a 24-hour rest period for every seven days of work, workers frequently agreed to work overtime to compensate for low wages. The Labor Department provided assistance and legal advice to workers on request.

The Labor Department enforced occupational safety and health regulations, and failure to correct infractions could lead to prosecution. In 2005 the Labor Department inspectorate conducted 4,508 inspections and uncovered 3,195 violations carrying fines totaling approximately \$194,000 (1.5 million patacas). Data on Labor Department inspections throughout the year was not available. From January to September, there were five work related deaths. Although the law includes a requirement that employers provide a safe working environment, no explicit provisions protected employees' right to continued employment if they refused to work under dangerous conditions.

Migrant workers, mainly from the PRC and Southeast Asia, made up approximately 10.3 percent of the work force. In May several thousand workers and union members marched in demand of more effective measures to prevent the hiring of illegal workers and to limit the number of imported workers (see section 6.b.). They often received less than local residents for performing the same job, lived in controlled dormitories, worked 10 to 12 hours per day, and owed large sums of money

to labor-importing companies for purchasing their jobs. They had no collective bargaining rights and no legal recourse in the case of unfair dismissal.

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