

## **CHINA (INCLUDES TIBET, HONG KONG, AND MACAU) 2013 HUMAN RIGHTS REPORT**

### **EXECUTIVE SUMMARY**

The People's Republic of China (PRC) is an authoritarian state in which the Chinese Communist Party (CCP) constitutionally is the paramount authority. CCP members hold almost all top government and security apparatus positions. Ultimate authority rests with the 25-member Political Bureau (Politburo) of the CCP and its seven-member Standing Committee. China completed its once-in-a-decade leadership transition in March, and Xi Jinping holds the three most powerful positions as CCP general secretary, state president, and chairman of the Central Military Commission. Civilian authorities generally maintained control of the military and internal security forces. Security forces committed human rights abuses.

Repression and coercion, particularly against organizations and individuals involved in civil and political rights advocacy and public interest issues, ethnic minorities, and law firms that took on sensitive cases, were routine. Increasingly officials employed harassment, intimidation, and prosecution of family members and associates to retaliate against rights advocates and defenders. Individuals and groups seen as politically sensitive by authorities continued to face tight restrictions on their freedom to assemble, practice religion, and travel. Authorities resorted to extralegal measures such as enforced disappearance and strict house arrest, including house arrest of family members, to prevent public expression of independent opinions. Authorities implemented new measures to control and censor the internet and particularly targeted bloggers with large numbers of followers, leading some to close their online accounts. Public-interest law firms continued to face harassment, disbarment of legal staff, and closure. There was severe official repression of the freedoms of speech, religion, association, and assembly of ethnic Uighurs in the Xinjiang Uighur Autonomous Region (XUAR) and of ethnic Tibetans in the Tibet Autonomous Region (TAR) and other Tibetan areas. These minorities also faced harsh restrictions on movement. Abuses peaked around high-profile events, such as the visit of foreign officials, national meetings, and commemorations.

As in previous years, citizens did not have the right to change their government, and citizens had limited forms of redress against official abuse. Other human rights problems during the year included extrajudicial killings, including executions without due process; enforced disappearance and incommunicado

detention, including prolonged illegal detentions at unofficial holding facilities known as “black jails”; torture and coerced confessions of prisoners; detention and harassment of lawyers, journalists, writers, bloggers, dissidents, petitioners, and others who sought to exercise peacefully their rights under the law; a lack of due process in judicial proceedings; political control of courts and judges; closed trials; the use of administrative detention; restrictions on freedom to assemble, practice religion, and travel; failure to protect refugees and asylum seekers; pressure on other countries to return PRC citizens forcibly; widespread corruption; intense scrutiny of and restrictions on nongovernmental organizations (NGOs); discrimination against women, minorities, and persons with disabilities; a coercive birth-limitation policy that in some cases resulted in forced abortion (sometimes at advanced stages of pregnancy) or forced sterilization; trafficking in persons; prohibitions on independent unions; lack of protection for workers’ right to strike; forced and child labor; and poor enforcement of wage, overtime, and occupational safety and health laws.

Although authorities prosecuted a number of abuses of power, particularly with regard to corruption, in many cases the internal disciplinary procedures of the CCP were opaque and only selectively applied to senior officials. Citizens who promoted efforts to combat corruption were themselves detained and arrested. For example, throughout the year, NGO sources reported that authorities arrested at least 29 persons associated with the New Citizens Movement on charges stemming from activities to promote good governance.

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

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

During the year security forces reportedly committed arbitrary or unlawful killings. In many instances few or no details were available.

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

For example, on October 24, plainclothes police arrested Shanghai petitioner Shen Yong for trespassing and, according to media reports, beat him. Hours later police returned Shen to his family, and he died shortly thereafter. Shen’s family maintained he died as a result of the police beating. Police asserted he suddenly

fell ill in their custody. Local media reported that the death was under investigation but by year's end provided no further information. Authorities detained more than 100 petitioners at a protest following Shen's death.

A number of violent incidents in the XUAR resulted in multiple deaths. Official accounts of these events generally blamed "terrorists," "separatists," and "religious extremists" for what were portrayed as violent terrorist attacks on community members and security personnel. Human rights organizations, on the other hand, asserted that security forces often shot at groups of Uighurs in their homes or during worship. The government's control of information coming out of the XUAR, together with its increasingly tight security posture there, made it difficult to verify the conflicting reports. (See also the Tibet annex for violent incidents in the TAR and other Tibetan areas.)

For example on April 24, at least 21 persons were killed in a clash in Barchuk County, XUAR: nine bystanders, six police, and six Uighurs (described in the official press as "thugs"). According to the official account, gunfights broke out when police entered persons' homes to search for "illegal knives."

In April, Yu Qiyi, a chief engineer at a state-owned enterprise in Wenzhou, died after being interrogated for corruption. Authorities arrested six CCP investigators and convicted them of intentional assault (see section 1.d.).

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

## **b. Disappearance**

In September authorities detained Cao Shunli at Beijing Airport as she was attempting to travel to Geneva to attend a training session in advance of China's Universal Periodic Review at the UN Human Rights Council. Five weeks after her disappearance, authorities at the Chaoyang District Detention Center confirmed that Cao had been criminally detained on charges of unlawful assembly. According to various media reports, her family did not received a detention notice in accordance with the Criminal Procedure Law.

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. It is estimated that fewer than a dozen remained in prison, although some accounts suggest the number may be

higher. Many activists who were involved in the demonstrations continued to suffer from official harassment.

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

The law prohibits the physical abuse of detainees and forbids prison guards from extracting confessions by torture, insulting prisoners' dignity, and beating or encouraging others to beat prisoners. Amendments to the criminal procedure law that exclude evidence, including confessions, obtained through illegal means, including under torture in certain categories of criminal cases, took effect on January 1.

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

Human Rights Watch reported that police beat and tortured suspected prostitutes.

According to news reports Xiao Yong, a Guangzhou-based activist detained by police in April 2012 and remanded to two years of re-education through labor (RTL) in Shaoyang, Hunan Province, was released in February and allowed to return to his home. Authorities charged him with illegal assembly for staging a demonstration calling on officials to disclose publicly their financial assets. During his initial detention authorities reportedly prevented Xiao from sleeping for up to five days, causing multiple medical complications.

On May 18, police arrested a group of Fujian activists. Police held petitioner Lin Yingqiang for 33 hours, deprived him of food, and chained him to a "tiger seat," a device meant to prevent the prisoner from sleeping during his detention.

In May authorities in Sichuan Province detained and beat lawyers Tang Jitian and Jiang Tianyong as they attempted to visit a black jail in Ziyang that reportedly holds followers of the banned Falun Gong movement.

On June 8, the Dongcheng District People's Court tried Peng Lanlan in closed proceedings. The court's decision was not available at year's end. Beijing police

arrested Peng in August 2012, charged him with obstructing official business, and tortured him by binding him to a tiger seat.

There were widespread reports of activists and petitioners being committed to mental-health facilities and involuntarily subjected to psychiatric treatment for political reasons. According to *Legal Daily* (a state-owned newspaper covering legal affairs), the Ministry of Public Security directly administered 24 high-security psychiatric hospitals for the criminally insane (also known as ankaang facilities). From 1998 to May 2010, more than 40,000 persons were committed to ankaang hospitals. In 2010 an official of the Ministry of Public Security stated that detention in ankaang facilities was not appropriate for patients who did not demonstrate criminal behavior. Nonetheless, political activists, underground religious adherents, persons who repeatedly petitioned the government, members of the banned Chinese Democracy Party (CDP), and Falun Gong practitioners were among those housed in these institutions.

In October 2012 the government passed legislation banning involuntary mental health examinations and inpatient treatment except in cases in which patients expressed an intent to harm themselves or others. Critics maintained, however, that the law still does not provide meaningful legal protections for persons sent to psychiatric facilities. The March 2012 amendments to the criminal procedure law require a procuratorate (the agency responsible for both prosecution and investigation) review and a court decision for the psychiatric commitment of persons who have committed serious offenses but are exempt from criminal responsibility under the law. The amendments went into effect in April and include a provision for appealing compulsory medical treatment decisions.

On April 7, a new mainland China magazine *Lens* carried an article reporting abuses including torture with electric batons, forced feeding, and prolonged solitary confinement at the Masanjia Detention Center in Liaoning Province.

Advocacy groups continued to report organ harvesting from prisoners. Former vice health minister Huang Jiefu, who in March 2012 reportedly pledged to abolish taking organs for transplant from executed prisoners within three to five years, stated that organs from executed prisoners accounted for 64 percent of transplants in 2012 and for 54 percent in mid-2013.

## **Prison and Detention Center Conditions**

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

Forced labor remained a serious problem in penal institutions (see section 7.b.) as well as in RTL facilities. On December 28, the National People's Congress (NPC) Standing Committee passed legislation that formally abolished the RTL system. State media announced that all inmates would be released beginning December 30 and clarified that all pre-abolition penalties would be considered legitimate. On December 17, Amnesty International reported that authorities relabeled many RTL camps as "drug rehabilitation centers" and "legal education centers."

Physical Conditions: Prisoners and detainees were regularly held in overcrowded conditions with poor sanitation. Food often was inadequate and of poor quality, and many detainees relied on supplemental food, medicines, and warm clothing provided by relatives. Prisoners often reported sleeping on the floor because there were no beds or bedding. Adequate, timely medical care for prisoners remained a serious problem, despite official assurances that prisoners have the right to prompt medical treatment.

Information on the prison population was not made public. In an April 2012 report to the NPC Standing Committee, the minister of justice stated that the country had 681 prisons with 1.64 million inmates. The International Center for Prison Studies (ICPS) reported that in 2009, in addition to sentenced prisoners, 650,000 persons were held in detention centers, and it estimated there were between 100,000 and 260,000 pretrial detainees. The ICPS reported that in mid-2010 female prisoners made up approximately 5.1 percent of the prison population, and in 2005 juveniles made up 1.4 percent. The law requires juveniles be held separately from adults, unless facilities are insufficient, but children were sometimes held with adult prisoners and required to work. Political prisoners were held with the general prison population and reported being beaten by other prisoners at the instigation of guards. Some dissidents were not allowed to receive supplemental food, medicine, and warm clothing from relatives.

The law mandates that a prison shall be ventilated, allow for natural light, and be clean and warm. The law further provides that a prison "shall set up medical, living, and sanitary facilities and institute regulations on the life and sanitation of prisoners." It also states that the medical and health care of prisoners shall be put into the public health and epidemic prevention program of the area in which the prison is located. In many cases provisions for sanitation, ventilation, heating,

lighting, basic and emergency medical care, and access to potable water were inadequate.

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

Administration: It was unclear whether recordkeeping on prisoners was adequate. Authorities employed alternatives to incarceration for both violent and nonviolent offenders. According to Vice Minister of Justice Zhao Dacheng, more than one million convicts served their sentences in community corrections programs since 2003. There were no prison ombudsmen per se, but prisoners and detainees are legally entitled to submit complaints to judicial authorities without censorship and request investigation of credible allegations of inhuman conditions. The law states that letters from a prisoner to higher authorities of the prison or to the judicial organs shall be free from examination, but it was unclear to what extent the law was implemented. While authorities occasionally investigated credible allegations of inhuman conditions, the results were not documented in a publicly accessible manner. Many prisoners and detainees did not have reasonable access to visitors and could not engage in religious practices. Under Article 52 of the prison law, “considerations shall be given to the special habits and customs of prisoners of minority ethnic groups.” Article 23 of the Detention Center Regulation has similar requirements. Little information was available about the implementation of these regulations.

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

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

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

Arbitrary arrest and detention remained serious problems. The law grants police broad administrative detention powers and the ability to detain individuals for extended periods without formal arrest or criminal charges. Throughout the year human rights activists, journalists, unregistered religious leaders, and former political prisoners and their family members continued to be among those targeted for arbitrary detention or arrest.

In January the official media reported that authorities in Heilongjiang Province confined petitioner Chen Qingxia to a deserted mortuary for three years. Chen previously served 18-months' in RTL, was allegedly paralyzed by repeated beatings, and separated from her then 12-year-old son by local authorities. After the media report the local government reportedly found a house for Chen and pledged to help her look for her son.

From June 3 to 25, in Shenyang, Liaoning Province, plainclothes police reportedly detained prodemocracy activist Jiang Lijun on suspicion of inciting subversion of state authority and disturbing the social order. Jiang previously served a four-year sentence for "inciting subversion of the state power."

In July, Guangdong activist Wu Bin, also known as Xiucan Jianghu, was detained for allegedly "sabotaging electric power equipment." Wu previously filed a lawsuit against Shenzhen's Futian District Public Security Bureau (PSB) for illegally detaining him. He was released on bail in early August, rearrested in Zhejiang Province on September 12, and given 10 days' administrative detention for "spreading rumors."

Many activists were subjected to extralegal house arrest, denied travel rights, or administratively detained. Shanghai dissidents Feng Zhenghu and Zheng Enchong were under unofficial house arrest at their apartments in Shanghai. Both were allowed to move around Shanghai on occasion but were kept under constant surveillance. Outsiders were often prevented from visiting them, and they were not allowed to leave Shanghai. Zheng Enchong was denied permission to travel to Hong Kong to accept a fellowship teaching law. Authorities also reportedly kept other dissidents under unofficial house arrest. Officials sentenced Shanghai activists Wang Kouma and Wei Qin to 30 months and 27 months in prison, respectively, for "creating a disturbance" related to their lawful petitioning. Mao Hengfeng was released from RTL on February 8 and was serving the remainder of her 18-month sentence under house arrest.

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

The main domestic security agencies include the Ministry of State Security, the Ministry of Public Security, and the People's Armed Police. The People's Liberation Army is primarily responsible for external security but also has some domestic security responsibilities. Local jurisdictions also frequently used civilian municipal security forces, known as "urban management" officials (*chengguan*), to enforce administrative measures. The Ministry of Public Security coordinates the country's civilian police force, which is organized into specialized police agencies and local, county, and provincial jurisdictions. Procuratorate oversight of the police was limited. Corruption at the local level was widespread. Police and urban management officials engaged in extrajudicial detention, extortion, and assault. In 2009 the Supreme People's Procuratorate acknowledged continuing widespread abuse in law enforcement. In 2009 domestic news media reported the convictions of public security officials who had beaten to death prisoners or suspects in their custody.

In May 2012 the Ministry of Supervision, Ministry of Human Resources and Social Security, and Ministry of Justice jointly issued regulations stating that police in prisons and RTL facilities face dismissal if they are found to have beaten, applied corporal punishment, abused inmates, or instigated such acts.

There were several media reports on deaths under the *shuanggui* system – the CCP internal disciplinary system used to investigate party members suspected of corruption. In April, Yu Qiyi, a chief engineer at a state-owned enterprise in Wenzhou, died after being interrogated for corruption. Authorities charged six investigators from the Communist Party's Disciplinary Committee in Wenzhou. The BBC reported they were sentenced to between four and 14 years in prison. They reportedly appealed their sentence.

Oversight of civilian municipal security forces was highly localized and ad hoc. By law the officials can be criminally prosecuted for abuses of power, but such cases were rarely pursued. There were multiple reports of conflicts erupting between these officials and street vendors in Liaoning, Jilin, and Heilongjiang provinces. For example, on June 19, civilian municipal security forces reportedly beat a family of fried-chicken vendors in the Beihang night market in Shenyang, Liaoning Province, who refused to turn over their equipment. In protest more than one thousand Shenyang residents gathered at the scene and blocked traffic, and some reportedly retaliated by beating the officials. In some cases mediation resulted in compensation being paid to victims of these officials.

## Arrest Procedures and Treatment of Detainees

Police detention beyond 37 days requires prosecutorial approval of a formal arrest. After arrest police are authorized to detain a suspect for up to an additional seven months while the case is investigated.

After the completion of a police investigation, an additional 45 days of detention are allowed for the procuratorate to determine whether to file criminal charges. If charges are filed authorities can detain a suspect for an additional 45 days before beginning judicial proceedings. Police sometimes detained persons beyond the period allowed by law, and pretrial detention periods of a year or longer were common.

The law stipulates that detainees be allowed to meet with defense counsel before criminal charges are filed. Some criminal defense attorneys noted that under the newly revised criminal procedure law their ability to meet with clients improved significantly. In some cases defense attorneys were able to arrange visits at any time and to have private meetings with their clients in detention centers. This generally did not apply to cases considered politically sensitive.

The criminal procedure law requires a court to provide a lawyer to a defendant who has not already retained one; who is blind, deaf, mute, or a minor; or who may be sentenced to death. Revisions that took effect on January 1 added defendants facing a life sentence or who are mentally ill. This law applies whether or not the defendant is indigent. Courts may also provide lawyers to other criminal defendants who cannot afford them, although courts often did not appoint counsel in such circumstances.

Criminal defendants are entitled to apply for bail (also translated as “a guarantor pending trial”) while awaiting trial, but the system does not appear to operate effectively and few suspects were released on bail.

The law requires notification of family members within 24 hours of detention, but individuals were often held without notification for significantly longer periods, especially in politically sensitive cases. Under a sweeping exception officials are not required to provide notification if doing so would “hinder the investigation” of a case. The revised criminal procedure law limits this exception to cases involving state security or terrorism.

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

The law provides for the right to petition the government for resolution of grievances, but citizens who traveled to Beijing to petition the central government were frequently subjected to arbitrary detention, often by police dispatched from the petitioner’s hometown. Some provincial governments operated facilities in Beijing or in other localities where petitioners from their districts were held in extrajudicial detention. Some local governments took steps to restrict petitioning. According to a 2010 Shanxi provincial government report, the Shanxi Province People’s Congress adopted regulations that listed eight types of “prohibited” petitioning, including: “illegally gathering, encircling, or rushing into government offices or important public spaces, stopping cars or hindering public transportation, linking up with others to petition,” and similar acts. The Shanxi regulations also stated that petitioners suspected of “misrepresenting facts to frame others” could be subject to criminal charges.

Online reports claimed local officials in Zengcheng City, Guangdong Province, sealed off two villages in March during the People’s Congress and the Chinese People’s Political Consultative Conference (CPPCC) sessions to prevent residents from petitioning.

On April 17, Shenzhen-based lawyer Jiang Yuanmin was arrested and charged with “gathering a crowd to disrupt social order” in connection with his work on behalf of Hainan farmers’ land rights, according to online reports. Family members claimed he was denied medical treatment.

Fujian petitioner Luo Xianying was reportedly arrested in Beijing in fall 2012 and forcibly returned to Sanming in November 2012. At year’s end she was detained

in a government building, and her family claimed she had not received adequate treatment for her medical problems.

Before the December 28 NPC Standing Committee decision to abolish RTL, nonjudicial panels, known as “labor re-education panels,” could remand persons to RTL camps for up to three years without trial. Labor re-education panels were authorized to extend these administrative sentences for up to one year. Detainees were technically allowed to challenge administrative RTL sentences and appeal for sentence reduction or suspension, but appeals were rarely successful.

Other forms of administrative detention include “custody and education” (for women engaged in prostitution and those soliciting prostitution) and “custody and training” (for minor criminal offenders). The law establishes a system of “compulsory isolation for drug rehabilitation.” The minimum stay in such centers is two years, and the law states that treatment can include labor. Public security organs authorize detention in these centers, and it often was meted out as an administrative rather than criminal measure. Authorities used administrative detention to intimidate political activists and prevent public demonstrations.

Arbitrary Arrest: In February police began detaining and arresting dozens of activists, lawyers, and other citizens in an apparently coordinated crackdown on a loose grouping of activists known as the New Citizens Movement. The Beijing Municipality Traffic Security Division detained Beijing University of Post and Telecommunications lecturer and legal scholar Xu Zhiyong on July 16 on suspicion of “gathering a crowd to disturb public order.” He was formally arrested on August 22 and formally charged in December. On September 13, authorities detained venture capitalist and popular microblogger Wang Gongquan on charges of “gathering a crowd to disturb public order,” after he used his microblog to decry Xu’s arrest.

Other New Citizens Movement associates arrested for peaceful advocacy of good governance included Liu Ping, Wei Zhongping, Li Sihua, Yuan Dong, Ma Xinli, Zhang Baocheng, Hou Xin, Li Wei, Wang Yonghong, Ding Jiayi, Sun Hanhui, Zhao Changqing, Qi Yueying, Zhang Xiangzhong, Li Gang, Li Huanjun, and Song Guangqiang.

Authorities arrested persons on allegations of revealing state secrets, subversion, and other crimes as a means to suppress political dissent and public advocacy. These charges – including what constitutes a state secret – remained ill defined. Authorities also detained citizens and foreigners under broad and ambiguous state

secrets laws for, among other actions, disclosing information on criminal trials, meetings, commercial activity, and government activity. Authorities sometimes retroactively labeled a particular action as a violation of the state secret laws. According to a Radio Free Asia (RFA) report, local officials in Dujiangyan, Sichuan Province, detained Zhou Xingrong, whose child died in the 2008 Sichuan earthquake, for nine hours in April 2012 for allegedly revealing “state secrets” by microblogging about efforts by bereaved parents to obtain compensation for their children’s earthquake-related deaths. According to a western media report, authorities continued to harass her during the year.

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

Conditions faced by those under house arrest varied but sometimes included complete isolation in their homes under police guard. In some instances security officials were stationed inside the homes of subjects under house arrest. Others under house arrest occasionally were permitted to leave their homes to work or run errands but were required to ride in police vehicles. In some cases police or plainclothes security officers escorted the children of politically sensitive individuals to and from school. When permitted to leave their homes, subjects of house arrest were usually under police surveillance. Authorities in the XUAR used house arrest and other forms of arbitrary detention against those accused of supporting the “three evils” of religious extremism, “splittism,” and terrorism.

After serving one year at an RTL camp for staging protests calling for political reforms and attempting to visit prominent activist Ai Weiwei, Fujian petitioner Wang Weizhu was released in July. She went to a foreign embassy compound in Beijing after her release to distribute leaflets about her grievances, after which Beijing Police reportedly detained her for five days.

According to the RFA, in June authorities detained members of the Guizhou Human Rights Symposium, including Wu Yuqin, Li Renke, and Mo Jiangang, and forced them to leave the provincial capital for the duration of the two-day EU-China meeting on human rights there.

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

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

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

During the year media sources indicated public security authorities used televised confessions of foreign and domestic bloggers, journalists, and business executives in an attempt to establish guilt before their criminal trial proceedings began.

A CCP-controlled committee decides most major cases, and the duty of trial and appellate court judges is to craft a legal justification for the committee’s decision.

“Judicial independence” was reportedly one of the off-limit subjects that the CCP ordered university professors not to discuss (see section 2.a., Academic Freedom).

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

Courts are not authorized to rule on the constitutionality of legislation. The law permits organizations or individuals to question the constitutionality of laws and regulations, but a constitutional challenge can be directed only to the promulgating legislative body. Lawyers have little or no opportunity to rely on constitutional claims in litigation.

#### **Trial Procedures**

The criminal justice system was biased toward a presumption of guilt, especially in high-profile or politically sensitive cases. According to the Supreme People’s

Court, in 2011 the combined conviction rate for first- and second-instance criminal trials was 99.9 percent. Of 1,051,638 criminal defendants tried in 2011, only 891 were acquitted.

In many politically sensitive trials courts handed down guilty verdicts immediately following proceedings with no deliberation. Courts often punished defendants who refused to acknowledge guilt with harsher sentences than those who confessed. The appeals process rarely reversed convictions. Appeals processes failed to provide sufficient avenues for review, and remedies for violations of defendants' rights were inadequate.

Regulations of the Supreme People's Court require all trials to be open to the public, with the exceptions of cases involving state secrets, privacy issues, and minors. Authorities used the state-secrets provision to keep politically sensitive proceedings closed to the public, sometimes even to family members, and to withhold access to defense counsel. Court regulations state that foreigners with valid identification should be allowed to observe trials under the same criteria as citizens, but foreigners were permitted to attend court proceedings only by invitation. As in past years, foreign diplomats and journalists unsuccessfully sought permission to attend a number of trials. In some instances the trials were reclassified as "state secrets" cases or otherwise closed to the public. During the year foreign diplomats attempted to attend nearly one dozen public trials throughout the country. In each instance court officials claimed that there were no available seats in the courtroom and that foreigners needed prior permission to attend trials.

Some trials were broadcast, and court proceedings were a regular television feature. A few courts published their verdicts on the internet.

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

Individuals facing administrative detention do not have the right to seek legal counsel. Criminal defendants were eligible for legal assistance, although more than 50 percent of criminal defendants went to trial without a lawyer. According to the Ministry of Justice, in 2012 there were more than one million legal aid cases. The revised criminal procedure law expanded requirements for legal aid to include

cases that could result in life imprisonment and cases involving individuals suffering from mental illness.

Human rights lawyers reported that authorities did not permit them to defend certain clients or threatened them with punishment if they chose to do so. The government suspended or revoked the licenses of lawyers or their firms to stop them from taking sensitive cases, such as defending prodemocracy dissidents, house-church activists, Falun Gong practitioners, or government critics.

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

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

Authorities detained Guangzhou-based activist Yang Maodong (also known under the pen name Guo Feixiong) on August 8 on suspicion of “gathering a crowd to disrupt order of a public place.” According to several Western media sources, officials repeatedly denied him access to lawyers. International media speculated he was detained in connection with his participation in protests surrounding the incident in January involving censorship of the Guangzhou newspaper *Southern Weekend* and his association with the New Citizens Movement (see section 2, Freedom of Speech and Press).

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

In April a court in Jiangsu Province placed Beijing rights lawyer Wang Quanzhang under a 10-day judicial detention for “serious violations of court procedure.” The violations consisted of using his mobile telephone to copy a set of original documents he was submitting to the court during the trial of a Falun Gong practitioner.

Online reports indicated that on June 25 riot police in Wenchang, Hainan Province, intercepted a group of Guangzhou-based lawyers who had come to represent detained dissident Zheng Qiuwu and his wife. The riot police scuffled with the lawyers and forced them to return to the provincial capital of Haikou.

The annual licensing review process administered by the Beijing Lawyers Association was used to withhold or delay the renewal of professional lawyers' licenses, which restricted the ability of a number of human rights and public interest lawyers to practice law.

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

Defense attorneys may be held legally responsible if their client commits perjury, and prosecutors and judges have wide discretion to decide what constitutes perjury. In some sensitive cases lawyers had no pretrial access to their clients, and defendants and lawyers were not allowed to communicate with one another during trials. Criminal defendants were frequently not assigned an attorney until a case was brought to court. According to a Ministry of Justice official, in 2011 lawyers represented fewer than half of criminal defendants, and in some provincial-level administrative regions, only an estimated 12 percent of criminal suspects had lawyers.

Mechanisms allowing defendants to confront their accusers were inadequate. Only a small percentage of trials involved witnesses, and fewer than 10 percent of subpoenaed witnesses appeared in court. A provision of the revised criminal procedure law compels witnesses to appear in court and includes protections for witnesses and financial allowances for performing the duties of a witness. In most criminal trials, prosecutors read witness statements, which neither the defendants nor their lawyers had an opportunity to rebut. Although the law states that pretrial witness statements cannot serve as the sole basis for conviction, prosecutors relied heavily on such statements. 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. Defense attorneys received minimal pretrial access to information.

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

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

Chen Youxi, the attorney for street vendor Xia Junfeng, who was convicted of killing two urban management officials in Shenyang, Liaoning Province, and executed on September 25, argued that the Supreme People's Court failed to consider evidence supporting Xia's claims of self-defense during its review of his sentence. According to a report, the presiding judge refused to admit the testimony of several eyewitnesses and relied on the statements of other urban management officials.

### **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. Authorities, however, continued to imprison citizens for reasons related to politics and religion. Tens of thousands of political prisoners remained incarcerated, some in prisons and others in RTL camps or administrative detention. The government did not grant international humanitarian organizations access to political prisoners.

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

Rights lawyer Gao Zhisheng remained in prison in Xinjiang for allegedly violating the terms of a suspended prison sentence. Authorities sharply limited access to

him and at times concealed his whereabouts. Democracy activist Hada remained in unofficial detention in Inner Mongolia three years after reportedly completing a 15-year sentence in 2010. Hada's wife and sons also faced periods of extralegal house arrest.

Many political prisoners remained in prison or under other forms of detention at year's end, including rights activists Wang Bingzhang and Liu Xianbin; Ablikim Abdureyim, son of Uighur activist Rebiya Kadeer; Zhou Yongjun; labor activist Kong Youping; Roman Catholic bishop Su Zhimin; and Tibetan Buddhist reincarnate lama Tenzin Delek Rinpoche, who was reportedly in poor health.

Nobel Peace Prize laureate Liu Xiaobo, coauthor of the Charter '08 manifesto that called for increased political freedoms and human rights, remained in Jinzhou Prison in Liaoning Province. Beijing-based human rights attorney Mo Shaoping, whose firm represented Liu, reported that Liu's wife Liu Xia was allowed to travel from Beijing to Jinzhou to see him monthly. She remained under 24-hour surveillance, and police escorted her whenever she was allowed to leave her home. Media reports in December indicated that Liu Xia might be suffering from depression due to her long-term isolation and deprivation of access to books and the internet.

On August 16, a Beijing court sentenced Liu Hui, Liu Xiaobo's brother-in-law, to 11 years' imprisonment on spurious charges of contract fraud by. Liu Xia was allowed to attend the trial on April 23 and told onlookers outside the court that she was not free.

At year's end reliable information was not available as to whether the following individuals remained in detention: Abdulla Jamal, Uighur activist Dilkex Tilivaldi, Feng Xinchun, Gonpo Lhundrub, Gonpo Thar, Jalo, Tselo, and Wang Diangang.

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

### **Civil Judicial Procedures and Remedies**

Courts deciding civil matters faced the same limitations on judicial independence as criminal courts. The State Compensation Law provides administrative and judicial remedies for plaintiffs whose rights or interests government agencies or officials have infringed. The law also allows compensation for wrongful detention, mental trauma, or physical injuries inflicted by detention center or prison officials. Citizens seldom applied for state compensation because of the high cost of bringing lawsuits, low credibility of courts, and citizens' lack of awareness of the State Compensation Law. Victims' claims were difficult to assess because of vague definitions in the law and difficulties in obtaining evidence of injury or damage. Judges were reluctant to accept state compensation cases, and government agencies seldom implemented court judgments in favor of plaintiffs.

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

While the law states that the “freedom and privacy of correspondence of citizens are protected by law,” authorities often did not respect the privacy of citizens. Although the law requires warrants before law enforcement officials can search premises, officials frequently ignored this requirement. The Public Security Bureau and prosecutors are authorized to issue search warrants on their own authority without judicial review. Cases of forced entry by police officers continued to be reported.

Authorities monitored telephone conversations, fax transmissions, e-mail, text messaging, and internet communications. They also opened and censored domestic and international mail. Security services routinely monitored and entered residences and offices to gain access to computers, telephones, and fax machines.

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

The monitoring and disruption of telephone and internet communications were particularly widespread in the XUAR and Tibetan areas. Authorities frequently warned dissidents and activists, underground religious figures, and former political prisoners throughout the country not to meet with foreign journalists or diplomats, especially before sensitive anniversaries, at the time of important government or CCP meetings, and during the visits of high-level foreign officials. Security personnel harassed and detained the family members of political prisoners,

including following them to meetings with foreign reporters and diplomats and urging them to remain silent about the cases of their relatives.

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

In April four unidentified men forcibly removed 10-year-old Zhang Anni, the daughter of prodemocracy activist, Zhang Lin, from school and detained her at the Hefei city police station for several hours. Under government pressure, Hupo Elementary School refused to enroll Zhang Anni for seven weeks.

Chen Kegui, nephew of activist Chen Guangcheng, remained in prison at year's end. In April media reported that Kegui was suffering from an unknown health condition in prison following allegations of torture by prison authorities. Authorities denied his family's request for medical parole.

On August 16, Guangzhou police prohibited activist Tang Jingling and his wife Wang Yanfang from attending the funeral of well known house church pastor Samuel Lamb. Security officials reportedly put many pastors under house arrest to prevent them from attending the funeral. Guangzhou security personnel had previously detained Wang Yanfang for 10 days in December 2011 and January 2012 in connection with protests in the Guangdong village of Wukan.

On May 31, police in Wenchang, Hainan, arrested dissident Zheng Qiuwu's wife. On June 4, Zhejiang authorities detained Zheng himself and sent him home to Hainan. Both Zheng and his wife reportedly were charged with "illegal business activity."

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

Property-related disputes between citizens and government authorities, which often turned violent, were widespread in both urban and rural areas. These disputes frequently stemmed from local officials' collusion with property developers to pay little or no compensation to displaced residents, combined with a lack of effective government oversight or media scrutiny of local officials' involvement in property

transactions, as well as a lack of legal remedies or other dispute resolution mechanisms for displaced residents. The problem persisted despite the central government's efforts to impose stronger controls over illegal land seizures and to standardize compensation. Redevelopment in traditional Uighur neighborhoods in cities throughout the XUAR, such as the Old City area in Kashgar, resulted in the destruction of historically or culturally important areas. Some residents voiced opposition to the lack of proper compensation provided by the government and coercive measures used to obtain their agreement to redevelopment. There were several reports of herders in Inner Mongolia complaining of confiscation of traditional pastoral lands for development.

Foreign media reported that at least 53 persons had self-immolated since 2009 to protest destruction of their homes.

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

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

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

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

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

In March the government merged the State Administration of Radio, Film, and Television with the General Administration of Press and Publication to create a new broadcast and press regulatory body, the General Administration of Press, Publication, Radio, Film, and Television.

On September 9, the Supreme People's Court and Supreme People's Procuratorate issued a judicial interpretation that made online rumormongering a punishable offense. Under the interpretation the author of a libelous internet post that is reposted more than 500 times or read more than 5,000 times, or of an internet post that led to mass protests, instigated ethnic or religious clashes, damaged the country's image or caused "a bad international effect," is subject to a maximum of three years in prison. By year's end this interpretation had a chilling effect on online discourse.

The government frequently monitored gatherings of intellectuals, scholars, and dissidents where political or sensitive issues were discussed. In 2008, to commemorate International Human Rights Day, a group of 303 intellectuals and activists released a petition entitled Charter '08, calling for the CCP to respect human rights and implement democratic reforms. Since then Charter '08 signers continued to report official harassment, especially around sensitive dates.

According to Western media reports, Shenzhen activist Yang Mingyu (also known as Yang Lin) was arrested July 19 for "inciting subversion of state power" in connection with his democracy activism, participation in Charter '08, and efforts to disclose official corruption.

On August 12, activist Liu Jiakai, who served two years administrative detention sentence on a charge of "inciting subversion of state power" in 2002, was detained in Hubei Province on criminal charges of "inciting subversion of state power." Police reported that he was detained for posting and disseminating online writings and views about legal reform in China. NGO sources reported that the charges stemmed from the fact that Liu had gathered activists in Yichang, Hubei Province for dinner parties, where they discussed corruption and other sensitive topics.

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

In November the General Administration of Press, Publication, Radio, Film, and Television began requiring news organizations to hold weekly lectures on the

CCP's journalistic principles, and journalists applying to renew their media credentials are required to take an examination on Marxist journalistic ideals.

Foreign journalists based in the country found a challenging environment for reporting. According to the annual "Reporting Conditions" survey of the Foreign Correspondents' Club of China (FCCC), "98 percent of respondents do not think reporting conditions in China meet international standards, and 70 percent feel conditions have worsened or stayed the same as the year before."

On July 8, journalist and documentary filmmaker Du Bin was released from a Beijing jail on bail after being detained for five weeks for allegedly "disturbing order at a public place." In May, Du had posted an online documentary about the Masanjia Women's RTL Camp in Liaoning Province (see section 1.c.), and also in May a publisher with offices in Hong Kong and New York published his book on the Tiananmen massacre.

Violence and Harassment: On July 15, law enforcement officers in Baita District of Liaoyang, Liaoning Province, allegedly beat a *Chinese Business Morning View* journalist who was reporting on a dispute between residents and developers at a construction site and destroyed his interview recordings.

Restrictions on foreign journalists by central and local CCP propaganda departments remained strict, especially during sensitive times and anniversaries. Foreign press outlets reported that local employees of foreign news agencies were also subject to official harassment and intimidation. During the year the FCCC "found 63 cases in which police officers or unknown persons impeded foreign reporters from doing their work, including nine cases in which reporters were manhandled or subjected to physical force." The report adds that while "this represents a welcome drop from last year," such intimidation "remains unacceptable."

According to Western media reports, in February a group of unidentified men in four vehicles assaulted a German television crew filming in a village near Beijing. According to a German correspondent present at the scene, the men ran the crew's minivan off the road and then smashed its windshield with baseball bats.

In December, Chinese authorities prevented a Western reporter from attending a press event with UK Prime Minister David Cameron and Chinese Prime Minister Li Keqiang.

The FCCC reported that, although routine delays in the provision of journalist visas appear to have shortened in recent months, 10 percent of survey respondents reported difficulties in obtaining official press accreditation or a journalist visa because of their reporting or that of their predecessors. While some reporters who authored particularly controversial news articles ultimately had their visas renewed, their news organizations experienced difficulty obtaining visas for new journalists and staff, even when these individuals previously held journalist visas for China.

Additionally, among the correspondents surveyed, 30 percent stated their Chinese assistants encountered pressure from officials or experienced harassment.

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

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

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

Government officials used criminal prosecution, civil lawsuits, and other punishments, including violence, detention, and other forms of harassment, to intimidate authors and journalists and to prevent the dissemination of controversial writings. A domestic journalist can face demotion or job loss for publishing views that challenge the government.

In January a group of current and former journalists from the Guangzhou newspaper *Southern Weekend* (also translated as *Southern Weekly*), part of the

*Nanfang Daily Group*, accused provincial propaganda officials of altering the newspaper's traditional New Year's message, which called for increased respect for constitutional rights. *Southern Weekend* journalists went on strike January 6 to protest editorial censorship, and students and activists began holding supportive demonstrations in front of the newspaper offices in Guangzhou. The protests turned into a broader public backlash against press censorship and were supported by editors, reporters, and social media. An agreement between the newspaper's staff and party overseers ended the strike January 8 and allowed the newspaper to resume publication January 10, but a clampdown on dissent reportedly followed. According to media reports, local authorities forcibly dispersed anticensorship protests, detained several activists for expressing solidarity with the newspaper, and blocked and deleted all references to the controversy from the internet.

Journalists who remained in prison at year's end included Yang Tongyan, and Dhondup Wangchen. Uighur webmasters Dilshat Perhat and Nijat Azat continued to serve sentences for "endangering state security." Uighur journalist Memetjan Abdulla was sentenced to life in prison in 2010, reportedly for transmitting "subversive" information related to the 2009 riots. During the year journalists working in traditional and new media were also imprisoned. In December 2012 the Prison Census of the Committee to Protect Journalists reported that, of 32 known journalists imprisoned in the country, 12 were ethnic Tibetan, seven were ethnic Uighur, and one was ethnic Mongolian. The committee documented two new imprisonment cases in 2012.

Censorship or Content Restrictions: Authorities continued to confiscate "unauthorized publications." According to the National Office Against Pornographic and Illegal Publications, 45 million illegal publications were confiscated and more than 3.7 million pieces of online information involving pornography or other illegal content were deleted in 2012.

Foreign journalists were denied permits to travel to the TAR, except for a very few highly controlled, government-organized press visits. Travel to Tibetan areas outside the TAR became increasingly difficult for foreign journalists. While foreign journalists were allowed access to Urumqi, XUAR, local and provincial authorities continued to control strictly the travel, access, and interviews of foreign journalists, even forcing them to leave cities in parts of the XUAR. After French news station France 24 broadcast journalist Cyril Payen's documentary about Tibet on May 30, Chinese embassy personnel went to the channel's headquarters in Paris to demand the withdrawal of the documentary from the station's website. The

Chinese embassy in Bangkok also threatened Payen by telephone, according to Reporters Without Borders.

Media outlets received regular guidance on topics that should not be covered from the CCP's Central Propaganda Department. For example, in April the department issued censorship instructions to mainland media prohibiting them from reusing, reporting, and commenting on *Lens* magazine's April article on the Masanjia Women's Labor Re-education Camp in Liaoning Province (see section 1.c.).

Following an October typhoon in Yuyao, Zhejiang Province, that killed 10 persons and sparked protests about the government response, the State Council Information Office issued instructions to media outlets and internet companies not to report a local newspaper's story about the protests.

In December 2012 the Central Propaganda Department ordered media outlets to adhere strictly to the information provided by authoritative departments when reporting on officials suspected of involvement in graft or bribery. Throughout the year the Central Propaganda Department issued similar instructions regarding the election of Hong Kong's chief executive, the self-immolation of Tibetans, and the Bo Xilai scandal. The orders included instructions for media outlets not to investigate or report on their own.

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

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

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

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

Overseas television newscasts, largely restricted to hotels and foreign residence compounds, were occasionally subject to censorship. Such censorship of foreign broadcasts also occurred around the anniversary of the 1989 Tiananmen massacre and during the 18th Party Congress in 2012. Individual issues of foreign newspapers and magazines were occasionally banned when they contained articles deemed too sensitive. After two U.S. media websites published articles on *Bloomberg.com* and in the *New York Times* detailing the family wealth of Xi Jinping and Wen Jiabao, websites for both media outlets were blocked.

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

### **Internet Freedom**

In 2010 the Information Office of the State Council released its first White Paper on the internet outlining the government's endeavors to allow certain freedoms of speech on the internet as long as the speech did not endanger state security, subvert state power, damage state honor and interests, jeopardize state religious policy, propagate heretical or superstitious ideas, or spread rumors and other content forbidden by laws and administrative regulations, among other caveats. The internet was widely available and widely used. The China Internet Network Information Center (CNNIC) reported that by the end of 2012 the number of internet users reached 564 million, including 420 million mobile telephone internet users. The CNNIC reported that 50.9 million new users were added in 2012 – a 3.8 percent increase from 2011. The International Telecommunication Union reported that 39 percent of individuals used the internet and 41 percent of households had access to the internet by the end of the year.

The CCP underscored the importance of maintaining security and promoting core socialist values on the internet in its official decision adopted at the Sixth Plenum of the 17th CCP Congress in October 2011. The document called for developing a “healthy and uplifting network culture” that entails measures such as “step[ping] up guidance and management over social networks and instant messaging tools, standardiz[ing] the transmission order of information on the internet, and foster[ing] a civilized and rational network environment.”

The CCP continued to increase efforts to monitor internet use, control content, restrict information, block access to foreign and domestic websites, encourage self-censorship, and punish those who ran afoul of political sensitivities. According to news sources, more than 14 government ministries participated in these efforts, resulting in the censorship of thousands of domestic and foreign websites, blogs, cell phone text messages, social networking services, online chat rooms, online games, and e-mail. These measures were not universally effective. In addition to its own extensive system of internet censorship, the government imposed more responsibilities on internet companies to implement online censorship and surveillance regimes, and it sought to prohibit anonymous expression online.

A State Council regulation deems personal blogs, computer bulletin boards, and cell phone text messages to be part of the news media, which subjects these media to state restrictions on content. Internet service providers were instructed to use only domestic media news postings, to record information useful for tracking users and their viewing habits, to install software capable of copying e-mails, and to end immediately transmission of “subversive material.”

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

In 2011 central government authorities ordered all public spaces offering free wireless internet access to install costly software that would enable police to identify users of the service. Authorities warned Beijing cafe and restaurant owners they would face a fine of 20,000 renminbi (RMB) (\$3,270) if they offered wireless internet access without installing the software. In December 2012 the NPC ratified a law requiring persons to give their real names when signing up for internet, fixed telephone line, or mobile telephone services. Providers must also require persons’ names when allowing them to post information publicly.

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

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

In June 2012, following the publication of an expose on the financial affairs of Xi Jinping's family, the government blocked access to a Western media website. In October 2012 the government blocked access to the English- and Chinese-language versions of a U.S. media website after it published an article on Wen Jiabao's family fortunes. At year's end, several Western media and social media websites were not accessible.

Some websites included images of cartoon police officers that warn users to stay away from forbidden content. Operators of web portals, blog-hosting services, and other content providers engaged in self-censorship to ensure their servers were free from politically sensitive content. Domestic websites that refused to self-censor political content were shut down, and many foreign websites were blocked. Millions of citizens had Twitter-like microblogs that circulated some news banned in the national media. The microblogs themselves were censored but often hours or days after the posting.

In July 2012 the State Internet Information Office and the State Administration of Radio, Film and Television issued a circular requiring online video content providers to review videos before making them available online and holding them responsible for the content.

Authorities employed an array of technical measures to block "sensitive" websites based in foreign countries. The ability of users to access such sensitive sites varied from city to city. The government also automatically censored e-mail and web chats based on a list of sensitive key words, such as "Falun Gong," "Dalai Lama," and "Tibetan independence." While such censorship was effective in keeping

casual users away from sensitive content, it was defeated through the use of various technologies. Information on proxy servers outside China and software for defeating official censorship was readily available inside the country, but the government increasingly blocked access to the websites and proxy servers of commercial virtual private network providers. Despite official monitoring and censorship, dissidents and political activists continued to use the internet to call attention to political causes such as prisoner advocacy, political reform, ethnic discrimination, and corruption. Internet users spanning the political spectrum complained of censorship. Authorities sometimes blocked or closed the blogs of a number of prominent activists, artists, scholars, and university professors during the year.

There were numerous press reports of purported cyber-attacks against foreign websites, foreign journalists, and foreign media organizations that carried information deemed offensive by the government.

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

According to online reports, in June police in Fujian detained an online activist for 10 days for her microblog comments about a June 7 bus explosion in Xiamen. Police previously detained this same blogger in January 2012 for her comments about alleged corruption behind forced home evictions and demolitions in Xiamen's Jimei district.

The blog of environmental writer Liu Futang remained inaccessible. His blog, which exposed environmental problems caused by government-backed projects, was shut down in late 2012 after a Hainan Province court found him guilty of illegally profiting from self-published books.

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

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

## Academic Freedom and Cultural Events

The government continued restrictions on academic and artistic freedom, and political and social discourse at colleges, universities, and research institutes. The General Administration of Press, Publications, Radio, Film, and Television and the Central Propaganda Department issued restrictive regulations and decisions that constrained the flow of ideas and persons. In May the media reported that the CCP issued secret instructions to university faculty identifying seven “off-limits” subjects including universal values, freedom of the press, civil society, civil rights, an independent judiciary, elite cronyism, and the historical errors of the CCP. Some academics self-censored their publications, faced pressure to reach predetermined research results, or were unable to hold conferences with international participants during politically sensitive periods. Peking University economics professor Xia Yeliang came under government criticism for calling for public discussion of reform among intellectuals, and in October he was dismissed from his university position.

In December the East China University of Political Science and Law in Shanghai dismissed law professor Zhang Xuezhong for criticizing one-party rule in an online publication. According to reports, the school administration decided Zhang was unfit to teach after he refused to admit any wrongdoing.

Censorship and self-censorship of artistic works was common, particularly those artworks deemed to involve politically sensitive subjects.

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

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

The government used political attitudes and affiliations as criteria for selecting persons for the few government-sponsored study abroad programs but did not impose such restrictions on privately sponsored students. The government and the party controlled the appointment of high-level officials at universities. While CCP

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

Foreign researchers, authors, and academics residing abroad reported they were subject to sanctions, including denial of visas, from authorities when their work did not meet with official approval. Thirteen foreign academics asserted that they were blacklisted and blocked from obtaining visas to travel to China for having contributed scholarly essays to a book on Xinjiang published in 2004. Other scholars continued to be blacklisted or faced difficulties obtaining visas because of their politically sensitive work on China.

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

### **Freedom of Assembly**

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

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

Guangdong police worked aggressively to curtail free speech and preempt peaceful assembly during the anniversary of the Tiananmen Square incident. Authorities ordered 15-day administrative detention for the organizers of one event. Police placed other activists under surveillance or house arrest, encouraged some to leave town on “vacation,” or invited them to police stations for “tea” and questioning. Police also reportedly restricted the freedom of Foshan rights activist Chen Qitang and Guangzhou rights activists Wang Aizhong and Tang Jingling in late May and early June in advance of and during the anniversary of the Tiananmen incident.

In January, Guangzhou police detained numerous persons involved in public demonstrations against the provincial propaganda department’s censorship of *Southern Weekend*’s New Year’s greeting. In addition to administrative detentions and formal arrests, police reportedly held a number of participants in irregular detention facilities including a movie theater and a military base (see section 2.a.).

On January 2, police in the Luoxi neighborhood of Guangzhou preemptively detained dozens of activists, including organizer Xu Lin, for planning a musical performance and poetry recitation at a public square to celebrate the New Year.

On February 23, Liu Yuandong, Sun Desheng, and 12 others were detained in Guangdong for their participation in protests directed at North Korea's nuclear test. Most of the protesters were freed or given administrative detentions, but police formally arrested and charged Liu on April 3. According to media reports, police subjected Liu and Sun to mistreatment in custody including sleep deprivation. On April 12, authorities in Dongguan, Guangdong Province, gave four activists administrative detentions after they held up banners calling for Liu's release. On August 13, authorities in Guangzhou again detained Sun Desheng for the crimes of gathering crowds and disrupting public order.

In May, Chengdu authorities preemptively deployed 170,000 security personnel throughout the city on the date of a planned protest against the construction of a nearby petrochemical plant and its production of paraxylene. Authorities also detained suspected activists in the days leading up to the planned protest.

Also in May, Changsha authorities in Hunan Province detained Xiang Yuhan following his organization of a peaceful march of 100 persons in commemoration of the International Day Against Homophobia. Xiang was confined for 12 days in administrative detention on a charge of "illegal protest."

In February the Nanjing NGO Tianxiagong (Justice for All) won a lawsuit against a hotel in Suzhou that in 2012 had canceled its conference reservations at the last moment on order from the local PSB. In May another NGO's legal rights conference in Hangzhou faced similar obstructions when hotels canceled reservations. The hotels informed the NGO that Zhejiang and Jiangsu province security officers ordered authorities not to permit holding the gathering anywhere in the provinces.

All concerts, sports events, exercise classes, or other meetings of more than 200 persons require approval from public security authorities. Although peaceful protests are legal, police rarely granted approval. Despite restrictions there were many demonstrations, but those with political or social themes were broken up quickly, sometimes with excessive force. The number of "mass incidents" and protests, including some violent protests, against local governments increased during the year. According to an international NGO, a former leading member of

the CCP's Politics and Law Commission stated that the country experienced 30,000 to 50,000 mass incidents every year. As in past years, the vast majority of demonstrations concerned land disputes; housing problems; industrial, environmental, and labor matters; government corruption; taxation; and other economic and social concerns. Others were provoked by accidents or were related to personal petitions, administrative litigation, and other legal processes.

Disputes over land expropriation continued to trigger large-scale clashes between police and protesters.

The law protects an individual's ability to petition the government, but persons petitioning the government faced restrictions on their rights to assemble and raise grievances (see section 1.d.). Most petitions addressed grievances about land, housing, entitlements, the environment, or corruption. Most petitioners sought to present their complaints at national and provincial "letters and visits" offices.

Although banned by regulations, retaliation against petitioners reportedly continued. This was partly due to incentives the central government provided to local officials to prevent petitioners from raising complaints to higher levels. Incentives included provincial cadre evaluations based in part on the number of petitions from their provinces. This initiative aimed to encourage local and provincial officials to resolve legitimate complaints but also resulted in local officials sending security personnel to Beijing and forcibly returning the petitioners to their home provinces to prevent them from filing complaints against local officials with the central government. Such detentions often went unrecorded. Rules issued by the General Office of the State Council mandate sending officials from Beijing to the provinces to resolve petition problems locally, thereby reducing the number of petitioners entering Beijing. The rules also mandate a 60-day response time for petitions and provide for a single appeal in each case.

Petitioners faced harassment, illegal detention, and even more severe forms of punishment when attempting to travel to Beijing to present their grievances.

On January 5, authorities prevented 13 petitioners from Fujian Province from requesting assistance with their petitions from a foreign embassy in Beijing. According to online reports, police detained six of the petitioners for five days and one petitioner for 10 days.

### **Freedom of Association**

The law provides for freedom of association, but the government restricted this right. CCP policy and government regulations require that all professional, social, and economic organizations officially register with, and receive approval from the government. These regulations prevented the formation of truly autonomous political, human rights, religious, spiritual, labor, and other organizations that the government believed might challenge its authority.

The government maintained tight controls over civil society organizations.

According to regulations issued by the State Administration for Foreign Exchange, foreign exchange donations to or by domestic institutions must “comply with the laws and regulations...and shall not go against social morality or damage public interests and the legitimate rights and interests of other citizens.” For donations to a domestic organization from a foreign NGO, the regulations require all parties and the banks to approve additional measures prior to processing a transaction. Application of the regulation varied, with some NGOs successfully navigating the requirements, others identifying other options by which to receive funds, and some severely limiting or shutting down operations.

To register, an NGO must find a government agency to serve as its organizational sponsor, have a registered office, and hold a minimum amount of funds. Some organizations with social or educational purposes that previously registered as private or for-profit businesses reportedly were requested to find a government sponsor and reregister as NGOs during the year. Finding a government sponsor was often very difficult, since the government department can be held responsible if the NGO engages in sensitive behavior. In March the NPC announced changes for NGO registration that waived the requirement to find a government sponsor. However, these changes only apply to four types of NGOs – industrial associations, charities, community services, and organizations dedicated to the promotion of technology. NGO sources reported that the new regulations do not apply to organizations primarily focused on advocacy or rights promotion.

In July the Ministry of Civil Affairs announced the intention to pass legislation that would allow international NGOs to register with provincial civil affairs authorities instead of the ministry. By year’s end the legislation had not been promulgated.

In 2012 Guangdong provincial government officials initiated proposals aimed at facilitating the operations and work of many NGOs, including, for example, simplifying registration procedures so that certain categories of NGOs could register directly with the Ministry of Civil Affairs. Implementation of regulations

associated with these proposals was often inconsistent. Although some NGOs perceived to be working in nonpolitically sensitive areas enjoyed increased opportunities, others continued to face interference from authorities, for example, through increased financial scrutiny. Labor NGOs in Shenzhen continued to face a challenging environment, including registration hurdles and occasional government interference with their activities.

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

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

According to the Ministry of Civil Affairs, by the end of 2012 there were at least one million NGOs either operating without legal status or registered as companies. The country had approximately 462,000 legally registered social organizations, including 255,000 social groups, 204,000 civil noncommercial units, and 2,614 foundations. In 2012 an official of the Ministry of Civil Affairs wrote, “In 2007 China started to use the term ‘social organization’ instead of ‘civil organization’ because ‘civil’ contrasts with ‘official’ and reflected the opposing roles of civil society and government in the traditional political order. The 16th and 17th CCP Congresses changed the name to ‘social organization.’ NGOs existed under a variety of formal and informal guises, including national mass organizations created and funded by the CCP, known as ‘government NGOs.’”

The lack of legal registration created numerous logistical challenges for NGOs, including difficulty opening bank accounts and receiving foreign funding, hiring workers, fundraising, and renting office space. NGOs that opted not to partner with government agencies could register as commercial consulting companies, which allowed them to obtain legal recognition at the cost of forgoing tax-free status. Security authorities routinely warned domestic NGOs, regardless of their registration status, not to accept donations from the foreign-funded National Endowment for Democracy and other international organizations deemed sensitive by the government.

In July officials from the Beijing Civil Affairs Bureau raided, closed, and confiscated materials from the think tank Transition Institute for not registering properly. The institute registered as a business, and its head, Guo Yushan, was associated with the New Citizens Movement and activists such as Chen Guangcheng and Xu Zhiyong.

Authorities supported the growth of some NGOs that focused on social problems such as poverty alleviation and disaster relief, but remained concerned that these organizations might emerge as a source of political opposition. NGOs working in the TAR and other Tibetan areas faced an increasingly difficult operating environment, and many were forced to curtail their activities altogether due to travel restrictions, official intimidation of staff members, and the failure of local partners to renew project agreements.

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

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

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

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

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

Increasingly the government silenced activists by denying them permission to travel, both internationally and domestically, or keeping them under unofficial house arrest. In the spring officials denied Jiangsu environmental activist Wu Lihong a passport to travel abroad to accept a human rights award, although his wife and daughter were eventually permitted to travel and accepted the award on his behalf. Uighur economist Ilham Tohti was detained at Beijing airport and prevented from traveling abroad to accept a position as a visiting scholar.

In-country Movement: Authorities heightened restrictions on freedom of movement, particularly to curtail the movement of individuals deemed politically sensitive, before key anniversaries, visits by foreign dignitaries, or major political events and to forestall demonstrations. Freedom of movement continued to be very limited in the TAR and other Tibetan areas. Police maintained checkpoints in most counties and on roads leading into many towns, as well as within major cities such as Lhasa. Tibetans from other provinces reported that authorities subjected them to onerous documentation requirements to enter the TAR and required Tibetans who were not residents of Lhasa to obtain permission to enter the city, often forcing them to stay in specially designated accommodations, requirements not imposed on Han Chinese visitors to the TAR.

In 2012 prominent Tibetan poet and blogger Woesser, a Beijing resident, was required to leave Beijing and return to Lhasa for three months before and during the 18th Party Congress in Beijing. Uighur economics professor Ilham Tohti was also required to leave Beijing during the Party Congress. Feng Zhenghu, Mao Hengfeng, and other Shanghai activists reported being repeatedly detained upon arrival in Beijing when attempting to visit other activists or petition the national government.

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

The household registration system added to the difficulties rural residents faced even after they relocated to urban areas and found employment. According to the 2012 *Statistical Communique of the People's Republic of China on 2012 National Economic and Social Development* published in February by the Ministry of Human Resources and Social Security, 279 million persons lived outside the jurisdiction of their household registration. Of that number, 236 million individuals worked outside their home district. Many migrant workers and their

families faced numerous obstacles with regard to working conditions and labor rights. Many were unable to access public services, such as public education or social insurance, in the cities where they lived and worked because they were not legally registered urban residents. Poor treatment and difficulty integrating into local communities contributed to increased unrest among migrant workers in the Pearl River Delta. Migrant workers had little recourse when abused by employers and officials. Some major cities maintained programs to provide migrant workers and their children access to public education and other social services free of charge, but migrants in some locations reported difficulty in obtaining these benefits due to the onerous bureaucratic processes involved in obtaining access to urban services.

Under the “staying at prison employment” system applicable to recidivists incarcerated in RTL camps, authorities denied certain persons permission to return to their homes after serving their sentences. Some released or paroled prisoners returned home but were not permitted freedom of movement.

Foreign Travel: The government permitted legal emigration and foreign travel for most citizens. Some academics and activists continued to face travel restrictions, especially around sensitive anniversaries (see section 1.d.). The government exercised exit control for departing passengers at airports and other border crossings and utilized this exit control to deny foreign travel to dissidents and persons employed in sensitive government posts. Throughout the year lawyers, artists, authors, and other activists were at times prevented from freely exiting the country. Border officials and police cited threats to “national security” as the reason for refusing permission to leave the country. Authorities stopped most persons at the airport at the time of the attempted travel. Wuxi environmental activist Wu Lihong was prevented from traveling abroad to accept a human rights award in July. Shanghai activist Zheng Enchong was prevented from accepting a teaching fellowship in Hong Kong in August. Shanghai activist Chen Jianfang was prevented from traveling to a UN human rights training course in Geneva in September. Well known artist Ai Weiwei was denied a passport to attend exhibitions of his work abroad. Other activists also reported being blocked from traveling abroad.

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

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

In the TAR and Tibetan areas of Qinghai, Gansu, and Sichuan provinces, ethnic Tibetans experienced great difficulty acquiring passports. The unwillingness of Chinese authorities in Tibetan areas to issue or renew passports for ethnic Tibetans created, in effect, a ban on foreign travel for a large segment of the Tibetan population. Han residents of Tibetan areas did not experience the same difficulties.

Authorities denied Tibetan blogger and poet Woesser's passport application, preventing her from receiving the Secretary of State's International Women of Courage award in person. According to an RFA report, in June authorities placed Woesser and her husband under house arrest for speaking up about conditions in Tibet ahead of a state-sponsored trip by foreign journalists to the TAR.

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

Emigration and Repatriation: The government continued to try to prevent many Tibetans and Uighurs from leaving the country and detained many who were apprehended in flight (see Tibet Annex). During the year 171 Tibetans transited the UNHCR reception center in Kathmandu. There also were reports of the forcible return of Uighur asylum seekers from Malaysia in 2012. Of a group of 20 Uighurs returned from Cambodia in 2009, three persons, a woman and two children, were reportedly freed, and in 2011, 16 others received prison sentences ranging from 16 years to life. Chinese authorities continued to refuse to provide information regarding the whereabouts of the remaining individual.

## **Protection of Refugees**

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

Refoulement: The government did not provide protection against the expulsion or forcible return of vulnerable refugees and asylum seekers, especially North Korean and Kachin refugees, to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. The government continued to consider all North Koreans “economic migrants” rather than refugees or asylum seekers, and the UNHCR continued to have no access to North Korean or Burmese refugees inside China. The lack of access to durable solutions and options, as well as constant fear of forced repatriation by authorities, left North Korean refugees vulnerable to human traffickers. Reports of various exploitation schemes targeting North Korean refugees, such as forced marriages, forced labor, and prostitution, were common. The government continued to deny the UNHCR permission to operate along its borders with North Korea and Burma.

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

On May 27, there were reports that the government of Laos coordinated with the Democratic People’s Republic of Korea (DPRK) to deport nine North Korean asylum seekers from Laos to China. On June 3, the Foreign Ministry spokesperson stated the nine individuals entered China on May 27 and subsequently left Beijing bound for the DPRK holding valid travel documents and visas.

After two-time North Korean defector and South Korean citizen Kim Kwang-ho defected from North Korea to China for the second time, Chinese security officials in Yanji, Jilin Province, detained Kim, his wife Kim Ok-sil, and their daughter in July and held them until August before allowing them to return to South Korea. Chinese authorities reportedly repatriated to North Korea Kim’s North Korean brother- and sister-in-law, who defected with him.

Refugee Abuse: The intensified crackdown begun in 2008 against North Korean asylum seekers and refugees reportedly extended to harassment of religious communities along the border. The government arrested and detained individuals who provided food, shelter, transportation, and other assistance to North Koreans. According to reports some activists or brokers detained for assisting North Koreans were charged with human smuggling, and in some cases the North Koreans were forcibly returned. There were also reports that North Korean agents operated clandestinely within the country to repatriate North Korean citizens forcibly. According to press reports, some North Koreans detained by Chinese police faced repatriation unless they could pay bribes to secure their release.

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

Durable Solutions: The government largely cooperated with the UNHCR when dealing with the resettlement of ethnic Han Chinese or ethnic minorities from Vietnam and Laos who resided in the country since the Vietnam War era. During the year the government and the UNHCR continued discussions concerning the granting of citizenship to these long-term residents and their children, many of whom were born in China.

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

The constitution states that “all power in the People’s Republic of China belongs to the people” and that the organs through which the people exercise state power are the NPC and the people’s congresses at provincial, district, and local levels. While the law provides citizens the right to change their government peacefully, citizens cannot freely choose or change the laws or officials that govern them. In fact the CCP controlled virtually all elections and continued to control appointments to positions of political power.

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

Recent Elections: The NPC, composed of up to 3,000 deputies, elects the president and vice president, the premier and vice premiers, and the chairman of the State Central Military Commission. The NPC Standing Committee, which

consisted of 175 members, oversaw these elections and determined the agenda and procedures for the NPC.

The NPC Standing Committee remained under the direct authority of the CCP, and most legislative decisions require the concurrence of the CCP's seven-member Politburo Standing Committee. Despite its broad authority under the state constitution, the NPC did not set policy independently or remove political leaders without the CCP's approval.

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

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

In 2012 the local governments kept most independent candidates – those without official government backing – off the ballots despite their meeting nomination criteria. No declared independent candidates won election in 2012. Election officials pressured independent candidates to renounce their candidacies, manipulated the ballot to exclude independent candidates, refused to disclose electorate information to independent candidates, and sometimes adjusted electoral districts to dilute voter support for independent candidates.

In September an independent People's Congress candidate from Foshan City, Guangdong Province, who was detained in 2011 during the People's Congress representative elections that year on a charge of undermining elections, was tried

and found guilty of “disrupting elections.” According to open source websites, hundreds of her supporters who wanted to observe her trial were denied access to the court.

Political Parties: Official statements asserted, “The political party system [that] China has adopted is multi-party cooperation and political consultation under” CCP leadership. The CCP, however, retained a monopoly on political power, and the government forbade the creation of new political parties. The government officially recognized nine parties founded prior to 1949, and parties other than the CCP held 30 percent of the seats in the NPC. Activists attempting to support unofficial parties were arrested, detained, or confined.

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

Participation of Women and Minorities: While the government placed no special restrictions on the participation of women or minority groups in the political process, women held few positions of significant influence in the CCP or government structure. Among the 2,987 delegates of the 11th NPC (term 2008-13), 637 were women (21 percent).

Ten women occupied ministerial or higher-ranked positions.

According to government-provided information, there were more than 230 female provincial and ministerial officials, 10 percent of the overall total; 670 female mayors and vice mayors, twice the number from 1995; and one provincial governor, Li Bin in Anhui Province (until June). A total of 37 women were members of provincial standing committees, constituting 9 percent of standing committee members. Following the 18th Party Congress in November, two women were members of the CCP’s 25-member Politburo. There were no women in the Standing Committee of the Politburo. There were approximately 15 million female CCP cadres, approximately one-fifth of the party’s membership.

The government encouraged women to exercise their right to vote in village committee elections and to run in those elections, although only a small fraction of elected members were women. In many locations a seat on the village committee was reserved for a woman, who was usually given responsibility for family planning. The election law provides a general mandate for quotas for female and ethnic minority representatives, but achieving these quotas often required election authorities to violate the election procedures specified in the election law. During the 2011-12 local people's congresses elections, many electoral districts in which independent candidates campaigned used these quotas as justification to thwart the independent candidacies.

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

The 18th Communist Party Congress elected 10 members of ethnic minority groups as members of the Central Committee.

The only ministerial-level post held by an ethnic minority member was in the State Ethnic Affairs Commission, headed by Yang Jing, an ethnic Mongol from Inner Mongolia. Until November 2012 Hui Liangyu of the Hui ethnic group was a member of the Politburo. Minorities held few senior CCP or government positions of significant influence (see also section 6, National/Racial/Ethnic Minorities).

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

Although according to the law officials face criminal penalties for corruption, the government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity. Many cases of corruption involved areas heavily regulated by the government, such as land-usage rights, real estate, and infrastructure development, which were susceptible to fraud, bribery, and kickbacks. Court judgments often could not be enforced against powerful special entities, including government departments, state-owned enterprises, military personnel, and some members of the CCP.

While corruption remained a serious problem, there were increasing indications that the government recognized the seriousness of the problem.

In January the Central Commission for Discipline Inspection (CCDI), the CCP's leading body for countering corruption among members, reported that it had

investigated 155,144 corruption-related cases and closed 153,704 of them and that the CCP and government had disciplined 160,718 officials.

In October the Supreme People's Procuratorate reported that prosecutors nationwide had investigated 18,283 cases involving bribery and major embezzlement from January to August. Among the suspects were 129 officials at the director general level and above.

In December the CCP Central Committee unveiled a five-year plan to punish and prevent corruption. On December 26, the CCDI reported it had punished 25,855 individuals for breaches to antibureaucracy and formalism rules during the year, including 6,247 CCP officials.

In February 2012 the NPC's Standing Committee amended the criminal law to make citizens and companies paying bribes to foreign government officials and officials of international public organizations subject to criminal punishments of up to 10 years' imprisonment and a fine.

In October 2012 the government established a "frugal working style" rule barring government officials from spending public money on luxury items such as lavish banquets and luxury cars and from accepting expensive gifts. In September the government banned officials from using public money to send mooncakes as gifts and in December published regulations that banned dishes containing shark fin, bird nests, and wild animal products from official banquets. In December the government issued guidelines forbidding officials from chartering planes or flying in private or corporate jets overseas.

In 2012 the Supreme People's Court urged local courts to ban family members of officials and judges from being lawyers under the local court's jurisdiction. Also in 2012 the Higher People's Court of Fujian Province forbade judges from meeting privately with representatives in a case.

In February 2012 the Supreme People's Procuratorate announced the availability of a national bribery database listing individuals and companies found guilty of certain offenses, including bribing an individual or entity, and facilitating bribery. Companies and individuals must apply in writing to have the procuratorate check nationwide to determine whether a particular individual or company has been convicted of bribery offenses in the PRC. Companies must provide a copy of their business license.

In June 2012 the Supreme People's Procuratorate stated it would strengthen measures to recover and freeze illegal assets transferred abroad by corrupt officials.

Corruption: In numerous cases during the year, public officials and leaders of state-owned enterprises, who generally hold high CCP ranks, were investigated for corruption. In June the CCDI announced that Guo Yongxiang, a former deputy governor of Sichuan Province, was under investigation for suspected disciplinary violations.

In July a Beijing court sentenced former railroads minister Liu Zhijun to death, with a two-year reprieve. Liu came under scrutiny for his mismanagement of the country's high-speed train network.

On August 26, the Ministry of Supervision announced that Wang Yongchun, a vice president at state-owned China National Petroleum Corporation and the general manager of Daqing oilfield in Heilongjiang Province, was being investigated for "severe disciplinary violations."

In September the Beijing Municipal People's Procuratorate confirmed that it had indicted former Jilin vice governor Tian Xueren on corruption charges but did not provide a trial date or information about the specific charges against him. Tian was reported to have been stripped of both his party membership and government position for taking bribes.

In December the CCDI investigated Vice-Minister of Public Security Li Dongsheng for "suspected serious law and discipline violations."

Notable organizations that worked to address official corruption included the Central Commission for Discipline Inspection, the Ministry of Supervision, the National Bureau of Corruption Prevention, the International Association of Anti-Corruption Authorities, and the Anti-Corruption and Governance Research Center at Tsinghua University.

Whistleblower Protection: In 1991 the Supreme People's Procuratorate published the Regulation to Protect Citizen's Whistleblowing Rights. Whistleblowing protections are also included in various criminal and labor laws. Legal experts opined, however, that the constellation of laws and regulations did not provide adequate protections to whistleblowers. In September the government created an official website for citizens to report fraud, graft, and government mismanagement,

with priority given to those who provide their real names and contact information. The government does not provide legal protection for whistleblowers who do not use official channels.

Financial Disclosure: A 2010 regulation requires officials in government agencies or state-owned enterprises at the county level or above to report their ownership of property, including that in their spouses' or children's names, as well as their families' investments in financial assets and enterprises. According to Article 23 of the regulations, the monitoring bodies are the CCDI, the Organization Department of the CCP, and the Ministry of Supervision. The regulations do not state that declarations are to be made public. Instead, they are to go to a higher administrative level and a human resource department. Punishments for not declaring information vary from education on the regulations, warning talks, and adjusting one's work position to being relieved of one's position. Regulations further state that officials should report all income, including allowances, subsidies and bonuses, as well as income from other jobs such as giving lectures, writing, consulting, reviewing articles, painting, and calligraphy. Officials, their spouses, and the children who live with them also should report their real estate properties and financial investments. Government officials should report their marriage status, records of private travel abroad, marriage status of their children, and whether their spouses are from Hong Kong, Taiwan, or a foreign country. They must report whether their children live abroad, as well as the work status of their children and grandchildren (including those who live abroad). Officials are required to file reports annually and must report changes of personal status within 30 days.

In December 2012 officials announced that Guangdong Province would pilot a program in select districts requiring all CCP and government officials to report their assets publicly, with officials who refuse to do so to be relieved of their posts and subjected to further investigations. This program was not put into practice by year's end.

Public Access to Information: Open-government information regulations allow citizens to request information from the government. The regulations require government authorities to create formal channels for information requests and to include an appeal process if requests are rejected or not answered. They stipulate that administrative agencies should reply to requests immediately to the extent possible. Otherwise, the administrative agency should provide the information within 15 working days, with the possibility of a maximum extension of an additional 15 days. In cases in which third-party rights and interests are involved,

the time needed to consult the third party does not count against the time limits. According to the regulations, administrative agencies may collect only cost-based fees (as determined by the State Council) for searching, photocopying, postage, and similar expenses when disclosing government information on request. Citizens requesting information can also apply for a fee reduction or exemption. The regulations include exceptions for state secrets, commercial secrets, and individual privacy.

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

If information requestors believe that an administrative agency has violated the regulations, they can report it to the next higher-level administrative agency, the supervision agency, or the department in charge of open-government information. In 2011 the Supreme People's Court ruled that citizens can sue any government department that refused to provide unclassified information. Shortly thereafter a Tsinghua University graduate student sued three government ministries after her requests for information regarding the duties of 14 ministries for use in her thesis were denied. A court delayed consideration of her case pending further research, and she withdrew her lawsuit after the ministries provided the requested information.

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

The government sought to maintain control over civil society groups, halt the emergence of independent NGOs, hinder the activities of civil society and rights' activist groups, and prevent what it called the "Westernization" of the country. The government did not permit independent domestic NGOs to monitor openly or to comment on human rights conditions, and it harassed domestic NGOs. The government tended to be suspicious of independent organizations and scrutinized NGOs with financial and other links overseas. Most large NGOs were quasi-governmental, and many official NGOs had to be sponsored by government agencies. The NPC introduced new registration procedures in March that allowed certain types of nonadvocacy NGOs to register directly with the Ministry of Civil Affairs (see section 2.b., Freedom of Association).

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

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

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

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

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

### **Women**

Rape and Domestic Violence: Rape is illegal, and some persons convicted of rape were executed. The penalties for rape can range from three years in prison to a death sentence with a two-year reprieve and forced labor. The law does not address spousal rape. The government did not make available official statistics on rape or sexual assault, leaving the scale of sexual violence difficult to determine. Migrant female workers were particularly vulnerable to sexual violence.

Violence against women remained a significant problem. According to reports at least a quarter of families suffered from domestic violence, and more than 85 percent of the victims were women. Domestic violence against women included verbal and psychological abuse, restrictions on personal freedom,

economic control, physical violence, and rape. The government supported shelters for victims of domestic violence, and some courts provided protections to victims, including through restraining orders prohibiting a perpetrator of domestic violence from coming near a victim. In March, Shaanxi Province designated the Number Two People's Hospital as an antidomestic violence service station to treat victims of domestic violence, the first designation of its kind. Nonetheless, official assistance did not always reach victims, and public security forces often ignored domestic violence. In 2010 the All China Women's Federation (ACWF) reported that it received 50,000 domestic violence complaints annually. Spousal abuse typically went unreported, and an ACWF study found that only 7 percent of rural women who suffered domestic violence sought help from police. Almost 30 percent of respondents in a recent study felt that domestic violence should be kept a private matter.

While domestic violence tended to be more prevalent in rural areas, it also occurred among the highly educated urban population. The ACWF reported that approximately one-quarter of the 400,000 divorces registered each year were the result of family violence.

According to ACWF statistics nationwide in 2008 there were 12,000 special police booths for domestic violence complaints, 400 shelters for victims of domestic violence, and 350 examination centers for women claiming injuries from domestic violence. Many domestic violence shelters had inadequate facilities, required extensive documentation, or went unused. The government operated most shelters, some with NGO participation. In 2012 the government provided 680,000 office spaces in government buildings for women's resource centers.

There was no strong legal mechanism to protect women from domestic abuse. According to the ACWF, laws related to domestic violence were flawed since there was no national provision for dealing with offenders. During the year the creation of such mechanisms was added to the NPC's legislative agenda, the fifth time the ACWF submitted such a proposal. Both the marriage law and the law on the protection of women's rights and interests have stipulations that directly prohibit domestic violence, but some experts complained that the stipulations were too general, failed to define domestic violence, and were difficult to implement. Because of standards of evidence, even if certain that domestic violence was occurring, a judge could not rule against the abuser without the abuser's confession. Only 10 percent of accused abusers confessed to violent behavior, according to 2009 data from the Institute of Applied Laws. The institute reported that, although 40 to 60 percent of marriage and family cases involved domestic violence, less

than 30 percent were able to supply indirect evidence, including photographs, hospital records, police records, or children's testimony. Witnesses seldom testified in court.

Public support increased in the fight against domestic violence. A recent survey found that more than 85 percent of respondents believed that further antidomestic violence legislation was needed. A high-profile case, Kim Lee's case against her celebrity husband, Li Yang, led to public outcry when she posted pictures of her injuries on a social networking site. After months of waiting, Lee was granted a civil protection order forbidding her husband from approaching within 200 yards of her. In February a Beijing court granted Lee a divorce on the grounds of domestic abuse and issued a three-month protection order against her former husband. This case set a precedent because the court acknowledged domestic violence as grounds for divorce, granted a protection order, and ordered the former husband to pay compensation for the violence she had endured during their marriage.

Sexual Harassment: The law bans sexual harassment, and the number of sexual harassment complaints increased significantly. A 2009 Harvard University study showed that 80 percent of working women in the country experienced sexual harassment at some stage of their careers. The same study found that only 30 percent of sexual harassment claims by women achieved favorable resolutions. In November an NGO published its survey of female manufacturing workers in Guangzhou, which indicated that as much as 70 percent of Guangzhou's female workforce had been sexually harassed. Approximately half did not pursue legal or administrative actions, while 15 percent of respondents reported leaving the workplace to escape their harasser.

Sexual harassment was not limited to the workplace. According to a *China Youth Daily* survey reported in September, approximately 14 percent of women had been sexually harassed while riding the subway, and 82 percent of those polled believed the problem existed. At a Hainan Province festival in 2012, a dozen women were pinned down by a crowd of men who mauled the women and stripped off their clothes in broad daylight. Police escorted the women away and, according to press reports, subsequently detained six suspects in the assault.

According to information on the ACWF website, the internet and hotlines made it easier for women who were sexually harassed to obtain useful information and legal service. A Beijing rights lawyer told the ACWF that approximately

100-200 million women in the country had suffered or were suffering sexual harassment in the workplace but that very few legal service centers provided counseling.

Reproductive Rights: The government restricted the rights of parents to choose the number of children they have. Although national law prohibits the use of physical coercion to compel persons to submit to abortion or sterilization, intense pressure to meet birth-limitation targets set by government regulations resulted in instances of local family-planning officials' using physical coercion to meet government goals. Such practices included the mandatory use of birth control and the abortion of unauthorized pregnancies. In the case of families that already had two children, one parent was often pressured to undergo sterilization.

The National Population and Family Planning Commission reported that 13 million women annually underwent abortions caused by unplanned pregnancies. An official news media outlet also reported at least an additional 10 million chemically induced abortions or abortions performed in nongovernment facilities. Government statistics on the percentage of all abortions that were nonelective was not available. According to Health Ministry data released in March 2012, a total of 336 million abortions and 222 million sterilizations had been carried out since 1971.

The national family-planning authorities shifted their emphasis from lowering fertility rates to maintaining low fertility rates and emphasized quality of care in family-planning practices. In 2010 a representative of the National Population and Family Planning Commission reported that 85 percent of women of childbearing age used contraception. Of those, 70 percent used a reversible method. A survey taken in September, however, found that only 12 percent of women between the ages of 20 and 35 had a proper understanding of contraceptive methods. The country's birth-limitation policies retained harshly coercive elements in law and practice. The financial and administrative penalties for unauthorized births were strict.

The 2002 national population and family-planning law standardized the implementation of the government's birth-limitation policies, although enforcement varied significantly. The law grants married couples the right to have one birth and allows couples to apply for permission to have a second child if they meet conditions stipulated in local and provincial regulations. The one-child limit was more strictly applied in urban areas, where only couples meeting certain conditions were permitted to have a second child (e.g., if both of the would-be

parents were an only child). In most rural areas couples were permitted to have a second child in cases where their first child was a girl. Ethnic minorities were subject to less stringent rules. Nationwide 35 percent of families fell under the one-child restrictions, and more than 60 percent of families were eligible to have a second child, either outright or if they met certain criteria. The remaining 5 percent were eligible to have more than two children. According to government statistics, the average fertility rate for women nationwide was 1.8, and in the country's most populous and prosperous city, Shanghai, the fertility rate was 0.8. In December the NPC Standing Committee amended the one-child policy to allow couples in which at least one spouse is an only child to have two children.

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

Regulations requiring women who violate family-planning policy to terminate their pregnancies still exist in Liaoning and Heilongjiang provinces. Other provinces – Fujian, Guizhou, Guangdong, Gansu, Jiangxi, Qinghai, Shanxi, and Shaanxi – require unspecified “remedial measures” to deal with unauthorized pregnancies. A number of online media reports indicated that migrant women applying for household registration in Guangzhou were required to have an intrauterine contraceptive device (IUD) implanted.

In October, Western media reported that officials from the Shandong Province Family Planning Commission forced their way into the home of Liu Xinwen, dragged her to a nearby hospital, and injected her with an abortion-inducing drug. Shandong officials reportedly forced Liu, who was six months into her pregnancy, to sign a document stating that she had agreed to the abortion.

The government continued to impose “child-raising fees” on violators of the one-child policy. In the first half of the year, for example, Guangzhou City collected more than RMB 300 million (\$49 million) in such fees without disclosing how the money was used. Guangdong Province reportedly refused to disclose the amount of fees it had collected from one-child policy violators. Family planning officials

in Tunchang County, Hainan Province, used fines and terminated employment as punishment for one-child policy violators.

On December 30, overseas media reported that officials at Nurluq Hospital in Keriye County of Xinjiang's Hotan Prefecture carried out forced abortions on four pregnant women. According to the report, the deputy chief of Hotan's Arish Township confirmed that authorities had carried out four of six planned abortions utilizing abortion-inducing drugs. One woman escaped and another was in the hospital awaiting the procedure, the report stated. The head of the township's Family Planning Department stated the abortions were carried out following orders from higher authorities. The husband of one victim stated that his wife had been seven months' pregnant when the procedure was performed and that the baby had been born alive before succumbing to the effects of the chemical toxins hours later.

The law requires each parent of an unapproved child to pay a "social compensation fee," which can reach 10 times a person's annual disposable income.

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

The population control policy relied on education, propaganda, and economic incentives, as well as on more coercive measures. Those who had an unapproved child or helped another do so faced disciplinary measures such as social compensation fees, job loss or demotion, loss of promotion opportunity, expulsion from the CCP (membership is an unofficial requirement for certain jobs), and other administrative punishments, including in some cases the destruction of private property.

It continued to be illegal in almost all provinces for a single woman to have a child, with fines levied for violations. The law states that family-planning bureaus conduct pregnancy tests on married women and provide them with unspecified "follow-up" services. Some provinces fined women who did not undergo periodic pregnancy tests.

Officials at all levels remained subject to rewards or penalties based on meeting the population goals set by their administrative region. Promotions for local officials

depended in part on meeting population targets. Linking job promotion with an official's ability to meet or exceed such targets provided a powerful structural incentive for officials to employ coercive measures to meet population goals. An administrative reform process initiated pilot programs in some localities that removed this criterion for evaluating officials' performance.

Although the family-planning law states that officials should not violate citizens' rights in the enforcement of family-planning policy, these rights, as well as penalties for violating them, are not clearly defined. By law citizens may sue officials who exceed their authority in implementing birth-planning policy, but few protections for whistleblowers against retaliation from local officials exist (see section 4, Whistleblower Protection). The law provides significant and detailed sanctions for officials who help persons evade the birth limitations.

According to online reports, women who registered newborns in Nanhai District, Foshan, Guangdong Province, were requested to insert an IUD. Many posted online complaints that officials threatened not to register the baby if the mother did not comply, even when the newborn was the mother's only child. Other reports indicated that a mother could not enroll her child in school if she was unwilling to insert an IUD.

Discrimination: The constitution states that "women enjoy equal rights with men in all spheres of life." The Law on the Protection of Women's Rights and Interests provides for equality in ownership of property, inheritance rights, access to education, and equal pay for equal work. The ACWF was the leading implementer of women's policy for the government, and the State Council's National Working Committee on Children and Women coordinated women's policy. Many activists and observers expressed concern that discrimination was increasing. Women continued to report that discrimination, sexual harassment, unfair dismissal, demotion, and wage discrepancies were significant problems.

Authorities often did not enforce laws protecting the rights of women. According to legal experts, it was difficult to litigate sex-discrimination suits because of vague legal definitions. Some observers noted that the agencies tasked with protecting women's rights tended to focus on maternity-related benefits and wrongful termination during maternity leave rather than on sex discrimination, violence against women, and sexual harassment.

Despite government policies mandating nondiscrimination in employment and remuneration, women reportedly earned 66 percent as much as men. The Ministry

of Human Resources and Social Security and the local labor bureaus are responsible for ensuring that enterprises complied with the labor law and the employment promotion law, each of which contains antidiscrimination provisions.

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

Women's rights advocates indicated that in rural areas women often forfeited land and property rights to their husbands in divorce proceedings. Rural contract law and laws protecting women's rights stipulate that women enjoy equal rights in cases of land management, but experts argued that this was rarely the case due to the complexity of the law and difficulties in its implementation. A 2011 interpretation of the country's marriage law by the Supreme People's Court exacerbated the gender wealth gap by stating that, after divorce, marital property belongs solely to the person registered as the homeowner in mortgage and registration documents – in most cases the husband. In determining child custody in divorce cases, judges make determinations based on the following guidelines: Children under age two should live with their mothers; custody of children two to nine years of age should be determined by who can provide the most stable living arrangement; and children 10 and over should be consulted when determining custody.

A high female suicide rate continued to be a serious problem. There were approximately 590 female suicides per day, according to a report released in September 2012 by the Chinese Center for Disease and Control and Prevention. This was more than the approximately 500 per day reported in 2009. The report noted that the suicide rate for women was three times higher than for men. Many observers believed that violence against women and girls, discrimination in education and employment, the traditional preference for male children, birth-limitation policies, and other societal factors contributed to the high female suicide rate. Women in rural areas, where the suicide rate for women was three to four times higher than for men, were especially vulnerable.

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

Women faced discrimination in higher education. The required score for the National Higher Entrance Exam was lower for men than for women at several universities. According to 2010 Ministry of Education statistics, women accounted for 49.6 percent of undergraduate students and 50.3 percent of master's students in 2012 but only 35 percent of doctoral students. Women with advanced degrees reported discrimination in the hiring process, since the job distribution system became more competitive and market driven.

Gender-based Sex Selection: According to the 2010 national census, the national average male-female sex ratio at birth was 118 to 100. Sex identification and sex-selective abortion were prohibited, but the practices continued because of traditional preference for male children and the birth-limitation policy.

## **Children**

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

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

In 2010 the official literacy rate for youth (defined as persons between the ages of 15 and 24) was 99 percent. The proportion of girls attending school in rural and minority areas was reportedly smaller than in cities. In rural areas 61 percent of boys and 43 percent of girls completed education at a grade higher than lower middle school. The government reported that nearly 20 million children of migrant laborers followed their parents to urban areas. Denied access to state-run schools, most children of migrant workers who attended school did so at unlicensed and poorly equipped schools.

Medical Care: Female babies suffered from a higher mortality rate than male babies, which was contrary to the worldwide norm. State media reported that infant mortality rates in rural areas were 27 percent higher for girls than boys and that neglect was one factor in their lower survival rate.

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

Forced and Early Marriage: The legal minimum age for marriage is 22 for men and 20 for women. Child marriage was not known to be a problem, but there were reports of babies sold to be future brides. For example, families would adopt and raise babies for eventual marriage to their sons.

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

According to the law the minimum age for consensual sex is 14.

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

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

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

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

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

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

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

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

### **Anti-Semitism**

There were no reports of anti-Semitic acts during the year. The government does not recognize Judaism as an ethnicity or religion. According to information from the Jewish Virtual Library, the country's Jewish population was 2,500 in 2012.

### **Trafficking in Persons**

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

### **Persons with Disabilities**

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

According to Article 3 of the Law on the Protection of Disabled Persons, "disabled persons are entitled to enjoyment of equal rights as other citizens in political, economic, cultural, and social fields, in family life and other aspects. The rights of disabled persons as citizens and their personal dignity are protected by law. Discrimination against, insult of, and infringement upon disabled persons is prohibited."

The Ministry of Civil Affairs and the China Disabled Persons Federation (CDPF), a government-organized civil association, are the main entities responsible for persons with disabilities. In June the CDPF stated that, based on 2010 census figures, 85 million persons with disabilities lived in the country. According to government statistics, in 2011 there were 5,254 vocational training facilities, which provided training for 299,000 persons with disabilities. Of the 32 million persons with disabilities of working age, more than 22 million were employed. Government statistics stated that 7.4 million persons with disabilities enjoyed "minimum-life-guarantee" stipends, and nearly three million had social insurance.

The law prohibits discrimination against minors with disabilities and codifies a variety of judicial protections for juveniles. In 2007 the Ministry of Education reported that nationwide there were 1,618 schools for children with disabilities. According to NGOs, there were approximately 20 million children with disabilities, only 2 percent of whom had access to education that could meet their needs.

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

Nearly 100,000 organizations existed, mostly in urban areas, to serve those with disabilities and protect their legal rights. The government, at times in conjunction with NGOs, sponsored programs to integrate persons with disabilities into society.

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

In part as a result of discrimination, unemployment among adults with disabilities remained a serious problem. The law requires local governments to offer incentives to enterprises that hire persons with disabilities. Regulations in some parts of the country also require employers to pay into a national fund for persons with disabilities when the employees with disabilities do not make up the statutory minimum percentage of the total workforce.

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

The law forbids the marriage of persons with certain mental disabilities, such as schizophrenia. If doctors find that a couple is at risk of transmitting congenital disabilities 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 births of children without disabilities.

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

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

Minority groups in border and other regions had less access to education than their Han counterparts, faced job discrimination in favor of Han migrants, and earned incomes well below those in other parts of the country. Government development programs often disrupted traditional living patterns of minority groups and included, in some cases, the forced relocation of persons. Han Chinese benefited disproportionately from government programs and economic growth. As part of its emphasis on building a “harmonious society” and maintaining social stability, the government downplayed racism and institutional discrimination against minorities, which remained the source of deep resentment in the XUAR, the Inner Mongolia Autonomous Region (IMAR), the TAR, and other Tibetan areas.

Ethnic minorities represented approximately 14 percent of delegates to the NPC and more than 15 percent of NPC Standing Committee members, according to an official report issued in 2011. A 2011 article in the official online news source for overseas readers stated that ethnic minorities comprised 41 percent of cadres in the Guangxi Zhuang Autonomous Region, 25 percent of cadres in Ningxia Hui Autonomous Region, and 51 percent of cadres in the XUAR. According to a July 2012 article from the official Xinhua News Agency, 32 percent of cadres in Yunnan Province were members of an ethnic minority. A June 5 government report stated that, of the 296 civil servants Guangxi Province recruited in 2012, almost 60 percent were ethnic minorities. During the year all five of the country’s ethnic minority autonomous regions had chairmen (equivalent to the governor of a province) from minority groups. The CCP secretaries of these five autonomous regions were all Han. Han officials continued to hold the majority of the most

powerful CCP and government positions in minority autonomous regions, particularly the XUAR.

The government's policy to encourage Han Chinese migration into minority areas significantly increased the population of Han in the XUAR. In recent decades the Han-Uighur ratio in the capital of Urumqi reversed from 20/80 to 80/20 and continued to be a source of Uighur resentment. Discriminatory hiring practices gave preference to Han and reduced job prospects for ethnic minorities. According to the 2010 national census, 8.75 million, or 40 percent, of the XUAR's 21.8 million official residents were Han. Hui, Kazakh, Kyrgyz, Uighur, and other ethnic minorities constituted approximately 13 million XUAR residents, or 60 percent of the total population. Official statistics understated the Han population, because they did not count the tens of thousands of Han Chinese who were long-term "temporary workers." As the government continued to promote Han migration into the XUAR and filled local jobs with domestic migrant labor, local officials coerced young Uighur women to participate in a government-sponsored labor transfer program to cities outside the XUAR, according to overseas human rights organizations.

The XUAR government took measures to dilute expressions of Uighur identity, including reducing the use of ethnic minority languages in XUAR schools and instituting Mandarin Chinese language requirements that disadvantaged ethnic-minority teachers. The government continued to apply policies that prioritized standard Chinese for instruction in school, thereby reducing or eliminating ethnic-language instruction. The dominant use of Mandarin Chinese in government, commerce, and academia disadvantaged graduates of minority-language schools who lacked Mandarin Chinese proficiency.

Authorities continued to implement repressive policies in the XUAR and targeted the region's ethnic Uighur population. Officials in the XUAR continued to implement a pledge to crack down on the government-designated "three forces" of religious extremism, "splittism," and terrorism, and they outlined efforts to launch a concentrated antiseparatist re-education campaign. Some raids, detentions, and judicial punishments ostensibly directed at individuals or organizations suspected of promoting the "three forces" appeared to be targeted at groups or individuals peacefully seeking to express their political or religious views. The government continued to repress Uighurs expressing peaceful political dissent and independent Muslim religious leaders, often citing counterterrorism as the reason for taking action.

According to the 2013 *China Law Yearbook*, authorities in 2012 arrested 1,105 individuals for “endangering state security,” a 19 percent increase from 2011. The NGO Dui Hua estimated that arrests from Xinjiang accounted for 75 percent of “endangering state security” charges.

Uighurs continued to be sentenced to long prison terms, and in some cases executed without due process, on charges of separatism and endangering state security. The government pressured foreign countries to repatriate Uighurs, who faced the risk of imprisonment and mistreatment upon return. Some Uighurs refouled to China have simply disappeared.

Freedom of assembly was severely limited during the year in the XUAR. For information about violations of religious freedom in Xinjiang, please see the Department of State’s *International Religious Freedom Report* at [www.state.gov/j/drl/irf/rpt/](http://www.state.gov/j/drl/irf/rpt/).

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

Possession of publications or audiovisual materials discussing independence, autonomy, or other sensitive subjects was not permitted. Uighurs who remained in prison at year’s end for their peaceful expression of ideas the government found objectionable included Abduhelil Zunun. Reportedly, Uighur poet Nurmuhemmet Yasin, originally imprisoned in 2005, died in prison in 2011.

XUAR and national-level officials defended the campaign against the three forces of religious extremism, “splittism,” and terrorism and other policies as necessary to maintain public order. Officials continued to use the threat of violence as justification for extreme security measures directed at the local population, journalists, and visiting foreigners.

The law criminalizes discussion of separatism on the internet and prohibits use of the internet in any way that undermines national unity. It further bans inciting ethnic separatism or “harming social stability,” and requires internet service providers and network operators to set up monitoring systems or to strengthen existing ones and report violations of the law.

Han control of the region’s political and economic institutions also contributed to heightened tension. Although government policies continued to allot economic

investment in and brought economic improvements to the XUAR, Han residents received a disproportionate share of the benefits. Job advertisements often made clear that Uighur applicants would not be considered.

Reuters News Agency reported that in November police used electric batons to prevent approximately 100 ethnic Mongols from attending the trial of six nomadic herders charged with sabotaging production and intentionally destroying property. Authorities arrested the six herders in June after a confrontation with employees of a state-owned forestry company. Protests against land seizures occurred throughout the year across the IMAR, resulting in detentions and police abuse, as the regional government sought to implement Beijing's policy of resettling China's nomadic population.

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

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

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

In June 2012 the Beijing LGBT center was notified by property management that its lease would be terminated early due to complaints that it was too noisy. Neighbors reportedly pressured management to terminate the lease after learning that it was an LGBT organization. The center was able to recoup only less than one-half of its investment of RMB 11,000 (\$1,800) for the move.

In September organizers of the China Charity Fair in Shenzhen, Guangdong Province, told two gay rights advocacy groups that they could not display their advertisements and informational brochures because they were not registered with the Ministry of Civil Affairs. One of the advocacy groups attempting to participate reported that his organization unsuccessfully sought to register with the ministry for several years, despite making dozens of visits to local government offices.

In contrast with 2012, there reportedly was no government interference with the seventh Beijing Queer Film Festival. Organizers kept a low profile.

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

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

Despite provisions in the law, discrimination against persons with HIV/AIDS and hepatitis B carriers (including 20 million chronic carriers) remained widespread in many areas, and local governments sometimes tried to suppress their activities. In August 2012 a man who was refused employment after it was discovered he had hepatitis was awarded RMB 8,000 (\$1,310) in damages by a Xi'an court.

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

Western media reported that on May 30, Guangxi activist Ye Haiyan, who advocated for the rights of prostitutes and persons infected with HIV/AIDS, was beaten in her home by a group of 10 police officers before being detained at the local police station in Bobai County.

While in the past, persons with HIV/AIDS were routinely denied admission to hospitals, discrimination was less overt, and some hospitals came up with excuses for not being able to treat them. The hospitals feared that, should the general population find out that they were treating HIV/AIDS patients, patients would choose to go elsewhere. It was common practice for general hospitals to refer patients to specialty hospitals working with infectious diseases

International involvement in HIV/AIDS prevention, care, and treatment, as well as central government pressure on local governments to respond appropriately, brought improvements in many localities. Some hospitals that previously refused to treat HIV/AIDS patients had active care and treatment programs because domestic and international training programs improved the understanding of local health-care workers and their managers. In Beijing dozens of local community centers encouraged and facilitated HIV/AIDS support groups.

In March 2012 Zhejiang Province eliminated its mandatory HIV testing for suspects arrested for drug charges, a move seen as a step in protecting the privacy of the individuals.

On July 1, Guangxi Zhuang Autonomous Region implemented new legislation requiring real name registration for HIV testing and obliging individuals who tested positive inform their spouses.

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

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

In July 2012 a widely used public health website for persons infected with hepatitis was blocked within the country. The website had been blocked two times earlier, in 2007 and 2008. The website's main goal is to eliminate discrimination of hepatitis carriers and provide a social forum to build awareness of the disease.

In October the Ministry of Commerce posted online for public consultation draft regulations that would ban individuals with AIDS from entering public bathhouses. The draft regulations stipulated a fine of RMB 30,000 (\$4,910) for violators and mandated that all spas, hot springs, and bathhouses post anti-HIV/AIDS visitor signs on their premises. At year's end the draft regulations remained under review.

## **Section 7. Worker Rights**

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

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

The Trade Union Law gives the All-China Federation of Trade Unions (ACFTU) control over all union organizations and activities, including enterprise-level unions. The ACFTU is a CCP organ chaired by a member of the Politburo and is tasked to "uphold the leadership of the Communist Party." The ACFTU and its provincial and local branches continued aggressively to organize new constituent unions and add new members, especially in large, multinational enterprises.

According to the ACFTU the total trade union membership reached 280 million during the year, 109 million of whom were rural-urban migrant workers.

The law provides specific legal protections against antiunion discrimination and specifies that union representatives may not be transferred or terminated by enterprise management during their term of office. While there were no publicly available official statistics on the enforcement of these laws, there were periodic domestic media reports of courts awarding monetary compensation for wrongful terminations of union representatives.

The Trade Union Law specifically assigns the ACFTU and affiliated unions the responsibility to “coordinate the labor relations and safeguard the labor rights and interests of the enterprise employees through equal negotiation and collective contract system” and to represent employees in negotiating and signing collective contracts with enterprises or public institutions. The law states that trade union representatives at each level should be elected.

The Labor Dispute Mediation and Arbitration Law provides for labor dispute resolution through a three-stage process: mediation between the parties, arbitration by officially designated arbitrators, and litigation. A key article of this law requires employers to consult with labor unions or employee representatives on matters that have a direct bearing on the immediate interests of their workers.

The Labor Contract Law provides that labor unions “shall assist and direct the employees” in establishing “a collective negotiation mechanism” and that collective contracts can include “matters of remuneration, working hours, breaks, vacations, work safety and hygiene, insurance, benefits, etc.” It further provides that there may be industrial or regional collective contracts “in industries such as construction, mining, catering services, etc. in the regions at or below the county level.”

The labor law allows for collective bargaining for workers in all types of enterprises, and collective contract regulations provide protections against discrimination and unfair dismissal for employee representatives during collective consultations. Regulations require a union to gather input from workers prior to consultation with management and to submit collective contracts to workers or their congress for approval. There is no legal obligation for employers to negotiate, and some employers refused to do so.

If collective bargaining negotiations do begin, there is no requirement for employers to bargain in good faith. If no agreement is reached, the employer does not have a right to lock out the workers, and the workers do not have a right to strike. While work stoppages are not expressly prohibited in law and it is not illegal for workers to strike spontaneously, Article 53 of the constitution has been interpreted as a ban on labor strikes by obligating all citizens to “observe labor discipline and public order.”

Although the ACFTU, especially at provincial levels, often played an important role in advocacy for improved labor protections during 2012, this activism stalled during the year, in part due to a lack of clear direction from the Xi Jinping and Li Keqiang administration. During the ACFTU’s 16th National Congress in October, high-level officials called on participants to improve the lives of workers through proactive employment policies, a better social safety net, and attention to safety in the workplace. They noted the need for both increased government enforcement and supervision and responsibility by trade unions and the public.

In November the CCP concluded a high-level meeting by issuing a resolution that outlined reforms with the potential to affect freedom of association and collective bargaining, including expanding the use of employees’ representative committees and innovating channels for workers to make appeals. The role of the ACFTU in a strike is primarily limited to involvement in investigations and assistance to the Ministry of Human Resources and Social Security in resolving disputes.

ACFTU constituent unions were generally ineffective in representing and protecting the rights and interests of workers. This was particularly true in the case of migrant workers, who generally have less interaction with the ACFTU, who tend to work in foreign-invested enterprises, and for whom, especially among second-generation migrant workers, expectations of working conditions have increased. The ACFTU and the CCP maintain a variety of mechanisms to influence the selection of trade union representatives. Although the law states that trade union officers at each level should be elected, most factory-level officers were appointed by ACFTU-affiliated unions, often in coordination with employers, and were drawn largely from the ranks of management. Direct election by workers of union leaders continued to be rare, occurred only at the enterprise level, and was subject to supervision by higher levels of the union or the CCP. In enterprises where direct election of union officers took place, regional ACFTU officers and local CCP authorities retained control over the selection and approval of candidates. Even in these cases, workers and NGOs expressed concern about the

sustainability of elections and the knowledge and capacity of elected union officials who often lacked collective bargaining skills.

In March 2012 the Fair Labor Association (FLA) and Apple drafted an action plan for remediation at Foxconn supplier facilities. A key component of this action plan was the establishment of union elections. In its final report the FLA verified that no workplace elections had been conducted in the three facilities (Guanlan, Longhua, and Chengdu) since the beginning of the year.

In a joint open letter to the Shenzhen Federation of Trade Unions (SFTU) in October, a group of students from nine universities in China outlined their findings in five Shenzhen factories at which the SFTU had purportedly adopted direct elections. While the elections did occur in many cases, the students found that trade union committees were still composed of members of company management. They also found that the union continued to fail to protect workers from basic labor law violations.

Many autonomous regions and municipalities enacted local rules allowing collective wage negotiation, and some limited form of collective bargaining was more or less compulsory in 25 of 31 provinces, according to the ACFTU. The Guangdong provincial government guidelines on enterprise collective wage bargaining require employers to give employee representatives information regarding a company's operations, including employee pay and benefits, to be used in wage bargaining. The guidelines also allow the local labor bureau, if requested by the employees and employers, to act as a mediator to help determine wage increases.

Despite the Labor Contract Law's provisions for collective consultation related to common areas of dispute such as wages, hours, days off, and benefits, noncompliance with this provision, even at the minimum levels required by law, was common. Instead, tactics used by management included forcing employees to sign blank contracts and failing to provide workers a copy of their contract. Lack of government resources also undermined effective implementation and enforcement of the Labor Contract Law.

The number of labor disputes nationwide continued to rise as workers' awareness of the laws increased. According to figures from the Ministry of Human Resources and Social Security, as of September 2012, there were more than 3,000 labor arbitration units and 25,000 labor arbitrators. Through 2011 the Ministry of Human Resources and Social Security handled 1.3 million "labor and personnel

disputes.” Of these, 589,000 were registered arbitration cases, of which 93.9 percent were resolved. Most formal dispute resolution continued to occur between individual workers and employers, rather than managing collective disputes. The relevant regulations and rules address predominantly rights-based, rather than interest-based, disputes.

Strikes primarily continued to be resolved directly between workers and management without the involvement of the ACFTU or its constituent local trade unions. In order to avoid strikes or address minor labor relations disputes, factory management continued to prefer to engage directly with workers via labor-management committees, rather than through the legally approved ACFTU-affiliated trade union. The Ministry of Human Resources and Social Security voiced support for the expansion and establishment of labor-management committees throughout all enterprises. Labor NGOs often provided information, training, and legal support to workers on collective bargaining and dispute resolution, in lieu of effective support by the ACFTU.

There continued to be reports of workers throughout the country engaging in strikes, work stoppages, and other protest actions. Although the government restricted the release of figures for the number of strikes and protests each year, the frequency of “spontaneous” strikes remained high, especially in Shenzhen and other areas with developed labor markets and large pools of sophisticated, rights-conscious workers. Local government responses to strikes varied, with some jurisdictions showing tolerance for strikes while others continued to treat worker protests as illegal demonstrations.

In January, Hong Kong media reported that thousands of workers from the Panzhihua Iron and Steel Group in Chengdu took to the streets to demand wage increases. Authorities deployed 1,000 police to suppress the march and to disperse the crowd after a confrontation with the protesters. Chinese-language media reported that on November 7, police dispersed 200 striking workers at a Dongguan toy factory, and that authorities beat and arrested numerous workers.

Workers engaged in collective action for a number of reasons. In many cases striking workers called attention to wage arrears, insufficient pay, and poor working conditions. New areas of disputes included factory closure or relocation, severance pay and other compensation, and benefits such as pensions. Although a large number of the major strikes reported in the media occurred in the Pearl River Delta, labor unrest was widespread throughout the country. Small-scale worker

protests and strikes regularly occurred in Shanghai and Zhejiang, Jiangsu, and Anhui provinces.

Workers increasingly went on strike to demand payment of past wages, as an economic downturn led to diminishing profits, more factory closures, and abandoned construction projects. On March 6, nearly 1,000 workers at an electronics factory in Dongguan, Guangdong Province, protested and blocked roads over compensation problems.

Strikes also occurred in an increasingly broad range of sectors. While many strikes occurred in manufacturing, reports increased of strikes in the transport, sanitation, and service industries similarly stemming from failure to gain adequate compensation. In August a hospital in Guangzhou attempted to impose a management-dictated settlement for unpaid overtime on a group of hospital security guards. Despite threats of dismissal, the guards went on strike. Management refused to negotiate with the guards, and local authorities detained them for staging an illegal demonstration.

In August an estimated 3,000 workers at a toy factory in Shenzhen conducted a solidarity strike in support of 551 long-term migrant workers also at the factory. Despite having employed the workers for well over the 15 years required for pension eligibility, the company had failed to make mandatory contributions to their pension funds prior to 2008. Facing retirement, these workers were not able to claim the pensions to which they were entitled.

In May informally elected workers' representatives at Shenzhen Diweixin furniture factory led a protest against their employers over the company's refusal to discuss compensation for a planned relocation. On May 23, authorities detained worker leader Wu Guijun after protracted strikes and petitions to the city government to intervene in fruitless negotiations. According to independent labor organizations, Wu was formally charged with "assembling a crowd to disturb social order" on September 28, but later reports indicated that the procuratorate refused to accept the charges due to lack of evidence and sent the case back to the public security officials for further investigation. Wu remained in detention as of year's end.

Other labor activists detained in previous years reportedly remained in detention at year's end, including Chen Yong, Kong Youping, Liu Jian, Liu Jianjun, Memet Turghun Abdulla, Wang Miaogen, Xing Shiku, Zhou Decai, Zhu Chengzhi, and Zhu Fangming.

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

The law prohibits forced and compulsory labor, but there were reports that forced labor of adults and children occurred (see section 7.c.).

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

International NGOs alleged that provincial and local governments were complicit in some cases of forced labor of university students as "interns" at facilities managed by the Taiwanese electronics giant Foxconn. Local governments, in order to encourage Foxconn to establish operations in their cities, promised to help recruit workers for Foxconn's labor-intensive operations. In September the media reported that students in Shandong and Jiangsu provinces complained that their universities made it mandatory that they serve 45-day internships on assembly lines in Foxconn factories to meet Foxconn's production demands. A December 12 FLA report of Foxconn facilities in Guanlan, Longhua, and Chengdu indicated that no student interns had been employed at those sites during the year.

Forced labor in penal institutions remained a serious problem, according to the International Trade Union Confederation. Many prisoners and detainees were required to work, often with no remuneration. Compulsory labor of detainees in RTL facilities, who had not been tried and convicted in a competent court, also constituted forced labor.

In both cases detainees reportedly experienced harsh and exploitative conditions of work, including long periods without a rest day and often working more than 10, and sometimes 12 or 14, hours per day to meet informal "quotas" imposed by facility management. Detainees who did not meet their quota were threatened with physical violence and other forms of punishment.

In addition there were credible allegations that prisoners were forced to work for private production facilities associated with prisons. These facilities often operated under two different names, a prison name and a commercial enterprise name. No effective mechanism prevented the export of goods made under such conditions.

Goods and materials likely to be produced by forced labor included toys, garments and textiles, electronics, bricks, and coal.

The Ministry of Justice discussed allegations of exported prison-labor goods with foreign government officials, but information about prisons, including associated labor camps and factories, was tightly controlled. Although the ministry has official control over the RTL system, police and other local authorities had a great degree of influence on a case-by-case basis.

In November 2012 a Chongqing court rejected the wrongful imprisonment suit brought by Ren Jianyu, who had been released from an RTL center one year into his two-year sentence for “incitement to subvert state power” for posting online statements critical of the political system. In July, Ren submitted an application to the Chongqing RTL committee requesting compensation totaling RMB 167,762 (\$27,440) to cover the wages he lost while in the camp and the psychological harm he suffered.

After the Standing Committee of the NPC voted to abolish the RTL system in December (see section 1.d.), media and NGO reports indicated that many of the RTL facilities were converted to drug rehabilitation centers or prisons. It is not clear whether forced labor continued in these facilities.

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

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

The law prohibits the employment of children under the age of 16. It refers to workers between the ages of 16 and 18 as “juvenile workers” and prohibits them from engaging in certain forms of dangerous work, including in mines.

The law specifies administrative review, fines, and revocation of business licenses of those businesses that illegally hired minors and provides that underage children found working should be returned to their parents or other custodians in their original place of residence. The penalty for employing children under 16 in hazardous labor or for excessively long hours ranges from three to seven years’ imprisonment, but a significant gap remained between legislation and implementation.

Child labor remained a problem. Print media and online reports most frequently documented the use of child labor in the electronics manufacturing industry, although many reports indicated it occurred in a number of sectors.

The government does not publish statistics on the extent of child labor, but rising wages and a tightening labor market led some companies to seek to hire underage workers in violation of the law. Some local authorities also ignored the practice of child labor or even facilitated it to prevent employers from moving to other areas.

Reports of child labor persisted in areas suffering from labor shortages and in smaller enterprises that compensated workers on a piece-rate basis. For example, in Dongguan, Guangdong Province, a manufacturing hub hit hard by labor shortages and rising wages, local employers admitted that the use of child labor on a temporary basis was common. Although Dongguan Bureau of Human Resources and Social Security statistics showed an increase in child labor cases, the bureau did not have sufficient resources to increase enforcement operations among the thousands of small enterprises operating in the area.

In May a 14-year-old boy working at an electronics factory in Dongguan died suddenly in the factory dormitory. The boy used a false identity card to gain employment, and local officials cited the company for violating child labor laws.

In an open letter to the Guangdong Province Communist Party secretary posted on the internet, the mother of a 15-year-old boy from Henan, burned badly in 2012 while working in a Zhuhai electronics factory, appealed for help in obtaining compensation for the injury. The employer had refused to pay both the compensation sought by the family and the award subsequently determined by the labor arbitration board. Provincial authorities fined the employer and urged the local labor bureau to expedite the case, but compensation for the injury was still pending at year's end.

On December 27, the Guangzhou-based *Southern Metropolis Daily* reported that approximately 70 underage workers were discovered working at an electronics company in Shenzhen's Baoan District. The alleged underage workers were all from the Yi ethnic minority group, and all were from a remote mountainous region of Liangshan, Sichuan Province, the origin of several recent child-labor trafficking cases. This followed incidents in 2011 and 2008 involving underage workers from the same region. Although in each instance local labor authorities intervened after the *Southern Metropolis Daily* notified them of the underage workers, the three similar cases reflect a systemic inability to deter trafficking of underage workers or

to identify child labor through regular labor inspections. In the most recent case the Shenzhen company posted a notice on its website blaming the company's labor dispatch service provider for providing worker identity cards purporting to show all of them to be older than age 16.

Abuse of the student-worker system continued as well. One international labor NGO reported that most students working in domestic companies in the supply chains of multinational electronics manufacturers, where there was greater scrutiny, did not have the formal written contracts required by law. After an internal audit, one multinational electronics company admitted it had violated the labor law after interns between the ages of 14 and 16 were discovered working at its subsidiary in Yantai, Shandong Province.

As in past years, there continued to be allegations that schools and local officials improperly facilitated the supply of student laborers. Some reports indicated that schools supplied factories with illegal child labor under the pretext of vocational training, in some cases making this labor compulsory for the student.

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

There was no national minimum wage, but the law requires local and provincial governments to set their own minimum wage according to standards promulgated by the Ministry of Human Resources and Social Security. Average wage levels continued to increase. Monthly minimum wages varied greatly with Shenzhen, Guangdong Province, reaching RMB 1,600 (\$262) from March 1 and towns in remote Ningxia Province the lowest at RMB 750 (\$123). During the year the country increased its "rural poverty level" to RMB 192 (\$31.40) per month.

The law mandates a 40-hour standard workweek, excluding overtime, and a 24-hour weekly rest period. It also prohibits overtime work in excess of three hours per day or 36 hours per month and mandates premium pay for overtime work.

A regulation states that labor and social security bureaus at or above the county level are responsible for enforcement of labor law. The law also provides that where the ACFTU finds an employer in violation of the regulation, it shall have the power to demand that the relevant local labor bureaus deal with the case.

Many vulnerable workers, including those older workers laid off as a result of restructuring of state-owned enterprise, as well as many rural-urban migrants, were employed in the informal economy. In 2012 Chinese Academy of Social Sciences'

researchers estimated that the prevalence of informal employment ranged from 20 to 37 percent overall, based on the definition used, with between 45 and 65 percent of migrants employed in the informal sector. UN experts reported that women were particularly active in the informal economy, often as domestic workers or petty entrepreneurs. Micro- and small businesses with fewer than seven employees also meet the international criteria for informality. Workers in the informal sector often lacked coverage under labor contracts, and even with contracts migrant workers in particular had less access to benefits, especially social insurance. Workers in the informal sector worked longer hours and earned one-half to two-thirds as much as comparable workers in the formal sector.

The State Administration for Work Safety (SAWS) sets and enforces occupational health and safety regulations. The Law on Prevention and Control of Occupational Diseases requires employers to provide free health checkups for employees working in hazardous conditions and to inform them of the results. Companies that violate the regulation have their operations suspended or are deprived of business certificates and licenses.

Effective May 2012 the SAWS and the Ministry of Finance jointly issued the *Measures on Incentives for Safe Production Reporting*, which authorize cash rewards to whistleblowers reporting companies for violations, such as concealing workplace accidents, operating without proper licensing, operating unsafe equipment, or failing to provide workers with adequate safety training. The measures warn against false accusations but also stipulate protection under the law for legitimate whistleblowers who report violations.

While many labor laws and regulations on worker safety were fully compatible with international standards, implementation and enforcement were generally poor due to a lack of adequate resources. Compliance with the law was weak, and standards were regularly violated. While excessive overtime occurred, in many cases workers encouraged noncompliance by requesting greater amounts of overtime to counterbalance low base wages and increase their overall wages. Inadequately enforced labor laws, occupational health and safety laws, and regulations continued to put workers' livelihoods, health, and safety at risk.

Almost all local and provincial governments raised minimum wage levels significantly during the year as a result of changing economic and demographic conditions. As the average tenure of workers in the Pearl River Delta increased, their skills improved, adding more upward pressure on wages. Spot shortages of

skilled labor, increased inland investment, and successful strikes led to generally increased wage levels for workers in all parts of the country.

Nonpayment of wages remained a problem in many areas. Governments at various levels continued efforts to prevent arrears and to recover payment of unpaid wages and insurance contributions. It remained possible for companies to relocate or close on short notice, often leaving employees without adequate recourse for due compensation. In some extreme cases, workers who feared that they would be deprived of adequate compensation or severance engaged in actions such as taking managers hostage.

Although creative strategies by some multinational purchasers provided new approaches to reducing the incidence of labor violations in supplier factories, insufficient government oversight of both foreign affiliated and purely domestic supplier factories continued to contribute to poor working conditions. Questions related to acceptable working conditions, especially overtime, continued to plague electronics manufacturers such as Foxconn.

On December 12, the FLA released the third and final verification report on conditions at Foxconn facilities in China, tracking progress on that action plan through July 1. The report documented that nearly 100 percent of all actions recommended by the FLA had been completed at three key facilities in Guanlan, Longhua, and Chengdu, resulting in clear changes in company policy. Nonetheless, FLA assessors documented numerous violations of domestic law. While some workers received an average of one day off per week, others went for a month or more without these breaks. In some cases workers worked more than 60 hours per week, and for a six-month period, more than one-half of the workers in the Longhua and Guanlan facilities exceeded the legal overtime limit of 36 hours per month. In Chengdu from July to October more than 75 percent of workers exceeded this limit.

Although SAWS reported that the rate of industrial accidents continued to decline, there were several high-profile instances of industrial accidents. On June 3, a total of 121 workers died in a fire that swept through a poultry-processing plant in the northeastern province of Jilin. In that incident most of the exits at the plant had been locked from outside, and none of the 395 employees working at the time had received fire safety training. SAWS responded by dispatching teams to assess safety standards at factories. Although inspections routinely identified existing problems that increased the risk of industrial accidents, ensuring that companies acted on the findings of the inspections remained a challenge.

Authorities continued to press mines to improve safety measures and mandated greater investments in safety. In August 2012 SAWS announced its goal of closing hundreds of small coalmines during the year in an attempt to reduce the number of deadly accidents.

Despite consistent reductions in mining deaths, there continued to be many coalmine accidents throughout the country.

In Jilin Province, gas explosions at coalmines on March 29 and April 1 killed 53 workers. An third explosion on April 21, also in Jilin, killed 18 workers – despite an order for all coal mines in the province to suspend operations and undergo safety inspections following the earlier two explosions.

ACFTU occupational disease experts estimated that 200 million workers worked in hazardous environments. According to the Chinese Center for Disease Control and Prevention, only an estimated 10 percent of eligible employees received regular occupational health services. Small- and medium-sized enterprises, the largest employers, often failed to provide the required health services. They also did not provide proper safety equipment that could help prevent disease, and were rarely required to pay compensation to victims and their families. Instances of pneumoconiosis, or black lung disease, remained high. A charitable NGO that helped to treat migrant workers estimated the disease affected approximately six million rural residents.

## **TIBET 2013 HUMAN RIGHTS REPORT**

### **EXECUTIVE SUMMARY**

The United States recognizes the Tibet Autonomous Region (TAR) and Tibetan autonomous prefectures (TAPs) and counties in other provinces to be a part of the People's Republic of China (PRC). The Chinese Communist Party's (CCP) Central Committee oversees Tibet policies in the PRC. Chen Quanguo, an ethnic Han from Henan Province, became the TAR party secretary in 2011. Ethnic Han were party secretaries in eight of the 10 TAPs, which are located in Gansu, Qinghai, Sichuan, and Yunnan provinces. Two TAPs in Qinghai Province had ethnic Tibetan party secretaries. As in other predominantly minority areas of the PRC, ethnic Han CCP members held almost all top party, government, police, and military positions in the TAR and other Tibetan areas. Ultimate authority rests with the 25-member Central Committee Political Bureau (Politburo) of the CCP

and its seven-member Standing Committee in Beijing. Civilian authorities generally maintained effective control of the security forces. Security forces committed human rights abuses.

During the year the government's respect for and protection of human rights in the TAR and other Tibetan areas remained poor. Under the banner of maintaining social stability and combating separatism, the government engaged in the severe repression of Tibet's unique religious, cultural, and linguistic heritage by, among other means, strictly curtailing the civil rights of China's ethnic Tibetan population, including the freedoms of speech, religion, association, assembly, and movement. The government routinely vilified the Dalai Lama and blamed the "Dalai clique" and "other outside forces" for instigating instability and the at least 26 self-immolations by Tibetan laypersons, monks, and nuns that reportedly occurred during the year.

Other serious human rights abuses included extrajudicial killings, torture, arbitrary arrests, extrajudicial detentions, and house arrests. There was a perception among Tibetans that authorities systemically targeted them for political repression, economic marginalization, and cultural assimilation, as well as educational and employment discrimination. The presence of the People's Armed Police (PAP) and other security forces remained at high levels in many communities across the Tibetan Plateau. Repression was severe throughout the year but increased in the periods before and during politically and religiously sensitive anniversaries and events. Students, monks, laypersons, and others in many Tibetan areas were detained after reportedly demanding freedom and human rights, and expressing their support for the Dalai Lama.

The government strictly controlled information about, and access to, the TAR and Tibetan areas outside the TAR, making it difficult to determine accurately the scope of human rights abuses. The Chinese government severely restricted travel by foreign journalists to Tibetan areas. Additionally, the Chinese government subjected Tibetans who spoke to foreign reporters, attempted to provide information to persons outside the country, or communicated information regarding protests or other expressions of discontent through cell phones, e-mail, or the internet to harassment or detention. The Chinese government also denied multiple requests by U.S. and other foreign diplomats for permission to visit the TAR, and repeatedly prevented foreign diplomatic personnel from visiting Tibetan areas outside the TAR for which permission was not officially required. Because of these restrictions, many of the incidents and cases mentioned in this report could not be independently verified.

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

### **Tibetan Self-Immolations**

At least 26 Tibetans reportedly self-immolated during the year, including laypersons and Tibetan Buddhist clergy, which was significantly fewer than the 83 self-immolations reported in 2012. The majority of self-immolators were laypersons, as opposed to current or former Buddhist monks or nuns. The vast majority of these incidents resulted in death.

Prior to March 2012 all of the reported self-immolators were current or former monks or nuns. However, as highlighted in the U.S. Congressional-Executive Commission on China (CECC) August 2012 report *Tibetan Self-Immolation – Rising Frequency, Wider Spread, Greater Diversity*, self-immolation by laypersons grew markedly during the latter half of 2012. By the end of 2012 laypersons represented more than half of the self-immolations committed that year. That trend continued with only 10 of the 26 self-immolators being monks or nuns. Self-immolators reportedly continued to see their act as a protest against political and religious oppression. For example, according to media reports, Lobsang Namgyal, formerly a monk at the Kirti Monastery and the 100th Tibetan to self-immolate in China since March 2009, called for the long life of the Dalai Lama while in the act of self-immolating. The Chinese government implemented policies that punish friends, relatives, and associates of self-immolators. In March 2012 the head of the Aba (Ngaba) Tibetan and Qiang Autonomous Prefecture (T&QAP) government, Wu Zegang, asserted that Tibetans who committed self-immolation were being “used by separatists to create chaos.” Alleging that the self-immolators had been in communication with the Tibetan exile community, Wu stated, “the Dalai Lama clique and overseas splittist forces are viciously leading Tibetan Buddhism onto the track of extremism. By touting self-immolators as so-called heroes and performing religious rituals to make amends for the sins of the dead, they support and inspire self-immolations. They instigate people to emulate and will not hesitate to use the terroristic behavior of sacrificing people’s lives to reach their separatist objective.”

According to various overseas rights groups, in November 2012 the government of Huangnan (Malho) TAP, Qinghai Province, issued a notice to local party members and government officials ordering them to discipline bereaved family members of

self-immolators by withholding public benefits, including disaster relief. The notice also called for the punishment of laypersons, monastic personnel, family members, and officials who organized or participated in burial or mourning activities. Authorities subjected villages where self-immolations took place to the cancellation of publicly funded development and disaster relief projects, and subjected monasteries found to have participated in or organized fundraising activities or prayer ceremonies for self-immolators or their families to cancellation of public funding or even closure.

A December 2012 editorial in the *Gansu Daily*, an online news site, noted that the Supreme People's Court, the Supreme People's Procuratorate, and the Ministry of Public Security had jointly issued the "Opinion on Handling Cases of Self-Immolation in Tibetan Areas According to Law," which criminalizes various activities associated with self-immolation, including "organizing, plotting, inciting, compelling, luring, instigating, or helping others to commit self-immolation," each of which may be prosecuted as "intentional homicide." According to the opinion, the motive of self-immolators was "generally to split the country," and the act constituted criminal behavior, since it posed a threat to public safety and public order. The opinion stated that "ringleaders" would be targeted for "major punishment."

Not long after the announcement of the "Opinion on Handling Cases of Self-Immolation in Tibetan Areas According to Law," government officials began detaining, arresting, trying, and sentencing a number of friends, relatives, and associates of self-immolators across the Tibetan Plateau, a trend that continued throughout the year. In February official media reported nearly 90 formal arrests of individuals in Qinghai and Gansu provinces linked to self-immolators. In January the Intermediate People's Court of Aba (Ngaba) T&QAP, Sichuan Province, sentenced Kirti Monastery monk Lobsang Konchok to death with a two-year reprieve after convicting him of "intentional homicide" for "inciting and coercing eight people to self-immolate, resulting in three deaths." Authorities sentenced his nephew, Lobsang Tsering, to 10 years in prison on the same charges. In August the same court sentenced Dolma Kyab (also known as Droma Gyap) to death. Authorities accused Dolma Kyab of strangling his wife to death and then lighting her body on fire, but *Phayul* (a news website maintained by Tibetan exiles) and other sources claimed that his wife died after setting herself on fire in protest against Chinese rule.

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

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

*Phayul* reported that Kaldo, a former Chamdo Monastery monk, died on April 28 in Zuogong (Dzogang) County, Changdu (Chamdo) Prefecture, TAR, after being beaten by police, who had detained him a week earlier for possessing recordings of speeches by the Dalai Lama.

Citing a former political prisoner, *Phayul* reported in August that police in Hongyuan (Khyungchu) County, Aba (Ngaba) T&QAP, Sichuan Province, arrested Guldrak for alleged involvement in a theft, beat him to death, and then claimed he had committed suicide. Up to 500 Tibetans, including members of Guldrak's family, assembled outside the police station to contest the official explanation for his death, and authorities reportedly admitted that he died in police custody due to beatings. Authorities agreed to pay the family renminbi (RMB) 50,000 (\$8,180) to cover burial fees.

Radio Free Asia (RFA) reported that in October security forces killed four and injured 50 others in the TAR's Biru (Driru) County, Naqu (Nagchu) Prefecture, when they fired into a crowd demanding the release of a person who had been detained for leading protests against government orders to fly Chinese flags from homes in the area.

### **Disappearance**

Authorities in Tibetan areas continued to detain Tibetans arbitrarily for indefinite periods of time.

The whereabouts of the Panchen Lama, Gedun Choekyi Nyima, Tibetan Buddhism's second-most prominent figure after the Dalai Lama, remained unknown. The Chinese government has not made any public statements about his situation since 2010.

The whereabouts of Tashi Chowang and Aphu Sonam, students from the Dhungkar Language School in Lhasa who were arrested after Tashi Chowang's uncle self-immolated in October 2012, remained unknown.

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

According to the PRC's constitution, "the State respects and protects human rights." Judges cannot apply the constitution in court cases, however, in part because interpretation is reserved to the Standing Committee of the National People's Congress.

Police and prison authorities employed torture and degrading treatment in dealing with some detainees and prisoners.

There were reports during the year that Chinese officials tortured some Tibetans while incarcerated or otherwise in custody, including by electric shocks, exposure to extreme temperatures, severe beatings, and being forced to perform heavy physical labor. Security forces routinely subjected detainees and prisoners to "political re-education" sessions.

According to an April 2 *New York Times* report, authorities released Jigme Gyatso, a former monk accused of leading a counterrevolutionary organization, after he spent 17 years in prison. He was reportedly extremely frail after years of torture and poor medical care.

According to a May 27 *Phayul* report, authorities released Lobsang Tenzin on medical parole after he had spent 25 years in prison for participating in anti-China protests in Lhasa in 1988. He remained under house arrest, reportedly undergoing medical treatment for injuries suffered as a result of torture during his imprisonment.

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

The number of prisoners was unknown. There were reports of recently released prisoners who were permanently disabled or in extremely poor health because of the harsh treatment they endured in prison. According to numerous sources, political prisoners endured unsanitary conditions and often had little opportunity to wash or bathe. Many prisoners slept on the floor without blankets or sheets. Former prisoners reported being isolated in small cells for as long as three months and deprived of sunlight, adequate food, water, and blankets. Additionally, prison authorities banned religious observances and forced prisoners, particularly political prisoners, to attend political re-education sessions.

According to sources prisoners rarely received medical care except in the case of serious illness. Former prisoners also complained that they often failed to receive

money, food, clothing, and books from their families because prison guards confiscated such items.

There were cases of persons detained and imprisoned who were denied visitors, including family members and legal counsel. Authorities apparently applied this policy to many detainees and prisoners, but more routinely and stringently to political detainees and prisoners. Authorities required those allowed to see their family members to speak Mandarin Chinese (as opposed to their native Tibetan) during the visit.

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

### **Arbitrary Arrest or Detention**

Arbitrary arrest and detention was a problem in Tibetan areas. With a detention warrant, police may legally detain persons for up to 37 days without formally arresting or charging them. Police must notify the relatives or employer of a detained person within 24 hours of the detention. Following the 37-day period, police must either formally arrest or release the detainee. Police frequently violated these requirements. It was unclear how many Tibetan detainees were held under the Re-education Through Labor (RTL) system or under other forms of detention not subject to judicial review.

According to a January 30 RFA report, authorities summoned 14 senior monks from leading Lhasa monasteries and detained them at Penkar Monastery in Naqu (Nagchu) Prefecture, TAR, for “political re-education.”

According a July 2 RFA report, authorities in Basu (Pashoe) County, Changdu (Chamdo) Prefecture, TAR, detained monk Lobsang Gendun after he shouted slogans calling for Tibetan independence during official celebrations of Communist Party rule.

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

Legal safeguards for detained or imprisoned Tibetans were inadequate in both design and implementation. According to a July Xinhua report, there were 81 above-county-level legal aid agencies under the TAR Department of Justice, and prisoners had the right to request a meeting with a government-appointed attorney,

but in practical terms many defendants, particularly political defendants, did not have access to legal representation.

During the year the heads of the TAR Legal Affairs Committee, Justice Department, Procuratorate, and Public Security Department were all ethnic Han. The deputy head of the TAR Justice Department, who concurrently served as general director of the TAR Lawyers' Association, was also ethnic Han.

According to RFA on March 11, police in Gande (Gade) County, Guoluo (Golog) TAP, Qinghai Province, detained Tritsun, a monk from Tongkyab Monastery, after he published a book about Tibetan self-immolations. Police reportedly notified Tritsun's mother that the courts convicted and sentenced him to prison only after the fact and failed to disclose the length of his sentence or his whereabouts. Police also told his mother that she could not visit her son.

### **Trial Procedures**

In cases that authorities claimed involved "endangering state security" or "separatism," trials often were cursory and closed. Authorities sentenced Tibetans for alleged support of Tibetan independence regardless of whether they were alleged to have committed violent acts.

According to a 2011 *Tibet Daily* article, as of 2009 there were 17 law firms and 101 attorneys in the TAR. Of the 17 law firms, 11 had their own CCP committee, and six shared a CCP committee with the Justice Bureau in their prefecture. As is required throughout the PRC, authorities assigned a CCP development leader to law firms that had no party organization. On April 20, Wu Yingjie, the executive deputy party secretary of the TAR, called on lawyers in the region to strengthen their ideological support for the notion that "stability overrides all else."

In an August 25 public announcement, the TAR government stated that law enforcement authorities in the TAR were hiring 355 rural legal workers. Among the qualifications required of applicants were "firmly following the Party line and fighting against separatism with a resolute political stance."

### **Political Prisoners and Detainees**

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

document “Decisions on Major Issues Concerning Comprehensively Deepening Reform,” adopted November 12 at the Third Plenum of the 18th CCP Central Committee, the party announced its intention to abolish RTL. On December 28, the National People’s Congress Standing Committee abolished the RTL system, effective January 1, 2014. Also in December Amnesty International published a report stating that authorities were replacing many RTL detention centers with other forms of extrajudicial detention.

Based on information available from the CECC political prisoner database, as of September 1, 642 Tibetan political prisoners were detained or imprisoned, most in Tibetan areas. Observers believed the actual number of Tibetan political prisoners and detainees to be much higher, but the lack of access to prisoners and prisons, as well as the dearth of reliable official statistics, made a determination difficult. An unknown number of persons continued to be held under the RTL system. Of the 642 Tibetan political prisoners tracked by the CECC, 622 were ethnic Tibetans detained on or after March 10, 2008, and 20 were Tibetans detained prior to March 10, 2008. Of the 622 Tibetan political prisoners who were detained on or after March 10, 2008, 288 were believed or presumed to be detained or imprisoned in Sichuan Province, 143 in the TAR, 122 in Qinghai Province, 68 in Gansu Province, and one in the Xinjiang Uighur Autonomous Region. There were 182 persons serving known sentences, which ranged from 18 months to life imprisonment. The average sentence length was six years and three months. Of the 182 persons serving known sentences, 79 were monks, nuns, or Tibetan Buddhist teachers.

Sentencing information was available for 16 of the 20 Tibetan political prisoners detained prior to March 10, 2008, and believed imprisoned as of September 1. Their sentences ranged from eight years to life imprisonment. The average fixed-term sentence was 13 years and one month.

According to a *Phayul* report, in February the Intermediate People’s Court in Huangnan (Malho) Prefecture, Qinghai Province, sentenced Agu Gyatag to a four-year prison term for advocating separatism. Chinese authorities arrested Agu Gyatag for allegedly talking about Tibetan independence and providing material assistance to the family members of Tibetan self-immolators in the area.

In April the Intermediate People’s Court in Huangnan (Malho) Prefecture, Qinghai Province, sentenced four Tibetans to varying prison terms of up to six years for “inciting separatism.” According to an April 12 press release from the Central

Tibetan Administration, which is based in India, the four had disseminated information about self-immolations.

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

Freedom of Speech: Tibetans who spoke to foreign reporters, attempted to provide information to persons outside the country, or communicated information regarding protests or other expressions of discontent through cell phones, e-mail, or the internet were subject to harassment or detention. The whereabouts of 59 individuals convicted in 2009 for “creating and spreading rumors” after the 2008 unrest remained unknown. During the year TAR authorities sought to strengthen control over electronic media further and to punish individuals for the “creating and spreading of rumors.” In November, TAR Communist Party Secretary Chen Quanguo wrote in an official party journal that the government was working to ensure that the “voice and image of the enemy forces and the Dalai clique are neither seen nor heard.” Sources reported that many Tibetans, particularly monks, scholars, students, and government officials, avoided sensitive topics, even in private conversations in their own homes.

The nongovernmental organization (NGO) Chinese Human Rights Defenders reported that between October 11 and 18 Chinese authorities detained a number of persons and held them incommunicado in a crackdown in Biru (Driru) County, TAR. They were protesting a requirement that the Chinese flag be flown from their homes. The protest spread from Biru’s Mowa Village to Lhasa and areas outside the TAR.

Biru police detained writer Tsultrim Gyaltzen and his colleague, Yugyal, a former police officer, alleging that they had “engaged in separatist activities and disrupted social stability by spreading rumors.” Police seized Gyaltzen after he publicly disagreed with speeches given by high-ranking TAR officials about the continuing crackdown. Police also detained a Tibetan layman (Dawa Lhundup), a nun, (Jampa), and two monks who had fled Biru for Lhasa in September (Jampa Lekshay and Kelnam Namgyal) on charges of “leaking state secrets.” Police detained a woman named Kelsang after they found images of the Dalai Lama and songs about Tibetan independence on her cell phone. Additionally, police detained layman Tenzin Rangdol on October 19. His detention triggered a protest the next day, when armed police seized more than 10 other individuals appealing for Rangdol’s release.

Press Freedoms: The government severely restricted travel by foreign journalists. A few foreign journalists visited the TAR by participating in highly structured, government-organized tours during which the constant presence of government minders made independent reporting difficult. For example, on September 2, journalist Rowan Callick wrote in *The Australian*, “I had accepted an invitation from the State Council Information Office--the media arm of China’s cabinet--to visit Tibet, since there is no other way in which journalists can enter without subterfuge.” Callick disputed reports carried in Chinese state media that he had made positive statements about the situation in Tibet during his visit. Outside the TAR authorities often barred foreign journalists from entering or expelled them from Tibetan areas despite government rules, adopted in 2008, which state that foreign journalists do not need the permission of local authorities to conduct reporting. Officials in Qinghai Province have told reporters that all Tibetan areas are off-limits to foreign reporters, according to a report released by the Foreign Correspondents’ Club of China.

According to the *Tibet Post International*, on May 14, a Chinese court in Qinghai sentenced Gartse Jigme, a monk from Gartse Monastery, Zeku (Tsekhog) County, Huangnan (Malho) TAP, Qinghai, to five years imprisonment reportedly for having included “political content” in his writings. His condition and whereabouts were unknown.

The government continued to jam radio broadcasts of Voice of America (VOA) and RFA’s Tibetan- and Chinese-language services in some Tibetan areas, as well as the Voice of Tibet. In Tibetan areas of southern Gansu Province, Qinghai Province, and the Ganzi (Kardze) TAP, Sichuan Province, police confiscated or destroyed satellite dishes suspected of receiving VOA Tibetan-language television, as well as VOA and RFA audio satellite channels. Some dishes were replaced with government-controlled cable television systems. Some Tibetans reported that they could listen to overseas Tibetan-language radio and television broadcasts through the internet.

Domestic journalists generally did not report on repression in Tibetan areas. Authorities promptly censored the postings of bloggers who did so, and the authors sometimes faced punishment. Security officials regularly placed Beijing-based Tibetan blogger and poet Woesser under de facto house arrest throughout the year. Woesser, who has documented Tibetan protests and self-immolations, and advocated for human rights for Tibetans, environmental protection for the Tibetan Plateau, and the preservation of Tibetan culture and religion, was kept under house arrest for several months in Lhasa after authorities refused to permit her to return

to Beijing following her annual summer visit. During the year Chinese officials' refusal to issue her a passport prevented her from traveling overseas to receive the Secretary of State's International Women of Courage Award in person. According to an RFA report, authorities again placed Woesser and her husband, Wang Lixiong, under house arrest in Beijing for a few weeks in June after she spoke out on conditions in Tibet ahead of a state-sponsored trip by foreign journalists to the TAR.

Authorities tightly controlled journalists who worked for the domestic press and could hire and fire them on the basis of political reliability. For example, on March 9, the *TAR Daily* newspaper released a job announcement seeking a number of media employees. One of the listed job requirements was "political ideological performance."

Violence and Harassment: Chinese officials harassed Cyril Payen, a French journalist who made a documentary about Tibet. After a French news station broadcast the documentary in May, Chinese embassy personnel went to the station's headquarters in Paris to demand the withdrawal of the documentary from the station's website. An employee of the Chinese embassy in Bangkok also left a threatening message on Payen's telephone, according to Reporters Without Borders.

On August 1, Tibetan writer and schoolteacher Gangkye Drubpa Kyab reportedly was sentenced to five years and six months in jail for alleged separatist political activities. More than 20 security officers who came to his home in Seda (Serthar) County, Ganzi (Kardze) TAP, Sichuan Province, took him into custody in February 2012. He is the author of a book about unrest in Tibetan areas published in 2008.

Dhondup Wangchen, a filmmaker who was sentenced to six years in prison in 2009 on charges related to his production of a 25-minute documentary, *Leaving Fear Behind*, that documented human rights problems in Tibetan areas, remained in prison and was said to be suffering from hepatitis. According to a January 22 *Phayul* report, he suffered harsh treatment and months of solitary confinement at the TAR's Xichuan labor camp before authorities transferred him to the Qinghai Provincial Women's Prison.

## **Internet Freedom**

Authorities curtailed cell phone and internet service in the TAR and Tibetan areas of Sichuan, Qinghai, and Gansu provinces during times of unrest and politically sensitive periods, such as the March anniversaries of the 2008 protests and “Serf Emancipation Day,” around the Dalai Lama’s birthday in July, and during the 18th Party Congress conference. Additionally, many websites were shut and internet cafes closely monitored during major religious and cultural festivals in Tibetan areas. The Tibetan Centre for Human Rights and Democracy, an NGO based in Dharamsala, India, reported that authorities in Lhasa systematically searched the cell phones of monks in March. In February, TAR Party Secretary Chen Quanguo stated that “stability overrides everything else, hence new media, including cell phones and the internet, must be fully managed in order to protect the public interest and national security.”

Authorities blocked foreign-based, Tibet-related websites critical of official policy in Tibetan areas to users in China throughout the year. Well organized computer hacking attacks originating from China harassed Tibet activists and organizations outside China. Authorities harassed and detained Tibet internet activists inside China. Security agencies responsible for monitoring the internet often lacked the language skills necessary to monitor Tibetan content efficiently. As a result authorities subjected Tibetan-language blogs and websites to indiscriminate censorship and closed entire sites even when the content did not appear to touch on sensitive topics. Many teachers and scholars in the TAR and Tibetan areas of Sichuan, Gansu, and Qinghai provinces reported receiving official warnings after using their cell phones to exchange what was deemed to be sensitive information in Tibetan script.

On March 5, official media reported that the Internet Security Supervision Detachment of the Lhasa Public Security Bureau (PSB) required the owners of all Lhasa internet cafes to attend an “internet cafe security management” meeting, where they had to sign a “responsibility document” pledging to ensure internet security.

On April 28, Qinghai Province held a conference on “internet and information security management,” calling on relevant authorities to crack down on “harmful information” and “purify the internet.”

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

Authorities in Tibetan areas required professors and students at institutions of higher education to attend political education sessions in an effort to prevent

“separatist” political and religious activities on campus. Authorities frequently encouraged ethnic Tibetan academics to participate in government propaganda efforts, such as making public speeches supporting government policies or accepting interviews by official media. Academics who refused to cooperate with such efforts faced diminished prospects for promotion. Academics in the PRC who publicly criticized CCP policies on Tibetan affairs faced official reprisal. The government controlled curricula, texts, and other course materials, as well as the publication of historically or politically sensitive academic books. Authorities frequently denied many Tibetan academics permission to travel overseas for conferences and academic or cultural exchanges.

In January, TAR authorities held a conference on “law enforcement work in the cultural market” during which party and government officials were urged to protect “ideological and cultural security” in the TAR with “firm political consciousness” and “strong political responsibility.”

At a February meeting in Lhasa, senior leaders of the TAR discussed publication priorities for the year. TAR party and government leaders were urged to “ensure the absolute security of Tibetan ideological and cultural fields.”

On May 18, the *Tibet Daily* published an article on cultural development in the region and asked officials in charge of cultural development to promote such themes as “communism, socialism, and the People’s Liberation Army are good,” “love the party and the motherland,” and “materialism and atheism.”

In July senior TAR officials urged relevant officials to crack down on illegal publications about Tibet and “reactionary propaganda materials,” to improve their capacity to gather and delete illegal online information, to find the source of illegal information, and to shut down underground printing houses.

The TAR Tourism Bureau continued its general policy of refusing to hire ethnic Tibetan tour guides who were educated in India or Nepal. Government officials stated that all tour guides working in the TAR must seek employment with the Tourism Bureau and pass a licensing exam on tourism and political ideology. The government’s stated intent was to ensure that all tour guides provided visitors with the government’s position opposing Tibetan independence and the activities of the Dalai Lama. Ethnic Tibetan tour guides in the TAR faced competition from government-sponsored “Help Tibet” tour guides brought from inland China, apparently for their greater political reliability, and put to work after receiving a crash course on Tibet. According to Xinhua News Agency, under the “Help Tibet

Tour Guide Program,” the government has sent 612 non-Tibetan tour guides to the TAR from other parts of China since 2003.

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

Lhasa security authorities continued to search some private homes and businesses for photographs of the Dalai Lama and other politically forbidden items. Police examined the cell phones of Lhasa residents to search for “reactionary music” from India and photographs of the Dalai Lama. Authorities reportedly even deemed certain ringtones subversive and grounds for detention. From January to March, authorities in Hainan (Tsolho) Prefecture, Qinghai Province, deployed 180 persons to raid 36 printing houses and 155 cultural enterprises. They confiscated 2,684 illegal DVDs and 500 pictures, and punished four internet cafes. In June there were reports that local governments in some parts of Qinghai Province and the TAR had decided to allow private displays of photos of the Dalai Lama, a policy change later denied by government officials.

On March 28, the TAR marked its fifth annual observance of “Serf Emancipation Day,” commemorating the day in 1959 that China’s rulers formally dissolved the Kashag (the governing council of Tibet). During the official celebration, authorities required government officials and representatives from rural villages and monasteries to denounce the Dalai Lama and praise the Communist Party of China.

Observers continued to express concern that development projects and other central government policies disproportionately benefited non-Tibetans and resulted in a considerable influx of ethnic Han and Hui persons into the TAR. Many major infrastructure projects across the Tibetan Plateau were engineered and implemented by large state-owned enterprises based in other provinces, and managed and staffed by professionals and low-wage temporary migrant workers from other provinces, rather than by local residents. Many persons from outside the TAR who had spent years living in the TAR maintained their official registration in another province and thus were not counted as TAR residents. The government continued to improve public services provided to the migrant population in the TAR significantly, particularly in the areas of education and

health care, and provided financial support to new businesses established by migrants.

Even in areas officially designated as “autonomous,” Tibetans generally lacked the right to play a meaningful role in the protection of their cultural heritage and unique natural environment, and faced arrest and intimidation if they protested against mining or other industrial activities that they believed were harmful to the environment or sacred sites.

On August 16, Chinese security forces used tear gas to disperse Tibetans protesting against diamond mining in Zaduo (Zatoe) County, Yushu (Yushu) Prefecture, Qinghai Province, injuring several Tibetans.

In August 2012 approximately 1,000 Tibetans marched to a mining site in Mangkang (Markham) County, Changdu (Chamdo) Prefecture, TAR, to protest the large operation, which they believed to be environmentally hazardous. Security personnel responded by firing tear gas and live rounds, causing the death of a Tibetan named Nyima, and arrested six others, including five whom authorities identified as Dawa, Atsong, Phuntsog Nyima, Jamyang Wangmo, and Kelsang Yudron. Their whereabouts and conditions remained unknown.

Tibetan and Mandarin Chinese are official languages in the TAR, and both languages appeared on some, but not all, public and commercial signs. Inside official buildings and businesses, including banks, post offices, and hospitals, signage in Tibetan was frequently lacking, and in many instances forms and documents were available only in Mandarin. Mandarin was widely spoken, was used for most official communications, and was the predominant language of instruction in public schools in many Tibetan areas. China’s Regional Ethnic Autonomy Law states that “schools (classes and grades) and other institutions of education where most of the students come from minority nationalities shall, whenever possible, use textbooks in their own languages and use their languages as the media of instruction” (Article 37).

The Tibetan-language curriculum for primary and middle schools in Tibetan areas was predominantly translated directly from the standard national Mandarin-language curriculum, offering Tibetan students little insight into their own culture and history. Few elementary schools in Tibetan areas used Tibetan as the primary language of instruction, and some did not offer any instruction in Tibetan. Despite guarantees of cultural and linguistic rights, in middle and high schools--even some officially designated as Tibetan-language schools--Tibetan was usually used only

to teach classes on Tibetan language, literature, and culture. All other classes were taught in Mandarin. Of 17 high schools in Aba (Ngaba), T&QAP, Sichuan Province, only four taught primarily in Tibetan. In early 2011 the TAR government began an effort to strengthen free compulsory bilingual preschool education in rural areas by establishing 217 bilingual kindergartens. Qinghai Province, and Ganzi (Kardze) TAP and Aba (Ngaba) T&QAP, Sichuan Province, announced similar programs in 2011.

According to a January 10 RFA report, authorities in Aba (Ngaba) T&QAP and Ganzi (Kardze) TAP, Sichuan Province, banned Tibetan-language classes taught by volunteers to students during winter break.

According to a June 12 RFA report, a court in Qinghai Province sentenced Wangchuk Dorje, a student at the Middle School of Nationalities in Huangnan (Malho) TAP, Qinghai Province, to four years in prison for being one of the main organizers of a student protest in Huangnan. Several thousand students took to the streets in November 2012 to demand the right to use Tibetan as their language of instruction in schools. The students shouted slogans calling for the “equality of nationalities and freedom of languages” and demanding the return of the Dalai Lama.

Proficiency in Mandarin was essential to qualify for higher education and to obtain a government job in the PRC. China’s most prestigious universities provided no instruction in Tibetan or other ethnic minority languages. “Nationalities” universities, established to serve ethnic minority students and ethnic Han students interested in ethnic minority subjects, offered Tibetan-language instruction only in courses focused on the study of the Tibetan language or culture. Since Tibetan-language instruction was not offered for other higher-education subjects, there was a dearth of technically trained and qualified ethnic Tibetans, and migrants from other areas of China typically filled jobs in Tibetan areas that required technical skills and qualifications.

According to overseas Tibetan sources cited by *Phayul*, authorities arrested Kalsang Yarphel, a popular singer, in Lhasa on July 14. Chinese authorities deemed as subversive his songs that encouraged Tibetans to speak Tibetan and think about Tibet’s future.

## **Freedom of Religion**

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

## Freedom of Movement

Chinese law provides for freedom of internal movement, foreign travel, emigration, and repatriation. In practical terms, however, the government severely restricted travel and freedom of movement of ethnic Tibetans, particularly Tibetan Buddhist monks and nuns.

In-country Movement: Freedom of movement for all Tibetans, but particularly for monks and nuns, remained severely restricted throughout the TAR, as well as in other Tibetan areas. The PAP and local PSBs set up roadblocks and checkpoints on major roads, in cities, and on the outskirts of cities and monasteries, particularly around sensitive dates. Tibetans traveling in monastic attire were subject to extra scrutiny by police at roadside checkpoints.

Following the May 2012 self-immolation in Lhasa of two young Tibetans from Tibetan areas of Sichuan and Gansu provinces (the first instances of self-immolation in Lhasa in recent years), authorities largely banned Tibetans from outside the TAR, particularly monks and nuns, from traveling to the TAR without first obtaining special official travel documents. Many Tibetans reported encountering difficulties in obtaining the required travel documents. This not only made it difficult for Tibetans to make pilgrimages to sacred religious sites in the TAR but also obstructed land-based travel to India through Nepal. During the year some Tibetans reported that authorities no longer required them to obtain special official travel documents to visit the TAR but required them to register with local authorities upon arrival in the TAR. Some Tibetans from outside the TAR that traveled to Lhasa also reported that in Lhasa authorities required them to notify a police officer posted in their hotel lobby of their plans on a daily basis. Additionally, many nonlocal Tibetan monks, nuns, and laypersons who had resided in the TAR for as long as 15 years were expelled in 2011 and 2012. Authorities have not allowed many to return. For example, in December 2012 a young Tibetan artist in Chengdu reported that government officials had forced him to leave the TAR after discovering that he was originally from Sichuan Province's Ganzi (Kardze) TAP. The artist had worked for two years at a famous TAR monastery painting and restoring sacred thangka paintings. Even outside the TAR, many Tibetan monks and nuns reported that it remained difficult to travel beyond their home monasteries, with officials frequently denying permission for visiting monks to stay temporarily at a monastery for religious education.

Authorities allowed many nonethnic Tibetans, particularly ethnic Han Tibetan Buddhists, only temporary visits to Tibetan Buddhist monasteries. Implementation of this restriction was especially rigorous in the TAR and Tibetan areas in Sichuan Province.

Foreign Travel: Many Tibetans, particularly prominent religious and cultural figures, scholars, and activists, as well as those from rural areas, continued to report difficulties in obtaining new, or renewing existing, passports. Some Tibetans reported they were able to obtain passports only after paying substantial bribes or making promises not to travel to India. In other cases authorities precluded Tibetan students admitted to foreign schools from studying abroad by refusing to issue them passports. According to reports some ethnic Tibetan government and CCP cadres in the TAR and Ganzi (Kardze) TAP, Sichuan Province, were not allowed to send their children to study abroad. Some Tibetans, who left the PRC for India without proper documentation, reported being able to return on a limited basis, and then were allowed to leave again for India through Nepal.

Tibetans continued to encounter substantial difficulties and obstacles in traveling to India for religious, educational, and other purposes. Contacts also reported instances of local authorities' revoking the passports of individuals who had traveled to India. Tight border controls sharply limited the number of persons crossing the border into Nepal and India. In 2012, 242 Tibetan refugees transited Nepal through the Tibetan Reception Center, run by the Office of the UN High Commissioner for Refugees in Kathmandu, on route to permanent settlement in India, down from 739 in 2011 and 874 in 2010.

The government restricted the movement of Tibetans in the period before and during sensitive anniversaries and events and increased controls over border areas at these times. Travel remained difficult, and communications were sometimes cut off, particularly in the TAR and in Tibetan areas of Sichuan Province.

The government regulated travel by foreigners to the TAR. In accordance with a 1989 regulation, foreign visitors must obtain an official confirmation letter issued by the government before entering the TAR. Most tourists obtained such letters by booking tours through officially registered travel agencies. In the TAR a government-designated tour guide must accompany foreign tourists at all times. It was rare for foreigners to obtain permission to enter the TAR by road.

In what has become an annual practice, authorities banned many foreign tourists from the TAR in the period before and during the March anniversary of the 1959 Tibetan uprising and the dual anniversaries in July of the founding of the CCP and the “peaceful liberation” of Tibet. Foreign tourists also faced restrictions traveling to Tibetan areas outside the TAR, particularly Aba (Ngaba) T&QAP and Ganzi (Kardze) TAP, Sichuan Province, although the government never issued publicly available formal prohibitions on travel to these areas. Anecdotal evidence suggested that the decline in the number of foreign tourists to the TAR was more than offset by an increase in domestic visitors to the TAR. Unlike foreign tourists, ethnic Han tourists do not need special permits to visit the TAR, nor are they subject to rules governing the size of their group or the means of transport used to enter the TAR.

Officials continued to restrict severely the access of foreign diplomats and journalists to Tibet. Foreign officials were able to travel to the region only with the permission of the TAR Foreign Affairs Office, and even then only on closely chaperoned trips arranged by that office. Such permission was difficult to obtain. U.S. government officials submitted more than 16 requests for diplomatic access to the TAR between May 2011 and November, but only two were granted. In June the U.S. ambassador to China led the first U.S. visit to the TAR in more than two years. In October two consular officers from the U.S. consulate general in Chengdu were allowed to travel to the TAR to assist a group of U.S. citizens injured in a vehicle accident. Permission was granted only after a prolonged delay and repeated requests by senior U.S. officials. U.S. and other foreign diplomats who lawfully traveled in some Tibetan areas outside the TAR, such as Sichuan Province’s Ganzi (Kardze) TAP and Aba (Ngaba) T&QAP, were frequently approached by local police and often forced to leave without reasonable explanation. With the exception of a few highly controlled trips, authorities repeatedly denied requests for international journalists to visit the TAR and other Tibetan areas (see section on Freedom of Speech and Press).

## **Discrimination and Societal Abuses**

### **Women**

Rape and Domestic Violence: There was no confirmed information on the incidence of rape or domestic violence.

Reproductive Rights: Family planning policies permitted ethnic Tibetans and members of some other minority groups to have more children than ethnic Han.

Some Tibetans that worked for the government reported pressure from their work units to have only one child. Depending upon the county, authorities sometimes encouraged rural Tibetans in the TAR to limit births to three children. Unlike other areas in the PRC where gender ratios were skewed by sex-selective abortion and inadequate health care for female infants, the TAR did not have a skewed gender ratio.

Prostitution in Tibetan areas was not uncommon. NGOs and health experts have expressed serious concern about the growing prevalence of HIV/AIDS in the TAR and other Tibetan areas.

**Discrimination:** There were no formal restrictions on women's participation in the political system, and women held many lower-level government positions. Women were underrepresented at the provincial and prefectural levels of government, however. According to an official website, female cadres in the TAR accounted for more than 34.9 percent of the TAR's total cadres. Although China's labor laws require equal pay for equal work and forbid employment discrimination on the grounds of ethnicity, race, gender, or religious belief, there were reports in the past that Tibetan women and men employed by companies owned by ethnic Han sometimes earned less than male or female ethnic Han employees in the same job.

## **Children**

Many rural Tibetan areas have implemented China's nationwide "centralized education" policy, which has resulted in the closure of many village schools and the transfer of students, including elementary school students, to boarding schools in towns and cities. Reports indicated that many of the boarding schools did not adequately care for and supervise their young students.

## **Trafficking in Persons**

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

## **Ethnic Minorities**

Although TAR census figures showed that Tibetans made up 90.5 percent of the TAR's permanently registered population, official figures did not include a large number of long-, medium-, and short-term ethnic Han residents, such as cadres

(government and party officials), skilled and unskilled laborers, military and paramilitary troops, and their respective dependents.

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

The government continued its campaign to resettle Tibetan nomads into urban areas and newly created communities in rural areas across the TAR and other Tibetan areas. Officials also offered nomads monetary incentives to kill or sell their livestock and move to newly created Tibetan communities in rural areas. There were reports of compulsory resettlement. According to a December 2012 Xinhua report, more than 408,000 households in the TAR, including 2.1 million farmers and herders, were covered by a resettlement project that provided funds for the construction of permanent housing. According to a January official media report, the government budgeted 875 million RMB (\$143 million) to resettle 460,000 Tibetans. The official press reported an official saying that such resettlement programs were the “foundation for fighting the Dalai clique,” and that resettled farmers and herders would “pray to Buddha less and study culture and technology more.”

Improving housing conditions, health care, and education for Tibet’s poorest were among the stated goals of resettlement, although there was a pattern of settling herders near townships and roads and away from monasteries, which were the traditional providers of community and social services. A requirement that herders bear a substantial part of the resettlement cost often forced resettled families into debt.

Although an August state media report noted that ethnic Tibetans and other minority ethnic groups made up 70 percent of government employees at the provincial level in the TAR, the top CCP position of TAR party secretary continued to be held by an ethnic Han, and the corresponding position in the vast majority of all TAR counties was also held by an ethnic Han. Also within the TAR, ethnic Han continued to hold a disproportionate number of the top security, military, financial, economic, legal, judicial, and educational positions. Authorities often prohibited Tibetans holding government and CCP positions from openly

worshipping at monasteries or otherwise practicing their religion. Of Qinghai Province's six TAPs, four were headed by ethnic Han party secretaries and two by ethnic Tibetan party secretaries. Ethnic Han party secretaries headed Gansu Province's one TAP, Sichuan Province's two TAPs, and Yunnan Province's one TAP. There were several ethnic Tibetan party secretaries at the county level in Tibetan areas of Qinghai, Sichuan, Gansu, and Yunnan provinces.

Economic and social exclusion was a major source of discontent among a varied cross section of ethnic Tibetans, including business operators, workers, students, university graduates, farmers, and nomads. Some ethnic Tibetans continued to report discrimination in employment, and some job advertisements expressly noted that ethnic Tibetans were not welcome to apply. In the past some have claimed that ethnic Han were hired preferentially for jobs and received higher salaries for the same work. The problem intensified after May 2012, since many Tibetans of outside origin were expelled from the TAR, creating more job and business opportunities for non-Tibetans. Some Tibetans reported that it was more difficult for ethnic Tibetans than ethnic Han to obtain permits and loans to open businesses. Restrictions on international NGOs that provided assistance to Tibetan communities remained, resulting in the lack of many beneficial NGO programs in the TAR and other Tibetan areas.

Government propaganda against alleged Tibetan "pro-independence forces" contributed to Chinese societal discrimination against ordinary Tibetans. Many Tibetan monks and nuns chose to wear nonreligious garb to avoid harassment when traveling outside their monasteries and throughout China. Some Tibetans in Chengdu reported that taxi drivers refused to stop for them and hotels refused to give them rooms.

### **Societal Violence**

Feuds among Tibetan herders and the resulting violence, in some cases including killings, was a serious problem. According to official Qinghai Province news sources, in May two persons were shot and killed and two others were injured during a clash between two villages in Tongren (Rebkong) County, Huangnan (Malho) TAP, over the harvesting of "caterpillar fungus" on disputed grassland. As a result the government conducted a countywide campaign of confiscating guns while carrying out "legal education" in the villages.

**HONG KONG 2013 HUMAN RIGHTS REPORT****EXECUTIVE SUMMARY**

Hong Kong is a special administrative region (SAR) of the People's Republic of China (PRC). The 1984 Sino-British Joint Declaration on the Question of Hong Kong and the SAR's charter, the Basic Law of the SAR (the Basic Law), specify that the SAR will enjoy a high degree of autonomy except in matters of defense and foreign affairs. In March 2012 a Chief Executive Election Committee composed of 1,193 members selected C.Y. Leung as the SAR's third chief executive (CE). The fifth-term Legislative Council (LegCo) was elected in September 2012 from a combination of directly elected seats and limited franchise or "small circle" functional constituencies. Authorities maintained effective control over the security forces. Security forces generally did not commit human rights abuses, but there were some reports of assault by police officers.

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

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

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

**Section 1. Respect for the Integrity of the Person, Including Freedom from:****a. Arbitrary or Unlawful Deprivation of Life**

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

**b. Disappearance**

There were no reports of politically motivated disappearances.

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

The Basic Law prohibits torture and other forms of abuse, but there were some reports that government officials employed them. In the first half of the year, the police force's Complaints against Police Office received 1,068 complaints. Of those, six were substantiated as reported, six substantiated other than reported, one was not fully substantiated, seven were unsubstantiated, six were false, eight did not involve fault, 114 were not pursuable, 446 were withdrawn, and 383 were pending investigation and endorsement by the Independent Police Complaints Council (IPCC). There were 21 allegations of assault by police officers on persons not in custody, of which 11 were not pursuable and two were withdrawn. Eight allegations were pending investigation as of June. There were also 114 allegations of assault by police officers against persons in custody in the first half of the year. Of those, one was found to be false, 14 were not pursuable, and 43 were withdrawn as of June.

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

Prison and detention center conditions generally met international standards, and the Correctional Services Department (CSD) permitted visits by independent human rights observers. In the past, nongovernmental organizations (NGOs) voiced concerns to the LegCo's Public Complaints Office, alleging "widespread use of solitary confinement in prisons" and a "lack of labor-protection legislation for inmates who work."

Physical Conditions: During the year the CSD managed 24 penal institutions (comprising minimum, medium, and maximum-security prisons; a psychiatric center; and training, detention, rehabilitation, and drug addiction treatment centers) with a certified accommodation capacity of 11,528 persons. As of June 30, the total prison population was 9,189, of which 8,245 were adults 21 years old or older (6,668 males and 1,577 females). As of June 30, a total of 63 (54 male and nine female) young offenders under the age of 16 were admitted to penal institutions, including prison, training centers, detention centers, and drug addiction treatment centers. Authorities did not hold male and female prisoners together, nor were juveniles held with adults.

The average occupancy rate for all penal institutions was 79.7 percent. The CSD acknowledged overcrowding was a problem in certain types of penal institutions, such as remand (pretrial detention) facilities and maximum-security institutions.

Prisoners generally had access to potable water.

In the first half of the year, there were 11 reports of deaths of prisoners in CSD custody. Inquest results had not been reported by year's end.

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

Independent Monitoring: The government permitted human rights groups to conduct prison visits. In the first six months of the year, there were 14 media visits and 222 visits by justices of peace (all of which were unannounced). Justices of the peace may make suggestions and comments on matters such as the physical environment of facilities, overcrowding, staff improvement, training and recreational programs and activities, and other matters affecting the welfare of inmates. There were no requests from any human rights organizations to visit any prison.

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

The law prohibits arbitrary arrest or detention, but some incidents of arbitrary arrest and detention occurred during the year.

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

The Hong Kong Police Force maintained internal security and reported to the Security Bureau. The PRC's People's Liberation Army is responsible for external security. Civilian authorities maintained effective control over the Hong Kong Police Force, and the government had effective mechanisms to investigate and punish abuse and corruption.

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

Human rights activists and some legislators expressed concern that all IPCC members were appointed by the CE and that the IPCC's lack of power to conduct independent investigations limited its oversight capacity. The IPCC cannot compel officers to participate in its investigations, and the media reported cases of police officers declining to do so.

In August police complained that the IPCC failed to maintain impartiality after IPCC secretary general Ricky Chu described a pro-police rally on August 4 as a political event, which prohibited police officers from taking part. IPCC chairman Jat Sew-tong tried to play down the incident by calling on police to review urgently the force's guidelines on which events police officers can and cannot participate.

### **Arrest Procedures and Treatment of Detainees**

Suspects generally were apprehended openly with warrants based on sufficient evidence and issued by a duly authorized official. They must be charged within 48 hours or released, and the government respected this right. Interviews of suspects are required to be videotaped. The law provides accused persons with the right to a prompt judicial determination, and authorities respected this right effectively. Detainees were informed promptly of charges against them. There was a functioning bail system, and authorities allowed detainees ready access to a lawyer of their choice as well as to family members.

Arbitrary Arrest: Prodemocracy activists claimed that incidents of arbitrary arrest targeted them and were politically motivated.

Police arrested two prodemocracy lawmakers, Albert Chan and Leung Kwok-hung, at a New Year's Day protest. The two accused police of making politically motivated arrests because the protesters had already dispersed when they were detained. They were later released on bail.

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

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

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

### **Trial Procedures**

The law provides for the right to a fair public trial, and an independent judiciary generally enforced this right. Trials were by jury except at the magistrate and district court level. An attorney is provided at the public's expense if defendants cannot afford counsel. Several activists complained that legal aid did not provide attorneys who were interested in committing significant attention to their pro bono clients. Otherwise, defendants had adequate time and facilities to prepare a defense. Defendants have the right to be informed promptly and in detail of the charges against them and the right to a public trial without undue delay, and defendants could confront and question witnesses testifying against them and present witnesses to testify on their behalf. Defendants and their attorneys had access to government-held evidence relevant to their cases. Defendants have the right of appeal and the right not to be compelled to testify or confess guilt.

Defendants enjoy a presumption of innocence except in official corruption cases. Under the law a current or former government official who maintained a standard of living above that commensurate with his or her official income, or who controls

monies or property disproportionate to his official income, is guilty of an offense unless he can satisfactorily explain the discrepancy. The courts upheld this ordinance. Court proceedings were conducted in either Chinese or English, the SAR's two official languages.

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

### **Civil Judicial Procedures and Remedies**

There is an independent and impartial judiciary for civil matters and access to a court to bring lawsuits seeking damages for, or the cessation of, human rights violations. Activists regularly raised concerns about the independence of the SAR's courts, which are endowed with a high degree of autonomy under the Basic Law.

In March the Court of Final Appeal declined the government's request to seek clarification from the NPC/SC on the meaning of a 1999 interpretation of Article 24 of the Basic Law, which deals with permanent residency. The bar association welcomed the judgment and urged the government "to exercise extreme caution" in seeking the NPC/SC's interpretation of the Basic Law, as any attempt "is likely to have a detrimental impact on the rule of law in Hong Kong."

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

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

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

The use of covert surveillance and the interception of telecommunications and postal communications can be granted only to prevent or detect “serious crime” or protect “public security.” The law establishes a two-tiered system for granting approval for surveillance activities, under which surveillance of a more intrusive nature requires the approval of a judge, while surveillance of a less intrusive nature requires the approval of a senior law enforcement official. Applications to intercept telecommunications must involve crimes with a penalty of at least seven years’ imprisonment, while applications for covert surveillance must involve crimes with a penalty of at least three years’ imprisonment or a fine of at least HK\$1 million (\$129,000).

In August the Privacy Commission for Personal Data stopped the supply of personal data from litigation and bankruptcy records through a smartphone application that provided users with details on litigants without their consent. All the data was already available in the public domain. Privacy Commissioner Allan Chiang Yam-wang stated this highlighted a common misconception that data in the public domain was open to unrestricted use. His specific concerns were the possibility of widening the risk of accidental breach of privacy and the indefinite storage of data.

Between January 1 and August 31, the privacy commissioner received 1,299 complaints. Of these, 21 cases were found to have violated the law, 629 were resolved or rejected after preliminary inquiries, 74 resolved or rejected after formal investigations, and 433 withdrawn or found not pursuable. The remaining complaints remained under consideration.

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

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

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

Press Freedoms: In August the antigraft body, the Independent Commission against Corruption (ICAC), sought a court order compelling Commercial Radio Hong Kong and the *sun Affairs* weekly magazine to surrender records of interviews with former Chinese People’s Political Consultative Conference

delegate Lew Mon-hung, a move criticized by the media as an attempt to restrict press freedom. Lew accused CE Leung of lying over his handling of illegal structures at his home. He also railed at Leung for breaking a promise to appoint him to the Executive Council as a reward for his support during the 2012 CE selection. In September the High Court dismissed the ICAC's request on Commercial Radio Hong Kong, and in October the ICAC withdrew its application to the court regarding *sun Affairs*. The court subsequently ordered the ICAC to pay the legal costs involved in the case.

Violence and Harassment: A number of violent attacks on media-related personalities took place during the year. In both cases, pan-democrats claimed that the incidents represented an increasing effort of the central government to restrict criticism of its policies in the SAR.

In June a series of attacks targeted the prodemocracy Next Media group. First, a stolen car rammed the gate of the home of the group's chairman, Jimmy Lai. The perpetrators left an axe and a knife behind before fleeing the scene. A week later two men burned copies of Next Media's prodemocracy newspaper *Apple Daily* inside a delivery truck. A similar event took place four days later, when three masked men burned about 26,000 copies of *Apple Daily*.

Also in June, Chen Ping, owner of *sun Affairs*, a magazine that reported sensitive issues in China and the SAR, was assaulted by two young men armed with clubs. He was hospitalized without severe injuries. Police continued investigating these cases, and no arrests had been made at year's end.

Censorship or Content Restrictions: Reports of media self-censorship continued during the year. Most media outlets were owned by businesses with interests on the mainland, which led to claims that they were vulnerable to self-censorship, with editors deferring to the perceived concerns of publishers regarding their business interests.

In September observers criticized the *HK Economic Journal* for allegedly withdrawing a commentary accusing TVB News of biased reporting surrounding CE Leung's September 15 district visit. The paper's deputy chief editor, Yuen Yiu-ching, who was against the withdrawal decision, said the commentary was fair in criticizing TVB for imbalanced reporting. He accused the paper of imposing self-censorship under its newly appointed chief editor, Alice Kwok. Prodemocracy Civic Party lawmaker Claudia Mo accused TVB of contravening the

Communications Authority's General Code of Practice on Television Program Standards by carrying biased reports which might have misled the public.

In November free press activists criticized Commercial Radio Hong Kong's (CRHK) decision to move outspoken radio host Siring Li from a popular morning show to an evening program as politically motivated and yet another example of media self-censorship. Li was a vocal critic of the government and supporter of public demonstration on several social issues and has angered many progovernment supporters. CRHK CEO Stephen Chan claimed that Li's removal was a programming decision and had nothing to do with the fact that the station's extension of its license would be up for renewal by the government before 2016.

### **Internet Freedom**

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

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

In general there were some restrictions on academic freedom and cultural events. Some scholars suggested Hong Kong-based academics practiced some self-censorship in their China-related work to preserve good relations and research and lecturing opportunities in the mainland.

Following large-scale protests in August 2012, the government announced it would suspend a controversial "moral and national education curriculum," which critics argued would gloss over difficult periods in China's history, such as the Cultural Revolution and Tiananmen Square massacre. During the year, however, the government adopted a policy allowing individual schools to adopt the plan. In a July press briefing, Secretary for Education Eddie Ng told the media that a standardized curriculum should include moral and national education as a component.

Throughout the year, critics claimed that the government's December 2012 decision to transfer a HK\$20 million Hong Kong dollars (HK\$) (\$2.6 million) budget from the independent Research Grants Council to a public policy research fund chaired by an academic from the Central Policy Unit, a government body led

by an alleged progovernment policy thinker, continued to threaten academic freedom.

In July Lam Wai-sze, a teacher, walked past a Falun Gong group being harassed by progovernment Hong Kong Youth Care Association members, while police reportedly stood by and did not intervene. When bystanders tried to defend the practitioners, police formed a human barricade to separate the opposing sides. On witnessing this, Lam scolded police for their behavior in protecting those harassing Falun Gong practitioners. She subsequently crossed the human barricade and exchanged heated words with the officers. A pro-establishment local publication taped the incident and posted an edited version online in a bid to present the teacher as the aggressor. As a result Lam and the primary school where she taught were forced to apologize publicly, and CE Leung requested a report on Lam from Secretary for Education Eddie Ng. LegCo member Ip Kin-yuen accused the CE of being “seriously biased” on the case, and it was unclear whether Ng compiled a report.

In October the local arts community criticized the Hong Kong Ballet’s removal of a 12-minute segment on the Cultural Revolution during a performance piece. According to several arts and culture representatives, the production team cut the segment following the attendance of Central Government Liaison Office director Zhang Xiaoming and Hong Kong chief secretary Carrie Lam at the play. Hong Kong Ballet artistic director Madeleine Onne told the media the section was cut for “artistic reasons” but would be restored.

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

### **Freedom of Assembly**

The law provides for freedom of assembly and association, and the government generally respected these rights. The government routinely issued the required “letter of no objection” for public meetings and demonstrations, and the overwhelming majority of protests occurred without serious incident. Government statistics indicated that an average of seven to eight “public events” occurred every day. Activists and pan-democratic legislators, however, expressed concern that the government took a more restrictive view of protests when protests occurred at the Central Government Liaison Office, which saw several clashes with protesters end in arrests. Activists alleged that police acted under instructions from the mainland government, which police denied.

Demonstrators continued to claim that their ability to protest had become increasingly difficult due to Hong Kong Police commissioner Andy Tsang's opposition to prodemocracy organized protests. According to organizers, 430,000 persons participated in the annual July 1 demonstration, and they focused on denouncing the PRC's growing interference and the selection of C.Y. Leung as CE. Police estimated there were 66,000 protesters.

In May police arrested Melody Chan, a female trainee lawyer and volunteer for the Occupy Central campaign--a civil disobedience effort to press for universal suffrage in Hong Kong's elections--for unauthorized assembly in a rally two years previous. She was sentenced to a one-year bond in July, implying that she would be liable to a fine of HK\$2,000 (\$256) and six months' imprisonment if she broke the law in the next 12 months. Chan told the media after the judgment that she accepted the bond because she did not want the case to affect her work.

Activists and some lawmakers expressed concern about the lack of guidelines as to whether a person arrested on assault charges related to public demonstrations would be charged under the Police Force Ordinance (PFO) or the Offenses against the Person Ordinance (OAPO). Although both ordinances criminalize assault on a police officer on duty, the PFO carries a maximum penalty of six months' imprisonment and a HK\$5,000 (\$645) fine, while the OAPO carries a maximum penalty of two years' imprisonment. Some activists also alleged that police faced no penalty for making arrests that ultimately were not prosecuted or were dismissed by the courts, allowing them to use arrest to intimidate and discredit protesters. The Civil Human Rights Front NGO alliance reported that law enforcement charged an increasing number of protest participants under the tougher OAPO.

### **Freedom of Association**

The law provides for this right, and the government generally respected it. In the first half of the year, authorities registered 1,317 societies and did not refuse any applications.

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

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

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

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights, with some prominent exceptions.

Under the “one country, two systems” framework, the SAR continued to administer its own immigration and entry policies and make determinations regarding claims under the UN Convention against Torture (CAT) independently. There were 3,637 torture claims pending Immigration Department processing. The Immigration Department determined only eight of 1,079 torture claims it processed were substantiated. Applicants and activists continue to complain over the slow processing of claims and limited government subsidies available to applicants.

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

There continued to be claims that persons traveling to the SAR for reasons that did not appear to contravene the law were refused entry by the Immigration Department. Local Falun Gong leaders claimed that the Immigration Department denied entry into the SAR to a number of their practitioners from Taiwan without providing an explanation. The Immigration Department, as a matter of policy, declined to comment on individual cases. Activists, some legislators, and others contended that the refusals, usually of persons holding views critical of the mainland, were made at the behest of PRC authorities. The Security Bureau countered that, while the Immigration Department exchanges information with other immigration authorities, including the mainland, it makes its decisions independently.

Foreign Travel: Most residents easily obtained travel documents from the SAR government; however, PRC authorities did not permit some human rights activists and most prodemocracy legislators to visit the mainland.

Emigration and Repatriation: Government policy is to repatriate undocumented migrants who arrived from the mainland, and authorities did not consider them for refugee status. As of September, 2,645 immigration offenders and illegal immigrants were repatriated to the mainland. The government did not recognize

the Taiwan passport as valid for visa endorsement purposes, although convenient mechanisms existed for Taiwan passport holders to visit. Beginning in September, Taiwan visitors were able to register online and stay for a month if they held a mainland travel permit.

### **Protection of Refugees**

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

Refoulement: The government recognizes a legal obligation to grant nonrefoulement protection under the CAT, as the CAT has applied to Hong Kong since 1992. In 2009 the Immigration Department introduced an "enhanced screening mechanism" for torture claims to meet the "high standards of fairness" required by the SAR's courts. Claimants had access to legal counsel from the Duty Lawyer Service, whose lawyers received training in refugee and torture claims from the Hong Kong Academy of Law. There was also a system to appeal decisions by the Immigration Department, with reviews conducted by experienced magistrates.

Employment: The government defines CAT claimants and asylum seekers as illegal immigrants or "overstayers" in the SAR, and, as such, they have no legal right to work in the city. Individuals whose claims were pending have no legal right to work, and those granted either refugee status by the UNHCR or relief from removal under the CAT were permitted to work only with approval from the director of immigration. They were also ineligible for training by either the Employees Retraining Board or the Vocational Training Council. A CAT claimant whose torture claim was accepted could apply to the director of immigration for permission to work in the SAR. In April a Sri Lankan torture claimant received a temporary work permit from the Immigration Department just a day before he was to file a legal challenge against the department in the Court of Final Appeal. This was the first case of a torture claimant allowed to work in the city.

Access to Basic Services: The government, in collaboration with NGO International Social Service Hong Kong Branch, offered in-kind assistance, including temporary accommodation, food, clothing, appropriate transport allowance, counseling, medical services, and other basic necessities, to asylum seekers and torture claimants while their claims were being processed. As of August, 4,821 persons were receiving assistance.

The Hospital Authority provided waivers of medical expense at public clinics or hospitals to service users on a case-by-case basis, and the Education Bureau accepted schooling applications for minor claimants who were not expected to be removed from the SAR within a short period. Applications to attend school or university were then authorized on a case-by-case basis at the discretion of the director of immigration.

In September, UN refugee officials stated their concern for the welfare of nearly 1,000 asylum seekers living in squalor in the SAR's New Territories. They warned the government that it was failing to ensure the asylum seekers' right to an adequate standard of living.

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

The Basic Law limits the right of residents to change their government peacefully. A portion of the LegCo was elected by a subset of voters representing "functional constituencies" (FCs) that speak for key economic and social sectors. Under this structure some individuals were able to control multiple votes for LegCo members. The constituencies that elected the 30 FC LegCo seats had fewer voters in total than the constituency for a single geographical constituency (GC) seat, of which there were 30 in the LegCo. Beginning in September 2012, voters were able to elect five newly created FC seats in the district council sector, known as "super seats." These five LegCo members were elected by voters who were not otherwise represented in any FC. The government stated that the current method of selecting FC legislators did not conform to the principle of universal suffrage, but it took no steps to eliminate the FCs. In addition to the five new FC seats, five additional GC seats were added in 2012, bringing the previous 60-member legislative body to 70 seats.

The Basic Law prohibits LegCo members from introducing bills that affect public expenditure, political structure, or government policy. The SAR sends 36 deputies to the mainland's National People's Congress (NPC) and had 199 delegates in the Chinese People's Political Consultative Conference. The approval of the CE, two-thirds of LegCo, and two-thirds of the SAR's delegates to the NPC are required to place an amendment of the Basic Law on the agenda of the NPC, which has the sole power to amend the Basic Law.

In 2012 the CE used his authority to appoint 68 of the 534 members of the district councils, the SAR's most grassroots-level elected bodies, despite earlier promises to eliminate all appointed seats. The government stated that it would work on phasing out the nonelected seats in two tranches in 2016 and 2020--with the exception of 27 ex-officio seats reserved for indigenous Chinese rural council representatives--but pan-democrats complained that this violated a previous understanding between the LegCo and the government to eliminate all appointed district councilors immediately.

### **Elections and Political Participation**

Recent Elections: In March 2012, in a process widely criticized as undemocratic, the 1,193-member CE Election Committee, dominated by progovernment electors and their allies, selected former Executive Council Convenor C.Y. Leung to be the SAR's chief executive. The PRC's State Council formally appointed him, and President Hu Jintao swore in Leung in July 2012.

The September 2012 elections for a new 70-member LegCo were considered generally free and fair according to the standards established in the Basic Law. Of the 35 FC seats, 16 incumbents, all progovernment, returned uncontested. When combined with 35 GC seats, pro-PRC and pro-establishment candidates won 43 of 70 LegCo seats, while prodemocracy candidates won 27 seats.

Between January and August, the Independent Commission against Corruption (ICAC) received 553 complaints concerning alleged breaches of provisions under the Elections (Corrupt and Illegal Conduct) Ordinance. The complaints included allegations of bribing voters, voting after giving false or misleading information to an elections officer, incurring election expenses by persons other than the candidate or his agent, publishing false or misleading statements about a candidate, publishing election advertisements that do not meet certain requirements, failure to file election returns, and providing others with refreshments and entertainment at elections. As of September, 490 complaints were under investigation, one was deemed nonpursuable, and 62 were unsubstantiated after investigation. During the same period, five persons were prosecuted in two election cases from prior years. Of these, one person was convicted and four were awaiting trial.

Political Parties: Pan-democratic parties faced a number of institutional challenges, which prevented them from securing a majority of the seats in the LegCo or having one of their members become CE. The voting process ensured probusiness representatives and government allies controlled a majority. In

addition, the central government and its business supporters provided generous financial resources to parties that supported the central government's political agenda in the SAR, ensuring that these organizations would control the levers of government and senior positions.

Participation of Women and Minorities: Six of the 29 members of the ExCo (cabinet-level secretaries and "nonofficial" councilors who advise the CE) were women. Nine of the 35 directly elected LegCo members were women, and women held two of the 35 FC seats. Thirteen of the 44 most senior government officials (secretaries, undersecretaries, and permanent secretaries) were women.

There is no legal restriction against non-Chinese running for electoral office or participating in the civil service, although most elected or senior appointed positions require that the officeholder have a legal right of abode only in the SAR. There were no members of ethnic minorities in the LegCo. The government regarded ethnic origin as irrelevant to civil service appointment and did not collect data on the number of non-ethnic Chinese serving in the civil service, a practice that some observers criticized as preventing the government from monitoring hiring and promotion rates for nonethnic Chinese.

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

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

In October organizers claimed 120,000 people (police estimated 36,000) gathered at government headquarters to protest the government's decision to deny a free-to-air television broadcast license to Hong Kong Television Network (HKTV). Activists claimed that the decision to award licenses to two HKTV competitors while denying HKTV's application was nontransparent and politically motivated. CE Leung denied the claims, calling the license application process fair and legal.

Corruption: The ICAC, which is charged with the investigation and prosecution of cases, prevention, and policy development, was responsible for combating corruption. The ICAC generally operated effectively and independently, actively collaborated with civil society, and had sufficient resources. Between January and

September 30, the ICAC received 529 corruption reports involving government personnel concerning alleged breaches of provisions under the Prevention of Bribery Ordinance. Of these reports, as of September, the ICAC had 240 under investigation, deemed 242 to be nonpursuable, and deemed 47 unsubstantiated after investigation. During the same period, authorities prosecuted 13 government personnel in 13 cases based on reports received prior to 2013. Of these, four were convicted, eight were awaiting trial, and one was acquitted.

In September former ICAC commissioner Timothy Tong was suspected of lying and making false statements under oath due to discrepancies between his testimonies in the legislature and the contents of a report released in early September by the Independent Review Committee on ICAC's Regulatory Systems and Procedures for handling Official Entertainment, Gifts, and Visits. Tong was accused of lavish spending on meals with officials and academics on overseas visits. The LegCo summoned him to explain the discrepancies on September 25 and 26.

In August former secretary for development Mak Chai-kwong and Highways Department assistant director Tsang King-man and their wives were sentenced to eight months' imprisonment and suspended for two years for defrauding the government of private tenancy allowances between 1985 and 1990.

In the first six months of the year, the ICAC received 1,256 corruption reports, of which 774 concerned the private sector, 393 were related to government departments, and 89 involved public bodies.

Whistleblower Protection: There are no legal protections for whistleblowers.

Financial Disclosure: The SAR requires the 27 most senior civil service officials to declare their financial investments annually and the approximately 3,100 senior working-level officials to do so biennially. Policy bureaus may impose additional reporting requirements for positions seen as having a greater risk of conflict of interest. The Civil Service Bureau monitors and verifies disclosures, which are available to the public. There are criminal and administrative sanctions for noncompliance.

In July allegations arose that Secretary for Development Paul Chan had a conflict of interest related to farmland belonging to a company that his wife and brother-in-law owned in an area which the government planned to develop. In October the

progovernment majority opposed a pan-democratic motion in LegCo to investigate Chan's involvement in this issue.

Public Access to Information: There is no freedom of information law. An administrative Code on Access to Information serves as the framework for the provision of information by government bureaus and departments and the ICAC. Under the code, authorities may refuse to disclose information if doing so would cause or risk causing harm or prejudice in several broad areas: national security and foreign affairs (which were reserved to the central government); immigration issues; judicial and law enforcement issues; direct risks to individuals; damage to the environment; improper gain or advantage; management of the economy; management and operation of the public service; internal discussion and advice; public employment and public appointments; research, statistics, and analysis; third-party information; business affairs; premature requests; and information on which legal restrictions apply. Political inconvenience or the potential for embarrassment were not a justifiable basis for withholding information. Between January and June, the Office of the Ombudsman received 41 complaints relating to the Code on Access to Information.

Through September the Constitutional and Mainland Affairs Bureau received 1,090 requests for information under the code, of which 76 requests were withdrawn by requestors and 74 requests covered cases in which the government bureau or department concerned did not hold the requested information. Of the 1,222 remaining requests, at the end of June, 1,118 requests had been met in full (1,094 requests) or in part (24 requests). Of the remaining cases, 74 requests were still being processed and 30 were refused.

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

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

Government Human Rights Bodies: There is an Office of the Ombudsman and an Equal Opportunity Commission (EOC). The government appointed both the ombudsman and the EOC commissioners, who were independent in their

operations. Both organizations operated without interference from the government and published critical findings in their areas of responsibility. EOC commissioner York Chow Yat-ngok served as a vocal public advocate on minority rights, access to public and commercial buildings for persons with disabilities, and other issues within the EOC's responsibility.

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

The law provides that all permanent residents are equal, and the government enforced this. The EOC is responsible for enforcing the relevant laws.

### **Women**

Rape and Domestic Violence: The law criminalizes rape, including spousal rape, and police enforced the law effectively. Through June police received allegations of 59 rape and 759 indecent assault, of which police identified 53 cases as rape and 505 cases as indecent assault.

The government regarded domestic violence against women as a serious concern and took measures to prevent and prosecute offenses. It effectively enforced criminal statutes prohibiting domestic violence against women and prosecuted violators. From January to June, police investigated 946 domestic violence-related cases. The law allows victims to seek a three-month injunction, extendable to six months, against an abuser. The ordinance does not criminalize domestic violence directly, although abusers may be liable for criminal charges under other ordinances. The government enforced the law and prosecuted violators, but sentences typically consisted only of injunctions or restraining orders.

The law covers molestation between married couples, homosexual and heterosexual cohabitants, former spouses or cohabitants, and immediate and extended family members. It protects victims under age 18, allowing them to apply for an injunction in their own right, with the assistance of an adult guardian, against molestation by their parents, siblings, and specified immediate and extended family members. The law also empowers the court to require that the abuser attend an antiviolence program. In cases in which the abuser caused bodily harm, the court may attach an authorization of arrest to an existing injunction, and the court can extend both injunctions and authorizations for arrest to two years.

The government maintained programs that provided intervention and counseling to batterers. Sixty-five integrated family service centers and 11 family and child

protective services units offered services to domestic violence victims and batterers. The government continued its public information campaign to strengthen families and combat violence, and increased public education on the prevention of domestic violence.

Sexual Harassment: The law prohibits sexual harassment or discrimination on the basis of sex, marital status, and pregnancy. The law applies to both men and women, and police enforced the law effectively.

Reproductive Rights: Couples and individuals had the right to decide the number, spacing, and timing of children and had the information and means to do so free from discrimination, coercion, and violence. Access to information on contraception, skilled attendance at delivery, and prenatal and postpartum care was widely available.

Discrimination: Women enjoy the same legal status and rights as men. As of April women filled 35.8 percent of the civil service at all ranks and 33.7 percent at the directorate level. Women made up 59.8 percent of the LegCo Secretariat workforce and 46.7 percent of its directorate ranks. Twenty-four percent of judges and judicial officers were women, while women constituted 70 percent of the nonjudges and judicial officer staff of the courts.

According to gender-rights activists and public-policy analysts, while the law treats men and women equally in terms of property rights in divorce settlements and inheritance matters, women faced discrimination in employment, salary, welfare, inheritance, and promotion. Women reportedly formed the majority of the working poor and those who fall outside the protection of labor laws.

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

## **Children**

Birth Registration: All Chinese nationals born in the SAR or abroad to parents of whom at least one is a PRC-national Hong Kong permanent resident acquire both PRC citizenship and Hong Kong permanent residence, the latter allowing right of abode in the SAR. Children born in the SAR to non-Chinese parents, at least one

of whom is a permanent resident, acquire permanent residence and qualify to apply for naturalization as PRC citizens. Registration of all such statuses was routine.

Child Abuse: From January through June, there were 608 cases of child abuse: 246 involved physical abuse (referring to victims younger than 14) and 362 involved sexual abuse (referring to victims younger than 17). The law mandates protection for victims of child abuse, such as battery, assault, neglect, abandonment, and sexual exploitation, and the government enforced the law. The law allows for the prosecution of certain sexual offenses, including against minors, committed outside the territory of the SAR.

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

Forced and Early Marriage: The legal minimum age of marriage is 16 and written consent is required for marriage before the age of 21. There was no evidence of early or forced marriage in the SAR.

Sexual Exploitation of Children: There were reports of girls under the age of 18 from some countries in Asia being subjected to sex trafficking in the SAR.

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

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

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

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

International Child Abductions: The SAR is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. See the Department of State's country-specific information at [http://travel.state.gov/abduction/country/country\\_495.html](http://travel.state.gov/abduction/country/country_495.html).

### **Anti-Semitism**

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

### **Trafficking in Persons**

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

### **Persons with Disabilities**

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

The Disability Discrimination Ordinance states that children with special education needs must have equal opportunity in accessing education. It is against the law for a school to discriminate against a student with a disability. According to the government, students with severe or multiple disabilities are placed in special schools with parental consent, while students with less severe disabilities are enrolled in ordinary schools. There were occasional media reports about alleged abuses in education and mental health facilities; the most recent court case involving such abuses was in 2011.

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

The Social Welfare Department (SWD), directly or in coordination with NGOs and employers, provided training and vocational rehabilitation services to assist persons with disabilities. As of June a total of 16,938 persons were participating in these various programs. As of June the SWD offered 12,232 places for subsidized resident-care services for persons unable to live independently. As of June, the SWD provided 6,230 places for preschool services to children with disabilities with the goal of improving their opportunity to participate in regular schools and extracurricular activities.

As of April the government employed 3,391 civil servants with disabilities. Persons with disabilities filled 2 percent of LegCo secretariat positions, 1 percent of judicial positions, and 2 percent of nonjudicial positions in the judiciary.

Instances of discrimination against persons with disabilities persisted in employment, education, and the provision of some public services. The law calls for improved building access and sanctions against those who discriminate.

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

According to the EOC, the SAR lagged in providing equal opportunities for students with disabilities, despite having operated an integrated education policy since 1997.

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

Although 94 percent ethnic Chinese, the SAR is a multi-ethnic society with persons from a number of ethnic groups recognized as permanent residents with full rights under the law. The law prohibits discrimination based on the law, and the EOC oversees implementation and enforcement of the law. The Race Relations Unit, which is subordinate to the Home Affairs Bureau, served as secretariat to the Committee on the Promotion of Racial Harmony and implemented the committee's programs. The EOC maintained a hotline for inquiries and complaints concerning racial discrimination. The EOC's code of practice (along with selected other EOC materials) was available in Hindi, Thai, Urdu, Nepali, Indonesian, and Tagalog, in addition to Chinese and English.

In September, Commissioner Chow called on the government to recognize minority languages in its job requirements. He stated that ethnic minorities had difficulties meeting the Chinese language requirement for jobs in the civil service. As ethnic minorities accounted for about 6 percent of the SAR's population, Chow expressed hope the government would revise its policy. The government had not commented on Chow's remarks.

The Race Relations Unit sponsored a cross-cultural learning program for non-Chinese speaking youth through grants to NGOs.

The government had a policy to integrate non-Chinese students into the SAR's schools. The government also provided a special grant for schools with a critical mass of non-Chinese students to develop their own programs, share best practices with other schools, develop supplementary curriculum materials, and set up Chinese-language support centers to provide after-school programs. According to the press, of 852 government schools, 31 enrolled mostly ethnic minorities and taught limited Chinese. The government claimed that it had ceased referring to these schools as "designated schools."

Activists expressed concern that there was no formal government-provided course to prepare students for the General Certificate for Secondary Education examination in Chinese, a passing grade from which is required for most civil service employment. Activists also noted that government programs encouraging predominantly Chinese schools to welcome minority students backfired, turning whole schools into "segregated institutions." These schools did not teach Chinese to the non-ethnic Chinese students. Students who did not learn Chinese had significant difficulty entering university and the labor market, leading to a cycle of

problems, including unemployment and poverty, according to reports from the government and NGOs.

In 2010 the EOC established a working group on education for ethnic minorities, which presented a set of recommendations to the Education Bureau in 2011. According to activists and the EOC, the Education Bureau stressed that it was a parental decision to choose between mainstream and designated schools. It agreed that support measures in both types of schools should be strengthened to assist non-Chinese students in learning Chinese, but it expressed reservation about the proposed development of an alternative Chinese curriculum on the grounds of low recognition by international universities.

In October the UN Committee on the Rights of the Child called the existence of schools where many students came from an ethnic minority, “de facto discrimination.” The committee called on the government to “urgently abolish” the schools and promote minority children’s access to mainstream institutions.

Minority group leaders and activists complained that government requirements for all job applicants to speak Chinese kept nonnative Chinese speakers out of civil service and law enforcement positions. The Hong Kong Police Force reportedly employed 10 nonethnic Chinese constables during the year.

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

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

No laws criminalize consensual same-sex sexual activity. In 2005 the Court of First Instance ruled that maintaining the age of consent for male-male relations at 21 rather than 16 violated the Bill of Rights Ordinance. No specific laws govern age of consent for female-female relations.

In November a transgender woman from South America told the media that immigration and customs officers behaved “like animals” during a body search and mocked her during a nine-hour episode and body search--conducted by male staff

despite her plea for female officers--at the airport in September. She began the process for applying for asylum in the SAR based on fears she would be killed if she returned to the country in which she was born. Officials denied the allegations and insisted proper procedures were followed amid initial suspicion about her identity and her reason for arriving in the SAR. Following the episode at the airport, she told the media that staff at one of the city's largest public hospitals diagnosed her as a psychiatric patient and put her in restraints. The hospital claimed the action was necessary because she was suicidal.

While the SAR has laws that ban discrimination on the grounds of race, sex, disability, and family status, no law prohibits companies from discriminating on grounds of sexual orientation. Lesbian, gay, bisexual, and transgender (LGBT) professionals are permitted to bring partners to the SAR only on a "prolonged visitor visa." Successful applicants, however, cannot work, obtain an identification card, or qualify for permanent residency. The government claimed public education was sufficient to protect the rights of the LGBT community and that legislation was not necessary.

The SAR elected its first openly gay member to LegCo in September 2012.

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

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

## **Section 7. Worker Rights**

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

The law, including related regulations and statutory instruments, provides for the right of workers to form and join independent unions without previous authorization or excessive requirements and conduct legal strikes, but does not provide for the right to collective bargaining. Trade unions must register with the government's Registry of Trade Unions and must have a minimum membership of seven persons for registration. Unions could affiliate, and workers were not prevented from unionizing. Through September authorities registered seven new trade unions, while three were deregistered at the unions' request. At the beginning of the year, there were approximately 3,427,800 salaried employees and wage earners, of whom 813,897, or approximately 23.7 percent of the working population, belonged to unions.

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

The law provides for the right to strike, although there are some restrictions on this right for civil servants. According to the Employment Ordinance (EO), an employer cannot fire, penalize, or discriminate against an employee who exercises his union rights and cannot prevent or deter the employee from exercising his union rights. In addition, under the EO, an employee unreasonably and unlawfully dismissed (including on the grounds of the employee exercising his trade union rights) is entitled to remedy in the form of an order for reinstatement or reengagement, subject to mutual consent of the employer and the employee. The government reported that, as of September, four strikes involving 774 workers had occurred. Activists claimed that many more strikes took place but that the government did not want to tarnish the SAR's business-friendly image by acknowledging them.

The law provides for reinstatement and or compensation not exceeding HK\$150,000 (\$19,300) for unreasonable and unlawful dismissal.

The Workplace Consultation Promotion Division in the Labor Department facilitated communication, consultation, and voluntary negotiation between employers and employees. Tripartite committees for each of the nine sectors of the economy included representatives from some trade unions, employers, and the Labor Department. During a labor dispute, the Labor Relations Division of the Labor Department facilitates conciliation so that the dispute can be settled with minimum friction and disruption.

Worker organizations were independent of the government and political parties. Prodemocracy labor activists alleged, however, that only progovernment unions were able to participate substantively in the tripartite process, while the prodemocracy Hong Kong Confederation of Trade Unions was consistently excluded. Antiunion discrimination did not occur.

Although there was no legislative prohibition against strikes and the right and freedom to strike are enshrined in Article 27 of the Basic Law, most workers had to sign employment contracts, which typically stated that walking off the job was a breach of contract and could lead to summary dismissal. Various sections of the EO prohibit firing an employee for striking and void any section of an employment contract that would punish a worker for striking. As in past years, thousands of

workers participated in the annual May 1 Labor Day march calling for a raise in the minimum wage and better worker protections. According to the government, there were no reports that employers fired workers for participating in a strike during the year.

In May more than 300 dockworkers returned to work at the Kwai Tsing Container Terminals after a 40-day strike ended upon the contractors' assurance of a 9.8 percent pay increase. The strike was the longest since the SAR's 1997 handover to the PRC. Secretary for Labor and Welfare Matthew Cheung told the LegCo that the action was estimated to have cost striking workers more than HK\$10 million (\$1.29 million) in wages. Dockworkers and unions maintained that, without the right to collective bargaining, they could only force bosses to negotiate through strikes and public pressure. The situation of the dockworkers was further complicated by the common business practice of appointing contractors to act as middlemen between the corporation and the workers.

In August a strike by 200 workers at an Express Rail Link stop ended after 14 hours when the contractor gave in to demands related to unreasonable pay deductions and working conditions.

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

The law prohibits all forms of forced or compulsory labor, and the government effectively enforced such laws. There were concerns that some migrant workers faced high levels of indebtedness assumed as part of the terms of employment, creating a risk they could fall victim to debt bondage. The SAR prohibits the collection of employment-related debt, but prosecution was hampered by looser restrictions in some countries that send workers. Some locally licensed employment agencies were suspected of colluding with Indonesian agencies to profit from a debt scheme, and some local agencies illegally confiscated the passports, employment contracts, and automatic teller machine cards of domestic workers and withheld them until their debt had been repaid. The government conveyed its concerns about these cases to a number of foreign missions.

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

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

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

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

Children who are 13 and 14 years old may work in certain nonindustrial establishments, subject to conditions aimed at ensuring a minimum of nine years of education and protection of their safety, health, and welfare.

The Labor Department effectively enforced these laws and regularly inspected workplaces to enforce compliance with the regulations. In the first eight months of the year, the Labor Department conducted 107,447 inspections. It detected two breaches of child labor regulations, with prosecution to be subject to the results of investigations related to these breaches.

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

The SAR's first statutory minimum hourly wage, HK\$28 (\$3.61), came into force in 2011. It was adjusted to HK\$30 (\$3.87) in May. In September the government's Commission on Poverty set the official poverty line at half of the median monthly household income before tax and welfare transfers based on household size. For a one-person household, the poverty line was set at HK\$3,600 (\$465), for a two-person household HK\$7,700 (\$993), for a three-person household HK\$11,500 (\$1,483), and so on. According to this definition, more than 1.31 million people (out of a population of approximately 7.18 million) were living in poverty. A study released in November by a group of Hong Kong and British academics claimed that there were 160,000 more Hong Kongers ( a total of 1.47 million) living in poverty than shown in government estimates.

Employers and employer associations often set wages. In addition, some activists claimed that employers used employment contracts that defined workers as "self-employed" to avoid employer-provided benefits, such as paid leave, sick leave,

medical insurance, workers' compensation, or Mandatory Provident Fund payments. According to the Labor Department, there were cases in which employers faced heavy court fines for such behavior. The department held that it was seeking to promote public awareness, consultation, conciliation services, and tougher enforcement to safeguard employees' rights.

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

In September the government raised the wages for foreign domestic workers (FDWs) from HK\$3,920 (\$506) per month to HK\$4,010 (\$517) per month for all new contracts signed after October 1. The government also increased the mandatory food allowance for FDWs working in homes where their employers did not provide meals. Activists representing FDWs continued raising concerns about the treatment of domestic workers and noted their disappointment and anger over the 2.3 percent wage increase.

The government's Standard Employment Contract requires employers to provide foreign domestic workers with housing, worker's compensation insurance, travel allowances, and food or a food allowance in addition to the minimum wage, which together provided a decent standard of living. Foreign domestic workers could be deported if dismissed. After leaving one employer, workers have two weeks to secure new employment before they must leave the SAR. Activists contended this restriction left workers vulnerable to a range of employers. Workers who pursued complaints through legal channels could be granted leave to remain in the SAR but could not work, leaving them either to live from savings or depend on charitable assistance.

The government contended that the "two-week rule" was necessary to maintain effective immigration control and prevent migrant workers from overstaying and taking unauthorized work. Regarding maximum hours and rest periods, the government stated that the rules on these issues cover local and migrant workers. In its explanation of why live-in domestic helpers (both local and foreign) would not be covered by the statutory minimum wage, the government explained that "the

distinctive working pattern--round-the-clock presence, provision of service-on-demand, and the multifarious domestic duties expected of live-in domestic workers--made it impossible to ascertain the actual hours worked so as to determine the wages to be paid.”

Domestic workers were often required to live with their employers (who did not always provide separate accommodation for the worker), which made it difficult to enforce maximum working hours or overtime regulations. They could also be subject to physical and verbal abuse, poor living and working conditions, and limitations on freedom of movement.

During the first eight months of the year, the Labor Tribunal convicted three employers on 13 counts of wage default, annual leave default, and failure to pay awards in cases relating to the employment of foreign domestic workers. From January to August, 96 foreign domestic workers filed criminal suits, 42 of which were against employers, for mistreatment including rape (four), indecent assault (24), and wounding and serious assault (68).

In September a judge accused a couple of being “cruel” and “vicious” as he sentenced them for subjecting their Indonesian domestic helper to two years of abuse. The judge found the couple guilty of eight charges, including wounding and assault causing bodily harm. He sentenced the man to three years and three months in prison and his wife to five and one-half years, as she had taken a greater role in the assaults.

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

The Occupational Safety and Health Branch of the Labor Department is responsible for safety and health promotion, enforcement of safety management legislation, and policy formulation and implementation. In the first eight months of the year, the Labor Department conducted 80,581 workplace inspections and served 1,449 suspension/improvement notices. During the same period, authorities levied fines totaling HK\$10.3 million (\$1.33 million) for 1,386 infractions identified through workplace inspections.

In the first quarter of year, the Labor Department recorded 8,506 occupational injuries, including 2,607 classified as industrial accidents. In the same period, there was one fatal industrial accident. Employers are required to report any injuries sustained by their employees in work-related accidents. Labor activists

raised the issue of the increase in deadly industrial accidents, mainly due to construction and infrastructure projects in the SAR.

No laws restrict work during typhoon or rainstorm warnings. Nevertheless, the Labor Department issued a “code of practice” on work arrangements in times of severe weather, which includes a recommendation that employers require only essential staff to come to work during certain categories of typhoon or rainstorm warnings. Both progovernment and pan-democratic unions called for a review of protections for workers during inclement weather, including legal protections.

## MACAU 2013 HUMAN RIGHTS REPORT

### EXECUTIVE SUMMARY

Macau is a Special Administrative Region (SAR) of the People’s Republic of China (PRC) and enjoys a high degree of autonomy, except in defense and foreign affairs, under the SAR’s constitution (the Basic Law). Chief Executive Fernando Chui Sai-on took office in 2009, after his selection by a 300-member Election Committee. Authorities maintained effective control over the security forces. Security forces did not commit human rights abuses.

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

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

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

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

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

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

**b. Disappearance**

There were no reports of politically motivated disappearances.

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

The law prohibits such practices, and there were no reports that government officials employed them.

There were five cases involving alleged police mistreatment in the first half of the year. At the end of the year, the procuratorate was investigating the cases. The Commission for Disciplinary Control of the Security Forces and Services of Macau (CFD) received two complaints of police mistreatment but dismissed both cases due to lack of evidence. During the first half of 2013, the Commission against Corruption (CAC) received three complaints of police mistreatment and determined the complaints were legally unsubstantiated.

In the first half of the year, police received two complaints alleging offenses committed by police officers against persons in custody. Police transferred the cases to the procuratorate, which was considering the cases at year's end. The CFD received one complaint, which it deemed to be unsubstantiated. The CAC received no complaints in the first half of the year.

In the first half of 2013, police received one complaint that police officers abused a person not in their custody. The case was transferred to the procuratorate, where it remained pending. In the same period, the CAC received four cases, one of which was referred to Macau Customs and three were determined to be legally unsubstantiated. The CFD received no allegations of assault by police officers against persons not in their custody.

**Prison and Detention Center Conditions**

Prison and detention center conditions generally met international standards, and the government permitted monitoring visits by independent human rights observers.

Physical Conditions: The SAR has a maximum prison capacity of 1,353 persons and a design capacity of 1,297, and the occupancy rate was approximately 85 percent of the maximum capacity. In the first half of the year, the number of

inmates who were 16 (the age of criminal responsibility) and older was 1,156; of these, 968 were men and 188 women. Offenders between the ages of 12 and 16 were subject to an “education regime,” which could include incarceration depending on the offense. During the first half of the year, authorities held 24 youths in the Youth Correctional Institution.

The government reported that one detainee died while in police custody. The detainee died while attempting to escape a hospital at which he was receiving medical treatment.

The SAR reported that prisoners had access to potable water.

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

Independent Monitoring: According to the government, no independent human rights observers requested or made any visit to the SAR’s only prison, the Macau Prison. Judges and prosecutors visited the Macau Prison monthly.

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

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

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

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

#### **Arrest Procedures and Treatment of Detainees**

Authorities detained persons openly with warrants issued by a duly authorized official based on sufficient evidence. Detainees were allowed access to a lawyer of their choice or, if indigent, to one provided by the government. Detainees were allowed prompt access to family members. Police must present persons in custody to an examining judge within 48 hours of detention. The examining judge, who conducts a pretrial inquiry in criminal cases, has wide powers to collect evidence, order or dismiss indictments, and determine whether to release detained persons. According to the government, courts should try defendants within the “shortest period of time.” The procuratorate’s investigations should end with charges or dismissal within eight months, or six months when the defendants are in detention; the pretrial inquiry stage must be concluded within four months, two months if the defendants are detained. By law the maximum limits for pretrial detention range from six months to three years, depending on the charges and progress of the judicial process. Judges often refused bail in cases where sentences could exceed three years.

In 2012 law enforcement officials received three complaints accusing police officers of offenses toward persons in custody in the first half of the year. Officials brought disciplinary proceedings against the officers in both cases. One case was closed, and one awaited the initiation of criminal proceedings at year’s end. There was one complaint in the first half of the year that a police officer assaulted a person in custody.

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

The law provides for an independent judiciary, and the government generally respected judicial independence.

The courts may rule on matters that are the responsibility of the PRC government or concern the relationship between central authorities and the SAR, but before making their final judgment, which is not subject to appeal, the courts must seek an interpretation of the relevant provisions from the National People’s Congress (NPC) Standing Committee. When the standing committee makes an interpretation of the provisions concerned, the courts, in applying those provisions, “shall follow the interpretation of the standing committee.”

#### **Trial Procedures**

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

Under the law defendants enjoy a presumption of innocence, have access to government-held evidence relevant to their cases, and have a right to appeal. The law provides that trials are to be public and by jury except when the court rules otherwise to “safeguard the dignity of persons, public morality, or to ensure the normal functioning of the court.” Defendants have the right to be informed promptly and in detail of the charges (with free interpretation), be present at their trials, confront witnesses, have adequate time to prepare a defense, not be compelled to testify or confess guilt, and consult with an attorney in a timely manner. Public attorneys are provided for those who are financially incapable of engaging lawyers or paying expenses of proceedings. The law extends these rights to all residents.

The judiciary provided citizens with a fair and efficient judicial process; however, due to an overloaded court system, a period of up to a year often passed between the filing of a civil case and its scheduled hearing. Contacts also noted lack of capacity delayed some criminal cases.

### **Political Prisoners and Detainees**

There were no reports of political prisoners or detainees.

### **Civil Judicial Procedures and Remedies**

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

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

The law prohibits such actions, and the government generally respected these prohibitions. The Office for Personal Data Protection acknowledged a continuing increase in complaints and inquiries regarding data protection.

Activists critical of the government reported the government monitored their phone conversations.

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

### a. Freedom of Speech and Press

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

The law criminalizes treason, secession, subversion of the PRC government, and theft of “state secrets,” as well as “acts in preparation” to commit these offenses. The crimes of treason, secession, and subversion specifically require the use of violence, and the government stated that the law would not be used to infringe on peaceful political activism or media freedom.

Press Freedoms: The independent media were active and expressed a wide range of views, and international media operated freely. Major newspapers were heavily subsidized by the government and tended to follow closely the PRC government’s policy on sensitive political issues, such as Taiwan; however, they generally reported freely on the SAR, including criticism of the government.

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

Censorship or Content Restrictions: Activists raised concerns over media self-censorship, particularly because news outlets and journalists worried that certain types of critical coverage might limit government funding. Activists also reported that the government had co-opted senior media managers to serve in various consultative or election committees, which also resulted in self-censorship. Journalists expressed concern that the government’s limiting of news releases about its own activities and its publishing of legal notices only in preferred media outlets influenced editorial content.

### Internet Freedom

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

As of July 2012, according to the Statistics and Census Service, there were 243,196 internet subscribers in a population of 591,900. This total did not take

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

The law criminalizes a range of cybercrimes and empowers police, with a court warrant, to order internet service providers to retain and then provide a range of data. Some legislators expressed concern that the law granted police the authority to take these actions without a court order under some circumstances.

The media reported that several websites, among them Facebook, YouTube, and Skype, which were blocked on the mainland, also were blocked on the government-provided free WiFi service. The government denied any intention to restrict access, stating that the main problem was available bandwidth and pointing out that the mobile version of Facebook was available. Twitter, which was banned on the mainland, was available on the service. Activists reported they freely used Facebook and Twitter to communicate. However, activists also reported that the government had installed enterprise-grade software capable of censoring, decrypting, and scanning secured transmissions on its free WiFi service without notifying users.

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

There were no government restrictions on academic freedom or cultural events. One academic noted government pressure to delay an academic conference due to political sensitivities.

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

#### **Freedom of Assembly**

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

Activists reported that police routinely attempted to intimidate demonstrators by ostentatiously taking videos of them and advising bystanders not to participate in protests. Activists also stated that authorities gave orders to demonstrators

verbally rather than through written communication, which made it difficult to challenge their decisions in court. In June law enforcement officials arrested six demonstrators amid scuffles with police during a protest against a top Macau government official. The Court of Final Appeal later ruled that the police acted inappropriately in detaining the demonstrators.

Following a May 6 rally protesting nontransparent subsidies from the government to certain civil society organizations, the Macau Workers Self-Support Association criticized the police for preventing 200 elderly protestors from participating. Law enforcement officials claimed activists wanted to march in an unapproved area, while participants claimed the police had already approved their protest route.

On June 4, approximately 500 persons participated in a vigil to remember the 1989 Tiananmen Square massacre.

### **Freedom of Association**

The Basic Law and the civil code provide for freedom of association. No authorization is required to form an association, and the only restrictions are that the organization not promote racial discrimination, violence, crime, or disruption of public order, or be military or paramilitary in nature.

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

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

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

The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, and the government generally respected these rights. The Immigration Department cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

The Internal Security Law grants police the authority to deny entry to or deport nonresidents whom they regard under the law as unwelcome, as a threat to internal security and stability, or as possibly implicated in transnational crimes.

In January the government for the second time barred Hong Kong Legislative Council member Lee Cheuk-yan, a prominent labor leader, from entering the SAR. The government maintained that the commander of the Public Security Police “based on the public interest...may refuse entry of any nonresident whose status is found to be inappropriate.”

### **Protection of Refugees**

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

The government has the responsibility to conduct refugee status determinations, but this process remained stalled during the year, according to the UNHCR. Four applications for refugee status were pending, but their determination would likely take several years to process. One Afghan asylum seeker was in his 10th year of waiting. Authorities maintained that these cases remained active, but the head of Macau’s Refugee Commission made clear that resource shortages and other priorities prevented quick resolution of these cases.

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

The law limits citizens’ ability to change their government. Only a small fraction of citizens play a role in the selection of the chief executive, who was chosen in 2009 by a 300-member Election Committee consisting of 254 members elected from four broad societal sectors (which have a limited franchise) and 46 members chosen from among the SAR’s legislators and representatives to the NPC and Chinese People’s Political Consultative Conference.

### **Elections and Political Participation**

Recent Elections: The most recent election was held on September 15 for the 14 directly elected seats in the 33-member Legislative Assembly. A total of 145

candidates on 20 electoral lists competed for the seats. The election was generally free and fair.

Observers noted that wealthy candidates sponsored banquets, entertainment events, and transportation for supporters. The prosecutor general said his office investigated 10 cases of election bribery. Police arrested two individuals for offering illegal “incentives” to voters and detained 14 voters for further investigation for voting irregularities.

Two prodemocracy candidates reported that the government censored their public election platform, which called for an allegedly tainted top official to resign and an investigation of a potentially corrupt business deal brokered by the former chief executive.

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

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

Political Parties: The SAR has no laws on political parties. Politically active groups therefore registered as societies or companies. These groups were active in promoting their political agendas, and those critical of the government generally did not face restrictions. Such groups participated in protests over government policies or proposed legislation without restriction.

Participation of Women and Minorities: There were seven women in the 33-member Legislative Assembly. Women also held a number of senior positions throughout the government, including the secretary for justice and administration, the second-highest official in the SAR government. The Public Administration and Civil Service Bureau stated that women made up 41 percent of the SAR government, 48 percent of the judiciary, and 58 percent of the senior staff of the Legislative Assembly. One Executive Council member was from an ethnic

minority, as was the police commissioner general. As of June, 31 female judges worked in the judiciary.

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

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

Corruption: The CAC investigated the public and private sectors and had the power to arrest and detain suspects. The Ombudsman Bureau within the CAC reviewed complaints of maladministration or abuse by the CAC. There was also an independent committee outside the CAC, called the Monitoring Committee on Discipline of CAC Personnel, which accepted and reviewed complaints about CAC personnel.

Whistleblower Protection: Macau does not have specific whistleblower protection laws in effect for public and private employees.

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

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

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

A number of domestic and international groups monitoring human rights generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views.

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

The law stipulates that residents shall be free from discrimination based on race, gender, disability, language, or social status, and many laws carry specific prohibitions against discrimination. The government effectively enforced the law. The law does not address discrimination based on sexual orientation or gender identity.

## **Women**

Rape and Domestic Violence: The law criminalizes rape, including spousal rape, and the government effectively enforced the law. In the first half of 2012, police received nine complaints of rape. Police and courts acted promptly on rape cases, arresting four individuals accused of rape.

Although there is not a specific law on domestic violence, laws that criminalize the relevant behaviors, including “mistreatment of minors or spouses,” were used effectively by the government to prosecute domestic violence. Various NGOs and government officials considered domestic violence against women to be a growing problem. Domestic violence falls under several crimes in the criminal code, including the crime of mistreatment of minors, persons with incapacity, or spouses. These crimes are punishable with imprisonment ranging from one to five years. If mistreatment leads to serious physical injuries or death of the victim, the penalties may be increased to imprisonment of two to eight years in cases involving physical injury and five to 15 years in those resulting in death. During the first half of the year, 164 complaints of crimes related to domestic violence were reported to police. Of these, 116 involved spousal abuse.

The government made referrals for victims to receive medical treatment, and medical social workers counseled victims and informed them of social welfare services. During the first half of the year, the Social Welfare Bureau handled 29 domestic violence cases. The government funded NGOs to provide victim support services, including medical services, family counseling, and housing, until their complaints were resolved. The government also supported two 24-hour hotlines, one for counseling and the other for reporting domestic violence cases.

NGOs and religious groups sponsored programs for victims of domestic violence, and the government supported and helped fund these organizations and programs. The Bureau for Family Action, a government organization subordinate to the Department of Family and Community of the Social Welfare Institute, helped female victims of domestic violence by providing a safe place for them and their children as well as advice regarding legal actions against perpetrators. A range of

counseling services was available to persons who requested them at social service centers. Two government-supported religious programs also offered rehabilitation programs for female victims of violence.

Sexual Harassment: There is no law specifically addressing sexual harassment, unless it involves the use of a position of authority to coerce the performance of physical acts. Harassment in general is prohibited under laws governing equal opportunity, employment and labor rights, and labor relations. In 2012 there were no complaints of discrimination filed with police, the Public Administration and Civil Service Bureau, or the Labor Affairs Bureau (LAB) in the first half of the year.

Reproductive Rights: Couples and individuals have the right to decide the number, spacing, and timing of their children as well as the information and means to do so free from discrimination or coercion. Access to contraception and prenatal care was widely available, as was skilled attendance at delivery and postpartum care.

Discrimination: Equal opportunity legislation mandates that women receive equal pay for equal work. Discrimination in hiring practices based on gender or physical ability is prohibited by law, and penalties exist for employers who violate these guidelines. The law allows for civil suits, but few women took cases to the LAB or other entities. In 2013 no complaints of discrimination were filed with police, the LAB, or the CAC. Gender differences in occupation existed, with women concentrated in lower-paid sectors and lower level jobs. Observers estimated that there was a significant difference in salary between men and women, particularly in unskilled jobs.

## **Children**

Birth Registration: In accordance with the Basic Law, children of Chinese national residents of Macau born in or outside the SAR and children born to non-Chinese national permanent residents inside the SAR are regarded as permanent residents. There is no differentiation between these categories in terms of access to registration of birth. Most births were registered immediately.

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

Sexual Exploitation of Children: The law specifically provides for criminal punishment for sexual abuse of children and students, statutory rape, and procurement involving minors. The criminal code sets 14 as the age of sexual consent and 16 as the age for participation in the legal sex trade. Child pornography is prohibited by law. During the first half of the year, there were two complaints of sexual abuse of children, one complaint of sexual intercourse with a minor, and eight complaints of sexual acts with minors filed with police. Law enforcement authorities arrested one individual for sexual abuse of children, one individual for sexual intercourse with a minor, and six individuals for sexual acts with minors. The UN Committee on the Rights of the Child expressed concern that “child sex tourism remains a serious problem in Macau SAR, and that alleged complicity of government officials in trafficking and sexual exploitation related offences has led to impunity for such crimes.” The government denied the allegations.

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

### **Anti-Semitism**

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

### **Trafficking in Persons**

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

### **Persons with Disabilities**

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, or the provision of other state services, and the government generally enforced these provisions in practice. The law mandates access to buildings, public facilities, information, and communications for persons with disabilities. The government enforced the law effectively. The government built and reconstructed public facilities such as the ferry terminal and overpasses, which are accessible to persons with disabilities. Spaces on new buses accommodated passengers with wheelchairs. The Social Welfare Institute was primarily responsible for coordinating and funding public assistance programs to persons

with disabilities. There was a governmental commission to rehabilitate persons with disabilities, with part of the commission's scope of work addressing employment. There were no reports of children with disabilities encountering obstacles to attending school.

Highlighting a severe shortage in resources in mainstream schools to assist children with learning disabilities, parents called on the government to open an exclusive school for children with learning disabilities. Activists said the government failed to provide a "friendly environment" for persons with vision disabilities and petitioned the government to provide space for an education center that would provide job and living assistance. One activist with vision disabilities unsuccessfully ran for a seat in the Legislative Assembly in the September elections.

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

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

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

There are no laws criminalizing sexual orientation and no prohibition against LGBT persons forming organizations or associations. There were no reports of violence against persons based on their sexual orientation.

The Legislative Assembly, dominated by progovernment members, almost unanimously defeated a bill proposed by a prodemocracy member that would have granted same-sex couples the right to form civil unions and claim the same social benefits as heterosexual couples. A pro-Beijing newspaper publicly denounced one pro-LGBT rights activist as being "morally unfit" to participate in public life.

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

The law prohibits discrimination against persons with HIV/AIDS and limits the number of required disclosures of an individual's HIV status. Employees outside medical fields are not required to declare their status to employers. There were

anecdotal reports that persons whose status became known, as well as organizations supporting them, faced some forms of discrimination. There were no reported incidents of violence against persons with HIV/AIDS.

## **Section 7. Worker Rights**

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

The law, including related regulations and statutory instruments, provides workers the right to form and join unions or “labor associations” of their choice without previous authorization or excessive requirements. In order to register as an official union, the government requires an organization to provide the names and personal information of its leadership structure. There is no law specifically defining the status and function of labor unions, nor are employers compelled to negotiate with them. The law prohibits antiunion discrimination, stating that employees or job seekers shall not be prejudiced, deprived of any rights, or exempted from any duties on the basis of their membership in an association. The Labor Relations Law does not have provisions for reinstating workers dismissed for union activity.

Workers in certain professions, such as the security forces, are forbidden to form unions, take part in protests, or strike. Such groups had organizations that provided welfare and other services to members and that could speak to the government on behalf of their members. Vulnerable groups of workers, including domestic workers and migrant workers, could freely associate and form and join unions, as could public servants. Part-time employees did not have this right.

Workers have the right to strike according to article 27 of the Basic Law, but there is no specific protection in the law from retribution if workers exercise this right. The government asserted that striking employees are protected from retaliation by provisions of the law that require an employer to have justified cause to dismiss an employee.

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

The law imposes penalties ranging from Macau patacas (MOP) 20,000 to 50,000 (\$2,500 to 6,300) for antiunion discrimination. Observers note that this may not be sufficient to deter discriminatory activity.

Workers who believed they were dismissed unlawfully could bring a case to court or lodge a complaint with the Labor Department or the CAC, which also has an Ombudsman Bureau that handles complaints over administrative illegalities. The bureau made recommendations to the relevant government departments after its investigation. The Labor Relations Law is not applicable to civil servants. The Macau Civil Servants Association claimed that many of its members suffered from discrimination for belonging to a union.

There were no strikes during the year. Although strikes, rallies, and demonstrations were not permitted in the vicinity of the chief executive's office, the Legislative Assembly, and other key government buildings, some protests occurred near government headquarters. On May 1, a group of 2,000 individuals demanded universal suffrage, a minimum wage, and protections for Macanese from imported workers. On August 23, 10 real estate agents gathered near government headquarters to ask the government to provide exemptions allowing them to conduct business in residential as well as commercial buildings. On October 11, 3,000 casino brokers protested near government headquarters to demand legal protections against imported labor.

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

Even without formal collective bargaining rights, companies often negotiated with unions, although the government regularly acted as an intermediary. Pro-PRC unions traditionally have not attempted to engage in collective bargaining. The Macau Federation of Trade Unions acts as an adviser and assistant to those filing complaints to the Labor Affairs Bureau, which is responsible for adjudicating labor disputes.

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

The law prohibits forced or compulsory labor. Penalties ranged from three to 12 years with the minimum and maximum sentences increased by one-third if the victim is under the age of 14.

There were no reports that such practices occurred. However, some conditions increased vulnerability of migrants to forced labor (see section 7. d. Acceptable Conditions of Work).

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

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

Minors under 16 are forbidden from certain types of work, including but not limited to domestic work, any employment between 9:00 p.m. and 7:00 a.m., and at places where admission of minors is forbidden. Employers are required to conduct an assessment of the nature, extent, and duration of risk exposure at work before commencing labor relations.

The Labor Department enforced the law through periodic and targeted inspections, and violators were prosecuted. Employers are also obligated to provide professional training and working conditions appropriate to a minor's age to prevent situations that undermine his/her education and that can endanger his/her health, safety, and physical and mental development. Information on the penalties for violations was not available.

Some children reportedly worked in family-operated or small businesses (see section 6, Children).

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

Local labor laws establish the general principle of fair wages and mandate compliance with wage agreements. There is no mandatory minimum wage except for government-outsourced security guards and cleaners and foreign domestic workers at MOP 26 per hour (\$3.26). The law also sets maximum hours, rest days, statutory holidays, and premium pay rules. Local law requires employers provide equal pay for equal work, regardless of gender. The law includes a requirement

that employers provide a safe working environment. The Labor Affairs Bureau is responsible for setting and enforcing standards for occupational safety and health.

Labor legislation provides for a 48-hour workweek (many businesses operated on a 40-hour workweek), an eight-hour workday, paid overtime, annual leave, and medical and maternity care. The law provides for a 24-hour rest period each week. All local workers, whether under a term contract or an indefinite contract, are entitled to such benefits as specified working hours, weekly leave, statutory holidays, annual leave, and sick leave.

Local custom favored unwritten labor contracts of indefinite duration, except in the case of migrant workers, who were issued written contracts for specified terms. The law does not define “temporary contract” or “short-term contract.” It states only that a labor contract may be either for a defined term or of indefinite duration. Labor groups reported that employers increasingly used temporary contracts to circumvent obligations to pay for worker benefits such as pensions, sick leave, and paid holidays. The short-term nature of the written contracts made it easier to dismiss workers through nonrenewal. The Labor Relations Law covers short-term contract workers but not part-time or domestic workers.

Under the law migrant workers enjoy treatment equal to that of local workers, including the same rights, obligations, and remuneration. All workers, including migrants, have access to the courts in cases of unlawful dismissal, if an employer fails to pay compensation, or a worker believes that his/her legitimate interests have been violated. Employers can dismiss staff “without just cause” provided that they provide economic compensation, indexed to an employee’s length of service.

The Labor Department provided assistance and legal advice to workers upon request, and cases of labor-related malpractices are referred to the LAB. Data on the number of cases assisted by LAB was not available.

The Labor Department also enforced occupational safety and health regulations, and failure to correct infractions could lead to prosecution. The Health Bureau released guidelines that protect pregnant workers, and those with heart and lung diseases, from exposure to secondhand smoke by exempting them from work in smoking areas. Workers’ associations expressed hope that this would protect workers from dismissal for refusing to work in unhealthy environments.

According to official statistics, at the end of July 2012, there were 122,105 nonresident workers, who accounted for approximately 21 percent of the

population. They came mostly from the mainland PRC, Hong Kong, Indonesia, the Philippines, and Vietnam. Most of them worked in the restaurant and hotel industry, but others found employment as domestic servants, in the gaming and entertainment sectors, or in construction and retail trade. They often complained of discrimination in the workplace.

Nonresident worker associations and the International Labor Organization expressed concern about the Law on the Employment of Nonresident Workers, which requires foreign workers who left their jobs for any cause not held to be just to depart the SAR for six months before they could start new employment. Labor officials responded that the law, meant to deter “job hopping,” was not implemented if a worker could demonstrate a just cause, such as abuse, nonpayment of wages, or contract violation, for wishing to terminate a contract. The lack of coordination between the LAB, which handled complaints, and the Immigration Department meant that workers filing complaints could be dismissed, deprived of their immigration status, and forced to depart before their complaints could be resolved. Some observers noted that this could deter migrant workers from reporting conditions of labor exploitation or forced labor.

In January an association of casino workers petitioned for healthier working conditions by requesting that limits on smoking at casino tables be better implemented to protect workers’ health and that a timeline be put in place for imposing a complete smoking ban in casinos. The same organization also raised complaints with the LAB regarding employers who failed to provide insurance for casino workers injured while working during a typhoon.