

CHINA

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, police, and military positions. Ultimate authority rests with the 25-member Political Bureau (Politburo) of the CCP and its nine-member Standing Committee. Hu Jintao holds the three most powerful positions as CCP general secretary, president, and chairman of the Central Military Commission. Civilian authorities generally maintained effective control of the security forces.

Deterioration in key aspects of the country's human rights situation continued. Repression and coercion, particularly against organizations and individuals involved in rights advocacy and public interest issues, were routine. Individuals and groups seen as politically sensitive by the authorities continued to face tight restrictions on their freedom to assemble, practice religion, and travel. Efforts to silence political activists and public interest lawyers were stepped up, and, increasingly, authorities resorted to extralegal measures including enforced disappearance, "soft detention," and strict house arrest, including house arrest of family members, to prevent the public voicing of independent opinions. Public interest law firms that took on sensitive cases continued to face harassment, disbarment of legal staff, and closure. The authorities increased attempts to limit freedom of speech and to control the press, the Internet, and Internet access. The authorities continued severe cultural and religious repression of ethnic minorities in Xinjiang Uighur Autonomous Region (XUAR) and Tibetan areas. Abuses peaked around high-profile events, such as the visit of foreign officials, sensitive anniversaries, and in response to Internet-based calls for "Jasmine Revolution" protests.

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

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

The authorities prosecuted a number of abuses of power, particularly with regard to corruption. However, the internal disciplinary procedures of the CCP were opaque, and it was not clear whether human rights and administrative abuses were consistently punished.

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. No official statistics on deaths in custody were available.

Although no official statistics regarding deaths in custody were reported, some cases received media coverage. In June the media reported that residents in Hubei Province protested outside a Lichuan City government building after Ran Jianxin died in police custody. Ran, a Lichuan councilman, was arrested May 26 on suspicion of having accepted bribes and died June 4 while being interrogated. Relatives said they found wounds and bruises on his body and believe he died an unnatural death. Photos circulated on the Internet apparently showed Ran's body covered in bruises.

In September villagers in Wukan, Guangdong Province, engaged in demonstrations against local government officials to protest the sale of village land. Officials asked the villagers to appoint representatives to address the issue. After negotiations failed, the authorities detained some representatives on December 11. On December 13, local government announced that one of the detained representatives, Xue Jinbo, had died of cardiac arrest while in custody. Xue's relatives, who saw his body, believed he had been tortured and beaten to death. A local prosecutor denied the allegations and told media that Xue had a history of asthma and heart disease.

Defendants in criminal proceedings were executed following convictions that lacked due process and adequate channels for appeal. On August 18, Li Lindong, a truck driver who ran over and killed an ethnic Mongol herder on May 10 in Inner Mongolia's Xilinhot City, was executed. Li's original trial, on June 9, lasted just six hours. The death of the Mongol herder had sparked large-scale protests in Inner Mongolia.

b. Disappearance

At year's end authorities continued to hold ethnic Mongolian activist Hada, his wife, and his son in detention without trial or pressing formal charges. Hada had been released from prison in December 2010, after serving a 15-year prison sentence on espionage and separatism charges. Hada founded the Southern Mongolia Democracy Alliance, which called for a referendum on the future of the province of Inner Mongolia.

The whereabouts of prominent rights lawyer Gao Zhisheng, who had represented Christians and Falun Gong practitioners, remained unknown until December 16, when a Beijing court reimprisoned him for a period of three years for alleged "parole violations" during the period of his five-year suspended sentence. Gao had been forcibly disappeared since August 2009, with the exception of a brief reappearance in Beijing in spring 2010.

At year's end the government had not provided a comprehensive, credible accounting of all those killed, missing, or detained in connection with the violent suppression of the 1989 Tiananmen demonstrations. In September the Duihua Foundation, an international human rights NGO, estimated that fewer than 10 remained in prison, although other estimates were higher. Many activists who were involved in the demonstrations continued to suffer from official harassment.

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

The law prohibits the physical abuse of detainees and forbids prison guards from extracting confessions by torture, insulting prisoners' dignity, and beating or encouraging others to beat prisoners. In July 2010 rules went into effect that exclude evidence, including confessions, obtained under torture in certain categories of criminal cases. However, numerous former prisoners and detainees reported that they were beaten with fists and water bottles, subjected to electric

shock, forced to sit on stools staring at the wall for hours on end, deprived of sleep, and otherwise subjected to physical and psychological abuse. Some of these abuses occurred during the year. Although ordinary prisoners were subjects of abuse, political and religious dissidents were singled out for particularly harsh treatment. In some instances close relatives of dissidents were singled out for abuse.

On September 13, Guo Feixiong (aka Yang Maodong) was released from Guangdong Province's Meizhou Prison after five years in custody. Family members and lawyers who had met with Guo during the five years reported to the media that while in prison Guo was subjected to electric shocks, beatings, and other torture.

On February 19, lawyer Jiang Tianyong was detained and severely beaten for two nights. He was made to sit motionless for up to 15 hours a day and interrogated repeatedly. He said he was also threatened and humiliated. He said his interrogators told him: "Here we can do things in accordance to law. We can also not do things in accordance to law, because we are allowed to do things not in accordance to law." Jiang was released in April and never charged with a crime or formally arrested.

In February the UN Committee Against Torture (UN CAT) reiterated its deep concern about the routine and widespread use in the country of torture and mistreatment of suspects in police custody, especially to extract confessions or information used in criminal proceedings. UN CAT acknowledged government efforts to address the practice of torture and related problems in the criminal justice system. Many acts of torture allegedly occurred in pretrial criminal detention centers or Re-education Through Labor (RTL) centers.

There were widespread reports of activists and petitioners being committed to mental health facilities and involuntarily subjected to psychiatric treatment for political reasons. According to *China News Weekly*, the Ministry of Public Security (MPS) directly administers 22 high-security psychiatric hospitals for the criminally insane (also known as anfang facilities). From 1998 to May 2010, more than 40,000 persons were committed to anfang hospitals. In May 2010 an MPS official stated in a media interview that detention in anfang facilities was not appropriate for patients who did not demonstrate criminal behavior. However, political activists, underground religious believers, persons who repeatedly petitioned the government, members of the banned Chinese Democracy Party (CDP), and Falun Gong adherents were among those housed with mentally ill

patients in these institutions. Regulations governing security officials' ability to remand a person to an anfang facility were not clear, and detainees had no mechanism for objecting to claims of mental illness by security officials. Patients in these hospitals reportedly were medicated against their will and forcibly subjected to electric shock treatment.

According to a human rights NGO, Hubei-based petitioner Zhao Kefeng was detained in a psychiatric institution in Xiangfan City, Hubei Province, following her seizure in Beijing on May 19 by officials from the Beijing Liaison Office of the Hubei Province government.

On April 29, petitioner Hu Dongsheng of Hefei City, Anhui Province, was seized and beaten while petitioning at the Ministry of Public Security in Beijing and forcibly returned to Hefei. Upon his return to Anhui, Hu was detained in an anfang psychiatric hospital. This was reportedly the second occasion Hu had been detained in a psychiatric institution for petitioning. Hu, a CCP member and former low-level CCP branch secretary, had been petitioning grievances related to forced demolition.

Prison and Detention Center Conditions

Conditions in penal institutions for both political prisoners and criminal offenders were generally harsh and often degrading. Prisoners and detainees were regularly housed in overcrowded conditions with poor sanitation. Inadequate prison capacity remained a problem in some areas. Food often was inadequate and of poor quality, and many detainees relied on supplemental food, medicines, and warm clothing provided by relatives. Some prominent dissidents were not allowed to receive such goods. 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.

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

Forced labor remained a serious problem in penal institutions. Many prisoners and detainees in penal and RTL facilities were required to work, often with no

remuneration. Information about prisons, including associated labor camps and factories, was considered a state secret.

In response to allegations that the organs of executed prisoners were harvested for transplant purposes, Vice Minister of Health Huang Jiefu in 2009 stated that inmates are not a proper source for human organs and prisoners must give written consent for their organs to be removed. Overseas and domestic media and advocacy groups continued to report instances of organ harvesting, particularly from Falun Gong practitioners and Uighurs.

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

Information on the prison population is not made public. According to the *China Daily*, the Justice Ministry has 678 prisons and 1.65 million people serving sentences in them. The ministry also operated a “community correction” parole system in which 599,000 people received community correction. The law requires juveniles be housed separately from adults, unless facilities are insufficient. In practice children were sometimes housed with adult prisoners and required to work. Political prisoners were held with the general prison population and reported being beaten by other prisoners at the instigation of guards.

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

Prisoners and detainees are legally entitled to submit complaints to judicial authorities without censorship and request investigation of credible allegations of inhumane conditions. The law states that letters from a prisoner to higher authorities of the prison or to the judicial organs shall be free from examination. The law further 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. While authorities occasionally investigated credible allegations of inhumane

conditions, the results were not documented in a publicly accessible manner. There are alternatives to incarceration for both violent and nonviolent offenders.

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.

The government generally did not permit independent monitoring of prisons or RTL camps, and prisoners remained inaccessible to local and international human rights organizations and media groups. Authorities did not allow the International Committee of the Red Cross (ICRC) to have access to prisoners or perform authentic prison visits in the country.

d. Arbitrary Arrest or Detention

Arbitrary arrest and detention remained serious problems. The law grants police broad administrative detention powers and the ability to detain individuals for extended periods without formal arrest or criminal charges. Throughout the year human rights activists, journalists, unregistered religious leaders, and former political prisoners and their family members continued to be among those targeted for arbitrary detention or arrest. A draft revision of the criminal procedure law contained a provision to legalize extralegal detentions for cases involving state secrets, major corruption, and terrorism.

Role of the Police and Security Apparatus

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

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

On July 24, three unidentified individuals beat democracy rights activist Luo Yongquan while he was at work in Nanxiong City, Guangdong Province. Luo, a poet, Charter '08 democracy manifesto signatory, and member of the banned CDP, was released in May after two years in RTL for publishing poems critical of the CCP and the government. Police reportedly came to the scene of his beating but did not pursue the case.

Arrest Procedures and Treatment While in Detention

The law allows police to detain suspects for up to 37 days before formal arrest. After arrest, police are authorized to detain a suspect for up to an additional seven months while the case is investigated. After the completion of a police investigation, an additional 45 days of detention are allowed for the procuratorate to determine whether to file criminal charges. If charges are filed, authorities can detain a suspect for an additional 45 days before beginning judicial proceedings. Pretrial detention periods of a year or longer were common. In practice the police sometimes detained persons beyond the period allowed by law. The law stipulates that detainees be allowed to meet with defense counsel before criminal charges are filed. Police often violated this right.

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

Criminal defendants are entitled to apply for bail (also translated as “a guarantor pending trial”) while awaiting trial. However, in practice few suspects were released on bail.

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

The law protects the right to petition the government for resolution of grievances. However, citizens who traveled to Beijing to petition the central government were

frequently subjected to arbitrary detention, often by police dispatched from the petitioner's hometown. Some provincial governments operated facilities in Beijing or in other localities where petitioners from their districts were held in extrajudicial detention. Some local governments took steps to restrict petitioning. According to a May 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 regulations stated that petitioners suspected of "misrepresenting facts to frame others" could be subject to criminal charges.

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

On March 5, Guangdong agents forcibly returned to their home province a Shaoguan City couple who had gone to Beijing to petition over a land requisition issue involving alleged official corruption. The couple had been petitioning the case at both the local and national level since 2006. Although the husband was released 54 days later after suffering a heart attack, his wife remained illegally detained in a black jail, and the local public security bureau and procuratorate refused to respond to requests by the husband to look into his wife's situation. The wife was finally released on August 27. Upon her release, authorities reportedly did not return her household registration documents and identification card, and officials from the justice bureau threatened her, warned her not to leave her home, and instructed her and her husband to stop petitioning.

According to an NGO report, authorities returned two Nanning City, Guangxi, petitioners to their home September 7 after they were held in a black jail in Beijing. The two petitioners were initially seized by police on August 30 and then detained in Jiujingzhuang black jail before Nanning agents took them to another black jail, reportedly in the Daxing district of Beijing. While there, they allegedly were kept in uncomfortable and unsanitary conditions, prompting one to initiate a hunger strike.

The law permits administrative, nonjudicial panels, known as "labor reeducation panels," to remand persons to RTL camps or other administrative detention programs for up to three years without trial. Labor reeducation panels are authorized to extend these administrative sentences for up to one year. Detainees are technically allowed to challenge administrative RTL sentences and appeal for

sentence reduction or suspension. However, appeals were rarely successful. Other forms of administrative detention include “custody and education” (for women engaged in prostitution and those soliciting prostitution) and “custody and training” (for minor criminal offenders). The 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. Administrative detention was used to intimidate political activists and prevent public demonstrations.

Arbitrary Arrest: On April 3, artist Ai Weiwei was detained at the Beijing Capital International Airport while going through customs to board a flight abroad. He was then held for 81 days at an unknown location allegedly for economic crimes including tax evasion. Ai was released on bail on June 22. Ai said he was repeatedly interrogated about his alleged involvement in calls for Jasmine Revolution protests.

Authorities arrested persons on allegations of revealing state secrets, subversion, and other crimes as a means to suppress political dissent and public advocacy. These charges--including what constitutes a state secret--remained ill defined. Citizens and foreigners also were detained under broad and ambiguous state secrets laws for, among other actions, disclosing information on criminal trials, meetings, commercial activity, and government activity. Authorities sometimes retroactively labeled a particular action as a violation of a state secret.

In February, responding to anonymous online calls for Jasmine Revolution protests in China, authorities arrested dozens of lawyers, human rights activists, and political dissidents without notice. NGOs estimated that since late February approximately 50 human rights activists and lawyers were formally arrested or placed under extralegal detention, up to 200 people were placed under house arrest, and 15 were charged with “inciting subversion of state power.”

In late February and early March, in connection with the online calls for Jasmine Revolution gatherings, Guangzhou police reportedly detained dozens of citizens, many of whom were held without notification of family members or formal charges, according to widespread foreign press and international NGO reporting. Many were held for up to 120 days. Several prominent Guangzhou-based activists were detained on suspicion of “inciting subversion of state power.”

In July press reports indicated bishops in four Guangdong cities--Jiangmen, Meizhou, Zhanjiang, and Guangzhou--were taken into police custody and coerced to participate in the July 14 ordination ceremony of Bishop Huang Bingzhang in Shantou.

Police surveillance, harassment, and detentions of activists increased around politically sensitive events. The government continued to use extrajudicial house arrest against dissidents, former political prisoners, family members of political prisoners, petitioners, underground religious figures, and others it deemed politically sensitive. Numerous dissidents, activists, and petitioners were placed under house arrest during the October National Day holiday period and at other sensitive times, such as during the Guangzhou Asia Games and the Shenzhen Universiade games, the annual plenary sessions of the National People's Congress (NPC) and the Chinese People's Political Consultative Conference (CPPCC), and the anniversary of the Tiananmen massacre. The anniversary of the October 2010 awarding of the Nobel Peace Prize to Liu Xiaobo triggered similar security responses. Conditions faced by those under house arrest varied but sometimes included complete isolation in their homes under police guard. In some instances security officials were stationed inside the homes of subjects under house arrest. Others were occasionally permitted to leave their homes to work or run errands but were required to ride in police vehicles. When permitted to leave their homes, subjects of house arrest were usually under police surveillance. 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.

In April petitioner Wang Rongwen, of Chengdu, Sichuan Province, was released after being illegally detained for a month and a half without charges or legal documentation related to her detention. On August 21, Chengdu authorities detained more than 20 petitioners to prevent them from seeking an audience with a visiting high-level foreign dignitary. Two were detained for 12 and 15 days, respectively; the rest were put under house arrest.

Beginning September 2, several members of the Guizhou Human Rights Forum, including Chen Xi, Liao Shuangyuan, Wu Yuqin, Lu Yongxiang, Li Renke, Huang Yanming, Mo Jiangang, and Tian Zuxiang, were forced to leave their homes and held in various hostels for three weeks prior to the Ninth National Traditional Games of Ethnic Minorities, held in Guizhou September 10-18.

In July police in Fujian Province threatened a number of activists seeking to testify at the August trial of Wang Lihong on charges of “creating a disturbance” in connection with her participation in a 2010 peaceful protest in Fuzhou City in support of three Internet activists convicted of slander for online accusations regarding a local official’s involvement in a murder. Fujian activists who traveled to Beijing in August to attend the trial were forcibly detained and returned to Fujian by provincial officials based in Beijing.

On May 31, police took dissident Zhang Jiankang from his home in Xi’an, Shaanxi Province, for a “trip.” On June 2, Chengdu artist Chen Yunfei was put under house arrest. Li Renke of Guiyang was taken by police to “go on a trip” out of town. Writer Dang Guan of Anhui was stopped by police while on his way to Guangzhou and brought back. On June 1, security forces warned democracy activist and journalist Zha Jianguo not to write articles or conduct media interviews around the June 4 Tiananmen massacre anniversary.

In September 2010 blind human rights lawyer Chen Guangcheng was released after completing a prison sentence of three years and four months on charges of “disrupting traffic.” After his release, Chen, his wife, his six-year-old daughter, and his mother remained under house arrest and were prevented from communicating with others. Chen was not allowed to seek medical attention for a gastrointestinal condition he developed in prison. On February 9, Chen and his wife reportedly were severely beaten after a human rights group released a video of Chen and his wife in their home, describing the intense police surveillance. They reportedly were again subjected to severe beatings in July. His daughter was for a time unable to attend school because no adult was permitted to leave the house to enroll her. Subsequently she was permitted to enroll and reportedly was being escorted to and from school by a security guard. A number of Chinese activists, friends and supporters, and foreign and domestic journalists who attempted to visit Chen reported being assaulted, detained, forcibly removed, or otherwise abused and prevented from freely accessing his village or seeing him. At year’s end Chen remained under house arrest with no access to medical care. Some supporters reported successful delivery of medicine to Chen.

After the announcement of the award of the 2010 Nobel Peace Prize to imprisoned writer Liu Xiaobo, his wife, Liu Xia, was placed under extrajudicial house arrest and had not been seen in public since October 2010. Attempts to visit Liu Xia were blocked by security authorities stationed outside her home. In August the UN Working Group on Arbitrary Detention formally declared the imprisonment of Liu

Xiaobo and the house arrest of his wife, Liu Xia, to be in violation of the country's obligations under international law.

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

e. Denial of Fair Public Trial

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

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

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

Trial Procedures

There was no presumption of innocence, and the criminal justice system was biased toward a presumption of guilt, especially in high-profile or politically sensitive cases.

According to statistics released on the Supreme People's Court (SPC) official Web site, in 2010 the combined conviction rate for first- and second-instance criminal trials was 99.9 percent. Of 1,007,419 criminal defendants tried in 2010, 999 were acquitted.

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

Supreme People's Court regulations require all trials to be open to the public, with the exceptions of cases involving state secrets, privacy issues, and minors. Authorities used the state-secrets provision to keep politically sensitive proceedings closed to the public, sometimes even to family members, and to withhold access to defense counsel. Court regulations state that foreigners with valid identification should be allowed to observe trials under the same criteria as citizens. In practice foreigners were permitted to attend court proceedings only by invitation. As in past years, foreign diplomats and journalists unsuccessfully sought permission to attend a number of trials. In some instances the trials were reclassified as "state secrets" cases or otherwise closed to the public. Foreign diplomats requested but were denied permission to attend the September trial and October appeal of Internet freedom advocate Wang Lihong on charges of illegally possessing state secrets. Wang was sentenced in September to nine months' imprisonment. The Beijing Intermediate Court denied her appeal on October 20. On December 20, Wang was released after completing her sentence, to include time served in pretrial detention.

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

The law grants most defendants the right to seek legal counsel upon initial detention and interrogation, although police frequently violated this right. Individuals who face administrative detention do not have the right to seek legal counsel. Both criminal and administrative defendants were eligible for legal assistance, although more than 70 percent of criminal defendants went to trial without a lawyer. According to statistics released by Ministry of Justice, the number of legal-aid cases in 2010 totaled 726,763, a slight increase from the previous year.

Human rights lawyers reported that they were denied the ability to defend certain clients or threatened with punishment if they chose to do so. An international NGO reported that the government had suspended or revoked lawyers' licenses to

stop them from taking sensitive cases, such as defending prodemocracy dissidents, members of banned religious movements, or government critics.

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

Some lawyers declined to represent defendants in politically sensitive cases, and such defendants frequently found it difficult to find an attorney. Three days after a July 23 train crash, law firms in Wenzhou received an urgent message in the names of the Wenzhou Judicial Bureau and the Wenzhou Lawyers Association ordering lawyers not to take cases representing family members of the crash victims. Lawyers were told to inform the Wenzhou Judicial Bureau and the Wenzhou Lawyers Association of any contact with victims who sought legal assistance. After the order was leaked to the press and social media sites, a popular uproar forced the organizations to rescind the order. Similarly, certain Beijing-based rights lawyers were told they could not represent Tibetan defendants. Certain local governments in the XUAR and Tibetan areas implemented regulations stipulating that only locally registered attorneys were authorized to represent local defendants.

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

On June 14, police in Beihai City, Guangxi Region, detained four defense lawyers on suspicion of “obstructing testimony” in connection with their defense of individuals accused in a beating death. On June 29, the local procuratorate approved the arrest of one of the four, Yang Zaixin. Police subsequently denied a number of other lawyers the right to represent the four lawyers, now defendants themselves. In one instance plainclothes police officers forcibly removed a defense lawyer from the detention center’s attorney visitation room.

On August 2, according to online reports, the Beihai City Intermediate People’s Court in Guangxi did not notify the lawyer of Xu Kun, the village chief of Baihutou, Beihai City, prior to upholding Xu’s conviction on the charge of “operating an illegal business.” The conviction, for which Xu was sentenced to

four years in prison and fined 200,000 RMB (approximately \$31,450), allegedly related to Xu's efforts to lead fellow villagers in resisting land expropriation in Baihutou. Neither Xu's wife nor his lawyer was present in court when the verdict was delivered. Since he began his advocacy against land expropriation in 2008, Xu had been subjected to government pressure, expulsion from the CCP, and surveillance and monitoring.

On August 18, police in Harbin City, Heilongjiang Province, seized rights lawyer Wu Zhenqi, who had come to Harbin from Guangzhou City to assist with the case of Yu Yunfeng, a petitioner sentenced to two years of RTL in late July. On August 18, after Wu had interviewed Li Erping, a Harbin Internet activist, in connection with the case, seven or eight officers from the Northeast Forestry University Security Division took Wu and Li in for questioning. Li was released that afternoon, but Wu continued to be held. Wu was later released but was prevented from providing legal assistance to his clients.

On November 4, Chen Ruiwu, Shang Zhihong, and Yang Hongyi were released from prison in Langfang City, Hebei Province, almost two years after the Hebei High Court overturned their death sentence on appeal. The Langfang Intermediate Court had withheld the appeal decision for two years and kept the prisoners on death row before finally releasing them. Originally arrested in 2001, based on weak evidence and despite possessing a strong alibi, the three defendants were sentenced to death in 2002, based on confessions obtained through torture and forensic evidence that the prosecution had lost and not produced in court. The Hebei High Court twice ordered retrials, in 2003 and 2006, on evidentiary grounds. Both times, the Langfang Intermediate Court held the retrials based on the same missing forensics evidence and reworded witness testimony.

The annual licensing review process administered by the Beijing Lawyers Association was used to withhold or delay the approval of professional lawyers licenses, and therefore restricted or hindered the ability to practice law, of a number of human rights and public interest lawyers. In late July the license for rights lawyer Liu Xiaoyuan was renewed after a lengthy delay, but the association did not issue a license for his firm, Qi Jian Law. At year's end Qi Jian Law Firm still had not received its license. Official pressure on its landlords forced Qi Jian Law Firm to move offices.

Defense attorneys may legally be held responsible if their client commits perjury, and prosecutors and judges have wide discretion to decide what constitutes perjury. In some sensitive cases, lawyers had no pretrial access to their clients and

defendants, and lawyers were not allowed to communicate with one another during trials. In practice criminal defendants were frequently not assigned an attorney until a case was brought to court. Despite a 2008 statement by SPC Vice President Zhang Jun that 37 percent of criminal defendants were represented by lawyers, in 2009 only one in seven criminal defendants reportedly had legal representation.

Mechanisms allowing defendants to confront their accusers were inadequate. Only a small percentage of trials involved witnesses, and fewer than 10 percent of subpoenaed witnesses appeared in court. Proposed amendments to the criminal procedure law expected to pass the NPC in March 2012 contain a provision to compel witnesses to appear in court. In most criminal trials, prosecutors read witness statements, which neither the defendants nor their lawyers had an opportunity to rebut. Although the criminal procedure law states that pretrial witness statements cannot serve as the sole basis for conviction, prosecutors relied heavily on such statements to support their cases. Defense attorneys had no authority to compel witnesses to testify or to mandate discovery, although they could apply for access to government-held evidence relevant to their case. Pretrial access to information by defense attorneys was minimal. Denial of due process by police and prosecutors led to particularly egregious consequences in capital cases.

On August 15, Beijing Xicheng District People's Court sentenced Yang Yukui, a farmer from Tieli Town, Heilongjiang Province, to five months' imprisonment for "creating a disturbance." The case stemmed from Yang's efforts to seek accountability and treatment for his son, who Yang believed was made ill by faulty vaccinations given by a Tieli hospital on the day he was born. On July 27, officers from the Xicheng District Public Security Bureau took Yang into custody after he went to Beijing Children's Hospital to obtain medical care for his son. After an argument broke out between Yang and the doctors, police took him away under the pretext of mediating the situation but then arrested him. At trial, requests from Yang and his attorney to view hospital surveillance video that could have proven his actions had not constituted a crime were ignored.

At year's end the criminal code contained 55 capital offenses, including nonviolent financial crimes such as embezzlement and corruption. In February amendments to the capital-punishment law removed 13 nonviolent economic crimes, ranging from smuggling relics and endangered animals to falsifying tax receipts, from the list of capital crimes. Persons above the age of 75 would be exempt from the death penalty unless the defendant caused death in an "extremely cruel manner." There was no government information on how many defendants were either sentenced to the death or executed during the year.

SPC spokesman Ni Shouming stated that, since reassuming death penalty reviews in 2007, the SPC had returned 15 percent of death sentences to lower courts for further review based on unclear facts, insufficient evidence, inappropriate use of the death penalty, and inadequate trial procedures. Because official statistics remained a state secret, it was not possible to evaluate independently the implementation and effects of the procedures.

No official statistics are available on the number of executions carried out annually. An international human rights NGO estimated that approximately 4,500 persons were executed in 2010.

Political Prisoners and Detainees

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

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

In July 2010 Charter ’08 signatory and activist Liu Xianbin was indicted for subversion for an article he wrote following his 2009 release from a previous prison term. On March 25, he was sentenced to 10 years in prison for inciting

“subversion of state power.” Formally detained in June 2010, Liu was charged for articles he wrote and posted on overseas Web sites, as well as for involvement with a Beijing seminar regarding three Fujian persons imprisoned for Internet postings. Liu was reportedly denied access to his lawyers during his detention.

Chengdu dissident writer Ran Yunfei, detained February 19 on suspicion of “subversion,” was held without charges for nearly six months until being released into residential surveillance, a form of house arrest. Although he was not charged, his freedom of speech and association remained restricted.

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

In September 2010 rights lawyer Chen Guangcheng was released from prison following the completion of his sentence and was immediately placed under house arrest, along with his wife, daughter, and mother (see section 1.d.).

Nobel Peace Prize laureate Liu Xiaobo, coauthor of the Charter ’08 manifesto that called for increased political freedoms and human rights in China, was found guilty of the crime of “inciting subversion of state power” in a 2009 trial that included serious due process violations. The Beijing High People’s Court denied Liu’s appeal in February 2010, and he remained in prison at year’s end.

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

Civil Judicial Procedures and Remedies

Courts deciding civil matters faced the same limitations on judicial independence as in criminal cases. The State Compensation Law provides administrative and judicial remedies for plaintiffs whose rights or interests have been infringed by government agencies or officials, including wrongful arrest or conviction, extortion of confession by torture, unlawful use of force resulting in bodily injury, illegal revocation of a business license, or illegal confiscation or freezing of property. In April 2010 the NPC Standing Committee amended the law to allow compensation for wrongful detention, mental trauma, or physical injuries inflicted by detention center or prison officials. In civil matters successful plaintiffs often found it difficult to enforce court orders.

Families of deceased victims of the July 23 Wenzhou train crash were pressured to quickly accept a settlement payment of 900,000 RMB (approximately \$141,500) and forfeit the right to seek further civil damages from the Ministry of Railways. Some family members reported that officials threatened to withhold the bodies of the deceased unless they accepted the offer.

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

The law states that the “freedom and privacy of correspondence of citizens are protected by law”; however, in practice, authorities often did not respect the privacy of citizens. Although the law requires warrants before law enforcement officials can search premises, this provision frequently was ignored. The Public Security Bureau (PSB) and prosecutors are authorized to issue search warrants on their own authority without judicial review. Cases of forced entry by police officers continued to be reported. Proposed amendments to the criminal procedure law expected to pass the NPC in March 2012 provide for the admissibility of electronic evidence.

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

The monitoring and disruption of telephone and Internet communications were particularly widespread in the XUAR and Tibetan areas. Authorities frequently warned dissidents and activists, underground religious figures, and former political prisoners 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 February and March, family members of, and social organizations associated with, activists detained in connection with the Jasmine Revolution crackdown faced pressure from Guangzhou security officials, according to press reports. Some wives of jailed activists were placed under residential surveillance and detention, while police told social groups that their continued affiliation with the activists would cause them problems.

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

Property-related disputes between citizens and government authorities, which often turned violent, were widespread in both urban and rural areas. These disputes frequently stemmed from local officials' collusion with property developers to pay little or no compensation to displaced residents, combined with a lack of effective government oversight or media scrutiny of local officials' involvement in property transactions, as well as a lack of legal remedies or other dispute resolution mechanisms for displaced residents. The problem persisted despite central government efforts to impose stronger controls over illegal land takings and to standardize compensation. The redevelopment in traditional Uighur neighborhoods in cities throughout the XUAR, such as the Old City area in Kashgar, resulted in the destruction of historically or culturally sensitive areas. Some residents voiced opposition to the lack of proper compensation provided by the government and coercive measures used to obtain their agreement to redevelopment.

In preparation for the 2011 Universiade Games in Shenzhen, city officials evicted 80,000 people without proper identification and those "acting suspiciously" or considered a threat to security. International NGOs reported that officials also forcibly removed out-of-town legal activists from the city.

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

Some media sources continue to report child abductions by child-trafficking gangs. In July the Associated Press reported that authorities rescued 89 trafficked children, ages 10 days to four years, and that 369 suspects were arrested by the Ministry of Public Security. The investigation reportedly involved up to 2,600 officers in 14 provinces. In 2010 there were multiple reports of child traffickers being executed. While harsh penalties exist for traffickers, it was not clear that buying children is illegal, as the law does not clearly define the circumstances in which a buyer should be punished. A July Associated Press article reported that Liu Anchang, a Ministry of Public Security official, said that buyers who have not abused the children cannot be held criminally liable. If the parents of trafficked children cannot be found, the children are placed into orphanages (see section 6, Children).

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

Status of Freedom of Speech and Press

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

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

The government also frequently monitored gatherings of intellectuals, scholars, and dissidents where political or sensitive issues were discussed. Individuals who

expressed views critical of the government or the CCP, particularly those who shared such views with foreign audiences, risked punishments ranging from disciplinary action in the workplace to police interrogation and detention. In 2008, to commemorate International Human Rights Day, a group of 303 intellectuals and activists released a petition entitled Charter '08, calling for the CCP to respect human rights and implement democratic reforms in China. Many Charter '08 signers continued to report official harassment, especially around sensitive dates.

On February 20, Liang Haiyi, also known as Miaoxiao, made a speech in front of the Harbin Municipal Building calling for freedom, democracy, and equality. She was detained by the local police and put into custody in the Harbin No.2 Detention Center for “inciting subversion of state power.” Her case was reportedly transferred to the court for prosecution on August 19. At year’s end no information was available on Liang’s welfare and whereabouts.

Freedom of the Press: All books and magazines require state-issued publication numbers, which were expensive and often difficult to obtain. Nearly all print media, broadcast media, and book publishers were affiliated with the CCP or a government agency. There were a small number of print publications with some private ownership interest but no privately owned television or radio stations. The CCP directed the domestic media to refrain from reporting on certain subjects, and all broadcast programming required government approval. On July 29, after the high-profile, July 23 high-speed rail crash in Wenzhou, the CCP issued an urgent directive ordering all publications to stop planned coverage of the train crash after one week of intense coverage of the issue in traditional and social media. Many publications adhered to the tighter controls by publishing blank spaces in place of the censored articles to protest the gag order on the eve of an important day of mourning in Chinese culture.

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

On February 27, at least six foreign journalists were beaten by plainclothes security officers in Beijing while covering anticipated gatherings and a related security crackdown in the busy commercial district of Wangfujing in downtown Beijing. Plainclothes officers dragged other reporters and photographers into alleys or shops and erased images from their cameras. Later, security officials made

nighttime visits to a few Western journalists in their apartments, warning them to behave cooperatively or risk losing their work permits.

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

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

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

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

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

In August Chen Zhong, President of the *Southern Window*, a well-known political magazine under the Guangzhou Daily Group, was fired because he was held responsible for the publishing of an August 4 article titled “Narrow Nationalism and Foreign Policies,” according to online reports. The article’s discussion of the effort by Sun Yat Sen, leader of the 1911 revolution against the Qing dynasty, to win Japanese support by sacrificing the national interest was deemed controversial by authorities.

Journalists who remained in prison included Lu Gengsong, Lu Jianhua, and Shi Tao. Uighur webmasters Dilshat Perhat, Nureli Azat, and Nijat Azat continued to serve sentences for “endangering state security.” Uighur journalist Memetjan Abdulla was sentenced to life in prison in April 2010 reportedly for transmitting “subversive” information related to the July 2009 riots. During the year journalists working in traditional and new media sources were also imprisoned. The Committee to Protect Journalists (CPJ) December Prison Census reported that of 27 known journalists imprisoned in the country, 10 were Tibetan and six were Uighur. The CPJ documented one new imprisonment case during the year.

Censorship or Content Restrictions: Authorities continued to confiscate “unauthorized publications.” A summary of “anti-pornography, anti-counterfeit” work for the year cited the following nationwide totals for the period of January to November: total number of various sorts of illegal publications confiscated--46,167,000; total number of “illegal periodicals” confiscated--4,189,000; total number of “pornographic publications” confiscated--1,163,000; total number of copyright-violating publications confiscated--39,158,000 (this number includes pirated audiovisual products (31,540,000), “pirated books” (6,630,000), and pirated electronic publications (9,880,000)).

Foreign journalists were generally prevented from obtaining permits to travel to Tibet except for highly controlled, government-organized press visits. While foreign journalists were allowed access to Urumqi, XUAR, after the 2009 riots, local and provincial authorities continued to strictly control the travel, access, and interviews of foreign journalists, even forcing them to leave cities in parts of the XUAR. Media outlets received regular guidance from the Central Propaganda Department, listing topics that should not be covered.

Officials continued to censor, ban, and sanction reporting on labor, health, environmental crises, and industrial accidents. Following the July 23 train crash in Wenzhou, Zhejiang Province, propaganda authorities issued instructions to keep the coverage upbeat and focused on the salvage and recovery efforts. Responding

to massive public outrage at the incident, many domestic media outlets ignored the instructions and provided heavy coverage of the crash, its causes, and the authorities' poor handling of survivors and victims.

On August 8, Typhoon Muifa struck Bohai Bay and breached a sea wall 1,500 feet from the Fujia Dahua Chemical Plant near Dalian. Subsequently, when CCTV journalists went to the scene to conduct an interview, they were blocked and beaten by the factory's guards. Later, CCTV's news program was prevented from broadcasting about the dangers of paraxylene (PX) produced in the plant. Authorities also censored information about local protests against the chemical project. "Dalian," "PX," and "Dalian Protests" were censored as online search terms. There were also multiple reports of cellular and smart phone outages.

Widespread attention in the press to the May-June migrant worker riots in Chaozhou City and Zengcheng City, both in Guangdong Province, prompted the government to pressure domestic media not to report on migrant-related social unrest or other friction between migrant and local communities.

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. Newspaper, periodicals, books, audio and video recordings, or electronic publication may not be printed or distributed without the approval of the PPA and relevant provincial publishing authorities. Individuals who attempted to publish without government approval faced imprisonment, fines, confiscation of their books, and other sanctions. The CCP exerted control over the publishing industry by preemptively classifying certain topics as state secrets.

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

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

Authorities continued to jam, with varying degrees of success, Chinese-, Uighur-, and Tibetan-language broadcasts of the VOA, BBC, and Radio Free Asia (RFA). English-language broadcasts on VOA generally were not jammed. Government

jamming of RFA and the BBC appeared to be more frequent and effective. Internet distribution of streaming radio news and podcasts from these sources often was blocked. Despite jamming overseas broadcasts, VOA, BBC, RFA, Deutsche Welle, and Radio France International had large audiences, including human rights advocates, ordinary citizens, and government officials.

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

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

Internet Freedom

In June 2010 the Information Office of the State Council released its first White Paper on the Internet outlining the government's endeavors to guarantee certain freedoms of speech on the Internet as long as the speech did not endanger state security, subvert state power, damage state honor and interests, jeopardize state religious policy, propagate heretical or superstitious ideas, or spread rumors and other content forbidden by laws and administrative regulations, among other caveats.

The 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. Entitled the "Decision of the CCP Central Committee on Certain Major Issues on Deepening Cultural System Reform and Promoting the Great Development and Great Prosperity of Socialist Culture," this document called for developing a "healthy and uplifting network culture" that will entail measures such as "step(ping) up guidance and management over social networks and instant messaging tools, standardiz(ing) the transmission order of information on the Internet, and foster(ing) a civilized and rational network environment."

The CCP continued to increase efforts to monitor Internet use, control content, restrict information, block access to foreign and domestic Web sites, encourage self-censorship, and punish those who violate regulations. According to news

sources, more than 14 government ministries participated in these efforts, resulting in the censorship of thousands of domestic and foreign Web sites, blogs, cell phone text messages, social networking services, online chat rooms, online games, and e-mail. These measures were not universally effective.

A 2005 State Council regulation deemed personal blogs, computer bulletin boards, and cell phone text messages as part of the news media, which subjected these media to state restrictions on content. Internet service providers were instructed to use only domestic media-news postings, to record information useful for tracking users and their viewing habits, to install software capable of copying e-mails, and to end immediately transmission of “subversive material.”

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

In July 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. Beijing cafe and restaurant owners were told they would face a fine of 20,000 RMB (approximately \$3,200) if they continued to offer wireless Internet access without installing the software. By October the Beijing municipal government launched a free wireless Internet service that required registration with a user’s cell phone number, linked to a user’s real identity information. The government’s free wireless Internet service also denied access to commercial virtual private network (VPN) services.

Major news portals, which reportedly were complying with secret government orders, required users to register using their real names and identification numbers to comment on news articles. Individuals using the Internet in public libraries were required to register using their national identity card. Internet usage reportedly was monitored at all terminals in public libraries.

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

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

Public relations consultant Chen Hong established a Web site that let people post anonymous tips on official bribery, which proved wildly popular and short lived. Chen's Web site drew 200,000 unique visitors in two weeks. Its anonymous posts discussed bribery at many levels including officials who demanded luxury cars and villas to police officers who needed inducements not to issue traffic tickets. Some posts identified doctors receiving cash under the table to ensure safe surgical procedures. Mainstream media spread word about the site, amplifying the outrage among Internet users. Government authorities subsequently pressured the owner to shut down the site.

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

spanning the political spectrum complained of censorship. The blogs of a number of prominent activists, artists, scholars, and university professors were sometimes blocked or closed during the year.

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

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

On March 5, public security officials in Hangzhou, Zhejiang Province, detained democracy activist Zhu Yufu for “inciting subversion of state power” in connection with the Internet-based Jasmine Revolution protest calls. Zhu had posted a poem entitled “It’s Time” that included a call for people to “come into the public square.” He was formally arrested on April 11. Zhu previously served seven years for “subversion of state power” following the 1998 crackdown on the CDP that he helped found. He was also imprisoned between 2007 and 2009.

In April Wei Qiang, a former art student, was sentenced to two years of RTL for posting pictures of a Jasmine Revolution gathering on his Twitter account.

In October 2010 the revised State Secrets Law came into effect. An article published on Xinhua Net stressed the responsibility of providers of telecommunications services, especially Internet companies, to “stop the leaking of state secrets on the Internet in a timely fashion.” According to the revised law, Internet companies must cooperate with investigations of suspected leakages of state secrets, stop the transmission of such information once discovered, and report the crime to the authorities. Furthermore, they must comply with the authorities’ orders when told to delete such information from their Web sites. Internet companies that fail to comply with the revised law are subject to punishment by the relevant departments such as the police and the Ministry of State Security.

In November 2010 Cheng Jianping (Internet name: Wang Yi) was sentenced to a year in RTL for “retweeting” a message related to a dispute between China and Japan. Her purported crime was “disturbing social order.” Cheng was released from RTL on November 9. According to NGO reports, police escorted Cheng

from the RTL facility back to Xinxiang City, where she was placed under illegal soft detention in a hotel. She was reportedly warned not leave Zhangyuan County.

According to Reporters Without Borders' statistics, there were 30 reporters and 68 cyberdissidents in prison.

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

Academic Freedom and Cultural Events

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

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

During the year information outreach, educational exchanges, and other cultural and public diplomacy programs organized by foreign governments increasingly were subject to government interference particularly after Arab Spring movements began in the Middle East. While in many cases government officials simply denied requests for events, claiming it was "inconvenient" to hold them at that time, in other cases government officials would approve events and then cancel them before they were scheduled to occur, sometimes within hours of the events' start time.

During a multicity tour by an international theatrical troupe performing a play that touched on freedom of speech issues, scheduled post-performance talks at several universities were canceled, for no given reason. The visiting performers had activities disrupted and were obstructed in attempts to meet with ethnic minority artists.

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

In April 2010 the Chinese Embassy in Moscow declined to issue a visa to a Russian filmmaker invited to participate in a foreign government-sponsored film festival in Beijing.

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

Researchers, authors and academics residing abroad also were subject to sanctions, including denial of visas, from the authorities when their work did not meet with official approval. In August overseas media reported the cases of 13 foreign academics who asserted they were blocked from obtaining visas to travel to China on the basis of contributions made to a book on Xinjiang seven years earlier.

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

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

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

In April police detained 27 villagers and seriously injured five following an April 30 protest in Dao County, Hunan Province. More than 300 villagers from three villages had gathered to protest the private sale by local officials of the right to forest land that villagers depended on for a living. A struggle broke out over signs

the villagers were holding, and armed police as well as unarmed officers began striking the protesters. Reportedly, villagers taken into detention were denied food and water and slapped in the face as police sought to extract confessions.

On April 4, local officials disrupted the annual meeting of HIV/AIDS activist Chang Kun's AIBO Youth Center in Linquan County, Anhui Province. The meeting, which took place in the conference room of a local hotel, was interrupted first by hotel management and later by officials from the Guangming Subdistrict Office of Linquan County. In the days leading up to the meeting, officials also destroyed signs outside of the youth center. "Chang Kun's Home" is designed to provide a place for students to gather and also act as a venue for carrying out health, human rights, policy, and Internet freedom education projects.

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

The law protects an individual's ability to petition the government; however, persons petitioning the government continued to face restrictions on their rights to assemble and raise grievances. Most petitions addressed grievances about land, housing, entitlements, the environment, or corruption. Most petitioners sought to present their complaints at national and provincial "letters and visits" offices.

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

after the enactment of the new regulations and often went unrecorded. Rules issued by the General Office of the State Council mandate sending officials from Beijing to the provinces to resolve petition issues locally, thereby reducing the number of petitioners entering Beijing. Other new rules include a mandated 60-day response time for petitions and a regulation instituting a single appeal in each case.

On August 11, Beijing police issued five-day administrative detentions to eight petitioners from Cangshan District, Fuzhou City, Fujian Province, who had passed out leaflets outside a foreign embassy after their grievances over home demolitions had not been resolved through petitioning, according to an international NGO and foreign press reports. Security personnel took one of the petitioners to the Chengmen Police Station once she was back in Cangshan and ordered her to serve an additional 10-day administrative detention for the same offense.

Freedom of Association

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

The government maintained tight controls over civil society organizations. Legal and surveillance efforts aimed at controlling them increased, especially following events in Egypt and Tunisia and subsequent calls for peaceful public (Jasmine Revolution) protests in China. In January the Central Propaganda Bureau banned media use of the term “civil society” (gongmin shehui).

March 2010 regulations issued by the State Administration for Foreign Exchange on foreign exchange donations to or by domestic institutions remained in effect. According to the regulations, foreign exchange donations must “comply with the laws and regulations...and shall not go against social morality or damage public interests and the legitimate rights and interests of other citizens.” For donations between a domestic organization and a foreign NGO, the regulations require all parties and the banks to approve additional measures prior to a transaction being processed. Application of the regulation was varied, with some NGOs successfully navigating the requirements, others identifying other options to receive funds, and some severely limiting or shutting down operations.

Local authorities continued to restrict the activities of labor NGOs in Guangdong Province, especially during the Jasmine Revolution crackdown that started in late February. At that time police visited a number of labor NGOs in the Pearl River Delta warning them to cease working with activist lawyers representing workers rights cases in the region. Police also shut down a branch of one regional labor NGO in retribution for engaging with foreign contacts. Labor NGOs reported that they were unable to register as civil organizations and had little alternative but to register as businesses and be subject to taxation.

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.

In July the Ministry of Civil Affairs (MCA) submitted a new version of the registration regulation to the State Council proposing to allow charity and social organizations to register directly with the ministry without need for an organizational sponsor. Several cities, including Shenzhen, Shanghai, and Beijing, trial tested the policy last year. As a result, Jet Li's One Foundation was registered directly with the Shenzhen Ministry of Civil Affairs in January as a private fundraising foundation. It appears the regulation would not apply to NGOs working on advocacy or other potentially politically sensitive issues.

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

The number of NGOs continued to grow, despite tight restrictions and regulations. According to the MCA, as of the end of 2010, the country had approximately 440,000 legally registered social organizations including social groups (243,000), civil nonbusiness units (195,000), and foundations (2,168). During the year an MCA official wrote, "in 2007, China started to use the term "social organization" instead of "civil organization" because "civil" contrasts with "official" and reflected the opposing roles of civil society and government in the traditional political order. The 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, hiring workers, fundraising, and renting office space. NGOs that opted not to partner with government agencies could register as commercial consulting companies, which allowed them to obtain legal recognition at the cost of forgoing tax-free status. Security authorities routinely warned domestic NGOs, regardless of their registration status, not to accept donations from the foreign-funded National Endowment for Democracy and other international organizations deemed sensitive by the government. Authorities supported the growth of some NGOs that focused on social problems, such as poverty alleviation and disaster relief, but remained concerned that these organizations might emerge as a source of political opposition. Many NGOs working in the Tibet Autonomous Region (TAR) were forced to leave because their project agreements were not renewed by their local partners following unrest in Lhasa and other Tibetan communities in 2008.

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

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/j/drl/irf/rpt.

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

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

In-country Movement: Authorities heightened restrictions on freedom of movement periodically, particularly to curtail the movement of individuals deemed politically sensitive before key anniversaries and visits of foreign dignitaries, and to forestall demonstrations. Freedom of movement continued to be 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.

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

The household registration system added to the difficulties rural residents faced even after they relocated to urban areas and found employment. According to the 2010 Human Resource and Social Security Development Communique published in May by the Ministry of Human Resources and Social Security (MOHRSS), in 2010 the number of rural residents working in non-agricultural jobs was 242.2 million, of which the number of rural residents working outside of their home district was 153.4 million. Many migrant workers and their families faced numerous obstacles with regard to working conditions and labor rights. Many were unable to access public services, such as public education or social insurance, in the cities where they lived and worked because they were not legally registered urban residents. Poor treatment and difficulty integrating into local communities contributed to increased social unrest among migrant workers in the Pearl River Delta. Migrant workers had little recourse when abused by employers and officials. Some major cities maintained programs to provide migrant workers and their children access to public education and other social services free of charge, but migrants in some locations reported that it was difficult to obtain these benefits in practice.

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

According to press reports and online blogs, activists detained early in the year for activities associated with calls for a Jasmine Revolution were forcibly returned to

their home provinces elsewhere in the country at the time of their release and denied the ability to return to Guangdong Province. These include Yuan Xinting (Sichuan Province), Tang Jingling (Hubei Province), Liu Shihui (Inner Mongolia), and Sun Desheng (Zhejiang Province).

Foreign Travel: The government permitted legal emigration and foreign travel for most citizens. There were reports that some academics and activists continued to face travel restrictions around sensitive anniversaries (see section 1.e.), such as the awarding of Liu Xiaobo's Nobel Peace Prize in October 2010. 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. Most were stopped at the airport by authorities at the time of the attempted travel. On April 3, the government detained Ai Weiwei at the airport as he attempted to board a flight. Writer Liao Yiwu repeatedly faced travel bans preventing his attendance at international literary festivals; in July he left the country and traveled to Germany declaring himself "in exile."

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

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

Emigration and Repatriation: The government continued to try to prevent many Tibetans from leaving and detained many who were apprehended in flight (see Tibet Addendum). By the end of 2010, 874 Tibetans had arrived at the UNHCR reception center in Kathmandu. Flows to Nepal increased slightly during the year but were lower than the levels prior to the 2008 Lhasa crackdown. For the first time since 2003, there was a confirmed forcible return of three Tibetans from Nepal in June 2010. During the year there were reports of Uighur asylum seekers being forcibly returned from Malaysia, Pakistan, and Thailand. Of a group of 21 Uighurs returned from Cambodia in 2009, three persons, a woman and two children were reportedly freed, 16 others were given prison sentences ranging from 16 years to life, and the fates of two remained unknown at year's end.

During the year the government continued to harass and restrict the travel of videographer and Sun Yat Sen University professor Ai Xiaoming, who in January 2010 was denied the right to travel abroad to receive the Prix Simone de Beauvoir (international human rights prize for women's freedom).

Protection of Refugees

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

The government officially acknowledged that 37,000 residents of Kokang, in northeastern Burma, fled across the border into Yunnan during the Burmese army crackdown in 2009; they were not officially designated as refugees. The government did not respond to UNHCR requests for access to the border areas in 2009 or during the year. There is no official government estimate of how many refugees fled across the border as result of fighting during the year.

Nonrefoulement: In practice the government did not provide protection against the expulsion or return of refugees to countries where their lives or freedom would be

threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion, especially as regards North Korean refugees. 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 refugees inside China. The lack of access to durable solutions and options, as well as constant fear of forced repatriation by authorities, left North Korean refugees vulnerable to human traffickers. Reports of various exploitation schemes targeting North Korean refugees, such as forced marriages, labor, and prostitution, were common. The government continued to deny the UNHCR permission to operate along its border with North Korea.

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

Refugee Abuse: The intensified crackdown begun in 2008 against North Korean refugees reportedly extended to harassment of religious communities along the border. The government arrested and detained individuals who provided food, shelter, transportation, and other assistance to North Koreans. According to reports, some activists or brokers detained for assisting North Koreans were charged with human smuggling, and in some cases the North Koreans were forcibly returned to North Korea. There were also reports that North Korean agents operated clandestinely within the country to forcibly repatriate North Korean citizens.

Access to Basic Services: While the situation of undocumented children of some North Korean asylum seekers and of mixed couples (i.e., one Chinese parent and one North Korean parent) reportedly improved somewhat during the year, many still did not have access to health care, public education, or other social services.

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

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

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

Elections and Political Participation

Recent Elections: The NPC, composed of 2,987 deputies, elects the president and vice president, the premier and vice premiers, and the chairman of the State Central Military Commission. In practice the NPC Standing Committee, which consists of 175 members, oversaw these elections and determined the agenda and procedure for the NPC.

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

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

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

concurrently as the head of the local people's congress, thus strengthening CCP control over legislatures.

In local people's congress elections during the year, more than 100 candidates declared via microblogs their intent to seek election without the approval of the CCP. By year's end most of the declared independent candidates had been kept off the ballots by the local governments despite meeting nomination criteria. None of the declared independent candidates had won election by year's end. Election officials pressured independent candidates to renounce their candidacies, manipulated the ballot to exclude independent candidates, refused to disclose electorate information to independent candidates, and sometimes adjusted electoral districts to dilute voter support for independent candidates.

In May, Liu Ping, a laid-off worker from a state-owned steel and iron factory in Guangxi Province and the first independent candidate to announce her candidacy, was detained multiple times and kept under house arrest. Authorities also raided Liu's residence and confiscated her campaign material.

On August 18, Liang Shuxin, an independent candidate in Guangdong Province, was visited by three plainclothes security officers who demanded a halt to his campaign activities. On August 25, despite collecting the necessary number of signatures endorsing his candidacy, Liang failed to become a preliminary candidate. Election laws stipulate that anyone with the endorsement of 10 valid voter signatures automatically becomes a preliminary candidate. Local election officials declined to explain why Liang did not become a preliminary candidate.

On October 20, Shu Kexin, an independent candidate in Beijing, published images of a text message sent by an election official in his district reporting to her supervisor that Shu was successfully kept off the ballot. The election official had sent the message to Shu in error.

During the November 9 local people's congress elections in Beijing, authorities deployed a heavy security presence at many polling stations in districts where independent candidates sought office. Beijing Foreign Studies University, where high-profile independent candidates Wu Qing and Qiao Mu both stood for election, closed off the campus on election day to keep out journalists and independent observers. Extra security personnel guarded both entrances to the university and checked the identities of anyone seeking entry.

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

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

In September 8 local elections in the Guangzhou City, Guangdong, district of Panyu, apparently in response to an effort by an independent candidate’s supporters to monitor the election process, election officials allegedly issued a notice prohibiting voters from making audio or visual records of the election proceedings. Earlier the Panyu District authorities in Lijiang Township harassed supporters of independent candidate Liang Shuxin and refused to officially register him as a candidate, even though he collected the required number of supporters, according to online news reports. The local election commission allegedly told him it would be more appropriate for an independent candidate to be female. According to press reports, to avoid a Liang write-in victory, the election commission added an additional 200 voters to the registry in the week prior to the election. On election day plainclothes police and city administration personnel allegedly were on hand during the vote count and cell phone reception had been blocked, thus hindering efforts to monitor the results.

In late August Guangzhou University obstructed the independent candidacy of one of its students for the people’s congress election in Baiyun District, Guangzhou City, Guangdong Province. Guangzhou University’s School of Foreign Studies announced it would not accept the registration of the student, who had gathered more than 1,000 recommendations in support of his candidacy, because they wanted “a nonpartisan female elite intellectual” to get elected, according to online reports. When the student insisted he be registered as a candidate, the university reportedly created additional demands not required of party-affiliated candidates in order to deter him.

A would-be, independent candidate in Beijing, Wu Lihong, maintained that she was given administrative detention for 15 days and then forced to go to Chongqing to prevent her from taking part in the elections.

In 2009 in Hunan Province, dissident Xie Changfa, who tried to organize a national meeting of the banned China Democratic Party, was sentenced to 13 years in prison. Guo Quan remained imprisoned following his 2009 sentence to 10 years in prison and three years' deprivation of political rights for "subversion of state power." Guo, a former Nanjing University professor and founder of the China New Democracy Party, published articles criticizing the country's one-party system. At year's end more than 30 current or former CDP members--including Chen Shuqing, Sang Jiancheng, Yang Tianshui, and Jiang Lijun--remained in prison or held in RTL camps for their connection to a 2002 open letter calling for political reform and a reappraisal of the 1989 Tiananmen uprising.

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

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

A total of 411 delegates from 55 ethnic minorities were members of 11th NPC, accounting for 13.8 percent of the total number of delegates. All of the country's officially recognized minority groups were represented. The 17th Communist

Party Congress elected 40 members of ethnic minority groups as members or alternates on the Central Committee. The only ministerial-level post held by an ethnic minority member was in the State Ethnic Affairs Commission, headed by Yang Jing, an ethnic Mongol from Inner Mongolia. In addition, there was one ethnic minority member, Vice Premier Hui Liangyu, of the Hui ethnic group, on the Politburo. Minorities held few senior CCP or government positions of significant influence.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption; however, the government did not implement the law effectively, and officials frequently engaged in corrupt practices with impunity. Many cases of corruption involved areas that were heavily regulated by the government and therefore susceptible to fraud, bribery, and kickbacks, such as land usage rights, real estate, and infrastructure development. In December 2010 the State Council Information Office released its first white paper on *Efforts to Combat Corruption and Build Clean Government*.

Court judgments often could not be enforced against powerful special entities including government departments, state-owned enterprises, military personnel, and some members of the CCP.

In its 2010 annual work report, the Supreme People's Procuratorate reported that procuratorates nationwide had investigated 32,909 corruption, dereliction of duty, and infringement of human rights cases, an increase of 1.4 percent from the previous year, involving 44,085 suspects, an increase of 6.1 percent. Among them, 2,723 suspects of corruption or bribery were officials at or above county and director level, including 188 at bureau level and six at the province level.

In 2010 the Central Commission for Discipline Inspection (CCDI), the CCP's lead body for countering corruption among members, investigated 139,621 corruption-related cases. A total of 146,517 people were disciplined, and 5,373 were transferred to judicial agencies for criminal proceedings.

In July 2010 the government and CCP issued a regulation requiring officials in government agencies or state-owned enterprises at the county level or above to report their ownership of property, including property in their spouses' or children's names, as well as their families' investment in financial assets and in enterprises. Also in July 2010 the government and CCP announced they would

introduce a new collective decision-making procedure in state-owned enterprises, requiring all important decisions, including allocations of capital, arrangements for major projects, and personnel decisions, to be jointly decided by collective leadership. In the wake of the trial and conviction for corruption of former SPC vice president Huang Songyou in January 2010, the SPC reported that it had strengthened internal supervision by appointing anticorruption monitors, sending inspection task forces to local courts, and ordering more discipline.

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

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

In June the People's Bank of China reported that since the mid-1990s, thousands of corrupt officials had stolen nearly 800 billion RMB (approximately \$123 billion) and fled overseas. The officials reportedly used offshore bank accounts to hide the money. The report was later removed from the bank's Web site.

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

In January the former vice chairman of the Liaoning Province People's Congress, Song Yong, went on trial in Beijing on charges of taking 10.2 million RMB in bribes (approximately \$1.6 million) and was convicted of graft. He was sentenced to death with two years' reprieve, with life-long deprivation of political rights and all personal assets confiscated. He was removed from his post in February 2010.

In March Minister of Railway Liu Zhijun was asked to step down after an investigation of "severe violation of discipline." He was accused of embezzling nearly 750 million RMB (\$121 million).

In August the former governor of Chuxiong Prefecture, Yunnan Province, was expelled from the CCP after investigations linked him to bribery, drug abuse and dereliction of duty. The CCP's Yunnan Provincial Committee reportedly accused Yang Hongwei of having 20 properties and taking bribes worth 10 million RMB (\$1.6 million) and goods valued at 940,000 RMB (\$148,000). Yang was removed from his post in April.

In September, as part of the 12th Five-Year Plan's outline of anticorruption efforts, the Supreme People's Procuratorate announced plans to establish a national Intranet bribery case retrieval database listing all cases involving bribery in local government projects. At year's end the system was operational, and citizens could make requests through Procuratorate Offices.

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

In September 2010 the People's University in Beijing inaugurated its first semester of "anticorruption" postgraduate courses taught by the CCP's leading antigraft officials. He Jiahong, deputy director of the university's criminal law research center, said that courses would be taught on advanced investigation techniques, such as "how to obtain testimony from witnesses," "the observation of facial expressions," and "lie-detection techniques." Chen Lianfu, director of the SPP's Bureau of Anti-Embezzlement and Bribery, and seven other leading SPP antigraft prosecutors were brought to teach their techniques and give guidance. The course had 30 students and "plays a positive role in social anticorruption," according to Professor Lin Zhe at the CCP School. All students selected for the program "met strict criteria and were tested for aptitude," reported the *Global Times*, a commercially focused newspaper affiliated with the official daily of the CCP Central Committee.

Freedom of information regulations allow citizens to request information from the government. The regulations require government authorities to create formal channels for information requests and include an appeal process if requests were rejected or not answered. Publicly released provincial- and national-level statistics for freedom of information requests showed wide disparities in numbers of requests filed and official documents released in response.

In August the SPC ruled that citizens could sue any government department that refused to provide unclassified information. In September a Tsinghua University graduate student sued three government ministries after her requests for

information were denied. The student requested information regarding the duties of 14 ministries for use in her thesis. The student mentioned that with the exception of the People's Bank of China, all were "suspicious and careful" about her request.

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

The government sought to maintain control over civil society groups, halt the emergence of independent NGOs, hinder the activities of civil society and rights' activist groups, and prevent what it has called the "Westernization" of the country. The government did not permit independent domestic NGOs to monitor openly or to comment on human rights conditions; in addition, domestic NGOs were harassed. The government tended to be suspicious of independent organizations, and it increased scrutiny of NGOs with financial and other links overseas. Most large NGOs were quasi-governmental, and all official NGOs had to be sponsored by government agencies, although the government piloted new registration procedures in Shenzhen, Shanghai, and Beijing during the year to remove the requirement that NGOs must have a government sponsoring agency to register. If the new registrations procedures are successful, the government plans to allow NGOs to register directly with the Ministry of Civil Affairs. Some grassroots NGOs registered as companies to avoid regulations requiring NGOs to have a sponsoring government agency.

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

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

Government Human Rights Bodies: The government did not have a human rights ombudsman or commission. The government-established China Society for Human Rights is an NGO whose mandate is to defend the government's human

rights record. The government maintained that each country's economic, social, cultural, and historical conditions influence its approach to human rights.

The ICRC operated an office in Beijing.

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

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

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

Women

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

Violence against women remained a significant problem. According to reports, 30 to 37 percent of families suffered from domestic violence, and more than 90 percent of the victims were women. The government supported shelters for victims of domestic violence, and some courts were beginning to provide protections to victims. However, official assistance did not always reach victims, and public security forces often ignored situations of domestic violence. The All China Women's Federation (ACWF) reported in 2010 that it received 50,000 domestic violence complaints annually. Spousal abuse typically went unreported; an ACWF study found that only 7 percent of rural women who suffered domestic violence sought help from police. 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.

The number of victims' shelters grew. According to ACWF statistics, in 2008 there were 27,000 legal-aid service centers, 12,000 special police booths for domestic violence complaints, 400 shelters for victims of domestic violence, and 350 examination centers for women claiming to be injured by domestic violence

nationwide. The government operated most shelters, some with NGO participation. During the year the government provided 680,000 office spaces in government buildings for women's resource centers.

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

Sexual Harassment: After the Law on the Protection of Women's Rights was amended in 2005 to include a ban on sexual harassment, the number of sexual harassment complaints increased significantly. A 2009 Harvard University study on sexual harassment in the country showed that 80 percent of working women in the country experienced sexual harassment at some stage of their career. The same study found that only 30 percent of sexual harassment claims by women succeeded.

The founder of an education training business in Shenzhen was sentenced to jail during the year after a female employee told the police that he raped her. After his conviction, other employees reported they had been raped or harassed by him as well.

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

Reproductive Rights: The government restricted the rights of parents to choose the number of children they have. National law prohibits the use of physical coercion

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

The national family-planning authorities shifted their emphasis from lowering fertility rates to maintaining low fertility rates and emphasized quality of care in family-planning practices. In May 2010 a representative of the National Population and Family Planning Commission reported that 85 percent of women of childbearing age used some form of contraception. Of those, 70 percent used a reversible method. However, the country's birth limitation policies retained harshly coercive elements, in law and practice. The financial and administrative penalties for unauthorized births were strict.

From February to April 2010, Xuzhou in Jiangsu Province was the site of a high-profile court proceeding in which a 30-year-old female plaintiff sued the local family-planning bureau, claiming that she had been barred from a civil service position in the county government for giving birth to a child before marriage. Although she married the father soon after the child's birth, the court ruled that the family-planning bureau's original decree citing the birth as out of wedlock held, which made her ineligible for the government position. In December 2010 in Taizhou, Jiangsu, in a similar case involving a male plaintiff, the court ruled that the male plaintiff also was ineligible for a civil service position.

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

nationwide was 1.8 (representing the number of children each woman of child-bearing age has); in the country's most populous and prosperous city, Shanghai, the fertility rate was 0.8.

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

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

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

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

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

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

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

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

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

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

According to 2010 statistics, the maternal mortality ratio was an estimated 30 per 100,000 live births. Regional differences indicated that the maternal mortality ratio in rural areas was much higher than in urban areas and also higher in poorer regions than in more developed regions. Rural, poor, migrant, and ethnic minority

women continued to suffer the greatest mortality rates due to a lack of access to quality health services.

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

Authorities often did not enforce laws protecting the rights of women. According to legal experts, it was difficult to litigate a sex discrimination suit because the vague legal definition made it difficult to quantify damages, so very few cases were brought to court. Some observers noted that the agencies tasked with protecting women’s rights tended to focus on maternity-related benefits and wrongful termination during maternity leave rather than on sex discrimination, violence against women, and sexual harassment. Women’s rights advocates indicated that in rural areas women often forfeited land and property rights to their husbands in divorce proceedings. Rural contract law and laws protecting women’s rights stipulate that women enjoy equal rights in cases of land management, but experts argued that in practice this was rarely the case, due to the complexity of the law and difficulties in its implementation. In determining child custody in divorce cases, judges make determinations based on the following guidelines: Children under age two should live with their mothers; children two to nine years of age should have custody determined by who can provide the most stable living arrangement; and children 10 and over should be consulted when determining custody.

Many employers preferred to hire men to avoid the expense of maternity leave and child care, and some lowered the effective retirement age for female workers to 50 (the official retirement age for men was 60 and for women 55, with the exception of men and women involved in physically demanding jobs, for which the retirement age was 55 and 45, respectively). In addition, work units were allowed to impose an earlier mandatory retirement age for women than for men. Lower

retirement ages also reduced pensions, which generally were based on the number of years worked. Job advertisements sometimes specified height and age requirements for women.

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

A high female suicide rate continued to be a serious problem. There were approximately 590 female suicides per day, according to a Chinese Centers for Disease and Control and Prevention report released in September. This was more than the approximately 500 per day reported in 2009. The report noted that the suicide rate for females was three times higher than for males. Many observers believed that violence against women and girls, discrimination in education and employment, the traditional preference for male children, birth-limitation policies, and other societal factors contributed to the high female suicide rate. Women in rural areas, where the suicide rate for women was three to four times higher than for men, were especially vulnerable. Government research indicating that 58 percent of all suicides involved the use of pesticide led to the implementation of a trial program in Hunan and Zhejiang provinces to control its sale and storage to attempt to reduce suicide attempts.

The UN Economic and Social Council reported that less than 2 percent of women between the ages of 15 and 24 were illiterate. According to 2008 official government statistics, women comprised more than 70 percent of all illiterate persons above the age of 15. In some underdeveloped regions, the female literacy rate lagged behind the male literacy rate by 15 percent or more.

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

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

Children

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

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

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

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

Child Abuse: Kidnapping and buying and selling children for adoption increased over the past several years, particularly in poor rural areas. There were no reliable estimates of the number of children kidnapped; however, according to media reports, as many as 20,000 children were kidnapped every year for illegal adoption. Most children kidnapped internally were sold to couples unable to have children,

particularly sons. Those convicted of buying an abducted child may be sentenced to three years' imprisonment. In the past most children rescued were boys, but increased demand for children reportedly drove traffickers to focus on girls as well. In 2009 the Ministry of Public Security started a DNA database of parents of missing children and children recovered in law enforcement operations in an effort to reunite families.

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

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

Pornography of any kind is illegal, including child pornography. Under the criminal code, those producing, reproducing, publishing, selling, or disseminating obscene materials with the purpose of making a profit may be sentenced up to three years in prison or put under criminal detention or surveillance, in addition to paying a fine. Offenders in serious cases may receive prison sentences of three to 10 years, in addition to paying a fine. If the case is especially serious, they are to be sentenced to 10 years or more in prison or given a life sentence, in addition to a fine or confiscation of property. Persons found disseminating obscene books, magazines, films, audio or video products, pictures, or other kinds of obscene materials, if the case is serious, may be sentenced up to two years in prison or put under criminal detention or surveillance. Persons organizing the broadcast of obscene motion pictures or other audio or video products may be sentenced up to three years in prison or put under criminal detention or surveillance, in addition to paying a fine. If the case is serious, they are to be sentenced to three to 10 years in prison in addition to paying a fine.

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

Infanticide: The Law on the Protection of Juveniles forbids infanticide; however, there was evidence that the practice continued. According to the National Population and Family-planning Commission, a handful of doctors have been

charged with infanticide under this law. Female infanticide, sex-selective abortions, and the abandonment and neglect of baby girls remained problems due to the traditional preference for sons and the coercive birth limitation policy.

Displaced Children: There were more than 150,000 urban street children, according to state-run media and the Ministry of Civil Affairs. This number was even higher if the children of migrant workers who spend the day on the streets were included. In 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 that 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 country-specific information see the Department of State's report at http://travel.state.gov/abduction/country/country_3781.html.

Anti-Semitism

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

Trafficking in Persons

See the Department of State's *Trafficking in Person's Report* at www.state.gov/j/tip.

Persons with Disabilities

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

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

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

According to the China Disabled Persons Federation, in 2010 more than 519,000 school-age children with disabilities received compulsory education, 68.2 percent of them in inclusive education, and 31.8 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, 243,000 school-age children with disabilities did not attend school. Nearly 100,000 organizations existed, mostly in urban areas, to serve those with disabilities and protect their legal rights. The government, at times in conjunction with NGOs, sponsored programs to integrate persons with disabilities into society.

The physical abuse of children can be grounds for criminal prosecution. However, misdiagnosis, inadequate medical care, stigmatization, and abandonment remained common problems. According to reports, doctors frequently persuaded parents of children with disabilities to place their children in large government-run institutions, where care was often inadequate. Those parents who chose to keep

children with disabilities at home generally faced difficulty finding adequate medical care, day care, and education for their children. Government statistics showed that almost one-quarter of persons with disabilities lived in extreme poverty.

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

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

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

National/Racial/Ethnic Minorities

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

Minority groups in border and other regions had less access to education than their Han counterparts, faced job discrimination in favor of Han migrants, and earned incomes well below those in other parts of the country. Government development programs often disrupted traditional living patterns of minority groups and included, in some cases, the forced relocation of persons. Han Chinese benefited disproportionately from government programs and economic growth. As part of its emphasis on building a “harmonious society,” the government downplayed

racism and institutional discrimination against minorities, which remained the source of deep resentment in the XUAR, Inner Mongolia Autonomous Region, and Tibetan areas.

Ethnic minorities represented approximately 14 percent of delegates to the NPC and more than 15 percent of NPC standing committee members, according to an official report issued in July. A November 19 article in the official online news source for overseas readers stated that ethnic minorities comprised 41.3 percent of cadres in the Guangxi Zhuang Autonomous Region, 25.4 percent of cadres in Ningxia Hui Autonomous Region, and 51 percent of cadres in the XUAR. During the year all five of the country's ethnic minority autonomous regions had chairmen (the chairman in an autonomous region is 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 has reversed from 20/ 80 to 80/20 and continued to be a source of Uighur resentment. Discriminatory hiring practices gave preference to Han and discouraged job prospects for ethnic minorities. According to 2005 statistics published by XUAR officials, eight million of the XUAR's 20 million official residents were Han. Hui, Kazakh, Kyrgyz, Uighur, and other ethnic minorities constituted approximately 12 million XUAR residents. Official statistics understated the Han population, because they did not count the tens of thousands of Han Chinese who were long-term "temporary workers." While the government continued to promote Han migration into the XUAR and filled local jobs with migrant labor, overseas human rights organizations reported that local officials under direction from higher levels of government deceived and pressured young Uighur women to participate in a government-sponsored labor transfer program.

The XUAR government took measures to dilute expressions of Uighur identity, including reduction of education in ethnic minority languages in XUAR schools and the institution of language requirements that disadvantaged ethnic minority teachers. The government continued to apply policies that prioritized standard Chinese for instruction in school, thereby reducing or eliminating ethnic-language instruction. Graduates of minority-language schools typically needed intensive Chinese study before they could handle Chinese-language course work at a university. The dominant position of standard Chinese in government, commerce,

and academia put graduates of minority-language schools who lacked standard Chinese proficiency at a disadvantage.

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

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

Uighurs continued to be sentenced to long prison terms, and in some cases executed without due process, on charges of separatism and endangering state security. The government reportedly pressured third countries to return Uighurs outside the country, who faced the risk of persecution if repatriated.

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

According to state official media accounts, on July 18, a group of Uighurs attacked a police station in Hotan, XUAR, killing two security guards and taking eight hostages. Police killed 14 of the attackers, captured four, and rescued six hostages; two hostages died in the rescue attempt. On July 30 and 31, through stabbings and bombings, Uighur men in Kashgar, XUAR, killed 13 persons. In the July 30 incident, the civilians killed one of the Uighur attackers and took another into custody. In the July 31 incident, police shot and killed five of the suspects, took four into custody, and subsequently killed two suspects who had initially escaped. Four of the detained Uighurs were subsequently given death sentences for their involvement in the violence.

State media reported that on December 28, security forces in Hotan Prefecture, XUAR, killed seven persons and injured four others while rescuing hostages. Two police officers reportedly were killed in the incident.

In 2009 the government announced it would demolish three buildings owned by the family of exiled Uighur leader Rebiya Kadeer, president of the World Uighur

Conference. The government blamed Kadeer, a Uighur businesswoman in exile, for orchestrating the 2009 riots in Urumqi. At year's end the buildings had not been demolished but remained vacant and condemned. Two of Kadeer's sons also remained in prison.

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

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

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

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

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

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

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

Authorities continued to harass or prevent the gathering of LGBT persons. For example, in February a Valentine's Day kissing contest that gay couples planned to attend was cancelled abruptly by organizers. The Beijing LGBT Center planned to use the event to raise awareness about gay rights.

In June the Fifth Beijing Queer Film Festival was forced underground due to harassment from local police, officers from the Bureau of Industry and Trade, and the Culture Bureau. The police deemed the event "illegal." Organizers were forced to close the event to the general public and show the films to invited guests only. The venue of the festival was also changed every night to avoid detection.

LGBT persons were also targets of societal pressures. For example, in July LGBT groups complained of censorship by the popular Web site Doudan. The groups reported that posts for events were disappearing, resulting in low attendance. Subsequently the groups began to boycott the site.

In July 2010 a gay man attempted to sue the Beijing Red Cross for discrimination for barring gays and lesbians from donating blood. The court rejected the lawsuit without explanation.

Other Societal Violence or Discrimination

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

In April 2010 the country eliminated a 20-year travel ban that barred individuals with HIV/AIDS from entering the country. The State Council posted a statement on its Web site announcing that the government had passed amendments in April 2010 revising the Border Quarantine Law, as well as the Law on Control of the Entry and Exit of Aliens; the changes were effective immediately.

Despite provisions in the Employment Promotion Law, discrimination against persons with HIV/AIDS and hepatitis B carriers (including 20 million chronic

carriers) remained widespread in many areas. Persons with HIV/AIDS suffered discrimination, and local governments sometimes tried to suppress their activities. By December three separate lawsuits had been filed by plaintiffs with HIV/AIDS who were denied employment due to their HIV status. Two of the cases had already been lost by year's end.

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

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

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

In August the Global Fund on AIDS, Tuberculosis, and Malaria lifted its freeze on disbursements to China so that work on fighting AIDS could resume. The Global Fund had frozen the assistance due to suspected misuse of funds and the government's reluctance to involve NGOs. In response, the government promised to allocate 25 percent of the funds to community organizations and create a separate entity to manage civil society groups.

In February 2010 a nationwide rule banning mandatory hepatitis B virus tests in job and school admissions applications was promulgated. On February 14, 61 percent of state-run companies still had hepatitis B testing as a part of their pre-employment screen.

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

In September a HIV-positive man filed a discrimination lawsuit against local authorities claiming that he was denied a job as a primary school teacher. This was the second such discrimination lawsuit in the country. The man reportedly passed a test and interview but was denied the position after authorities learned about the HIV from a routine health test.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

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

The Trade Union Law provides specific legal remedies against antiunion discrimination and specifies that union representatives may not be transferred or terminated by enterprise management during their term of office. Collective contract regulations provide similar protections for employee representatives during collective consultations. While there were no publicly available official statistics on enforcement of laws protecting union representatives, there were periodic media reports of union officials successfully obtaining monetary judgments against companies, usually foreign-invested, which wrongfully terminated them due to union activity.

Regulations require the union to gather input from workers prior to consultation with management and to submit collective contracts to workers or their congress for approval. There is no legal obligation for employers to negotiate, and some employers refused to do so.

The 2008 Labor Dispute Mediation and Arbitration Law provides for labor dispute resolution through a three-stage process: mediation between the parties, arbitration by officially designated arbitrators, and litigation. The 2008 law improved workers' access to and streamlined this three-stage process. A key article of this law requires employers to consult with labor unions or employee representatives on matters that have a direct bearing on the immediate interests of their workers.

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

enterprises or public institutions. The 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 permits collective bargaining for workers in all types of enterprises.

The All-China Federation of Trade Unions (ACFTU), which is controlled by the CCP and chaired by a member of the Politburo, is the sole legal workers’ organization. The Trade Union Law gives the ACFTU control over all union organizations and activities, including enterprise-level unions and requires the ACFTU to “uphold the leadership of the Communist Party.” ACFTU constituent unions were generally ineffective in protecting the rights and interests of members. In response to widespread criticism of the ACFTU’s response to several high-profile labor disputes in 2010, the ACFTU advocated for government policies and legal reform to better equip the union to protect workers’ rights. However, no measurable progress occurred on this issue.

The ACFTU and its provincial and local branches continued to aggressively organize new unions and add new members, especially in large, multinational enterprises. The ACFTU claimed 93 percent of “Fortune 500” companies in the country had already established unions. Foreign-invested enterprises continued to report demands for increased wages by their workers and threats of walkouts and work stoppages if workers’ demands were not met. The pressure to increase worker wages was a result of government policies promoting wage increases, inflation that resulted in rising prices for food and consumer items, and a dearth of skilled labor in the workforce.

Although the law states that trade union officers at each level should be elected, most factory-level officers were appointed by ACFTU-affiliated unions, often in coordination with employers, and were drawn largely from the ranks of management. Direct election by workers of union leaders continued to be rare, occurred only at the enterprise level, and was subject to supervision by higher levels of the union or CCP. In enterprises where direct election of union officers took place, regional ACFTU offices and local CCP authorities retained control over the selection and approval of candidates. The inability to elect their representatives directly continued to be a key issue raised by workers in the Pearl River Delta (PRD).

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

As in past years, in spite of the unclear legal status of worker strikes, there were reports of workers throughout the country engaging in strikes, work stoppages, and other protest actions. Although there are no publicly available figures for the number of strikes and protests each year as the government institutes restrictions on media reports, an NGO estimated 30,000 collective protests by workers in 2009, and it estimated a similar number of strikes occurred in 2010 and 2011. Strikes primarily continued to be resolved directly between workers and management without the involvement of the ACFTU. Where labor relations disputes were resolved without resorting to strikes, factory management continued the trend of engaging directly with worker committees rather than through the legally-approved ACFTU.

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

The number of labor disputes nationwide continued to rise as workers’ awareness of the laws increased. The 2008 Labor Contract Law and the global financial crisis both contributed to the growth in labor disputes in the court system. According to the latest figures from the MOHRSS, there were more than 4,800 labor arbitration organizations and 330,000 labor arbitrators by the end of 2009. The MOHRSS announced at an October press conference that from January to September there were 933,000 “labor and personnel disputes” involving 55.3 million workers. Of these, 428,000 were registered arbitration cases, of which 87 percent were resolved. The MOHRSS spokesman did not elaborate on the number of collective disputes.

In July 2010 the Guangdong provincial government issued guidelines on enterprise collective wage bargaining, which included requiring employers to give employee representatives information regarding a company's operations, including employee pay and benefits, to be used in wage bargaining. The guidelines also gave employees and employers the right to request the labor bureau to act as a mediator to help determine wage increase distribution among employees. There was no progress in advancing debate over collective bargaining legislation that stalled last year in the Guangdong provincial legislature.

Although the Guangdong ACFTU played a prominent role in the resolution of the 2010 strikes at three Honda auto component factories in the PRD in 2010, and indicated that Honda's Nanhai plant would be a pilot site for allowing union members to elect their own union chair, by year's end that goal was still not realized despite three rounds of negotiations between workers and factory management.

Labor activists detained in previous years reportedly remained in detention at year's end, including: Chen Yuqian, Feng Xinchun, Gonpo Lhundrub, Gonpo Thar, Jalo, Tselo, Hu Mingjun, Huang Yunmin, Huang Zhuyu, Jiang Cunde, Jiang Shiye, Li Xiulian, Zhang Chengxiang, Kong Youping, Li Jianfeng, Lin Shunan, Li Shanwen, Li Wuyi, Liu Jian, Liu Jianjun, Luo Xi, Memet Turghun Abdulla, Miao Wanli, Ning Xianhua, Wang Jun, Wang Miaogen, Wang Suhua, Xu Haiyan, Xu Zexin, Xue Mingkai, Yang Chunlin, Yuan Xianchen, Zhao Dongmin, Zhu Fangming, and Zuo Xiaohuan.

During the year strikes remained primarily economic in nature (e.g., increased wages, subsidies for food and housing), but other issues such as workplace conditions and social welfare became more prominent. On June 29, construction workers rallied in front of the municipal government building in Shenzhen, Guangdong Province, to call for improved pension benefits. The government's response to worker protests continued to be a mixture of mediation, conciliation, and coercion. While some jurisdictions sought to develop more flexible strategies to resolve labor disputes, others continued to rely on more repressive measures.

Government officials took a more prominent role in resolving some labor disputes, although not necessarily in the favor of striking workers. For example, a four-day strike by 4,000 workers at a South Korean-owned handbag factory in Guangzhou's Panyu District ended on June 23, when police arrested at least six workers, according to foreign press reports. The strike ended without workers winning any concessions on wages and conditions on which the walk-out was based. Police

also were dispatched to break up a 10-day strike by 2,000 workers later in June at a Japanese-owned Citizen Watch plant at Dongguan, Guangdong Province. The strikers, who were protesting against long working hours and the lack of overtime pay for work conducted on a weekend, were forced to return to work under police surveillance.

The closure of factories due to bankruptcy or a decision to move production elsewhere also contributed to labor disputes. In Huizhou, Guangdong Province, more than 1,000 workers at a Sino-American JV electronics factory went on strike May 28 over the compensation package the factory was offering workers who would be laid off when operations ended. The nearly 1,000 striking workers, some of whom had worked at the factory since it was opened 20 years earlier, also claimed the company cut corners in paying their social security benefits. The closure of a factory in Chaozhou, Guangdong Province, prompted a dispute over unpaid wages that triggered rioting in early June, pitting migrant labor workers from Sichuan Province against local communities.

In East China a series of labor protests in the transportation and logistics sector were sparked by accelerating inflation. On April 20, several thousand independent truck drivers stopped work for several days and blocked access to container handling facilities in Shanghai to protest high and illegal fees associated with container transport. The Shanghai Municipal Government responded quickly, announcing a series of measures on April 23 aimed at reducing and eliminating these fees. Taxi drivers led two separate protests in Hangzhou and Shanghai beginning August 1. In Hangzhou media reports indicated that up to 5,000 cab drivers, representing approximately half the total municipal taxi fleet, stopped work to protest rising fuel costs and demanded approval for fare increases. Hangzhou authorities, faced with traffic gridlock, responded quickly and reportedly agreed to raise government-regulated taxi fares--unchanged in eight years. On August 23, the Hangzhou government released for public comment two fare-increase proposals and pledged that higher fare adjustments would take effect by the end of October. A much smaller taxi driver strike in Shanghai was reportedly spurred by complaints that the taxi company was providing inadequate pensions.

b. Prohibition of Forced or Compulsory Labor

The law prohibits forced and compulsory labor and contains provisions relevant to forced labor and trafficking for labor purposes. However, there were reports that such practices occurred.

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

Reports of forced labor continued. For example, in Sichuan Province local authorities in Leibo County apologized to the public in August for repeated cases of enslaving, trading, and even killing mentally handicapped workers. According to the county's authorities, 227 victims had been saved by annual crackdown campaigns since 2009. In September a local television station in the capital city of Henan Province, Zhengzhou, reported the existence of a trading center of abducted slave laborers, including many mentally handicapped laborers, near the city's railway station. Many illegal brick kilns with slave labor were found subsequently, and local police rescued a total of 30 slave laborers. Illegal brick kilns using slave labor were also found in Guangdong Province. Fourteen enslaved and abused laborers were rescued in May in Huizhou. Three of the victims were under age 18.

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

Also see the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

c. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits the employment of children under the age of 16, but child labor remained a problem. The government does not publish statistics on the extent of child labor. However, based on print media and online reports, manufacturing in the electronics industry appeared to have the most prevalent use of child labor, although many reports indicated it occurred in a number of sectors.

In May a south China newspaper report indicated that children under 16 were working in an electronics factory in Huicheng District, Huizhou Municipality, Guangdong Province. One allegedly 15-year-old worker said that a labor dispatch company recruited her and approximately 20 other children from Sichuan and Yunnan provinces to work at the factory. The dispatch company reportedly received a portion of the children's wages each month.

In June Guangdong Satellite TV reported that due to labor shortages, several electronics factories in Nanhai District, Foshan Municipality, Guangdong Province, employed child labor. At one factory relatives who recruited the children received bonuses of 100 RMB (approximately \$16) per child if the child worked for at least three months.

Child labor was not restricted to the electronics industry. One case reported in June in both print and online media involved a Hong Kong-invested plastics factory, producing for foreign markets, in Huizhou Municipality, Guangdong Province, that allegedly employed at least 10 workers between ages 13 and 15. The factory blamed the dispatch agency, which acknowledged that negligence in the screening process might have led to the recruitment of the children, who were from Guizhou and Yunnan provinces.

In November a local woman was arrested in Wuchuan County, Guizhou Province, for hiring children of migrant workers left in their home village under the care of relatives. Eight children were found producing dangerous fireworks in a small factory.

In November local authorities in Nantong City, Jiangsu Province, reported an increase in the use of child labor in local labor-intensive businesses, especially catering, textile, and electronic processing industries. By October authorities investigated 25 suspected cases of child labor, resulting in 15 child laborers rescued. Local authorities attributed an increase in child labor reports in part to local labor shortages.

In March a group of children were rescued from a box/bag-making factory in Jimo City, Shandong Province. They had been forced to work 14 hours a day and were not allowed to leave the factory yard. Authorities learned of the situation after two children escaped.

In March local police in Shenzhen, Guangdong Province, found 21 child laborers trafficked from the Liangshan region of Sichuan Province. The manager of the Hualian Electronics factory where the children were found was quoted as explaining that due to a surge in orders, they used a labor dispatch company to hire temporary workers. However, the dispatch company provided the under-age workers with fake identity cards. According to the report, the dispatch company took a large percentage of the wages paid to the underage workers.

The law specifies administrative review, fines, and revocation of business licenses of those businesses that illegally hire minors and provides that underage children found working should be returned to their parents or other custodians in their original place of residence. However, a significant gap remained between legislation and implementation. Workers between the ages of 16 and 18 were referred to as “juvenile workers” and were prohibited from engaging in certain forms of physical work, including in mines.

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

International NGOs issued reports of child labor in the PRD, although the cases appeared to be the result of faked documents rather than a concerted effort on the part of employers to hire underage workers. In July a report by the Hong Kong-based NGO Students and Scholars against Corporate Misbehavior accused a Shenzhen factory producing for three foreign firms of employing a 14-year-old.

Also see the Department of Labor’s *Findings on the Worst Forms of Child Labor* at www.dol.gov/ilab/programs/ocft/tda.htm.

d. Acceptable Conditions of Work

There was no national minimum wage, but the labor law requires local and provincial governments to set their own minimum wage according to standards promulgated by the MOHRSS. Monthly minimum wages varied greatly with Shenzhen, Guangdong Province, the highest at 1,320 RMB (\$207) and towns in remote Ningxia Province the lowest at 750 RMB (\$118). During the year the country increased its “rural poverty level” to 192 RMB per month (\$30). These laws apply to all workers. The regulation states that labor and social security bureaus at or above the county level are responsible for enforcement of the law. It provides that where the ACFTU finds an employer in violation of the regulation, it shall have the power to demand that the relevant labor bureaus deal with the case.

The labor law mandates a 40-hour standard workweek, excluding overtime, and a 24-hour weekly rest period. It also prohibits overtime work in excess of three hours per day or 36 hours per month and mandates premium pay for overtime work. However, in practice compliance with the law was weak, and standards were regularly violated. While excessive overtime still occurred, in many cases migrant workers encouraged noncompliance by requesting greater amounts of overtime to increase their overall wages.

The State Administration for Work Safety (SAWS) sets and enforces occupational health and safety regulations. The work safety law states that employees have the right, after finding an emergency situation that threatens their personal safety, to evacuate the workplace. Employers are forbidden to cancel the labor contracts or reduce the wages or benefits of any employee who takes such action.

In June SAWS issued a regulation providing that companies will be held primarily responsible for accidents and will bear legal liability for covering up or filing fraudulent reports. Submitting accident reports more than one hour after discovering the accident is considered an act of cover up, while deliberately giving false information about an accident, such as the time, place, cause, nature, casualties, people at risk and direct economic loss, is considered lying about the accident. Companies that violate the regulation will have their operations suspended or will be deprived of business certificates and licenses. The regulation also includes detailed measures to protect fraud informants, including privacy clauses that prevent the identities of informants from being disclosed.

While many labor laws and regulations on worker safety are fully compatible with international standards, implementation and enforcement were generally poor due to a lack of adequate resources. Inadequately enforced labor laws and occupational

health and safety laws and regulations continued to put workers' livelihoods, health, and safety at risk.

In practice almost all local and provincial governments raised minimum wage levels significantly during the year, as a result of changing economic and demographic conditions. Additionally, increased economic activity, spot shortages of skilled labor, increased inland investment, and successful strikes led to generally increased wage levels for workers in all parts of the country. A decrease in the migration of workers into Guangdong contributed to a changing factory workforce that was older and more likely to be married and have children. As the tenure of the PRD's workers continued to increase, their skills improved, adding additional upward pressure on wages.

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

Acceptable working conditions questions continued to plague electronics manufacturers such as Foxconn, which opened manufacturing operations in Chengdu to take advantage of lower labor costs. The Chengdu government, together with Foxconn, pursued an aggressive search for employees for the new plant. On May 20, three workers were killed and 15 injured in an explosion in a polishing workshop; in March a Hong Kong-based labor rights organization had documented unsafe working conditions at the shop.

Interviews with employees in March and April by the same Hong Kong labor rights organization revealed that while overtime work was voluntary, employees felt it was necessary in order to earn a living.

On June 10, the mistreatment of a pregnant migrant worker at the hands of local government security personnel triggered several days of rioting in Zengcheng, Guangdong Province. The woman was reportedly selling jeans in the evening at an informal stall she had set up. Rumors that she had been killed or had lost the child she was carrying triggered violent protests by migrant laborers in the area. The government deployed riot police to control more than 1,000 migrant demonstrators who gathered in front of the offices of local government officials, restricting access to the city in the process.

The June migrant worker riots in Zengcheng and Chaozhou prompted the Guangdong Provincial Communist Party Committee to pass the "Decision on

Strengthening Social Construction” on July 13, as an effort to better address the social dislocation facing migrant workers. The document called on government authorities to better absorb migrant workers through grassroots organizations or employment as civil servants and said that the province’s people’s congresses and CPPCC should also allow migrant workers to be members.

The Institute for Global and Human Rights, formerly the National Labor Committee, issued a report in March claiming that a plastics and hardware product company in Dongguan, Guangdong Province, denied workers appropriate days off, sometimes requiring them to work 30 days per month, did not use available safety devices in order to increase production, resulting in at least four employees losing fingers over the past three years, and did not provide training to new workers prior to using dangerous equipment.

According to the State Administration for Coal Mine Safety (SACMS), there was a 20.4 percent drop in the number of coal mine accidents during the first seven months of the year. The number of people killed in coal mine accidents during the period dropped by 31 percent from a year earlier to 1,083 deaths.

SAWS and the U.S. Department of Labor engaged in a Mine Safety Exchange Program to promote the development of improved safety procedures and protocols. In November 2010 SACMS ordered all mines to complete the installation of new facilities, including coal mine monitoring equipment, pressure fans, water supplies, and communications systems, to improve coal mine safety. Despite the drop in mortality rates and the regulations imposed by SACMS, significant mine safety problems remained.

During the summer more than 80 coal and iron ore miners were trapped underground following incidents at four separate mines. More than 50 miners were trapped in two separate mine incidents in Shandong Province following a fire at a coal mine and a flooded shaft at an iron ore mine. A dozen miners were trapped following a cave-in at a coal mine in Dalian, Liaoning Province, and 23 miners were trapped in a flooded coal mine in Guangxi Zhuang Autonomous Region, Guizhou Province. In late June eight miners were killed and five injured when an illegal iron ore mine in Fujian Province’s Yongding County collapsed. According to government officials, who were made aware of the accident by local residents, police detained one of the mine’s owners who had tried to flee after the incident.

In early July heavy rains caused the Heshan mine in Guangxi Region to collapse, killing 22 of the 71 miners inside. Coal mine safety advocates claimed that the company, which operated 19 other coal mines, required the miners to work underground despite the heavy rains and the known risk of a cave-in. The incident prompted Guangxi authorities to order inspections of coal mines to determine whether they were safe to operate in heavy rains. On August 23, a flood in a coal mine in Qitaihe City, Heilongjiang Province, killed four people.

Other coalmine accidents may have been covered up and underreported. For example, in April two coalmine gas explosions occurred and a total of 18 people were killed in Xuanwei City, Yunnan Province. Domestic media reported that the local coalmine industry authority tried to help the mines cover up one of the accidents. Local residents also reported that four people died and two were injured during an April 24 flood in a coal mine in Shuangyashan City, Heilongjiang. The mine owner did not report the accident to local authorities. On April 26, a gas explosion in a coal mine in Jixi City, Heilongjiang, killed nine workers. The owner of the coal mine attempted to cover up the accident by hiding the corpses. He later turned himself in after the police placed him on the wanted list.

Data from the Ministry of Health showed that occupational diseases and hazardous workplaces remained challenges. According to the ministry, 27,240 occupational illness cases were reported in 2010; 23,812 were pneumoconiosis, or black lung disease, and more than 80 percent of the victims were classified as migrant workers. Official data also showed that 37.8 percent of the victims did not receive compensation. An NGO report revealed that people claiming to have an occupational disease had to follow a medical and legal process that took, on average, three years and 54 days to complete.

TIBET

EXECUTIVE SUMMARY

The United States recognizes the Tibet Autonomous Region (TAR) and Tibetan autonomous prefectures and counties in other provinces to be a part of the People's Republic of China (PRC). The Chinese Communist Party (CCP) Central Committee's United Front Work Department, headed by Du Qinglin since late 2007, oversees the PRC's Tibet policies. As in other predominantly minority areas of the PRC, ethnic Han CCP members hold almost all top government, police, and military positions in the TAR and other Tibetan areas. Ultimate authority rests with the 25-member Political Bureau (Politburo) of the CCP and its nine-member Standing Committee in Beijing. Chen Quanguo succeeded Zhang Qingli as TAR Party Secretary on August 25. Civilian authorities generally maintained effective control of the security forces.

The TAR and other Tibetan areas continued to be under increasingly intense and formalized systems of controls, many of which appeared to be aimed at facilitating enforcement of "social stability" and undermining the religious authority of the Dalai Lama. The government's attempts to assert control over all aspects of Tibetan Buddhist monastic and religious practice through such means as compulsory "patriotic education" and "legal education" campaigns at monasteries, compulsory denunciation of the Dalai Lama, establishing permanent CCP and security personnel presence at monasteries, and taking over the identification and training of reincarnated lamas (tulku), provoked acts of resistance among the Tibetan population, who saw it as a threat to the foundations of Tibet's distinct religious, linguistic, and cultural identity. These acts of resistance, in turn, led to enhanced attempts by PRC authorities to maintain control, thus creating cycles of repression that resulted in increasingly desperate acts by Tibetans, such as a series of self-immolations by Tibetan Buddhist clergy and laypersons in China's Tibetan areas.

There was severe repression of the freedoms of speech, religion, association, and movement. Authorities continued to commit serious human rights abuses, including extrajudicial killings, torture, arbitrary arrests, extrajudicial detentions, and house arrests. The preservation and development of Tibet's unique religious, cultural, and linguistic heritage and unique high plateau environment remained a concern. As in prior years, authorities intensified controls over speech, travel, assembly, and religious practice in the TAR and other Tibetan areas prior to and during politically sensitive dates, such as the third anniversary of the March 2008

protests and riots in Tibetan areas, the observance of “Serf Emancipation Day” on March 28 (see Academic Freedom and Protection of Cultural Heritage), the 90th anniversary of the founding of the CCP on July 1, and the 60th anniversary of the “peaceful liberation” of Tibet on July 19. 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 consequences of the 2008 protests continued to affect the human rights situation in Tibetan regions of the PRC. People’s Armed Police (PAP) presence remained at high levels in many communities across the Tibetan Plateau. In March all major monasteries in the TAR and other Tibetan areas outside of the TAR were guarded by security forces, and many shops in Lhasa closed March 14 to mark the anniversary of the demonstrations and police crackdown. Students and monks in several areas were detained after reportedly demanding freedom and human rights and expressing their support for the Dalai Lama.

Deprivation of Life

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

According to sources cited by the International Campaign for Tibet, on December 9, police beat to death Chonjor, a Tibetan man in his twenties in Xiahe (Sangchu), Gansu Province, reportedly in a case of mistaken identity. Authorities reportedly paid his family one million RMB (approximately \$158,000) as compensation.

Jampa Pelsang (also known as Puloe), one of several Ganden Monastery monks imprisoned for reportedly defying a “patriotic education” campaign implemented by the TAR government in 1996, was released from Qushui (Chushur) Prison May 6, reportedly in grave physical condition, and died at his home on May 23.

Trinley, a native of Ganzi (Kardze) County, Ganzi (Kardze) Tibetan Autonomous Prefecture (TAP), died August 10, reportedly due to injuries sustained from severe beatings he endured during seven months in custody following his 2009 detention for participating in protests in Ganzi.

Disappearance

Jigme Guri, a Tibetan Buddhist monk from Labrang Monastery in southern Gansu Province, reportedly was taken into police custody on August 25. His whereabouts and the charges against him were unknown at year's end. In 2008 Jigme Guri recorded a YouTube video detailing abuses he allegedly suffered at the hands of prison officials during previous detentions. By his own account, the prison beatings left him unconscious for six days and required two hospitalizations.

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

Torture and Other Cruel and Degrading Treatment

According to the PRC's constitution, "the State respects and protects human rights." In practice, however, judges cannot apply the constitution in court cases since its interpretation is reserved exclusively to the Standing Committee of the National People's Congress. PRC law prohibits torture and the unlawful taking of life. China signed and ratified the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment but made a reservation on Article 20 that exempts it from accepting investigations of abuse allegations.

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

Torture: Tibetans returned from Nepal reportedly suffered torture while incarcerated or otherwise in official custody, including electric shocks, exposure to cold, and severe beatings, as well as being forced to perform heavy physical labor. Security forces routinely subjected prisoners to "political investigation" sessions and punished them if they were deemed insufficiently loyal to the state.

According to the Dharamsala-based Tibetan Center for Human Rights and Democracy (TCHRD), on March 16, police severely beat Phuntsog, a monk at Kirti Monastery in Aba (Ngaba), Tibetan and Qiang Autonomous Prefecture (T&QAP), Sichuan Province, after he set himself on fire. Phuntsog succumbed to his injuries the next day, after which up to 1,000 local Tibetans reportedly staged a peaceful protest that was violently suppressed by the PAP. A series of 12 reported self-immolations by Tibetan Buddhist clergy and laypersons followed during the year. Eight of the 12 Tibetans who self-immolated were affiliated with Kirti and

other monasteries located in Aba (Ngaba), T&QAP, Sichuan Province, where repression was particularly intense. Of the remaining four self-immolations, three took place in Ganzi (Kardze) TAP, Qinghai Province, and one in the TAR.

On July 25, the *Tibet Post International* (an online publication of Tibetan journalists in exile) reported that Wangchuk, a political activist from Qinghai Province, was diagnosed with brain damage following his June 8 release from prison after serving a three-year sentence for separatist activities. Wangchuk reportedly was arrested in 2008 for planning to demonstrate with a Tibetan flag outside a monastery.

According to the TCHRD, Sonam Choedon, a nun detained after participating in a 2008 protest at Pangri-Na Nunnery in Lhoba Township, Ganzi (Kardze) County, Ganzi (Kardze)TAP, was released from detention in October 2010, reportedly suffering from severe mental disability after having been pistol whipped in detention.

Prison and Detention Center Conditions

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

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

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

According to local sources in Lhagong Township, Kangding (Dardo) County, Ganzi (Kardze)TAP, Yondan Gyatso, a 30-year-old monk, was released to his family in early 2010 following three months of detention. Blind, deaf, and unable to walk or remember anything at the time of his release, Yondan Gyatso reportedly recovered some memory but remained severely disabled following his ordeal.

Local Tibetans who know the monk suspected that authorities used psychoactive drugs that resulted in permanent physical and mental damage. There were other reports of suspected abuse of psychiatric drugs with detainees in Tibetan areas.

Arbitrary Arrest or Detention

Arbitrary arrest and detention continued to be a problem in Tibetan areas. With a detention warrant, police legally may detain persons for up to 37 days without formally arresting or charging them. Police must notify the relatives or employer of a detained person within 24 hours of the detention. Following the 37-day period, police must either formally arrest or release the detainee. In practice, police frequently violated these requirements. Many prisoners were subject to the RTL system operated by the Ministry of Public Security or to other forms of detention not subject to judicial review.

During the sustained official crackdown on the Kirti Monastery in Sichuan's Aba (Ngaba) County following the self-immolation of a Tibetan monk there in March, authorities forcibly removed hundreds of monks from the monastery, sending some back to their hometowns and detaining others. The several hundred monks who remained in the monastery were required to spend months participating in small-group "legal education" sessions led by approximately 100 government officials.

Denial of Fair Public Trial

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

Trial Procedures

In cases that authorities claimed involved "endangering state security" or "separatism," trials often were cursory and closed. Authorities denied multiple requests from foreign diplomats to observe the trials of those charged with crimes related to the 2008 unrest. Authorities sentenced Tibetans for alleged support of

Tibetan independence regardless of whether they were alleged to have committed violent acts.

According to the *Tibet Daily* (the official TAR Party newspaper), the TAR was implementing a policy of strengthening the CCP's management of lawyers in the region to ensure their work was carried out "in the correct direction." According to an April 18 *Tibet Daily* article, as of 2009 there were 17 law firms and 101 attorneys in the TAR, as well as 72 government law offices operating under the direct supervision of the TAR Justice Bureau. Of the 17 law firms, 11 had their own CCP committee and six shared a CCP committee with the Justice Bureau in their prefecture. As is required throughout the PRC, a CCP development leader was assigned to law firms that had no party organization.

Political Prisoners and Detainees

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

Based on information available from the U.S. Congressional-Executive Commission on China's (CECC) political prisoner database, as of September 1, 527 Tibetan political prisoners were imprisoned in Tibetan areas. The actual number of Tibetan political prisoners and detainees was believed to be much higher, but the lack of access to prisoners and prisons, as well as the dearth of reliable official statistics, made this impossible to determine. An unknown number of prisoners continued to be held under the RTL system. Of the 527 Tibetan political prisoners tracked by the CECC, 483 were ethnic Tibetans detained on or after March 10, 2008, and 44 were Tibetans detained prior to March 10, 2008. Of the 483 Tibetan political prisoners who were detained on or after March 10, 2008, 264 were believed or presumed to be detained or imprisoned in Sichuan Province; 160 in the TAR, 23 in Gansu Province, 34 in Qinghai Province, one in the Xinjiang Uighur Autonomous Region, and one in Beijing Municipality. There were 113 persons serving known sentences, which ranged from 1½ years to life imprisonment; the average sentence length was seven years and two months. Of the 113 persons serving known sentences, 62 were monks, nuns, or Tibetan Buddhist teachers.

On August 30, Xinhua News Agency reported that the Ma'erkang (Barkham) People's Court located in Aba (Ngaba), T&QAP convicted three monks from the Kirti Monastery of "intentional homicide" in relation to the March self-immolation

of Phuntsog (see Torture and Other Cruel and Degrading Treatment above). The court sentenced Tsering, Tenzin, and Tenchum to 13 and 10 years in prison, respectively, for allegedly instigating and assisting Phuntsog's self-immolation. In a separate trial, another Kirti monk, Phuntsog's uncle Drongdru, was sentenced to 11 years in prison on similar charges.

A number of monks were sentenced to prison terms in the lead-up to and during the politically sensitive period when China celebrated the 90th anniversary of the founding of the CCP on July 1 and the 60th anniversary of the "peaceful liberation" of Tibet on July 19. Several of the monks were from Kirti Monastery.

According to TCHRD, eight monks (Karma Samten, Jigtak, Sherab, Gaya Tashi, Urgen Samten, Karma Soepa, Karma Monlam, and Dosam) from Surmang Monastery, Nangchen County, Yushu (Yulshul) TAP, Qinghai Province, were arrested July 12 for refusing to celebrate the CCP anniversary. The eight reportedly were detained and taken to Nangchen County Police Detention Center after approximately 300 monks walked out of a mandatory "legal education" meeting convened by county and PSB officials at the monastery.

TCHRD reported that on July 10, PSB officials severely beat and took into custody three young men--Lobsang Phuntsok, Samphel Dhondup, and Lobsang Lhundup--all students in Dhargye Norzin Village, Ganzi (Kardze) County, Ganzi (Kardze)TAP, who shouted slogans and distributed pamphlets that contained the phrases "Freedom in Tibet," "Bring Back the Dalai Lama," and "May the Dalai Lama and all Tibetans Unite Soon" at Ganzi (Kardze) County market in Ganzi (Kardze) TAP. According to TCHRD, a Ganzi (Kardze) County court sentenced Samphel Dhondup to three years in prison on August 20 and released Lobgsang Phuntsok and Lobgsang Lhundup the same day.

According to human rights groups, the Aba (Ngaba) County Court sentenced two Kirti Monastery monks, Lobsang Dhargye and Kunchok Tsultrim, to three-year prison terms in May. Although the charges against the two monks were unknown, Lobsang Dhargye had previously been detained for five months after appearing on film participating in the March 2008 protests.

Status of Freedom of Speech and Press

Freedom of Speech: Tibetans who spoke to foreign reporters, attempted to relay information to foreigners outside the country, or communicated information regarding protests or other expressions of discontent through cell phones, e-mail,

or the Internet were subject to harassment or detention. The whereabouts of 59 individuals convicted in 2009 for “creating and spreading rumors” after the 2008 unrest remained unknown. Lhasa residents reported they avoided sensitive topics even in private conversations in their own homes.

According to reports, Tibetan writer Kalsang Tsultrim was sentenced on December 30 to four years’ imprisonment by the Kanlho Intermediate People’s Court, Gansu Province, for releasing a video message with political content.

Freedom of Press: The government severely restricted travel by foreign journalists to Tibetan areas. The entire TAR was closed to foreigners in the lead-up to and during the politically sensitive month of July, when the PRC celebrated the 90th anniversary of the founding of the CCP on July 1 and the 60th anniversary of the “peaceful liberation” of Tibet on July 19. Foreign journalists reported they could gain access to the TAR only by participating in highly structured government-organized tours, where the constant presence of government minders made independent reporting difficult. Outside the TAR, foreign journalists frequently were expelled from Tibetan areas despite government rules, adopted in 2008, which stated that foreign journalists did not need the permission of local authorities to conduct reporting.

On June 11, the “All-China Project Everest Conference on Sweeping Out Pornographic and Illegal Publications” was held in Lhasa. The conference highlighted the achievements of “Project Everest,” which was initiated in 2009 to crack down on publications in the TAR and other Tibetan areas that contained content related to Tibetan independence.

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

In June official news media reported that the Lhasa City Radio and Television Bureau confiscated 100 illegal satellite dishes in Lhasa. Tibetan sources confirmed

that such official seizures were common across the TAR and Tibetan areas of Sichuan, Qinghai, Gansu, and Yunnan provinces.

Domestic journalists generally did not report on repression in Tibetan areas, and the postings of bloggers who did so were promptly censored, and their authors sometimes faced punishment. Official media rarely referred to unrest in Tibetan areas, although some official publications targeting the overseas Chinese community published articles blaming the “Dalai clique” and other “outside forces” for instigating the Tibetan self-immolations. Journalists who worked for the domestic press were tightly controlled and could be hired and fired on the basis of political reliability. For example, on March 19, the *Lhasa Daily* contained an advertisement from the *Tibet Justice Daily*, which was seeking five new reporters. According to the advertisement, applicants had to meet five conditions, the first of which was that they must support the CCP party line, principles and policies, safeguard national unity, and be politically steadfast.

Violence and Harassment: On July 5, PSB officers reportedly removed writer Pema Rinchen from his home in Luhuo (Draggo) County, Ganzi (Kardze) TAP. He was brought the next day to the county hospital for emergency treatment for injuries sustained during severe beatings while in police custody. Pema Rinchen had self-published a book in January entitled *Look*. The book included interviews with Tibetans who had been arrested and tortured in connection with the 2008 protests, as well as criticism of government policies, including the official suppression of the 2008 protests and the official response to the April 2010 earthquake in Yushu (Yulshul) TAP, Qinghai Province.

Internet Freedom

Cellular phone and Internet service in the TAR and Tibetan areas of Sichuan, Qinghai, and Gansu provinces were curtailed during politically sensitive periods, such as the March anniversaries of the 2008 protests and “Serf Liberation Day” (see Academic Freedom and Protection of Cultural Heritage) and the July anniversaries of the founding of the CCP and the “peaceful liberation” of Tibet. In addition many Web sites were shut down and Internet cafes closely monitored during major religious, cultural, and political festivals in Tibetan areas.

Official censorship greatly hampered the development of Tibetan-language Internet sites. Although government-funded projects designed to improve Tibetan-language computer interfaces made Tibetan language computing easier, security agencies responsible for monitoring the Internet often lacked the language skills

necessary to monitor Tibetan content. As a result, Tibetan-language blogs and Web sites were subject to indiscriminate censorship, with entire sites closed down even when the content did not appear to touch on sensitive topics. The popular social media microblogging site QQ in 2009 ceased permitting users to log on in Tibetan.

Official media reported that the Internet Security Supervision Detachment of the Lhasa PSB required the owners of 104 Lhasa Internet cafes to attend an April 29 “Internet Cafe Security Management” meeting, where they had to sign a “responsibility document” pledging to ensure Internet security. The stated purpose of the meeting was to “purify the Internet, safeguard national security and ensure social stability” in the lead-up to and during the dual celebrations in July (i.e., the 90th anniversary of the founding of the CCP and the 60th anniversary of the “peaceful liberation” of Tibet). Also in April, law enforcement officials in Changdu (Chamdo) County, TAR, raided 15 Internet cafes, confiscating equipment that promoted illegal “separatist” or “Tibet independence” content.

In August, following the self-immolation of monk Tsewang Norbu in Tawu (Daofu), Ganzi(Kardze) TAP, local authorities cut off all Internet and text-messaging services in the area.

Most foreign Tibet-related Web sites critical of official policy in Tibetan areas were blocked to users in China throughout the year.

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

Academic Freedom and Cultural Events

Authorities in Tibetan areas required professors and students at institutions of higher education to attend political education sessions in an effort to prevent “separatist” political and religious activities on campus. Ethnic Tibetan academics were frequently encouraged to participate in government propaganda efforts, such as by making public speeches supporting government policies or accepting interviews by official media. Academics who failed to cooperate with such efforts faced diminished prospects for promotion. Academics in the PRC who publicly criticized CCP policies on Tibetan affairs faced official reprisal. The government controlled curricula, texts, and other course materials as well as the publication of historically or politically sensitive academic books. Authorities frequently denied

permission to Tibetan academics to travel overseas for conferences and academic or cultural exchanges.

In a January speech, the director of the TAR Academy of Social Sciences called on the academy to serve as the TAR Party Committee's think tank and as a strong ideological force for fighting separatism and exposing the "Dalai clique." At a January 16 meeting in Lhasa chaired by then TAR Party Secretary Zhang Qingli to discuss propaganda priorities for the year, TAR Party and government leaders were urged to continue to criticize the "Dalai clique," investigate and prevent the influx of toxic cultural influences, and promote such themes as "communism, socialism, and the People's Liberation Army are good" and "love the Party and the motherland."

In an opinion piece published in official media in January, the director of the TAR State Security Bureau called for the development of Tibet's tourism and cultural industries to combat the weakening of national identity and other "negative" effects of placing "too much emphasis on the promotion of Buddhist religious faith."

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

From December 2010 to February 2011, authorities in Lhasa launched another in a series of annual winter "Strike Hard" campaigns. According to official reports, in the early days of the campaign, approximately 575 police raided more than 1,262 guest houses, Internet cafes, entertainment centers, and bars, while 300 police raided Lhasa schools. Although ostensibly an anti-crime operation, police searched private homes, guest houses, hotels, bars, and Internet cafes for photographs of the Dalai Lama and other politically forbidden items. Police examined the cell phones of Lhasa residents to search for "reactionary music" from India and photographs of the Dalai Lama. Reportedly, even certain ringtones were deemed subversive and could lead to detention.

On March 28, the TAR marked its third annual observance of "Serf Emancipation Day," commemorating the day in 1959 that China's rulers formally dissolved the Kashag, the Tibetan local government. During the official celebration, government

officials and representatives from rural villages and monasteries were required to denounce the Dalai Lama.

Some observers expressed concern that development projects and other central government policies disproportionately benefited non-Tibetans and resulted in a considerable influx of ethnic Han and Hui people into the TAR. Infrastructure upgrades such as improved roads, more frequent air service, and the TAR-Qinghai railway, which made travel more affordable, increased the frequency with which non-Tibetans from other parts of the PRC visited the TAR. According to the official Xinhua News Agency, in 2006 there were 180,000 ethnic Han with household registration in the TAR. According to an official TAR report, by 2011 this number had increased to 245,000. Many people from outside the TAR who had spent years living in the TAR maintained their official registration in another province and thus were not counted as TAR residents.

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 felt were harmful to the environment or sacred sites. In November 2010, 15 Tibetans, including five monks from nearby Lingka Monastery, were detained, and several others injured when armed riot police and PSB officials were dispatched to suppress hundreds of Tibetans who attempted to disrupt operations at the controversial Xietongmen (Shethongmon) copper-mining project near Rikaze (Shigatse), TAR. The detained monks, Khenpo Kelsang, Jamyang Tsering, Tsewang Dorje, Rigzin Pema, and Jamyang Rigsang, reportedly were taken to detention centers in Xietongmen (Shethongmon) and Rikaze (Shigatse).

Tibetan and Mandarin Chinese are official languages in the TAR, and both languages appeared on some, but not all, public and commercial signs. Inside official buildings and businesses, including banks, post offices, and hospitals, signage in Tibetan was frequently lacking, and in many instances, forms and documents were available only in Mandarin. Mandarin was widely spoken and was used for most official communications. In many rural and nomadic areas, children received only one to three years of Tibetan-language education before continuing their education in a Mandarin-language school. According to official figures, the illiteracy rate among youth and working-age adults fell from 30.9 percent in 2003 to 1.2 percent in 2011. Many observers questioned that figure, and some contended that the actual illiteracy rate among Tibetan youth and working-age adults was between 40 and 50 percent.

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

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

Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/j/drl/irf/rpt.

Freedom of Movement

The law provides for freedom of movement within the country, foreign travel, emigration, and repatriation; however, in practice, the government severely restricted travel and freedom of movement of ethnic Tibetans.

In-Country Movement: Freedom of movement, particularly for monks and nuns, was severely limited within Lhasa and throughout the TAR, as well as in Tibetan areas of Qinghai, Gansu, and Sichuan provinces. Anecdotal evidence indicated this was less of a problem in Tibetan areas of Yunnan Province, where Tibetans made up only one quarter of the population, and rarely protested against government policies. The PAP and local PSBs set up roadblocks and checkpoints on major roads, in cities, and on the outskirts of cities and monasteries, particularly around sensitive dates. Tibetans traveling in monastic attire were subject to extra scrutiny by police at roadside checkpoints. Several Tibetan monks reported that it remained difficult to travel outside their home monasteries, with officials frequently denying permission for visiting monks to stay temporarily at a particular monastery for religious education.

Non-ethnic Tibetan Buddhist monks, particularly ethnic Han, were allowed only temporary visits to Tibetan Buddhist monasteries. Local religious affairs authorities often prohibited ethnic Han or foreign Tibetan Buddhists from staying in monasteries for long-term study.

Foreign Travel: Many Tibetans, particularly prominent religious and cultural figures, scholars, and activists, as well as those from rural areas, reported increased difficulties in obtaining new or renewing existing passports. Some attributed this to what they believed to be official attempts to limit Tibetan attendance at Buddhist teaching conferences (Kalachakra) convened by the Dalai Lama. Some Tibetans reported they were able to obtain passports only after having paid substantial bribes or making promises not to travel to India. In other cases, Tibetan students with scholarships to foreign universities were precluded from study abroad because authorities refused to issue them passports. Some monks from Tibetan areas of Yunnan Province who left the PRC for India without proper documentation reported being able to return on a limited basis and then allowed to leave again for India.

Tibetans continued to encounter substantial difficulties and obstacles in traveling to India for religious, educational, and other purposes. According to reports, ethnic Tibetan government and CCP cadres in the TAR and Ganzi (Kardze) TAP were not allowed to send their children to study abroad. Tight border controls sharply limited the number of persons crossing the border into Nepal and India. During the

year 739 Tibetan refugees transited Nepal through the Tibetan Reception Center run by the UN High Commission for Refugees in Kathmandu en route to permanent settlement in India, down from 874 in 2010 and 2,156 in 2007.

The government restricted the movement of Tibetans in the lead-up to and during sensitive anniversaries and events and increased controls over border areas at these times. There were reports of arbitrary detentions of persons, particularly monks and nuns, returning from India and Nepal. Detentions generally lasted for several months, although in most cases authorities did not bring formal charges against detainees. Travel became increasingly difficult and communications were sometimes cut off, particularly in Sichuan's Aba (Ngaba), T&QAP as the series of self-immolations at Kirti Monastery that began in March continued.

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. Foreign tourists were generally only permitted to enter the TAR by airplane or rail; obtaining permission to drive to the TAR was difficult.

In what has become an annual phenomenon, foreign tourists were banned from the TAR in the lead-up to 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. During the times that foreign tourists were permitted to enter the TAR, the requirement that they remain with organized tour groups was enforced more strictly than in the past.

Officials continued to restrict severely the access of diplomats and journalists to Tibet. Foreign officials were able to travel to the region only with the permission of the TAR Foreign Affairs Office (FAO), and even then only on closely chaperoned trips arranged by the FAO. Such permission was difficult to obtain. During the year authorities denied three out of four U.S. government requests for official travel to the TAR. Official visits to the TAR that were approved were supervised closely, and delegation members were afforded very few opportunities to meet local residents not previously approved by the authorities. Foreign diplomats who legally traveled in some Tibetan areas outside of the TAR, such as the Ganzi (Kardze) TAP and Aba (Ngaba), T&QAP, were repeatedly approached by local police and forced to leave without reasonable explanation. With the exception of a few highly controlled trips, authorities repeatedly denied requests for international journalists and observers to visit the TAR and other Tibetan areas.

Discrimination and Societal Abuses

Women

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

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

Lack of knowledge about HIV transmission and economic pressure led many female sex workers to engage in unprotected sex. Diagnosis and treatment of sexually transmitted diseases, including HIV/AIDS, appeared to be nondiscriminatory.

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

Children

According to official policy, primary education was compulsory, free, and universal. According to official TAR statistics, during the year, 99.2 percent of children between the ages of six and 13 attended school, and 90 percent of the TAR's primary school students attended lower middle school, for a total of nine years of education. In 2003 the UN special rapporteur on the right to education reported that official PRC education statistics did not accurately reflect attendance and were not independently verified.

Societal Violence

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

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

Ethnic Minorities

Although TAR census figures showed that as of November 2010, Tibetans made up 90.5 percent of the TAR's permanently registered population, official figures did not include a large number of long-, medium-, and short-term ethnic Han residents, such as cadres (government and party officials), skilled and unskilled laborers, military and paramilitary troops, and their respective dependents. According to a Lhasa city official, 260,000 of the 450,000 individuals living in downtown Lhasa during the year belonged to this "floating" population.

Migrants to the TAR were overwhelmingly concentrated in urban areas. Government policies to subsidize economic development often benefited ethnic Han more than ethnic Tibetans, causing resentment. Small businesses, mostly restaurants and retail shops, run by ethnic Han and Hui migrants predominated in cities throughout Tibetan areas. Ethnic Tibetans continued to make up nearly 98 percent of those registered as permanent residents in rural areas, according to official census figures.

The government continued its campaign to resettle Tibetan nomads into urban areas across the TAR and other Tibetan areas. Officials also offered nomads monetary incentives to kill or sell their livestock and move to newly created Tibetan communities in rural areas. There were reports of compulsory resettlement where promised compensation was either inadequate or not paid at all. According to a January Xinhua report, 274,800 households in the TAR, including 1.4 million farmers and herders, were covered by a resettlement project that provided funds for the construction of permanent housing. A November 2010 article in the official press claimed that such resettlement programs were the

“foundation for fighting the Dalai clique,” and resettled farmers and herders would “pray to Buddha less and study culture and technology more.”

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

Although a 2010 state media report noted that ethnic Tibetans and other minority ethnic groups made up 70 percent of government employees at the provincial level in the TAR, the top CCP position of TAR Party Secretary continued to be held by an ethnic Han, and the corresponding position in approximately 90 percent of all TAR counties was also held by an ethnic Han. Also within the TAR, ethnic Han continued to hold most of the top security, military, financial, economic, legal, judicial, and educational positions. Tibetans holding government and CCP positions were often prohibited from openly worshipping at monasteries or otherwise practicing their religion. Of Chinghai Province’s six TAPs, five were headed by ethnic Han party secretaries, and one by an ethnic Tibetan party secretary. Gansu Province’s sole TAP was headed by an ethnic Han party secretary. 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 reported that they experienced discrimination in employment, and some job advertisements in the TAR expressly noted that ethnic Tibetans were not welcome to apply. Some claimed that ethnic Han were hired preferentially for jobs and received higher salaries for the same work. Some Tibetans reported that it was more difficult for ethnic Tibetans than ethnic Han to obtain permits and loans to open businesses. Restrictions on international nongovernmental organizations (NGOs) that provided assistance to Tibetan communities resulted in the elimination of many beneficial NGO programs and the expulsion of most foreign NGO workers from the TAR and other Tibetan areas.

Government propaganda against alleged Tibetan “pro-independence forces” contributed to growing societal discrimination against ordinary Tibetans. Sources reported that security personnel targeted individuals in monastic attire for arbitrary

questioning and other forms of harassment on the streets of Lhasa and other cities and towns. Many Tibetan monks and nuns chose to wear non-religious garb to avoid such harassment when traveling outside their monasteries and around China. Some Tibetans in Chengdu reported that taxi drivers refused to stop for them.

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

HONG KONG

EXECUTIVE SUMMARY

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

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

Other areas of reported concern include increasing limitations on freedom of the press and self-censorship; increasing 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.

On January 21, the High Court (Court of First Instance) dismissed a judicial review challenging the inquest in the case of ethnic Nepali Dil Bahadur Limbu. A police constable shot and killed Limbu in 2009 when he resisted the constable's request to examine his identity documents. The High Court ruled that the coroner had misapplied the law regarding the scope of the inquest. In May 2010 a jury ruled that Limbu's death was a lawful killing.

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 (CAPO) received 120 complaints that involved 137 allegations of assault by police officers on persons in custody. Thirty-two cases were found "not pursuable," 65 were withdrawn, and 40 were pending investigation and endorsement by the Independent Police Complaints Council (IPCC). There were 14 allegations of assault by police officers on persons not in custody. Five were found "not pursuable," three were withdrawn, one was found unsubstantiated, one false, and four were pending investigation as of June.

In May, Alex Diallo Mamadou, an asylum seeker from West Africa, claimed undercover police detained him for 48 hours in September 2010 in a police station where he was physically abused with his hands bound by a plastic cord. Diallo said he was jogging when police detained him with a group of suspected Pakistani illegal immigrants. He also said the police beat him and the Pakistanis. According to CAPO, police arrested Diallo for unlawful assembly and possession of offensive and prohibited weapons. CAPO is investigating Diallo's complaint on the "police's use of plasticuffs for long hours."

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.

During the year the CSD managed 24 penal institutions with a certified accommodation capacity of 11,144 places. As of September 30, Hong Kong's total prison population was 9,456. The average occupancy rate for all penal institutions was 88 percent. The CSD admitted overcrowding was a problem in certain types of penal institutions, such as remand facilities and maximum-security institutions. Prisoners generally had access to potable water. The Hong Kong Human Rights Monitor reported that some detainees at the Lo Wu Correctional

Institution complained about poor airflow due to a lack of adequate windows and electric fans in the summer and little warm clothing for inmates during the winter.

There were two deaths in police custody; both were under investigation. In the first six months of the year, there were seven reported deaths of persons in custody of the Correctional Services Department. Inquest results had not been reported by year's end.

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. 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 inhumane conditions. Judicial authorities investigated credible allegations of inhumane conditions and documented the results of such investigations in a publicly accessible manner. The government investigated and monitored prison and detention center conditions, and there was an external Office of the Ombudsman. There were no reports of steps taken to improve recordkeeping or use alternatives to sentencing for nonviolent offenders.

The government permitted human rights groups to conduct prison visits. In the first six months of the year, there were eight media visits, one visit by a human rights organization, and 218 visits by justices of peace. Justices of the peace may make suggestions and comments on matters such as physical environment facilities, overcrowding, staff improvement, training and recreational programs and activities, and other matters affecting the welfare of inmates.

The government regularly assessed how to expand prison capacity and provide vocational training and educational opportunities to the incarcerated.

d. Arbitrary Arrest or Detention

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

Role of the Police and Security Apparatus

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

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

Human rights activists and some legislators expressed concern that all IPCC members were appointed by the Chief Executive (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 response, IPCC Chairman Jat Sew-tong told the media he was confident that, if needed, he could approach the police commissioner and any officer so requested would be ordered to participate.

There was a widespread public perception that police abuse of power increased dramatically during the year. Public dissatisfaction with the police rose to a record high of 20 percent.

Arrest Procedures and Treatment While in Detention

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

Arbitrary Arrest: The Civil Human Rights Front reported that, for the first time since the 1997 handover, police detained one of Hong Kong's most well-known and respected human rights activists, Law Yuk-kai, after his participation in the annual July 1 march commemorating the 1997 handover.

In August, during PRC Vice Premier Li Keqiang's visit to Hong Kong, unidentified security personnel detained a man wearing a "vindicate June 4" (a reference to the 1989 Tiananmen massacre) t-shirt during a visit to a public housing complex, and police detained three student demonstrators during Li's speech at the University of Hong Kong (HKU) in what has now become known as the "818" incident. The police behavior raised a public outcry. HKU Vice Chancellor Tsui Lap-chee later resigned, although he claimed his decision was unrelated. The police formed a committee to investigate the circumstances

surrounding the visit, including the conduct of some officers involved in the incident. The independent Bar Association issued a statement critical of police security arrangements following Vice Premier Li's visit.

e. Denial of Fair Public Trial

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

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

In September the Court of Final Appeal requested the NPC/SC's interpretation, for the first time since the former British colony returned to Chinese rule in 1997, on a sovereign immunity case involving the Democratic Republic of the Congo. Activists complained that the court did not need to seek Beijing's input and that doing so jeopardized Hong Kong's judicial autonomy. The court claimed that the case involved a foreign policy issue, and it was therefore bound by the Basic Law to seek the NPC/SC's interpretation.

Trial Procedures

The law provides for the right to a fair public trial, and an independent judiciary generally enforced this right in practice. Trials were by jury except at the magistrate and district court level. An attorney is provided at the public's expense if defendants cannot afford counsel. Several activists complained that legal aid did

not provide attorneys who were interested in committing significant attention to their pro bono clients. Defendants can confront and question witnesses testifying against them and present witnesses to testify on their behalf. Defendants and their attorneys have access to government-held evidence relevant to their cases. Defendants have the right of appeal.

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

Political Prisoners and Detainees

There were very limited reports of political prisoners or detainees. Following artist Ai Weiwei's detention in mainland China in April, Hong Kong police detained two local activists who protested Ai's treatment. Activists claimed Beijing pressured Hong Kong police to assign officers from their serious crimes units to apprehend a Hong Kong street artist who painted images of Ai and wrote "Who's Afraid of Ai Weiwei" on pavements and public buildings throughout Hong Kong. When activists chalked copycat drawings, police detained several before eventually releasing them.

Civil Judicial Procedures and Remedies

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

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

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

The law provided that no personal data may be used for a purpose other than that stated at the time of its collection without the data subject's consent. Specific exemptions allowed SAR authorities to transfer personal data to permit prevention, detection, or prosecution of a crime when certain conditions were met. Data may

be transferred to a body outside of the SAR for purposes of safeguarding the security, defense, or international relations of the SAR or for the prevention, detection, or prosecution of a crime, provided conditions set out in the ordinance were met. The Office of the Privacy Commissioner for Personal Data worked to prevent the misuse, disclosure, or matching of personal data without the consent of the subject individual or the commissioner.

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

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

Status of Freedom of Speech and Press

The law provides for freedom of speech and press, and the government generally respected these rights in practice. An independent press, an effective judiciary, and a functioning democratic political system combined to ensure freedom of speech and of the press.

Freedom of Press: The Hong Kong Journalists’ Association (HKJA) alleged there were severe restrictions on the media during Vice Premier Li’s visit to Hong Kong. Police prevented journalists from reporting at about 20 of Li’s scheduled activities and were granted access to less than half of his program, according to the HKJA. The Government Information Office had exclusive coverage rights for most of the events. The HKJA also alleged that police performed an arbitrary security check on at least one member of the media and a security officer hit a cameraman’s recording device to block him from taping. Then chief secretary for administration Henry Tang claimed that allegations press freedom was undermined during the visit were “complete rubbish.”

In January the employees union at the government-owned broadcaster Radio Television Hong Kong (RTHK) complained that RTHK had cancelled a live webcast of democratic leader Szeto Wah's funeral because of political pressure. Other major television stations had live coverage of the service.

Violence and Harassment: The International Federation of Journalists (IFJ) alleged that on July 1 police arrested and detained two reporters in a police station for more than 10 hours because they did not produce press cards. Police Commissioner Tsang denied the arrests had ever occurred. On August 11, the police detained three journalists for six hours on accusations of attempted burglary at the New Government Complex. The police later released the journalists without charge.

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.

Actions to Expand Press Freedom

In May Legco member Cyd Ho introduced a nonbinding motion calling on the government to "safeguard freedom of the press and the right to expression." Only after pro-Beijing legislators added language stating "in accordance with the Basic Law and the principle of one country, two systems" did the Legco pass the bill.

Internet Freedom

There were no government restrictions on access to the Internet; there was some monitoring of the Internet. Democratic activists claimed central government authorities closely monitored their e-mails and Internet use. In a Netizens Power survey, 33 percent of users of Golden Forum, a popular local Internet community forum, said they had some of their online posts deleted over the past year and almost half indicated this was because their posted content was "too politically sensitive."

Activists complained that the government's Copyright Amendments Bill prohibiting unauthorized use of copyright material in any medium without permission would threaten freedom of speech. They claimed the changes would negatively affect works of satire or parody on the Internet because there would be

no “fair-use exception.” Some pan-democratic activists and supporters termed the bill a “cyberspace Article 23” (a reference to controversial anti-subversion measures the government proposed in 2002 that led to Hong Kong’s largest-ever street demonstrations). The government’s position was that the amendments would strengthen intellectual property rights.

Academic Freedom and Cultural Events

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

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

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

The law provides for freedom of assembly and association, and the government generally respected these rights in practice. The government routinely issued the required “Letter of No Objection” for public meetings and demonstrations, and the overwhelming majority of protests occurred without serious incident. Government statistics indicate that an average of seven to eight “public events” occurred every day. However, activists and pan-democratic legislators expressed concern that the government took a more restrictive view of protests at the Central Government Liaison Office, which saw several clashes with protesters end in arrests. Activists alleged the police were acting under instructions from Beijing, which police denied. The number of protesters arrested during the year increased from 57 in 2010 to 440. Authorities claimed these figures reflected the growth in “radical protests.”

The IFJ claimed that, after the appointment of Hong Kong Police Commissioner Andrew Tsang in January, there was a “rapid erosion” in basic civil liberties and that the government and “in particular the police” were becoming more aggressive against protesters. In one incident the police refused to apologize for spraying pepper spray at an eight-year-old boy during the March 6 protests over the government’s budget that led to the arrests of 113 individuals.

Activists and some lawmakers expressed concern about the lack of clear guidelines about whether a person arrested on assault charges related to public demonstrations

would be charged under the Police Force Ordinance (PFO) or the Offences Against the Person Ordinance (OAPO). Both criminalize assault on a police officer on duty, but while the PFO carries a maximum penalty of six months' imprisonment and a HK\$5,000 (US\$644) fine, the OAPO carries a maximum penalty of two years' imprisonment. Some activists also alleged that police faced no penalty for making arrests that ultimately were not prosecuted or were dismissed by the courts, allowing them to use arrest as a means to intimidate and discredit protesters. The Civil Human Rights Front nongovernmental organization (NGO) alliance reported that law enforcement was charging an increasing number of protest participants under the tougher OAPO.

Organizers of the annual July 1 demonstration complained of heavy-handed police actions, including excessive force in the arrest of 231 participants and the indiscriminate use of pepper spray against media observers and protesters. According to media reports, at least 10 people were injured, including two Legco members, and the police detained another Legco member and his party's chairman. According to law enforcement authorities, the protesters' actions had halted traffic in a major thoroughfare for seven hours. One activist was convicted and fined for erecting a replica of the Goddess of Democracy statue, the statue raised in Tiananmen Square in 1989.

Freedom of Association

The law provides for this right, and the government generally respected it in practice.

c. Freedom of Religion

See the Department of State's *International Religious Freedom Report* at www.state.gov/j/drl/irf/rpt/.

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

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

Under the "one country, two systems" framework, the SAR continued to administer its own immigration and entry policies and make determinations

regarding claims under the UN Convention Against Torture (CAT) independently. As of July there were 6,716 torture claims pending Immigration Department determination.

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

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

Authorities denied entry permission to a number of exiled mainland dissidents including Wang Dan, Wu'er Kaixi, and Wang Chaohua, who sought to attend the funeral of democratic leader Szeto Wah in January. In October the authorities' denial of entry to Yang Jianli, another noted dissident, raised questions about the integrity of Hong Kong's immigration policy.

In March the High Court overturned the Immigration Department's January 2010 decision to deny visas to six technicians of the Shen Yun Performing Arts company, a Falun Gong-affiliated music and dance troupe.

On September 30, in a landmark decision on the controversial issue of the right of abode for foreign domestic workers, the Court of First Instance granted Filipina domestic helper Evangeline Banao Vallejos, who lived in Hong Kong for 26 years, the right to apply for permanent residency. The decision was extremely unpopular, as most Hong Kongers did not wish to extend right of abode to thousands of "temporary workers," claiming doing so would open the "floodgates" to requests for education, health, employment, and other benefits. At year's end the government's appeal remained before the Court of Appeal.

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

Emigration and Repatriation: Government policy was to repatriate undocumented migrants who arrived from the mainland, and authorities did not consider them for refugee status. As of June 30, 2,618 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 Hong Kong. Beginning in September, Taiwan visitors to Hong Kong were able to stay for a month if they held a mainland travel permit.

Protection of Refugees

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

The government does not recognize a legal obligation to grant protection under the CAT, leaving this to the discretion of the director of immigration, but in practice generally reviewed claims made under the CAT. Claimants had access to legal counsel from the Duty Lawyer Service, whose lawyers received training in refugee and torture claims from the Hong Kong Academy of Law. There was also a system to appeal decisions by the Immigration Department, with reviews conducted by experienced magistrates. Several observers, including the Bar Association and the Law Society, suggested processing refugee and CAT claims simultaneously to avoid duplicate filings.

Access to Basic Services: The government, in collaboration with an NGO, has 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 who were deprived of basic needs while their claims were being processed. As of July, 5,759 persons were receiving assistance.

Employment: Those whose claims were pending have no legal right to work, and those granted either refugee status by the UNHCR or relief from removal under the CAT were permitted to work only with approval from the director of immigration. They were also ineligible for training by either the Employees Retraining Board or Vocational Training Council. Applications to attend school or university were considered on a case-by-case basis at the discretion of the director of immigration.

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

The Basic Law limited the right of residents to change their government peacefully. A portion of the Legco was elected by a subset of voters representing “functional constituencies” (FC) which 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. The government stated that the current method of selecting FC legislators did not conform to principles of universal suffrage, but it took no steps to eliminate the FCs.

The Basic Law prohibited the Legco from putting forward bills that affect public expenditure, political structure, or government policy. The SAR sent 36 deputies to the mainland’s National People’s Congress (NPC) and had 126 delegates in the Chinese People’s Political Consultative Conference. The approval of the CE, two-thirds of Legco, and two-thirds of the SAR’s delegates to the NPC are required to place an amendment of the Basic Law on the agenda of the NPC, which has the sole power to amend the Basic Law.

The CE used his authority to appoint 68 of the 534 members of the District Council, Hong Kong’s lowest form of elected government, despite earlier promises to eliminate all appointed seats. The government stated that it would work on phasing the nonelected seats out in two tranches in 2016 and 2020, but pan-democrats complained that this was a violation of a previous understanding between the Legco and the government.

Elections and Political Participation

Recent Elections: In 2007, the CE Election Committee selected incumbent Donald Tsang Yam-kuen, and the PRC’s State Council formally appointed him. In 2008 voters in five GCs elected 30 legislators, half of the total Legco, in elections that

were generally free and fair. A record number of candidates, both party-affiliated and independent, contested the elections. Of the 30 FC seats, 14 incumbents returned uncontested.

In January 2010, five legislators resigned to force a by-election they declared to be a “referendum” on political reform, particularly on achieving universal suffrage. While the government stated that neither the Basic Law nor local law establishes a legal process by which to conduct a referendum, on May 16, the government held the by-election. Supporters of the by-election criticized the government for not making the traditional efforts to encourage citizens to vote in the by-election. They also criticized the publicly announced decision of the CE and senior officials not to cast ballots in the election. The by-election itself, which saw a turnout of approximately 17 percent, was generally free and fair, and the five “incumbents” were reelected.

Responding to this event, and arguing that the democrats used a loophole to abuse the electoral system and waste public money, the government presented draft legislation on June 8 to eliminate by-elections. Angered by the government’s efforts to rush the bill through the Legco, thousands of Hong Kongers (organizers claimed 218,000 participants and the police put the number at 54,000) marched in the biggest July 1 protest since 2004. The government responded by holding a public consultation on the reforms and presenting four proposals for filling vacant seats; many commented that the government’s options were undemocratic. At year’s end the Constitutional and Mainland Affairs Bureau had not sent the government’s draft legislation to the Legco.

Following the District Council elections in November, the Independent Commission Against Corruption (ICAC) received more than 1,182 complaints about the races, including voter tampering and fraud. By the end of the year, the ICAC was investigating 730 vote-rigging cases involving 7,700 voters at 2,300 addresses. Some prodemocracy activists claimed pro-Beijing forces manipulated over 10 percent of the final results to ensure their supporters’ victories. Law enforcement arrested 53 people in relation to these cases.

Political Parties: Pan-democratic parties faced a number of institutional challenges preventing them from holding a majority of the seats in the Legco or having one of their members become chief executive. The unique nature of voting for Legco members ensures pro-business representatives and Beijing’s allies control a majority. Additionally, the Central Government and its business supporters provided generous financial resources to parties that support Beijing’s political

agenda in Hong Kong, ensuring these organizations will control the levers of government and all senior positions.

Participation of Women and Minorities: Seven of the 30 members of the Executive Council (cabinet-level secretaries and “nonofficial” councilors who advise the CE) were women. Seven of the 30 directly elected Legco members were women, and women held four of the 30 FC seats. Two political parties represented in the Legco were headed by women. Four of the 22 most senior government officials were women.

There is no legal restriction against non-Chinese running for electoral office or participating in the civil service, although most elected or senior appointed positions require that the 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 non-ethnic Chinese.

Section 4. Official Corruption and Government Transparency

The law provides criminal penalties for official corruption, and the government generally implemented it effectively. There were isolated reports of government corruption during the year.

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

In October, ICAC agents arrested five police officers on allegations that they were either running a brothel or accepting free sexual services from prostitutes in return for not reporting the brothel.

There were no legal protections for whistleblowers.

The SAR requires the 27 most senior civil service officials to declare their financial investments annually and the approximately 3,100 senior working-level

officials to do so biennially. Policy bureaus may impose additional reporting requirements for positions seen as having a greater risk of conflict of interest.

There was no freedom of information legislation. An administrative code on access to information served as the framework for the provision of information by government bureaus and departments and the ICAC. However, they may refuse to disclose information if doing so would cause or risk causing harm or prejudice in several broad areas: national security and foreign affairs (which were reserved to the central government); immigration issues; judicial and law enforcement issues; direct risks to individuals; damage to the environment; improper gain or advantage; management of the economy; management and operation of the public service; internal discussion and advice; public employment and public appointments; research, statistics and analysis; third-party information; business affairs; premature requests; and information on which legal restrictions apply. Political inconvenience or the potential for embarrassment were not a justifiable basis for withholding information. Through September the ombudsman received 29 complaints relating to the code.

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

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

The law provided that all permanent residents were equal, and the government enforced this in practice. The EOC is responsible for enforcing the relevant laws.

Women

Rape and Domestic Violence: Rape, including spousal rape, is criminalized under the law, and police enforced the law effectively. Through June, 55 rape cases and 674 indecent assault cases were reported to the police. Of these, 51 rape cases and 451 indecent assault cases were investigated, leading to 57 and 446 arrests, respectively.

The government regarded domestic violence against women as a serious concern and took measures to prevent and prosecute offenses. It effectively enforced criminal statutes prohibiting domestic violence against women and prosecuted violators. Through June 957 cases of domestic violence were reported to, and investigated by, the police. The law allows victims to seek a three-month injunction, extendable to six months, against an abuser. The ordinance does not criminalize domestic violence directly, although abusers may be liable for criminal charges under other ordinances. The government enforced the law and prosecuted violators, but sentences typically consisted only of injunctions or restraining orders.

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

The government maintained programs that provided intervention and counseling to batterers. Eight integrated family service centers and family and child protective services units offered services to domestic violence victims and batterers. The government continued its public information campaign to strengthen families and combat violence, and increased public education on the prevention of domestic violence.

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

females. Through July the EOC received 197 new complaints and handled 316 complaints (including complaints carried forward from the previous year).

Reproductive Rights: Couples and individuals had the right to decide the number, spacing, and timing of children and had the information and means to do so free from discrimination, coercion, and violence. Access to information on contraception, skilled attendance at delivery, and prenatal and postpartum care were widely available. Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections.

Discrimination: Women enjoy the same legal status and rights as men. As of March 31, women filled 35 percent of the civil service at all ranks. Women made up 64 percent of the Legco Secretariat workforce and 54 percent of its senior “directorates” ranks, including the Secretary General and Assistant Secretary General. Twenty-three percent of judges and judicial officers were women.

According to gender rights activists and public policy analysts, while the law treats men and women equally in terms of property rights in divorce settlements and inheritance matters, in practice women faced discrimination in employment, salary, welfare, inheritance, and promotion. Women reportedly formed the majority of the working poor and those who fall outside the protection of labor laws. Despite the fact that the law makes it illegal to discriminate against people of both sexes, a study by HKU found that women were paid 24 percent less, even after adjusting for age, education, industry, and occupation, than men in Hong Kong.

According to the Women’s Foundation, women held 9 percent of board positions listed on the Hang Seng Index. The foundation also found that 14 percent of senior academic positions were held by women, 17 percent of the SAR’s senior judges were women, and there were no female judges on the Court of Final Appeal, the SAR’s highest court.

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

Children

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

Child Abuse: Through June, 673 cases of crimes against children were reported to police: 254 involved physical abuse (referring to victims younger than 14 years of age), and 419 involved sexual abuse (referring to victims younger than 17 years of age). 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 provided parent-education programs, including instruction on child abuse prevention, in all 50 of the Department of Health's maternal and child health centers. It also provided public education programs to raise awareness of child abuse and alert children about how to protect themselves. The Social Welfare Department provided child psychologists for its clinical psychology units and social workers for its family and child protective services units. The police maintained a child abuse investigation unit and a child witness support program. A law on child-care centers helped prevent unsuitable persons from providing child-care services.

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

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

imprisonment, while having unlawful sexual intercourse with a victim under 13 results in imprisonment for life.

The law makes it an offense to possess, produce, copy, import, or export pornography involving a child under 18 years of age, or to publish or cause to be published any advertisement that conveys or is likely to be understood as conveying the message that any person has published, publishes, or intends to publish any child pornography. The penalty for creation, publication, or advertisement of child pornography is eight years' imprisonment, while possession carries a penalty of five years' imprisonment.

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_3781.html.

Anti-Semitism

The Jewish community numbered approximately 5,000-6,000, and reported a few acts of anti-Semitism during the year. According to the media, during a Legco policy debate in October, financial services sector representative and Legco lawmaker Chim Pui-chung accused "Jewish funds in the United States" of committing "a major financial robbery every five years and a minor robbery every three years." He reportedly said these funds "bullied" Hong Kong and hurt Chinese funds and bankers. There were concerns within the Jewish community about some religious sermons in the otherwise peaceful Muslim community. Some anti-Semitic graffiti, harassment of Jewish students, and hateful Web sites set up by foreign-born Hong Kong residents were reported to the police.

Trafficking in Persons

See the Department of State's *Trafficking in Persons Report* at www.state.gov/j/tip.

Persons with Disabilities

The law prohibits discrimination against persons with physical, sensory, intellectual, and mental disabilities in employment, education, access to health care, and the provision of other state services, and the government effectively enforced these provisions. The government generally implemented laws and

programs to ensure that persons with disabilities have access to buildings, information, and communications, although some restrictions were reported.

The Social Welfare Department, directly or in coordination with NGOs and employers, provided training and vocational rehabilitation services to assist persons with disabilities. As of September a total of 16,634 persons were participating in these various programs.

As of March 31, the government employed 3,317 civil servants with disabilities, out of a total workforce of 156,886. 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. As of July 31, the EOC received 346 complaints under the ordinance and handled 520 cases (including cases carried over from the previous year).

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. Following Chief Executive Tsang's October 12 policy address, a number of persons with disabilities protested that the government discriminated against them. They claimed persons with severe disabilities who lived with their families could only qualify for social security by moving out of their families' homes and living alone or if every member of their families quit their jobs.

National/Racial/Ethnic Minorities

Although 95 percent ethnic Chinese, the SAR is a multiethnic society with persons from a number of ethnic groups recognized as permanent residents with full rights under the law. Discrimination based on race is prohibited by law, and the EOC oversees implementation and enforcement of the law. The Race Relations Unit, which is subordinate to the Constitutional and Mainland Affairs Bureau, served as secretariat to the Committee on the Promotion of Racial Harmony and implemented the committee's programs. The unit also maintained a hotline for inquiries and complaints concerning racial discrimination. The 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. As of July 31, the EOC received 49 complaints and handled 63 cases.

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

The government had a policy to integrate non-Chinese students into Hong Kong's schools. The government also provided a special grant for designated schools with a critical mass of non-Chinese students to develop their own programs, share best practices with other schools, develop supplementary curriculum materials, and set up the Chinese-language support centers to provide after-school programs. However, activists expressed concern that there was no formal government-provided course to prepare students for the General Certificate for Secondary Education exam in Chinese, a passing grade from which is required for most civil service employment. Activists also noted that government programs encouraging predominantly Chinese schools to welcome minority students backfired, turning whole schools into "segregated institutions." These schools did not teach Chinese to the non-ethnically Chinese students. Students who did not learn Chinese had significant difficulty entering the labor market, leading to a cycle of problems including unemployment and poverty, according to reports from the government and nongovernmental organizations.

The EOC established a working group on Education for Ethnic Minorities in July 2010, which presented a set of recommendations to the Education Bureau in March and July. According to activists and the EOC, the Education Bureau has not responded to the recommendations.

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

Following Chief Executive Tsang's calls for support to ethnic minorities in the October policy address, the government's Community Care Fund endorsed a new program to support minorities and new arrivals with Chinese language training.

Activists and the government disputed whether new immigrants from the mainland should be considered as a population of concern under antidiscrimination legislation. While concerns were raised that new immigrants do not qualify to

receive social welfare benefits until they have resided in the SAR for seven years, the courts upheld this legal standard. Such immigrants can apply on a case-specific basis for assistance.

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

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

On June 17, the government sponsored a seminar on “homosexual conversion therapy.” According to gay rights groups, the seminar’s contents explained homosexuality as deriving from “unhealthy parent-children relationships,” “experience of sexual abuse or same-sex sexual behavior,” or “serious emotional harm caused by the opposite sex.”

During an International Day Against Homophobia and Transphobia rally on May 15, police stopped a dance that was part of the program, alleging some participants had violated public entertainment laws. Activists from the gay rights community claimed this was the first time in over a dozen years police had stopped a rally of this sort.

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 protects the right of workers to form and join independent unions without previous authorization or excessive requirements, and conduct legal strikes. However, the law does not guarantee 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.

The law prohibits the use of union funds for political purposes, required the CE's approval before unions can contribute funds to any trade union outside of the SAR, and restricted the appointment of persons from outside the enterprise or sector to union executive committees.

The law provides for the right to strike, although there are some restrictions on this right for civil servants. In addition, while the law protected workers against dismissal for trade union activities, there is no legal entitlement to reinstatement in these cases, and the law does not cover other forms of antiunion discrimination.

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

Worker organizations were independent of the government and political parties. However, only progovernment unions were able to participate substantively in the tripartite process, while the democratic Hong Kong Confederation of Trade Unions was consistently excluded. Antiunion discrimination did not occur in practice.

Although there was no legislative prohibition against strikes, in practice most workers had to sign employment contracts that typically stated that walking off the job is a breach of contract, which could lead to summary dismissal. Several strikes took place throughout the year.

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

b. Prohibition of Forced or Compulsory Labor

The law prohibits all forms of forced or compulsory labor, and the government effectively enforced such laws. There were concerns that some migrant workers faced high levels of indebtedness assumed as part of the terms of employment, creating a risk they could fall victim to debt bondage. Hong Kong prohibits the

collection of employment-related debt, but prosecution was hampered by looser restrictions in some countries that send workers. Some Hong Kong-licensed employment agencies were suspected of colluding with Indonesian agencies to profit from a debt scheme, and some Hong Kong agencies illegally confiscated the passports, employment contracts, and ATM 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 to leave the residence of work for non-work-related reasons, effectively preventing them from reporting exploitation to authorities. SAR authorities actively pursued reports of such violations.

According to a Catholic Commission for Labor Affairs survey of Indonesian foreign domestic workers in October, 70 percent of respondents claimed they were underpaid, 67 percent had personal items such identity cards and passports confiscated, and 48 percent did additional work outside of their contracts.

Also see the Department of State's *Trafficking in Persons Report* at 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 15 to 17 years of age to eight hours per day and 48 hours per week between 7 a.m. and 7 p.m., and prohibit overtime in industrial establishments with employment in dangerous trades for persons less than 18 years of age.

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

The Labor Department effectively enforced these laws and regularly inspected workplaces to enforce compliance with the regulations. In the first nine months of the year, the Labor Department conducted 96,788 inspections. Two employers were convicted of offenses and fined.

d. Acceptable Conditions of Work

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

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

The minimum wage for foreign domestic workers was HK\$3,740 per month (US\$482). The government's Standard Employment Contract requires employers to provide foreign domestic workers with housing, worker's compensation insurance, travel allowances, and food or a food allowance in addition to the minimum wage, which together provided a decent standard of living. Foreign domestic workers could be deported if dismissed. After leaving one employer, workers have two weeks to secure new employment before they must leave the SAR. Activists contended this restriction left workers vulnerable to a range of abuses from employers. Workers who pursued complaints through legal channels may be granted leave to remain; however, they were not able to work, leaving them either to live from savings or to depend on charitable assistance.

During the first six months of the year, three employers were convicted for wage offenses relating to the employment of foreign domestic workers. During the same period 75 foreign domestic workers filed criminal suits, 37 of which were against employers for maltreatment including rape (one), indecent assault (seven), and injury and serious assault (29).

There was 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 were 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, about 17.1 percent of Hong Kong 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.

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

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

Laws exist to ensure health and safety of workers in the workplace, and these laws were effectively enforced. There is no specific legal provision allowing workers to remove themselves from dangerous work situations without jeopardy to continued employment.

The Occupational Safety and Health Branch of the Labor Department is responsible for safety and health promotion, enforcement of safety management legislation, and policy formulation and implementation. In the first three quarters, the Labor Department’s 200 inspectors conducted 88,514 workplace inspections. There were 778 convicted summonses, resulting in fines totaling HK\$6.2 million (US\$800,000). In addition to prosecuting offenses under the safety legislation, the Labor Department also issued improvement notices requiring employers to remedy contraventions of safety laws within a specified period and suspension notices directing removal of imminent risks to life and limb in workplaces. During the first half of the year, the department served 607 improvement notices and 50 suspension notices.

Although worker safety and health continued to improve, serious problems remained, particularly in the construction industry. In the first quarter of the year, the Labor Department reported 19,163 occupational injuries, including 6,436 classified as industrial accidents. In the same period there were 13 fatal industrial accidents. Employers are required to report any injuries sustained by their employees in work-related accidents. Labor activists raised the issue of the

increase in deadly industrial accidents, mainly due to construction and infrastructure projects in Hong Kong.

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

MACAU

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, who took office in December 2009, headed the government after being elected in July 2009 by a 300-member commission. Security forces reported to civilian authorities.

Three prominent human rights abuses reported during the year included limits on citizens' ability to change their government, concerns over press freedom, and concerns over workers' rights.

Although trafficking in persons remained a problem, there was a lack of prosecutors to pursue trafficking cases. Moreover, national security legislation, passed in 2009 in accordance with Article 23 of the Basic Law, remained a source of concern, but by year's end no cases had been brought under the law.

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

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

a. Arbitrary or Unlawful Deprivation of Life

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

b. Disappearance

There were no reports of politically motivated disappearances.

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

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

During the year there was one case of death in police custody. The police indicated the individual had committed suicide, and at year's end the procuratorate was investigating the case. In the first half of the year, there were four cases of police mistreatment, all involving off-duty officers. At year's end the procuratorate was investigating the cases. During the first half of the year, the Commission Against Corruption received two complaints of police mistreatment, but both cases were deferred due to insufficient information.

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

The SAR has a maximum prison capacity of 1,341 persons, and the occupancy rate was approximately 70 percent during the year. The age of criminal responsibility is 16. The total prison population for persons of this age and above for the first half of the year was 943. Of the total number of inmates, there were 801 male prisoners and 142 female prisoners. 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, 44 minors were detained in the Youth Correctional Institution.

The SAR reported that prisoners had access to potable water. In addition ombudsmen are able to serve on behalf of prisoners and detainees. The government took steps to improve recordkeeping and the use of alternative sentencing for nonviolent offenders.

Prisoners and detainees had reasonable access to visitors and were permitted religious observance. The law allows prisoners and detainees to submit complaints to judicial authorities without censorship and request investigations, and judges and prosecutors made monthly visits to prisons to hear prisoner complaints.

Macau Prison was designed to hold 1,297 inmates; with the addition of 101 new prisoners during the year, the government recognized that the facility was reaching its capacity and expanded the female section with a further 100 beds, in addition to constructing a new prison.

d. Arbitrary Arrest or Detention

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

Role of the Police and Security Apparatus

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

Arrest Procedures and Treatment While in Detention

Persons were apprehended openly with warrants based on sufficient evidence and issued by a duly authorized official. Detainees were allowed access to a lawyer of their choice or, if indigent, to one provided by the government. Detainees were allowed prompt access to family members. Police must present persons in custody to an examining judge within 48 hours of detention. The examining judge, who conducts a pretrial inquiry in criminal cases, has a wide range of powers to collect evidence, order or dismiss indictments, and determine whether to release detained persons. According to the government, defendants should be tried within the “shortest period of time.” The prosecutorate’s inquiry stage must end within six months for detained defendants and within eight months for cases with no detained defendants; the pretrial inquiry stage must be concluded within two months whenever there are detained defendants, or four months if there are no detained defendants. The criminal procedure code mandates that pretrial detention is limited to between six months to three years, depending on the charges and progress of the judicial system. Judges often refused bail in cases where sentences could exceed three years.

Law enforcement received two complaints for alleged offenses committed by police officers against persons in custody in the first half of the year. Disciplinary proceedings were instituted for the officers in both cases with one case closed and one pending criminal proceedings. There was one complaint in the first half of the year of assault by a police officer against a person in custody.

e. Denial of Fair Public Trial

The law provides for an independent judiciary, and the government generally respected judicial independence in practice. The courts may rule on matters that are the responsibility of the PRC government or concern the relationship between the central authorities and the SAR. 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.

Defendants enjoy a presumption of innocence and have access to government-held evidence relevant to their cases and a right to appeal. Trials are public and are by jury except when the court ex officio or upon request rules otherwise, to "safeguard the dignity of persons, public morality, or to ensure the normal functioning of the court." Defendants have the right to be present at their trials, confront witnesses, and consult with an attorney in a timely manner. Public attorneys are provided for those who are financially incapable of engaging lawyers or paying expenses of proceedings. Defendants also have the right to appeal. The law extends these rights to all residents.

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

Political Prisoners and Detainees

There were no reports of political prisoners or detainees.

Civil Judicial Procedures and Remedies

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

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

The law prohibits such actions, and the government generally respected these prohibitions in practice. The Office for Personal Data Protection acknowledged a continual increase in complaints and inquiries on data protection.

Section 2. Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

Status of Freedom of Speech and Press

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

The Law on Safeguarding National Security (Article 23 of the Basic Law), which entered into force in March 2009, criminalizes both committing and “acts in preparation” to commit treason, secession, subversion of the PRC government, and theft of state secrets. The crimes of treason, secession, and subversion specify the use of violence, and the government stated that the law would not infringe on peaceful political activism or media freedom.

Freedom of Press: The independent media were active and expressed a wide range of views, and international media operated freely. Major newspapers were heavily subsidized by the government and tended to closely follow the PRC government’s policy on sensitive political issues, such as Taiwan; however, they generally reported freely on the SAR government, including reports critical of the government.

Violence and Harassment: Some journalists who wrote about issues disparaging of the government complained about undue disciplinary actions such as temporary suspensions, delayed promotions, and editors assigning them to cover less important stories. In June one news editor received several threatening letters warning him not to publicize concerns over the government-owned broadcaster’s in-house management and leadership issues.

Censorship or Content Restrictions: Activists raised concerns over some media self-censorship particularly due to the fact that news outlets and journalists worried some critical coverage might limit government funding.

Internet Freedom

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

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

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

Academic Freedom and Cultural Events

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

b. Freedom of Peaceful Assembly and Association

Freedom of Assembly

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

On May 1, approximately 2,300 workers demonstrated without major incident, although police stopped one reporter from taking photos. Law enforcement claimed this was to help the journalist from being hit by a moving van. A court found the allegations of the journalist to be unsubstantiated due to lack of evidence. Activists claimed the protests were calm during the year because the

government had given out cash payments to participants of the controversial May 2010 march.

Freedom of Association

The Basic Law and the civil code provide for freedom of association. No authorization is required to form an association, and the only restriction is that the organization not promote violence, crime, or disruption of public order. During the first half of the year, the Identification Bureau registered 383 new associations, but it did not issue “proof of adoptable name of association” in 33 cases because intended group names were the same or similar to registered organizations.

c. Freedom of Religion

See the Department of State’s *International Religious Freedom Report* at www.state.gov/j/drl/irf/rpt.

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

The law provides for freedom of movement within the SAR, foreign travel, emigration, and repatriation, and the government generally respected these rights in practice. Persons denied entry into the SAR have the right to contact their consulate or other representative of their country, receive assistance with language interpretation, and consult a lawyer. The Immigration Department cooperated with the Office of the UN High Commissioner for Refugees (UNHCR) and other humanitarian organizations in providing protection and assistance to internally displaced persons, refugees, returning refugees, asylum seekers, stateless persons, and other persons of concern.

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

According to the International Trade Union Confederation’s annual survey of violations of trade union rights, the government denies entry into Macau of labor

leaders or democratic activists from Hong Kong. Macau continued to ban Hong Kong Legislative Council member Lee Cheuk-yan, a prominent labor leader, from entering the SAR. The government claimed 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 in accordance with the 1951 Convention relating to the Status of Refugees and its 1967 Protocol, and the government has established a system for providing protection to refugees. In practice the government provided protection against the expulsion or return of refugees to countries where their lives or freedom would be threatened on account of their race, religion, nationality, membership in a particular social group, or political opinion. Persons granted status enjoyed the same rights as other SAR residents, while persons with pending applications were eligible to receive government support, including basic needs such as housing, medical care, and education for children.

According to the government, during the year there were four pending cases for refugee status, but their determination could take several years to process. One Afghan asylum seeker was in his ninth year waiting. Paul Pun Chi, secretary general of the Caritas social welfare organization, said the process was “long and drawn out” and the procedures and isolation pushed applicants into a “hopeless situation.”

In December the Court of Second Instance overturned Chief Executive Chui’s June 2010 decision to uphold a Macau Refugee Commission ruling denying refugee status to the family of a Kurdish human rights activist from Syria. The court’s unanimous verdict also harshly criticized the Macau Refugees Commission for claiming there was no evidence of Syrian discrimination directed at Kurds and for ignoring a UNHCR report that sided with the asylum seekers.

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

The law limits citizens’ ability to change their government. Only a small fraction of citizens play a role in the selection of the Chief Executive (CE), who is chosen by a 300-member Election Committee consisting of 254 members elected from four broad societal sectors (which have a limited franchise) and 46 members

chosen from among the SAR's legislators and representatives to the NPC and Chinese People's Political Consultative Congress.

Elections and Political Participation

Recent Elections: Despite calls for an increase in the number of directly elected Legislative Assembly seats, the government quickly dispelled an October news report that it was considering plans to expand the number in 2013. Of the 29 seats in the Legislative Assembly, only 12 are directly elected. The last election, held in 2009, was generally free and fair.

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 CE's written approval before it is submitted. The legislature also has no power of confirmation over executive or judicial appointments.

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

Political Parties: The SAR has no laws on political parties; politically active groups therefore registered as societies or companies. These groups were active in promoting their political agendas, and those critical of the government did not face restrictions. Such groups participated in protests over government policies or proposed legislation without restriction.

Participation of Women and Minorities: There were four women in the 29-member Legislative Assembly. Women also held a number of senior positions throughout the government, including the Secretary for Justice and Administration, the second-highest official in the SAR government. Fifteen of the SAR's 46 judges were women. Women made up more than 41 percent of the senior-level executive, 48 percent of the judiciary, and almost all of the senior legislative staff (i.e., not including legislators). There were two members of ethnic minorities in the Legislative Assembly. One Executive Council member was from an ethnic minority, as was the police commissioner general.

Section 4. Official Corruption and Government Transparency

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

The Commission against Corruption (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, the Monitoring Committee on Discipline of CAC Personnel, which accepted and reviewed complaints about CAC personnel.

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

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

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

A number of domestic and international groups monitoring human rights generally operated without government restriction, investigating and publishing their findings on human rights cases. Government officials often were cooperative and responsive to their views.

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

The law stipulates that residents shall be free from discrimination based on race, gender, disability, language, or social status, and many laws carry specific prohibitions against discrimination; the government effectively enforced the law.

Women

Rape and Domestic Violence: The law criminalizes rape, including spousal rape, and the government effectively enforced the law. In the first half of the year, there were nine complaints of rape lodged with the police. The 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 “ill-treatment of minors or spouses,” were used by the government effectively to prosecute domestic violence. However, various nongovernmental organizations (NGOs) and government officials considered domestic violence against women to be a growing problem. 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 for cases resulting in physical injuries and five to 15 years for cases resulting in death. During the first half of the year, 197 complaints of crimes related to domestic violence were reported to the police. Of the 197 cases, 121 involved spousal abuse. In February the Women’s General Association of Macau released a survey noting that 80 percent of the women in its shelter had suffered physical, psychological, or sexual abuse. The Legislative Assembly began debate in September on a government-drafted antidomestic violence bill setting tough penalties for abusers and creating a victim protection scheme.

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 (SWB) handled 36 domestic violence cases involving 44 victims. The government funded NGOs to provide victim support services, including housing, until their complaints were resolved. The government also supported two 24-hour hotlines, one for counseling and the other for reporting domestic violence cases.

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

Two government-supported religious programs also offered rehabilitation programs for female victims of violence.

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. Between January and June, one complaint of gender discrimination was filed with the Labor Affairs Bureau (LAB) but was later withdrawn.

Reproductive Rights: Couples and individuals have the right to decide the number, spacing, and timing of their children and have the information and means to do so free from discrimination or coercion. Access to contraception, prenatal care, and skilled attendance at delivery and in postpartum care were widely available. Women and men were given equal access to diagnostic services and treatment for sexually transmitted infections, including HIV.

Discrimination: Equal opportunity legislation mandates that women receive equal pay for equal work; however, observers estimated that there was a significant difference in salary between men and women, particularly in unskilled jobs. The law allows for civil suits, but few women took cases to the LAB or other entities. Discrimination in hiring practices based on gender or physical ability is prohibited by law, and penalties exist for employers who violate these guidelines. No complaints of discrimination were lodged with the police, LAB, or CAC.

Children

The government protected the rights and welfare of children through the general framework of civil and political rights legislation that protects all citizens. The law defines abuse, neglect, violence, and maltreatment of children as criminal offenses. In the first half of the year, three physical abuse cases were reported to the police, and the SWB received nine cases of child abuse, which involved nine children. The Health Bureau handled four child abuse cases. The SWB arranged residential placements and other support services for these abused 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.

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 and five complaints of sexual acts with minors lodged with the police. Law enforcement arrested one individual in the case of the sexual abuse of children and three individuals for sexual acts with minors.

International Child Abductions: The SAR is a party to the 1980 Hague Convention on the Civil Aspects of International Child Abduction. For information see the Department of State's report on compliance at http://travel.state.gov/abduction/resources/congressreport/congressreport_4308.htm as well as country-specific information at http://travel.state.gov/abduction/country/country_3781.html.

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 *Trafficking in Persons Report* at 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, information, and communications for persons with disabilities. The government enforced the law effectively. The Social Welfare Institute is primarily responsible for coordinating and funding public assistance programs to persons with disabilities. There is a governmental commission to rehabilitate persons with disabilities, with part of the commission's scope of work addressing employment.

National/Racial/Ethnic Minorities

Although the government 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 are not ethnically Chinese.

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

There are no laws criminalizing consensual same-sex sexual activity and no prohibition against lesbian, gay, bisexual, or transgender persons forming organizations or associations. There were no reports of violence against persons based on their sexual orientation.

Other Societal Violence or Discrimination

The law prohibits discrimination against persons with HIV/AIDS and limits the number of required disclosures of an individual's HIV status. Employees outside medical fields are not required to declare their status to employers. There were anecdotal reports that persons whose status became known, as well as organizations supporting them, faced some forms of discrimination. There were no reported incidents of violence against persons with HIV/AIDS.

Section 7. Worker Rights

a. Freedom of Association and the Right to Collective Bargaining

The law, including Article 27 of the Basic Law, provides for the right of workers to form and join unions or "labor associations" of their choice without previous authorization or excessive requirements. However, to register as an official union, the government requires the organization to provide all of its members' names and personal information. There is no law specifically defining the status and function of labor unions, nor are employers compelled to negotiate with them. While there are no legal restrictions preventing companies from refusing to hire union workers, union membership is not a legitimate basis for dismissal under the Law on Labor Relations.

Workers in certain professions, such as the security forces, are forbidden to form unions, take part in protests, or strike. Such groups had organizations that provided welfare and other services to members and that could speak to the government on behalf of their members. Migrant workers do not have the right to recourse for unlawful dismissal, and neither migrant workers nor public servants have the right to bargain collectively.

Under Article 27 of the Basic Law, workers have the right to strike, but there is no specific protection in the law from retribution if workers exercised this right. The government argued that striking employees are protected from retaliation by labor law provisions, which require an employer to have justified cause to dismiss an employee.

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

The law prohibits antiunion discrimination and employer interference in union functions.

Workers who believed they were dismissed unlawfully may bring a case to court or lodge a complaint with the Labor Department or the Office of the High Commissioner against Corruption and Administrative Illegality, which also functions as ombudsman.

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

Some union leaders complained that while laws may exist that protect worker rights, the government did not respond to official complaints (for which the LAB charges the unions a fee to process) on working conditions or abuse, nor did the government punish employers that withheld pay when employees made such complaints. To register as an official union, the government requires the organization to provide all of its members' names and personal information. Union leaders also claimed that the government maintained a "blacklist" of labor "agitators."

In October several lawmakers urged the government to protect nonresident workers' rights, claiming it was difficult to punish employers due to problems in the law. According to one legislator, the LAB had received a total of 135 court rulings regarding illegal work involving 258 illegal workers. A total of 114 employers were convicted, but 89 of these had their jail sentence suspended. The LAB claimed it had hired and was training 43 new labor inspectors to deal with these issues.

During the year the Union for Democracy Development Macau expressed concern that the law contains no explicit provisions that bar discrimination against unions. The United Free Union of Gaming and Construction Workers of Macau complained of police monitoring of its activities.

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

b. Prohibition of Forced or Compulsory Labor

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

Also see the Department of State's *Trafficking in Persons Report* at <http://www.state.gov/j/tip>.

c. Prohibition of Child Labor and Minimum Age for Employment

The law prohibits minors under the age of 16 from working, although minors between the ages of 14 and 16 can be authorized to work on an "exceptional basis." Some children reportedly worked in family-operated or small businesses. Local laws do not establish specific regulations governing the number of hours these children can work, but International Labor Organization conventions were applied. Additionally, the law governing the number of working hours (eight hours a day, 40 hours a week) was equally applicable to adults and minors, but minors cannot work overtime hours. Minors are forbidden from certain types of work, including but not limited to domestic work, any employment between 9 p.m. and 7 a.m., and at places where admission of minors is forbidden. The Labor

Department enforced the law through periodic and targeted inspections, and violators were prosecuted.

d. Acceptable Conditions of Work

Local labor laws establish the general principle of fair wages and mandate compliance with wage agreements. There is no mandatory minimum wage, except for government-outsourced security guards and cleaners and foreign domestic workers. The law also sets maximum hours, rest days, statutory holidays, and premium pay rules. Article 70 of the 2008 Labor Relations Law allows employers to dismiss staff “without just cause” provided that economic compensation, indexed to the employee’s length of service, is paid.

In October Secretary for Economy and Finance Francis Tam announced that the government had submitted a request to the Central Government to allow maids from Mainland China to work in Macau, with the possibility of establishing a minimum wage for this group. Tam explained the minimum wage for this group might be higher than the \$320 minimum monthly salary for foreign domestic workers, who were mainly from the Philippines, Vietnam, and Indonesia.

Local customs normally favored employment without the benefit of written labor contracts, except in the case of migrant workers, who were issued short-term contracts. Labor groups reported that employers increasingly used temporary contracts to circumvent obligations to pay for workers’ benefits, such as pensions, sick leave, and paid holidays. The short-term nature of the contracts also made it easier to dismiss workers by means of nonrenewal.

Labor legislation provides for a 48-hour workweek (many businesses operated on a 40-hour workweek), an eight-hour workday, paid overtime, annual leave, and medical and maternity care. Although the law provides for a 24-hour rest period each week, workers frequently agreed to work overtime to compensate for low wages. The Labor Department provided assistance and legal advice to workers upon request.

The Labor Department enforced occupational safety and health regulations, and failure to correct infractions could lead to prosecution. Although the law includes a requirement that employers provide a safe working environment, no explicit provisions protect employees’ right to continued employment if they refused to work under dangerous conditions.

According to the government's Human Resources Office, there were approximately 90,000 imported workers at the end of September, mostly from Mainland China, Hong Kong, Indonesia, the Philippines, and Vietnam. These workers, commonly engaged in the restaurant and hotel industry but also serving as foreign domestic workers, gaming and entertainment employees, and engaged in the construction and retail sectors, often complained of discrimination in the workplace. The Macau Lawyers Association claimed these foreign workers often faced unequal pay in comparison with their Macau counterparts. In October a group of 90 foreign workers won a court battle against their former employer for nonpayment of overtime and holiday bonus as well as the elimination of food and other bonuses.

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. Labor officials stated that the law, meant to deter "job hopping" by migrant workers, would be implemented only if the worker could not demonstrate just cause for wishing to terminate the contract himself (such as abuse, nonpayment of wages, and contract violation) or if the employer dismissed the worker after three days' unauthorized absence (in accordance with the labor law). However, the lack of coordination between the LAB, which handled complaints, and the Immigration Department, which granted or withdrew permission for migrant workers to remain in the SAR, meant that workers filing complaints could be dismissed from their positions, lose their immigration status, and be forced to depart prior to the resolution of their complaints. While the government noted that workers under such circumstances could apply for special extensions to remain, a senior SAR labor official was quoted in the media as stating that dissatisfied workers "can always go back to their homeland to find another job."