China

In late 2004, the Central Committee of the Chinese Communist Party (CCP) called for political reform within the Party in order to strengthen the Party's ability to lead the nation. Party leaders made clear that China is to remain a one-party state, but one based increasingly on the rule of law. While China has made progress in some areas in recent years—strengthening its legal system, allowing more independent news reporting, and sometimes tailoring public policy more closely to public opinion—it remains a highly repressive state.

The Party's 2004 promise to uphold the rule of law has been compromised by continuing widespread official corruption, Party interference in the justice system, and a culture of impunity for officials and their families. Authorities continue to censor news media. Civil society is also constrained and most NGOs are government-controlled. China prohibits independent domestic human rights organizations and bars entry to international human rights organizations. Chinese citizens who contact international rights groups risk imprisonment.

In late October and early November 2004, major riots by tens of thousands of people roiled Henan and Sichuan provinces. The riots were widely separated geographically and the issues precipitating them were different, but the riots, and the state response to them, highlighted growing rural unrest and Chinese leaders' preoccupation with social stability. Leaders continue to isolate areas of discontent, and aim to prevent information about social problems from spreading.

Fifteenth Anniversary of the Tiananmen Square Crackdown

June 4, 2004, marked the fifteenth anniversary of the massacre in Beijing, when China's leaders ordered the military to fire on civilians who were trying to prevent troops from entering the city and reaching protesters in Tiananmen Square. Fifteen years later, the government still forbids any public commemoration of the event. Police harass and detain those dedicated to securing rehabilitation of victims, payment of compensation, or reconsideration of the official verdict.

During the sensitive 2004 anniversary period, officials again held well-known activists, including Ding Zilin, leader of the Tiananmen Mothers advocacy group, under house arrest. State Security officers subjected Dr. Jiang Yanyong to six weeks of intense thought reform. The seventy-two-year-old military doctor had gained international renown for exposing the official cover-up of the SARS epidemic in Beijing. He also had attended to victims the night of June 4, 1989, and, in February 2004, suggested in a private letter to the government that it should "settle the mistakes it committed" in 1989. Dr. Jiang was released on July 19, 2004, but remained under house arrest at this writing.

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China's Legal System

In March 2004, China amended its constitution to include a promise to ensure human rights. Although the constitution is not directly enforceable in China, the amendment signals a growing acknowledgement of human rights.

Despite efforts to strengthen the rule of law in China, the legal system itself remains a major source of rights violations. Many laws are vaguely worded, inviting politically motivated application by prosecutors and judges. The judiciary lacks independence: Party and government officials routinely intervene at every level of the judicial system in favor of friends and allies. Trial procedures favor the prosecution, and despite the public prosecution of a large number of judges, corruption remains a widespread problem. The criminal justice system relies heavily on confessions for evidence, creating institutional pressures on the police to extort confessions through beatings and torture. According to Chinese experts, legal aid services meet only one-quarter of the demand nationwide. Defense lawyers may face disbarment and imprisonment for advocating their clients' rights too vigorously.

On a more positive note, China recently has begun to hold qualifying examinations for judges and has signaled its intent to amend laws to better protect suspects in detention. However, administrative detention, a common practice in China, still occurs without judicial process. Persons detained on suspicion of "minor crimes" such as drug use are sent to "reeducation through labor" camps for months or years without ever coming before a judge.

Restrictions on Freedom of Expression

The growing dynamism of the Chinese-language Internet and domestic media in China led to some efforts to impose tighter controls in 2004. Officials expanded the list of topics subject to censorship and introduced improved methods for enforcing compliance. In October 2004, the state also banned all reporting on rural land seizures by the government.

In September, *New York Times* research assistant and author Zhao Yan was arrested on charges of passing state secrets to foreigners, apparently for his work uncovering leadership changes in the Communist Party. In early 2004, authorities banned a best-selling non-fiction book, *Investigation of Chinese Peasants,* which documented cases of official corruption, excessive taxation, and police brutality in rural Anhui province. Numerous newspapers tested the limits of the possible in 2004, and some came under attack. Staff of the parent group of the *Southern Metropolis Daily* received long prison sentences on charges of corruption; the former editor-in-chief was fired. The charges were widely viewed as politically motivated, as the newspaper had been the first to report on several stories of national significance.

The tension between promoting Internet use and controlling content escalated in 2004, with Chinese authorities employing increasingly sophisticated technology to limit public and private expression.

Despite the restrictions, the Internet is emerging as a powerful tool for the sharing of information and mobilization of social activism in China.

HIV/AIDS

China faces what could be one of the largest AIDS epidemics in the world. According to official statistics, 840,000 men, women, and children are living with HIV/AIDS, but the real number could be much higher. Many Chinese citizens lack basic information about AIDS, and some AIDS activists face state harassment and detention.

Chinese authorities have taken steps to address the AIDS crisis. In late 2003, national authorities promised to provide antiretroviral (ARV) treatment to all impoverished HIV-positive persons. The State Council, China's highest executive body, issued a circular in May 2004 ordering local officials to implement a range of AIDS prevention and control measures. A revised national law on the protection and control of infectious diseases, passed in August 2004, prohibits discrimination against persons with infectious diseases. But as documented in a September 2003 Human Rights Watch report, *Locked Doors*, lack of basic rights and abuses by local authorities have hampered efforts to help HIV-positive Chinese citizens.

At this writing, there still had not been an investigation of the government's role in the transmission of HIV to villagers in Henan and other provinces through unsanitary but highly profitable blood collection centers. No official has been held accountable; some who were involved in the scandal have been promoted. Henan authorities regularly detain HIV-positive activists in advance of visits by international dignitaries, and have recently built a prison to segregate detainees with HIV. They also continue to impede the activities of some NGOs that provide services to people with AIDS: in 2004, Henan officials closed three NGO-run orphanages for AIDS-affected children, and briefly detained staff of the Dongzhen Orphans School. People living with HIV/AIDS in Henan continue to allege corruption and abuses in the government's distribution of ARV treatment.

Labor Rights

Chinese workers have yet to reap the benefits of the country's rapid economic development. Employers routinely ignore minimum wage requirements and fail to implement required health and safety measures. Many former employees of state-owned enterprises lost their pensions when their companies were privatized or went bankrupt. Millions of citizens who have left the countryside to seek work in cities face serious problems. Without official residence permits, these migrant workers lack access to basic services and are vulnerable to police abuse.

Workers are limited in their capacity to seek redress by the government's ban on independent trade unions. The only union permitted is the government-controlled All China Federation of Trade Unions. Some NGOs in the Pearl River Delta educate workers about their legal rights and assist them with

lawsuits against employers, but they too are forbidden to discuss, let alone organize, independent trade unions.

Many regions have witnessed massive labor protests. In May 2003, after trials lacking basic procedural safeguards, Liaoning province labor activists Yao Fuxin and Xiao Yunliang were given seven and four-year sentences respectively. Family members report that both men are seriously ill. In October 2004, after flawed trials, five workers were sentenced to terms of between two and three-and-a-half years for destroying company property at a shoe factory in Guangdong during a massive protest.

Forced Evictions

A March 2004 Human Rights Watch report, *Demolished*, discussed how local authorities and developers are forcibly evicting hundreds of thousands of residents in order to build new developments. With little legal recourse, those evicted have taken to the streets in protest, only to meet severe police repression, detention, and imprisonment. Ye Guozhu, a prominent advocate, was arrested after he applied for formal permission to hold a protest march. A Shanghai court sentenced lawyer Zheng Enchong, who had defended many evicted residents, to three years in prison for "circulating state secrets" after he faxed information about his activities to an international human rights organization.

Legal experts and some government-controlled news media have openly criticized the government's failure to protect housing rights. The government has responded with some policy and constitutional reforms, but widespread corruption and a weak judicial system obstruct implementation.

Hong Kong

In April 2004, the Chinese government unilaterally ruled out universal suffrage for Hong Kong until 2012-13 at the earliest. Through a reinterpretation of the Basic Law, Hong Kong's mini-constitution, Beijing went a step further, reserving for itself the power to void any proposal for electoral change. Even the power to initiate reform, formerly in the hands of Hong Kong's Legislative Council (LegCo), was ceded to Hong Kong's chief executive, chosen by an election committee composed largely of Beijing appointees. China's legislature, the Standing Committee of the National People's Congress which is responsible for the changes to the Basic Law, has ignored repeated requests for consultation by representatives of Hong Kong's electorate.

At the time of Hong Kong's 1997 incorporation into the People Republic of China as a Special Autonomous Region (SAR) under the principle of "one country, two systems," Hong Kong was promised a "high degree of autonomy." As a result of Beijing's newly self-arrogated powers, there is concern in Hong Kong, expressed in massive protest marches on July 1, 2003, and on January and July 1, 2004, that China will continue to erode basic human rights protections.

LegCo elections in September 2004 were marred by political interference from Beijing and intimidation of several prominent critics.

Xinjiang and the "War on Terror"

China used its support for the U.S.-led "war against terrorism" to leverage international support for, or at least acquiescence in, its own crackdown on Uighurs, a Turkic-speaking Muslim population in China's northwestern Xinjiang Uighur Autonomous Region. Some Uighur groups press peacefully for genuine political autonomy or for independence; others resort to violence. Chinese authorities do not distinguish between peaceful and violent dissent, or between separatism and international terrorism.

The crackdown in Xinjiang has been characterized by systematic human rights violations including arbitrary arrests, closed trials, and extensive use of the death penalty. In September 2004, the region's Communist Party leader reported that during the first eight months of the year fifty people were sentenced to death and twenty-two groups targeted for separatist and terrorist activities. Official sources subsequently clarified that none of the fifty were executed, but have provided no additional information on their fate.

Cultural survival for Uighurs, along with other ethnic groups on China's borders, is a constant struggle. Officials have curbed observation of traditional holidays and use of the Uighur language, and closely control religious education and expression. Controls include a prohibition against those under eighteen entering mosques or receiving religious instruction at home; political vetting and mandatory patriotic education for all imams; restrictions on public calls to prayer; and instructions aimed at making Koranic interpretation consistent with Communist ideology.

Tibet

For China, the term "Tibet" is reserved for the Tibetan Autonomous Region. However, many Tibetans speak of a "greater Tibet," including Tibetan areas in Qinghai, Yunnan, Gansu, and Sichuan. More than 50 percent of ethnic Tibetans under Chinese authority live in these regions.

The Chinese leadership continues to limit Tibetan religious and cultural expression and seeks to curtail the Dalai Lama's political and religious influence in all Tibetan areas. Severely repressive measures limit any display of support for an independent Tibet.

In 2002 a Sichuan provincial court sentenced Tenzin Delek Rinpoche, a locally prominent lama, to death with a two-year suspended sentence on what appear to have been trumped up charges of "causing explosions [and] inciting the separation of the state." His alleged co-conspirator, Lobsang Dondrup, was executed in January 2003.

Tenzin Delek's arrest and conviction represent the culmination of a decade-long effort by Chinese authorities to curb his efforts to foster Tibetan Buddhism and develop Tibetan social institutions. His case, documented in a March 2004 Human Rights Watch report, *Trials of a Tibetan Monk*, remains a focal point for Tibetans struggling to retain their cultural identity. Several of Tenzin Delek's associates remain

in prison. Close to a hundred others were detained for periods ranging from days to months, most for attempting to bring information about the crackdown to the attention of the foreign community. Credible sources report that many of those held were subject to severe ill-treatment and torture.

Religious Belief and Expression

Although religious practice is tolerated, official Communist Party doctrine holds that religion, as a belief structure and an organizational arrangement, will eventually wither and die. Until such time, the Chinese government believes religion must be strictly controlled to prevent it from becoming a political force or an institution capable of competing with the state for the loyalty of China's citizens. The state's policy is to avoid alienating believers or driving them underground, but rather to harness their energies toward China's development along the lines envisioned by the Party.

Chinese officials curb the growth of religious belief and its expression in practice through a series of laws and regulations. To be legal, religious groups must register with and submit to close monitoring by the appropriate authorities, and even that option is limited to the five officially recognized belief systems: Buddhism, Daoism, Islam, Catholicism, and Protestantism. Registration brings monitoring and vetting of religious personnel, congregant activities, finances, and publications. In spite of the law, unregistered religious activity continues to flourish.

Religious groups not recognized by Chinese authorities are subject to stringent penalties under China's criminal law. Claims by Falungong spokespeople that practitioners face continuing mass incarceration and ill-treatment are difficult to assess because of lack of independent confirmation, but there is no doubt that authorities have targeted practitioners for imprisonment, "reeducation through labor," and abuse. During 2004, evidence began to accumulate that the same laws and regulations used against Falungong practitioners were being used to rein in so-called house churches—evangelical Protestant groups that refuse to register with the government.

The Rights of Women and Girls

Women continue to be underrepresented in China's political leadership and in senior positions in business. A cultural preference for boy children, combined with state population control policies, has resulted in a shortage of women and girls in rural areas, creating a lucrative market for traffickers. While the state has cracked down on some trafficking rings, many Chinese women and girls, especially those from rural and ethnic communities, are kidnapped and either sold as wives or trafficked into the sex industry. During 2004, major stories in the domestic press also highlighted police brutality against suspected sex workers.

Key International Actors

China played an increasingly prominent international role in 2004. In the United Nations Security Council, China helped block renewal of a U.S.-backed resolution seeking immunity from international war crimes prosecution at the International Criminal Court (ICC) for troops from non-ICC states

serving in any U.N. force. However, China was in part responsible for the Security Council's failure to impose sanctions on Sudan for its complicity in violence in the Darfur region. China has major oil interests in Sudan.

At the 2004 annual meeting of the Commission on Human Rights, China again blocked consideration of a resolution condemning its human rights record by calling for a "no-action" motion. In 2004, as it had in the past, China suspended its dialogue with the U.S. in retaliation for the American sponsorship of a resolution. During talks in Beijing in October and November, both countries agreed to discuss resuming regular dialogues. Human Rights Watch has called on all of China's bilateral dialogue partners to implement rights benchmarks and establish a timetable for meeting those benchmarks, and ensure transparency about the process.

China's cooperation with U.N. human rights mechanisms has been thorny. After almost a decade of discussion, China extended an invitation to the U.N. special rapporteur on torture, but two weeks before the June 2004 visit was to take place, the government postponed it indefinitely. China has been unwilling to agree to the standard U.N. terms for such a visit, which include unannounced visits to prisons and confidential interviews with prisoners. The U.N. Working Group on Arbitrary Detentions (WGAD) visited China in September 2004. As it had after its previous mission in 1997, the WGAD urged China to bring national laws into compliance with international human rights standards. Although the WGAD noted more cooperation in 2004 than during 1997, it cut short its visit to Tibet's Drapchi prison after the state refused requests to meet with prisoners who were severely injured during and after the 1997 visit.

China has ratified a number of international human rights treaties including the International Covenant on Economic, Social and Cultural Rights, the Convention against Torture, and the Convention on the Rights of the Child. It has signed but not ratified the International Covenant on Civil and Political Rights. China is due for its first review by the Committee on Economic, Social and Cultural Rights in April-May 2005.

The U.S. increasingly cooperates with China on counter-terrorism and anti-drug trafficking efforts and the U.S. Federal Bureau of Investigations maintains an office in Beijing. However, the U.S. in 2004 refused to hand over to Chinese authorities a group of Uighurs detained at Guantanamo Bay for fear they would face torture or execution.

The European Union is weighing whether to rescind an arms embargo imposed after the 1989 Beijing massacre. Human Rights Watch opposes lifting the embargo until China addresses issues of accountability, reparations for victims, and trials for those responsible.