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Human Rights in China and U.S. Policy: Issues for the 115th Congress

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Summary

This report examines human rights conditions in the People's Republic of China (PRC) and policy options for Congress. The PRC government under the leadership of Chinese Communist Party General Secretary and State President Xi Jinping has implemented a clampdown on political dissent, civil society, human rights activists and lawyers, and the religious, cultural, and linguistic practices of Tibetans and Uyghurs. Other major human rights violations in China include the practice of incommunicado detention, torture of persons in custody, censorship of the Internet, and restrictions on the freedoms of religion, association, and assembly.

The era of Hu Jintao, Xi's predecessor, who was China's leader from 2002 to 2012, was marked by serious human rights abuses, but also by an emerging civil society of nongovernmental organizations and advocacy groups, a growing number of human rights activists and lawyers, and the rise of limited investigative reporting and public discourse on social media platforms. Despite moving forward with some policies aimed at reducing rights abuses and making the government more transparent and responsive, Xi has implemented new laws that appear to strengthen the role of the Communist Party and the state over a wide range of social and civil society activities in the name of national security, and instated greater government controls over the media and the Internet. Since July 2015, over 250 human rights lawyers and activists have been temporarily detained, arrested, sentenced to prison terms, or placed under heavy surveillance in what is known as the "7-09 Crackdown."

Human rights conditions in the PRC long have been a central issue in U.S.-China ties. According to some analysts, the Trump Administration has indicated a partial departure from the Obama Administration's approach toward human rights in China, which some analysts say suggests less emphasis on human rights in U.S. dealings with Beijing. The issue of human rights is not among the "four pillars" of the new U.S.-China Comprehensive Dialogue that was established during discussions between President Trump and President Xi at Mar-a-Lago in April 2017. In a speech to State Department employees in May 2017, Secretary of State Rex Tillerson stated that "guiding all of our foreign policy actions are our fundamental values: our values around freedom, human dignity, the way people are treated." He also said, "If we condition too heavily that others must adopt this value that we've come to over a long history of our own, it really creates obstacles to our ability to advance our national security interests, our economic interests."

Congress and successive Administrations have developed an array of means for promoting human rights and democracy in China, often deployed simultaneously. Policy tools include open censure of China; quiet diplomacy; congressional hearings and legislation; funding for rule of law and civil society programs in the PRC; support for dissidents and prodemocracy groups in China and the United States; sanctions; bilateral dialogue; Internet freedom efforts; public diplomacy; and coordinating international pressure. Another high-profile policy practice is the U.S. government issuance of congressionally mandated country reports, including reports on human rights, religious freedom, and trafficking in persons.

Many experts and policymakers have sharply disagreed over the best policy approaches and methods to apply toward human rights issues in China. Possible approaches range from supporting incremental progress and promoting human rights through bilateral and international engagement, to conditioning the further development of bilateral ties on improvements in human rights in China. Some approaches attempt to balance U.S. values and human rights concerns with other U.S. interests in the bilateral relationship. Other approaches challenge the underlying assumption that U.S. human rights values and policies may involve trade-offs with other U.S. interests, arguing instead that human rights are fundamental to other U.S. objectives.

For additional information, including policy recommendations, see CRS Report R41007, *Understanding China's Political System*; the Congressional-Executive Commission on China's *Annual Report 2016*; the U.S. Department of State's *Country Reports on Human Rights Practices for 2016*; and other resources cited in the report.

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Introduction

Human rights conditions in the People's Republic of China (PRC) long have been a central issue in U.S.-China relations. The two governments' different perceptions of human rights are an underlying source of mutual misunderstanding and mistrust. Frictions over human rights issues affect other issues in the bilateral relationship, including those related to economics and security. China's weak rule of law and restrictions on the Internet affect U.S. companies doing business in the PRC. People-to-people exchanges, particularly educational and academic ones, and collaboration among U.S. and PRC nongovernmental organizations (NGOs) are hampered by periodic Chinese government campaigns against "Western values" and restrictions on foreign NGOs, as well as on the freedoms of speech, association, and assembly.

For some U.S. policymakers, human rights conditions in China represent a test of the success of overall U.S. policy toward the PRC. They argue that the U.S. policy of cultivating diplomatic and economic ties with China has failed to promote meaningful political reform and improvements in human rights, and that without progress in these areas, China's foreign policy is likely to become more aggressive, and mutual trust and cooperation in other areas of the bilateral relationship will remain difficult to achieve. They contend, furthermore, that the long-standing, overarching policy of U.S. engagement with China, which they say focuses on other U.S. interests, particularly economic ones, at times acts at cross purposes with U.S. efforts to support human rights.¹ Others opine that U.S. economic engagement with China has helped to strengthen the communist regime through the legitimacy and resources that economic development has provided, and thereby lessened the impetus for fundamental political reform.² Other experts, by contrast, maintain that U.S. engagement has helped to accelerate economic and social transformations that create the necessary conditions for political reform and improvements in rights protections in China, particularly over the long term. They add that change in China's human rights policies will come mostly from within, and that Washington has little direct leverage over such developments and Beijing's actions.³

Since the end of the 1980s, following the 1989 military suppression of prodemocracy demonstrators in and around Tiananmen Square in Beijing, successive U.S. Administrations have employed broadly similar strategies for promoting human rights in China. Some analysts have referred to the U.S. foreign policy approach of promoting human rights and democracy in China through diplomatic and economic engagement, without directly challenging Communist Party rule, as a strategy of seeking China's "peaceful evolution."⁴ PRC leaders long have been

¹ Rep. Christopher H. Smith, Cochair, Opening Remarks before the Congressional Executive Commission on China, "Dissidents Who Have Suffered for Human Rights in China: A Look Back and a Look Forward," December 7, 2016; James Mann, Statement before the Congressional Executive Commission on China, "Dissidents Who Have Suffered for Human Rights in China: A Look Back and a Look Forward," December 7, 2016; Daniel Blumenthal, "Tiananmen's Anniversary Is a Chance for Obama to Fight for Human Rights in China," *Foreign Policy*, June 4, 2014; "Can the U.S. Help Advance Human Rights in China?" *The Atlantic*, June 13, 2013.

² "Capitalism Is Making China Richer, But Not Democratic," *NPR*, November 7, 2014.

³ Wilson Center, Kissinger Institute on China and the United States, "The Value of Values: Reconsidering the Role of Human Rights in U.S.-China Relations," April 20, 2016; Simon Denyer, "Will the U.S.-Cuba Opening Mirror Engagement with China?" *Washington Post*, December 20, 2014; Winston Lord, Former U.S. Ambassador to the People's Republic of China, Testimony before the Congressional-Executive Commission on China, "Tiananmen at 25: Enduring Influence on U.S.-China Relations and China's Political Development," May 20, 2014.

⁴ Bruce Dickson, *The Dictator's Dilemma*, New York: Oxford University Press, 2016; Warren Christopher, Secretary of State under the Clinton Administration (1993-1997), stated: "Our policy will seek to facilitate a peaceful evolution of China from communism to democracy by encouraging the forces of economic and political liberalization in that great country." Warren Christopher, Statement before the Senate Foreign Relations Committee, January 13, 1993.

suspicious of any U.S. efforts that they perceive as part of a long-term plan to subvert their rule through “peaceful evolution.”⁵ President Bill Clinton favored an approach that he and members of his Administration called “constructive engagement”—furthering diplomatic and economic ties while pressing for open markets, human rights, and democracy—calling it “our best hope to secure our own interest[s] and values and to advance China’s.”⁶ President George W. Bush also came to view U.S. engagement as the most effective means of promoting U.S. interests as well as freedom in the PRC.⁷ Both Bush and President Barack Obama emphasized that China’s respect for international human rights norms would benefit China’s own success and stability.⁸

The Obama Administration attempted to forge bilateral cooperation on many fronts, while “managing differences” with China on issues including human rights.⁹ Then-Secretary of State Hillary Clinton described the Administration’s human rights policy as one of “principled pragmatism.”¹⁰ This approach was based upon the premise that tough but quiet diplomacy is both less disruptive to the overall relationship and more effective in producing change than public censure. Nonetheless, the Obama Administration publicly criticized China’s human rights policies on many occasions.¹¹

Some human rights groups and policymakers have criticized the Trump Administration’s “transactional” focus on U.S. security and economic interests in foreign affairs, while appearing to downplay human rights issues or preferring to raise them quietly.¹² They criticized Secretary of State Rex Tillerson for not appearing in person as his predecessors had done to publicly announce the release of the Department of State’s annual *Country Reports on Human Rights Practices* in March 2017, and the Trump Administration for not signing a joint letter, signed by 11 other countries, that denounced China over its alleged torture of detained human rights lawyers and activists.¹³ In a speech to State Department employees on May 3, 2017, Tillerson stated that “guiding all of our foreign policy actions are our fundamental values: our values around freedom, human dignity, the way people are treated.” He also stated, “If we condition too heavily that others must adopt this value that we’ve come to over a long history of our own, it really creates obstacles to our ability to advance our national security interests, our economic interests.”¹⁴ Some

⁵ Baogang He, “Working with China to Promote Democracy,” *The Washington Quarterly*, Winter 2013.

⁶ “Clinton Defends ‘Constructive Engagement’ of China,” *CNN.com*, October 24, 1997.

⁷ “Transcript of Bob Costas’ Interview with President George W. Bush,” *PRNewsChannel.com*, August 11, 2008; “Bush Woos China on Trade,” *BBC News*, May 30, 2001.

⁸ Department of State, “Press Conference Following U.S.-China Human Rights Dialogue,” Beijing, China, August 2, 2013; Ewen MacAskill and Tania Branigan, “Obama Presses Hu Jintao on Human Rights During White House Welcome,” *Guardian.co.uk*, January 19, 2011; Helene Cooper and Mark Landler, “Obama Pushes Hu on Rights but Stresses Ties to China,” *New York Times*, January 19, 2011.

⁹ Zachary Keck, “Kerry: US-China Ties ‘Most Consequential in the World,’” *The Diplomat*, November 5, 2014.

¹⁰ Charley Keyes, “U.S. Is ‘Pragmatic’ with China, Russia,” *CNN*, December 14, 2009; Hillary Clinton, Georgetown University, December 14, 2009, <http://www.americanrhetoric.com/speeches/hillaryclintonhumanrightsagenda.htm>.

¹¹ See, for example, The White House, Office of the Press Secretary, “Remarks by President Obama and President Xi Jinping of China in Joint Press Conference,” Great Hall of the People, Beijing, China, November 12, 2014.

¹² “A Coldly Transactional China Policy; Donald Trump’s First Meeting with Xi Jinping Was All About Business,” *Economist.com*, April 8, 2017; Kevin Liptak, “Trump Signals He Won’t Press Human Rights Ahead of Key Diplomatic Week,” *CNN*, April 2, 2017.

¹³ Nahal Toos, “Rubio Chides Tillerson over Absence on Human Rights Report’s Launch,” *Politico.com*, March 2, 2017; Simon Denyer and Emily Rauhala, “Eleven Countries Signed a Letter Slamming China for Torturing Lawyers. The U.S. Did Not,” *Washington Post*, March 22, 2017.

¹⁴ Rex. W. Tillerson, Secretary of State, “Remarks to U.S. Department of State Employees,” Washington, DC, May 3, 2017.

observers criticized this approach. In an opinion piece published on May 8, 2017, for example, Senator John McCain stated:

In a recent address to State Department employees, Secretary of State Rex Tillerson said conditioning our foreign policy too heavily on values creates obstacles to advance our national interests.... To view foreign policy as simply transactional is more dangerous than its proponents realize. Depriving the oppressed of a beacon of hope could lose us the world we have built and thrived in. It could cost our reputation in history as the nation distinct from all others in our achievements, our identity and our enduring influence on mankind. Our values are central to all three.¹⁵

In March 2017, Tillerson, on his first official trip to China, stated in closing remarks that he was there to forge a “constructive and results-oriented relationship between the United States and China” and that he “made clear that the United States will continue to advocate for universal values such as human rights and religious freedom.”¹⁶ Senators Ben Cardin and Marco Rubio, in a letter to the Secretary of State, noted that Tillerson made “only one public mention of human rights concerns in the context of the bilateral relationship” during his visit to Beijing, and urged him to make human rights a “top priority” in discussions with PRC officials during the meeting between President Trump and President Xi in April 2017 at Mar-a-Lago.¹⁷ Secretary Tillerson, in a briefing to reporters following the Trump-Xi meeting, stated that during the talks, which some observers described as “coldly transactional,” Trump “noted the importance of protecting human rights and other values deeply held by Americans.”¹⁸ While no mention was made of specific issues, Tillerson added that human rights “occupied a core of all of our discussions.” The issue of human rights, however, was not listed among the “four pillars” of the new U.S.-China Comprehensive Dialogue that was established during the discussions.¹⁹

During his March 2017 visit to Beijing, Secretary Tillerson reportedly pressed Chinese officials on the case of U.S. citizen Sandy Phan-Gillis, who had been detained in China since March 2015 on espionage charges.²⁰ A few weeks after the April 2017 meeting between Trump and Xi, Phan-Gillis, a business consultant and cultural ambassador from Houston who had made frequent trips to China, was sentenced by PRC authorities to three-and-a-half years in prison and then deported to the United States.²¹ Some observers believe that the case of Phan-Gillis may signal a shift in U.S. human rights policy that may emphasize U.S. citizens detained in China and focus less on Chinese dissidents and prisoners of conscience.²² In February 2017, U.S. officials reportedly

¹⁵ “John McCain: Why We Must Support Human Rights,” *New York Times*, May 8, 2017.

¹⁶ Department of State, “Remarks with Chinese Foreign Minister Wang Yi at a Press Availability,” Beijing, China, March 18, 2017.

¹⁷ “Cardin, Rubio Call on Tillerson to Raise Human Rights Concerns with Chinese President Xi,” *Congressional Documents and Publications*, April 4, 2017.

¹⁸ “A Coldly Transactional China Policy; Donald Trump’s First Meeting with Xi Jinping Was All About Business,” *op. cit.*

¹⁹ “Briefing by Secretary Tillerson, Secretary Mnuchin, and Secretary Ross on President Trump’s Meetings with President Xi of China,” White House Press Releases and Documents, Palm Beach, Florida, April 7, 2017. The four pillars of the newly established U.S.-China Comprehensive Dialogue are: the diplomatic and security dialogue; the comprehensive economic dialogue; the law enforcement and cybersecurity dialogue; and the social and cultural issues dialogue.

²⁰ Lomi Kriel, “China Sentences Houston Businesswoman Sandy Phan-Gillis in Spying Case,” *Houston Chronicle*, April 26, 2017.

²¹ Dui Hua Foundation, “Dui Hua Welcomes Return of Sandy Phan-Gillis to the United States,” April 28, 2017; “China Convicts American as Spy,” *Dow Jones*, April 26, 2017; Lomi Kriel, “China Sentences Houston Businesswoman Sandy Phan-Gillis in Spying Case,” *Houston Chronicle*, April 26, 2017.

²² “China Lawyer’s Family Says US Helped Them Flee,” *The Telegraph*, May 8, 2017.

assisted the family of Chinese human rights attorney Xie Yang, whose youngest daughter is a U.S. citizen by birth, as his wife and two daughters were attempting to leave Thailand for the United States.

The U.S. government has employed an array of efforts and tactics aimed at promoting human rights, democracy, and the rule of law in China. The effects of these efforts primarily have been evident along the margins of the PRC political system. Congressional policy tools include open letters to the Administration and to Chinese leaders in support of human rights or critical of PRC policies; hearings; funding for foreign assistance programs in China and U.S.-based groups that promote human rights; meetings with Chinese dissidents and human rights lawyers; raising human rights issues during official visits to China; and sanctions. Executive branch options include diplomatic negotiations and formal dialogues focused on human rights issues; public diplomacy programs; international broadcasting; and coordination of international pressure. Another high-profile practice is the issuance of congressionally mandated country reports, including reports on human rights, religious freedom, and trafficking in persons. Many analysts have observed that China's leaders have become less responsive to international pressure on human rights in recent years.²³ Other experts, however, have emphasized that the treatment of some prominent Chinese dissidents and rights activists by PRC authorities may have been less severe than it might otherwise have been in part as a result of international attention and pressure.²⁴

Assessing Human Rights and Democracy in China

The PRC government is led by the Chinese Communist Party (CCP), whose rule is referenced in the preamble to China's Constitution. The PRC Constitution provides for many civil and political rights, including, in Article 35, the freedoms of speech, press, assembly, association, and demonstration. Other provisions in China's constitution and laws circumscribe or condition these rights and freedoms, however, and the state restricts these freedoms in practice. China's leaders typically view these rights as subordinate to their own authority and to the policy goals of maintaining state security and social stability, promoting economic development, and providing for economic and social rights. They assert that perspectives on human rights vary according to a country's level of economic development and social system, implying that human rights are not "universal," in contrast to statements by some U.S. government officials that have emphasized "universal rights." PRC leaders frequently denounce foreign criticisms of China's human rights record and policies as interference in China's sovereign, internal affairs.²⁵

Nearly 30 years after the 1989 demonstrations for democracy in Beijing and elsewhere in China and the subsequent military crackdown, the Communist Party remains firmly in power, through both coercive measures and highly publicized efforts to improve governance. Many Chinese citizens have attained living standards, educational and travel opportunities, access to information, and a level of global integration that few envisioned in 1989. Little progress, however, has been made in most areas of political freedom and civil liberties. China's leaders have rejected institutional reforms that they perceive might undermine the CCP's monopoly on

²³ John Kamm, Dui Hua Foundation, "China's Human Rights Diplomacy: Past, Present, Future," Center for Strategic and International Studies, March 28, 2014.

²⁴ Simon Denyer, "In China, Signs that Global Pressure May (Sometimes) Get Results," *Washington Post*, January 2, 2016; Sophie Richardson, "Underestimating Bad Faith," Human Rights Watch, July 9, 2014; Sophie Richardson, "EU Brings Some Transparency to Dialogue with China," Human Rights Watch, December 9, 2014.

²⁵ See Wang Yi, "Work Together to Promote and Protect Human Rights," *China Daily*, February 27, 2017.

power, and continue to respond forcefully to signs and instances of autonomous social organization, independent political activity, and social instability. They seek to prevent the development of linkages among individuals, social groups, and geographical regions that they perceive as having potential political impact. The government maintains severe restrictions on unsanctioned religious, ethnic, and labor activity and groups, political dissidents, and human rights lawyers. Government authorities have imposed harsh policies against Tibetans, Uyghurs, and practitioners of Falun Gong.

As CCP General Secretary and State President Xi Jinping took over the reins of power in 2012 and early 2013, there was a period of cautious optimism and discussion in intellectual circles in China about the need for political reform and how to address these issues.²⁶ However, Xi has carried out a crackdown on political dissent and civil society, reversing what appeared to some observers to be a trend toward increased tolerance of mild criticism of government policies, the exchange of some news and opinion on social media, some advocacy by nongovernmental organizations (NGOs), and legal actions against officials on behalf of some aggrieved citizens.²⁷ Many citizens who had openly discussed political issues, engaged in political or social activism, attempted to defend dissidents or human rights activists in court, or tried to expose some corrupt officials have been punished.²⁸ Xi's focus on national security and the perception of civil society as a threat to Communist Party rule appear to be driven in part by the daunting political challenges that he faces, including persistent political corruption; a slowing national economy; rising popular expectations; severe environmental pollution; unrest in Tibet and violent clashes in Xinjiang; and the growing popular attraction to organized religions, which some of China's leaders contend may undermine their authority.²⁹

China and U.N. Human Rights Covenants

China has signed (1997) and ratified (2001) the International Covenant on Economic, Social, and Cultural Rights (ICESCR) and signed (1998), but not ratified, the International Covenant on Civil and Political Rights (ICCPR).

In some ways, the PRC central government has continued to demonstrate a measure of responsiveness toward popular and expert opinion, reflecting a style of rule that some experts refer to as “responsive authoritarianism” or “consultative authoritarianism,” and what PRC leaders refer to as “consultative democracy.”³⁰ The CCP has striven to meet the demands and expectations of many Chinese citizens for competent and accountable governance and fair application of the laws, while some policymaking processes have become more inclusive. In

²⁶ Jamil Anderlini, “How Long Can the Communist Party Survive in China?” *Financial Times*, September 20, 2013.

²⁷ James Fallows, “China’s Great Leap Backward,” *The Atlantic*, December 2016; Tom Mitchell, “Xi’s China: Smothering Dissent,” *Financial Times*, July 27, 2016.

²⁸ Robert Daly, “China in 2014: The Three Rs,” *CNN.com Blogs*, December 16, 2013; Zachary Keck, “Four Things China Learned from the Arab Spring,” *The Diplomat*, January 4, 2014.

²⁹ David Ignatius, “China’s Xi Jinping Consolidates Power and Brings Stability,” *Washington Post*, February 28, 2014; Willy Lam, “Xi Consolidates Power at Fourth Plenum, but Sees Limits,” *China Brief*, vol. 14, no. 22, November 20, 2014; David Shambaugh, “Obama in China: Preserving the Balance,” transcript, Brookings Institution, November 5, 2014, https://www.brookings.edu/wp-content/uploads/2014/10/20141105_obama_china_transcript.pdf.

³⁰ Bruce Dickson, *The Dictator’s Dilemma*, op. cit.; Jessica Teets, “Civil Society and Consultative Authoritarianism in China,” The 7th Annual Conference on U.S.-China Economic Relations and China’s Economic Development, Elliot School of International Affairs, George Washington University, November 21, 2014; David M. Lampton, “How China Is Ruled: Why It’s Getting Harder for Beijing to Govern,” *Foreign Affairs*, January/February 2014; Robert P. Weller, “Responsive Authoritarianism,” in Bruce Gilley and Larry Diamond, eds., *Political Change in China: Comparisons with Taiwan*, Boulder: Lynne Rienner Publishers, 2008.

recent years, the PRC government has implemented some legal and institutional reforms aimed at preventing some rights abuses and making the government more transparent and responsive. The state has limited repressive measures largely to selected key individuals and groups, although the scope of those targeted has widened under President Xi. Many citizens continue to enjoy “everyday freedoms” and appear to remain supportive of the regime.³¹ Although public protests in China are common, they largely are focused upon local economic and environmental issues rather than national political ones.³²

Public Opinion and Democracy

Some experts believe that, over the long term, economic development will lead to democratization in China, as it already has in other East Asian societies, such as South Korea and Taiwan.³³ They posit that the growing urban middle class, a manifestation of such development, will likely be a key agent of political change.³⁴ According to other analysts, however, China’s burgeoning middle class has not yet become a catalyst for democracy, despite its members’ growing awareness of their interests and in some cases their participation in public protests.³⁵

Third National Human Rights Action Plan of China (2016-2020)³⁶

In the Vienna Declaration and Programme of Action, adopted in June 1993, the World Conference on Human Rights recommended that all countries develop national action plans identifying steps whereby they would strive to improve the promotion and protection of human rights.³⁷ The PRC released its first human rights action plan in 2009. The third action plan was released in September 2016.³⁸ The plan includes sections on economic, social, and cultural rights, civil and political rights, and the rights of specific groups, including ethnic minorities and women. Part II, Civil and Political Rights, addresses some of China’s most pressing human rights issues. It includes commitments toward preventing torture in police and administrative custody, abiding by the rules and regulations on places of surveillance, reducing judicial interference, and implementing the principle of presumption of innocence. Part II also includes the objectives of expanding citizens’ right to know and enlarging public involvement in legislation.

Some public opinion polling suggests that in China, economic development has been weakly correlated with democracy, and that Chinese define democracy differently from most Americans.

³¹ “The Rise of ‘Everyday Freedoms’ in China,” *Al Jazeera*, June 2, 2016; Bruce Dickson, *The Dictator’s Dilemma*, op. cit.

³² “NYT Correspondent: Substantive Political Change Unlikely Anytime Soon,” Asia Society, March 8, 2017; “Officials Call For Calm Amid Mass Pollution Protests in China’s Hubei,” *Radio Free Asia*, June 27, 2016; “Chinese Blogger Who Compiled Protest Data Missing, Believed Detained,” *Radio Free Asia*, June 21, 2016; Brendon Hong, “China’s Hidden Protests,” *The Daily Beast*, January 5, 2016.

³³ Bruce Dickson, *The Dictator’s Dilemma*, op. cit.; Seymour Martin Lipset, “Some Social Requisites of Democracy,” *American Political Science Review*, vol. 53, no. 1 (1959). Lipset argued that socioeconomic development, including higher levels of wealth, industrialization, urbanization, and education, are correlated with democracy.

³⁴ Henry S. Rowen, “When Will the Chinese People Be Free,” in Andrew J. Nathan, Larry Diamond, and Marc F. Plattner, eds, *Will China Democratize?* Baltimore: Johns Hopkins University Press, 2013; J. Stapleton Roy, Former U.S. Ambassador to the People’s Republic of China, Testimony before the Congressional-Executive Commission on China, “Tiananmen at 25: Enduring Influence on U.S.-China Relations and China’s Political Development,” May 20, 2014.

³⁵ Jie Chen, *A Middle Class Without Democracy*, New York: Oxford University Press, 2013.

³⁶ State Council Information Office of the People’s Republic of China, *National Human Rights Action Plan of China (2016-2020)*, September 29, 2016, http://news.xinhuanet.com/english/2016-09/29/c_135722183.htm.

³⁷ Office of the United Nations High Commissioner for Human Rights, “World Conference on Human Rights,” 14-25 June 1993, Vienna, Austria, <http://www.ohchr.org/EN/Issues/PlansActions/Pages/PlansofActionIndex.aspx>.

³⁸ “National Human Rights Action Plan of China (2016-2020),” *Xinhua*, September 29, 2016, http://news.xinhuanet.com/english/2016-09/29/c_135722183.htm

In a study published in 2016, one U.S. scholar found that a plurality (27%) of Chinese respondents in a survey viewed democracy as government that is “governed by and for the people,” but fewer than 40% perceived of democracy in terms of either competitive elections, rights and freedoms, or equality and justice.³⁹ In many ways, according to some studies, members of China’s middle class are dependent upon the state for their material well-being and are not prone to agitate for democracy if they perceive that their economic needs are being met. They value social and political stability, which they believe the Communist Party can provide, and have expressed some fear of grassroots democracy.⁴⁰ Many Chinese reportedly are generally satisfied with the level of democracy in their country and are optimistic that the level of democracy they enjoy will rise in the future. This sentiment causes some Chinese to resent foreign criticism of human rights conditions and to withhold sympathy for democracy activists.⁴¹

U.S. Policy Questions and Options

Debates about what policies the U.S. government should pursue in order to promote human rights in China tend to revolve around the following principal sets of questions:

- To what extent should the U.S. government expend time and resources promoting human rights in other countries, including China? How do such efforts relate to and advance U.S. interests and policy objectives?
- Which human rights issues and developments in China most warrant U.S. attention, and why? Should human rights issues be prioritized? How might improvements in some human rights lead to improvements in other human rights?
- Approaches to promoting human rights vary. Some are more (or less) confrontational, public, or punitive. Which approaches have been more effective in promoting human rights in China? How have U.S. approaches changed over time?
- What is the range of possible policy tools for promoting human rights in China? Which options are the most effective, and over what time frame are they most effective?
- How much importance should the United States attach to multilateral efforts to promote human rights in China? Should international approaches be focused on the United Nations, or be coordinated directly with like-minded governments?
- How are possible U.S. human rights policies constrained, if at all, by other U.S. policies and interests related to China? How are they constrained, if at all, by the institutions and mechanisms that form the basis of U.S.-China relations?
- Should the United States’ interest in human rights be the subject of negotiation, and, if so, should the United States be willing to match improvements in China’s human rights conditions with actions valued by China? In what areas might such matching “action for action” be explored?

³⁹ Bruce Dickson, *The Dictator’s Dilemma*, op. cit.

⁴⁰ Andrew Nathan, National Endowment for Democracy, “12th Annual Seymour Martin Lipset Lecture: The Puzzle of the Chinese Middle Class,” October 20, 2015; Jie Chen, “Attitudes Toward Democracy and the Behavior of China’s Middle Class,” in Cheng Li, ed. *China’s Emerging Middle Class*, Washington: Brookings Institution Press, 2010.

⁴¹ Bruce Dickson, *The Dictator’s Dilemma*, op. cit.

- Should the U.S. government press China to abide by international human rights standards and covenants in a separate bilateral human rights dialogue, or as part of other dialogues?

Some human rights advocates argue that promoting human rights in China should be viewed as a national interest and elevated to first order importance in U.S. policy toward China. They contend that U.S. foreign policy should be more values-focused, and that other areas of the bilateral relationship, such as security and trade, would benefit from prioritizing human rights. Some experts recommend a “whole-of-government” approach, whereby human rights policy is coordinated among all agencies dealing with China, and suggest that the Administration and Congress work together to consider legislative and other measures.⁴² They favor placing human rights conditions upon Beijing before satisfying China’s desire for international cooperation in many areas, and imposing sanctions when necessary.⁴³

Other specialists contend that open censure and efforts to place human rights-related conditions upon further development of the bilateral relationship have not been very effective. They suggest that it is more useful, particularly in the long run, to take a more cooperative and flexible approach toward promoting human rights in China. In this way, U.S. policies to promote human rights in the PRC are less likely to meet resistance among CCP hardliners and more likely to find agreement among Chinese governmental and nongovernmental leaders who also may be pursuing human rights and related objectives.⁴⁴ A less confrontational approach, they add, is also more compatible with the myriad ongoing forms of U.S. engagement and cooperation with China. They urge U.S. policymakers to seek common ground with their Chinese counterparts and to appeal as much as possible to China’s own interests on human rights issues.⁴⁵

The following are possible steps put forward by a diverse group of experts that the U.S. government and other actors could take, or that Congress could mandate or otherwise require, to promote human rights in the PRC. The U.S. government has attempted to put some of these recommended policies and efforts into practice. For a discussion of U.S. government human rights activities related to China, see “U.S. Efforts to Advance Human Rights in China,” below.

- Support congressional hearings, legislation, resolutions, letters, and statements expressing concerns about human rights developments in China and individuals and groups persecuted in China for exercising internationally recognized human rights that are protected in the PRC Constitution.
- Increase U.S. government support for rule of law, civil society, and political participation programs in China. Provide funding to the National Endowment for Democracy to support human rights and democracy groups based in the United States and Hong Kong.

⁴² Yang Jianli, Remarks before the Congressional Executive Commission on China, “Dissidents Who Have Suffered for Human Rights in China: A Look Back and a Look Forward,” December 7, 2016; Congressional-Executive Commission on China, *Annual Report 2016*, October 6, 2016; “US: Show Breadth of Rights Commitment at China Dialogue,” *Human Rights Watch*, June 5, 2016; “Can the U.S. Help Advance Human Rights in China?” *The Atlantic*, op. cit.

⁴³ Sophie Richardson, “How to Deal with China’s Human Rights Abuses,” *ChinaFile*, September 1, 2016.

⁴⁴ “A Bow to Reality, Not China,” *USA Today*, February 27, 2009; Thomas J. Christensen, “Shaping the Choices of a Rising China: Recent Lessons for the Obama Administration,” *The Washington Quarterly*, July 2009; William F. Schulz, “Strategic Persistence: How the United States Can Help Improve Human Rights in China,” *Center for American Progress*, January 2009.

⁴⁵ Wilson Center, op. cit.; Winston Lord, op. cit.

- Support nongovernmental actors, including umbrella organizations that coordinate the efforts of disparate groups focused on human rights issues in China.⁴⁶ Formulate a code of conduct for U.S. civil society organizations, including think tanks, universities, and cultural-exchange entities, for interacting with Chinese officials and policies when faced with human rights restrictions.⁴⁷
- Provide financial assistance to dissidents and victims of religious and ethnic persecution in China and Chinese political and religious refugees.
- Support research and documentation of human rights conditions and abuses in China.
- Link U.S. economic and human rights policies.
 - Impose restrictions upon Chinese trade and investment ties with the United States unless human rights conditions improve.⁴⁸
 - Link permanent normal trade relations (PNTR) status and low import tariffs with improvements in human rights conditions in China.
 - Challenge Chinese security regulations and restrictions on Internet use as barriers to trade under the World Trade Organization (WTO).
 - Tighten U.S. export controls in response to human rights violations or reduce the export of U.S. technologies and services that can be used to violate human rights, such as Internet, surveillance, and law enforcement products and equipment.
 - Encourage U.S. companies in China to speak out against policies that affect both business interests and human rights.⁴⁹
- Impose sanctions on China and PRC officials in response to Chinese human rights abuses.
 - Deny U.S. visas to, or freeze the U.S. banks accounts of, Chinese officials responsible for severe human rights violations (see “Global Magnitsky Act,” below).
 - Apply provisions of the International Religious Freedom Act that deny U.S. visas to foreign officials responsible for particularly severe violations of religious freedom.⁵⁰
 - Impose penalties on PRC officials for human rights violations, including placing holds on their foreign bank accounts.

⁴⁶ Freedom House, *The Politburo’s Predicament: Confronting the Limitations of Chinese Communist Party Repression*, January 2015, <https://freedomhouse.org/report/china/politburo-predicament>.

⁴⁷ Orville Schell and Susan L. Shirk, Chairs, Asia Society Center on US-China Relations and University of California San Diego 21st Century China Center, “Task Force Report: US Policy Toward China: Recommendations for a New Administration,” February 2017.

⁴⁸ See Congressional-Executive Commission on China, “The Broken Promises of China’s WTO Accession: Reprioritizing Human Rights,” March 1, 2017; Wei Jingsheng, Remarks before the Congressional Executive Commission on China, “Dissidents Who Have Suffered for Human Rights in China: A Look Back and a Look Forward,” December 7, 2016; Paul Carsten and Michael Martina, “US Says China’s Internet Censorship a Burden for Business: Report,” *Reuters*, April 8, 2016.

⁴⁹ Sophie Richardson, “In China, Big Companies Are Learning the Business of Human Rights,” *The Globe and Mail*, September 14, 2014.

⁵⁰ P.L. 105-292, §604.

- Suspend U.S. engagement and exchanges with China's Ministry of Justice and Ministry of Public Security until all human rights lawyers are released from detention or prison or their constitutional rights are restored.
- Suspend U.S. engagement and exchanges with Chinese officials from provinces where egregious incidents of religious persecution have been reported.⁵¹
- Noting the rise in detentions of some U.S. citizens and green card holders in China, some advocacy groups urge the State Department to issue a travel advisory, warning U.S. citizens and green card holders that there is a risk of arbitrary detention if they travel to China.
- Invoke the principle of reciprocity as a means of promoting human rights in China.
 - Demand that U.S. journalists, academics, and media outlets enjoy the same level of access to China that Chinese journalists, academics, and media outlets have in the United States.⁵²
 - Call for mutual treatment in issuing visas for journalists and oppose the PRC government's denial of visas to U.S. and other foreign journalists who write critically of CCP leaders or sensitive policy issues.
 - Grant the PRC an additional consulate in the United States if and only if the PRC government agrees to a U.S. consulate in Lhasa, Tibet.⁵³
- Raise human rights in bilateral interactions.
 - Raise human rights issues, not only in State Department-led dialogues and meetings with Chinese officials, but also in discussions and meetings led by other U.S. departments and agencies.
 - Support a separate U.S.-China human rights dialogue.
 - Make official human rights discussions more transparent, and open them up to include representatives from civil society, including human rights organizations.
 - Include civil society representatives in human rights discussions.
- Bolster international efforts.
 - Support collective statements and resolutions critical of Chinese human rights policies in the United Nations and other international fora.
 - Field a larger and more active U.S. delegation at the United Nations Human Rights Council (UNHRC). Hold China to its UNHRC Universal Periodic Review commitments.
 - Coordinate with Asian and European democracies in engaging in diplomatic and other forms of pressure on the Chinese government to improve human rights conditions.

⁵¹ For a look at religious persecution by province, see Freedom House, *The Battle for China's Spirit: Religious Revival, Repression, and Resistance Under Xi Jinping*, February 2017.

⁵² For example, see H.R. 1112, Reciprocal Access to Tibet Act of 2015 (McGovern, introduced on February 26, 2015, but did not become law) and H.R. 2899, Chinese Media Reciprocity Act of 2011 (Rohrabacher, introduced on September 12, 2011, but did not become law).

⁵³ See Tibetan Policy Act of 2002, Foreign Relations Authorization Act, FY2003 (P.L. 107-228, §611).

- Back internet freedom efforts.
 - Increase funding to the Department of State and Broadcasting Board of Governors for the development of software applications that enable Chinese Internet users to circumvent censorship.
 - Support efforts aimed at enabling Chinese audiences to circumvent Internet censorship and access Voice of America (VOA) and Radio Free Asia (RFA) online programming.
 - Oppose the PRC government’s efforts to promote the concept of “Internet sovereignty,” by which each country applies its own rules on issues of Internet freedom.
- Strengthen public diplomacy.
 - Provide greater funding for VOA and RFA broadcast and online programs in Mandarin, Cantonese, Tibetan, Uyghur, and English.
 - Strengthen the International Visitor Leadership Program, which brings established and potential leaders from China to the United States for short-term stays that include study tours in the areas of government, media, education, economics, environment, labor, and rule of law.⁵⁴

Crackdown on Dissent

Less than one year into the 2012 leadership transition that brought Xi Jinping to power, PRC authorities began to carry out a clampdown on political dissent, free expression, and civil society. While the PRC government has engaged in many cycles of reform and repression in the nearly three decades since the 1989 Tiananmen military crackdown, recent security measures have been striking for their scope and severity, say observers. Xi’s policies have included detentions and arrests of hundreds of human rights attorneys, investigative journalists, prominent bloggers, members of ethnic minorities, and civil society leaders. Freedom House reported that in China, which it deems to be among the bottom 20 “unfree” countries in the world, “[a] renewed push for party supremacy and ideological conformity has undermined rule of law reforms and curtailed civil and political rights.”⁵⁵ In May 2013, the CCP issued a classified directive (Document No. 9) identifying seven “false ideological trends, positions, and activities,” largely aimed at the media and liberal academics. According to the document, topics to be avoided in public discussion include universal values, constitutional democracy, freedom of the press, civil society, civil rights, an independent judiciary, and criticism of the CCP.⁵⁶

In 2016, a liberal journal, *Yanhuang Chunqiu*, under pressure from conservatives within the Communist Party, ceased publication. For 25 years, the periodical reportedly had been a mouthpiece for political reformers and exercised relative independence, as long as it did not broach the most sensitive political topics. A former editor stated that its patrons in the Party “had grown politically weak under the current leadership.”⁵⁷ In January 2017, Beijing authorities shut

⁵⁴ United States Embassy, Beijing, China, The International Visitor Leadership Program, <http://beijing.usembassy-china.org.cn/ivlp.html>.

⁵⁵ Freedom House, *Freedom in the World 2017*, https://freedomhouse.org/sites/default/files/FH_FIW_2017_Report_Final.pdf.

⁵⁶ Asia Society, “Document 9: A ChinaFile Translation,” November 8, 2013, <http://www.chinafile.com/document-9-chinafile-translation>.

⁵⁷ Philip Wen, “The Final Stand of *Yanhuang Chunqiu*, Torchbearer of Chinese Liberal Thought,” *Sydney Morning* (continued...)

down two websites run by a liberal Chinese think tank, reportedly after its founder criticized the Supreme People's Court's top judge for publicly rejecting the ideal of judicial independence.⁵⁸

Arrests of Rights Lawyers and Activists

Since July 2015, over 250 human rights lawyers and activists have been detained, arrested, or placed under surveillance or house arrest in what is known as the “7-09 Crackdown.” Launched on July 9, 2015, some observers say this campaign against the growing number of human rights lawyers in China has been unprecedented in scale.⁵⁹ PRC authorities have targeted, in particular, staff of the Fengrui Law Firm in Beijing, which had represented Uyghur rights advocate Ilham Tohti, dissident artist Ai Weiwei, Falun Gong practitioners, and victims of alleged government misconduct.

Of the hundreds of rights lawyers and activists whom Chinese authorities have detained, most have been released, although from 15 to over 30 have been sentenced to prison terms, released on bail, or given suspended sentences usually of three years of home detention.⁶⁰ At least two rights lawyers and one activist—Xia Lin, Zhou Shifeng, and Hu Shifeng—have received lengthy prison terms. Some lawyers and activists who were released on bail or suspended sentences reportedly have disappeared.⁶¹ Some rights attorneys reportedly suffered torture and psychological abuse by security personnel, were held incommunicado or at unknown locations, or were coerced into making televised confessions. Some have had their freedom of movement restricted or been prevented from travelling abroad.⁶² Spouses of detained lawyers have been subjected to surveillance and restrictions on movement and travel. Authorities reportedly have installed cameras or posted guards at spouses' homes, cut off their telephone service, frozen their bank accounts, and warned them not to give interviews.⁶³

Selected Prominent Cases

- **Guo Feixiong** is the pen name of Yang Maodong, a legal rights advocate arrested in 2013 for demonstrating against the censorship of a progressive publication, *Southern Weekend*. In 2015, Guo was sentenced to six years in prison for “gathering a crowd to disrupt social order.” In December 2016, Chinese

(...continued)

Herald, July 27, 2016.

⁵⁸ Wendy Wu and Jane Cai, “Beijing Internet Censors Close Websites of Liberal Economic Think Tank,” *South China Morning Post*, January 21, 2017.

⁵⁹ “Torture Accusations as EU Ambassador Raises Case of Chinese Lawyer Xie Yang,” *Hong Kong Free Press*, January 25, 2017; Simon Denyer, “A Broken Lawyer and a Hawkish Judge Cast Deep Pall over China’s Legal System,” *Washington Post*, January 22, 2017; “Mass Suppression of Lawyers Reveals True Nature of Xi’s ‘Rule by Law,’” Human Rights in China, July 14, 2015.

⁶⁰ William Ide and Joyce Huang, “China Rights Lawyer Recants Torture Allegations in High Profile Case,” *Voice of America*, May 9, 2017.

⁶¹ Chinese Human Rights Defenders, “China Must Drop All Charges Against Lawyer Xie Yang,” May 9, 2017.

⁶² Simon Denyer, “A Broken Lawyer and a Hawkish Judge Cast Deep Pall over China’s Legal System,” *op. cit.*; Chinese Human Rights Defenders, “Politically Charged Arrests in China Escalate Persecution of Rights Lawyers,” January 14, 2016; “China to Try Top Human Rights Lawyer, Delays Three Other Cases,” *Federal Information & News Dispatch*, December 7, 2016; Congressional-Executive Commission on China, *Annual Report 2016*, *op. cit.*

⁶³ “Wives of China’s Detained Lawyers Fight On,” *Daily Mail*, July 6, 2016.

- authorities suspended the legal license of Li Jinxing, Guo's defense lawyer, for one year allegedly for "interfering with court proceedings."⁶⁴
- **Guo Hongguo**, a rights activist and member of an unregistered Christian church, was convicted of subversion and given a three-year suspended sentence.⁶⁵
 - **Hu Shigen**, a democracy advocate and Christian church leader with ties to the Fengrui Law Firm, was detained in July 2015 and formally arrested in January 2016 on the charge of subverting state power. He was convicted in August 2016 and sentenced to seven-and-one-half years in prison. Hu had formerly served a 16-year sentence for spreading information about the June 4, 1989, military crackdown in Beijing.⁶⁶
 - **Jiang Tianyong**, a human rights lawyer who had legally defended or assisted Falun Gong practitioners, Tibetans, and other rights lawyers and advocates, including Xie Yang, Chen Guangcheng, and Gao Zhisheng, was detained in November 2016 and held incommunicado for six months. In May 2017, Jiang was formally charged with subversion of state power.⁶⁷
 - **Li Heping**, an attorney and antitorture advocate who had represented Falun Gong practitioners, members of unregistered Christian churches, and environmental activists, and had provided assistance to Chen Guangcheng and Gao Zhisheng, was held incommunicado between July 2015 and January 2016. In April 2017, a Tianjin Court, in a closed trial, sentenced Li to a three-year suspended jail term for subverting state power.⁶⁸
 - **Pu Zhiqiang**, a human rights lawyer and government critic, was detained in 2014, along with other attendees of a small gathering to mark the 25th anniversary of the 1989 military crackdown. In 2015, a Beijing court handed Pu a three-year suspended sentence for the crimes of "inciting ethnic hatred" and "disturbing public order," based in part on comments that he had made online.⁶⁹
 - **Wang Quanzhang**, a member of the Fengrui Law firm, defended Falun Gong practitioners, human rights lawyers, and victims of illegal land takings. After being detained during a trial reportedly for refusing a judge's command, Wang wrote a legal manual on judicial detention for other rights lawyers. Wang was

⁶⁴ Te-Ping Chen, "Chinese Human Rights Lawyer's Legal License Is Suspended," *Wall Street Journal*, December 2, 2016.

⁶⁵ "Bailed Chinese Human Rights Lawyers Have Yet to Regain Liberty," *Radio Free Asia*, August 8, 2016; Human Rights in China, "Profiles: Gou Hongguo, Hu Shigen, Zhai Yanmin, and Zhou Shifeng," August 5, 2016.

⁶⁶ Javier C. Hernandez, "China Sentences Hu Shigen, Democracy Advocate, to 7 Years in Prison," *New York Times*, August 3, 2016.

⁶⁷ "Prominent Chinese Rights Activist Charged with Subversion after Being Held Six Months," *Reuters*, June 6, 2017; Chinese Human Rights Defenders, "Jiang Tianyong," <https://www.nhrd.org/2017/02/jiang-tianyong/>; Elizabeth M. Lynch, "Codifying Illegality? The Case of Jiang Tianyong," *China Law and Policy*, January 20, 2017.

⁶⁸ Chinese Human Rights Defenders, "Li Heping," <https://www.nhrd.org/2015/08/prisoner-of-conscience-li-heping/>; Lucy Hornby, "China Sends Warning to Lawyers with Secret Trials," *Financial Times*, April 30, 2017; "The Anti-Torture Work of Lawyer Li Heping That Irked the Chinese Authorities," *China Change*, January 26, 2017.

⁶⁹ Tom Phillips, "Scuffles Outside Beijing Court as Human Rights Lawyer Pu Zhiqiang Goes on Trial," *The Guardian*, December 21, 2015; Didi Tang, "Chinese Rights Lawyer Pu Denies All Police Charges," *Associated Press*, December 10, 2014.

- held incommunicado for 18 months and indicted on subversion charges in January 2017.⁷⁰
- **Wang Yu**, a rights lawyer at the Fengrui Law Firm who had defended Uyghur scholar Ilham Tohti as well as Chinese feminists, was detained in July 2015 and charged with subversion in January 2016. Wang was released on bail in August 2016 after she gave a televised confession that included a denunciation of her colleagues, which observers believe was coerced.⁷¹ Wang's husband and colleague, Bao Longjun, and their son, Bao Zhuoxuan, were detained in July 2015 as they attempted to board a flight for Australia so that Bao Zhuoxuan could attend high school there.
 - **Xia Lin**, an attorney who had assisted human rights lawyers such as Pu Zhiqiang and government critics such as Ai Weiwei, was found guilty of fraud and sentenced to 12 years in jail in September 2016. At his trial, Xia's lawyers raised numerous legal and procedural violations in his case.⁷²
 - **Xie Yang**, an attorney who defended rights advocates, was detained in July 2015. In January 2017, Xie's lawyers released a transcript of him describing various forms of torture that he stated he had endured during a period in which he was held incommunicado. During a court hearing on May 8, 2017, Xie, in what supporters say was a forced confession, pleaded guilty to charges of inciting subversion of state power, and denied that he had been tortured.⁷³ Xie was released on bail on May 9, 2017, before a verdict was announced.⁷⁴
 - **Zhai Yanmin**, a rights activist who worked for the Fengrui Law Firm, was convicted of subversion and handed a three-year suspended sentence in August 2016.⁷⁵
 - **Zhou Shifeng** headed the Fengrui law firm, which had taken on many politically sensitive cases. In August 2016, Zhou was found guilty of subverting state power and sentenced to seven years in prison.⁷⁶

⁷⁰ Nectar Gan, "Human Rights Lawyer Swept Up in 709 Crackdown to Face Court in Tianjin for Subversion," *South China Morning Post*, February 16, 2017; Michael Caster and Peter Dahlin, "China Should Be Proud of Wang Quanzhang—Instead It Persecutes Him," *The Guardian*, September 22, 2016.

⁷¹ Javier Hernandez, "China Frees Wang Yu, Human Rights Lawyer, after Videotaped Confession," *New York Times*, August 1, 2016.

⁷² Tom Phillips, "China: Lawyer for Ai Weiwei Jailed for 12 Years in 'Severe Retaliation,'" *The Guardian*, September 22, 2016; Chinese Human Rights Defenders, "Xia Lin," <https://www.nchrd.org/2015/02/prisoner-of-conscience-xia-lin/>.

⁷³ Nectar Gan, "Chinese Rights Lawyer Pleads Guilty to Subversion," *South China Morning Post*, May 8, 2017; Josh Chin, "Document of Torture: One Chinese Lawyer's Story from Jail," *Wall Street Journal*, January 20, 2017.

⁷⁴ "Rights Lawyers Li Heping and Xie Yang Released from Jail," *China Digital Times*, May 10, 2017; Tom Phillips, "China Puts Leading Human Rights Lawyer on Trial for Subversion," *The Guardian*, May 8, 2017; "UN Denounces China Crackdown on Lawyers, Seeks Release," *Reuters*, May 5, 2017.

⁷⁵ "Bailed Chinese Human Rights Lawyers Have Yet to Regain Liberty," *Radio Free Asia*, op. cit.; Human Rights in China, "Profiles: Gou Hongguo, Hu Shigen, Zhai Yanmin, and Zhou Shifeng," op. cit.

⁷⁶ Javier C. Hernandez, "Zhou Shifeng, Chinese Lawyer, Is Sentenced to 7 Years for Subversion," *New York Times*, August 4, 2016.

Civil Society

In the past decade, the impact of nongovernmental organizations, also known in China as “social organizations” or “civil society organizations,” has grown.⁷⁷ The PRC government increasingly has contracted the public provision of social services to NGOs, and nonstate entities have played a small but growing role in social advocacy and policy input. Environmental groups were at the forefront of civil society development, and some of them were met with resistance or repression by state authorities. Other types of social organizations have emerged in the areas of public health, education, rural development, legal aid, and policy research. China has over 650,000 registered NGOs, according to the Ministry of Civil Affairs, while the number of unregistered NGOs ranges from 1 million to 7 million.⁷⁸ In addition, in 2016, several thousand foreign NGOs operated in China, of which about 1,000 had an established presence and 4,000-6,000 engaged in short-term projects, according to official and unofficial Chinese sources.⁷⁹ In 2013, the PRC government announced that the process by which domestic NGOs could register to operate would be simplified, allowing them to apply directly to the Bureau of Civil Affairs to acquire legal status without also obtaining an official sponsor or supervisory unit. The government released draft legislation allowing direct registration for some types of NGOs in 2016.⁸⁰

Many experts view civil society broadly—the nonstate, nonbusiness component or “third sphere” of society that includes NGOs, grass-roots groups, religious congregations, academia, trade unions, political and other organizations—as a vital agent through which human rights and democracy are defended and exercised. Under Xi Jinping, the PRC government increasingly has tried to manage civil society, which he and other leaders apparently view as a potential security threat, while attempting to harness its value. Many individuals and NGOs working in areas previously deemed acceptable or even praiseworthy by the government have faced growing restrictions. Many U.S.-based and other international NGOs in China, particularly those engaged in rule of law programs and social advocacy work, have faced increasing scrutiny, and new regulations have placed additional constraints on foreign NGOs. Although the number of civil society organizations may still be growing, according to one expert, the “space in which civil society may operate is actually shrinking.”⁸¹ In January 2016, state security officers detained and then deported Peter Dahlin, a Swedish national who had cofounded the Beijing-based Chinese Urgent Action Working Group, which provided legal aid and trained Chinese rights defenders. In a later interview, Dahlin stated, “I think the era for effecting change in China seems to be over for now for NGOs.”⁸²

⁷⁷ PRC commentators often prefer to use the term “social organization” rather than “nongovernmental organization” in order to avoid suggesting an adversarial relationship between society and the state. Some Western analysts use the term “civil society organization” rather than “nongovernmental organization” to reflect Chinese NGOs’ lack of real autonomy.

⁷⁸ The estimates of unregistered NGOs include organizations registered as business entities. Congressional-Executive Commission on China, *Annual Report 2016*, op. cit.; Kristie Lu Stout, “People Power in the People’s Republic of China,” *CNN*, June 26, 2014.

⁷⁹ Edward Wong, “U.S. Denounces Chinese Law Restricting Foreign Operations,” *New York Times*, April 29, 2016; Nectar Gan, “China’s Controversial New Law on Foreign NGOs to Include Greater Police Oversight, Stricter Financial Scrutiny,” *South China Morning Post*, April 26, 2016; Didi Kirsten Tatlow, “China Wrestles with Draft Law on Nongovernmental Organizations,” *New York Times*, March 11, 2016.

⁸⁰ Congressional-Executive Commission on China, *Annual Report 2016*, op. cit.

⁸¹ “Chinese Civil Society: Beneath the Glacier,” *The Economist*, April 12, 2014.

⁸² Edward Wong, “Inside China’s Secret 23-Day Detention of a Foreign Nonprofit Chief,” *New York Times*, July 9, 2016.

New PRC Laws

At the end of the Fourth Plenum of the CCP's 18th Party Congress, held in October 2014, the CCP Central Committee issued a communique proclaiming that it was essential to "comprehensively advance the law-based governance of the country," including the need to "improve the system for ensuring independent and impartial exercise of judicial and procuratorial powers in accordance with the law." The statement, however, also stressed that "[u]pholding the Party's leadership is fundamental to socialist rule of law...."⁸³ Although the PRC government under Xi Jinping has furthered the development of the law in some areas related to human rights and civil society, such as criminal justice, domestic violence, and philanthropy, it largely has developed the law to strengthen CCP rule. The National People's Congress (NPC) has passed new laws that appear to strengthen the role of the state over a wide range of social activities in the name of national security, place additional restrictions on defense lawyers, and authorize greater government controls over the Internet and ethnic minority groups. According to one analyst, "Under Xi Jinping the government is creating a more coherent legal framework to enforce the preservation of the party-state."⁸⁴ In January 2016, the ambassadors of the United States, Canada, Germany, Japan, and the European Union, in a "rare joint response," signed a letter to China expressing concerns about the new laws. The letter stated, "While we recognize the need for each country to address its security concerns, we believe the new legislative measures have the potential to impede commerce, stifle innovation, and infringe on China's obligation to protect human rights in accordance with international law."⁸⁵

National Security Law

In July 2015, China's National People's Congress passed a new National Security Law that provides legal grounds for greater scrutiny and state control over many social, ethnic, and cultural activities as well as speech. Some critics argue that the law's expansiveness and vague wording may grant the government the authority to violate human rights in "almost every domain of public life" in the name of national security.⁸⁶ According to the law, the state resists "negative cultural influences," punishes "activities dividing ethnicities," and opposes "foreign influences" that interfere with domestic religious affairs, among other mandates.⁸⁷ Article 25 establishes a system for securing the Internet, including preventing illegal activity such as network attacks, cybertheft, and the dissemination of unlawful and harmful information.⁸⁸

⁸³ Shannon Tiezzi, "4 Things We Learned from China's 4th Plenum," *The Diplomat*, October 23, 2014; Communiqué of the Fourth Plenary Session of the 18th Central Committee of the Communist Party of China, October 23, 2014, http://www.china.org.cn/china/fourth_plenary_session/2014-12/02/content_34208801.htm.

⁸⁴ Tom Mitchell, "Xi's China: Smothering Dissent," *Financial Times*, July 27, 2016.

⁸⁵ Jason Subler, "Exclusive: Major Powers Team Up to Tell China of Concerns over New Laws," *Reuters*, March 1, 2016.

⁸⁶ Edward Wong, "Chinese Security Laws Elevate the Party and Stifle Dissent. Mao Would Approve," *New York Times*, May 29, 2015; Ankit Panda, "The Truth About China's New National Security Law," *The Diplomat*, July 1, 2015; Council on Foreign Relations, "National Security Law of the People's Republic of China," July 1, 2015; Edward Wong, "China Approves Sweeping Security Law, Bolstering Communist Rule," *New York Times*, July 1, 2015.

⁸⁷ China Law Translate, "National Security Law," July 1, 2015, <http://chinalawtranslate.com/2015nsl/?lang=en>.

⁸⁸ *Ibid.*

Cybersecurity Law

In November 2016, the NPC passed the Cybersecurity Law. A Chinese government official stated, “The law fits international trade protocol and its purpose is to safeguard national security.”⁸⁹

Analysts say that while most policies promoted by the law are not new, the law provides a legal framework for the centralization and coordination of China’s efforts to control the Internet.

The cybersecurity law gives the government broad powers to control the flow of online traffic, including blocking the dissemination of unlawful information and temporarily restricting network communications for the purposes of protecting social order or national security.⁹⁰ Its detractors say that the law establishes categories of illegal Internet use that can be interpreted broadly for political purposes. While Article 12 provides that the state “protects the rights of citizens, legal persons, and other organizations to use networks in accordance with law,” it outlaws activities in a number of vague areas that may result in infringements upon freedom of speech. Prohibited online activities include those that endanger “national security, national honor and interests”; incite “subversion of national sovereignty,” “the overturn of the socialist system,” “separatism,” and “ethnic hatred and ethnic discrimination”; undermine “national unity”; advocate “terrorism or extremism”; and create or disseminate “false information to disrupt the economic or social order.”⁹¹ The law also places greater legal burdens upon private Internet service providers (“network operators”) to monitor content, obtain information on the real identity of their customers, participate in the state’s network security protection system, and assist public security organs.

Counterterrorism Law

New counterterrorism legislation, passed in December 2015, contains provisions that critics say potentially may be used to stifle free speech, particularly among Uyghur Muslims. In particular, some analysts note that the definition of terrorism contained in the law includes not only actions but also “propositions.”⁹² Article 19 restricts media coverage of terrorist incidents, and “where information with terrorist or extremist content is discovered, its dissemination shall immediately be halted.” Although Article 6 states that counterterrorism efforts “be conducted in accordance with law” and “respect and protect human rights,” some analysts assert that the law grants “enormous discretionary powers” to the state and that the government has not passed corresponding safeguards against potential human rights violations.⁹³

⁸⁹ “China Adopts Cybersecurity Law Despite Foreign Opposition,” *Bloomberg News*, November 7, 2016.

⁹⁰ See Article of 58 of the Cybersecurity Law. China Law Translate, “2016 Cybersecurity Law,” November 7, 2016, <http://www.chinalawtranslate.com/cybersecuritylaw/?lang=en>.

⁹¹ *Ibid.*

⁹² Article 3 states: “‘Terrorism’ as used in this Law refers to propositions and actions that create social panic, endanger public safety, violate person and property, or coerce national organs or international organizations, through methods such violence, destruction, intimidation, so as to achieve their political, ideological, or other objectives.” China Law Translate, “Counter-Terrorism Law,” December 28, 2015, <http://www.chinalawtranslate.com/bilingual-counter-terrorism-law/?lang=en>.

⁹³ *Ibid.*; Zunyou Zhou, “China’s Comprehensive Counter-Terrorism Law,” *The Diplomat*, January 23, 2016; Shannon Tiezzi, “China’s New Anti-Terrorism Law,” *The Diplomat*, December 29, 2015.

Overseas NGO Law

A new law regulating foreign and overseas nongovernmental organizations, which went into effect in January 2017, has raised international concern.⁹⁴ Foreign observers believe that the law reflects the PRC leadership's suspicion of foreign influences on civil society, by placing overseas NGOs under the jurisdiction of the Ministry of Public Security, and no longer the Ministry of Civil Affairs. The new law tightens registration requirements on foreign NGOs, many of which have been operating without official ties and status, by mandating that they find a government agency ("professional supervisory unit") to sponsor them. New regulations also impose greater supervision and potentially greater controls upon their activities, funding, and staffing.⁹⁵ Experts contend that PRC leaders fear the kinds of political uprisings, aided by civil society and the support of foreign NGOs and governments, that they perceive fueled popular demonstrations and toppled governments in Eastern Europe and Central Asia in the early 2000s and the Middle East in 2010-2011.⁹⁶

Many observers say the foreign NGO law's vague and broad provisions have created an air of uncertainty. Some experts argue that while local authorities may enforce the law with flexibility, foreign NGOs that fail to comply potentially may face civil or criminal penalties. Furthermore, foreign NGOs that work in politically sensitive areas may be especially vulnerable to arbitrary applications of the law.⁹⁷ Article 47, for example, prohibits NGOs from engaging in any act that "endangers national security" or "harms national interests." Other illegal activities under the law include engaging in or funding political or religious activities.⁹⁸

Human rights groups assert that the law may deal "a very severe blow" to foreign NGOs and the domestic NGOs with which they often support, train, and partner, thus causing a "ripple effect" throughout Chinese civil society.⁹⁹ Some foreign NGOs have suspended or ceased operations, while domestic social organizations have reported a drop in foreign funding.¹⁰⁰ Some observers contend that the new law may prove too burdensome or pose too many risks for many foreign NGOs, particularly smaller ones or those involved in human rights and related activities. Others worry that the law may hamper people-to-people exchanges, including cultural, business, and professional interactions. Some fear that many foreign NGOs may have difficulties finding appropriate professional supervisory units, or that official PRC entities may decline to partner with foreign NGOs due to possible political risks.¹⁰¹ In response to U.S. government and other criticism of the foreign NGO law, an NPC official asserted that "We have always held a welcoming and supportive attitude toward overseas NGOs that are engaged in friendly activities

⁹⁴ The law applies to NGOs from foreign countries as well as "overseas" Hong Kong and Macau.

⁹⁵ China Law Translate, "2016 PRC Law on the Management of Foreign Non-Governmental Organizations' Activities Within Mainland China," <http://www.chinalawtranslate.com/2016-foreign-ngo-law/?lang=en>.

⁹⁶ Stanley Lubman, "China's New Law on International NGOs—and Questions about Legal Reform," *Wall Street Journal*, May 25, 2016; Edward Wong, "U.S. Denounces Chinese Law Restricting Foreign Operations," op. cit.

⁹⁷ Simon Denyer, "In China, Civic Groups May Face New Controls," *Washington Post*, March 25, 2015; Human Rights Watch, "China: Scrap Repressive Foreign Organizations Law," June 2, 2015.

⁹⁸ Law of the People's Republic of China on Administration of Activities of Overseas Nongovernmental Organizations in the Mainland of China, *Adopted at the 20th Meeting of the 12th Standing Committee of the National People's Congress on April 28, 2016*, <http://www.mps.gov.cn/n2254314/n2254409/n4904353/c5548987/content.html>.

⁹⁹ Julie Makinen, "China's Move Toward Restricting Foreign NGOs Spurs Anxiety in Many Organizations," *Los Angeles Times*, July 5, 2016; Simon Denyer, "In China, Civic Groups May Face New Controls," op. cit.

¹⁰⁰ Department of State, *Country Reports on Human Rights Practices for 2016 (China)*, March 3, 2017.

¹⁰¹ Zheping Huang "NGOs Are Under Threat in China's Latest Crackdown Against 'Foreign Forces,'" *Quartz*, January 4, 2017.

in China.... But an extremely small number of NGOs attempt to, or have already engaged in, activities that endanger China's social stability and state security. Therefore, we need to apply the rule of law to overseas NGOs' activities in China."¹⁰²

Charity Law

In 2016, the NPC passed China's first Charity Law.¹⁰³ The law eases registration requirements for charitable organizations and allows them to engage in public fundraising, but also strengthens government oversight. Backers of the legislation say that tougher reporting requirements are designed to improve transparency, protect donors, and improve public trust in charitable organizations. Some human rights groups have expressed concern that provisions of the law prohibiting the funding of activities that contravene national security may be used broadly against politically sensitive activities. Some critics contend that the law potentially restricts informal fund-raising, such as online crowdsourcing, which has become a means by which some citizens have provided financial support to Chinese dissidents and their families.¹⁰⁴

Family Violence Law

China's first national law on domestic violence, the culmination of years of efforts by Chinese women's rights advocates, went into effect in March 2016. The Anti-Domestic Violence Law covers physical and mental abuse between family members and cohabitating couples. It provides stronger legal mechanisms by which to protect women from domestic abuse. Although the legislation was heralded as a "significant step forward" in the area of women's rights, the government has placed some restrictions on women's rights advocates during the recent crackdown on civil society. In 2016, authorities ordered the closure of the Beijing Zhongze Women's Legal Counseling and Service Center, reportedly without providing a reason. The Center had provided services in the areas of anti-domestic violence litigation and rural women's land rights for over two decades.¹⁰⁵

Frequently Raised Human Rights Issues

The following sections discuss prominent human rights concerns that frequently have been raised by human rights organizations and some Members of Congress. The bullet points below provide selected examples of ongoing human rights issues in China, some of which are discussed at greater length elsewhere in this report. For more detailed descriptions of human rights topics, see the Congressional-Executive Commission on China, *Annual Report 2016* and the Department of State, *Country Reports on Human Rights Practices for 2016*.¹⁰⁶ The PRC government has

¹⁰² Simon Denyer, "China Passes Law Tightening Regulation of Foreign NGOs," *Washington Post*, April 29, 2016; Press Conference of the Standing Committee of the National People's Congress, April 28, 2016, translated by China Law Translate, May 4, 2016, <http://www.chinalawtranslate.com/fngo-law-presser/?lang=en>.

¹⁰³ China Development Brief, "The Charity Law of the People's Republic of China," <http://chinadevelopmentbrief.cn/wp-content/uploads/2016/04/Charity-Law-CDB-Translation.pdf>.

¹⁰⁴ "China Approves Law on Charities, NGOs," *Voice of America*, March 26, 2016; "China's New Charity Law Makes Donating Easier, Tightens Control," *Deutsche Presse-Agentur*, September 1, 2016; Laura E. Butzel and David J. O'Connell, "China's New Laws on Foreign and Domestic NGOs," Exemptorgresource.com, May 19, 2016.

¹⁰⁵ Chen Tingting, The Asia Foundation, "Battling Domestic Violence in China," *In Asia*, June 29, 2016; Didi Kirsten Tatlow, "China Said to Force Closure of Women's Legal Aid Center," *New York Times*, January 29, 2016; Department of State, *Country Reports on Human Rights Practices for 2016 (China)*, op. cit.

¹⁰⁶ Congressional-Executive Commission on China, *Annual Report 2016*, op. cit., and Department of State, *Country Reports on Human Rights Practices for 2016 (China)*, op. cit. (continued...)

attempted to reduce rights violations in some of these areas. However, the lack of checks on state power and the CCP's subordination of the law to its objective of maintaining its authority and "social stability" continue to lead to human rights abuses and violations of China's own constitution. Jerome Cohen, an expert on Chinese law and politics, suggests that although China has made progress in some legal areas, fundamental human rights problems endure:

The lesson of the past twenty-five years seems to be that economic and social progress, enactment of better legislation, improvements in legal institutions, and reformist official policy statements do not guarantee either the enjoyment of civil and political rights or the protection of political and religious activists and their lawyers against the arbitrary exercise of state and party power.¹⁰⁷

Ongoing Human Rights Issues: Selected Examples¹⁰⁸

- Harassment, detention, house arrest, prison terms, and residential surveillance of protest leaders, civil society activists, journalists covering stories that authorities deem to be politically sensitive, petitioners, and political dissidents and their family members.
- Arbitrary use of state security and "social stability" laws against political dissidents.
- Holding dissidents incommunicado for long periods and failing to comply with legal provisions that require authorities to notify family members of their detention.
- Strict controls and punishments for speech that authorities deem to be politically sensitive; heavy censorship of online communication and expression.
- Forced closure of law offices and suspension or revocation of attorneys' law licenses; physical assaults, detention, house arrest, prison terms, and residential surveillance of attorneys who take on cases authorities deem to be politically sensitive.
- Physical and mental abuse against criminal suspects and administrative detainees, in some cases resulting in forced confessions and sometimes resulting in death.
- Harsh religious and ethnic policies and the arbitrary use of state security laws against Tibetans and Uyghurs.
- Harassment and arrests of some Christians worshipping in unregistered churches; demolition or forced alterations of church properties in some localities.
- Detention of Falun Gong adherents and forced renunciations of their beliefs.
- Repatriation of North Korean nationals residing in China, who may face severe forms of punishment after returning to North Korea, in violation of U.N. conventions.

(...continued)

Reports on Human Rights Practices for 2016 (China), op. cit.

¹⁰⁷ Jerome Cohen, "After June 4, China Is Still Fumbling Towards Respect for Rights of All," *South China Morning Post*, June 2, 2014.

¹⁰⁸ See Congressional-Executive Commission on China, *Annual Report 2016*, op. cit., and Department of State, *Country Reports on Human Rights Practices for 2016 (China)*, op. cit.

- Government harassment, intimidation, and obstruction of independent or non-CCP candidates and their supporters in local elections; alleged manipulation of ballots and electoral procedures in order to exclude independent candidates.¹⁰⁹
- Violations of international labor rights, including the right to form independent labor unions, limitations on collective bargaining, and arrests of strike leaders and labor activists.¹¹⁰
- Constraints on foreign journalists in China, including restrictions on movement and cases of harassment and intimidation by state security agents when journalists attempt to report on events that authorities deem to be politically sensitive or interview local citizens.¹¹¹
- Trafficking in persons, including reports of forced labor in Xinjiang, drug rehabilitation facilities, and administrative and extrajudicial detention centers, forced labor and sex trafficking, and the forced labor in China and forcible repatriation of North Koreans. In 2017, the Department of State downgraded China to Tier 3, for not “fully meet[ing] the minimum standards for the elimination of trafficking” and “not making significant efforts to do so.”¹¹²

Rule of Law

Many experts believe that strengthening the rule of law is a key means of protecting human rights and an important area of U.S. engagement in China. The lack of judicial independence, adequate legal protections, and due process guarantees for many dissidents, protest leaders, rights lawyers, activists, journalists, and ordinary aggrieved citizens, as well as the people and interests that they represent, undermines progress in human rights conditions in the PRC. Some policy experts argue that calling on PRC leaders to abide by provisions in China’s own constitution and laws is one of the most effective ways for international actors to promote human rights in the PRC. In recent years, the Chinese government has enacted some measures aimed at reducing arbitrary applications of the law and some patterns of human rights abuse as well as making the government more transparent. However, the Communist Party and its main policy objectives generally remain above the law, particularly in areas that China’s leaders deem politically sensitive.

Since 2014, the PRC government has announced some policies aimed at reducing government influence over the courts, particularly at the local level. Reforms include transferring power over budgets and personnel appointments of basic level courts from local to provincial governments.¹¹³ In 2015, the Supreme People’s Court (SPC) issued an opinion directing judges to record instances

¹⁰⁹ PRC citizens can directly elect officials to village committees and assemblies and to the larger township, county, and municipal district People’s Congresses. Although voters generally have a choice of candidates, who are not required to be Communist Party members, CCP election committees may disqualify candidates at any level, and they may effectively control candidate lists.

¹¹⁰ Lucy Hornby, “Workers’ Rights Activists Sentenced in China,” *Financial Times*, September 26, 2016; Javier C. Hernandez, “Labor Protests Multiply in China as Economy Slows, Worrying Leaders,” *New York Times*, March 14, 2016.

¹¹¹ Roy Greenslade, “Foreign Journalists Working in China Face Increased Harassment,” *The Guardian*, November 15, 2016.

¹¹² Department of State, *Trafficking in Persons Report*, June 2017.

¹¹³ Stanley Lubman, “Power Shift: Hopeful Signs in China’s Legal Reform,” *Wall Street Journal*, July 10, 2014; Andrew Jacobs and Chris Buckley, “China Moves to Enact Rule of Law, with Caveats,” *New York Times (International)*, October 23, 2014; Ren Jin, “Judicial Reform Enforces Rule of Law,” *China Daily*, December 4, 2014.

of Party and state interference. In addition, the SPC has made efforts to retry cases of wrongful conviction and reduce the rate of pretrial detention.¹¹⁴ Some experts contend, however, that China's leaders may want to reduce corruption of the judicial branch at the local level, but not to subject the national government to judicial oversight.¹¹⁵ In January 2017, Zhou Qiang, President of China's Supreme People's Court, who is known as a reformer, publicly denounced the "Western" notion of judicial independence. Some experts say that Zhou's speech reflected pressure from Xi Jinping.¹¹⁶

Government Transparency

In 2016, the government published new guidelines promoting the "open government information" (OGI) system, which obliges government agencies to publish official materials on matters that are of public interest and allows citizens to submit requests for government information. Areas for public disclosure include major policies, assessments and audits of policies in force, government-held records, and government agencies' administrative powers and responsibilities. The guidelines exempt some kinds of information from disclosure, including information that might "endanger state security, public security, and social stability."¹¹⁷ According to some studies, many requests go unanswered, although some citizens have taken their cases to the courts, claiming that local governments are not complying with the law.¹¹⁸ In 2015, the Supreme People's Court began to provide information on trials, verdicts, and the implementation of court decisions online. In 2016, China's court system launched a website, China Open Trial Network, which airs selected criminal, administrative, and civil proceedings, as part of a move to expand people's trust in the judicial system, according to experts.¹¹⁹

Criminal Justice

China's criminal justice system remains rife with abuses, especially in human rights cases. The rate of legal representation remains low, the role of lawyers is severely constrained, and there is a heavy presumption of guilt and alleged reliance upon forced confessions. In recent years, government funding for legal aid has increased, and access to legal counsel reportedly has improved. However, the rate of legal representation in criminal cases has dropped to roughly 20%, and although the acquittal rate has increased, the conviction rate remains at over 99% in criminal trials.¹²⁰ Judges retain significant discretion over whether witnesses or accusers must appear in court, and only a small percentage of trials reportedly involve witnesses, thus weakening the defense in many cases.¹²¹

In 2015, the government announced new regulations to "safeguard lawyers' rights," including the rights for lawyers to meet with their clients and collect evidence. Legal experts say, however, that

¹¹⁴ Human Rights Watch, *World Report 2017: China – Events of 2016*, <https://www.hrw.org/world-report/2017/country-chapters/china-and-tibet>.

¹¹⁵ "Trump Attacks and the State of China's Legal System," *China Digital Times*, February 13, 2017.

¹¹⁶ Michael Forsythe, "China's Chief Justice Rejects an Independent Judiciary, and Reformers Wince," *New York Times*, January 18, 2017.

¹¹⁷ Jamie P. Horsley, "China Promotes Open Government as it Seeks to Reinvent Its Governance Model," Wilson Center, Kissinger Institute on China and the United States, February 23, 2016; Congressional-Executive Commission on China, "Regulations on Open Government Information of the People's Republic of China," <http://www.cecc.gov/resources/legal-provisions/regulations-of-the-peoples-republic-of-china-on-open-government>.

¹¹⁸ Bruce Dickson, *The Dictator's Dilemma*, New York: Oxford University Press, 2016.

¹¹⁹ Department of State, *Country Reports on Human Rights Practices for 2015 (China)*, April 13, 2016; Jerome Cohen and David Wertime, "A Crack of Daylight Enters Chinese Court Proceedings," *Foreign Policy*, October 12, 2016.

¹²⁰ Congressional-Executive Commission on China, Annual Report 2016, op. cit.; "China Lags Behind in Rule-of-Law Ranking," *Wall Street Journal*, October 20, 2016; Cao Yan, "Courts Act To Improve Protection of Rights," *China Daily*, March 13, 2017.

¹²¹ Department of State, *Country Reports on Human Rights Practices for 2016 (China)*, op. cit.

other revisions to the law further curtail the role of defense lawyers in sensitive cases. Under new laws and regulations, lawyers may face penalties for “insulting, defaming, or threatening judicial officers,” “severely disrupting courtroom order,” disclosing client or case information to the media, or using the media and other public means to influence court decisions.¹²² Some Chinese lawyers openly opposed the changes.¹²³

Forms of Detention

The PRC government practices various forms of detention in violation of China’s obligations under international law and in some cases its own laws. The Criminal Procedure Law permits suspects of serious crimes, including “endangering state security” and terrorism, to be placed at a “designated location” (residential surveillance) for up to six months, and the law does not require the family to be notified of the place of detention (Article 73).¹²⁵ Although the government formally abolished the Re-education Through Labor (RETL) system in 2013, in practice public security bureaus continue to administratively detain many citizens for minor political offenses, such as “creating a disturbance and causing trouble,” without trial.¹²⁶ Many people are held in quasilegal and extralegal forms of detention, such as “Legal Education Centers,” said to hold many Falun Gong members; psychiatric (*ankang*) facilities; and “black jails.”¹²⁷ These and other forms of incarceration can be even more secretive and prone to abuses than the former RETL facilities.¹²⁸ In April 2016, the U.N. Working Group on Arbitrary Detention criticized Chinese authorities for their detention and treatment of U.S. citizen Sandy Phan-Gillis, stating that they had violated “international norms relating to the right to a fair trial and to liberty and security.”¹²⁹

Administrative Detention

Black jails: unofficial, secretive detention centers in various unmarked places such as hotels, residences, government offices, and abandoned buildings.

Legal Education Centers: Purpose-built and ad hoc locations often used to “transform” Falun Gong practitioners or to persuade or coerce them to renounce their beliefs.

Community Correction Centers: Under this system, parolees, juveniles, and other minor offenders are restricted in traveling but generally live in their own residences while attending classes on “public morality,” current affairs, and the law, and taking part in social service activities.¹²⁴

Torture

China’s criminal justice system has continued to utilize torture, particularly as a means to extract confessions. Amendments to the Criminal Procedure Law (CPL), which went into effect in 2013,

¹²² Department of State, *Country Reports on Human Rights Practices for 2015 (China)*, op. cit.

¹²³ David Bandurski, “Speak Not of Lawyers Speaking Out,” China Media Project, October 12, 2016.

¹²⁴ Dui Hua Foundation, “Community Correction Expands as RTL Contracts,” December 19, 2013; Dui Hua Foundation, “Criminal Detention as Punishment in Post-RTL Era,” January 22, 2014.

¹²⁵ Congressional-Executive Commission on China, “Criminal Procedure Law of the People’s Republic of China,” <http://www.cecc.gov/resources/legal-provisions/criminal-procedure-law-of-the-peoples-republic-of-china>.

¹²⁶ PRC citizens can be administratively detained for such activities as participating in demonstrations or petitioning the government.

¹²⁷ Department of State, *Country Reports on Human Rights Practices for 2016 (China)*, op. cit.

¹²⁸ Margaret K. Lewis, Professor of Law, Testimony before the Congressional-Executive Commission on China, “China’s Pervasive Use of Torture,” April 24, 2016; Frank Langfitt, “China Ends One Notorious Form of Detention, But Keeps Others,” *NPR*, February 5, 2014.

¹²⁹ Human Rights Council, “Opinion No. 12/2016,” http://www.ohchr.org/Documents/Issues/Detention/Opinions/Session75/Opinion_2016_12_China.pdf.

prohibit the use of confessions obtained under torture as evidence and require audio or video recordings of interrogations in major criminal cases.¹³⁰ The United Nations Committee against Torture concluded in late 2015, however, that despite these legal reforms, China had failed to eliminate torture and numerous other forms of ill treatment, particularly during the pretrial period and in cases of extralegal detention. The committee also expressed concern over the lack of a legal guarantee for the right of detained persons to immediately meet with a lawyer.¹³¹

Re-education Through Labor System (RETL)

Established in the mid-1950s, China's Re-education Through Labor (*laojiao*) penal system was long used to detain citizens who were perceived to pose a threat to "social stability" or political control, but whose offenses were not considered serious enough to warrant criminal prosecution. RETL, an administrative measure that did not involve courts or judicial processes, empowered the police to sentence persons deemed guilty of minor or noncriminal offenses to a maximum of three to four years in labor camps without trial. These offenses included petty theft, illegal drug possession, and prostitution, as well as activities that authorities deemed to be politically sensitive, such as participating in unauthorized religious groups and alleged cults such as Falun Gong, "disrupting social order," presenting formal complaints against the government (petitioning), and rights advocacy. Estimates of the RETL population vary, from roughly 160,000 to 260,000 detainees at any time in roughly 350 centers before they were abolished.¹³² According to some estimates, the facilities held up to 300,000 to 400,000 prisoners at their peak, especially when they swelled with Falun Gong practitioners during the mid-2000s.¹³³ According to some estimates, in recent years, drug offenders constituted the largest group in the RETL system, and between 2% and 10% of the RETL population were political prisoners.¹³⁴ Although RETL conditions and sentences were in many cases less severe than prison terms, human rights groups reported many abuses in RETL centers, including forced labor, beatings, psychological torment, sexual assaults, lack of proper food, and inadequate access to medical care, in some cases resulting in death.¹³⁵

In 2016, a joint statement issued by China's judicial, procuratorial, and public security bodies reiterated that suspects must not be forced into confessing crimes and that any evidence collected through coercion should be excluded from their cases.¹³⁶ The Ministry of Public Security issued disciplinary regulations aimed at holding police officers accountable for misconduct, including for obtaining confessions through torture, and subjecting them to criminal, administrative, and disciplinary punishments.¹³⁷ However, reports of torture, including some that have caused public outrage, have continued.¹³⁸ The Communist Party's internal disciplinary system, known as

¹³⁰ Dui Hua Foundation, *Annual Report 2012*, http://duihua.org/wp/wp-content/uploads/2013/05/AR2012/2012AR_Eng_web.pdf; "China Bans Forced Confessions in Investigations," Xinhua, December 26, 2012.

¹³¹ United Nations Committee Against Torture, *Concluding Observations on the Fifth Periodic Report of China*, February 3, 2016.

¹³² Maya Wang, "Rights Group: China May Not Be Ready for Labor Camp Reforms," *CNN*, January 16, 2013; Minnie Chan, "Kinder Face for Notorious Re-education Camps," *South China Morning Post*, February 21, 2007; Jim Yardley, "Issue in China: Many Jails Without Trial," *New York Times*, May 9, 2005.

¹³³ Julie Makinen, "China's Closure of Labor Camps Gets Qualified Applause," *Los Angeles Times*, January 18, 2014; *Changing the Soup but Not the Medicine: Abolishing Re-education Through Labor in China*, Amnesty International, 2013. Falun Gong adherents constituted up to one-half of all RETL detainees, according to some estimates. Department of State, *Country Reports on Human Rights Practices for 2009 (China)*, March 11, 2010.

¹³⁴ Dui Hua Foundation, January 2013.

¹³⁵ *Changing the Soup but Not the Medicine: Abolishing Re-education Through Labor in China*, op. cit.; Department of State, *Country Reports on Human Rights Practices for 2013 (China)*, February 27, 2014.

¹³⁶ "China's Government Tries Again to Stop Forced Confessions Through Torture," *Reuters*, October 10, 2016.

¹³⁷ Margaret K. Lewis, Professor of Law, "China's Pervasive Use of Torture," Testimony before the Congressional-Executive Commission on China, April 24, 2016.

¹³⁸ Amnesty International, "Urgent Action Update: Website Founder at Risk of Torture," January 13, 2017; Chun Han Wong, "China Middle-Class Anger Reignited by Death of Researcher in Custody," *Wall Street Journal*, December 27, 2016.

shuanggui, has swelled with cases as part of Xi Jinping's anticorruption drive. Human rights groups and relatives of CCP members subjected to the process, in which the accused do not have the right to legal counsel, have alleged widespread use of torture to extract confessions.¹³⁹

Prisoners of Conscience

The number of political prisoners in China is difficult to determine, although thousands of citizens are estimated to have been detained and incarcerated for exercising internationally recognized freedoms of speech and assembly, engaging in religious activities that are not officially approved, or promoting ethnic minority rights in cases involving grievances against the state. The Dui Hua Foundation, a U.S.-based human rights organization that focuses on the treatment of prisoners, criminal justice reforms, and women's rights in China, estimated that there were 6,700 political and religious prisoners as of June 2016.¹⁴⁰ These numbers include practitioners of Falun Gong and many Tibetans and Uyghurs. The Congressional-Executive Commission on China (CECC) maintains a Political Prisoner Database that contains information on over 1,400 cases of political and religious prisoners known or believed to be detained or imprisoned, noting that there are considerably more cases than those documented in the database.¹⁴¹ According to the Department of State, those held in prison or administrative detention in China for reasons related to politics and religion number in the tens of thousands.¹⁴² Some of the most prominent cases are discussed below.

Liu Xiaobo

On July 13, 2017, Liu Xiaobo, a political dissident, writer, activist, and winner of the Nobel Peace Prize, died while serving an 11-year prison term. In December 2008, Liu helped draft "Charter 08," commemorating the 60th anniversary of the United Nations' adoption of the Universal Declaration of Human Rights, and inspired by "Charter 77" of the Czechoslovakian democracy movement that began in 1976. Charter 08, initially signed by over 300 PRC citizens, called for civil and political rights, legislative democracy, an independent judiciary, and a new Chinese Constitution, and urged the Chinese people to join to "work for major changes in Chinese society and for the rapid establishment of a free, democratic, and constitutional country."¹⁴³ The Charter eventually garnered roughly 10,000 additional signatures online.

On December 8, 2008, a day before Charter 08 was published online, Liu was detained by the Beijing police, and on December 25, 2009, a Chinese court sentenced him to 11 years in prison for "inciting subversion of state power" for his writings and use of the Internet, including coauthoring, signing, and distributing the Charter. Liu's indictment also included reference to six

¹³⁹ Chris Buckley, "Confessions Made Under Duress Tarnish China's Graft Fight," *New York Times*, December 6, 2016; Nathan Vanderklippe, "China Systematically Using Torture in War on Corruption: Report," *The Globe and Mail*, December 6, 2016. See also Human Rights Watch, "Special Measures: Detention and Torture in the Chinese Communist Party's Shuanggui System," December 6, 2016.

¹⁴⁰ Dui Hua Foundation, Databases, *Political Prisoners*, http://duihua.org/wp/?page_id=195.

¹⁴¹ Congressional-Executive Commission on China, *Political Prisoner Database*, October 2016, <http://www.cecc.gov/resources/political-prisoner-database>.

¹⁴² Department of State, *Country Reports on Human Rights Practices for 2016 (China)*, op. cit.

¹⁴³ For the full text of Charter 08, see Congressional-Executive Commission on China, "Charter 08 (Chinese and English Text)," December 10, 2008, <https://www.cecc.gov/resources/legal-provisions/charter-08-chinese-and-english-text>; Perry Link, "China's Charter 08," *New York Review of Books*, January 15, 2009, <http://www.nybooks.com/articles/2009/01/15/chinas-charter-08/>; Human Rights in China, "Charter 08," December 9, 2008, <http://www.hrichina.org/en/content/238>.

political essays that he wrote between 2005 and 2007.¹⁴⁴ In October 2010, the Nobel Committee awarded Liu the Nobel Peace Prize for his “long and non-violent struggle for fundamental human rights.” PRC authorities barred members and representatives of Liu's family from traveling to Oslo in December 2010 to accept his Nobel award, and placed Liu Xia, Liu Xiaobo's wife, effectively under house arrest.

Liu earned a reputation as an incisive critic of the Chinese Communist Party, an eloquent commentator on the harmful and “cruel” effects of many CCP policies on PRC society and citizens, and a supporter of gradual political reform driven “from below” through the raising of popular awareness about democracy.¹⁴⁵ He had undergone other periods of incarceration and house arrest for his writings and activism, including a 20-month sentence in prison following his participation in the 1989 Tiananmen demonstrations for democracy and three years in a Re-education Through Labor camp (1996-1999). Liu advocated for the families of those killed in the Tiananmen military crackdown and for an official reassessment of the events of June 1989.¹⁴⁶

In May 2017, Liu Xiaobo was granted medical parole, having been diagnosed with advanced-stage liver cancer. Liu Xiaobo's family asked the PRC government for permission for both Liu Xiaobo and Liu Xia, who also reportedly is ill, to seek medical treatment abroad.¹⁴⁷ Chinese authorities did not reduce Liu's sentence nor allow him to travel abroad for treatment, although they agreed to invite foreign medical experts to join a team of Chinese doctors treating Liu. A German and an American doctor who examined Liu on July 8, 2017, stated at that time that they believed Mr. Liu could be safely transported to Germany or the United States for treatment “with appropriate medical evacuation care and support, while Chinese authorities asserted that Liu's condition made him too ill for such a trip.¹⁴⁸ U.S. government officials urged Beijing to allow Liu to travel abroad for medical treatment and to free Liu Xia from house arrest and to allow her to go abroad as well.¹⁴⁹

Following Liu Xiaobo's death, Secretary of State Rex Tillerson called on the Chinese government “to release Liu Xia from house arrest and allow her to depart China, according to her wishes.” Tillerson also stated that “I join those in China and around the world in mourning the tragic passing of 2010 Nobel Peace Prize Laureate Liu Xiaobo, who died while serving a lengthy prison

¹⁴⁴ Congressional-Executive Commission on China, “Prosecutors Indict Liu Xiaobo; Trial to Take Place December 23,” December 22, 2009, <http://www.cecc.gov/publications/commission-analysis/prosecutors-indict-liu-xiaobo-trial-to-take-place-december-23>.

¹⁴⁵ Emily Rauhala, “Chinese Nobel Laureate Liu Xiaobo Is Called ‘A Monument to Morality,’” *Washington Post*, July 13, 2017; Liu Xiaobo, “Changing the Regime by Changing Society,” *Journal of Democracy*, vol. 22, no. 1 (January 2011).

¹⁴⁶ Wu Qiang, “Liu Xiaobo: The Founder of China's Political Opposition Movements,” *China Change*, June 20, 2017; Chinese Human Rights Defenders, “Liu Xiaobo,” <https://www.nchrd.org/2011/03/prisoner-of-conscience-liu-xiaobo/>; Nobel Prize.org, “Liu Xiaobo—Biographical,” http://www.nobelprize.org/nobel_prizes/peace/laureates/2010/xiaobo-bio.html.

¹⁴⁷ Mimi Lau, “Liu Xiaobo's Family Want His Cancer Treated Outside China,” *South China Morning Post*, June 28, 2017.

¹⁴⁸ M.D. Anderson Cancer Center, “Recommendation for the Further Treatment of Chinese Nobel Prize Laureate Liu Xiaobo: Joint Statement from Dr. Joseph M. Herman, Clinical Research Director, Department of Radiation Oncology, The University of Texas MD Anderson Cancer Center, and Dr. Markus Büchler, Chairman, Department of Surgery, University of Heidelberg,” July 8, 2017, <https://www.mdanderson.org/newsroom/2017/07/recommendation-for-the-further-treatment-of-chinese-nobel-prize-.html>.

¹⁴⁹ Chris Buckley, “In Liu Xiaobo's Last Days, Supporters Fight China for His Legacy,” *New York Times*, July 11, 2017; “Liu Xiaobo to Be Seen by American and German Doctors,” *Agence France-Presse*, July 7, 2017; Heather Nauert, Department of State Press Briefing, June 29, 2017; “New U.S. Ambassador Risks China's Ire with Support for Liu Xiaobo,” *Bloomberg News*, June 27, 2017.

sentence in China for promoting peaceful democratic reform. Mr. Liu dedicated his life to the betterment of his country and humankind, and to the pursuit of justice and liberty.”¹⁵⁰ Several members of the Congressional-Executive Commission on China released statements that they were “deeply saddened” by the loss of Liu Xiaobo and expressed their continued support for the promotion of human rights and peaceful democratic change in China, which Liu had advocated. They urged the PRC government to grant Liu Xia permission to leave China for a country of her choosing.¹⁵¹ Following and prior to Liu’s death, some Members of Congress introduced resolutions honoring Liu’s life and legacy, urging the PRC government to allow Liu Xiaobo and Liu Xia to seek medical treatment abroad, and designating the vicinity of the Chinese Embassy in Washington, DC, “Liu Xiaobo Plaza” (see **Appendix**).

Gao Zhisheng

Gao Zhisheng, a prominent rights lawyer, was named one of China’s top 10 lawyers by the Ministry of Justice in 2001. However, as his rights advocacy expanded to protect citizens who had run afoul of policies that authorities deemed to be sensitive, including family planning, religious practice, and Falun Gong, Gao was detained numerous times. In late 2011, he reportedly began serving a three-year prison term that had been handed down in 2006, but was suspended for five years. During his periods of detention, prison officials reportedly tortured him, denied him access to legal counsel and regular visits from his family, and withheld information about his location.¹⁵² Authorities released Gao in August 2014 but he remains under house arrest and constant surveillance by security agents.¹⁵³

Xu Zhiyong

In January 2014, constitutional rights advocate Xu Zhiyong was tried and convicted of “gathering a crowd to disturb public order” and sentenced to four years in prison. Xu, a lawyer, scholar, Haidian district people’s congress deputy, and rights activist, helped found the New Citizen’s Movement, a loosely organized network numbering roughly 5,000 people that promoted the rule of law, government transparency, citizens’ rights, civic engagement, and social justice. Its members, some of whom also have been arrested, reportedly met informally across the country to discuss politics and engaged in small street rallies in 2012 and 2013.¹⁵⁴ The Open Constitution Initiative, which Xu also helped organize, was a nongovernmental legal research and aid organization that the government shut down in 2009, ostensibly for tax evasion.¹⁵⁵

¹⁵⁰ Department of State, “Press Statement, Rex W. Tillerson, “On the Passing of Liu Xiaobo,” July 13, 2017

¹⁵¹ Congressional-Executive Commission on China, “CECC Commissioners Issue Statements on the Death of Nobel Laureate Liu Xiaobo,” July 13, 2017, <https://www.cecc.gov/media-center/press-releases/cecc-commissioners-issue-statements-on-the-death-of-nobel-laureate-liu>.

¹⁵² Edward Wong, “Family’s Visit Pierces Silence on Jailed Chinese Dissident,” *New York Times (International)*, January 24, 2013.

¹⁵³ “Chinese Rights Lawyer’s Phone Calls Limited Under House Arrest,” *Agence France Presse*, January 8, 2015.

¹⁵⁴ Didi Kirsten Tatlow, “Chinese Court Sentences 4 Activists to Jail,” *New York Times Blogs*, April 18, 2014.

¹⁵⁵ Andrew Jacobs and Chris Buckley, “China Sentences Xu Zhiyong, Legal Activist, to 4 Years in Prison,” *New York Times (International)*, January 26, 2014; Xu Zhiyong Tried for Advocacy of Education Equality and Official Transparency,” Congressional-Executive Commission on China, January 24, 2014.

Media Freedom

Most major media outlets in China are owned or controlled by the government. Although in some ways the government exercises less direct control over news and information than it did in the early 2000s, due to the commercialization of the media, private financing of some media companies, and the rapid growth of popular use of the Internet and social media, the Chinese government continues to severely restrict the press, broadcasting, publishing, and online communication. China ranked 176th out of 180 countries on *Reporters Without Borders' 2017 World Press Freedom Index*, and nearly 40 journalists and dozens of “netizens” reportedly were incarcerated in 2016.¹⁵⁶ According to the CECC, the Chinese government has “used a variety of legal and extralegal measures to target journalists, editors, and bloggers who covered issues authorities deemed to be politically sensitive,” including cyberattacks, dismissal or disciplinary action, harassment, physical violence, detention, and prison sentences.¹⁵⁷ Publications that broach topics related to political reform have faced growing harassment by state authorities and the independent reporting of official corruption and misconduct has been curtailed.¹⁵⁸ Under an amendment to the PRC Criminal Law that became effective in November 2015, journalists may be held criminally liable for “fabricating false reports” in their coverage of “hazards, epidemics, disasters, and situations involving police.”¹⁵⁹ Meanwhile, the trend toward the commercialization of the press has begun to reverse, according to some analysts, while reliance upon government support, particularly by the print media, has increased.¹⁶⁰

The Internet

China has the world’s largest number of Internet users, estimated at over 700 million people, and one of the most extensive Internet censorship systems in the world, although its implementation remains uneven.¹⁶¹ At times, the Internet has served as an outlet for many citizens to express opinions and “let off steam,” provided a lifeline to political dissidents and liberal thinkers, enabled social activists to organize, and helped to publicize corrupt practices and negligent behavior on the part of government officials. Internet users have developed ways to circumvent censorship, and politically sensitive news and opinion sometimes get widely disseminated, if only fleetingly, online. Under Xi Jinping, the Chinese government has treated the Internet, like civil society, as a rising security threat. Since 2014, President Xi has attempted to establish greater, centralized control over the Internet with the formation of the Central Leading Group for Cyber Security and Informatization, which he heads.¹⁶²

¹⁵⁶ Reporters Without Borders, *2017 World Press Freedom Index*, https://rsf.org/en/ranking_table; Reporters Without Borders, *Violations of Press Freedom Barometer 2017*, https://rsf.org/en/barometer?year=2017&type_id=235#list-barometre; Yaqiu Wang, “Weighing China Jailed Cases amid Censorship and Fear,” Committee to Protect Journalists, December 13, 2016.

¹⁵⁷ Congressional-Executive Commission on China, *Annual Report 2016*, op. cit.

¹⁵⁸ Freedom House, “Freedom of the Press 2016: China,” <https://freedomhouse.org/report/freedom-press/2016/china>.

¹⁵⁹ Congressional-Executive Commission on China, *Annual Report 2016*, op. cit.

¹⁶⁰ Freedom House, “Media Freedom in China: Recent Trends, Challenges, and Implications for U.S. Business Interests,” Washington, DC, April 28, 2016.

¹⁶¹ Mary Gallagher and Blake Miller, “Can the Chinese Government Really Control the Internet? We Found Cracks in the Firewall,” *Washington Post*, February 21, 2017.

¹⁶² Xi Jinping, “Speech at the Work Conference for Cybersecurity and Informatization,” *China Copyright and Media*, April 26, 2016.

The Chinese government reportedly blocks access to 172 out of 1,000 of the world's top websites, according to the nonprofit countercensorship service GreatFire.org, including 8 of the 25 most trafficked global sites.¹⁶³ Continuously inaccessible websites, social networking sites, and file sharing sites include Radio Free Asia, Voice of America (Chinese language), international human rights websites, including those related to Tibet and Falun Gong, many Taiwanese news sites, Facebook, Pinterest, Twitter, and YouTube. Some English language news sites, including the *Washington Post*, the Voice of America (English), and Yahoo homepage, are generally accessible or occasionally censored. The *Wall Street Journal* and Wikipedia are blocked. The *New York Times* and Bloomberg websites have been inaccessible since 2012, when they reported on the personal wealth of Chinese leaders. Google services, including Gmail, have been intermittently blocked since 2014.

In addition to international websites, the government often shuts down Chinese websites that broach sensitive topics.¹⁶⁴ The state also has blocked news of major events and shut down the Internet almost entirely in some places. Authorities blocked nearly all Internet traffic in Xinjiang for 10 months following unrest in 2009 and continue to do so in selected areas of the country from time to time.¹⁶⁵

Commonly filtered keywords, Internet searches, and microblog and social media postings include those with direct and indirect or disguised references to Tibetan policies; the Tiananmen crackdown of 1989; Falun Gong; PRC leaders and dissidents who have been involved in recent scandals or issues that authorities deem to be politically sensitive; and discussions of democracy. Other areas that authorities occasionally have targeted for censorship include the following: controversial government policies and cases of misconduct; public health and safety; sensitive foreign affairs issues; and media and censorship policies.¹⁶⁶ The government reportedly has employed or enlisted students, public employees, and volunteers to post progovernment comments online and to divert public discussion from politically sensitive topics.¹⁶⁷

For Chinese Internet users in search of information beyond the PRC's Internet gateways, or "Great Firewall," accessing filtered sites is made possible by downloading special software applications, such as virtual private networks (VPNs). The government occasionally has attempted to disrupt VPN services or impose new restrictions, but either has allowed, or has not been able to stop, the continuation of many circumvention efforts.¹⁶⁸ In 2015, the PRC

¹⁶³ "China Tightens Great Firewall by Declaring Unauthorized VPN Services Illegal," *South China Morning Post*, January 23, 2017; Simon Denyer, "For Beijing, Censorship is Working," *Washington Post*, May 24, 2016; Paul Mozur, "U.S. Adds China's Internet Controls to List of Trade Barriers," *New York Times*, April 7, 2016.

¹⁶⁴ Wendy Wu and Jane Cai, "Beijing Internet Censors Close Websites of Liberal Economic Think Tank," *South China Morning Post*, January 21, 2017.

¹⁶⁵ Loretta Chao and Jason Dean, "Analysis: China Is Losing a War over Internet," *Wall Street Journal*, December 31, 2009; Simon Denyer, "China's Clampdown on Islam Stokes Resentment and Violence," *Washington Post*, September 20, 2014.

¹⁶⁶ Sarah Cook, Freedom House, Testimony before the U.S.-China Economic and Security Review Commission, "Stability in China: Lessons from Tiananmen and Implications for the United States," May 15, 2014.

¹⁶⁷ Gary King, Jennifer Pan, and Margaret E. Roberts, "How the Chinese Government Fabricates Social Media Posts for Strategic Distraction, Not Engaged Argument," *American Political Science Review*, January 2017; Henry Farrell, "The Chinese Government Fakes Nearly 450 Million Social Media Comments a Year," *Washington Post*, May 19, 2016; Simon Denyer, "Online, in China, the Communist Party and Military Are at War with Ideas," *Washington Post*, July 11, 2016; Christina Sterbenz, "China Banned the Term '50 Cents' to Stop Discussion of an Orwellian Propaganda Program," *Business Insider*, October 17, 2014; Katie Hunt and CY Xu, "China 'Employs 2 Million to Police Internet,'" *CNN*, October 7, 2013.

¹⁶⁸ Simon Denyer, "Internet Activists are Finding Ways Around China's Great Firewall," *Washington Post*, June 14, 2016.

government launched a cyberattack on some countercensorship sites, which disrupted access to them.¹⁶⁹ In January 2017, the Ministry of Industry and Information Technology announced that domestic VPN services would require government approval, although some observers say that the new regulations may be implemented flexibly.¹⁷⁰

According to some experts, the Chinese government does not intend for its censorship of the Internet to be total. Many foreigners staying in China for business, academic and cultural exchanges, international development programs, and other purposes, as well as their Chinese counterparts, depend upon VPNs to access the global Internet. Chinese leaders view limited online discussion of political and social issues as valuable for monitoring public opinion and providing people a “safety valve” through which to air their views. According to some experts, China’s leaders appear to be especially worried about the Internet as a tool for engaging in collective action, and are relatively less concerned about it as a medium for sensitive words.¹⁷¹

VPNs allow some motivated Internet users to bypass censorship, but impose just enough inconvenience, such as slower browsing speeds and in some cases a small financial cost, to discourage most Chinese Internet users from utilizing them. The number of Chinese netizens who utilize VPNs has grown rapidly in the past several years, from under 5% to 29%, according to a 2015 survey of Chinese Internet users.¹⁷² Some studies have shown, however, that the vast majority of Internet users in China do not go online for political purposes, and that many of them accept the government’s justifications for regulating the Internet or do not feel unduly affected by censorship.¹⁷³ In one Chinese survey, 6% of respondents answered that they both “encountered censorship” and “were angry about it.”¹⁷⁴

Weibo and WeChat

Chinese versions of microblogging services (*weibo*), similar to Twitter, and social networking sites became important sources of news and platforms for public opinion until the government imposed restrictive measures on them. Between around 2009 and 2012, Sina Corporation’s *weibo* quickly became the “most prominent place for free speech,” and the country’s “most important public sphere,” where netizens posted both news and commentary.¹⁷⁵ Due in part to growing restrictions on blogging, including government harassment against bloggers with large

¹⁶⁹ Tom Risen, “China’s ‘Great Cannon’ Redirects U.S. Traffic for Censorship,” *U.S. News and World Report*, April 14, 2015.

¹⁷⁰ AJ Dellinger, “China VPN Ban: Government Requires Official Approval for Use,” *International Business Times*, January 24, 2017; Olivia Solon, “China Cracks Down on VPNs, Making It Harder to Circumvent Great Firewall,” *The Guardian*, January 23, 2017.

¹⁷¹ Gary King, Jennifer Pan, and Margaret E. Roberts, “How Censorship in China Allows Government Criticism but Silences Collective Expression,” *American Political Science Review*, 107:2 (May 2013); Andrea Chen, “Chinese Internet Censors Target Collective Activities More Than Sensitive Subjects, Says Harvard Report,” *South China Morning Post*, August 23, 2014.

¹⁷² “China Reinforces Great Firewall with New VPN Rules,” *China Digital Times*, January 23, 2017.

¹⁷³ Simon Denyer, “Internet Activists Are Finding Ways Around China’s Great Firewall,” op. cit.; John Gapper, “China’s Internet Is Flourishing Inside the Wall,” *Financial Times*, November 23, 2016; Rebecca MacKinnon, *Consent of the Networked*, New York: Basic Books, 2012.

¹⁷⁴ “Only 15 percent of respondents encountered censorship, and of these, only 40 percent were angry about it ...” Bruce Dickson, *The Dictator’s Dilemma*, op. cit., p. 258.

¹⁷⁵ Mary Kay Magistad, “How Weibo Is Changing China,” *Yale Global Online*, August 9, 2012; Kathrin Hile, “China’s Tweeting Cops Blog to Keep Peace,” *Financial Times*, December 5, 2011; Keith B. Richburg, “In China, Microblogging Sites Become Free-Speech Platform,” *Washington Post*, March 27, 2011; Ed Zhang, “Does Blogs’ Blooming Mean Schools of Thought Can Contend?” *South China Morning Post*, December 4, 2011.

followings, *weibo* declined significantly in popularity and influence and become more entertainment-oriented, while Tencent Holdings' *weixin* ("microchannel"), also known as WeChat, exploded in popularity. WeChat, an instant messaging app launched in 2011, offers its users a platform for voice and video chats, posting messages and photographs, e-commerce, online gaming, and following celebrities. Unlike *weibo*, WeChat connects an individual account holder with a private circle of friends rather than a public audience, and thus has less potential political impact.¹⁷⁶

Less than two years after it was released, however, China's leaders became alarmed as some of WeChat's users began posting politically sensitive comments and news stories, and some users with public accounts designed for companies and celebrities gained millions of followers. In December 2012, the government enacted a new law requiring those who apply for Internet, mobile service, and social networking accounts to use their real names.¹⁷⁷ In 2013, the Supreme People's Court issued a judicial interpretation by which bloggers can face up to three years in prison if content deemed defamatory is reposted 500 times or viewed 5,000 times. These policies reportedly had a "chilling effect on online discourse."¹⁷⁸ Several dozen WeChat public accounts were shut down by authorities, and prominent online political commentators and whistle-blowers were harassed, detained, or arrested.¹⁷⁹ New regulations in 2014 mandated that microblogging and instant messaging services as well as web portals could only repost, and not report, news on current events, and only after they obtained a permit from the State Internet Information Office.¹⁸⁰ Other regulations placed restrictions on WeChat groups, such as limiting the number of people belonging to a group chat.¹⁸¹ According to one observer, "Critical voices are still there, but it is less likely they will coalesce into a broader form of protest."¹⁸²

Religious Freedom and Ethnic Minority Issues

The extent of religious freedom and activity in China varies widely by religion, region, ethnic group, and jurisdiction, largely depending on "the level of perceived threat or benefit to party interests, as well as the discretion of local officials."¹⁸³ Article X of the PRC Constitution guarantees freedom of "religious belief," but not freedom of religious practice as it explicitly protects only "normal" religious activities and those that do not "disrupt public order, impair the health of citizens or interfere with the educational system of the state."¹⁸⁴ At a conference on "religious work" in April 2016, President Xi Jinping emphasized that the "legitimate rights of religious peoples must be protected," but also stated, "We must resolutely guard against overseas infiltrations via religious means and prevent ideological infringement by extremists."¹⁸⁵ By

¹⁷⁶ "China's Hot Messaging App WeChat May Be Good News for Censors," *Reuters*, December 11, 2013.

¹⁷⁷ Joe McDonald, "China Requires Internet Users to Register Names," *Associated Press*, December 28, 2012. The Supreme People's Court approved this policy in 2014. Angela Meng, "China's Top Court Puts Tighter Grip on Internet and Social Media," *South China Morning Post*, October 10, 2014.

¹⁷⁸ Department of State, *Country Reports on Human Rights Practices for 2013 (China)*, op. cit.; "China Threatens Tough Punishment for Online Rumor Spreading," *Reuters*, September 9, 2013.

¹⁷⁹ G. E., "A Crackdown on WeChat," *The Economist*, March 14, 2014.

¹⁸⁰ Only authorized news agencies and websites may publish original news content. Adrian Wan, "China Regulates Original News Feeds on Messenger Apps Such as WeChat," *South China Morning Post*, August 8, 2014.

¹⁸¹ Bruce Dickson, *The Dictator's Dilemma*, op. cit.

¹⁸² Simon Denyer, "Online, in China, the Communist Party and Military Are at War with Ideas," op. cit.

¹⁸³ Freedom House, *The Battle for China's Spirit*, op. cit.

¹⁸⁴ Constitution of the People's Republic of China, <http://en.people.cn/constitution/constitution.html>.

¹⁸⁵ "China Focus: Xi Calls For Improved Religious Work," *Xinhua*, April 23, 2016.

contrast, Xi has been relatively supportive of Chinese Buddhism and folk religions, Daoism, and Confucian philosophy, which China's leaders apparently perceive to be more compatible with CCP rule.¹⁸⁶

Some observers say that, despite government restrictions and the avowed atheism of the PRC's Communist leaders, religious life in China continues to grow, due in part to a yearning for spirituality in Chinese society. An estimated 350 million PRC citizens openly practice one of five officially recognized religions (Buddhism, Protestantism, Roman Catholicism, Daoism, and Islam).¹⁸⁷ Furthermore, religious organizations in China are playing growing roles in providing social and charitable services. A 2017 report by Freedom House on religious practice and government policies in China states that since Xi came to power, "authorities have intensified many of their restrictions," including codifying previously informal restrictions and increasing measures to prevent children from participating in religious activities. The report emphasizes, however, that "believers have responded with a surprising degree of resistance...."¹⁸⁸

The PRC government often has imposed harsh and arbitrary policies and measures upon many unregistered Christian churches, Tibetan Buddhists, Uyghur Muslims, and Falun Gong practitioners. This is largely due to the perceived potential for these groups to become independent, organized social forces or cultivate foreign support. Chinese authorities increasingly have persecuted Tibetan Buddhists and Uyghur Muslims for carrying out religious and cultural activities that they have regarded as "extremist," "separatist," and "terrorist" acts.

International Religious Freedom Act

The International Religious Freedom Act of 1998 (P.L. 105-292) established an Office of International Religious Freedom within the Department of State and the United States Commission on International Religious Freedom (USCIRF), an independent, bipartisan U.S. government commission dedicated to defending the universal right to freedom of religion or belief abroad. The Department of State and USCIRF publish annual reports on international religious freedom pursuant to the act.

The Department of State has identified China as a "country of particular concern" (CPC) for "particularly severe violations of religious freedom" for 16 consecutive years (2000-2015). Due in part to China's designation as a CPC, the U.S. government restricts the U.S. export of crime control and detection instruments and equipment to the PRC.¹⁸⁹ In 2016, the Department of State reported that "there continued to be reports that the government physically abused, detained, arrested, tortured, sentenced to prison, or harassed adherents of both registered and unregistered religious groups for activities related to their religious beliefs and practices."¹⁹⁰ In April 2017, the USCIRF recommended that the Department of State again designate China as a CPC for 2016.¹⁹¹

In August 2015, then-U.S. Ambassador at Large for International Religious Freedom David Saperstein traveled to China to discuss religious freedom issues with government officials,

¹⁸⁶ See Ian Johnson, *The Souls of China*, New York: Pantheon Books, 2017.

¹⁸⁷ Ibid.; Freedom House, *The Battle for China's Spirit*, op. cit.

¹⁸⁸ Ibid.

¹⁸⁹ International Religious Freedom Act of 1998 (P.L. 105-292). This restriction originally was imposed as part of the "Tiananmen sanctions" following the 1989 Chinese military crackdown on prodemocracy demonstrators in Beijing. See Foreign Relations Authorization Act, Fiscal Years 1990 and 1991 (P.L. 101-246, §902(a)(4)).

¹⁹⁰ Department of State, Bureau of Democracy, Human Rights, and Labor, *International Religious Freedom Report for 2015*, released August 10, 2016.

¹⁹¹ U.S. Commission on International Religious Freedom, *2016 Annual Report*, April 26, 2017.

religious leaders, and civil society representatives.¹⁹² While in China, Saperstein called for an end to the campaign of cross removals and church demolitions in Zhejiang province, urged Chinese authorities to “reassess counterproductive policies,” particularly restrictions on Tibetan Buddhist and Uyghur Muslim religious practices, and expressed deep concern over detentions of religious leaders and human rights defenders. Saperstein also noted some positive developments, including the growth in numbers of religious adherents and activities and faith-based charitable and social services organizations.¹⁹³

Christians

Christianity is the second-largest religion in China after Buddhism. Between 70 million and 90 million Chinese Christians worship in officially registered and unregistered churches, split roughly evenly between the two.¹⁹⁴ Membership in both types of churches continues to grow steadily and somewhat haphazardly, according to observers.¹⁹⁵ Some experts estimate that about one-quarter of China’s human rights lawyers are Christian.¹⁹⁶

Many Chinese Protestants have rejected the official church, known as the *Three Self Patriotic Movement*, for political or theological reasons. “Three Self” refers to “self-governance,” “self-support,” and “self-propagation,” or independence from foreign missionary and other religious groups and influences. Some independent or “house” church leaders claim that they have attempted to apply for official status and been rejected by local government Religious Affairs Bureaus. Although in many localities, unsanctioned religious congregations reportedly experience little state interference, many house churches have faced harassment by government authorities, their leaders have been harassed, detained, or imprisoned, and their properties have been confiscated or demolished. The U.S.-based China Aid Association reported worsening levels of persecution in 2016, including 303 Christians who were sentenced to prison.¹⁹⁷ The government issued new religious regulations in 2016 that impose restrictions on Chinese contacts with overseas religious organizations and require government approval for religious schools and websites. The new rules also officially allow Chinese religious organizations to set up charities and provide social services.¹⁹⁸

Since 2014, authorities in Zhejiang province, where there is a large and growing Christian population, have carried out efforts against “excessive religious sites” and “illegal” structures. Zhejiang officials, apparently fearful of the influence and foreign connections of Christian groups, reportedly have ordered crosses to be removed from more than 1,200 churches, or an estimated 90% of all church crosses, and 20 church structures have been destroyed as part of a provincial crackdown.¹⁹⁹ Although many churches had received government approvals in the past,

¹⁹² *International Religious Freedom Report for 2015*, op. cit.

¹⁹³ Department of State, Bureau of Public Affairs, “Ambassador David Saperstein’s Visit to China,” Washington DC, August 31, 2015.

¹⁹⁴ Over three-fourths of China’s Christians are Protestant and the rest are Catholic. Yuan Ren, “China’s Quiet Christians,” *The Spectator*, November 12, 2016.

¹⁹⁵ Brookings Institution, *Christianity in China: Force for Change?* June 3, 2014.

¹⁹⁶ Ian Johnson, “China’s Unstoppable Lawyers: An Interview with Teng Biao,” *NYR Daily*, October 19, 2014.

¹⁹⁷ ChinaAid Association, *2016 Annual Report: Chinese Government Persecution of Christians and Churches in Mainland China, January-December 2016*, February 1, 2017.

¹⁹⁸ Matthew Bell, “China’s Atheist Leaders Issue Some Striking New Rules on Religion,” *Public Radio International*, October 12, 2016; Gerda Wielander, “China’s New Religious Regulations,” *Policy Forum*, November 1, 2016.

¹⁹⁹ Ian Johnson, “Decapitated Churches in China’s Christian Heartland,” *New York Times*, May 21, 2016; Congressional-Executive Commission on China, *Annual Report 2016*, op. cit.

local officials stated that they did not comply with zoning regulations. This policy has been met by resistance among not only parishioners of unregistered churches but also leaders of some registered churches.

Catholics in China are divided among those expressing allegiance to the Pope and those heeding the government-affiliated *Chinese Catholic Patriotic Association (CCPA)*, which does not recognize Papal authority. Tensions between the Vatican and Beijing include disagreements over the appointment of bishops, religious freedom, and the Vatican's diplomatic ties with Taiwan. Most Chinese bishops have received approval from both Beijing and the Holy See; however, since 2010, the CCPA has ordained several bishops without Rome's consent, which has been a key source of contention between the Vatican and Beijing. The two sides resumed dialogue in 2014 with the aim of improving relations, and some bishops have received joint approval since 2015. Under a draft agreement reported in October 2016, the PRC government would select candidates for bishops, and the Pope would then choose among those candidates. However, the Vatican and the PRC government have not resolved issues related to 30 Vatican-approved Chinese bishops in unregistered churches and 8 bishops ordained by the Chinese government without the Vatican's permission.²⁰⁰ In 2012, Thaddeus Ma Daqin, a new bishop approved by both the Vatican and Beijing, renounced his ties to the CCPA. The government stripped Ma of his title and confined him to a seminary outside Shanghai, and in 2016 reportedly shut down his microblogging account.²⁰¹

Tibetans²⁰²

Although Beijing has controlled Tibet since 1951, Tibetan grievances over Beijing's rule persist, with some Tibetans in the Tibet Autonomous Region (TAR) and other Tibetan areas in China viewing PRC government policies as hostile to their religion, culture, language, and identity. The TAR, formally established in 1965, constitutes just under half of the area that Tibetan exile groups consider to be historical Tibet,²⁰³ and it is home to about 2.7 million out of China's total ethnic Tibetan population of 6 million.²⁰⁴ Most of China's remaining ethnic Tibetan population (just over 3 million) lives in Tibetan autonomous prefectures and counties outside the TAR, in Sichuan and Yunnan provinces, which border the TAR, and in Qinghai province.

Tensions between the PRC government and many Tibetans have been high, particularly since a period of unrest in 2008, when waves of protest swept across the Tibetan plateau. At the same time, talks between envoys of the Tibetan spiritual leader, the 14th Dalai Lama Tenzin Gyatso, and Beijing have stalled. PRC officials and representatives of the Dalai Lama participated in nine rounds of talks between 2002 and 2010 on issues related to Tibetan autonomy and the return of the Dalai Lama. The ninth round reportedly failed to bring about fundamental progress. The Dalai Lama's envoys pledged respect for the authority of the PRC central government, but continued to

²⁰⁰ Marlin Jeschke, "Global Faiths: Catholic Church in China Is at a Standoff," *The Goshen News*, February 16, 2017; Francis X. Rocca, "Vatican, China Consider Deal on Selection of Bishops After Decades of Division," *Wall Street Journal*, October 30, 2016.

²⁰¹ Congressional-Executive Commission on China, *Annual Report 2016*, op. cit.

²⁰² For further information, see CRS Report R43781, *The Tibetan Policy Act of 2002: Background and Implementation*, by Susan V. Lawrence.

²⁰³ The Tibet Autonomous Region is a provincial-level, ethnic minority administrative region. The PRC also established ethnic Tibetan-majority, Tibetan Autonomous prefectures and counties in other PRC provinces.

²⁰⁴ National Bureau of Statistics of the People's Republic of China, 西藏自治区2010年第六次全国人口普查主要数据公报 (*Public Notice of Important Statistics from the 2010 Sixth National Census in the Tibet Autonomous Region*) (in Chinese), February 28, 2012, http://www.stats.gov.cn/tjsj/tjgb/rkpcgb/dfrkpcgb/201202/t20120228_30406.html.

push for “genuine autonomy” for the Tibetan people, while a senior Chinese official dismissed the proposal as tantamount to “half independence.”²⁰⁵ China’s leaders have emphasized social and economic development in Tibet and continued to condemn the Dalai Lama’s “separatist activities” and “Middle Way approach.”²⁰⁶

A heightened police presence in the TAR and the imposition of more intensive controls on Tibetan religious life and culture have exacerbated grievances in Tibetan areas, according to some observers.²⁰⁷ The Department of State reported “severe repression of Tibet’s unique religious, cultural, and linguistic heritage by, among other means, strictly curtailing the civil rights of China’s ethnic Tibetan population, including the freedoms of speech, religion, association, assembly, and movement.”²⁰⁸ Government measures include political education campaigns in monasteries and villages and limitations on use of the Tibetan language in schools, despite a provision in China’s Regional Ethnic Minority Law that stipulates that schools with a majority of ethnic minority students “should, whenever possible, use textbooks in their own languages and use these languages as the media of instruction” (Article 37).²⁰⁹ In recent years, authorities in Tibetan areas reportedly have searched some Tibetan homes and businesses for photographs of the Dalai Lama, examined cell phones for “reactionary music” from India, and monitored correspondence and Internet posts for political content.²¹⁰

Tibetan religious and community leaders, academics, writers, artists, and those involved in social and cultural activities have been targeted for persecution, including arbitrary arrests and extrajudicial detentions and killings by state agents.²¹¹ Many Tibetans have been detained for participating in protests, disseminating information or images online, and engaging in other activities that previously were tolerated or are considered relatively minor offenses in other parts of China.²¹² The CECC has documented the cases of 650 Tibetan political prisoners and detainees as of August 2016, the vast majority of whom were apprehended following the 2008 protests.²¹³

In addition, many Tibetans complain of the domination of the local economy by Han Chinese, particularly in urban areas; forced resettlement; and the adverse environmental effects of Beijing’s development projects in the region. Officially, Hans, the country’s majority ethnic group, form a minority in the TAR, or about 8% of the region’s total population, according to Chinese census figures.²¹⁴ However, some observers believe that Han people actually constitute over half of the population of Lhasa, the TAR capital, as many Han laborers, business persons,

²⁰⁵ “Press Conference on Central Govt’s Contacts with Dalai Lama,” *China Daily*, February 11, 2010.

²⁰⁶ “China Issues White Paper on Tibet,” *Xinhua*, September 6, 2015; Tenzin Monlam, “China Will Never Accept Middle Way Approach,” *Phayul.com*, August 27, 2015. The Dalai Lama has proposed a “Middle Way” or “genuine autonomy” without independence, while Beijing has referred to the middle way as “independence in disguise.”

²⁰⁷ Human Rights Watch, “Relentless: Detention and Prosecution of Tibetans under China’s ‘Stability Maintenance’ Campaign,” May 22, 2016.

²⁰⁸ Department of State, *Country Reports on Human Rights Practices for 2016 (Tibet)*, March 3, 2017.

²⁰⁹ Congressional-Executive Commission on China, “Regional Ethnic Autonomy Law of the People’s Republic of China,” <https://www.cecc.gov/resources/legal-provisions/regional-ethnic-autonomy-law-of-the-peoples-republic-of-china-amended>.

²¹⁰ Congressional-Executive Commission on China, *Annual Report 2016*, op. cit.

²¹¹ Human Rights Watch, “Relentless: Detention and Prosecution of Tibetans under China’s ‘Stability Maintenance’ Campaign,” op. cit.

²¹² *Ibid.*

²¹³ Congressional-Executive Commission on China, *Annual Report 2016*, op. cit. The actual number of Tibetan prisoners is likely to be much higher.

²¹⁴ Hans constitute 92% of the population in the PRC, according to numerous sources.

officials, police, and paramilitary forces have migrated there, many of whom remain registered as residents of other parts of China.²¹⁵

Larung Gar

In the past year, authorities continued efforts to demolish structures and homes of the Larung Gar Buddhist Academy in Sichuan Province, restrict the number of Tibetan Buddhists living there, and install surveillance equipment. The government states that it intends to make Larung Gar “more orderly, beautiful, safe and peaceful.”²¹⁶ Some local residents say that the government fears a loss of social control and aims to reduce the number of lay and monastic practitioners living there, including Tibetan Buddhist monks and nuns, Han Chinese, and foreign students, from 20,000 to 5,000 people.²¹⁷ Founded in 1980, the religious center has become known as one of the world’s largest and most important centers for the study of Tibetan Buddhism.²¹⁸ In November 2016, six U.N. special rapporteurs on human rights issues issued a joint statement, sent to the PRC government, expressing “deep concern” about expulsions of monks and nuns and demolitions of monastic dwellings at Larung Gar and Yachen Gar in Sichuan Province.²¹⁹

Self-Immolations

Since 2009, about 150 Tibetans within China are known to have self-immolated, many apparently to protest PRC policies or to call for the return of the Dalai Lama, and 119 are known to have died.²²⁰ Most of the self-immolations were committed during 2012-2013 in Tibetan areas in China outside the TAR. Additional self-immolations by Tibetans have occurred in India and Nepal. The PRC government has implemented policies that punish relatives, friends, and other associates of self-immolators, including prison terms or death on “intentional homicide” charges for allegedly “aiding” or “inciting” others to self-immolate.²²¹ Dr. Lobsang Sangay, elected head (Sikyong) of the Dharamsala, India-based Central Tibetan Administration and a leader of the Tibetan exile community, stated that “[w]e have consistently and categorically urged the Tibetan community not to resort to any kind of drastic action, including self-immolations,” and blamed PRC repression.²²² Although PRC officials often have blamed the Dalai Lama and “hostile foreign forces,” self-immolations have not been limited to Tibetans. Other PRC citizens, including farmers protesting land takings by the government, have self-immolated as well.²²³

²¹⁵ Ananth Krishnan, “Trust Deficit in Tibet,” *India Today*, July 2, 2015.

²¹⁶ Edward Wong, “China Takes a Chain Saw to a Center of Tibetan Buddhism,” *New York Times*, November 29, 2016.

²¹⁷ Congressional-Executive Commission on China, *Annual Report 2016*, op. cit.

²¹⁸ “Han Chinese, Western Students of Buddhism Also Forced from Larung Gar,” Government Publications and Press Releases, December 29, 2016.

²¹⁹ “UN Rights Experts Raise Concern about Larung Gar Buddhist Institute in Tibet,” International Tibet Network, February 26, 2017; Edward Wong, “U.N. Human Rights Experts Unite to Condemn China over Expulsions of Tibetans,” *New York Times*, February 27, 2017.

²²⁰ “Young Tibetan Monk Becomes the 150th Self-Immolator in Tibet,” International Campaign for Tibet, May 23, 2017; “Self-Immolations by Tibetans,” May 23, 2017, <http://www.savetibet.org/resources/fact-sheets/self-immolations-by-tibetans/>.

²²¹ Department of State, *Country Reports on Human Rights Practices for 2016 (Tibet)*, op.cit.

²²² Anuradha Sharma, “Interview: Lobsang Sangay,” *The Diplomat*, April 7, 2014.

²²³ Jonathan Kaiman, “In China, the State Decides Who Can Come Back from the Dead,” *Los Angeles Times*, March 8, 2016; Ian Johnson, “Picking Death over Eviction,” *New York Times*, September 9, 2013.

U.S. Policy on Tibetan Issues

The U.S. government has expressed support for Tibetan people's rights and traditions while recognizing that "Tibet is a part of China."²²⁴ Presidential and congressional meetings with the 14th Dalai Lama have been among the most high-profile expressions of U.S. support for Tibetans.²²⁵ Presidents Bill Clinton and George W. Bush met with the Dalai Lama on several occasions. Barack Obama met with the Dalai Lama four times during his presidency, and expressed support for the Tibetan spiritual leader's "commitment to peace and nonviolence" and "Middle Way" approach.²²⁶ China's Foreign Ministry expressed Beijing's opposition to Obama's meetings with the Dalai Lama, objecting to U.S. interference in China's internal affairs. After President Obama's 2016 meeting, China said the Dalai Lama is "not simply a religious figure but a political figure in exile who has been conducting secessionist activities internationally under the pretext of religion...."²²⁷

Tibetan Policy Act of 2002

The Tibetan Policy Act of 2002, incorporated into the Foreign Relations Authorization Act, FY2003 (P.L. 107-228, Title VI, Subtitle B), directs the executive branch to encourage the PRC government to enter into a dialogue with the Dalai Lama or his representatives; call for the release of Tibetan political and religious prisoners in China; support economic development, cultural preservation, environmental sustainability, and other objectives in Tibet; and carry out other activities to "support the aspirations of the Tibetan people to safeguard their distinct identity." For further information, see CRS Report R43781, *The Tibetan Policy Act of 2002: Background and Implementation*, by Susan V. Lawrence.

The Dalai Lama and exiled Tibetan officials have regularly met with Members of Congress, many of whom have openly expressed support for Tibetan aspirations. In 2016, the Tom Lantos Human Rights Commission (TLHRC), in letters to the Chinese Ambassador to the United States, urged the PRC government to repeal policies related to the demolitions at Larung Gar and the persecution of relatives and communities associated with self-immolators.²²⁸ In August 2016, Representative Jim McGovern, TLHRC cochair, sponsored a letter, signed by 72 Members of Congress, calling on the U.S. government to "redouble efforts in support of the Tibetan people."²²⁹ In November 2015, a congressional delegation led by House Minority Leader Nancy Pelosi travelled to Beijing, the TAR, and Hong Kong. While in Tibet, members of the delegation raised issues related to human rights, the preservation of Tibetan religious and cultural traditions,

²²⁴ The White House, Office of the Press Secretary, "Readout of the President's Meeting with His Holiness the XIV Dalai Lama, June 15, 2016." See also CRS In Focus IF10421, *President Obama's June 2016 Meeting with Tibet's Dalai Lama*, by Susan V. Lawrence.

²²⁵ Anup Kaphle, "China Is Angry About Obama Meeting the Dalai Lama. But the U.S. Shouldn't Worry," *Washington Post*, February 21, 2014.

²²⁶ The White House, Office of the Press Secretary, "Readout of the President's Meeting with His Holiness the XIV Dalai Lama," op. cit.; International Campaign for Tibet, "U.S. Presidential Statements on meetings with the Dalai Lama, 1991-2016," <https://www.savetibet.org/policy-center/us-government-and-legislative-advocacy/u-s-presidential-statements-on-meetings-with-the-dalai-lama/>.

²²⁷ Darlene Superville, "Obama, Dalai Lama Anger China with White House Meeting," *Associated Press*, June 15, 2016.

²²⁸ Tom Lantos Human Rights Commission, "Co-Chairs to China: End Demolitions of Tibetan Buddhist Housing and Expulsions of Practitioners," October 19, 2016; Tom Lantos Human Rights Commission, "Co-Chairs Call on Chinese Authorities to Cease Criminalization of Relatives, Friends of Self-Immolators," February 4, 2016.

²²⁹ "McGovern Leads 72 Lawmakers in Call for President Obama to Make Tibet a Priority in Final Months in Office," press release, August 18, 2016, <http://mcgovern.house.gov/media-center/press-releases/mcgovern-leads-72-lawmakers-in-call-for-president-obama-to-make-tibet-a>.

greater autonomy for Tibetan areas, the environment, the Dalai Lama, and renewing the dialogue between representatives of the Dalai Lama and PRC authorities.²³⁰ In May 2017, Pelosi led a congressional delegation to Dharamsala, India, where they met with the Dalai Lama and spoke in support of human rights and greater autonomy in Tibetan areas in China.²³¹ In April 2017, Senator Steve Daines led a congressional delegation to China and Japan, including a visit to Lhasa, Tibet.²³²

Uyghur Muslims

In the past decade, Chinese authorities have carried out harsh religious and ethnic policies against Uyghur Muslims, exacerbating tensions in the Xinjiang Uyghur Autonomous Region (XUAR) in China's northwest, according to many human rights experts.²³³ Uyghurs, who speak a Turkic language and practice a moderate form of Sunni Islam, have complained of arbitrary harassment by public security forces, restrictions on religious and cultural practices, the regulation and erosion of their ethnic identity, economic discrimination, and a lack of consultation on regional policies. The PRC government's encouragement of Han migration also has intensified grievances among many Uyghurs. Once the predominant ethnic group in the XUAR, Uyghurs now number around 10.5 million or roughly 45% of the XUAR's population of 24 million, as many Han Chinese have migrated there, particularly to Urumqi, the capital. According to many observers, economic development in Xinjiang has disproportionately benefitted Hans more than Uyghurs.²³⁴

Official repression of many freedoms of Uyghurs in the XUAR, including of religion, speech, Internet communication, association, assembly, and movement, is more severe than that of other groups and in other parts of China.²³⁵ Although the government stated that it "opposes linking terrorism with specific ethnic groups,"²³⁶ it has justified many repressive measures on security grounds. The XUAR reportedly accounts for the largest proportion of "endangering state security" trials of any region in the PRC.²³⁷ International human rights organizations say that many Uyghurs accused of criminal acts have been deprived of procedural protections provided under China's constitution and laws.

²³⁰ Democratic Leader Nancy Pelosi, "Democratic Members Hold Press Conference Following Historic Visit to Tibet and China," International Campaign for Tibet, November 18, 2015.

²³¹ Douglas Busvine, "U.S. Lawmakers Not Backing Down on Human Rights in Tibet," *Reuters*, May 20, 2017.

²³² "Daines Leads Congressional Delegation to China and Japan," April 17, 2017, <https://www.daines.senate.gov/news/press-releases/daines-leads-congressional-delegation-to-china-and-japan>.

²³³ Many Uyghur exile groups prefer the name East Turkestan rather than the Chinese name of Xinjiang. See CRS In Focus IF10281, *Uyghurs in China*, by Thomas Lum.

²³⁴ Hans constitute 40% of the population of Xinjiang, and a greater proportion if Han nonpermanent residents are included. The ratio of Uyghurs to Hans in Urumqi now is 2 to 8, compared to 8 to 2 two decades ago. Department of State, *Country Reports on Human Rights Practices for 2016 (China)*, op. cit.

²³⁵ *Ibid.*

²³⁶ "China Condemns Foreign Groups' Claims of Repression, Restrictions on Muslims in Xinjiang," *China Global Television Network*, March 30, 2017.

²³⁷ Dui Hua Foundation, "China State Security Trials Fell 50 Percent in 2015, Official Data Suggest," *Human Rights Journal*, April 6, 2016.

Human rights groups describe excessive government restrictions on Uyghur religious and ethnic traditions and practices, including the training and role of Muslim clerics, observance of Ramadan, and use of the Uyghur language. Uyghur children and minors may be forbidden from entering mosques or studying the Koran, while CCP members, civil servants, teachers, and students are not allowed to openly practice Islam or participate in some religious customs, such as fasting during Ramadan. Uyghurs, including those wishing to make the pilgrimage to Mecca, frequently are denied permission to travel abroad. In 2016, Xinjiang authorities required residents to turn in their passports for “annual review.”²³⁹ In March 2017, the XUAR government passed laws prohibiting the wearing of veils in public places and the growing of long or “abnormal” beards.²⁴⁰

Hui Muslims

The Hui, another Muslim minority group in China who number around 11 million, generally have practiced their faith with less government interference than the Uyghurs. Unlike Uyghurs, ethnic Hui Muslims do not speak a non-Chinese language and generally are physically indistinguishable from Han Chinese. The Hui are more geographically dispersed and culturally assimilated than the Uyghurs, and they do not claim to have a homeland that is separate from China.²³⁸

Many experts contend that current tensions stem from events of July 2009, in which police reportedly attacked Uyghur demonstrators in Urumqi, which led to rioting, Uyghur attacks on Han people, roughly 200 deaths, and a harsh security crackdown. In 2013 and 2014, clashes involving Uyghurs and Xinjiang public security personnel resulted in hundreds of deaths, the majority of them of Uyghurs, while several attacks purportedly or in some cases confirmed to have been carried out by Uyghurs killed roughly 80 people in China, mostly Han civilians.²⁴¹ Since 2015, roughly one dozen reported violent incidents, including raids by security forces and purported Uyghur attacks, have resulted in the deaths of over 100 people, including Uyghurs, Hans, alleged Uyghur perpetrators, and police, in the XUAR.²⁴² PRC authorities claim that public security officers responded to Uyghurs engaged in separatist activities or carrying out or preparing to launch terrorist attacks on government property, public security facilities, and civilian targets.²⁴³ Human rights groups assert that many incidents began as peaceful Uyghur protests against repressive state policies or coercive police actions. In recent years, hundreds, and possibly thousands, of Uyghurs reportedly have fled China, many to escape persecution and seek political asylum.²⁴⁴

²³⁸ Bethany Allen-Ebrahimian, “China: The Best and the Worst Place to Be a Muslim Woman,” *Foreign Policy*, July 17, 2015; “The Harsh Reality of China’s Muslim Divide,” *Al Jazeera*, October 12, 2012.

²³⁹ Edward Wong, “Police Confiscate Passports in Parts of Xinjiang, in Western China,” *New York Times*, December 1, 2016.

²⁴⁰ Saphora Smith, “China Bans Veils and ‘Abnormal’ Beards in Western Province of Xinjiang,” *NBC News*, April 1, 2017.

²⁴¹ According to various reports, there were roughly 300 deaths between April 2013 and September 2014, including Uyghurs, security personnel, and others. Gillian Wong, “Killings by China Anti-Terror Cops Raise Concerns,” *Associated Press*, September 8, 2014; Tom Hancock, “Blasts in China’s Xinjiang Kill Two, Injure ‘Many’: Govt,” *Agence France Presse*, September 22, 2014; Anne Steele, “Ilham Tohti: Why Chinese Court Gave Life Sentence to Muslim Uighur Scholar,” *Christian Science Monitor*, September 23, 2014; “China Says 50 Dead, 54 Injured in Sunday Terror Attacks in Restive Xinjiang,” *South China Morning Post*, September 26, 2014.

²⁴² Department of State, *Country Reports on Human Rights Practices for 2016 (China)*, op. cit.; Department of State, *Country Reports on Human Rights Practices for 2015 (China)*, op. cit.

²⁴³ “Beijing Touts Uighurs’ Religious Freedom amid Terrorism Crackdown,” *Wall Street Journal*, June 2, 2016.

²⁴⁴ Jeremy Page and Emre Peker, “As Muslims Flee, China Sees Jihad Risk; As Homeland Grows Violent, Some Uighurs Seek Haven in Turkey,” *Wall Street Journal*, February 1, 2015. Major Uyghur migration routes reportedly include traveling from China through Vietnam to Thailand and Malaysia. Many Uyghurs extend their journeys into Indonesia and Turkey.

PRC officials assert that Islamic fundamentalism, jihad, and terrorist techniques, much of it promoted over the Internet, have contributed to violence in Xinjiang and elsewhere in China. The Chinese government has blamed the East Turkestan Islamic Movement (ETIM) for terrorist attacks in China since the 1990s.²⁴⁵ PRC and international sources estimate that between 100 and 300 Uyghur Muslims have joined ISIS in the Middle East, while the Syrian government claims that over 4,000 Uyghurs have joined various jihadist groups in Syria.²⁴⁶

New PRC counterterrorism legislation expands police authority under broad definitions of terrorism, say human rights experts. The XUAR government, furthermore, has passed regional measures that are more stringent than the national law, including harsher punishments and more explicit prohibitions related to the use of the Internet and social media to disseminate information that officials deem to be extremist or terrorist.²⁴⁷ For example, the XUAR government has implemented regulations that punish netizens for spreading “false information” online, especially content “advocating religious fanaticism or undermining religious harmony.”²⁴⁸

The PRC government has implemented a three-pronged strategy in response to Uyghur grievances and unrest: developing the XUAR economy; carrying out a “strike hard” campaign against religious extremism, separatism, and terrorism; and introducing policies to assimilate Uyghurs into Han society. In 2016, thousands of new police stations reportedly were set up in the XUAR, furnished with anti-riot and high-tech surveillance equipment and manned by tens of thousands of police recruits.²⁴⁹ Assimilation policies include placing greater emphasis on Chinese language instruction in schools, providing monetary incentives for mixed Uyghur-Han marriages, and promoting the migration of Uyghur workers to other provinces.²⁵⁰ Some experts contend that assimilation policies may contribute to the erosion of Uyghur identity and breed further resentment.²⁵¹ Others say that government attempts to discourage or abolish Uyghur religious and cultural traditions have backfired, and instead fueled trends toward more conservative Islam, such as Salafism, and popularized some Muslim practices, such as the wearing of veils.²⁵²

²⁴⁵ ETIM is a Uyghur organization that advocates the creation of an independent Islamic state in Xinjiang, is believed to be based in Afghanistan and Pakistan, and reportedly has had ties to Al Qaeda and the Taliban. The United States designated ETIM as a terrorist organization under Executive Order 13224 in 2002 (to block terrorist financing) and placed it on the Terrorist Exclusion List in 2004 (to prevent entry of terrorists into the United States). ETIM also is on the United Nations’ lists of terrorist organizations.

²⁴⁶ “Syria Says Up to 5,000 Chinese Uighurs Fighting in Militant Groups,” *Reuters*, May 11, 2017; Hannah Lucinda Smith, “Turkey Believes Nightclub Gunman Is Chinese Muslim,” *The Times*, January 4, 2017; Bethany Allen-Ebrahimian, “Report: More Than 100 Chinese Muslims Have Joined the Islamic State,” *Foreign Policy*, July 20, 2016; Nate Rosenblatt, “All Jihad Is Local,” *New America*, July 2016.

²⁴⁷ Department of State, *Country Reports on Terrorism 2015*, June 2016; Congressional-Executive Commission on China, *Annual Report 2016*, op. cit.

²⁴⁸ Edward Wong, “Xinjiang, Tense Region, Adopts Strict Internet Controls,” *New York Times*, December 10, 2016.

²⁴⁹ James Leibold and Adrian Zenz, “Beijing’s Eyes and Ears Grow Sharper in Xinjiang,” *Foreign Affairs*, December 23, 2016.

²⁵⁰ James Leibold, “Xinjiang Work Forum Marks New Policy of ‘Ethnic Mingling,’” *China Brief*, vol. 14, no. 12, June 19, 2014.

²⁵¹ Eric Meyer, “China Offers Work Placements and Mixed Marriage Incentives as Solutions for Its Xinjiang Problems,” *Forbes Asia*, November 13, 2014.

²⁵² Jonathan Kaiman, “Salafi Islam Raises Qualms in China,” *Tribune Newspapers*, February 3, 2016; Dan Levin, “Uighurs’ Veils Signal Protest Against China’s Restrictions,” *New York Times (International)*, August 7, 2014; Ting Shi, “China’s Ban on Islamic Veils Sends Uighurs Westward to Pray,” *Bloomberg News*, January 6, 2015.

Ilham Tohti

In September 2014, a Beijing court sentenced Ilham Tohti, a Uyghur economics professor, to life in prison for the state security crime of separatism.²⁵³ Tohti was known abroad as a moderate advocate for Uyghur rights who promoted dialogue and mutual understanding between Hans and Uyghurs and did not call for the creation of an independent East Turkestan. However, Uyghur Online, a website that he established in 2005 to serve as a platform for Uyghur issues, interviews that he gave to the foreign press, and articles that he published critical of the government's ethnic policies, appear to have prompted PRC leaders to order his arrest in January 2014.²⁵⁴

Falun Gong

Falun Gong combines an exercise regimen with meditation and the stated aim of attaining the virtues of “truthfulness, compassion, and forbearance.” Practitioners believe that the spiritual practice brings benefits to the body and mind. Falun Gong is derived from traditional Chinese *qigong*, a set of movements said to stimulate the flow of *qi*—vital energies or “life forces”—throughout the body. The practice also combines Buddhist and Daoist concepts, and precepts formulated by Falun Gong's founder Li Hongzhi.²⁵⁵ Practitioners who have reached a high level of “self-cultivation” say that they have attained “true health,” a higher level of being, and freedom from worldly attachments.²⁵⁶ Some adherents also may believe that suffering helps them to develop spiritually. During the mid-1990s, the spiritual exercise gained tens of millions of adherents across China, including members of the Communist Party.²⁵⁷

On April 25, 1999, thousands of Falun Gong adherents gathered in Beijing, near *Zhongnanhai*, the Chinese leadership compound, to protest the government's growing restrictions on their activities. Apparently in an effort to preempt the development of a fervent, broad-based social movement, the CCP established an office, which became known as the “610” office because it was established on June 10, 1999, to coordinate and administer the eradication of Falun Gong. In October 1999, the Supreme People's Court issued interpretations by which Falun Gong activities were punishable under Article 300 of the PRC Criminal Law, which makes organizing “superstitious sects, secret societies, and evil religious organizations” (cults) or using them for illegal purposes a crime.²⁵⁸ In 2015, an amendment to the PRC Criminal Law increased the maximum possible sentence for cult crimes from 15 years to life in prison.²⁵⁹

Hundreds of thousands of practitioners who refused to renounce Falun Gong were sent to Re-education Through Labor (RETL) centers until they were deemed “transformed.” Falun Gong members constituted a large portion, and at times a majority, of detainees in RETL facilities,

²⁵³ The charges against Tohti included advocating separatism, voicing support for terrorism, inciting ethnic hatred, and attacking the government's ethnic and religious policies. Simon Denyer, “China Sentences Moderate Uighur Scholar to Life in Prison for Advocating Separatism,” *Washington Post*, September 23, 2014.

²⁵⁴ “Timeline of Ilham Tohti's Case,” Human Rights Watch, September 15, 2014.

²⁵⁵ Li Hongzhi is believed to live in the United States.

²⁵⁶ “Falun Gong: An Ancient Tradition for Mind, Body, and Spirit,” Falun Dafa Information Center, June 2, 2012, <http://faluninfo.net/topic/22/>.

²⁵⁷ Estimates of Falun Gong practitioners in China in the late 1990s ranged from several million to 70 million, with widely divergent levels of commitment.

²⁵⁸ Criminal Law of the People's Republic of China, <http://www.fmprc.gov.cn/ce/cgvienna/eng/dbtyw/jdwt/crimelaw/t209043.htm>.

²⁵⁹ Congressional-Executive Commission on China, *Annual Report 2016*, op. cit.

where there were allegations of abuse, force-feeding of hunger strikers, and torture.²⁶⁰ Many adherents who remained “non-transformable” spent multiple terms in RETL facilities. Since the formal dismantling of the RETL system was announced in 2014, many Falun Gong detainees reportedly have been sent to Legal Education Centers to undergo indoctrination, or to mental health facilities. Roughly 900 practitioners reportedly have been sentenced to prison terms since Xi Jinping assumed power.²⁶¹ Falun Gong overseas organizations claim that over 3,800 adherents died in custody between 1999 and 2015, and 80 died in 2016.²⁶²

Some recent reports indicate that enforcement of the CCP’s objective to eliminate Falun Gong, whose numbers are estimated now to range from a few million to 20 million adherents, has loosened. Reported examples include fewer government directives restricting Falun Gong, and some practitioners being allowed to practice Falun Gong while in detention, released from detention after a short period, or dealt with leniently by police officers.²⁶³ The Dui Hua Foundation suggests that a recent joint interpretation by the Supreme People’s Court and Supreme People’s Procuratorate raises the criteria for serious offenses under Article 300, which may result in a larger number of relatively minor cases of cult activity and thus lighter penalties.²⁶⁴

Organ Harvesting Allegations

Some reports allege that Falun Gong practitioners held in detention facilities of various kinds were victims of illegal organ harvesting—the unlawful, large-scale, systematic, and nonconsensual removal of body organs for transplantation—while they were still alive, resulting in their deaths. There also have been reports that Tibetan and Uyghur prisoners have been sources for organ harvesting, but to a lesser degree. Some advocates argue that the number of transplanted organs in China in recent years—roughly 10,000 annually based on official reports and many more according to other estimates—cannot be fully accounted for by other purported sources of organs, such as executed prisoners and volunteer donors, and that Falun Gong detainees are the likely primary source. They contend that many prisoners on death row are not viable candidates for organ donation, and that the number of executions in China has been declining.²⁶⁵ They argue, furthermore, that the high number of people in China in need of organs, estimated to be about

²⁶⁰ *Changing the Soup but Not the Medicine: Abolishing Re-education Through Labor in China*, op. cit.

²⁶¹ Freedom House, “Freedom of the Press 2016: China,” <https://freedomhouse.org/report/freedom-press/2016/china>.

²⁶² “80 Falun Gong Practitioners Confirmed to Have Died in 2016 as a Result of Arrests and Torture,” [Minghui.org](http://minghui.org), March 23, 2017; “2016 Year in Review: Another Successful Year of Peaceful Resistance,” [Minghui.org](http://minghui.org), January 19, 2017; Levi Browde, “After 17 Years of Persecution, Falun Gong Survives,” *The Diplomat*, July 21, 2016; Falun Dafa Information Center, “Persecution: Killings,” April 9, 2015, <http://faluninfo.net/topic/6/>; Iris Cooper, “Falun Dafa Continues to Thrive Despite 15 Years of Persecution: The Story in Numbers,” [Minghui.org](http://en.minghui.org/html/articles/2014/7/20/2132p.html), July 20, 2014, <http://en.minghui.org/html/articles/2014/7/20/2132p.html>.

²⁶³ Freedom House, *The Battle for China’s Spirit*, op. cit.

²⁶⁴ Dui Hua Foundation, “Will a New Judicial Interpretation on Cults Lead to Greater Leniency?” *Human Rights Journal*, February 24, 2017.

²⁶⁵ Principal sources supporting the allegations of organ harvesting from Falun Gong prisoners include the following: David Kilgour, Ethan Gutmann, and David Matas, “Bloody Harvest/The Slaughter: An Update,” June 22, 2016; David Matas and Dr. Torsten Trey, eds., *State Organs: Transplant Abuse in China*, Woodstock (ON): Seraphim Editions, 2012; David Matas and David Kilgour, *Bloody Harvest*, Woodstock (ON): Seraphim Editions, 2009; Ethan Gutmann, “China’s Gruesome Organ Harvest,” *The Weekly Standard*, November 11, 2008; David Matas and David Kilgour, *Revised Report into Allegations of Organ Harvesting of Falun Gong Practitioners in China*, January 31, 2007; David Matas and David Kilgour, *Report into Allegations of Organ Harvesting of Falun Gong Practitioners in China*, July 6, 2006.

300,000 people, compared to the supply of organs from other sources, helps fuel the ongoing practice of organ harvesting from Falun Gong detainees.²⁶⁶

The claims of organ harvesting from Falun Gong detainees are based largely upon circumstantial evidence and interviews.²⁶⁷ Advocates point to purportedly large numbers of apparently healthy Falun Gong detainees and their disappearances, suspicious physical examinations and regular blood testing of detainees, short wait times for transplants, and telephone recordings of Chinese hospital officials acknowledging the practice. In their most recent research, the authors of several publications alleging organ harvesting in China assert that the number of transplants performed in the PRC has been much higher than officially reported and previously believed—between 60,000 to 100,000 per year since 2000—and that the discrepancy between the probable number of transplants and donations by executed prisoners and voluntary donors “leads us to conclude that there has been a far larger slaughter of practitioners of Falun Gong for their organs than we had originally estimated.”²⁶⁸ They cite indications of a surge in organ transplantation facilities and surgeries throughout the country.²⁶⁹

²⁶⁶ “More Organ Transplantation Hospitals in China,” *Health Daily Digest*, May 17, 2016.

²⁶⁷ Ethan Gutmann writes that he interviewed over 100 Falun Gong practitioners. Other witnesses purportedly include a Uyghur doctor, a PRC military doctor, a Chinese journalist, a PRC soldier, Chinese police personnel, a woman who worked at a hospital said to perform organ transplants, and Falun Gong investigators and organ transplant doctors based outside China. See Ethan Gutmann, *The Slaughter*, Amherst, NY: Prometheus Books, 2014.

²⁶⁸ David Matas, Testimony before the House Committee on Foreign Affairs, Subcommittees on Africa, Global Health, Global Human Rights, and International Organizations and Europe, Eurasia, and Emerging Threats, “Organ Harvesting: An Examination of a Brutal Practice,” June 23, 2016; David Kilgour, Ethan Gutmann, and David Matas, “Bloody Harvest/The Slaughter: An Update,” op. cit.; Matthew Robertson and Sophia Fang, “Investigative Report: A Hospital Built for Murder,” *Epoch Times*, February 4, 2016.

²⁶⁹ *Ibid.* According to these studies, the number of transplantation surgeries performed by three PRC hospitals alone exceed the official number of annual transplantation surgeries performed in the entire country. The estimates of the number of transplantation surgeries were calculated through hospital websites and official sources and media, including information on organ transplant capacities, bed utilization rates, growth trends, comments by PRC transplantation experts, and other data and analysis.

In 2017, Freedom House reported that there was “credible evidence suggesting that beginning in the early 2000s, Falun Gong detainees were killed for their organs on a large scale.”²⁷⁰ Other international human rights groups have neither confirmed nor denied the existence of organ harvesting from Falun Gong practitioners. An investigation by the Department of State in 2006 cast some doubt on allegations of a Falun Gong concentration camp and organ harvesting center in Shenyang, Liaoning Province.²⁷¹

PRC officials have admitted problems in China’s organ donation and transplantation practices, but denied the existence of organ harvesting from Falun Gong practitioners. In 2006, in response to foreign and domestic pressure, some Chinese authorities acknowledged that the transplantation of organs from executed prisoners had been prone to abuses, including nonconsensual removal, and announced measures to reform China’s organ transplantation system. Regulations enacted in 2007 created national oversight mechanisms and banned transplant tourism.²⁷² In 2011, the PRC Criminal Law was revised to declare organ trafficking a crime, and in 2012 the government announced that China would phase out the use of organs from executed prisoners. In 2014, Huang Jiefu, director of the China Organ Donation and Transplantation Commission, announced that no organs from executed prisoners would be permitted beginning in 2015.²⁷³

Some foreign observers have raised doubts about China’s pledge to end organ transplants from executed prisoners. According to some reports, Chinese prisoners have continued to be a source of organs, classified as “citizen donations,” although some PRC officials have denied this.²⁷⁴ Some international human rights and medical groups have raised concerns about how the right of death-row prisoners to consent to organ donation is ensured in China. They have urged the PRC government to provide greater transparency regarding its organ donation and transplantation systems, and to permit independent verification that China is carrying out its policies as stated.²⁷⁵

House Resolution 343, 114th Congress

On June 13, 2016, H.Res. 343, “Expressing concern regarding persistent and credible reports of systematic, state-sanctioned organ harvesting from nonconsenting prisoners of conscience in the People’s Republic of China, including from large numbers of Falun Gong practitioners and members of other religious and ethnic minority groups,” passed in the House of Representatives.

H.Res. 343 “calls on the United States Department of State to conduct a more detailed analysis on state-sanctioned organ harvesting from non-consenting prisoners of conscience in the annual Human Rights Report, and report annually to Congress on the implementation of section 232 of the Foreign Relations Authorization Act, Fiscal Year 2003 (P.L. 107-228; 8 U.S.C. §1182f), barring provision of visas to Chinese and other nationals engaged in coerced organ or bodily tissue transplantation.”

²⁷⁰ Freedom House, *The Battle for China’s Spirit*, op. cit.

²⁷¹ In 2006, U.S. embassy and consular officials in China visited a hospital in Shenyang that Falun Gong groups claimed was a site of organ harvesting of Falun Gong prisoners. They visited the hospital and surrounding site on two occasions—the first time unannounced and the second with the cooperation of PRC officials—and “found no evidence that the site is being used for any function other than as a normal public hospital.” “U.S. Finds No Evidence of Alleged Concentration Camp in China—Repression of Falun Gong, Reports of Organ Harvesting Still Worry Officials,” *Washington File*, April 16, 2006.

²⁷² “Crackdown on Organ Transplant Medical Tourism in China, UK, Egypt and Colombia,” *International Medical Travel Journal*, August 18, 2009.

²⁷³ Philip Pullella, “China ‘Mending Its Ways’ on Unethical Organ Transplants, Official Says,” *Reuters*, February 7, 2017.

²⁷⁴ Didi Kirsten Tatlow, “Transplant Chief in China Denies Breaking Vow to Ban Prisoners’ Organs,” *New York Times*, November 25, 2015; Didi Kirsten Tatlow, “China Bends Vow on Using Prisoners’ Organs for Transplants,” *New York Times*, November 16, 2015.

²⁷⁵ Didi Kirsten Tatlow, “Chinese Claim That World Accepts Its Organ Transplant System Is Rebutted,” *New York Times* (continued...)

Other international experts have noted a decrease in organs from inmates and a commitment to reform among PRC transplantation and medical experts.²⁷⁶ The number of voluntary, nonprisoner organ donors in China is growing, but remains small compared to other countries. The traditional Chinese value placed upon the deceased's body remaining intact and popular distrust of the country's medical system continue to hinder government efforts to promote organ donation. Experts estimated that China would have 4,000 voluntary donors and 15,000 organ transplants in 2016.²⁷⁷

China's Family Planning Policies

China's "One-Child Policy" began in 1980 to curb population growth. It led to many human rights abuses as well as demographic and related problems, including a skewed gender ratio and a surplus in men, trafficking in women, and an accelerated aging of the population. Implementation of the policy varied somewhat by province. Many jurisdictions long have allowed some couples to have more than one child, for example, ethnic minorities, rural couples for whom the first child is a girl, and couples in which both parents are an only child. In response to demographic trends and popular pressure, reforms to the policy began in 2013. In December 2015, the National People's Congress amended the PRC Population and Family Planning Law to allow all married couples to have two children. However, human rights groups have continued to express concerns about the persistence of coercive family planning measures.

China's Population and Family Planning Law does not explicitly condone abortion as a means of dealing with violations of policy, stating, "Family planning shall be practiced chiefly by means of contraception" (Article 19).²⁷⁸ However, the One-Child Policy led to many abuses by local officials attempting to enforce the law, including forced contraceptive use and sterilizations and coercive abortions, in some cases late-term abortions. Furthermore, the law authorized other penalties for violators of the policy, including heavy fines ("social compensation fees") and job-related sanctions, as well as the denial of public health and education benefits to offspring beyond the first child.

The amended Population and Family Planning Law, which allows married couples to have two children, contains a provision stating that government officials "may not infringe upon the legitimate rights and interests of citizens." Punishable actions by state personnel involved in implementing the law include "infringing on a citizen's personal rights," "abusing [one's] power," "demanding or accepting bribes," and misappropriating social compensation fees.²⁷⁹ Social compensation fees are to remain, however, for most couples who have more than two children,

(...continued)

Times, August 19, 2016.

²⁷⁶ Francis L. Delmonico, M.D., "Organ Harvesting: An Examination of a Brutal Practice," testimony before the House Committee on Foreign Affairs, Subcommittees on Africa, Global Health, Global Human Rights, and International Organizations and Europe, Eurasia, and Emerging Threats, June 23, 2016.

²⁷⁷ Wang Xiaodong, "2016 Organ Transplants May Set Record," *China Daily*, October 21, 2016; Francis L. Delmonico, M.D., op. cit.

²⁷⁸ Population and Family Planning Law of the People's Republic of China (Order of the President No.63), http://www.gov.cn/english/laws/2005-10/11/content_75954.htm.

²⁷⁹ The Decision of the Standing Committee of the National People's Congress on Revising the Population and Family Planning Law of the People's Republic of China, December 27, 2015, Articles 4 and 39.

and human rights groups fear that coercive measures may persist for those who violate the new two-child policy.²⁸⁰

The one-child policy, along with a historical preference for boys based upon cultural and economic influences, spurred the illegal but widespread practice of sex-selective abortions, particularly in rural areas. By the mid-2000s, according to Chinese census data, 121 boy babies were born for every 100 girl babies.²⁸¹ In part due to greater enforcement of the ban on sex-selective abortions and relaxations of the one-child policy, the gender imbalance has declined to 115 boys for every 100 girls born in China, compared to the global ratio of 103 to 100.²⁸² Despite the loosening of the law, however, many Chinese couples, especially in urban areas, have chosen to limit their families to one child, due to the high costs of raising children, the commitments of both parents toward their careers, and the difficulty of finding childcare.

U.S. Efforts to Advance Human Rights in China

Congress and successive Administrations have developed an array of means for promoting human rights and democracy in China, often deploying them simultaneously. Principal policy tools include open criticism of PRC human rights policies and practices; quiet diplomacy; hearings; foreign assistance; support for dissident and prodemocracy groups in China and the United States; sanctions; bilateral dialogue; Internet freedom efforts; public diplomacy; and the coordination of international pressure. In the past year, human rights advocates praised two milestone U.S. efforts aimed at promoting human rights globally and in China: legislation that would impose penalties upon foreign individuals considered to have committed egregious human rights violations and a collective international statement critical of China's human rights record.

Legislation and Hearings

Congress has played a prominent role in U.S. human rights policy toward China. Related congressional activities include sponsoring legislation, holding hearings, and authorizing reports that call attention to human rights abuses globally and in the PRC; writing letters to the Administration and to PRC leaders in support of human rights in China, Chinese prisoners of conscience, and ethnic minority groups; and Members and staff raising human rights issues while on official travel to China. In 2017, the CECC and the Africa, Global Health, Global Human Rights, and International Organizations subcommittee of the House Committee on Foreign Affairs held hearings on the plight of detained Chinese rights lawyers and their families and on Liu Xiaobo.²⁸³

²⁸⁰ Congressional-Executive Commission on China, "Statements by CECC Chairs on Announced Revision to China's 'One-Child Policy,'" October 30, 2015.

²⁸¹ Manya Koetse, "China Now Has 33.5 Million More Men Than Women," *What's on Weibo*, January 22, 2017; Zhuang Pinghui, "Gender Imbalance in China Exaggerated, Research Suggests," *South China Morning Post*, December 1, 2016; Lin Ping, "Chinese Men Outnumber Women by 33 Million after Decades of Gender Bias," *Radio Free Asia*, January 22, 2015.

²⁸² Central Intelligence Agency, *The World Factbook*, 2016 estimates.

²⁸³ Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations, "The Tragic Case of Liu Xiaobo," July 14, 2017; Congressional-Executive Commission on China, "Gagging the Lawyers: China's Crackdown on Human Rights Lawyers and Its Implications for U.S.-China Relations," June 28, 2017; Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations, "Disappeared, Jailed, and Tortured in China: Wives Petition for Their Husbands' Freedom," May 18, 2017.

Congressional-Executive Commission on China (CECC)

Following the 1989 Tiananmen military crackdown, Congress sought to use the annual renewal of China's "most-favored nation" (MFN) trading status to put pressure on the PRC government to improve human rights conditions in China, or risk the imposition of significantly higher U.S. tariffs on Chinese imports. In 2000, the legislation that granted permanent normal trade relations (PNTR) treatment to China (P.L. 106-286) once the PRC joined the World Trade Organization ended this mechanism, but included provisions to enable Congress to continue to have leverage on human rights in China. The PNTR Act created the Congressional-Executive Commission on China (CECC) to monitor human rights and the rule of law in China and to submit an annual report with recommendations to the President and Congress. Title III of the act provides that the Commission shall consist of nine Senators, nine Members of the House of Representatives, five senior Administration officials appointed by the President (Departments of State, Commerce, and Labor), and a professional staff. The commission holds hearings and roundtables on rights-related topics, provides news and analysis, keeps track of pertinent PRC laws and regulations, and maintains a publicly accessible database of political prisoners. The CECC has an annual operating budget of approximately \$2 million.²⁸⁴

During the 114th Congress, subcommittees of the House Committee on Foreign Affairs held hearings on global religious freedom, organ harvesting in China, and PRC influence on academic freedom in U.S. universities.²⁸⁵ The CECC has held over 10 hearings on a range of topics related to human rights in China since 2014.²⁸⁶ The Tom Lantos Human Rights Commission held hearings on Tibet in 2015 and 2017 and on the United Nations Human Rights Council in 2016.²⁸⁷ The CECC, Tom Lantos Human Rights Commission, U.S. Commission on International Religious Freedom, and other congressional and congressionally mandated bodies and fora investigated, publicized, and reported on human rights conditions in the PRC.

Global Magnitsky Act

In December 2016, Congress passed the Global Magnitsky Human Rights Accountability Act, as part of the National Defense Authorization Act for Fiscal Year 2017 (P.L. 114-328).²⁸⁸ Some human rights activists reportedly have begun to collect information on PRC officials who allegedly have committed egregious human rights violations, in order to invoke sanctions under the new law.²⁸⁹ The act, hailed as "groundbreaking" by its supporters, was named after Russian lawyer Sergei Magnitsky, who in 2008 spoke out against Russian government corruption and died in prison one year later. The law grants the President authority to prohibit or revoke U.S. entry visas to foreign individuals deemed guilty of targeting whistle-blowers, and freezing or prohibiting those individuals' U.S. property transactions. The act allows the President to impose such sanctions on foreign persons for whom credible evidence exists showing that they are

²⁸⁴ See <http://www.cecc.gov>.

²⁸⁵ Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations, "The Global Religious Freedom Crisis and Its Challenge to U.S. Foreign Policy," June 16, 2016; Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations, "The Global Crisis of Religious Freedom," October 27, 2015; Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations and Subcommittee on Europe, Eurasia, and Emerging Threats, "Organ Harvesting: An Examination of a Brutal Practice," June 23, 2016; Subcommittee on Africa, Global Health, Global Human Rights, and International Organizations, "Is Academic Freedom Threatened by China's Influence on U.S. Universities?" June 25, 2015.

²⁸⁶ Congressional-Executive Commission on China, hearings, <http://www.cecc.gov/events/hearings>.

²⁸⁷ Tom Lantos Human Rights Commission, "Tibet: Freedom of Religion," July 12, 2017; Tom Lantos Human Rights Commission, "Ten Years Later: The Status of the United Nations Human Rights Council," May 27, 2016; Tom Lantos Human Rights Commission, "Tibet and China: Searching for a New Way Forward," July 14, 2015.

²⁸⁸ National Defense Authorization Act for Fiscal Year 2017 (P.L. 114-328, §1261).

²⁸⁹ Ding Wenqi, "Group to Probe China's Human Rights Violations under U.S. Law," *Radio Free Asia*, January 10, 2017.

responsible for extrajudicial killings, torture, or other gross violations of internationally recognized human rights, committed against individuals in any foreign country who seek to expose illegal activity carried out by government officials or promote internationally recognized human rights and freedoms.²⁹⁰

Notable Legislation Related to Human Rights in China (1989 to Present)

P.L. 101-246: Foreign Relations Authorization Act, Fiscal Years 1990 and 1991, Section 902 (Tiananmen Square Sanctions).

P.L. 102-383: The U.S.-Hong Kong Policy Act of 1992.

P.L. 105-292: The International Religious Freedom Act of 1998 (amended by P.L. 106-55, P.L. 107-228, and P.L. 112-75). Established an Office of International Religious Freedom within the Department of State and the United States Commission on International Religious Freedom, an independent, bipartisan U.S. federal government commission.

P.L. 106-286: Normal Trade Relations for the People's Republic of China (PNTR Act). Title III, Section 301 established the Congressional-Executive Commission on China and authorized human rights and rule of law programs. Title V, Section 511, Title VII, Section 701, and other sections of the act established commercial and labor rule of law programs and made other policy references related to human rights abuses in China.

P.L. 107-228: Tibetan Policy Act of 2002, included in the Foreign Relations Authorization Act, FY2003, Title VI, Sections 611-621).

P.L. 109-287: The Fourteenth Dalai Lama Congressional Gold Medal Act.

P.L. 108-333: North Korean Human Rights Act of 2004, Title III (Protecting North Korean Refugees).

P.L. 110-346: North Korean Human Rights Reauthorization Act of 2008.

P.L. 114-328: Global Magnitsky Act (National Defense Authorization Act, §1261).

Human Rights, Rule of Law, and Civil Society Programs

The U.S. government does not provide assistance to Chinese government entities or directly to Chinese NGOs. The direct recipients of State Department and USAID grants have been predominantly U.S.-based nongovernmental organizations (NGOs) and universities. U.S. foreign assistance efforts in China primarily have aimed to promote sustainable development and environmental conservation and preserve indigenous culture in Tibetan areas in China and to support human rights, democracy, rule of law, and environmental programs in the PRC.²⁹¹ Between 2001 and 2016, the United States government provided an estimated \$78 million for Tibetan programs; \$77 million for rule of law and environmental efforts in the PRC; \$220 million for programs administered by the Department of State's Bureau of Democracy, Human Rights, and Labor (DRL); and \$6.2 million for criminal justice reform. DRL has administered programs that support the development of the legal profession, civil society, government transparency, public participation in government, and Internet Freedom.

Some policymakers assert that the U.S. government should not support foreign assistance programs in China because the PRC has significant financial resources of its own and can manage its own development needs. Other critics argue that U.S. democracy and governance programs have had little effect in China. Some human rights activists state that some U.S. stakeholders involved in assistance programs may refrain from supporting tougher U.S. approaches toward China's human rights abuses in order to protect their programs and policy interests.²⁹² Some

²⁹⁰ "U.S. Congress Passes Groundbreaking Legislation to Fight the Impunity of Human Rights Abusers Worldwide," *International Campaign for Tibet*, December 8, 2016.

²⁹¹ See CRS Report RS22663, *U.S. Assistance Programs in China*, by Thomas Lum.

²⁹² Human Rights Watch, December 2014.

proponents of U.S. programs in China point out that U.S. assistance does not provide support to the PRC government, and contend that U.S. programs benefit U.S. interests, and they operate in areas where the PRC government has lacked sufficient capacity or commitment. Others assert that U.S. efforts in the PRC have responded to broad public interest and support, helped to build foundations for the rule of law and civil society, promoted the protections of some rights, and tempered the effects of periodic political crackdowns.²⁹³

National Endowment for Democracy

Established in 1983, the National Endowment for Democracy (NED) is a private, nonprofit foundation “dedicated to the growth and strengthening of democratic institutions around the world.” Funded primarily by an annual congressional appropriation, NED has played an active role in promoting human rights and democracy in China since the mid-1980s. A grant-making institution, the endowment has supported projects carried out by grantees that include its core institutes; Chinese, Tibetan, and Uyghur human rights and democracy groups based in the United States and Hong Kong; and a small number of NGOs based in mainland China. NED grants for China and Tibetan programs have averaged about \$6.7 million per year during the past decade. This support was provided using NED’s regular congressional appropriations (an estimated \$170 million in FY2016), apart from some additional congressionally directed funding.²⁹⁴ Program areas include the following: rule of law; public interest law; civil society; prisoners of conscience; rights defenders; freedom of expression; Internet freedom; religious freedom; government accountability and transparency; political participation; labor rights; promoting understanding of Tibetan, Uyghur, and other ethnic concerns in China; public policy analysis and debate; and rural land rights.

Sanctions

China is subject to some U.S. economic sanctions in response to its human rights conditions. Their effects, however, have been limited and largely symbolic. Many U.S. sanctions imposed upon China as a response to the 1989 Tiananmen military crackdown are no longer in effect.²⁹⁵ Remaining Tiananmen-related sanctions suspend Overseas Private Investment Corporation (OPIC) programs and restrict export licenses for U.S. Munitions List (USML) items and crime control equipment.²⁹⁶ Originally imposed under the Tiananmen sanctions, the U.S. government maintains restrictions on U.S. exports of crime control and detection equipment to the PRC due to China’s designation as a “country of particular concern” for religious freedom.²⁹⁷

Foreign operations appropriations legislation also may impose restrictions or conditions. For example, U.S. representatives to international financial institutions by law may support projects in Tibet only if they do not encourage the migration and settlement of non-Tibetans into Tibet or the transfer of Tibetan-owned properties to non-Tibetans, due in part to the potential for such

²⁹³ John Kamm, op. cit.; U.S. Department of State, *Congressional Budget Justification for Foreign Operations, Fiscal Year 2015*.

²⁹⁴ Congress provided directed funding out of the Democracy Fund to NED for programs in China between 2001 and 2007 and Tibetan areas between 2004 and 2009. Such funding supplemented resources available for China through NED’s regular budget.

²⁹⁵ See CRS Report R44605, *China: Economic Sanctions*, by Dianne E. Rennack.

²⁹⁶ Foreign Relations Authorization Act of 1990-1991 (P.L. 101-246), §902 (“Tiananmen sanctions”).

²⁹⁷ International Religious Freedom Act of 1998 (P.L. 105-292).

activities to erode Tibetan culture and identity.²⁹⁸ In addition, countries, such as China, that the Department of State designates as “Tier 3” in its Trafficking in Persons Report may be subject to restrictions on U.S. assistance, in particular nonhumanitarian and nontrade-related foreign assistance.²⁹⁹ The United States limits its support for international financial institution lending to China for human rights reasons.³⁰⁰ Other U.S. laws that can be invoked to deny foreign assistance on human rights grounds include Sections 116 and 502B of the Foreign Assistance Act of 1961 (P.L. 87-195).³⁰¹

The Trump Administration, invoking the Kemp-Kasten amendment, has ceased U.S. contributions to the United Nations Population Fund (UNFPA), due to its determination that the UNFPA supports PRC family planning policies, which allegedly have involved coercive abortion and involuntary sterilization.³⁰² The Obama Administration provided funding to the UNFPA under the Kemp-Kasten amendment. At the same time, Congress enacted legislation requiring that no U.S. funding to the UNFPA could be used for a country program in China, and that for the UNFPA to receive U.S. funding, it could not fund abortions.³⁰³

Human Rights Dialogue

The 19th and most recent round of the U.S.-China Human Rights Dialogue took place in Washington, DC, in August 2015. Beijing suspended the human rights dialogue in 2016, possibly in response to the U.S.-led joint statement at the UNHRC criticizing China’s human rights record.³⁰⁴ The issue of human rights is not among the “four pillars” of the new U.S.-China Comprehensive Dialogue that was established during talks between President Trump and President Xi in April 2017. Secretary of State Rex Tillerson stated that human rights are “embedded in every discussion,” and that “I don’t think you have to have a separate conversation, somehow separate our core values around human rights from our economic discussions, our military-to-military discussions, or our foreign policy discussions.”³⁰⁵

The U.S.-China Human Rights Dialogue, established in 1990, has never been fully embraced by Beijing. It is one of several government-to-government human rights dialogues between China and other countries; China also conducts a human rights dialogue with the European Union. The Obama Administration participated in five rounds between 2010 and 2015. The PRC government

²⁹⁸ Consolidated Appropriations Act, 2016 (P.L. 114-113), Division K, §7043(f)(1); Tibetan Policy Act of 2002, Foreign Relations Authorization Act, FY2003 (P.L. 107-228), §616.

²⁹⁹ Victims of Trafficking and Violence Protection Act of 2000 (P.L. 106-386), §110(a); Department of State, *Trafficking in Persons Report*, June 2017.

³⁰⁰ International Financial Institutions Act (P.L. 95-118), §710(a).

³⁰¹ Section 502B applies to security assistance.

³⁰² Nurith Aizenman, “Citing Abortions in China, Trump Cuts Funds for U.N. Family Planning Agency,” *NPR*, April 4, 2017. The “Kemp-Kasten” amendment, which has been included in annual foreign operations appropriations since FY1985, bans U.S. assistance to organizations that, as determined by the President, support or participate in the management of coercive family planning programs. Under Kemp-Kasten, Presidents Reagan, George H. W. Bush, and George W. Bush suspended contributions to the UNFPA due to concerns about coercive family planning practices in China. See CRS Report R41360, *Abortion and Family Planning-Related Provisions in U.S. Foreign Assistance Law and Policy*, by Luisa Blanchfield.

³⁰³ See, most recently, §7082 in Division K of the Consolidated Appropriations Act, 2016 (P.L. 114-113), approved December 18, 2015, and continued into FY2017 by P.L. 114-223. P.L. 114-113 also specified that “U.S. contributions to UNFPA be kept in an account segregated from other UNFPA accounts and not be commingled with other sums.”

³⁰⁴ Dui Hua Foundation, “Dui Hua Visits DC for Government, NGO Meetings,” *Dui Hua Digest*, July 18, 2016.

³⁰⁵ “Briefing by Secretary Tillerson, Secretary Mnuchin, and Secretary Ross on President Trump’s Meetings with President Xi of China,” op. cit.

suspended the human rights dialogue in 2014, presumably in retaliation for former President Obama's meeting with the Dalai Lama, and in 2016. Beijing previously had suspended the dialogue in 2004 after the George W. Bush Administration sponsored an unsuccessful U.N. resolution criticizing China's human rights record. The Chinese government has become increasingly resistant to making concessions on human rights through diplomatic engagement, and more assertive about raising human rights violations in the United States, according to experts. Since 2013, PRC officials rarely have accepted prisoner lists or requests for information on cases of concern from foreign governments.³⁰⁶

The 19th dialogue included a meeting with senior staffers of the Senate Foreign Relations Committee and a roundtable with human rights groups. The roundtable reportedly marked the first time that a Chinese delegation to the talks engaged critics from civil society.³⁰⁷ Then-Assistant Secretary of State for Democracy, Human Rights, and Labor Tom Malinowski expressed concerns regarding the crackdown on human rights lawyers and presented a list of over 100 "cases of concern."³⁰⁸ Other issues reportedly raised by the U.S. side included China's new foreign NGO law, the campaign to remove crosses from Christian churches in Zhejiang province, repression in Tibet and Xinjiang, and restrictions on U.S. and other foreign journalists in China.³⁰⁹ The PRC delegation, led by Li Junhua, Director-General of the Department of International Conferences and Organizations of the PRC Ministry of Foreign Affairs, noted human rights problems in the United States, including racial discrimination, excessive use of force by police, and the "violation of the human rights of other countries through massive surveillance activities."³¹⁰

During the Obama Administration, some experts criticized the human rights dialogue for providing both governments with opportunities for claiming progress on human rights in China through the talks themselves, without establishing benchmarks for progress, offering incentives for producing results, or imposing penalties for failing to do so. They argued that separating the human rights dialogue from the main U.S.-China Strategic and Economic Dialogue marginalized human rights issues, and reduced opportunities for linking human rights to other areas of the bilateral relationship. Critics also urged that the talks be more transparent and open to a greater number of stakeholders, particularly nongovernmental participants.³¹¹

Obama Administration officials responded to critics by arguing that the Human Rights Dialogue was an important means of regularly expressing U.S. positions on human rights, and not an arena for negotiation. They argued that the talks enabled the U.S. government to focus on human rights within one forum, and did not preclude the raising of human rights in other fora.³¹² Even some critics of the dialogue have suggested that the talks nonetheless may effectively be used to press the PRC government on human rights issues prior to bilateral summits and other events.³¹³ Some

³⁰⁶ John Kamm, Dui Hua Foundation, "China's Human Rights Diplomacy: Past, Present, Future," op. cit.

³⁰⁷ Dui Hua Foundation, "US-China Human Rights Dialogue Reconvenes in Washington," *Dui Hua Digest*, September 2015.

³⁰⁸ Ibid.

³⁰⁹ Department of State, "On-the-Record Briefing on the 19th U.S.-China Human Rights Dialogue," op. cit.

³¹⁰ "China, U.S. Hold 19th Human Rights Dialogue," *Xinhua*, August 16, 2015.

³¹¹ Li Xiaorong, "What I Told Obama About Beijing's Human Rights Problem," *The New York Review of Books*, January 18, 2011; Human Rights Watch, "China/US: Dialogue Needs to Produce Results," July 20, 2012; William Wan, "Human Rights Abuses Worsening in China, U.S. Diplomats Say," *Washington Post*, August 2, 2013.

³¹² Department of State, "On-the-Record Briefing on the 19th U.S.-China Human Rights Dialogue," op. cit.; Department of State, "Briefing on the 17th U.S.-China Human Rights Dialogue," July 25, 2012.

³¹³ Congressional-Executive Commission on China, "CECC Chairs Say Human Rights Dialogue 'Critical Opportunity' (continued...)

U.S.-based human rights groups have contended that the dialogue “remains the best forum for raising the cases of imprisoned activists.”³¹⁴ Some Chinese rights activists believe that the dialogue has had long-term benefits through raising human rights awareness in China.³¹⁵

A related bilateral dialogue, the Legal Experts Dialogue (LED), was launched in 2003. The Obama Administration convened the fourth round in 2011, after a six-year hiatus. The LED brings together governmental and nongovernmental legal experts from the United States and China. It is designed to serve as a forum to discuss the benefits and practical implementation of the rule of law. The seventh LED took place in Beijing in October 2015. Topics of discussion included Chinese lawyers’ access to clients, interrogation techniques used by police officers, and administrative law reforms.³¹⁶

Internet Freedom

The U.S. government has undertaken efforts to promote global Internet freedom. U.S. congressional committees and commissions have held hearings on the Internet and China, including the roles of U.S. Internet companies in China’s censorship system, market access for U.S. Internet companies, intellectual property rights, and cybersecurity. The George W. Bush Administration established the Global Internet Freedom Task Force, continued under the Obama Administration as the NetFreedom Task Force, whose mission was to coordinate policy within the State Department on Internet freedom efforts. The Department of State’s Bureau of Democracy, Human Rights, and Labor administers Global Internet Freedom programs in the following areas: countercensorship and secure communications technology; training in secure online and mobile communications practices; advocacy; and policy research.³¹⁷ The primary target countries for such efforts, particularly censorship circumvention and secure communications programs, have been China and Iran. Congress appropriated \$13 million for DRL Internet freedom efforts in FY2016.

International Broadcasting

The Broadcasting Board of Governors (BBG) identifies China as one of five “critical areas” for investment in the area of international broadcasting. Voice of America (VOA) and Radio Free Asia (RFA) provide external sources of independent or alternative news and opinion to Chinese audiences. The two media services play small but unique roles in providing U.S.-style broadcasting, journalism, and public debate in China. VOA, which offers mainly U.S. and international news, and RFA, which serves as an uncensored source of domestic Chinese news, often report on important world and local events. VOA “Learning English” international news programs, aimed at intermediate learners of English, are popular with many young, educated, and professional Chinese.

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to Discuss China’s ‘Abysmal Human Rights Record’ Ahead of Xi Visit,” Congressional-Executive Commission on China, August 13, 2015.

³¹⁴ “Kamm Speaks on Human Rights in China in an Election Year,” *Dui Hua Digest*, October 12, 2016.

³¹⁵ Dui Hua Foundation, “US-China Rights Dialogue: An Exercise in Insanity?” *Dialogue*, No. 52 (Summer 2013).

³¹⁶ Johanna Gruber, “Professor Jack Beerman Joins U.S.-China Legal Experts Dialogue,” *Boston University Law News*, December 16, 2015.

³¹⁷ Department of State, *Congressional Budget Justification for Foreign Operations, Appendix 2, Fiscal Year 2017*; Department of State, Bureau of Democracy, Human Rights and Labor, *Internet Freedom Annual Program Statement*, June 2, 2014.

The PRC government regularly jams and blocks VOA and RFA Mandarin, Cantonese, Tibetan, and Uyghur language radio and television broadcasts and Internet sites, while VOA English services have received less interference. VOA and RFA have made efforts to enhance their Internet services, develop circumvention or countercensorship technologies, and provide access to their programs on social media platforms such as *weibo* and WeChat. In 2014, RFA Mandarin launched a blog featuring a daily compilation of posts by Chinese “celebrity bloggers” that had been deleted by state censors.³¹⁸

United Nations Human Rights Council (UNHRC)

The 47-member United Nations Human Rights Council (UNHRC) was created in 2006 to replace the U.N. Commission on Human Rights (UNCHR), which had been faulted for being unduly influenced by countries widely perceived as having poor human rights records.³¹⁹ The United States had sponsored several resolutions at the UNCHR criticizing China’s human rights record, but none were successful; China was able to thwart voting on nearly all such resolutions through “no-action motions.”³²⁰ The PRC continues to employ its soft power—diplomatic and economic influence—in global fora in order to reduce international pressure to improve its human rights conditions.

Members of the UNHRC are elected by a majority vote in the U.N. General Assembly for three-year terms and may not be reelected for more than two consecutive terms. The United States was elected to the Human Rights Council in 2009 and was reelected in 2012 and 2016. China has been elected to the UNHRC four times (2006, 2009, 2013, and 2016). Some Members of Congress have opposed China’s membership on the UNHRC.³²¹

As part of the restructuring related to the formation of the UNHRC, the U.N. General Assembly established the Universal Periodic Review (UPR), a mechanism by which the human rights records of all U.N. members are assessed once every four years. In addition, every member of the Human Rights Council is required to undergo a review while a member. The review is based upon reports compiled by the Office of the High Commissioner for Human Rights (OHCHR), including input from independent experts and NGOs, and a report submitted by the state under review. Some observers complain that the UPR process provides countries with poor human rights records with opportunities to criticize those with good records, the recommendations are nonbinding, and the input of NGOs often is restricted. Supporters of the UPR contend that it highlights human rights issues and produces pledges from countries under review to address them, and that the process is a more transparent and inclusive exercise than bilateral dialogues.³²²

The first UPR of China was conducted in 2009 and the second one was held in October 2013. During China’s second UPR, many U.N. member states urged China to ratify the International

³¹⁸ Broadcasting Board of Governors, *Fiscal Year 2017 Congressional Budget Request*, released February 9, 2016; Broadcasting Board of Governors, *Fiscal Year 2015 Congressional Budget Request*, released March 25, 2014.

³¹⁹ See CRS Report RL33608, *The United Nations Human Rights Council: Issues for Congress*, by Luisa Blanchfield.

³²⁰ Since the U.S. government began sponsoring resolutions criticizing China’s human rights record in 1991, they have been blocked by “no action” motions nearly every time. One, in 1995, was considered by the UNCHR; it lost by one vote. The last such U.S. resolution was introduced in 2004.

³²¹ H.Res. 327 (Representative Bentivolio, introduced August 2, 2013) expressed the sense of the House of Representatives that the United States should vote against China’s membership on the UNHRC, citing China’s human rights violations, failure to comply with 71 of 138 UNHRC recommendations from its first Universal Periodic Review (2009), and resistance to efforts supported by the United States to monitor or reduce human rights abuses in other countries.

³²² Calum MacLeod, “Chinese Human Rights under U.N. Scrutiny,” *USA Today*, October 23, 2013.

Covenant on Civil and Political Rights (ICCPR). Some countries called on China to ensure greater protections of the rights of ethnic minorities, particularly Tibetans, Uyghurs, and Mongolians, although other countries supported China's ethnic policies. Austria, Slovakia, and Switzerland recommended that China facilitate a visit by the U.N. High Commissioner for Human Rights. The United States reportedly was the only participant in the UPR dialogue to provide names of Chinese citizens when raising the issue of human rights abuses against dissidents and civil society activists.³²³ China's next periodic review is to take place in November 2018.

Of the recommendations made by the Human Rights Council at its second UPR, China adopted 204 of them and rejected 48. A number of recommendations that China rejected related to human rights activists, extrajudicial detention, freedom of belief, freedom of expression, and the rights of ethnic minorities.³²⁴ PRC officials asserted ethnic minority groups were treated fairly, adding that China's priority was to reduce poverty. They stated that Beijing was willing to work with other countries on human rights "as long as it was in the spirit of mutual respect." The PRC government declined to set a timetable for ratifying the ICCPR and agreed to meet with the U.N. High Commissioner for Human Rights "at a mutually convenient time."³²⁵ China's National Human Rights Action Plan for 2016-2020 pledges to implement recommendations of its first and second UPRs and to "conduct exchanges and cooperation" with the OHCHR.³²⁶

The Network of Chinese Human Rights Defenders reported "large discrepancies" between China's 2013 promises and its implementation of UPR recommendations. The Network found that 43 recommendations were partially implemented and only 3 were fully implemented.³²⁷ The New York-based organization Human Rights in China (HRC) submitted a mid-term assessment in which it noted a "steep deterioration of rights" in the PRC and provided recommendations to the PRC government in order for it to meet its UPR commitments. HRC also made recommendations to U.N. member states to encourage China to comply with international human rights processes and meet universal human rights standards.³²⁸

Joint Statement on Human Rights in China

In March 2016, a group of 12 countries, led by the United States, openly expressed serious concerns about human rights abuses in China at a gathering of the United Nations Human Rights Council. The declaration was the first collective statement on China in the history of the council.³²⁹ It expressed concerns about China's "deteriorating human rights record," including the

³²³ Dui Hua Foundation, "Looking for Universality at China's Second UPR," November 5, 2013.

³²⁴ Human Rights in China, "Summary Charts: China's Responses to Recommendations Advanced by Human Rights Council Member and Observer States, 2nd Universal Periodic Review of China," February 27, 2014, http://www.hrichina.org/sites/default/files/upr_2013_recommendations_and_chinas_responses.pdf.

³²⁵ Ibid.; Stephanie Nebehay and Sui-Lee Wee, "West Criticizes, China Defense Human Rights Record at U.N.," *Reuters*, October 22, 2013.

³²⁶ State Council Information Office of the People's Republic of China, *National Human Rights Action Plan of China (2016-2020)*, op. cit.

³²⁷ The fully implemented recommendations were those related to the abolition of the Re-education Through Labor system. Catherine Lai, "China Failing to Deliver on Human Rights Promises," *Hong Kong Free Press*, November 24, 2016.

³²⁸ Human Rights in China, "The China Challenge to International Human Rights: What's at Stake? A China UPR Mid-Term Progress Assessment," November 2016.

³²⁹ The countries who signed the declaration were Australia, Denmark, Finland, Germany, Iceland, Ireland, Japan, the Netherlands, Norway, Sweden, the United Kingdom, and the United States.

arrests of rights activists, civil society leaders, and lawyers for “peacefully exercising their freedom of expression or for lawfully practicing their profession.”³³⁰

³³⁰ “Joint Statement—Human Rights Situation in China,” Delivered by U.S. Ambassador to the Human Rights Council Keith Harper, March 10, 2016.

Appendix. Selected Legislation Related to Human Rights in China

115th Congress

- **H.Res. 445:** Honoring the Life and Legacy of Liu Xiaobo (Meadows, introduced July 13, 2017).
- **H.Con.Res. 67:** Urging the Government of the People’s Republic of China to unconditionally release Liu Xiaobo, together with his wife Liu Xia, to allow them to freely meet with friends, family, and counsel and seek medical treatment wherever they desire (Smith (NJ), introduced June 28, 2017).
- **S.Con.Res. 21:** Urging the Government of the People’s Republic of China to unconditionally release Liu Xiaobo, together with his wife Liu Xia, to allow them to freely meet with friends, family, and counsel and seek medical treatment wherever they desire. (Rubio, introduced June 29, 2017).
- **H.R. 2537:** To designate the area between the intersections of International Drive Northwest and Van Ness Street Northwest and International Drive Northwest and International Place Northwest in Washington, District of Columbia, as “Liu Xiaobo Plaza,” and for other purposes (Meadows, introduced May 18, 2017).
- **S. 1187:** To designate the area between the intersections of International Drive, Northwest and Van Ness Street, Northwest and International Drive, Northwest and International Place, Northwest in Washington, District of Columbia, as “Liu Xiaobo Plaza,” and for other purposes (Cruz, May 18, 2017).
- **H.R. 1872:** Reciprocal Access to Tibet Act of 2017 (McGovern, introduced April 4, 2017).
- **S. 821:** Reciprocal Access to Tibet Act of 2017 (Rubio, introduced April 4, 2017).
- **H.Res. 65:** Urging the President to seek an independent investigation into the death of Tibetan Buddhist leader and social activist Tenzin Delek Rinpoche and to publicly call for an end to the repressive policies used by the People’s Republic of China in Tibet (Capuano, introduced January 27, 2017).

114th Congress

- **H.R. 4452** (Not passed): To designate the area between the intersections of International Drive Northwest and Van Ness Street Northwest and International Drive Northwest and International Place Northwest in Washington, District of Columbia, as “Liu Xiaobo Plaza,” and for other purposes (Meadows, February 3, 2016).
- **S. 2451** (Not passed): A bill to designate the area between the intersections of International Drive, Northwest and Van Ness Street, Northwest and International Drive, Northwest and International Place, Northwest in Washington, District of Columbia, as “Liu Xiaobo Plaza,” and for other purposes (Cruz, January 20, 2016).
- **H.Res. 584** (Not passed): Urging the President to seek an independent investigation into the death of Tibetan Buddhist leader and social activist Tenzin

- Delek Rinpoche and to publicly call for an end to the repressive policies used by the People's Republic of China in Tibet (Capuano, January 11, 2016).
- **H.Res. 343** (*Passed on June 13, 2016*): Expressing concern regarding persistent and credible reports of systematic, state-sanctioned organ harvesting from non-consenting prisoners of conscience in the People's Republic of China, including from large numbers of Falun Gong practitioners and members of other religious and ethnic minority groups (Ros-Lehtinen, June 25, 2015).
 - **H.Res. 337** (*Passed on 7/8/2015*): Calling for substantive dialogue, without preconditions, in order to address Tibetan grievances and secure a negotiated agreement for the Tibetan people (Engel, June 24, 2015).
 - **H.R. 2621** (Not passed): China Human Rights Protection Act of 2015 (Smith (NJ), June 2, 2015).
 - **H.R. 2242** (Not passed): World Press Freedom Act of 2015 (Smith (NJ), May 5, 2015).
 - **H.R. 1112** (Not passed): Reciprocal Access to Tibet Act of 2015 (McGovern, February 26, 2015).
 - **H.Res. 105** (Not passed): Calling for the protection of religious minority rights and freedoms worldwide (Bridenstine, February 11, 2015).
 - **S.Res. 69** (Not passed): A resolution calling for the protection of religious minority rights and freedoms worldwide (Inhofe, February 5, 2015).
 - **S. 284** and **H.R. 624** (*Passed on 12/23/16* as part of S. 2943, National Defense Authorization Act for Fiscal Year 2017 [P.L. 114-328, §1261]): Global Magnitsky Human Rights Accountability Act: To impose sanctions with respect to foreign persons responsible for gross violations of internationally recognized human rights, and for other purposes (Cardin, January 28, 2015; Smith (NJ), January 30, 2015).

113th Congress

- **H.R. 5379** (Not passed): China Human Rights Protection Act of 2014 (Smith (NJ), July 31, 2014).
- **S.Res. 482** (Not passed): A resolution expressing the sense of the Senate that the area between the intersections of International Drive, Northwest Van Ness Street, Northwest International Drive, Northwest and International Place, Northwest in Washington, District of Columbia, should be designated as "Liu Xiaobo Plaza" (Cruz, June 24, 2014).
- **H.R. 4851** (Not passed): Reciprocal Access to Tibet Act of 2014 (McGovern, June 12, 2014).
- **H.Res. 599** (*Passed on 5/28/2014*): Urging the Government of the People's Republic of China to respect the freedom of assembly, expression, and religion and all fundamental human rights and the rule of law for all its citizens and to stop censoring discussion of the 1989 Tiananmen Square demonstrations and their violent suppression (Smith (NJ), May 27, 2014).
- **S.Res. 451** (*Passed on 6/4/2014*): A resolution recalling the Government of China's forcible dispersion of those peaceably assembled in Tiananmen Square 25 years ago, in light of China's continued abysmal human rights record (Barrasso, May 15, 2014).

- **S.Res. 361** (*Passed on 4/8/2014*): A resolution recognizing the threats to freedom of the press and expression in the People’s Republic of China and urging the Government of the People’s Republic of China to take meaningful steps to improve freedom of expression as fitting of a responsible international stakeholder (Cardin, February 24, 2014).
- **H.Res. 327** (Not passed): Expressing the sense of the House of Representatives regarding China’s membership in the United Nations Human Rights Council (UNHRC) (Bentivolio, August 2, 2013).
- **H.Res. 281** (Not passed): Expressing concern over persistent and credible reports of systematic, state-sanctioned organ harvesting from non-consenting prisoners of conscience, in the People’s Republic of China, including from large numbers of Falun Gong practitioners imprisoned for their religious beliefs, and members of other religious and ethnic minority groups (Ros-Lehtinen, June 27, 2013).
- **H.Res. 245** (Not passed): Recognizing the 24th anniversary of the Tiananmen Square massacre, calling for the release of Dr. Wang Bingzhang, and for other reasons (Bentivolio, June 4, 2013).

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