

# CRIMINAL JUSTICE

---

---

**EXCERPTED**  
FROM THE  
2015 ANNUAL REPORT  
OF THE  
**CONGRESSIONAL-EXECUTIVE  
COMMISSION ON CHINA**  
ONE HUNDRED FOURTEENTH CONGRESS  
FIRST SESSION

OCTOBER 8, 2015

Printed for the use of the Congressional-Executive Commission on China



Available via the World Wide Web: <http://www.cecc.gov>

U.S. GOVERNMENT PUBLISHING OFFICE

98-307 PDF

WASHINGTON : 2016

---

For sale by the Superintendent of Documents, U.S. Government Publishing Office  
Internet: [bookstore.gpo.gov](http://bookstore.gpo.gov) Phone: toll free (866) 512-1800; DC area (202) 512-1800  
Fax: (202) 512-2104 Mail: Stop IDCC, Washington, DC 20402-0001

LEGISLATIVE BRANCH COMMISSIONERS

*House*

CHRISTOPHER H. SMITH, New Jersey,  
*Chairman*  
ROBERT PITTENGER, North Carolina  
TRENT FRANKS, Arizona  
RANDY HULTGREN, Illinois  
TIMOTHY J. WALZ, Minnesota  
MARCY KAPTUR, Ohio  
MICHAEL M. HONDA, California  
TED LIEU, California

*Senate*

MARCO RUBIO, Florida, *Cochairman*  
JAMES LANKFORD, Oklahoma  
TOM COTTON, Arkansas  
STEVE DAINES, Montana  
BEN SASSE, Nebraska  
SHERROD BROWN, Ohio  
DIANNE FEINSTEIN, California  
JEFF MERKLEY, Oregon  
GARY PETERS, Michigan

EXECUTIVE BRANCH COMMISSIONERS

CHRISTOPHER P. LU, Department of Labor  
SARAH SEWALL, Department of State  
STEFAN M. SELIG, Department of Commerce  
DANIEL R. RUSSEL, Department of State  
TOM MALINOWSKI, Department of State

PAUL B. PROTIC, *Staff Director*  
ELYSE B. ANDERSON, *Deputy Staff Director*

## CRIMINAL JUSTICE

### *Introduction*

Criminal justice was an area of significant concern during the Commission's 2015 reporting year. Chinese authorities introduced discrete reforms that could improve the criminal justice system's fairness and accuracy.<sup>1</sup> The Commission did not observe statistics establishing the impact of reforms from the past reporting year, such as whether they led to a decrease in death sentences or a higher rate of convictions being overturned on appeal. A May 2015 report by an international human rights non-governmental organization (NGO) found that Chinese authorities have failed to fully enforce certain criminal justice reforms introduced in past years, especially measures that provide for excluding suspects' confessions and written statements obtained through torture.<sup>2</sup> Fundamental structural issues—including the dominance of police<sup>3</sup> in the police-procuratorate-court "iron triangle"<sup>4</sup> and the overriding influence of the Chinese Communist Party<sup>5</sup>—remained impediments to creating a criminal justice system that comports with standards dictated by both Chinese law<sup>6</sup> and international human rights instruments.<sup>7</sup> Although reform-minded individuals both within and outside the government continued to press for reforms furthering the protection of human rights,<sup>8</sup> their ability to bring about meaningful reform was constrained in a political climate that emphasized perpetuating one-party rule at the expense of individual freedoms.<sup>9</sup>

### *Alternatives to the Criminal Justice System*

A narrow view of criminal justice in China that considers only formal criminal processes fails to capture the full breadth of extrajudicial measures used by the Chinese government and Communist Party. So-called "administrative" or otherwise non-criminal measures,<sup>10</sup> disciplinary actions by the Party against its own members,<sup>11</sup> and other actions taken by Chinese authorities that lack adequate legal support<sup>12</sup> continued to be tools for suppressing behavior that the government and Party deem dangerous, socially undesirable, or threatening to the existing political structure.<sup>13</sup> For example, an amendment to the PRC Food Safety Law to take effect in October 2015 provides that people who add inedible substances to food can be detained for 15 days without being afforded the protections in the PRC Criminal Procedure Law.<sup>14</sup>

While not labeled "criminal" by the Chinese government, these "administrative," Party-controlled, and extralegal measures can restrict personal liberty as severely, if not more, than some sanctions allowed by the PRC Criminal Law,<sup>15</sup> and lack sufficient judicial procedures.<sup>16</sup> These deprivations of liberty raise concerns under international law because of the Chinese government's failure to observe international norms relating to the right to a fair trial,<sup>17</sup>

including as set forth in the International Covenant on Civil and Political Rights (ICCPR),<sup>18</sup> which China signed in 1998 but still has not ratified.<sup>19</sup>

#### ADMINISTRATIVE MEASURES

In December 2013, the Chinese government ended the long-standing practice of reeducation through labor (RTL)—a form of administrative detention that could result in up to four years' deprivation of liberty without a trial.<sup>20</sup> The Commission's 2014 Annual Report cautioned, however, that alternative "administrative" measures remained after RTL's abolition.<sup>21</sup> Chinese authorities continued to use various extrajudicial measures during this reporting year.<sup>22</sup> For instance, although the PRC Mental Health Law took effect in 2013,<sup>23</sup> the use of psychiatric facilities to detain people who do not necessarily have mental health conditions continued to receive international attention as a form of arbitrary detention.<sup>24</sup> A report by a China-based NGO found that, in 2014, the government used mental health facilities to detain rights advocates.<sup>25</sup> Attention has also focused on China's use of involuntary detention of drug addicts in compulsory drug treatment centers,<sup>26</sup> with the public health advocacy NGO Beijing Aizhixing Institute questioning the conditions of confinement and use of forced labor at drug treatment centers in a February 2015 submission to the UN Committee against Torture.<sup>27</sup>

A focal point of concern has been "custody and education," a form of administrative detention that can deprive people of liberty for up to two years.<sup>28</sup> In response to a request through China's open government information system, the government reported there were 116 "custody and education" centers as of August 2014.<sup>29</sup> Authorities have largely used this form of detention against sex workers, and sometimes their customers,<sup>30</sup> though authorities have also reportedly used it against government critics.<sup>31</sup> Although UNAIDS has advised, "Sex workers and clients should have access to high-quality educational opportunities,"<sup>32</sup> a report by the international NGO Asia Catalyst concluded that "custody and education" detainees "are required to engage in long hours of uncompensated labor, and have few opportunities for skill training and education."<sup>33</sup> The release of actor Huang Haibo in December 2014 after six months' detention for soliciting a sex worker brought greater attention to the use of "custody and education,"<sup>34</sup> but the centers remained in use.<sup>35</sup>

#### CHINESE COMMUNIST PARTY DISCIPLINARY PROCESS

The approximately 87 million members of the Chinese Communist Party<sup>36</sup> are subject to a complex and opaque disciplinary process entirely within the Party's control.<sup>37</sup> The Party has special measures for investigating, detaining, and punishing members prior to transferring them to the formal criminal justice system.<sup>38</sup> Party members can be subject to a Party disciplinary process called *shuanggui* (sometimes translated as "double designation"),<sup>39</sup> which requires them to appear for interrogation at a designated time and place.<sup>40</sup> *Shuanggui* not only contravenes the right to be free from arbitrary detention guaranteed by the Universal Declaration of Human Rights and the ICCPR,<sup>41</sup> but also violates Chinese law.<sup>42</sup>

*Shuanggui* remains governed by internal Party rules<sup>43</sup> despite calls by voices ranging from Chinese legal experts<sup>44</sup> to a member of the Chinese People's Political Consultative Conference<sup>45</sup> for the Party to consider bringing *shuanggui* into the legal system.

President and Party General Secretary Xi Jinping's ongoing anticorruption campaign brought new emphasis on the intersection of the Party disciplinary process with the formal criminal justice process.<sup>46</sup> By April 2015, the campaign had led to the removal of 100 high-ranking officials in addition to scores of low-ranking ones.<sup>47</sup> Most prominently, the June 2015 conviction of Zhou Yongkang, a former member of the Standing Committee of the Political Bureau of the Communist Party Central Committee and Minister of Public Security, for bribery, abusing power, and disclosing state secrets followed months of detention under the Party's disciplinary process.<sup>48</sup> The Tianjin No. 1 Intermediate People's Court sentenced Zhou to life in prison.<sup>49</sup> The PRC Criminal Procedure Law provides that trials be held in open court sessions by default.<sup>50</sup> In Zhou Yongkang's case, however, the government chose to hold the trial entirely behind closed doors, citing the legal exception for cases involving disclosure of state secrets.<sup>51</sup>

The lack of transparency regarding Party members' experiences when subjected to disciplinary measures complicates efforts to evaluate the extent to which the Party's procedures comply with international human rights norms.<sup>52</sup> The limited reports available indicate that, at a minimum, there are violations with respect to the arbitrary nature of the detention as well as the conditions of detention.<sup>53</sup>

#### OTHER EXTRALEGAL MEASURES

During the past reporting year, the Party and government continued to take actions without legal basis in order to silence voices perceived as threatening to the Party's control.<sup>54</sup> These extralegal measures were expedient tools for suppressing dissent and, because the Party and government do not formally recognize them, have been especially difficult to monitor and evaluate.<sup>55</sup> Measures range from home confinement (sometimes called "soft detention" for the Chinese term *ruanjin*)<sup>56</sup> to holding people at secret detention sites known as "black jails."<sup>57</sup> Prominent human rights lawyer Gao Zhisheng,<sup>58</sup> for example, was released from prison in August 2014 following completion of a three-year sentence for "inciting subversion of state power."<sup>59</sup> After his release, however, he remained under 24-hour surveillance at his home with limited telephone access.<sup>60</sup>

#### *Criminal Law*

During the Commission's 2015 reporting year, important developments took place in the formal criminal justice system with respect to both the substantive laws that could be used to support a conviction as well as the procedures that people undergo once identified as criminal suspects.

This past year the Chinese government adjusted the types of conduct subject to criminal sanctions and the severity of possible punishments. The National People's Congress Standing Committee

passed the Ninth Amendment to the PRC Criminal Law in August 2015 with 51 revisions that will take effect in November 2015.<sup>61</sup> The Ninth Amendment included positive changes such as reducing the number of capital crimes<sup>62</sup> and increasing protections for vulnerable populations by criminalizing the buying of women and children.<sup>63</sup> [For more information, see Section II—Human Trafficking.] Under the previous iteration of the law, Article 291 criminalized gathering a crowd to disturb order in a public place.<sup>64</sup> The new addition to Article 291 punishes the fabrication and dissemination of certain types of false information—including regarding “dangerous situations,” “epidemics,” and “disasters”—on the Internet and other media with up to seven years’ imprisonment.<sup>65</sup> The amendment did not include definitions of key terms like “dangerous situations,” “epidemics,” and “disasters.”<sup>66</sup> An amendment to Article 308 provides up to three years’ imprisonment for the transmission of certain information regarding court cases that are not to be tried in public.<sup>67</sup> The amendments to Articles 291 and 308 thus create new criminal liability for transmitting various types of information, in addition to existing PRC Criminal Law provisions criminalizing the disclosure of state secrets.<sup>68</sup> The April 2015 sentencing of veteran journalist Gao Yu to seven years’ imprisonment for allegedly leaking state secrets<sup>69</sup> was criticized by foreign governments<sup>70</sup> and international non-governmental organizations (NGOs)<sup>71</sup> as an abuse of criminal laws to silence peaceful criticism of the government. [For more information on Gao’s case, see Section II—Freedom of Expression.]

#### LAWS CRIMINALIZING TERRORISM AND EXTREMISM

The Chinese government’s June 2015 report on “Progress in China’s Human Rights in 2014” highlighted efforts to combat terrorism, reporting “[T]he judicial organs severely punished crimes such as the terrorist attacks at Tiananmen on October 28, 2013 and at Kunming railway station on March 1, 2014 to ensure the safety of life and property of the people.”<sup>72</sup> During the 2015 reporting year, the government considered adopting a counterterrorism law<sup>73</sup> and passed revisions to the PRC Criminal Law regarding the punishments for “terrorism” and “extremism.”<sup>74</sup> The Supreme People’s Court’s (SPC) 2014 work report noted a 14.8-percent increase over the previous year in cases handled by Chinese courts involving terrorist attacks and “separatism.”<sup>75</sup> The draft PRC Counterterrorism Law has garnered attention for its potential to criminalize activities that are freedoms protected under international human rights norms.<sup>76</sup> One international human rights NGO warned that “in its present form [the PRC Counterterrorism Law (Draft)] is little more than a license to commit human rights abuses.”<sup>77</sup>

#### “POCKET CRIMES”

This past year, Chinese authorities expanded the use of “pocket crimes” (*koudai zui*)<sup>78</sup>—such as “gathering a crowd to disturb social order”<sup>79</sup>—so named because Chinese authorities incorporate a wide variety of conduct within their definitions.<sup>80</sup> In May 2015, authorities indicted Pu Zhiqiang, a public interest lawyer, with “inciting ethnic hatred”<sup>81</sup> and “picking quarrels and provoking trouble”<sup>82</sup> related to comments on his microblog.<sup>83</sup> The PRC Criminal

Law provision for “picking quarrels and provoking trouble” lists four relatively specific acts,<sup>84</sup> and the SPC and Supreme People’s Procuratorate have issued a joint judicial interpretation of the crime.<sup>85</sup> One expert on Chinese law commented that the crime “as applied to Pu’s case has to be stretched beyond all recognition in order to apply.”<sup>86</sup> Authorities initially detained Pu in May 2014.<sup>87</sup>

Authorities have used the offense of “inciting subversion of state power”<sup>88</sup> to imprison human rights advocates such as lawyer Gao Zhisheng in 2006,<sup>89</sup> Nobel Peace Prize laureate Liu Xiaobo in 2009,<sup>90</sup> and, in May 2015, democracy advocate Liu Jiakai.<sup>91</sup> Similarly, authorities have charged people whom the government and Party see as threats with engaging in “illegal business activity.”<sup>92</sup> Authorities arrested Guo Yushan,<sup>93</sup> founder of the think tank and NGO Transition Institute, in January 2015.<sup>94</sup> The Beijing Municipal Public Security Bureau accused Guo of “illegal business activity” for publishing the Transition Institute’s various research reports on tax reforms, education equality, legal reforms, and social and economic issues.<sup>95</sup> Authorities released Guo and He Zhengjun, a Transition Institute manager arrested on the same charge, on “guarantee pending further investigation” (“bail”) the week prior to President Xi Jinping’s state visit to the United States in September 2015.<sup>96</sup> In December 2014, a district court in Beijing sentenced Shen Yongping,<sup>97</sup> the creator of a documentary about the history of constitutional governance in China, to one year’s imprisonment on the basis that disseminating copies of the film constituted “illegal business activity.”<sup>98</sup>

### *Criminal Procedure*

Chinese authorities’ implementation of key provisions in the 2012 PRC Criminal Procedure Law (CPL)<sup>99</sup> remained inconsistent<sup>100</sup> during the Commission’s 2015 reporting year. Even when Chinese authorities followed the CPL, they continued to target government critics in an effort to suppress rights advocacy.<sup>101</sup> In March 2015, authorities detained five women’s rights advocates<sup>102</sup> on suspicion of “picking quarrels and provoking trouble”<sup>103</sup>—later changed to “gathering a crowd to disturb order in a public place”<sup>104</sup>—for planning to distribute materials calling attention to sexual harassment.<sup>105</sup> Authorities released the five women over a month later on bail (also translated as “guarantee pending further investigation”),<sup>106</sup> meaning that they remained criminal suspects who were limited in their freedom of movement and communications for an investigation period of up to 12 months.<sup>107</sup> After their release, one of the women reported that authorities summoned her back for eight hours of interrogation and verbal abuse.<sup>108</sup> As the government reportedly continued surveillance of the women,<sup>109</sup> another Chinese women’s rights advocate wrote, “The police punished my friends to intimidate other social and political activists.”<sup>110</sup>

### ACCESS TO COUNSEL AND TREATMENT OF LAWYERS

Following the 2012 CPL’s clarification of procedures for lawyer-client contact,<sup>111</sup> the Supreme People’s Procuratorate (SPP) introduced new regulations in December 2014 aimed at improving the

ability of lawyers to perform their professional duties by, for example, emphasizing the right to lawyer-client meetings in criminal cases.<sup>112</sup> In March 2015, the head of the SPP reportedly stated that all levels of procuratorates should safeguard the rights of lawyers who represent defendants in major bribery cases<sup>113</sup>—a noteworthy development because lawyer-client contact had been especially constrained in cases involving serious bribery, endangering state security, and terrorism.<sup>114</sup> In general, however, lawyers continued to face substantial impediments when trying to play a meaningful role in criminal cases.<sup>115</sup> As explained by a Chinese legal scholar, “[T]he Chinese government was not prepared to adopt broad legal protections for defendants, including the right to remain silent and allowing lawyers to be present during interrogations.”<sup>116</sup> The Commission did not observe any change in the long-standing problem that most criminal suspects are not assisted by counsel.<sup>117</sup>

Criminal detentions and prosecutions of lawyers, particularly rights defense lawyers who took on cases deemed sensitive by the government, continued during the reporting year.<sup>118</sup> Article 306 of the PRC Criminal Law creates a strong disincentive for lawyers to collect evidence on their clients’ behalf because the government has used the provision to allege that lawyers who take on sensitive cases have fabricated evidence or induced witnesses to change their testimony.<sup>119</sup> A revision to the PRC Criminal Law amended Article 309 to stipulate that “insulting, defaming, or threatening a judicial officer” and “engaging in other acts that seriously disrupt the order of the court” may be punishable by up to three years’ imprisonment.<sup>120</sup> Over 500 lawyers signed an open letter in November 2014 expressing concerns that this provision could criminalize lawyers’ speech during trials if they challenge the court.<sup>121</sup>

Lawyers also faced reprisals short of formal criminal prosecution. In December 2014, authorities detained defense lawyer Zhang Keke after he invoked China’s Constitution in court while representing a Falun Gong practitioner.<sup>122</sup> Approximately 260 Chinese lawyers signed an open letter protesting Zhang’s treatment.<sup>123</sup> In April 2015, court personnel removed defense lawyer Chen Jian’gang from the courtroom and detained him after he objected to the court’s decision to shackle his client in contravention of Chinese law.<sup>124</sup>

Concerns for lawyers’ safety go beyond official government action. In April 2015, unidentified assailants attacked four defense lawyers outside a court after they had publicly accused police of having coerced their clients into confessing.<sup>125</sup> Hundreds of lawyers responded by calling for an investigation into the beatings.<sup>126</sup> [For information on a crackdown against rights lawyers launched in July 2015, see Section III—Access to Justice—Harassment and Abuse of Human Rights and Public Interest Lawyers.]

#### SOURCES OF EVIDENCE: TORTURE AND WRONGFUL CONVICTIONS

Numerous reports have surfaced over the past decade of innocent people convicted in China based on faulty evidence.<sup>127</sup> The Chinese government for years has acknowledged the problem of wrongful convictions, including the use of torture to extract confessions.<sup>128</sup> In a major policy document issued in October 2014, the Chinese Communist Party emphasized strengthening procedures for gathering and using evidence in criminal cases.<sup>129</sup> In March 2015, the



head of the Supreme People's Court (SPC) apologized for past wrongful convictions and called on courts to improve practices.<sup>130</sup> Also in March 2015, the Supreme People's Procuratorate (SPP) issued "Five Major Cases in Correcting Wrongful Convictions."<sup>131</sup> In April 2015, the SPP announced that it was launching a special campaign to rectify "miscarriages of justice."<sup>132</sup> According to a December 2014 media report, the SPC was reportedly drafting more detailed guidance in conjunction with other government bodies regarding the procedures for excluding evidence, but this document had not been released publicly as of September 2015.<sup>133</sup>

Sources continued to report on high-profile wrongful convictions this past year.<sup>134</sup> In December 2014, the Inner Mongolia Autonomous Region High People's Court posthumously overturned an April 1996 guilty verdict for rape and murder that resulted in the swift execution of Huugjilt, an 18-year-old ethnic Mongol.<sup>135</sup> The case's handling came under intense scrutiny when, in December 2014, the commanding officer faced criminal charges for using force to extract confessions in other cases<sup>136</sup>—a rare example of police being held accountable for their interrogation practices.<sup>137</sup> Huugjilt reportedly confessed to the murder after 48 hours of interrogation but subsequently proclaimed his innocence.<sup>138</sup> Other examples from the 2015 reporting year included the Fujian Province High People's Court's decision in August 2014 to overturn Nian Bin's conviction for murder after eight years in prison following a coerced confession,<sup>139</sup> and the Shandong Province High People's Court's review of the infamous 1995 execution of Nie Shubin for a murder he did not commit.<sup>140</sup>

In early 2015, the Party called for an end to quotas for "arrests, indictments, guilty verdicts and case conclusions."<sup>141</sup> Depending on the implementation of such a plan,<sup>142</sup> this change could positively influence the incentive structure for police, as well as for prosecutors and judges, by reducing pressure to extract confessions.<sup>143</sup> Chinese authorities took steps to require that police film all interrogations<sup>144</sup> and to increase accountability of individual police officers for their conduct.<sup>145</sup> In addition, discussions continued regarding possible adoption of a new PRC Detention Center Law,<sup>146</sup> covering interrogation conditions at centers controlled by the Public Security Bureau.<sup>147</sup> One Chinese law professor pointed out, however, that rules for excluding illegally obtained evidence and other discrete legal reforms are insufficient,<sup>148</sup> and improvements to the overarching structure of the criminal process are necessary.<sup>149</sup>

Chinese authorities have stated their intention to place greater emphasis on trials,<sup>150</sup> including increasing citizen participation in the trial process.<sup>151</sup> For those cases proceeding from police investigation to formal charges and a trial, however, defendants regularly faced substantial challenges when countering the government's case. China had a nearly 100-percent conviction rate as of 2013<sup>152</sup> and has long had a practice of leniency for those who confess and severity for those who do not.<sup>153</sup> Witnesses rarely appear in court for questioning,<sup>154</sup> and the Commission observed few reports of successful use of the rules on excluding illegally obtained evidence contained in the 2012 Criminal Procedure Law.<sup>155</sup> In a May 2015 report, Human Rights Watch (HRW) reviewed 158,000 criminal court verdicts published on the Supreme People's Court

(SPC) website and found 432 in which the suspects alleged torture.<sup>156</sup> HRW reported that, “The defendants were convicted in all 432 cases, and judges excluded confessions in only 23 cases (6 percent of the verdicts) due to concerns over police torture. And even in those 23 cases, the defendants were convicted.”<sup>157</sup>

The conditions under which suspects confess will be subject to detailed international scrutiny on November 17 and 18, 2015, when the UN Committee against Torture (Committee) reviews China’s compliance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.<sup>158</sup> A number of NGOs have submitted to the Committee issues of concern ranging from an insufficient legal definition of torture under Chinese law to the use of extralegal detention facilities such as “black jails.”<sup>159</sup>

#### CLEMENCY AND PAROLE

The Chinese government took steps during the 2015 reporting year to address the use of clemency and parole in criminal cases. Following issuance in 2014 of various new rules on commutations and parole by the SPC,<sup>160</sup> Supreme People’s Procuratorate (SPP),<sup>161</sup> and the Ministry of Justice,<sup>162</sup> the SPP announced in March 2015 that 252 officials were punished in 2014 for “illegally granting parole or shortening prison terms.”<sup>163</sup> In February 2015, the SPC provided additional guidance in the form of eight typical cases involving commutations, parole, and temporarily serving sentences outside prison.<sup>164</sup> In April 2015, the Ministry of Justice issued an “Opinion on Further Deepening Prison Affairs Openness” that included provisions on information that should be provided to the public as well as to the families of prisoners.<sup>165</sup> The Ministry of Justice also warned about abuses of the medical parole system.<sup>166</sup> This past year, there were allegations that some wealthy prisoners bought patents to take advantage of an early release arrangement for prisoners who developed new technologies.<sup>167</sup>

The PRC Criminal Law further allows early release on the basis of good behavior.<sup>168</sup> American geologist Xue Feng was released on this basis in April 2015, 10 months before the end of his 8-year sentence.<sup>169</sup> The Beijing No. 1 Intermediate People’s Court convicted Xue in July 2010 of “illegally procuring state secrets” following a trial reportedly marred by numerous procedural abuses.<sup>170</sup>

#### *Death Penalty*

In its 2014 annual report on the death penalty, the international NGO Amnesty International once again was unable to publish an exact figure for executions in China because of the information’s classification and inaccessibility as a state secret.<sup>171</sup> Amnesty International noted, however, “[A]vailable information indicates that thousands of people are executed and sentenced to death in China each year.”<sup>172</sup> There were signs that the overall trend of curbing use of the death penalty had not reversed course.<sup>173</sup> The U.S.-based human rights organization Dui Hua Foundation estimated that executions would stay steady at about 2,400 in 2013 and 2014 because “[a]nnual declines in executions recorded in recent years are likely to be offset in 2014 by the use of capital pun-

ishment in anti-terrorism campaigns in the Xinjiang Uyghur Autonomous Region and the anticorruption campaign nationwide.”<sup>174</sup>

Public support in China for retaining the death penalty remained strong, including in corruption cases.<sup>175</sup> Nonetheless, in line with the goal announced at the Third Plenum of the 18th Party Congress Central Committee in November 2013<sup>176</sup> of “gradually reducing the number of crimes punishable by the death penalty,”<sup>177</sup> the Chinese government reduced the number of capital crimes from 55 to 46.<sup>178</sup> The crimes for which the death penalty is most commonly applied were not among those on the list.<sup>179</sup>

The Chinese government continued to reevaluate the procedures used to determine and carry out death sentences,<sup>180</sup> procedures that were overhauled in 2006 when the SPC took back final review power of capital cases.<sup>181</sup> In January 2015, the SPC issued new measures that detailed how judges should take defense lawyers’ opinions into account during the review of death sentences.<sup>182</sup> Courts also continued to face scrutiny from the general public regarding whether death sentences were warranted in individual cases.<sup>183</sup> An example of public pressure followed the April 2015 decision by a court in Anyue county, Ziyang municipality, Sichuan province, to suspend the death sentence of Li Yan, a woman who murdered her abusive husband.<sup>184</sup> [For more information on Li Yan’s case, see Section II—Status of Women.] Another point of concern was the conditions under which detainees on death row are held,<sup>185</sup> with reports that one prisoner was handcuffed and shackled for eight years.<sup>186</sup>

According to state-run media, the Chinese government announced the end of harvesting organs from executed prisoners starting in January 2015,<sup>187</sup> but further reported that death row prisoners remained “among the qualified candidates for donations.”<sup>188</sup> International medical professionals and human rights advocates expressed concerns regarding the voluntary nature of such donations.<sup>189</sup> One international human rights NGO cautioned that weaning China off harvesting organs from executed prisoners was a “marathon, not a sprint.”<sup>190</sup>

### Notes to Section II—Criminal Justice

<sup>1</sup> See, e.g., Supreme People's Court, Measures Concerning Listening to Defense Lawyers' Opinions in Handling Death Penalty Review Cases [Zuigao renmin fayuan guanyu banli sixing fuhe anjian tingqu bianhu lushi yijian de banfa], issued 29 January 15; Supreme People's Procuratorate, People's Procuratorate Guidelines for Reviews of Criminal Case Appeals [Renmin jianchayuan fucha xingshi shensu anjian guiding], issued 29 April 14, reprinted in *Procuratorial Daily*, 21 November 14.

<sup>2</sup> Human Rights Watch, "Tiger Chairs and Cell Bosses: Police Torture of Criminal Suspects in China," May 2015, 3.

<sup>3</sup> Hu Wei, "Experts Call for Less Police Dominance in China Legal System," *Voice of America*, 10 September 14; Murray Scot Tanner and Eric Green, "Principals and Secret Agents: Central Versus Local Control Over Policy and Obstacles to 'Rule of Law' in China," *China Quarterly*, Vol. 191 (September 2007), 644; Kam C. Wong, *Chinese Policing, History, and Reform* (New York: Peter Lang Publishing, 2009), 157. The colloquial term "police" encompasses a variety of law enforcement officials in China, e.g., local public security officers, state security officers, and People's Armed Police.

<sup>4</sup> Mike McConville, *Criminal Justice in China: An Empirical Inquiry* (Northampton, MA: Edward Elgar, 2011), 378–79.

<sup>5</sup> "Xi Makes the Rules," *Economist*, *Analysts* (blog), 24 October 14.

<sup>6</sup> See, e.g., PRC Criminal Procedure Law [Zhonghua renmin gongheguo xingshi susong fa], passed 1 July 79, amended 17 March 96, 14 March 12, effective 1 January 13, arts. 33, 54, 121; Human Rights Watch (HRW), "Tiger Chairs and Cell Bosses: Police Torture of Criminal Suspects in China," May 2015. HRW's report describes the Chinese government's failure to fully implement Articles 33, 54, and 121 of the PRC Criminal Procedure Law. See also Chinese Human Rights Defenders, "New Rules on Lawyers' Input on Death Penalty Reviews Too Weak To Cut Down on Executions," 5 February 15.

<sup>7</sup> See, e.g., UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by UN General Assembly resolution 39/46 of 10 December 84, entry into force 26 June 87; International Covenant on Civil and Political Rights, adopted by UN General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 23 March 76.

<sup>8</sup> See, e.g., "China's Broken Justice System," *New York Times*, 17 March 15. During an annual report to the National People's Congress, President of the Supreme People's Court Zhou Qiang reportedly stated, "We deeply reproach ourselves for letting wrongful convictions happen . . . ." Luo Guoping, "Committee Member Li Wai: 'Shuanggui' Must Be Clearly Stipulated by Law" [Li wai weiyuan: "shuanggui" ying minque rufu], *Caixin*, 9 March 15; Tom Mitchell, "Lunch With FT: He Jiahong," *Financial Times*, 20 February 15; Elizabeth M. Lynch, "Translation—Beijing News Interviews Tian Wenchang on Custody & Education," *China Law & Policy* (blog), 25 June 14.

<sup>9</sup> See, e.g., "Xi Makes the Rules," *Economist*, *Analysts* (blog), 24 October 14.

<sup>10</sup> See, e.g., State Council, Measures on Sex Workers' Custody and Education [Maiyin piaochang renyuan shourong jiaoyu banfa], issued and effective 4 September 93.

<sup>11</sup> See, e.g., "What Is 'Shuanggui': Special Organizational and Investigative Measures" [Shenme shi "shuanggui": teshu de zuzhi cuoshi he diaocha shouduan], *China News*, reprinted in *Sina*, 19 October 03.

<sup>12</sup> See, e.g., "To Date, Qin Yongmin and His Wife Kept Under Soft Detention for Over Two Months" [Qin yongmin fufu bei ruanjin liang ge duo yue zhijin], *Radio Free Asia*, 20 March 15.

<sup>13</sup> Peter Larson, "Laying Down the Law: Jerome Cohen on the Rule of Law in China Pt. 2," *China Focus* (blog), 25 April 15.

<sup>14</sup> PRC Food Safety Law [Zhonghua renmin gongheguo shipin anquan fa], passed 28 February 09, amended 24 April 15, effective 1 October 15, art. 123; Zhou Dongxu, "Changes to Food Safety Law Include Tougher Punishments," *Caixin*, 4 May 15.

<sup>15</sup> PRC Criminal Law [Zhonghua renmin gongheguo xingfa], passed 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, 25 February 11, arts. 32–58.

<sup>16</sup> See, e.g., Jerome A. Cohen, "Incommunicado Detention in China," *New York University School of Law, US-Asia Law Institute*, 18 April 12.

<sup>17</sup> UN Office of the High Commissioner for Human Rights, "Fact Sheet No. 26, The Working Group on Arbitrary Detention," May 2000, sec. IV(C).

<sup>18</sup> International Covenant on Civil and Political Rights, adopted by UN General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 23 March 76, art. 9(1). See also CECC, 2014 Annual Report, 9 October 14, 207–08, endnotes 14, 15.

<sup>19</sup> "Over One Hundred Lawyers and Citizens Urge National People's Congress To Ratify International Conventions on Human Rights and Enact Press Laws" [Yu bai lushi ji gongmin yu renda pizhun guoji gongyue baozhang renquan ji banbu xinwen fa], *Radio Free Asia*, 10 March 15.

<sup>20</sup> "China Abolishes Reeducation Through Labor," *Xinhua*, 28 December 13.

<sup>21</sup> CECC, 2014 Annual Report, 9 October 14, 82–84. See also "Four Cities Pilot Reeducation Through Labor System Reform; Unlawful Activities in Education and Corrections To Be Replaced" [Si shi shidian lao jiao zhidu gaige you weifa xingwei jiaoyu jiao zhi qu dai], *Beijing News*, reprinted in *Xinhua*, 29 August 12.

<sup>22</sup> See, e.g., Human Rights Watch, "World Report 2015: China," last visited 22 June 15.

<sup>23</sup> PRC Mental Health Law [Zhonghua renmin gongheguo jingshen weisheng fa], passed 26 October 12, effective 1 May 13.

<sup>24</sup> Chinese Human Rights Defenders, "[CHRB] Forced Psychiatric Detention Persists 2 Years After China Enacted Mental Health Law," 8 May 15. See also Chinese Human Rights Defenders, "The Darkest Corners: Abuses of Involuntary Psychiatric Commitment in China," 6 August 12.

<sup>25</sup>Civil Rights & Livelihood Watch, “2014 Year-End Report on Mental Health and Human Rights (Forced Psychiatric Commitment) in China” [2014 nian zhongguo jingshen jiankang yu renquan (bei jingshenbing) nianzhong baogao], 14 January 15; “Forced ‘Psychiatric Care’ for China’s Government Critics Now Endemic: Report,” Radio Free Asia, 15 January 15.

<sup>26</sup>See, e.g., Dan Levin, “Despite a Crackdown, Use of Illegal Drugs in China Continues Unabated,” New York Times, 25 January 15.

<sup>27</sup>Beijing Aizhixing Institute, “List of Issues on the Rights of Drug Addicts in China Submitted to UN Committee against Torture by Beijing Aizhixing Institute, on Feb 8th, 2015,” 8 February 15, 1–2.

<sup>28</sup>State Council, Measures on Sex Workers’ Custody and Education [Maiyin piaochang renyuan shourong jiaoyu banfa], issued and effective 4 September 93, art. 9; Asia Catalyst, “‘Custody and Education’: Arbitrary Detention for Female Sex Workers in China,” December 2013.

<sup>29</sup>Wang Xing, “Ministry of Public Security Answers Information Request; Entire Country Presently Has 116 Custody and Education Centers” [Gong’anbu dafu xinxi gongkai shenqing quanguo xian you 116 ge shourong jiaoyu suo], Southern Metropolitan Daily, 1 August 14.

<sup>30</sup>Asia Catalyst, “‘Custody and Education’: Arbitrary Detention for Female Sex Workers in China,” December 2013, 14, 18–20; Lu Yijie et al., “Three Questions on the Measures on Sex Workers’ Custody and Education” [San wen maiyin piaochang renyuan shourong jiaoyu banfa], China Youth Daily, 6 June 14.

<sup>31</sup>Dui Hua Foundation, “Custody and Education Worse Than Reeducation Through Labor?” Dui Hua Reference Materials, 26 December 13.

<sup>32</sup>“UNAIDS Guidance Note on HIV and Sex Work,” UNAIDS/09.09E/JC1696E, updated April 2012, 10–11.

<sup>33</sup>Asia Catalyst, “‘Custody and Education’: Arbitrary Detention for Female Sex Workers in China,” December 2013, 8.

<sup>34</sup>Wang Gangqiao, “Robust Constitutional Supervisory System Makes Custody and Education Abolition a Real Question” [Jianquan xianfa jiandu zhidu xi shourong jiaoyu cunfei zhen wenti], Yangcheng Evening News, reprinted in People’s Daily, 2 December 14; Wang Ruiqi, “Actor Huang Haibo Released After Six-Month Detention,” Sina English, 1 December 14; Li Yunfang, “Lawyers Propose Repeal of Measures on Sex Workers’ Custody and Education” [Lushi jianyi chexiao maiyin piaochang renyuan shourong jiaoyu banfa], 17 April 14.

<sup>35</sup>“Committee Member Zhang Kangkang Calls for Abolition of the Custody and Education System” [Zhang kangkang weiyuan huyu feizhi shourong jiaoyu zhidu], Caixin, 4 March 15.

<sup>36</sup>Evan Osnos, “Born Red,” New Yorker, 6 April 15.

<sup>37</sup>“Policing the Party,” Economist, 1 September 12.

<sup>38</sup>Tania Branigan, “Bo Xilai’s Fate Lies With the Communist Party,” Guardian, 10 May 12.

<sup>39</sup>Jerome A. Cohen, “Incommunicado Detention in China,” New York University School of Law, US-Asia Law Institute, 18 April 12.

<sup>40</sup>“What is ‘Shuanggui’: Special Organizational and Investigative Measures” [Shenme shi “shuanggui”: teshu de zuzhi cuoshi he diaocha shouduan], China News, reprinted in Sina, 19 October 03; Flora Sapio, “Shuanggui and Extralegal Detention in China,” China Information, Vol. 22, No. 1, March 2008.

<sup>41</sup>Universal Declaration of Human Rights, adopted and proclaimed by UN General Assembly resolution 217A (III) of 10 December 48, art. 9; International Covenant on Civil and Political Rights, adopted by General Assembly resolution 2200A (XXI) of 16 December 66, entry into force 23 March 76, art. 9.

<sup>42</sup>PRC Constitution, issued 4 December 82, amended 12 April 88, 29 March 93, 15 March 99, 14 March 04, art. 37; PRC Legislation Law [Zhonghua renmin gongheguo lifa fa], passed 15 March 00, effective 1 July 00, arts. 8, 9. See also Donald Clarke, “Discipline Inspection Commissions and Shuanggui Detention,” Chinese Law Prof Blog, 5 July 14; Eva Pils, China’s Human Rights Lawyers: Advocacy and Resistance (New York: Routledge, 2015), 80; Flora Sapio, “Shuanggui and Extralegal Detention in China,” China Information, Vol. 22, No. 1, March 2008, 23–24.

<sup>43</sup>Lucy Hornby, “China Eyes Rule-Based System but Flexes Extrajudicial Muscles,” Financial Times, 16 October 14. See also Fu Hualing, “Wielding the Sword: President Xi’s New Anti-Corruption Campaign,” Social Science Research Network, 7 September 14, revised 8 July 15, last visited 29 July 15, 148.

<sup>44</sup>“Pu’s Video Workshop Exposed Party Abuses,” Pu Zhiqiang, The Lawyer (blog), 22 August 14; Ye Zhusheng, “‘Shuanggui’: Between Discipline and the Law” [Jilu yu falu zhi jian de “shuanggui”], South Reviews, reprinted in Boxun, 13 June 13. For an English translation of Ye’s article, see Dui Hua Foundation, “Corruption, Shuanggui and Rule of Law,” Dui Hua Human Rights Journal, 27 June 13.

<sup>45</sup>Luo Guoping, “Committee Member Li Wai: ‘Shuanggui’ Must Be Clearly Stipulated by Law” [Li wai weiyuan: “shuanggui” ying minque rufa], Caixin, 9 March 15.

<sup>46</sup>See, e.g., Tania Branigan, “Politburo, Army, Casinos: China’s Corruption Crackdown Spreads,” Guardian, 14 February 15.

<sup>47</sup>“Most Complete ‘Hundred Tigers Map’: Guide to High Officials Sacked Since Start of 18th National Congress” [Zui wanzheng “bai hu tu”: shibada yilai luoma gaoguan yilan], China Economic Net, 27 April 15; Joseph Fewsmith, “China’s Political Ecology and the Fight Against Corruption,” China Leadership Monitor, Hoover Institution, Stanford University, No. 46 (Winter 2015), 19 March 15, 1–2; Human Rights Watch, “Political Repression at a High Mark,” 29 January 15.

<sup>48</sup>Zhou Yongkang Sentenced to Life in Prison, No Limits for Anti-Corruption,” Xinhua, 11 June 15; Jerome A. Cohen, “Zhou Yongkang Case Shows China’s Rule of Law Still Good Only in Theory,” South China Morning Post, 18 August 14.

<sup>49</sup>“Zhou Yongkang Sentenced to Life in First Instance Trial” [Zhou yongkang yishen bei panchu wuqi tuxing], Caixin, 11 June 15.

<sup>50</sup>PRC Criminal Procedure Law [Zhonghua renmin gongheguo xingshi susong fa], passed 1 July 79, amended 17 March 96, 14 March 12, effective 1 January 13, art. 183.

<sup>51</sup>“Zhou Yongkang Sentenced to Life in Prison, No Limits for Anti-Corruption,” Xinhua, 11 June 15. See also Jerome A. Cohen, “Why Was Zhou Yongkang Denied a Public Trial Like Bo Xilai’s?” South China Morning Post, 7 July 15; “Can Zhou Yongkang and Others Have Open Trials? Zhou Qiang: Open in Accordance With the Law,” [Zhou yongkang deng shibushi dou hui gongkai shenpan? zhou qiang: yifa gongkai], CCTV, reprinted in Legal Daily, 16 March 15.

<sup>52</sup>David Wertime, “Inside China’s Blackest Box,” Foreign Policy, TeaLeafNation (blog), 2 July 14.

<sup>53</sup>“Bengbu, Anhui, Disciplinary Cadre Dies During Discussion, Family Members Say Deceased Had Four Broken Ribs” [Anhui bengbu jijian ganbu tanhua qijian siwang, jiashu cheng sizhe si gen leigu duanlie], The Paper, 16 January 15; “Pu’s Video Workshop Exposed Party Abuses,” Pu Zhiqiang, The Lawyer (blog), 22 August 14; “Lawyers Call for Probe Into Torture by China’s Party Investigators,” Radio Free Asia, 15 August 14. See also Jamil Anderlini, “China Launches Survey of Suicides Among Communist Party Officials,” Financial Times, 29 January 15. In early 2015, the Chinese Communist Party reportedly launched a survey concerning suicides among officials.

<sup>54</sup>Ian Johnson, “China’s Unstoppable Lawyers: An Interview With Teng Biao,” New York Review of Books (blog), 19 October 14. See also Teng Biao, “What Is a ‘Legal Education Center’ in China,” China Change, 3 April 14.

<sup>55</sup>See, e.g., “Chinese Rights Lawyer Marks Ten Months Under House Arrest,” Radio Free Asia, 6 May 15; “Authorities Suppress Commemoration of Sensitive Figures on Eve of Qingming” [Qingming qianxi dangyu daya jidian ming’an renshi], Radio Free Asia, 3 April 15; Rights Defense Network, “Democracy Rights Defender and Professor Sun Wenguang Again Held in Soft Detention During Qingming” [Minzhu weiquan renshi sun wenguang jiaoshou qingming zai zao ruanjin], 5 April 15; Rights Defense Network, “Petitioner Yue Ailing From Zibo, Shandong, Under Soft Detention for 10 Days for Going to Beijing To Petition” [Shandong zibo fangmin yue ailing yin fu jing shangfang bei ruanjin yijing 10 tian], 18 January 15; Rights Defense Network, “Famous Artist Mr. Li Xianting Under Soft Detention, House Under Guard” [Zhuming yishujia li xianting xiansheng bei ruanjin jia bei shanggang], 2 November 14; Ren Zhongyuan and Yang Baolu, “Detective Work by Group in ‘Black Jail’ Claim Leads to Trial,” Caixin, 23 April 14.

<sup>56</sup>“During 26th Anniversary of June 4th, Many Human Rights and Democracy Public Figures in Guizhou and Zhejiang Placed Under Soft Detention or Forced To Travel” [Liu si 26 zhounian qijian guizhou zhejiang duo ming renquan ji minzhu renshi zao ruanjin huo bei luyou], Radio Free Asia, 8 June 15; “To Date, Qin Yongmin and His Wife Under Soft Detention for Over Two Months” [Qin yongmin fufu bei ruanjin liang ge duo yue zhijin], Radio Free Asia, 20 March 15. PRC Criminal Procedure Law [Zhonghua renmin gongheguo xingshi susong fa], passed 1 July 79, amended 17 March 96, 14 March 12, effective 1 January 13, arts. 72–77. Home confinement without legal basis and “soft detention” (*ruanjin*) should be distinguished from “residential surveillance” (*jianshi juzhu*), which is provided for in the PRC Criminal Procedure Law.

<sup>57</sup>Chinese Human Rights Defenders, “We Can Beat You to Death With Impunity,” October 2014; “Shanghai Petitioner Ma Yalian Put in ‘Black Jail’; Following Refusal of Required Medical Attention Begins Hunger Strike” [Shanghai fangmin ma yalian bei guan “hei jianyu” yaoqiu kanbing bei ju bei po jueshi kangyi], Radio Free Asia, 12 March 15. See also Sophie Richardson, Human Rights Watch, “Dispatches: Casting a Light Into China’s Black Jails,” 28 March 14.

<sup>58</sup>For more information on Gao Zhisheng, see the Commission’s Political Prisoner Database record 2005-00291.

<sup>59</sup>“Chinese Rights Lawyer Marks Ten Months Under House Arrest,” Radio Free Asia, 6 May 15. See also Sophie Richardson, Human Rights Watch, “Dispatches: Making 2015 ‘Unforgettable’ in China,” 7 January 15; Jared Genser, Freedom Now, “A Major Setback to the Rule of Law in China,” The Diplomat, 15 September 14; Teng Biao, “A Chinese Activist: Out of Prison but Not Free,” Washington Post, 7 September 14.

<sup>60</sup>“Chinese Rights Lawyer’s Phone Calls Limited Under House Arrest,” Radio Free Asia, 8 January 15. Dui Hua Foundation, “Gao Zhisheng Begins Sentence of Deprivation of Political Rights,” Dui Hua Human Rights Journal, 7 August 14; “Geng He: Gao Zhisheng Is Starting To Regain His Health and Is Retaining His Self-Confidence and Optimism” [Geng he: gao zhisheng shenti kaishi huifu reng baochi zixin leguan], Radio Free Asia, 9 February 15; Austin Ramzy, “Family of Dissident Lawyer Fears for His Health After Prison,” New York Times, Sinosphere (blog), 14 August 14. After his release from prison, Gao began serving a “supplemental sentence of one year of deprivation of political rights” and reportedly suffered from serious medical ailments.

<sup>61</sup>National People’s Congress Standing Committee, PRC Criminal Law Amendment (Nine) [Zhonghua renmin gongheguo xingfa xiuzheng’an (jiu)], issued 29 August 15, effective 1 November 15. For previous drafts, see National People’s Congress Standing Committee, PRC Criminal Law Amendment (Nine) (Draft) (Second Reading) [Zhonghua renmin gongheguo xingfa xiuzheng’an (jiu) (cao’an) (erci shenyi gao)], issued 6 July 15; National People’s Congress Standing Committee, PRC Criminal Law Amendment (Nine) (Draft) [Zhonghua renmin gongheguo xingfa xiuzheng’an (jiu) (cao’an)], issued 3 November 14. See also National People’s Congress Law Committee, “Deliberative Conclusions Report Regarding ‘PRC Criminal Law Amendment (Nine) (Draft)’” [Guanyu “zhonghua renmin gongheguo xingfa xiuzheng’an (jiu) (cao’an)” shenyi jiegou baogao], 24 August 15.

<sup>62</sup>National People’s Congress Standing Committee, PRC Criminal Law Amendment (Nine) [Zhonghua renmin gongheguo xingfa xiuzheng’an (jiu)], issued 29 August 15, effective 1 November 15; Zhang Yi, “Fewer Crimes To Be Subject to Death Penalty,” China Daily, 31 August 15. See also Xie Wenyong, “Corruption Is Not Simply a Matter of Sentencing by the Numbers” [Tanwu shouhui buneng danchun yi shu’e liangxing], Procuratorial Daily, 3 November 14.

<sup>63</sup>National People's Congress Standing Committee, PRC Criminal Law Amendment (Nine) [Zhonghua renmin gongheguo xingfa xiuzheng'an (jiu)], issued 29 August 15, effective 1 November 15. See also National People's Congress, "Explanation of 'PRC Criminal Law Amendment (Nine) (Draft)'" [Guanyu "zhonghua renmin gongheguo xingfa xiuzheng'an (jiu) (cao'an)" de shuoming], 3 November 14.

<sup>64</sup>PRC Criminal Law [Zhonghua renmin gongheguo xingfa], passed 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, 25 February 11, art. 291.

<sup>65</sup>National People's Congress Standing Committee, PRC Criminal Law Amendment (Nine) [Zhonghua renmin gongheguo xingfa xiuzheng'an (jiu)], issued 29 August 15, effective 1 November 15, item 32.

<sup>66</sup>Ibid.

<sup>67</sup>Ibid., item 36.

<sup>68</sup>PRC Criminal Law [Zhonghua renmin gongheguo xingfa], passed 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, 25 February 11, art. 398.

<sup>69</sup>Verna Yu, "Chinese Journalist Gao Yu: An Egg Breaking Against the Communist Party's Wall," South China Morning Post, 16 May 15. For more information on Gao Yu, see the Commission's Political Prisoner Database record 2004-05037.

<sup>70</sup>Office of Press Relations, U.S. Department of State, "Daily Press Briefing—April 17, 2015," 17 April 15; "U.S. State Department Publicly Calls on China To Release Reporter Gao Yu" [Meiguo guowuyuan gaodiao huyu zhongguo shifang jizhe gao yu], BBC, 28 April 15; European Union External Action, "Statement by the Spokesperson on the Sentencing of Veteran Chinese Journalist Gao Yu," 17 April 15.

<sup>71</sup>Human Rights in China, "Heavy Sentence for Gao Yu Exposes Hollowness of 'Rule by Law' in China," 17 April 15; Maya Wang, Human Rights Watch, "Dispatches: Silencing a Veteran Chinese Journalist," 15 April 15.

<sup>72</sup>State Council Information Office, "White Paper on Progress in China's Human Rights in 2014," reprinted in Xinhua, 8 June 15, sec. 2. For information on the October 28, 2013, attack in Tiananmen Square, Beijing municipality, see Rebecca Valli, "3 Sentenced to Death in China for Organizing Terror Plot," Voice of America, 16 June 14; Barbara Demick, "Tiananmen Square Attack Sows Terror in Spiritual Heart of China," Los Angeles Times, 28 October 13. For information on the March 2014 attack in Kunming municipality, Yunnan province, see Shannon Tiezzi, "China Executes 3 for Deadly Kunming Attack," The Diplomat, 24 March 15.

<sup>73</sup>"Counterterrorism Law Draft Enters Second Reading, Further Improving Definition of Terrorism" [Fan kongbu zhuyi fa cao'an jinru ershen jinyibu wanshan kongbu zhuyi deng dingyi], China News Net, 25 February 15; Shannon Tiezzi, "US Claims Victory in Debate Over Chinese Terror Law," The Diplomat, 17 March 15.

<sup>74</sup>National People's Congress Standing Committee, PRC Criminal Law Amendment (Nine) [Zhonghua renmin gongheguo xingfa xiuzheng'an (jiu)], issued 29 August 15, effective 1 November 15, item 7.

<sup>75</sup>Supreme People's Court, "Supreme People's Court Work Report" [Zuigao renmin fayuan gongzuo baogao], 12 March 15, 2; "Cases of Terrorism, Separatism Up 15%: Chief Justice," China Daily, 12 March 15. See also Dui Hua Foundation, "Xinjiang State Security Trials Flat, Criminal Trials Soar in 2014," Dui Hua Human Rights Journal, 10 March 15.

<sup>76</sup>Amnesty International, "China: Draconian Anti-Terror Law an Assault on Human Rights," 4 March 15; Shuan Sim, "China Terrorism Crackdown: Rising Cases in 2014 Concern Rights Groups," International Business Times, 12 March 15.

<sup>77</sup>Human Rights Watch, "China: Draft Counterterrorism Law a Recipe for Abuses," 20 January 15.

<sup>78</sup>Xu Qianchuan, "The Pockets of Criminal Law," Caijing, 21 January 14.

<sup>79</sup>PRC Criminal Law [Zhonghua renmin gongheguo xingfa], passed 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, 25 February 11, art. 290.

<sup>80</sup>Zhao Bingzhi, "Zhao Bingzhi: Be Aware That Picking Quarrels and Provoking Trouble Has Become a New 'Pocket Crime,'" [Zhao bingzhi: jingti xunxin zishi zui chengwei xin "koudai zui"], Wo Bianhu, 8 May 15; Alinda Vermeer, "Renowned Chinese Human Rights Lawyer Still Detained After 10 Months," Global Voices Online, 27 February 15.

<sup>81</sup>PRC Criminal Law [Zhonghua renmin gongheguo xingfa], passed 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, 25 February 11, art. 249.

<sup>82</sup>Ibid., art. 293.

<sup>83</sup>Chris Buckley, "Human Rights Lawyer Pu Zhiqiang Is Charged" [Renquan lushi pu zhiqiang bei tiqi gongsu], New York Times, 15 May 15; Zhang Qianfan, "Conviction for One's Words Is a Legal Travesty" [Yi yan dingzui shi fazhi daji], Financial Times, 22 May 15. See also Perry Link, "China: Inventing a Crime," New York Review of Books (blog), 9 February 15. For more information on Pu Zhiqiang, see the Commission's Political Prisoner Database record 2014-00174.

<sup>84</sup>PRC Criminal Law [Zhonghua renmin gongheguo xingfa], passed 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, 25 February 11, art. 293.

<sup>85</sup>Interpretation of the Supreme People's Court and the Supreme People's Procuratorate on Several Issues Concerning the Application of Law in the Handling of Criminal Cases of Picking Quarrels and Provoking Trouble [Zuigao renmin fayuan, zuigao renmin jiaochayuan guanyu banli xunxin zishi xingshi anjian shiyong falu ruogan wenti de jieshi], 15 July 13; Jeremy Daum, "Quick Note on 'Picking Quarrels,'" China Law Translate (blog), 6 May 14. See also Edward Wong, "China Uses 'Picking Quarrels' Charge To Cast a Wider Net Online," New York Times, 26 July 15.

<sup>86</sup> Donald Clarke, “‘Picking Quarrels and Stirring Up Trouble’ in Chinese Law,” Chinese Law Prof Blog, 1 July 14. See also Edward Wong, “China Uses ‘Picking Quarrels’ Charge To Cast a Wider Net Online,” New York Times, 26 July 15.

<sup>87</sup> Luo Jieqi, “Prominent Lawyer Pu Zhiqiang Arrested” [Zhiming lushi pu zhiqiang zao pibu], Caixin, 13 June 14; “On the Anniversary of Pu Zhiqiang’s Detention; Beijing Prosecutors Conduct Three Supplemental Investigations” [Pu zhiqiang shouya zhounian beijing jianfang sanling buchong zhencha], BBC, 5 May 15; Celia Hatton, “The Case Against Chinese Human Rights Lawyer Pu Zhiqiang,” BBC, China Blog, 28 January 15; “Case of Human Rights Lawyer Pu Zhiqiang Enters Critical Prosecutorial Investigative Period” [Renquan lushi pu zhiqiang an jinru shencha qisu guanjian qi], Voice of America, 7 May 15. See also Bernhard Zand, “Interview with Chinese Artist Ai Weiwei: The State is Scared,” Spiegel Online, 20 May 15. Artist Ai Weiwei commented on the broader implications of Pu’s case that, “There is not a shred of evidence, of course. No one knows what is going to happen to him. But his case will show where China will move in the coming years. Will he get a fair trial? Will there be rule of law in China? Will we ever respect each other’s free speech and opinion?”

<sup>88</sup> PRC Criminal Law [Zhonghua renmin gongheguo xingfa], passed 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, 25 February 11, art. 105.

<sup>89</sup> Julie Makinen, “In China, Human Rights Lawyer Leaves Prison, but Has No Freedom,” Los Angeles Times, 12 September 14.

<sup>90</sup> Beijing Mo Shaoping Law Firm, “Concerning Liu Xiaobo’s Appeal Against the Charge of Inciting Subversion of State Power,” translated by Human Rights in China, 28 January 10. For more information on Liu Xiaobo, see the Commission’s Political Prisoner Database record 2004-03114.

<sup>91</sup> “Chinese Activist Sentenced to Five Years in Prison for Inciting Subversion” [Zhongguo huodong renshi yin shandong dianfu zui bei pan 5 nian jianjin], BBC, 11 May 15. For more information on Liu Jiakai, see the Commission’s Political Prisoner Database record 2013-00281.

<sup>92</sup> China Digital Times, “NGOs’ ‘Illegal Business Operation’ [Updated],” 14 May 15.

<sup>93</sup> For more information on Guo Yushan, see the Commission’s Political Prisoner Database record 2014-00370.

<sup>94</sup> Edward Wong, “China Arrests Activist Amid a Clampdown,” New York Times, 6 January 15; Gianluca Mezzofiore, “Chinese Scholar Who Helped Blind Dissident Chen Guangcheng Flee Is Arrested,” International Business Times, 6 January 15; Zeng Jinyan, “Guo Yushan and the Predicament of NGOs in China,” Probe International, 21 May 15.

<sup>95</sup> Beijing Municipality Public Security Bureau, “Opinion Recommending Prosecution for Guo Yushan” [Guo yushan qisu yijianshu], 2 April 15, reprinted in Boxun, 24 April 15.

<sup>96</sup> “China Releases Two NGO Activists ‘On Bail’ Ahead of President’s US Trip,” Radio Free Asia, 15 September 15.

<sup>97</sup> For more information on Shen Yongping, see the Commission’s Political Prisoner Database record 2014-00389.

<sup>98</sup> Edward Wong, “Prison Sentence for Maker of Documentary on Chinese Constitutional Rule,” New York Times, Sinosphere (blog), 30 December 14; Clifford Coonan, “Chinese Filmmaker Jailed After Documentary About Constitution,” Hollywood Reporter, 1 January 15.

<sup>99</sup> PRC Criminal Procedure Law [Zhonghua renmin gongheguo xingshi susong fa], passed 1 July 79, amended 17 March 96, 14 March 12, effective 1 January 13.

<sup>100</sup> Sun Qian, “Reflections on the Implementation of the Revised Criminal Procedure Law” [Guanyu xiugai hou xingshi susong fa zhixing qingkuang de ruogan sikao], Procuratorial Daily, 9 April 15.

<sup>101</sup> See, e.g., Maya Wang, “China’s Chilling Message to Women,” CNN, 7 April 15; “China’s Dissidents Feel the ‘Chilling Effect’ as Party’s Muzzling Tactics Prove Effective,” Agence France-Presse, reprinted in South China Morning Post, 10 July 14.

<sup>102</sup> Chinese Human Rights Defenders, “[CHRB] 5 Women’s & LGBT Rights Activists Detained in Escalating Clampdown on NGOs (3/6–12/15),” 12 March 15. For more information on the five women’s rights advocates and their cases, see the following records in the Commission’s Political Prisoner Database: 2015-00114 on Wei Tingting, 2015-00115 on Wang Man, 2015-00116 on Li Tingting, 2015-00117 on Wu Rongrong, and 2015-00118 on Zheng Churan.

<sup>103</sup> PRC Criminal Law [Zhonghua renmin gongheguo xingfa], passed 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, 25 February 11, art. 293.

<sup>104</sup> Ibid., art. 291. See also Elizabeth M. Lynch, “To Arrest or Not To Arrest—Prosecutors Have to Today To Determine Fate of Five Female Activists,” China Law & Policy (blog), 13 April 15.

<sup>105</sup> Edward Wong, “China Releases 5 Women’s Rights Activists Detained for Weeks,” New York Times, 13 April 15; Zhao Sile, “The Inspirational Backstory of China’s ‘Feminist Five,’” Foreign Policy, 17 April 15.

<sup>106</sup> PRC Criminal Procedure Law [Zhonghua renmin gongheguo xingshi susong fa], passed 1 July 79, amended 17 March 96, 14 March 12, effective 1 January 13, chap. 4.

<sup>107</sup> Human Rights in China, “HRIC Law Note: Five Detained Women Released on ‘Guarantee Pending Further Investigation,’” 13 April 15.

<sup>108</sup> John Ruwitch and Sui-Lee Wee, “Chinese Woman Activist Says Interrogated a Week After Release,” Reuters, 25 April 15.

<sup>109</sup> Lu Jun, Yirenping, “Five Women’s Rights Sisters Under Close Police Surveillance, After Visit, Li Tingting’s Close Friend Not in Contact” [Nuquan wu jiemei shoudao jingfang yanmi jiankong, li tingting miyou tanwang hou shilian], Yirenpingnews Google Group, 15 April 15.

<sup>110</sup> Xiao Meili, “China’s Feminist Awakening,” New York Times, 13 May 15.

<sup>111</sup> PRC Criminal Procedure Law [Zhonghua renmin gongheguo xingshi susong fa], passed 1 July 79, amended 17 March 96, 14 March 12, effective 1 January 13, art. 37.



<sup>112</sup>Supreme People's Procuratorate, Supreme People's Procuratorate Regulations on Protecting Lawyers' Practice Rights According to Law [Zuigao renmin jiancha yuan guanyu yifa baozhang lushi zhiye quanli de guiding], issued 23 December 14, arts. 2, 5; Chen Kai, "SPP Introduces New Regulations to Protect Lawyers' Practices, Resolving 'Three Difficulties' and Other Problems" [Zuigao jian chutai baozhang lushi zhiye xingui jie jue "sannan" deng wenti], China Internet Information Center, 15 February 15; Zhou Bin, "Lawyers' Meetings at Detention Centers Usually Arranged Within Half an Hour" [Lushi kanshousuo huijian yiban ban xiaoshi nei anpai], Legal Daily, 17 August 15; Xing Shiwei, "Five Ministries Will Jointly Issue Document Protecting Lawyers' Practice Rights" [Wu bumen jiang lian fawen baozhang lushi zhiye quanli], Beijing News, 21 August 15. See, e.g., "Ganyu Procurator Notifies Detention Centers To Correct Violations; Protect the Right To Meet With Lawyers" [Ganyu jiancha tongzhi kanshousuo juzheng weifa baozhang lushi huijian quan], Jiangsu Province People's Procuratorate Net, 14 April 15.

<sup>113</sup>Luo Sha and Chen Fei, "SPP: Strict Standards in Major Bribery Cases for Lawyers' Meetings, Protect Lawyers' Rights and Interests" [Zuigao jian: yan'ge guifan zhongda huilu anjian lushi huijian baozhang lushi quanyil], Xinhua, 24 March 15.

<sup>114</sup>PRC Criminal Procedure Law [Zhonghua renmin gongheguo xingshi susong fa], passed 1 July 79, amended 17 March 96, 14 March 12, effective 1 January 13, art. 37; Human Rights Watch, "China: End Nationwide Crackdown on Activists," 29 June 14.

<sup>115</sup>Dui Hua Foundation, "Despite Legal Reform: SPC Still Blocks Lawyer-Client Access," Dui Hua Human Rights Journal, 9 June 15; Wang Feng, "One-and-a-Half Years After Implementation of the New Criminal Procedure Law, Difficulties Meeting Clients and Having Witnesses Appear in Court Are Still Prominent" [Xin xing su fa shishi yi nian ban hui jian nan he zhengren chuting nan wenti reng ran tuchu], 21st Century Business Herald, 15 September 14; Shangquan Law Firm, "New Three Difficulties' Appear for Criminal Defense" [Xingshi bianhu chuxian "xin san nan"], Shangquan Criminal Defense Network, 5 November 14.

<sup>116</sup>Andrew Jacobs, "Conviction Rates Count More in Chinese Justice Than Innocence," New York Times, 12 May 15.

<sup>117</sup>Zhang Youyi, "High Risk and Low Quality, Revealing Criminal Defense Lawyers' Six Major Difficulties" [Gao fengxian di zhiliang jiemi xingshi bianhu lushi liu da nanti], Legal Daily, reprinted in Nanjing Lawyers Net, 7 January 08; Jia Jinfeng, "Investigation of Lawyer Representation Rates in Criminal Cases" [Xingshi susong anjian de lushi bianhu lu qingkuang diaocha], Lunwen Wang, 23 December 14; US-Asia Law Institute, New York University School of Law, "Professional Responsibility for Chinese Criminal Defense Lawyers—A Potential Source of Protected Space," 21 October 14; "Mu Ping: In Twenty Thousand Criminal Cases, Lawyers Represented [Defendants] in Only 2.5 Percent of Cases" [Mu ping: liangwan xingsu'an lushi jin dai li 2.5%], Beijing News, 9 March 12; Zhu Lei, "CPPCC Member Yu Ning: Proposal To Increase Criminal Case Lawyer Participation Rate" [Yu ning weiyuan: jianyi tigao xing'an lushi qian lu], Legal Daily, 12 March 12.

<sup>118</sup>See, e.g., Chinese Human Rights Defenders, "Silencing the Messenger: 2014 Annual Report on the Situation of Human Rights Defenders in China," March 2015, 20–23; "China Human Rights Lawyers Concern Group Calls for Attention to Detained Mainland Human Rights Lawyers" [Zhongguo weiquan lushi guanzhu zu huyu guanzhu neidi bei jiya weiquan lushi], Radio Free Asia, 17 February 15; Amnesty International, "China: Drop Politically Motivated Charges Against Prominent Human Rights Lawyer," 15 May 15. For background on the long-term harassment of Chinese lawyers, see, e.g., Human Rights Watch, "China: Restrictions on Lawyers Fuel Unrest," 30 April 08.

<sup>119</sup>Human Rights Watch, "China: Protect Lawyers From Beatings and Harassment," 25 June 15; Human Rights Watch, "Tiger Chairs and Cell Bosses: Police Torture of Criminal Suspects in China," May 2015, 60, 113; Chen Xiao and Zhu Yuchen, "The Pain of the Criminal Law's Article 306" [Xingfa di 306 tiao zhi tong], Legal Weekend, reprinted in Legal Daily, 2 July 11; "Big Stick 306" and China's Contempt for the Law," New York Times, 5 May 11. The 2010 conviction by a Chongqing municipality court of lawyer Li Zhuang, for example, received national and international attention as an abusive use of this provision. See Wang Huazhong, "Lawyer for Gang Boss Suspect Gets Prison Sentence," China Daily, 9 January 10; Donald Clarke, "Li Zhuang's Conviction and the Problem of Witnesses," Chinese Law Prof Blog, 8 January 10, updated 9 January 10; Vincent R. Johnson and Stephen C. Loomis, "The Rule of Law in China and the Prosecution of Li Zhuang," Chinese Journal of Comparative Law, Vol. 1, No. 1, 1 March 13, 66–83.

<sup>120</sup>National People's Congress Standing Committee, PRC Criminal Law Amendment (Nine) [Zhonghua renmin gongheguo xingfa xiuzheng'an (jiu)], issued 29 August 15, effective 1 November 15, item 37. See also National People's Congress Legal Committee, "Deliberative Conclusions Report Regarding PRC Criminal Law Amendment (Nine) (Draft)" [Guanyu "zhonghua renmin gongheguo xingfa xiuzheng'an (jiu) (cao'an)" shen yi jie guo baogao], issued 24 August 15, item 6.

<sup>121</sup>"Legal Opinion on Revisions to Article 35 in 'Criminal Law Amendment (9)' Draft," [Guanyu "xingfa xiuzheng'an (9)" cao'an di 35 tiao xiugai neirong de falu yijian], reprinted in Boxun, 22 November 14; Joshua Rosenzweig, "Chinese Lawyers to Chinese Lawmakers: Let Us Defend Our Clients," Asia Society, ChinaFile (blog), 15 January 15; Frances Eve, "The Plight of China's Rights Lawyers," Asia Society, ChinaFile (blog), 16 January 15.

<sup>122</sup>"Over 200 Chinese Lawyers Jointly Protest Lawyer's Detention in Court" [Zhongguo yu 200 ming lushi lianshu kangyi lushi ting shang bei zhua], BBC, 12 December 14.

<sup>123</sup>"260 China Rights Lawyers Protest Detention of Fellow Lawyer," Jurist, 14 December 14. Earlier in 2014, the Wuhan Municipal Lawyers Association delayed renewing Zhang's lawyer's license reportedly in connection with his representation of Falun Gong practitioners. See "Over a Hundred Lawyers 'Fast' in Support of Zhang Keke" [Bai duo lushi "jinshi" shengyuan zhang keke], Radio Free Asia, 11 June 14.

<sup>124</sup>Leo Timm and Frank Fang, “Chinese Judge on Shackles: ‘Who Cares If It’s Illegal?’” *Epoch Times*, 28 April 15; Tian Jing, “Jiangsu Court Violates the Law, 14 Lawyers Jointly Promote Justice for Colleague” [Jiangsu fayuan weifa 14 lushi lianhe wei tonghang shenzhang zhengyi], *New Tang Dynasty Television*, 5 May 15.

<sup>125</sup>“Four Lawyers Beaten at Court in Hengyang, Hunan, Before Defending Case” [4 ming lushi zai hunan hengyang chuting bianhu qian zao ren ouda], *BBC*, 21 April 15.

<sup>126</sup>“Four Lawyers Outside Hunan Court Beaten, 400 Lawyers Jointly Call for a Thorough Investigation” [Si lushi hunan fayuan wai zao ou 400 lushi lianming cu checha], *Boxun*, 23 April 15.

<sup>127</sup>Human Rights Watch, “Tiger Chairs and Cell Bosses: Police Torture of Criminal Suspects in China,” May 2015; Ira Belkin, “China’s Tortuous Path Toward Ending Torture in Criminal Investigations,” *Columbia Journal of Asian Law*, Vol. 24, 2011, 273.

<sup>128</sup>See, e.g., Chinese Communist Party Central Committee, Decision on Certain Major Issues Regarding Comprehensively Deepening Reforms [Zhonggong zhongyang guanyu quanmian shenhua gaige ruogan zhongda wenti de jue ding], reprinted in *Xinhua*, 15 November 13, sec. 9(34); Yue Deliang, “Zhejiang Provincial People’s Congress Standing Committee Special Supervision of Confessions Extracted Through Torture and Other Problems” [Zhejiang sheng renda changweihui zhuanxiang jian du xingxun bigong deng wenti], 6 April 14; Chen Hongyang, “To Prevent Torture Focus on Excluding Illegal Evidence” [Fang xingxun bigong zhong zai feifa zhengju paichu], *Guangzhou Daily*, 15 May 14; Yang Yi, “Top Chinese Procurator Vows To Better Protect Rights, Prevent Wrongful Judgements,” *Xinhua*, 10 March 14; Xing Shiwei, “Establish ‘Wrongful Convictions Alert Day’ To Reflect Upon Cases of Injustice” [Sheli “cuo’an jingshi ri” lai fansi yuanjiacuo’an], *Beijing News*, 19 August 13; Shen Deyong, “How We Should Be Preventing Miscarriages of Justice” [Women yingdang ruhe fangfan yuanjiacuo’an], *People’s Court Daily*, 6 May 13; Melissa Bancroft, “China Admits Torture Behind Recent Wrongful Convictions,” *Jurist*, 20 November 06.

<sup>129</sup>Chinese Communist Party Central Committee, Decision on Several Major Issues in Comprehensively Advancing Governance of the Country According to Law [Zhonggong zhongyang guanyu quanmian tuijin yifa zhiguo ruogan zhongda wenti de jue ding], issued 23 October 14, item 4(5).

<sup>130</sup>“Zhou Qiang Gives Supreme People’s Court Work Report” [Zhou qiang zuo zuigao renmin fayuan gongzuo baogao], reprinted in *Caixin*, 12 March 15; Zhang Jian, “Zhou Qiang: Regarding the Occurrence of Miscarriages of Justice, We Are Deeply Remorseful” [Zhou qiang: dui cuo’an fasheng women shen’gan zize], *Beijing Times*, 13 March 15.

<sup>131</sup>“SPP Releases 2014 Procuratorial Agencies’ Rectifications of Miscarriages of Justice in Five Major Cases” [Zuigao jian fabu 2014 nian jiancha jiguan juzheng yuanjiacuo’an wu da anli], *Procuratorial Daily*, reprinted in *Supreme People’s Procuratorate*, 14 March 15. In October 2014, the SPP publicly released updated standards for reviewing criminal appeals, the stage at which the higher courts examine cases to determine whether mistakes were made earlier in the cases’ handling. See *Supreme People’s Procuratorate*, “People’s Procuratorate Guidelines for Reviews of Criminal Case Appeals” [Renmin jianchayuan fucha xingshi shensu anjian guiding], issued 29 April 14, reprinted in *Procuratorial Daily*, 27 October 14.

<sup>132</sup>“China Launches Special Campaign To Rectify Miscarriages of Justice,” *Xinhua*, 28 April 15. In August 2015, the Supreme People’s Procuratorate issued a document listing eight prohibitions during the investigation of official crimes that included the prohibition of torture and other acts of illegal collection of evidence. See *Supreme People’s Procuratorate*, “Supreme People’s Procuratorate Eight Prohibitions in the Investigation of Official Crimes” [Zuigao renmin jianchayuan zhiwu fanzui zhencha gongzuo baxiang jinling], issued 4 August 15, item 7.

<sup>133</sup>Xing Shiwei, “Grueling Interrogations Can Be Considered Torture-Extracted Confessions in Disguise” [Pilao shenxun ni suan bianxiang xingxun bigong], *Beijing Times*, 8 December 14.

<sup>134</sup>Jia Shiyu et al., “Chasing Injustice: 10 Cases, 3 Already Disposed Of” [Yuan’an zhui ze: 10 qi anjian 3 qi yi chuli], *Beijing News*, 18 December 14.

<sup>135</sup>“Courts Find Executed Chinese Teenager ‘Not Guilty,’” *BBC*, 15 December 14; Shi Wansen and Zhang Chi, “Inner Mongolia Autonomous Region High People’s Court Finds Huugjilt Not Guilty” [Neimenggu gaoyuan xuanpan hugejileitu wuzui], *Legal Daily*, 15 December 14. See also “Second-Instance Trial in Zhao Zhihong Case Upholds Death Sentence” [Zhao zhihong an ershen weichi sixing panjue], *Legal Daily*, 4 May 15.

<sup>136</sup>Adam Withnall, “Parents of Teenager ‘Tortured’ and Wrongfully Executed for Rape and Murder Watch in Court as Another Man is Convicted of the Crime,” *Independent*, 9 February 15.

<sup>137</sup>Human Rights Watch, “Tiger Chairs and Cell Bosses: Police Torture of Criminal Suspects in China,” May 2015, 103. Human Rights Watch noted that, “Our search of all Chinese court verdicts published on the SPC website during the first four months of 2014 found only one case in which police officers were convicted for abusing criminal suspects.”

<sup>138</sup>Josh Chin, “China Court Reverses Death Penalty Verdict, 18 Years Too Late,” *Wall Street Journal*, *China Real Time Report* (blog), 15 December 14.

<sup>139</sup>William Wan, “In China, A Rare Criminal Case in Which Evidence Made a Difference,” *Washington Post*, 29 December 14; “Man Compensated for 8-Year Wrongful Custody,” *China Internet Information Center*, 18 February 15; Zhu Changjun, “How To Write the Final Result of the ‘Nian Bin Case’” [“Nian bin an” de xiaoguo daodi gai ruhe shuxie], *Beijing News*, 2 February 15.

<sup>140</sup>Dui Hua Foundation, “Quest for Retrial: Court Holds Novel Hearing on Nie Shubin Case,” *Dui Hua Human Rights Journal*, 19 May 15; Xu Mingxuan, “Whether Nie Shubin Case Is Reviewed or Not, All Must Oppose ‘Intervention of Public Opinion’” [Nie shubin an fucha yu fou, dou dei fang “yulun ganyu”], *Beijing News*, 5 May 15. See also Zhan Shanfeng, “He Weifang: Why I Grabbed Hold of the Nie Shubin Case” [He weifang: wo weishenme jiu zhu nie shubin an bu fang], *China Business Morning Post*, reprinted in He Weifang’s blog, 22 December 14.

- <sup>141</sup>Josh Chin, “China’s Communist Party Sounds Death Knell for Arrest, Conviction Quotas,” Wall Street Journal, China Real Time Report (blog), 22 January 15.
- <sup>142</sup>Stanley Lubman, “Why Scrapping Quotas in China’s Criminal Justice System Won’t Be Easy,” Wall Street Journal, China Real Time Report (blog), 30 January 15.
- <sup>143</sup>Shannon Tiezi, “In China, A Move Away From Conviction Quotas,” The Diplomat, 23 January 15; Human Rights Watch, “Tiger Chairs and Cell Bosses: Police Torture of Criminal Suspects in China,” May 2015, 33–34.
- <sup>144</sup>“Police To Film Interrogations,” Xinhua, reprinted in China Daily, 15 February 15. For a critique of the actual efficacy of recording interrogations in curbing extorted confessions see Wu Liwei, “Preventing and Correcting Unjust and Wrongful Cases” [Yuanjiacuo’an “fang yu jiu”], Caixin, 20 April 15.
- <sup>145</sup>“China To Hold Police Accountable for Erroneous Cases, for Life,” Xinhua, reprinted in China Daily, 15 February 15.
- <sup>146</sup>Susan Finder, “Senior Chinese Judges Speak Out on Preventing Injustices in China’s Criminal Justice System,” Supreme People’s Court Monitor (blog), 17 May 15; “Detention Center Law (Draft for Examination) Experts’ Seminar Was a Success” [“Kanshousuo fa (songshen gao)” zhuanyia yantaohui chengong juban], China Law Society Research Office, 1 April 15; Wang Shoufeng et al., “Ministry of Public Security: Humanized Management Ensures Legitimate Rights and Interests of Imprisoned” [Gong’anbu: renxing hua guanli baozhang zai ya renyuan hefa quanyi], Public Security Daily, reprinted in Legal Daily, 19 September 14. See also Gao Yifei, “Detention Center Legislation From the Perspective of Protecting Human Rights” [Baozhang renquan shiye xia de kanshousuo lifa], Procuratorial Daily, reprinted in People’s Daily, 2 July 15.
- <sup>147</sup>Xu Xiaotong, “Can a Detention Center Law End ‘Death by Blind Man’s Bluff’” [Kanshousuo fa neng fou zhongjie “duo mao mao si”], China Youth Daily, 14 May 14; Dui Hua Foundation, “Is Detention Center Law Enough To Prevent Police Abuse?” Dui Hua Human Rights Journal, 2 July 14. Detention centers are currently subject to the 1990 Detention Center Regulations. See State Council, PRC Regulations on Detention Centers [Zhonghua renmin gongheguo kanshousuo tiaoli], issued and effective 17 May 90.
- <sup>148</sup>Duan Wen, “Why Do Courts Dare Not Acquit?” [Fayuan weishenme bu gan zuo wuzui panjue?], Phoenix Weekly, reprinted in QQ, 1 April 15.
- <sup>149</sup>Human Rights Watch, “Tiger Chairs and Cell Bosses: Police Torture of Criminal Suspects in China,” May 2015.
- <sup>150</sup>Zhou Bin, “48-Item Reform Initiative Is a Strong Guarantee of Impartial Justice” [48 xiang gaige jucuo quanli baozhang gongzheng sifa], Legal Daily, 9 April 15; Xing Shiwei, “Central Judicial Reform Office: Strengthening of Trial Stage Central in Preventing Miscarriages of Justice” [Zhongyang si gai ban: qianghua yi shenpan wei zhongxin fangzhi yuanjiacuo’an], Beijing News, 31 October 14. See also Tang Ya’nan and Ji Tianfu, “From the Perspective of Making Trials the Central, Preventing the Next Miscarriage of Justice” [Yi shenpan wei zhongxin shijiao xia de yuan cuo anjian fangfan], People’s Court Daily, 13 May 15.
- <sup>151</sup>Zhou Dongxu, “Legislature Approves Reform of Jury System,” Caixin, 27 April 15.
- <sup>152</sup>Andrew Jacobs, “Conviction Rates Count More in Chinese Justice Than Innocence,” New York Times, 14 May 15; Terrence McCoy, “China Scored 99.9 Percent Conviction Rate Last Year,” Washington Post, 11 March 14. See also Supreme People’s Court, “2015 Supreme People’s Court Work Report” [2015 nian zuigao renminfayuan gongzuo baogao], 12 March 15, 4.
- <sup>153</sup>Supreme People’s Court, “Opinion on Comprehensively Deepening Reform of the People’s Courts—Fourth Five-Year Outline for Reform of the People’s Courts (2014–2018)” [Zuigao renmin fayuan guanyu quanmian shenhua renmin fayuan gaige de yijian—renmin fayuan disi ge wu nian gaige gangyao (2014–2018)], 4 February 15, para. 13. See also Margaret K. Lewis, “Leniency and Severity in China’s Death Penalty Debate,” Columbia Journal of Asian Law, Vol. 24, No. 2, 2011, 304–32.
- <sup>154</sup>Li Shouwei, “Witnesses Appearing in Court: A New Scheme To Resolve a Longstanding Problem” [Zhengren chuting zuozheng: jie jue lao wenti de xin fang’an], Chinese Social Sciences Today, 30 April 14; Ma Aihu, “Improving the System of Chinese Witnesses Appearing in Court To Testify” [Zhongguo zhengren chuting zuozheng zhidu de wanshan], Lanzhou Lawyer (blog), 3 May 15. See also Human Rights Watch, “Tiger Chairs and Cell Bosses: Police Torture of Criminal Suspects in China,” May 2015, 131; He Xin, “Dai Yuqing Case: When Witnesses Do Not Appear in Court, How To Distinguish Between Truth and Falsehood?” [Dai yuqing an: zhengren bu chuting zhenjia he bian], Caixin, 27 November 14.
- <sup>155</sup>Ouyang Yanqin, “Courts Slow To Throw Illegally Collected Evidence Out of Trials,” Caixin, 8 January 15; Liu Ling, “Lawyer Liu Ling: Speaking Again on Illegal Evidence Exclusion Rules” [Liu ling lushi: zai tan feifa zhengju paichu guize], Lawyer Liu Ling’s Blog, 9 March 15.
- <sup>156</sup>Human Rights Watch, “Tiger Chairs and Cell Bosses: Police Torture of Criminal Suspects in China,” May 2015, 82.
- <sup>157</sup>Ibid.
- <sup>158</sup>UN Committee against Torture, Annotated Provisional Agenda, CAT/C/56/1, 4 September 15, item 4; UN Committee against Torture, “List of Issues in Relation to the Fifth Periodic Report of China,” CAT/C/CHN/Q/5/Add.1, 15 June 15, paras. 31–32. The Committee most recently reviewed China in 2008. See UN Committee against Torture, Consideration of Reports Submitted by States Parties Under Article 19 of the Convention: Concluding Observations of the Committee against Torture: China, Adopted by the Committee at Its 41st Session (3–21 November 2008), CAT/C/CHN/CO/4, 12 December 08.
- <sup>159</sup>See, e.g., Letter From Human Rights Watch to Members of the UN Committee against Torture, Office of the UN High Commissioner for Human Rights, 12 February 15, 5–7; China Human Rights Lawyers Concern Group Limited, “An NGO Submission to the UN Committee Against Torture for the LOIs and LOIPR of the 54th Session for the 6th Periodic Report of the People’s Republic of China on the Implementation of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,” 9 February 15, paras. 2–3; Chinese

Human Rights Defenders, “Specific Information on the Implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment,” 9 February 15, paras. 1, 2, 11.

<sup>160</sup>Supreme People’s Court, Supreme People’s Court Provisions on Procedures for Sentence Commutation and Parole Case Hearings [Zuigao renmin fayuan guanyu jianxing, jiashi anjian shenli chengxu de guiding], reprinted in China Court Network, issued 23 April 14, effective 1 June 14.

<sup>161</sup>Supreme People’s Procuratorate, Supreme People’s Procuratorate Provisions on Handling Commuted Sentences and Parole [Zuigao renmin jianchayuan banli jianxing, jiashi anjian guiding], issued and effective 27 August 14.

<sup>162</sup>Ministry of Justice, Provisions on Work Procedures for Prisons Proposing Commutations or Parole [Jianyu tiding jianxing jiashi gongzuo chengxu guiding], reprinted in PRC Central Government, issued 11 October 14, effective 1 December 14.

<sup>163</sup>“China Punishes Officials for Illegal Sentence Reductions,” Xinhua, 9 March 15. See also Zhang Hong, “Abuse of Parole System Targeted in Corruption Crackdown,” South China Morning Post, 25 February 14; “‘Commutation After an Appointed Time,’ ‘Bail Instead of Medical Treatment,’ ‘Pay To Get Out’—Committee Members Fiercely Debate ‘Covert Jailbreaks’ Phenomenon” [“‘Dao dian jianxing’ ‘bao er bu yi’ ‘ti qian chulong’—daibiao weiyuan reyi ‘bianxiang yueyu’ xianxiang], Xinhua, 11 March 15; PRC Criminal Law [Zhonghua renmin gongheguo xingfa], passed 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, 25 February 11, art. 81.

<sup>164</sup>Li Jing, “Supreme People’s Court Releases Eight Typical Cases of Commutation, Parole, and Serving Time Outside of Prison” [Zuigao fa fabu jianxing, jiashi, zan yu jianwai zhixing 8 jian dianxing anli], People’s Daily, 13 February 15.

<sup>165</sup>Ministry of Justice, Ministry of Justice Opinion on Further Deepening Prison Affairs Openness [Sifabu guanyu jinyibu shenhua yu wu gongkai de yijian], reprinted in China Court Network, 1 April 15. See also Yuan Dingbo, “202 Prisons Establish Platform for Handling Commutation, Parole, and Serving Time Outside of Prison Cases” [202 suo jianyu jiancheng jian jia zan ban’an pingtai], Legal Daily, 11 May 15.

<sup>166</sup>Danzeng Sangzhou, “Ministry of Justice Answers Question of Commutation and Parole: Criminals on Medical Parole All Brought Back To Be Checked” [Sifabu huiying jianxing jiashi zhiyi: baowaijiuyi zuifan dou daihui jiancha], China News Service, 5 November 14.

<sup>167</sup>Austin Ramzy, “In China, an Ingenious Scheme for Getting Out of Jail Early,” New York Times, Sinosphere (blog), 20 January 15; “China: Wealthy Prisoners Buy ‘Get Out of Jail’ Patents,” BBC, 19 January 15; Gao Yuyang et al., “Have ‘Prison Inventors’ Already Become a Supply Chain?” [“Jianyu famingjia” yi cheng chanyelian?], Beijing Youth Daily, 19 January 15.

<sup>168</sup>PRC Criminal Law [Zhonghua renmin gongheguo xingfa], passed 1 July 79, amended 14 March 97, effective 1 October 97, amended 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, 28 February 09, 25 February 11, arts. 81–86.

<sup>169</sup>Dui Hua Foundation, “Dui Hua Welcomes Release of American Geologist Xue Feng,” 3 April 15; Xue Feng, “Thank You,” reprinted in University of Chicago, Department of Geophysical Sciences, Faculty Page of David Rowley, 4 April 15.

<sup>170</sup>Keith B. Richburg, “China Sentences American Geologist to 8 Years for Stealing State Secrets,” Washington Post, 5 July 10; Andrew Jacobs, “China Upholds Conviction of American Geologist,” New York Times, 18 February 11; “Beijing Court Upholds Eight-Year Sentence for American Geologist Xue Feng,” Congressional-Executive Commission on China, 23 February 11.

<sup>171</sup>Amnesty International, “Death Sentences and Executions 2014,” 31 March 15, 2.

<sup>172</sup>Ibid.

<sup>173</sup>Mara Hvistendahl, “China Rethinks the Death Penalty,” New York Times, 8 July 14.

<sup>174</sup>Dui Hua Foundation, “China Executed 2,400 People in 2013,” 20 October 14; Amnesty International, “Death Sentences and Executions 2014,” 31 March 15, 11. Amnesty International reported that “[b]etween June and August [2014], 21 people were executed in the Xinjiang Uighur Autonomous Region in relation to separate terrorist attacks.”

<sup>175</sup>“No Change Seen in China’s Use of Death Penalty Amid Broad Public Support,” Radio Free Asia, 2 April 15; Zachary Keck, “China Overwhelmingly Supports Death Penalty for Corrupt Officials,” The Diplomat, 7 November 14; Lijia Zhang, “China’s Death-Penalty Debate,” New York Times, 29 December 14; Margaret K. Lewis, “Leniency and Severity in China’s Death Penalty Debate,” Columbia Journal of Asian Law, Vol. 24, No. 2, 2011, 304–32.

<sup>176</sup>Chinese Communist Party Central Committee, Decision on Certain Major Issues Regarding Comprehensively Deepening Reforms [Zhonggong zhongyang guanyu quanmian shenhua gaige ruogan zhongda wenti de jue ding], 12 November 13, sec. 9(34).

<sup>177</sup>National People’s Congress, “Explanation of ‘People’s Republic of China Criminal Law Amendment (Nine) (Draft),’” [Guanyu “zhonghua renmin gongheguo xingfa xiuzheng’an (jiu) (cao’an)” de shuoming], 3 November 14, sec. 2(1).

<sup>178</sup>National People’s Congress Standing Committee, PRC Criminal Law Amendment (Nine) [Zhonghua renmin gongheguo xingfa xiuzheng’an (jiu)], issued 29 August 15, effective 1 November 15, items 9, 11, 41, 49; Zhang Yi, “Fewer Crimes To Be Subject to Death Penalty,” China Daily, 31 August 15. See also National People’s Congress Legal Committee, “Deliberative Conclusions Report Regarding ‘PRC Criminal Law Amendment (Nine) (Draft)’” [Guanyu “zhonghua renmin gongheguo xingfa xiuzheng’an (jiu) (cao’an)” shenyi jiegou baogao], 24 August 15, item 8. The revisions to the PRC Criminal Law further heighten the legal requirements for executing prisoners who are sentenced to death with a two-year reprieve. National People’s Congress Standing Committee, PRC Criminal Law Amendment (Nine) [Zhonghua renmin gongheguo xingfa xiuzheng’an (jiu)], issued 29 August 15, effective 1 November 15, item 2.

<sup>179</sup>Susan Trevaske, *The Death Penalty in Contemporary China* (New York: Palgrave Macmillan, 2012), 42–46; Dui Hua Foundation, “China Mulls Harsher Penalties for Protesters, ‘Cults’; Fewer Capital Crimes,” Dui Hua Foundation Human Rights Journal, 6 August 15.

<sup>180</sup>Susan Finder, “What Does the 4th Plenum Mean for Death Penalty Reviews?” Supreme People’s Court Monitor (blog), 10 November 14.

<sup>181</sup>Ren Zhongyuan, “Death Penalty Review Power Held for Eight Years; How Does the Supreme People’s Court Stay Executions” [Sixing fuhe quan shang shou ba nian zuigao fayuan ruhe daoxia liuren], Southern Weekend, 16 October 14; “The Death Penalty: Strike Less Hard,” Economist, 3 August 13.

<sup>182</sup>Supreme People’s Court, Measures Concerning Listening to Defense Lawyers’ Opinions in Handling Death Penalty Review Cases [Zuigao renmin fayuan guanyu banli sixing fuhe anjian tingqu bianhu lushi yijian de banfa], issued 29 January 15, effective 1 February 15; Dan Yuxiao, “In Death Penalty Review Cases, Lawyers Opinions Shall Be Heard” [Sixing fuhe anjian lushi yijian ying bei tingqu], Caixin, 29 January 15. For a contrasting view see Chinese Human Rights Defenders, “New Rules on Lawyers’ Input on Death Penalty Reviews Too Weak To Cut Down on Executions,” 5 February 15.

<sup>183</sup>Yang Tao, “It’s Possible To Have a System of Hesitating in Implementation of the Death Penalty” [Sixing zhixing youyu zhidu zhe ge keyi you], Beijing Youth Daily, 12 February 15; Lijia Zhang, “China’s Death Penalty Debate,” New York Times, 29 December 14.

<sup>184</sup>Didi Kirsten Tatlow, “Courts in China Face Balancing Act on Domestic Abuse,” New York Times, Sinosphere (blog), 6 May 15; Ren Zhongyuan, “Shadow of Domestic Abuse Over Protection of Women’s Rights; Failure To Fully Reverse Li Yan Case” [Jiabao yinying xia de funu quanyi baohu weineng wanquan fanzhan de li yan an], Southern Weekend, 30 April 15. See also Chenjie Ma, “China’s Death Penalty Practice Undermines the Integrity of the Death Penalty as a Sentencing Option,” Australian Journal of Asian Law, Vol. 15, No. 2, 7.

<sup>185</sup>Chen Baocheng, “Continuing To Ask About the Heilongjiang Incident: How To Monitor ‘Death Row?’” [Zai wen heilongjiang shijian: ruhe kanguan “sixingfan?”], Caixin, 3 September 14.

<sup>186</sup>Human Rights Watch, “Tiger Chairs and Cell Bosses: Police Torture of Criminal Suspects in China,” May 2015, 5.

<sup>187</sup>“China Will Completely Stop Use of Executed Prisoners’ Organs as Donor Source of Organ Transplants” [Zhongguo jiang quanmian tingzhi shiyong siqiu qiguan zuowei yizhi gongti laiyuan], China National Radio, reprinted in Xinhua, 2 January 15; “China To Scrap Organ Harvesting From Executed Prisoners,” China Daily, 4 December 14; “Weaning China Off Organs From Executed Prisoners,” Lancet, Vol. 385, No. 9962, 3 January 15. See also Tania Branigan, “China To Stop Using Executed Prisoners as Source of Transplant Organs,” Guardian, 4 December 14; Alex Hosenball and Cho Park, “China’s New Year’s Resolution: No More Harvesting Executed Prisoners’ Organs,” ABC, 1 January 15. For background information on the topic, see Adnan Sharif et al., “Organ Procurement From Executed Prisoners in China,” American Journal of Transplantation, 2014.

<sup>188</sup>“China To Scrap Organ Harvesting From Executed Prisoners,” China Daily, 4 December 14.

<sup>189</sup>“Loopholes Remain in China’s Organ Harvesting Ban,” Radio Free Asia, 7 December 14; Katie Hunt, “Why China Will Struggle To End Organ Harvesting From Executed Prisoners,” CNN, 5 December 14; Liz Kerr and Deborah Collins-Perrica, “Correspondence: Organ Transplantation in China: Concerns Remain,” Lancet, Vol. 385, No. 9971, 7 March 15, 856. For an example of a preliminary report on organ donations following the reforms, see Jia Peng, “Huang Jiefu: Use of Executed Prisoners’ Organs Stopped for Two Months, Citizens Donate 937 Organs” [Huang jiefu: siqiu qiguan ting yong liang yue gongmin juan 937 ge qiguan], Beijing News, 6 March 15.

<sup>190</sup>“Weaning China Off Organs From Executed Prisoners,” Lancet, Vol. 385, No. 9962, 3 January 15, 1.

