

CHINESE URGENT ACTION WORKING GROUP

人权卫士紧急救援协会

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## NO END IN SIGHT:

SUSTAINED PERSECUTION OF HUMAN  
RIGHTS DEFENDERS IN CHINA

A REPORT TO THE UNITED NATIONS SPECIAL RAPPORTEUR  
ON THE SITUATION OF HUMAN RIGHTS DEFENDERS

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## **ABOUT THE CHINESE URGENT ACTION WORKING GROUP**

The Chinese Urgent Action Working Group (人权卫士紧急救援协会) undertakes direct interventions on behalf of Human Rights defenders in distress through investigations, public advocacy, communication with international institutions and organizations, and through providing legal aid. The group is located inside mainland China, and was formed as a response to increased persecution of Human Rights defenders during 2008 and 2009. The organization also regularly releases reports and background briefs on issues concerning Human Rights, and especially Human Rights defenders, in China.

## **关于人权卫士紧急救援协会**

人权卫士紧急救援会从事的是代表置身于危难中的人权卫士而进行的研究调查，公共宣传，与国际机构和组织交流，提供法律援助等的直接干预。该组织位于中国大陆，其成立的初衷是对2008年北京奥运会的举办而造成的对人权维护者更多迫害的一个回应。该组织还定期就中国人权维护者的问题发布报告和背景简要。

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## **NO END IN SIGHT:**

### ***Sustained persecution of human rights defenders in China***

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## INTRODUCTION

According to the UN “Declaration on Human Rights Defenders” passed by the General Assembly of the United Nations in 1998, human rights defenders (HRD's) are “individuals, groups and associations... contributing to...the effective elimination of all violations of human rights and fundamental freedoms of peoples and individuals”. The Declaration, together with the UN “Universal Declaration on Human Rights”, and other treaties and covenants China has signed and ratified, provides an obligation on the Chinese State to act in such a way as to guarantee respect for, and protection of, certain rights.

This brief report seeks to identify how China is living up to its commitments in the post-Olympics period. The report looks at how the Chinese State intervenes against human rights defenders, how it affects individuals, and what new developments can be identified in the last year or so.

The report will show that the Chinese State is actively working to undermine the universality of human rights, and will present information on different mechanisms used to repress and persecute HRD's.

In short, HRD's working in China are consistently denied any real right to organize and assemble, face deficiencies in government transparency, are restrained by a severe lack of freedom of speech, and are subject to an ever increasing violation of privacy and the right to private communication. Active HRD's in China include writers, journalists, academics, lawyers, peasant and land rights campaigners, environmental rights activists, housing rights activists, “cyber-dissidents” and women’s rights activists.

The central government’s inability to ensure compliance from local governments, even regarding accepted and institutionalized laws handed down from the central government itself, makes it very difficult for HRD's to foresee the responses to their actions from local governments, even if an action fully complies with the will of the central government.

During the period covered, many high-profile events have given the government more impetus to crack down on dissent. The 2008 Sichuan earthquake and its one-year

anniversary saw the harassment of local and foreign media and the detention and abuse of activists supporting the victims of the earthquake. The earthquake and its aftermath saw the Chinese government default to a familiar strategy of obscuring public safety information and persecuting those who try to reveal it. The civil unrest in Xinjiang in 2009 prompted the government to arrest and arbitrarily detain hundreds of protesters and activists, many of whom were reported to have experienced torture and had confessions extracted through coercion and mistreatment. The one-year anniversary of the Tibetan uprising and the ensuing riots in Lhasa and surrounding areas, the 20<sup>th</sup> Anniversary of the Tiananmen Massacre and the 60<sup>th</sup> anniversary of the founding of the PRC all saw the government intermittently apply further pressures on HRD's, regardless of whether these individuals had recently been active in their work or not.

This brief introduction will be followed by an analysis of the current state of human rights defenders in China, how the State persecutes and denies them the basic rights the Chinese government is obliged to provide them, and the general legal framework in which HRD's have to operate in. This is followed by a presentation of some cases of HRD's, and how they are affected by the persecution, and is followed by a conclusion and recommendations section.

## **ANALYSIS OF THE CURRENT SITUATION**

### **STATUS OF CHINA'S ACCEPTANCE OF KEY INTERNATIONAL COVENANTS**

China has signed both the “International Covenant on Economic, Social and Cultural Rights” and the “International Covenant on Civil and Political Rights”, and ratified the former of the two, while currently in the state of policy review of the latter in terms of whether to ratify it or not. China has furthermore ratified the “Convention against Torture”, while it has refused to sign and ratify the “International Convention for the Protection of All Persons from Enforced Disappearance”.

As a member of the United Nations, China accepts the “Universal Declaration on Human Rights”, and voted for adopting the “Declaration on Human Rights Defenders”, and although these are declarations, not covenants or treaties, the Universal Declaration is often argued to have become international customary law, and is furthermore the founding document of the UN, and thus, it is argued, should be adhered to by its member states.

Despite this, China is actively seeking to undermine the content of these, and other, rights-related declarations and covenants; by emphasizing the need for individuals’ rights to be subordinate that of the state. As a signatory, and advocate for, the 1993 “Bangkok Declaration on Human Rights”, China is embracing the possibility to affect norm-changing processes as a means to justify subordinating individuals’ rights to that of its own State’s policy priorities. Government white papers (beginning in 1995) have continuously stressed that the Chinese state sees individuals’ human rights as secondary to that of the country’s economic development, and a 2004 white paper on human rights furthermore stated that human rights are not only secondary to, but conditioned upon, the country’s development.

The Special Rapporteur on the situation of human rights defenders, earlier the Special representative, concluded in its 2008 report to the Human Rights Council that China has consistently challenged the inquiries of the Special Rapporteur, based on urgent appeal and letter of allegation received, and has been an unproductive counterpart in its communication.

## OVERALL SITUATION AND DEVELOPMENT

The year 2009 has offered few positive signs of development for the situation of human rights defenders, and the situation is largely unchanged from that of 2008, when repression of human rights defenders was heightened drastically, no doubt related to the hosting of the Beijing Olympic Games.

2009 has had several significant anniversaries, which is likely one of the reasons why repression remains severe. Besides the 20<sup>th</sup> anniversary of Tiananmen Square protests and the 60<sup>th</sup> anniversary of the founding of “New China”, 2009 also saw anniversaries for the 2008 Tibetan riots, which was also the 50<sup>th</sup> anniversary of the 1959 Tibetan uprising. Furthermore, riots in Xinjiang province, a severe downturn in both the Chinese and the global economy, and Charter 08 – a campaign for political reform started in 2008, all which likely contributed to the government feeling a need for continued high-level persecution during 2009.

China has failed to live up to the commitments undertaken when accepting the “Declaration on Human Rights Defenders”, which states that

“Everyone has the right, individually and in association with others, to promote and to strive for the protection and realization of human rights and fundamental freedoms at the national and international levels.”

Below is an analysis of some key issues in terms of persecution and the mechanisms used by the State to repress human rights defenders, which is followed by a look at the legal environment in which human rights defenders operate, and finally a brief discussion of new developments in the last 12 months.

## MEANS OF PERSECUTION

This section aims to provide a brief overview some different means of persecution utilized by the Chinese State against human rights defenders. It is in no way exhaustive, but simply presents information on some for 2008/2009 key mechanisms used.

## THE SITUATION FOR “WEIQUAN” LAWYERS – STATE VERSUS PARTY CONTROL

### **State control**

2009 saw a great number of lawyers and law firms effectively disbarred, as they were failed in the annual renewal of their licenses. The annual renewal of licenses is the State's premier mechanism of control over the legal profession, and any lawyer, or law firm employing a lawyer that takes on sensitive cases, or challenges the current status of lawyers lack of independence (vis-à-vis the State), runs the risk of being denied renewal of licenses. The State exerts its control through the Ministry of Justice and through effective control over local branches (Lawyers association) of the All-China Lawyers Association, of which all lawyers must be a member of.

Furthermore, the Ministry of Justice is charged with handling admission and some other administration of the lawyers associations, even though the lawyers associations are formally independent and self-regulating bodies. They are in reality however effectively under State control, and act in part as the implementing arm of the Ministry of Justice. As such, admission into the associations is controlled by the state, and as the lawyers association has no legal status, their judgment cannot, conveniently, be challenged.

The State thus not only has effective control over lawyers and law firms, but has it in such a way that it is close to impossible to challenge its rulings.

### **Party control**

The Party (Chinese Communist Party) has since 2003 made an aggressive push to regain its control over the legal profession, a control that was severely delimited during the 1990's. Since 2003, all law firms employing party members must establish party groups, or party branch secretaries (党支部书记). This is done in the name of increasing party-affiliated lawyers' professionalism, but in effect to gain indirect control over law firms. Those law firms without party members must now also accept party members dispatched to law firms offices by the party, which means that those few law firms not employing party members must accept at least a limited indirect control by the party.

Statistics show that the placement of party branch secretaries and party groups have during 2009 been completed, thus, most law firms now have party groups, or party members dispatched by the Communist party, in their law firms.

The result of increased State and Party control effectively means that through party groups, the government has a channel for information on the inner workings of law firms, and through the annual renewal process of licenses, the State has a means of persecution if a law firm, or lawyer in a law firm, chooses to act in a way that is seen as threatening by the state.

#### THE IMPLICATION OF CONTINUED INSTITUTIONALIZATION OF “RULE BY LAW” /

#### USING NON-LEGAL MEANS OF PERSECUTION

China has over the last 60 years undergone tremendous changes in how authority has been exerted, and is currently in the process of institutionalizing “rule by law” as the mechanism of authority (not to be confused with “rule of law”). Since the early 1980's the Chinese state has been developing a new legal framework – both to change existing laws to better facilitate growth, but also to put in effect laws where none had existed before.

To understand the process of creating laws to govern the nation, one should be aware that at times China has been controlled not just by the arbitrary decisions of the State, but also at time directly by the party and the PLA (People's Liberation Army).

The need for a legal framework to facilitate effective control and economic growth is furthermore influenced by China's greater interaction with the rest of the world, its entry into the WTO and other international organizations. As such, China is very much in a process of developing a better legal framework, both for trade and development, but also regarding state control, citizen rights and other issues.

As a result of institutionalization, which means that some of the more arbitrary legal means of persecution are removed, local and central government both find increasing ways to persecute through non-legal means. One good example to illustrate how this process works

is to look at the “Custody and repatriation act” which was abolished in 2003.

A system of detention centers operated until 2003 where vagrants, petitioners and people without the means to support themselves were taken away awaiting forced return to their home towns. After Sun Zhigang, a student, was beaten to death in one of these centers, and the situation regarding his death became widely spread, the government acted to abolish the system in 2003. No longer was there a legal system for detaining unwanted people, and as a result, “Black Jails” was born. “Black Jails” - illegal detention centers, began to spread around the country, with Beijing as a center. The system of “Black Jails” is largely similar to the “Custody and repatriation” system, and exists largely for same purpose – only that it exists outside of the legal framework.

Other areas where institutionalization has forced the development of new means of persecution, or pushed earlier legal means of persecution underground are:

- Hired thugs – people hired to harass, intimidate and assault unwanted people or groups, instead of having the Police themselves do it;
- Psychiatric institutions – used as detention centers, sometimes combined with forced psychiatric treatment – essentially a form of torture;
- House detention – a way of punishment growing in popularity, often used against human rights defenders both as short- and long term means of harassment.

#### USING LESSER OR IRRELEVANT LEGAL CHARGES

It is not uncommon for human rights defenders, especially for those that have a lower profile, to be charged with lesser crimes often unrelated to their work. Xie Fulin is a good example. He is a Changsha, Hunan province-based activist that has been prosecuted (and is currently on trial for) on charges of “stealing electricity”, something that he as an individual has no relation to. Other often used charges include “disturbing social order” (such as for Zhou Li), “blackmail/extortion” (Qi Chonghuai), “Fraud” (Liu Zhengyou), “destroying private/public property”, “creating, spreading and stirring up rumors”, and “inciting a disturbance”. Many other variations to these exist, and are used freely by local governments. This tactic is very common, and not only poses a significant threat to HRD's

all around China, but also shows the complete lack of rule of law and the ineffectiveness of the courts to counter wrongful allegations by the Police and the Procuratorate against individuals.

It should be noted that this is only the tip of the iceberg, as most human rights defenders don't get the chance to stand up against formal charges at all, but are instead detained illegally, or under administrative charges decided by the police itself, not the courts, or, as in many cases, simply kidnapped, beaten or placed in black jails without any legal reasoning, or for that matter, justification, being given at all.

### CRIMES OF ENDANGERING NATIONAL SECURITY

The most often highlighted legal form of persecution is that of Endangering national or state security, using charges of “inciting splittism”, “inciting to subvert state power” or “colluding with a foreign entity”. These charges are often used only for the most key HRD's, statistics indicate a striking increase in the use of the charge, 2007 for instance had 741 arrests on the charge, twice the number of 2005. However, these charge is used very rarely compared with other forms of persecution, and most HRD's are persecuted through other legal, or just as often, non-legal, means.

## **THE GENERAL LEGAL FRAMEWORK UNDER WHICH HRD'S OPERATES**

This section will briefly touch upon a few key laws which has been left open to wide interpretations, and which is strongly contributing to the hostile environment in which human rights defenders in China operate.

The Chinese Criminal Law, which, among other things, regulates the punishment for crimes of endangering national security, specifies that any act to organize, plot, or carry out activities that “may” harm state authority, or the socialist system, is to be considered a crime of endangering national security. Inciting or spreading a rumor that “may” lead to others acting to endanger national security is likewise breaking this law<sup>1</sup>. Colluding with a

<sup>1</sup> Article 105 of the Chinese Criminal Law (1997)

foreign entity, even if such “colluding” consists of only receiving funding, is furthermore a crime against national security.<sup>2</sup>

The wording of these crimes leaves much space for interpretation, especially as harm against the socialist order is equated with crimes against national security.

The criminal procedure law, which underwent a major face-lift in 1997, provides an almost open--ended allowed period for arrests, on grounds that are poorly defined. In essence, a person arrested can be placed in arrest for up to four month without any charges being brought fourth, in case of the ground for arrest is for a very serious crime; the limit is expanded to six month.<sup>3</sup>

Furthermore, during detention, the need to inform the detainees' family can easily be waived by police, if they feel that such notification could hinder the investigation.<sup>4</sup> If after detention, Police do not want to release a detainee, but don't possess the requirements for arrest, they can simply have the detainee put under residential surveillance (house arrest).<sup>5</sup>

Another hurdle to human rights defenders is that the right to legal counsel only exists after first investigation has been concluded.<sup>6</sup> Furthermore, if the person is suspected of crime involving state secrets, permission to hire counsel must be sought from the investigating organ itself.

The law on state security specifies that every citizen has the responsibility to safeguard the security, “honor”, and interests of the state.<sup>7</sup> Anyone that exposes or accuses state security of abuse of power or similar wrongdoing can have their claim investigated by the same state security bureau as they are accusing.<sup>8</sup>

The law on Guarding of State secrets in essence says that any information about the government, “or about a political party”, that may hurt it, is to be considered a state

<sup>2</sup> Article 102 of the Chinese Criminal Law (1997)

<sup>3</sup> Articles 124, 126, 127 of the Chinese Criminal Procedure Law (1997)

<sup>4</sup> Article 64 of the Chinese Criminal Proceeding Law (1997)

<sup>5</sup> Article 65 of the Chinese Criminal Procedure Law (1997)

<sup>6</sup> Article 96 of the Chinese Criminal Procedure Law (1997)

secret.<sup>9</sup> As such, even publicly available information can be considered a state secret.

More leeway is given to police through a variety of administrative penalties, one of which specifies that anyone that disturbs “social order” may be charged with administrative penalties and face up to 15 days of detention.<sup>10</sup> Several other forms of administrative penalties exist, most of which are open to interpretation, and can be applied by police as they see fit, as it is the domain of the police, not the courts, to apply administrative punishments.

The information provided here is just a brief overview of a number of key laws and is not intended to be exhaustive, but aims to show how they together provide the State with powerful tools to repress any human rights activities it sees as dangerous to its rule.

## NEW DEVELOPMENTS

### THE HUMAN RIGHTS ACTION PLAN

In April 2009 the State Council released China's first national Human Rights Action plan, a two-year plan aimed at enhancing protection of civil liberties. It is too early to say whether this plan will make good on its promises, or if it will end up being empty words, as has happened so many times before when new laws, amendments to laws, and statements has been made.

However, the process by which the Human Rights Action plan was developed indicates that no positive development is to be expected from its release. The plan to draft the plan became public in November of 2008, closely before both the UN committee against Torture was to review China, and before the review of China at the UN Universal Periodic Review. Civil society was not, nor were any NGO's, invited to partake in the drafting process, or for that matter to make recommendations.

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<sup>7</sup> Article 3 of the Chinese Law on State Security (1993)

<sup>8</sup> Article 4 of the Chinese Law on State Security (1993)

<sup>9</sup> Article 2 of the Chinese Law on Guarding of State Secrets (1989)

<sup>10</sup> Article 2 and 24 of the Chinese Regulations of the People's Republic of China on Administrative Penalties for Public Security (1994)

While the Chinese State was drafting the plan without input from civil society, local governments continued to harass and persecute individuals for disseminating UN material (including the “Universal Declaration of Human Rights”) in China. In some cases, Units of the National Public Security was brought in to detain and question individuals distributing materials. Police in Guizhou province detained several activists, and referred to the “Universal Declaration of Human Rights” as an ‘illegal publication”.

### FREEDOM OF INFORMATION ACT

The freedom of information act, or “Government Information Disclosure Bill” was enacted on May 1, 2008, just before hosting of the 2008 Beijing Olympic Games, and aims to provide a mechanism for citizens, legal persons and organizations to file for information requests at some government levels, and further aims to bring more transparency to the government. The bill provides a straight-forward process by which one can request information in writing<sup>11</sup>, requiring only the applicant's name, contact information, description of the content requested, and that the request is for release of information. The government body in question shall then respond by either providing the information, by stating that the information is confidential, by stating that the information does not exist, or that the application is not clear and cannot be processed.<sup>12</sup> The bill also specifies that failure of an administrative body to provide information requested can be appealed at a higher level monitoring body.

The bill furthermore specifies when government bodies should take steps to voluntarily release information to the public about its work, and that the process of certifying information as confidential shall follow the rules of the Law on State Secrets.

However, as the bill specifies the government as its administrative functions only, it is limiting which parts of the government one can request information from, a significant weakness in the bill. The bill is furthermore very generic when addressing what information can not be made public, leaving a large space for interpretation as to what it can refuse to

<sup>11</sup> According to article 20 of the Government Information Disclosure Act (2008) in some cases requests can be made orally as well.

<sup>12</sup> Article 21 of the Government Information Disclosure Act (2008)

disseminate.

The current implementation of the law leaves much to be desired, and it seems to have had only a slight positive impact on citizens' access to information.

## CASES OF HRD'S PERSECUTED

This section describes the situation of a few select human rights defenders to illustrate both how the state's tools of persecution work, and how it affects individual human rights defenders.

### INDEX OF CASES USED IN THIS REPORT

The cases used in this report are selected to show a variety of types of abuses, and is in no way a representative selection as to the different kinds of persecution. About half the cases are of key HRD's facing persecution to the full extent of the law, usually related to “endangering national security”, while the other half of the cases highlights a wide range of others types of persecution, from kidnapping, illegal detention, detention in black jails, and lesser and often irrelevant legal charges.

- Zhou Li (周莉) – in criminal detention for “Picking Quarrels and Provoking Troubles”
- Liu Zhengyou (刘正有) – facing trial on charge of “fraud”
- Qi Chonghuai (齐崇淮) – imprisoned on charge of “extortion and blackmail”
- Zhang Jinfeng (张金凤) – in reeducation through labor camp
- Huang Qi (黄琦) - imprisoned on charge of "illegal possession of state secrets"
- Guo Quan (郭泉) - imprisoned on charge of “inciting to subvert state power”
- Tan Zuoren (谭作人) - imprisoned, but not yet convicted, on charge of “inciting to subvert state power”
- Xie Changfa (谢长发) - imprisoned on charge of “Inciting to subvert state power”
- Zhang Yuming (张玉明) – illegal detention, beating
- Li Zhouxi (李卓熹) – illegal detention
- Yuan Xianchen (袁显臣) - imprisoned on charge of “inciting subversion of state power”
- Liu Ruiping (刘如平) - kidnapped, placed in illegal detention
- Wang Yonghang (王永航) - beaten, detained on charge of “forming or using superstitious sects or secret societies or weird religious organizations or using superstition to undermine the implementation of the laws and administrative rules

and regulations of the State”.

- Wang Ping (王平) - kidnapped, placed in illegal detention
- Cheng Hai (程海) - beaten
- Zhang Kai (张凯) - beaten, placed in illegal detention
- Li Chunfu (李春富) - beaten, placed in illegal detention
- Liu Yao (刘尧)- imprisoned, lost lawyers license
- Liu Shihui (刘士辉) - lost lawyers license
- Zou Guilan (邹桂兰) - kidnapped, illegal detention in black jail
- He Hongchun (何洪春) - sentenced on charge of “gathering a crowd to disturb social order”
- Yang Peiqun (杨培群) - kidnapped, beaten, detained in black jail, extorted for her release
- Liu Xiaobo (刘晓波) - imprisoned on charge of “inciting to subvert state power”
- Xie Fulin (谢福林) - on trial on charge of “stealing electricity”
- Xu Zhiyong (许志永) / GongMeng (公盟) – detained, facing trial on charges of “tax evasion”

## CASES

### Zhou Li (周莉)

Zhou Li (female) is a Beijing-based human rights defender who has been under criminal detention and kept largely incommunicado since August 12, 2009, when she was apprehended by up to 20 police officers. Zhou's phone was turned off after disappearing, her home door unlocked. Zhou Li is held at Chongwen district detention center.

Zhou is a prolific writer on human rights issues in China, has worked partly as a freelance journalist, and has devoted considerable time to assist petitioners in Beijing, and has been involved extensively with housing rights, such as forced demolitions and evictions. In 2007 Zhou Li started a legal aid clinic in Chongwen district in Beijing, to assist several hundred complainants who faced eviction due to a redevelopment project backed by a Hong Kong real estate company. She successfully stopped the demolition at the time, but demolition and redevelopment is now planned again.

Zhou Li was put under criminal detention on the charge of “disturbing social order”, which was later changed to “Picking Quarrels and Provoking Troubles”, which can lead to up to five years of imprisonment. Zhou Li’s case has been returned from the Procuratorate’s office at least twice, pending further investigation.

Zhou has now been under criminal detention for over five month. As Zhou is not part of organized crime, nor has committed crimes across several provinces, her current detention is illegal, as it has long surpassed the stipulated 37 day length allowed for criminal detention. Her parents have been harassed and intimidated by the Police to the extent that they are now refusing to grant “power of attorney”, making it impossible to provide legal counseling, and if needed, legal representation, to Zhou Li. Police at the Chongwen district detention center has also told Zhou Li that they will not allow her to retain legal counsel, making her situation and prospects grim. She is still not allowed to receive visitors.

Information about Zhou Li and her situation is scarce, and updates is only provided by recently released detainees from the detention center, who have been asked to spread information about her changing situation on her behalf.

*More information about this case can be found at <http://china-action.org>*

#### **Liu Zhengyou (刘正有)**

Liu (male) is a resident of Zigong city in Sichuan Province. Since 1993 Liu has been an active human rights defender. He has predominantly focused on farmers' rights as an organizer and activist but his work has crossed many issues and provinces. He has done research for several human rights organizations and organized demonstrations and sit-ins to protest a diversity of rights abuses. Because of his tireless work in the defense and promotion of human rights he has been threatened, harassed, and detained several times in the past.

On November 11, 2009, Liu was detained and now faces charges of fraud. The detention facility he is held at (Huidong Police Station, Zigong city) has allowed Liu to meet with a lawyer which will represent him in trial, although the meeting was held with monitoring by the police. The first meeting took place on December 17, 2009. On January 19, 2010 Liu’s

case was transferred to the Procuratorate, but no prosecutor has as of yet been appointed.

*More information about this case can be found at <http://china-action.org>*

### **Qi Chonghuai (齐崇淮)**

As a journalist, Qi Chonghuai (male) has reported extensively on corruption and social injustice in Shandong province. His work has appeared in both Chinese and foreign media. Qi has written for a number of mainstream publications, in June 2006 he started work as director of the newspaper Fazhi Zaobao (Legal System Morning News), which ceased publishing in December 2006 and was reformed with its existing staff as the Fazhi Ribao (Weekend edition of the Legal System Daily). He has also worked as a special correspondent with the Fazhi Zhoubao (Legality Weekly) and the Jizhe Guancha (Journalist Observer). His stories have ranged in coverage from, including but not limited to, Falun Gong persecution, family planning, unemployment and labor violations, and illegal demolitions.

After a story exposing corruption in Tengzhou city government and party, Qi was detained on June 25, 2007, in Jinan city, by Tengzhou city police, and brought to Tengzhou. On August 2, 2007, he was formally charged with “Extortion and blackmail”, and on May 13, 2008 was sentenced to 4 years of imprisonment by the Tengzhou City Court.

Inside jail, the Tengzhou city prison, he has been continuously harassed, beaten, threatened, been deprived of food, and have so far had two attempts on his life, orchestrated by a guard (Liu Huanyong (刘焕永)) inside the jail together with the informal head of the inmates (Zhai Fengqiang (翟凤强)). His current situation is extremely grave. He has been denied by the prison authorities to press charges against his would-be assassins. A lawyer received “power of attorney” from Qi’s wife on January 22, 2010, and is scheduled to visit the prison to see Qi within the next few weeks, to assist in finding a way to seek redress to the violations against him.

*More information about this case can be found at <http://china-action.org>*

**Zhang Jinfeng (张金凤)**

Zhang, a female human rights defender, participated in the 1989 Tiananmen student demonstrations and has been an active human rights defenders in Shandong for several years. Recently, living in Shandong, she has focused on issues of forced demolition and relocation, documenting many abuses. She has also been an important presence in the Jinan, Shandong province petitioner community. Zhang is also involved in the work of Hong Kong-based group Chinese League of Victims (中国冤民大同盟), which works against forced evictions and demolitions.

On March 5, 2009 she organized a demonstration in Jinan to protest the government's refusal to address the growing volume of petitions against the government's forced demolition and eviction of hundreds of people without proper compensation. On the same day she was taken into police custody. Then, on March 17, she was sentenced to 1 year and 9 months of reeducation through labor.

Originally she was allowed to send letters to her family but she has not been heard from since May 15. Her boyfriend and lawyers have been denied visitation rights repeatedly, and Zhang has been placed in solitary confinement at least once. Zhang is being held at the Jinan City Woman's Reeducation-Through-Labor (RTL) camp number 1. The appeal submitted by Zhang to the Jinan Intermediate People's Court was, according to them, never delivered, and she thus lost her chance to seek an appeal.

*More information about this case can be found at <http://china-action.org>*

**Huang Qi (黄琦)**

Huang Qi (male) is the founder of the Tianwang Human Rights Center, an organization in Sichuan dedicated to helping find missing persons, as well as for a website dedicated to publicizing human rights abuses across China. Imprisoned for 5 years due to his work, he was released in 2006, establishing "China's Human Rights Center Skynet" – a website partially dedicated to assisting victims of the Sichuan earthquake.

On June 10, 2008, police detained Huang Qi in Chengdu on suspicion of “unlawfully holding documents classified as highly secret”. The justification for these allegations was unclear, but appeared to be connected to his work in assisting the families of five primary school

pupils who died when their school buildings collapsed in the earthquake. The families were seeking compensation from local officials because they believed corruption led to poor construction standards.

On July 18, 2008, Huang was formally charged with "illegal possession of state secrets" and was held incommunicado for over 100 days before his first meeting with a lawyer in September 2008. In October, he refused the authorities' offer to release him on the condition that he stopped his human rights work, and his trial was indefinitely postponed for undisclosed reasons in February 2009. On February 2<sup>nd</sup>, the court failed to make a public announcement of his trial three days before the set date, as instructed in the Criminal Procedure Law, and gave only one-day notice to his family and lawyers. Huang's wife has applied for his release many times since his arrest, and Huang himself twice made the case for supplementary investigation with the Public Security Bureau - only to be denied on each occasion. He was convicted on the charge of "illegal possession of state secrets" to 3 years of imprisonment on November 23, 2009.

On May 26, 2009, Huang's lawyer visited him in prison. He then reported to Huang's family that Huang has lost weight and has serious health issues. Huang Qi's mother explained during an interview after the visit 2008 that "[Huang] told his lawyer that his abdomen and chest has two thumb-sized tumors, and there's hard debris in his left chest. He also has bad headaches and insomnia, and his heart is always pounding." Recent news indicates that he is seriously ill and in desperate need of medical attention.

#### **Guo Quan (郭泉)**

In response to the May 2008 Earthquake in Sichuan province, Guo published several articles and editorials documenting the government's slow response, highlighting a number of safety concerns and demanding the Chinese government to accept foreign aid for victims. He also participated in establishing a blood donation drive to assist in the relief efforts. On May 18, 2008, 7 or 8 police officers apprehended Guo outside of his home while he was taking his son to school. He was detained for 10 days while police tried to get him to name other activists. It was assumed that his articles were the primary reason for his detention while his involvement in the creation of support networks played a secondary role.

On November 11, 2008, Guo posted that he would file a class action lawsuit with two other activists: Wang Zhaojun (having trouble finding this guy's Chinese moniker), standing member of the Anhui Province Political Consultative Commission, and Zheng Cunzhu (郑存柱), a contact person for the China Democracy Party in the U.S. The lawsuit targeted NetEasy.net, a Chinese company on the U.S. stock market that supported online censorship.

On November 13, 2008, Guo Quan was taken into custody by Nanjing Public Security Bureau agents on charges of 'inciting to subvert state power'. The police told Guo's wife Li Jing (李晶) to prepare herself mentally, that this time Guo would face a long term pretrial detention and the likelihood of conviction that could carry a sentence of ten years to life imprisonment.

Guo's wife was also held at the Gulou police station, Nanjing, for questioning after twenty police raided their house and confiscated their computer and various documents. Guo has been held at the Kanshou Suo (看守所) Nanjing criminal detention facility. Guo's wife and mother have been denied visitation. Guo Quan was sentenced to 10 years in jail on Oct 16, 2009. Guo's appeal was denied on December 25 the same year.

### **Tan Zuoren (谭作人)**

Tan Zuoren is a literary editor and environmentalist based in Chengdu, Sichuan. His previous activism included issuing a report to warn against possible health, safety and environmental hazards by the government's 'PX' (para-xylene—a dangerous chemical and carcinogen used to manufacture polyester) chemical projects in Sichuan province. He has posted online a number of commentaries critical of the government, and also volunteered with disaster management after the earthquake.

In February 2009, Tan Zuoren called for volunteers around China to travel to Sichuan to independently assess the quality of collapsed buildings, and to also examine the treatment of parents whose children died during the earthquake. After trying to compile a list of children killed in the earthquake, he was detained at Chengdu City Police Station on March 28 with charges of "suspicion of subversion" and has not been released. Prior to this detention, Tan Zuoren had been repeatedly questioned by the police. He was also previously harassed by unidentified individuals who stole his computer twice and stabbed

and injured his dog. It is believed that Tan Zuoren's detention is linked to his intention to issue publicly on the first anniversary of the earthquake the list he had compiled, along with an independently investigated report on the collapse of many school buildings due to corruption. On August 12, 2009, Tan's trial, on the charge of "inciting to subvert state power" was adjourned without a verdict, and has yet to be resumed. As of the release of this report, no verdict has been announced.

### **Xie Changfa (谢长发)**

After over a year of detention, Xie Changfa, a China Democracy Party organizer turned human rights activist was sentenced to 13 years in prison on September 1<sup>st</sup>, 2009 on charges of "Inciting to subvert state power". Xie was arrested on Dec 8, 2008 for organizing a national meeting of the banned 'China Democracy Party'. Xie's brother, Xie Changzhen(谢长贻), who was present at the trial, said that the dissident was handcuffed throughout the proceedings and not allowed to speak in his own defense. Xie had previously spent 3 years in a labor camp for pro-democracy speeches denouncing military crackdowns on protests.

### **Zhang Yuming (张玉明)**

On September 28, 2009, Zhang Yuming along with seven other petitioners from Shanghai reached Nanjing where they planned to board a train to Beijing. They were intercepted by a group of plainclothes policemen. Zhang Yuming resisted the interception and was beaten, suffering injuries to his liver. After reporting the incident to Nanjing police, he was detained at the Nanjing Train Station police station and it is unclear whether he has since been released.

### **Li Zhouxi (李卓熹)**

Li Zhouxi, a rights activist from Changsha (Hunan province) and Charter 08 signatory, lost contacts with friends in May 2009. After repeated inquiries, friends found out that he had been detained by police in Changsha and held at Changsha's Number One Detention Center. Li was an organizer for the proposed Hunan group, Citizens' Association for Government Oversight (公民监政会). Li was previously detained for printing T-shirts protesting the shoddy construction of collapsed schools in Sichuan.

**Yuan Xianchen (袁显臣)**

From February to April 2008, Yuan was involved in defending miners in Jixi county, Heilongjiang province. Yuan launched a massive investigation into the restructuring of the mining corporation from a state-owned to private business, and produced a report on his findings. Through his appeals on behalf of the miners and his investigative work, he challenged the local government to find alternative ways of privatizing state-owned corporations.

On March 4, 2009 the Jixi Intermediate People's Court in Heilongjiang Province sentenced Yuan to four years fixed term imprisonment on the charge of “inciting subversion of state power”. “This verdict is grossly unjust. The trial should have been declared invalid because the Jixi court admitted evidence extracted by torture against Yuan. The court never called for an investigation of torture alleged by the defendant, as requested by his lawyers.

Jixi Procuratorate says his arrest and charge is due to writing the “Save China, Implement Constitutional Democracy” letter and distributing it to petitioners and members of the Congress and for his work with Yang Chulin in the “We Want Human Rights, Not the Olympics” Campaign. Among the litany of charges against him the procuratorate also cited Yuan's granting interviews with foreign journalists and at least twenty articles written by Yuan that the government claims attacks socialism. In the course of his work as a rights defender and lawyer Yuan has received funds from domestic and international human rights organizations, which is included in the charges against him.

**Liu Ruiping (刘如平)**

On July 2, 2009, Liu Ruiping (刘如平), a lawyer from Changqing District, Jinan City, Shandong Province's Shuntian Law Firm (舜天律师事务所) who has represented many Falun Gong practitioners, was kidnapped outside of his apartment block by officers from the Public Security Bureaus (PSB) of Jinan City and Changqing District as well as officials from the Jinan City Party Committee.

**Wang Yonghang (王永航)**

On July 4, 2009 Wang Yonghang (王永航) was taken from his home in Dalian City, Liaoning Province. Wang Yonghang is a lawyer who defended Falun Gong practitioners. When taken, Wang was beaten by police causing a fractured ankle and was not given medical treatment until the ankle became seriously infected. He has been held based on violation of article 300 of the Criminal Code, citing the crime of “forming or using superstitious sects or secret societies or weird religious organizations or using superstition to undermine the implementation of the laws and administrative rules and regulations of the State”. Article 300 has regularly been used against Falun Gong practitioners.

**Wang Ping (王平)**

On July 9, 2009 Wang Ping (王平), a lawyer from Tianzhengping Law Firm (天正平律师事务所), Pingdu City, Shandong Province was also reportedly kidnapped by the local police. No further details about Wang's situation has been successfully retained. Wang has also been held for representing Falun Gong practitioners in Shandong Province.

**Cheng Hai (程海)**

On April 13<sup>th</sup>, 2009, Cheng Hai (程海) was attacked and beaten while on his way to meet with a detained Falun Gong practitioner in Chengdu, Sichuan Province.

**Zhang Kai (张凯) and Li Chunfu (李春富)**

On May 13<sup>th</sup>, 2009, Zhang Kai (张凯) and Li Chunfu (李春富) were beaten by a group of police officers from the Jiangjin District PSB in Chongqing and detained for representing Jiang Xiqing (江锡清), a 66-year old Falun Gong practitioner who died suddenly while detained in Chongqing's Xishanping RTL camp.

**Liu Yao (刘尧)**

Liu Yao, 47, was sentenced to four years in prison by the Dongyuan County Court in June 2008, for “intentional destruction of properties” in connection with his representation of villagers from his hometown in Dongyuan County, Heyuan municipality, whose land was reportedly illegally seized for the purpose of building a new hydroelectric station.

In protest, 36 lawyers from spanning several provinces sent a joint petition to the Heyuan

Municipal Intermediate Court in Guangdong province, which voided the June 2008 ruling for lack of clear evidence and remanded the case to the lower court. On December 17, 2008, the Dongyuan County Court, without explanation, reduced the sentence to two years. A signature campaign, supported by 511 lawyers, started shortly after. After his fourth trial, on April 10, 2009, Liu was released on April 16.

**Liu Shihui (刘士辉)**

Liu Shihui, a signatory of Charter 08, had his license to practice law suspended on September 3, 2009, for nine months by Guangzhou Municipal Judicial authorities because he has defended clients in rights-related cases, such as Guo Feixiong. Liu was asked to resign from Jingguo Law Firm after losing his license.

**Zou Guilan (邹桂兰)**

On September 27, 2009 Zou Guilan was kidnapped while petitioning at the Jiangnan District Letters and Visits Office in Wuhan. Zou was sent to a “law education class” – a euphemism for a black jail. She began petitioning because she believed her husband’s death was a result of a conflict he had with Jiangnan University, where he had worked.

**He Hongchun (何洪春)**

On 27 September 2008, Beichuan police detained parents’ representative He Hongchun on suspicion of “gathering a crowd to disturb social order” after he organized a protest outside an insurance company. He Hongchun’s 3-year-old niece died in the earthquake and he was chosen as a representative of parents beginning in August 2008.

He's trial date was originally set as April 3, 2009, but the court postponed it to April 14 and then again due to the serious illness of the prosecutor’s father. On July 9, He was convicted and sentenced to three years of imprisonment by the Beichuan County Intermediate Court, suspended for five years. His family believes that He Hongchun was targeted because of his role in representing parents during negotiation with the authorities and the insurance company.

**Yang Peiqun (杨培群)**

Yang Peiqun, a female representative for victims of the May earthquake living in

Dujiangyan, Sichuan Province, was detained after traveling to Beijing to petition against local corruption. Yang wanted to expose the use of falsified accounts to misappropriate relief funds and materials by the local cadres in the village.

On September 22, 2008, Yang was petitioning at the Letters and Visits Office at the Central Commission for Discipline Inspection of the CCP when she was apprehended by five men from Sichuan Province and Dujiangyan City. Yang was forcibly dragged into a van, where she was physically abused and scolded by the interceptors. Yang was then taken to the Beijing Liaison Office of Sichuan Province, where other local petitioners were also held. When the guards discovered that she was calling her husband, Yang was brought to a room at the farmers' market in Fengtai District, where she was again beaten and kicked by four guards from the Liaison Office. After the beating, Yang was transferred to an unknown inn in Beijing where she was detained for three days.

On September 25, four guards escorted Yang back to Dujiangyan City. Yang was first brought to the Juyuan Township Police Station, where she was interrogated and beaten by the police officers for the third time. Yang was then brought to a black jail for a "law study session" or "educational class" where she was guarded by ten hired guards under the supervision of Dujiangyan City CCP Political-Legal Committee. At the black jail, she was forced to make statements admitting that she was illegally petitioning higher authorities, that she voluntarily attended this "class" and would also pay RMB 15,000 for it. Yang was also repeatedly beaten at the black jail. She was finally released on October 15, 2008, after her husband, Guo Xinpan (郭新盼), paid the head of the Dujiangyan City CCP Political-Legal Committee RMB 5,000. She was subsequently hospitalized due to beatings she suffered during her detention.

### **Liu Xiaobo (刘晓波)**

One of China's best-known dissidents, Liu Xiaobo, was arrested for "activities aimed at subversion" on June 23, 2009, after first being detained on December 8, 2009. On December 25, 2009 Liu was sentenced to 11 years of imprisonment on the charge of "inciting to subvert state power".

Liu was detained after drafting and signing a document, Charter 08, which calls for multi-

party democracy in China. The document was released two days after his arrest. Citing the Beijing Public Security Bureau, the official Xinhua news agency said that Liu, 53, had been formally arrested for “alleged agitation activities aimed at subversion of government and overthrowing of the socialist system.”

**Open Constitution Initiative (OCI) / GongMeng (公盟)**

On July 17, 2009 government officials descended on one of the best-known legal research groups and confiscated almost everything it owned—files, desks, computers, even the water cooler. The tax authorities then ordered it to pay 1.42 million RMB (US\$ 207,900). OCI’s reputation among Chinese NGOs and prominence in civil-rights cases seemingly caused the government to be wary of confronting it directly. In China very few NGOs are allowed to register as non-governmental organizations. Thus, the only way they can operate legally is as businesses.

The authorities have furthermore declared a research group within the organization illegal because, they say, it is unregistered. The group’s leader, Xu Zhiyong (许志永), was arrested on July 29, 2009 on charges of “tax evasion” for two months before being released on bail on August 23 to await a court hearing, which could lead to a 7 year prison term.

**Xie Fulin (谢福林)**

On July 22, 2009, Xie and his brother Xie Shulin were apprehended by three plainclothes police officers from the National Security Unit of the Furong District Public Security Bureau (PSB) on charges of 'stealing electricity.'

On July 23 they were placed in official criminal detention, and on August 24 they were formally charged. Xie's wife has noted that, “While the officers produced their police IDs, they did not display a detention warrant or any other legal document.”

Xie's trial began on January 14, 2009 at the Changsha Furong district court, and had at the time of writing not reached a verdict.

## CONCLUSION

Contrary to the expectation of many international observers, as well as many Chinese HRD's, the situation for human rights defenders in the post-Olympic period has not been a return to a more manageable environment, and suppression remains high. The period before the hosting of the 2008 Beijing Olympic Games saw a seriously deteriorating situation regarding the situation of HRD's, and it was expected that the situation would return to "normalcy" after its conclusion. As to why this has not happened, only speculation can be undertaken. The deterioration of the economy, the Charter 08, and the many sensitive anniversaries undoubtedly are at least part of the explanation why the Chinese State has decided to keep an unusual high level of repression.

The few potentially positive steps, the Human Rights Action plan, and the Freedom of Information act, leaves much to be desired, and is also too early to analyze as to whether it will have positive effects at a later stage – but for the period analyzed in this report, it has had a limited effect.

The use of illegal means to persecute HRD's remain in place, Party control over the independence of lawyers and law firms has expanded, and the system of Black Jails remain in place, despite criticism against it at the UN Universal Periodic Review amongst others. As long as the Chinese government does not clamp down on the use of illegal means of persecution, it can be assumed that these means will continue to grow in popularity, as the process of implementing "rule by law" continues and expands.

In general, during the period covered in this report, a number of detained HRD's were denied access to legal counsel prior to their trials, while petitioners, journalists and even members of foreign embassies were often barred from attending their trials. Trials are frequently not open to the public at all, and many HRD's find themselves detained in their homes prior to their hearing, or arrive at the courthouse only to find themselves being taken away by the police. Lawyers who choose to defend or provide professional legal assistance to HRD's are often subject to forced disappearances, beatings, harassment, intimidation and monitoring, while some are even barred from practicing law – an outcome which has progressively become more apparent.

To conclude, massive discrepancies continue to exist between central government regulations and local governments' lack of compliance on the one hand, and central government action and the legal framework it develops on the other. As certain key laws continues to be poorly written, that is, written in such as way that it allows for great space of interpretation, the legal framework HRD's operate in will remain hazardous, and HRD's will undoubtedly continue to be persecuted using wide interpretation of key laws.

## RECOMMENDATIONS

### RECOMMENDATIONS TO THE STATE COUNCIL

- To cease its attempt to, through white papers, undermine the universality of human rights, and place greater emphasis on, one, initiate legislative review to incorporate those obligations placed on the State through international treaties, covenants and customary law, and two, to ensure local government compliance with the existing legal framework.
- To rein in control mechanics used by the Chinese communist party over lawyers and law firms, and place such controls as necessary under the sole ownership of the State.
- To act according to the law on prison, law on police and state council regulation regarding setting up prisons, and immediately order Black Jails sites to cease operation.
- To end its period of review of the International Covenant on Civil and Political Rights, and push for rat

### RECOMMENDATION TO THE PEOPLE'S PROCURATORATE

- To ensure that the Public Security Bureaus act according to the Police law, and that the Procuratorate act to punish all actions of Police using illegal means of persecution, or cooperating with non-law enforcement groups that acts in the capacity of such (letters and visits offices use of Black Jails and hired thugs that intimidate, persecute and attack HRD's)

### RECOMMENDATIONS TO THE NATIONAL PEOPLE'S CONGRESS

- To review the Criminal law, the Criminal procedure law, the police law and other laws pertinent to detention and arrest, and ensure that the language of such are as

specific as possible and limits the space for interpretation, and thus its potential for arbitrary usage.

- To, initially, review the system of administrative detention, and ensure that a well functioning and active monitoring body that supervises the acts of Public Security regarding the use of administrative detention is put in place, and that, later, the domain of administrative punishments is lifted from Public Security Bureaus and placed under the judiciary, thus in effect, abolishing it.
- To ratify the International Covenant on Civil and Political Rights, its optional protocols, and the International Convention for the Protection of All Persons from Enforced Disappearance.

#### RECOMMENDATIONS TO THE UNITED NATIONS

- To provide greater pressure on China to accept visits by the Special procedures, with emphasis on those for human rights defenders, arbitrary detention, enforced disappearances, torture and the independence of lawyers and judges.
- To make information regarding the special procedures, and how to use them, available in Chinese, to allow for greater information exchange with Chinese NGO's, experts and human rights defenders.

**ALSO FROM THE CHINESE URGENT ACTION WORKING GROUP**

**"DEATHS IN CUSTODY – The Police's free rein to abuse power in detention centers"**

A 34 page report on the lack of clear and effective legal framework to properly manage China's 6000 detention centers, and how this has led to a string of most unusual deaths of detainees. The report focuses on the fact that Police are largely responsible for investigating their own crimes against detainees, and how the current laws fail to provide clear guidance for the Procuratorate to investigate crimes committed by detention center staff and police. The report also presents information on 26 cases of unnatural deaths, in most cases obvious murders of detainees by Police. The report also looks at the calls made from both politicians, the media and academia in how the system need be reformed to ensure that the rights of detainees are protected. [January 19, 2011]



**"THOUGHT CRIMES - China's use of psychiatric institutions as detention centers"**

The report details the use and misuse of China's psychiatric institutions by public security officials, and how the lack of clear regulations concerning placing people in psychiatric custody leaves little space for redress concerning these abuses. It provides an in-depth legal analysis of the legal framework concerning these institutions, as well as on 'Ankang' centers, special custodial institutions where politically unwanted people can be locked up. 'Ankang' centers are part of the administrative penalties system, and little external oversight, from for example the Procuratorate, exist. Misuse of the 'Ankang' institutions, which exists in major cities across China, is widespread and no national regulation or law exist governing these centers. [June 16, 2010]



**"PAPERING OVER THE CRACKS - Reform of the forced eviction regime in China"**

An extensive report on the current situation concerning forced evictions and demolitions, and how the proposed new law is falling short of providing remedies for what is one of the most widespread human rights violations in China today. The report also details how people are fighting back against unlawful land confiscation, and what role 'barefoot' lawyers play in this fight. Finally, the report uses case studies to highlight different aspects of the problems related to forced evictions and demolitions. [March 29, 2010]



**"NO END IN SIGHT - Sustained persecution of human rights defenders in China"**

A report detailing how the persecution of human rights defenders has continued unabated at the same high level as during 2008. The report highlights different methods of persecution employed by central and local governments, and how the application of such methods differs between different groups of activists. The report furthermore presents information on key cases of human rights defenders currently being persecuted for their peaceful expression and use of basic rights enshrined in Chinese law. [January 25, 2010]



**“MANIPULATION AS INSULATION** - The non-renewal of *weiquan* lawyers’ licenses in China”

This report provides information on the situation for lawyers and law firms in China, with focus on the abuse of non-renewal of lawyers’ licenses. It further analyzes frightening new developments concerning the communist party and the state’s growing control of independent lawyers and law firms in China. It also provides an analysis of the hazardous situation lawyers in China face when taking on politically sensitive cases, and how the administrative authorities use the annual re-registration to effectively disbar any lawyers it feels provokes the status quo. [October 21, 2009]



**“OLYMPIAN REPRISALS** – The Chinese government's response to domestic criticism of the 2008 Olympic Games”

A report outlining how human rights defenders who publicly opposed the 2008 Olympic Games were persecuted by the Chinese state. The report focuses on participants in two campaigns, both advocating for prioritizing better protection of Human Rights over the hosting of the Olympic Games. The report provides information on the technique used by the government to silence these groups, and how it differed between the two groups. [April 23, 2009]



**“A BRIEFING ON BLACK HOUSES** – System, facilities, victims”

This brief report provides information on the nationwide system of illegal, but government run and funded, jails. The black jails, or black houses, are used to detain petitioners who seek redress for perceived wrongs. The report outlines how the system functions, how the facilities operate, who detains the petitioners, and how the police and central government aids and assist in the operation of the system, as well as a legal analysis. The report was released ahead of the 2009 UN Universal Periodic Review of China. [February 1, 2009]