

CHINESE URGENT ACTION WORKING GROUP

人权卫士紧急救援协会

THOUGHT CRIMES:

CHINA'S USE OF PSYCHIATRIC
INSTITUTIONS AS DETENTION
CENTERS

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状况者的分布告和背景要。

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ABBREVIATIONS AND ACRONYMS

This report uses a bare minimum of abbreviations and acronyms to ease reading.

BJ	Beijing mental health regulation
CCP	Chinese Communist Party
CN	Chinese (language)
GIP	Global Initiative on Psychiatry
ICCPR	International Covenant on Civil- and Political Rights
NGO	Non governmental organization
PSB	Public Security Bureau
RTL	Reeducation Through Labor
SH	Shanghai mental health regulation
WPA	World Psychiatric Association
CRLW	Civil Rights and Livelihood Watch

ABSTRACT IN CHINESE

2002年，作为政治原因而使用精神病治疗的方法针对政治异议人士，消灭个体声音的细节性描述第一次发表，本书由人权观察，联合日内瓦精神疾病促进会以及全球精神疾病促进会共同出版，全书共有298页，题目《危险的思想：中国今天的政治精神病人和毛时代的起源》接下来要发表的报告是，世界精神病协会在2002年向联合国大会作出决议，要求中国政府来接受调查团，中国政府拒绝并且作出不恰当的声明，说政治精神病人在中国只是次要的法轮功问题。

Abraham L. Halpern 博士，□□大学精神病学院的退休教授□
和美国精神病和法律学院的前院□□□□□□□□□□

世界精神卫生协的关于取消调查使团要求的决定，削减了过去冠冕堂皇的关于精神病问题的声明，在中国涉及虐待，酷刑，和欺诈性诊断，并且针对大量的政治异议人士和法轮功修炼者，此类的辩解不应该仅仅作为误诊而被驳回，

过去八年来，中国对世界精神卫生协会和国际组织傲慢而不屑一顾的情形并没有改变。

中国政府还在以法律之外的手段继续迫害政治敏感人士，而且，个人（受迫害者）对这种惨无人道的手段的描述远甚于政府所谓只针对法轮功修炼者的欺骗性的声明，首先不应该原谅的理由是，不只是宗教异端（不同的宗教信仰者，比如法轮功）被这个系统所迫害，各个领域更多的人，从访民到农民都深受其害，问题是，远远超过了政府声明和承认的，这需要进一步的检查，分析和国际关注

本报告，没有打算从整体上挑战中国的精神病医学实践，没有打算拒绝有些暴力犯罪的个人或者描述对他或者社会威胁应该被合法的拘留，或者接受在自己或社会保障之下的精神病医疗，也没有暗示中国的精神病职业没有按照病人的需要发展。

报告打算对已有的关于使用精神病院羁押政治活动人士的相关分析和研究进行整合，同时综合我们最近发生的一些案例，本报告的信息来源于多样的渠道，包括访谈和讨论，为了安全的需要，某些案例中的特定人物可能需要假名。

报告将提交一个初步的分析，这在深度调查和实质性的行动之前是必需的，这也中国紧急行动救援会的希望，激励国际社会回到2002年朝终结这个侵权制度结果的要求。

SUMMARY

It has been almost ten years since the first detailed analysis of the politically motivated misuse of psychiatric facilities in China as a means of silencing and discrediting individuals deemed a threat by the government was released. In 2002, Human Rights Watch, in collaboration with The Geneva Initiative on Psychiatry-now the Global Initiative on Psychiatry (GIP)- released an extensive 298-page report titled *Dangerous Minds: Political Psychiatry in China Today and its Origins in the Mao Era*.¹ Following the release of this report the World Psychiatric Association (WPA) adopted a resolution at its 2002 General Assembly demanding the Chinese government to welcome an investigative mission. The Chinese government refused and made the inadequate claim that politically motivated psychiatric abuse in China is only a minor Falun Gong issue.

Dr. Abraham L. Halpern, professor emeritus of psychiatry at New York Medical College and Former President of the American Academy of Psychiatry and Law, had this to say:

The WPA's decision to cancel its demand for an investigative mission undercuts and renders meaningless its past high-sounding declarations concerning misuse of psychiatry... The allegations of psychiatric abuse in China involve mistreatment, torture, and fraudulent diagnoses in the case of large numbers of political dissidents and Falun Gong practitioners and should not be dismissed as mere 'failures in accurate diagnosis.'²

In the eight years since the Chinese government's dismissive attitude and the unfortunate acquiescence of the WPA and other international bodies the real situation has not improved.

The Chinese government has continued to persecute politically sensitive individuals with this extra-legal system. Furthermore, individuals subjected to this cruel and inhuman treatment represent a far greater cross section of the population than the fallacious claim of the government that it only targets Falun Gong practitioners, what should have been an inexcusable justification to begin with. Not only have religious dissidents been victimized by this system but also practically every kind of dissident from petitioner to farmer. The problem is far greater than the government admits and requires further investigation, analysis, and international attention.

¹ The report can be viewed online at: <http://www.hrw.org/en/reports/2002/08/13/dangerous-minds>

This report does not intend to challenge the psychiatric practice of the People's Republic of China on the whole. It does not set out to deny that there exist individuals who are guilty of violent crimes or represent a legitimate threat to themselves and society and should be legally detained in prison or held under psychiatric care for their own or society's protection. It does not imply that the mental health profession in China as a whole is not developing to meet the needs of its patients.

This report sets out to summarize the existing relevant research and analysis of the problem of the politically motivated use of psychiatric detention in China and synthesize it with our own recent research and case studies. Information for this report comes from a variety of sources including interviews and discussions. In an effort to protect individuals who do not want their identity revealed pseudonyms may be used for certain individuals.

This report will present a preliminary analysis, needed before a deeper investigation and substantive action can take place. It is the hope of the Chinese Urgent Action Working Group that this report will spur the international community to return to the 2002 demand for an investigation toward the desired result of ending this abusive system.

² Ken Hausman, "WPA, Chinese Psychiatrists Agree On Psychiatry Abuse Charges." *Psychiatric News*, August 6, 2004 Volume 39 Number 15 p. 2

INTRODUCTION

It is not the intent of this report to deny that people suffering from mental illness, who have committed murder, rape, arson, or other legitimately dangerous acts and pose a risk to themselves, their family, or their community and may require hospitalization comprise the majority of those incarcerated in mental hospitals in China.

Hospitalization, however, except in extreme cases, must be carried out only at the explicit consent of the patient or, in the event where the patient is not able to make a sound judgment, a personal representative-usually the family-of the patient. In extreme cases, individuals who demonstrate clearly destructive tendencies and whose hospitalization is urgently necessary to prevent serious harm to themselves or society may be committed to a psychiatric facility against their will, only if they meet the minimum international standards as expressed in *The Principles for the Protection of Persons with Mental Illness and the Improvement of Mental Health Care*, UN Resolution 46/119, (discussed in detail below) and other relevant internationally agreed upon standards.

Those involuntarily committed by the state or their family and those who willingly commit themselves or whose families consent to their committal to psychiatric hospitals should receive, and are entitled to, the best possible care available without discrimination. The psychiatric evaluation and decision to commit must be made by a qualified and unbiased mental health practitioner. Only those trained in psychology are able to make an informed judgment as to the mental state of an individual. Mental health practitioners should be independent of other groups in society and free of coercion that would pressure them to make a decision in conflict with what is best for the patient. These standards should be upheld in all types of facilities that administer to mental health.

There are two main types of mental health facilities in China. One is for general mental disorders, people who have been diagnosed with a disease but, usually, who pose no real risk or danger to society and people with mental diseases whose families are too poor to take care of their needs or who have no family to care for them. These facilities are smaller and often stingily underfunded.

The second type of facility are the hospitals for the criminally insane, maximum security facilities. These will be the primary focus of this report because they are where the majority of abuses occur; however, this report will also present cases of authorities using local mental hospital to detain and torture dissidents.

China's, euphemistically named, *Ankang*, 安康 (peace and health), hospitals for the criminally insane are administered by the Ministry of Public Security. "All such decisions [for committal] are directly made and implemented by the police."³ This is the core of the problem.

Robin Munro explains,

"The entire Ankang network is directly administered by Bureau No 13 of the Ministry of Public Security (*Gong'an bu shisan ju*)- the same police department that runs all the country's pre-trial criminal detention centers (*kanshousuo*) and also Qingcheng Prison, the ultra-secure facility that since 1954 has housed most of China's top political prisoners. Indeed... some Ankang facilities are run by the Public Security purely as prisons."⁴

Not only is the Ministry of Public Security responsible for management, admission, retention, and treatment decisions in the Ankang system, functional horizontal relationships are practically nonexistent and Ankang facilities are not subjected to any form of substantial outside independent oversight or review from other ministries.

In China three main Ministries administer to the country's different mental hospitals: The Ministry of Health, The Ministry of Civil Affairs, and the Ministry of Security. In some special facilities administration falls under the authority of the Ministry of Industry and Mining or the People's Liberation Army. The Ministry of Health's mandate is to provide care for mentally ill patients who are not a) individuals who are not able to work, who don't have money, or who are unemployed; such individuals fall under the mandate of the Ministry of Civil Affairs, or b) individuals considered mentally ill criminals or drug users, who are under the authority of the Ministry of Security.

Should one scrutinize psychiatric hospitals administered by the same government ministry that controls the prisons? Sometimes the only observable difference is the methods of punishment-while this report will demonstrate that equally heinous human rights violations occur in hospitals as those attributed to prisons. Abuses in Chinese prisons and detention centers have been a long observed phenomenon. In some cases there is no difference between life in a mental hospital and at a prison

³ Robin Munro, "The Ankang: China's Special Psychiatric Hospitals." p 48

⁴ Robin Munro, "The Ankang: China's Special Psychiatric Hospitals." p 54

or a reeducation through labor RTL, facility.

In the last several years a litany of reports and articles have come out documenting and criticizing the use of various forms of extra-legal or arbitrary detention facilities in China, especially the now infamous Black Jails.⁵ While there has been discussion of the seriousness of abusive and coercive psychiatric hospitalization in the past it has not received nearly the amount of attention recently devoted to other forms of arbitrary detention aimed at intimidating, silencing, and discrediting political dissent. It is the position of this report that the current Ankang mental institution network and, in fact, many local mental hospitals, function along closely related motives and methods as those of China's other more recently publicized extra-legal administrative detention facilities.

In 2005, after the UN Special Rapporteur on Torture Manfred Nowak's country visit to China, the UN reported that torture occurred in mental hospitals in 8% of the cases submitted to the Special Rapporteur between 2000 and 2006, police stations accounted for 17%, and pre-trial detention centers for 27%. Furthermore 7% of the alleged perpetrators of torture were Psychiatric hospital staff members⁶.

Unlike other systems of arbitrary detention, the Ankang system should not be viewed as a secret underground labyrinth of dark rooms. Whereas Black Jails are operated in secret, out of shame or concern about public outrage, the Ankang facilities are large edifices with exterior placards identifying the building as a mental hospital in full view of the public and thus represent a flagrant apathy for the outrages committed within. Inside the Ankang however the hospital much closer resembles the inside of a Black Jail: fully enclosed cells, steel doors, and guards.

The differences between the two systems is sometimes barely noticeable; however, Ankang and common mental hospitals are somehow guarded against scrutiny or criticism. Abuse exists. Ankang are run and administered by the ministry of public security; because they are administered by the law, they are effectively above the law.

⁵ See, for example, Chinese Urgent Action Working Group Report: "Black Jails in China: System, victims and facilities", available online at: <http://China-Action.org> (under reports section); Human Rights Watch report on black jails "An Alleyway in Hell", <http://www.hrw.org/en/reports/2009/11/12/alleyway-hell>; and Chinese Human Rights Defenders report "Black Jails in the Host City of the Open Olympics", available at: <http://chrndnet.org/2007/09/21/black-jails-in-the-host-city/>

⁶ UN Commission on Human Rights, Report on Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment: Mission to China, 10 March 2006, E/CN.4/2006/6/Add.6, available at: <http://www.unhcr.org/refworld/docid/45377b160.html> [accessed 12 May 2010]

While these facilities claim to operate legally and open to scrutiny there have been cases where once a hospital staff member speaks out against the system they are removed from their post. When journalists or concerned individuals question alleged abuses they may become victims themselves. The hospitals continue to exist by public while adroitly hiding their abuses from the general public behind a screen of denial and intimidation.

When, the now well known, December 2008 investigative report by the state-owned newspaper Beijing News revealed that PSB officials in Xintai, Shandong Province had been institutionalizing residents who had grown to be a nuisance to the local government through petitioning corruption or the illegal seizure of land, it generated considerable domestic and international attention.

It caused a furor among Chinese netizens and was republished by a number of state-run news agencies and several websites, readers posting more than 23,000 comments by the end of the day it ran. The response it generated in the general public implies their overall unawareness of this abusive practice.

The article quotes the hospital's director, Wu Yuzhu, who acknowledged that some of the patients brought in by the public security officers were not mentally ill but that he had no choice but to admit them. Some patients were told, "I don't care if you're sick or not. As long as you are sent by the township government, I'll treat you as a mental patient."⁷

This 2008 report is part of a relative increase in the level of openness the issue has received within the Chinese press and public in the last few years. But it is important not to view this as the result of the relaxation of control by the authorities, it is because of a more robust push from grassroots rights groups.

The first major force behind this push comes from the growing independently-minded Chinese press: that is, reporters willing to discuss controversial issues, however in cases like Tan Zuoren, 谭作人, and Qi Chonghuai, 齐崇淮, we see that tackling sensitive issues often lands the reporter in prison. Also, while, more Chinese activists are taking to citizen journalism or blogging, the mechanisms of censorship are increasing. Whether the repressive response to irksome voices will serve as the deterrent the authorities hope for or as a catalyst to spur more investigative journalism and activism

⁷ See New York Times article: Whistle-Blowers in Chinese City Sent to Mental Hospital, available online at: <http://www.nytimes.com/2008/12/09/world/asia/09china.html>

is not clear.

The second major force appears to come from the legal profession. It is certainly an incontrovertible fact that the legal environment in China is becoming more restrictive and less independent (as demonstrated by, among other indicators, the recent spate of countless lawyer's licenses being denied)⁸, there is still a narrow margin of 'human rights lawyers.' Outside of the licensed practicing legal community the rise in barefoot lawyers has also had an impact on the number of cases being brought to public attention.

These two types of legal practitioners taken together have empowered more victims to come forward and publicize their cases. This should actually include both victims of forced committal and former or current mental health practitioners coming forth to speak about the system. Former doctors are themselves also a kind of victim of this overall dehumanizing practice.

Despite the fact that more recent international and domestic news agencies have run the occasional story the fact remains that the system is still in full functioning order and, since Wu, the hospital director who spoke out against the facility in Xintai was mysteriously relocated following the article, it shows little signs of improving. Indeed, as recently as March 18, 2010 Chinese delegates to the Human Rights Council resorted to a chain of trivial procedural maneuvers to delay Dr. Shizhong Chen from testifying on psychiatric abuse.

It is difficult to predict what will have a greater impact on reforming this system, the international pressure posed by other governments and NGOs or domestic concern from groups such as Civil Rights and Livelihood Watch, *minshang guancha*, 民生观察⁹.

⁸ See Chinese Urgent Action Working Group Report: "Manipulation as Insulation", available online at: <http://China-Action.org> (under reports section)

⁹ The website for CRLW can be viewed at <http://www.msguancha.com/> (CN).

BACKGROUND

A deeper look into how entrenched psychiatric detention has been in the government's handling of unwanted elements in society is necessary before a proper understanding of the current situation can be reached.

Between the official legal-psychiatric professional literature in China from the 1950s to the present day and the growing number of individual cases, it is clear that the Chinese authorities have been extensively misusing forensic psychiatry for politically repressive purposes since at least the early 1960s. The evidence clearly suggests that China's record in this respect over the past four decades or so has greatly exceeded, in both scale and intensity, the abuses which occurred in the Soviet Union prior to 1990.¹⁰

Like many policies of post 1949 'New China,' early Chinese psychiatric facilities were modeled heavily on Soviet theory and doctrine. Within the first few years of the founding of the People's Republic of China forensic-psychiatry began to develop, with Soviet style centers popping up in Nanjing, Beijing, Shanghai, Changsha and Chengdu.

After Stalin's death, Khrushchev and his successors wanted to move away from the overt coercion of labor camps in vogue under Stalin and began incarcerating high numbers of dissidents in psychiatric facilities. It was in this time period that the Soviet Union began to apply abusive experimental clinical procedures on its own patients. Around the same time Soviet texts on forensic psychiatry were required material for Chinese mental health practitioners. This is important to note because the extent of abuses committed under the former USSR have now been well documented and discussed. That the early Chinese system was based on the Soviet model indicates a likely similar growth strategy.

Robin Munro's extensive research into the history and development of mental health facilities in China offers convincing evidence that the Soviet system was transplanted to China and by the 1950s and 1960s there was a functioning network at the crossroads of psychiatric incarceration and criminal prosecution established to forcibly detain political dissidents, whistle-blowers, and religious organizations.

¹⁰ Robin Munro, *Ankang* p45

This system reached its apex, says Richard J. Bonnie LL. B, professor of Law and Mental Health at the University of Virginia School of Law, during the terror of the Cultural Revolution (1966-1976) when the rationale of forensic psychiatrists was that dissidents' mental diseases were a result of "incorrect or deviant thinking."

A survey of forensic assessments at a hospital in Shanghai between 1970 and 1971 reported that 73 percent of the cases were political. In another study in 1987, of the forensic examinations conducted at a Hangzhou hospital the proportion of patients arrested for "antisocial political speech" was 54 percent in 1977. Richard J. Bonnie has noted, "Surely, there can be little doubt that the prevailing political ideology was shaping forensic practice, as it shaped everything else, during the Cultural Revolution."¹¹ He goes on to state that there is little doubt that state ideology has shaped forensic psychiatry before the Cultural Revolution and up to the present. This has considerable ramifications on the independence and impartiality of the mental health profession and an obvious detrimental impact on those individuals the government accuses of 'incorrect or deviant thinking.'

Indeed, in the last several decades such political ideology has influenced the results of forensic psychiatric investigations. Munro mentions, "...while the expression of negative political speech and action by the mentally ill is hardly a common occurrence, it is also by no means rare." He goes on to provide evidence.

In a report by Zhong Xingsheng *et al* on 210 cases of forensic appraisal that were carried out during 1981-84, fourteen out of the 181 crimes at issue (or 7.73 percent) were ones of anti-social speech and action.

In a report by Shen Muci *et al* on 654 cases of forensic appraisal conducted during 1973-86, out of a total of 566 crimes, 103 were cases of a political nature, or 18.2 percent. (Eighty of these cases dated from 1980 or earlier.)

Xu Shanghan, in a report on 708 cases of forensic appraisal carried out during 1982-86, found that 32 of the 638 offenses committed (or 5.02 percent) were crimes of counterrevolutionary behavior.

In a report by Liu Guangyu *et al* on 931 forensic appraisal cases dating from 1979-90, among a total of

¹¹ Bonnie, Richard J. LLB, "Political Abuse of Psychiatry in the Soviet Union and in China: Complexities and Controversies," *The Journal of the American Academy of Psychiatry and the Law* 30: 136-44, 2002.

667 offenses committed, 27 (or 4.05 percent) were identified as being political cases.¹²

These numbers are indicative of a mentality that linked political deviance with mental disease. The numbers in the Shen Muci case are higher because it includes cases from during the Cultural Revolution, when the system was at its highest use. However, this Cultural Revolution era mentality is echoed today in the comments of Ministry of Health expert and professor at Beijing University Sun Dong Dong who, in 2009, stated that 99% of petitioners are mentally ill.

In 1987 a major step was taken to institutionalize psychiatric detention facilities; the Chinese government established the nationwide Ankang system for 'dangerously mentally ill offenders.' The Shanghai Municipal Hospital for Custody and Treatment of the Mentally Ill, established in May of 1985 appears to have been the model for subsequent Ankang facilities.

Arrested political dissidents and others in similar categories brought for assessment by the State's forensic psychiatrists are often officially treated as ranking among the most 'serious and dangerous' of all alleged mentally ill offenders, and are thus prime candidate for compulsory committal in such institutions.¹³

The institutionalization of Ankang hospitals throughout China further entrenched this notion of linking political dissent with mental illness and afforded the government and police the powerful political weapon of branding any dissent as the rambling of the mentally ill.

Because of systemic secrecy and controlled records it is difficult to ascertain the exact number of politically sensitive cases of psychiatric incarceration in China. Conservative estimates place the number of political detainees caught up in the Ankang system between the 1980s and 2005 at more than 3,000. While this has been the generally accepted number for patients considered politically motivated, that large Ankang facilities can accommodate approximately 1,000 patients and some-the Tianjin facility is the country's largest-can hold far more, it seems possible that the number of political cases could be far higher. Furthermore, because the government's eventual plan is to build one Ankang facility in every city with a population of more than one million-there are more than 70 such cities across China-it seems to indicate a trend toward higher levels of incarceration in the years to come.

¹² HRW, *Dangerous Minds*, p. 259

INTERNATIONAL STANDARDS

This section will present the relevant international human rights norms and standards. After presenting the relevant international norms and domestic regulations, we will demonstrate with following case studies the deplorable degree to which China's system of psychiatric detention stands in conflict with all notions of human rights.

The *International Covenant on Civil and Political Rights* (ICCPR), article 9, explains,

“Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.”¹⁴

Again, the current system is not grounded in any formal legal proceedings and represents a contravention of rights delineated under the ICCPR. Discussed in the following section, because Chinese statutes are absent any detailed legal regulations or laws governing the administration of Ankang hospitals it cannot be established that anything within the walls of these institutions are established by law.

The *International Convention for the Protection of All Persons from Enforced Disappearance* states,

“For the purposes of this Convention, 'enforced disappearance' is considered to be the arrest, detention, abduction or any other form of deprivation of liberty by agents of the State or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law” (Article 2).¹⁵

Because China's system of psychiatric detention exists outside of all legal channels and many forcibly committed dissidents' families are refused access or information about their condition, this clearly falls under the definition for 'enforced disappearance' as explained under the convention. While China is not a signatory to this convention, the definition provided by the convention should be used

¹³ Munro, Robin. “Judicial Psychiatry in China and its Political Abuses.” *Columbia Journal of Asian Law* 14:1-128, 2000

¹⁴ <http://www2.ohchr.org/english/law/ccpr.htm>

in the understanding of the severity of this system.

The Special Rapporteur on the right of everyone to the enjoyment of the highest attainable standard of physical and mental health states,

“The right to health contains both freedoms and entitlements. Freedoms include the right to control one’s health, including the right to be free from non-consensual medical treatment and experimentation.”¹⁶

As will be further discussed, many dissidents, while incarcerated in one of China's Ankang hospitals are subjected to extreme non-consensual medical treatment experimentation. Protection from such brutal treatment is specifically enshrined in *The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*. The most egregious forms of non-consensual medical treatment are the now widely reported organ harvesting cases but this report will demonstrate a variety of ways patients are subjected to wanton non-consensual medical treatment and experimentation.

UN Resolution 46/119, the *Principles for the Protection of Persons with Mental Illness and for the Improvement of Mental Health Care* is a comprehensive set of rights and protections and should be used as a litmus test to judge the quality and legality of any mental health facility or system.¹⁷

Principle 4 on determination of Mental Illness (article 2) states the determination of mental illness shall never be made based on political, economic or social status, or on an individual's membership in a cultural, racial, or religious group, or for any reason not immediately pertinent to mental health. Furthermore, (article 3), neither family or professional conflict nor non-conformity with moral, social, cultural or political values or religious beliefs shall be used as determinants.

Principle 11 on consent to treatment, states (article 1) that no treatment shall be given to a patient without his or her informed consent¹⁸, except if (article 6) a) if the patient is at the time held involuntarily (see below) b) the patient lacks the capacity to provide or withhold consent or c) the independent authority believes the treatment is in the best interest of the patient. This does not apply however if the patient has a personal representative who does not consent (article 7). It goes

¹⁵ <http://www2.ohchr.org/english/law/disappearance-convention.htm>

¹⁶ <http://www2.ohchr.org/english/issues/health/right/>

¹⁷ <http://www2.ohchr.org/english/law/principles.htm>

on to explain that treatment may also be given without the patient's consent if 'a qualified mental health practitioner authorized by law determines that it is urgently necessary in order to prevent immediate or imminent harm to the patient or to other persons. Such treatment shall not be prolonged beyond the period that is strictly necessary for this purpose (article 8). Clinical trials and experimental treatment shall never be undertaken on a patient without the patient's informed consent, except in the above conditions, but only with the explicit approval of a qualified, independent review body (article 15) Finally, the patient and/ or his or her personal representative, or interested person, has the right to appeal to a judicial or independent authority concerning treatment (article 16).

Principle 16 further delineates the accepted conditions for involuntary admission. Patients may be involuntarily committed or, if initially voluntarily admitted, be retained involuntarily if the patient is determined to, in accordance with Principle 4 (above) article 6 subsections a and b. However, (article 1), a second mental health practitioner, independent of the first, should be consulted and if the second does not concur with the first, the involuntary admission should not occur. It also states that, (article 2), "Involuntary admission or retention shall initially be for a short period as specified by domestic law for observation and preliminary treatment pending review of the admission or retention by the review body. The grounds of the admission shall be communicated to the patient without delay and the fact of the admission and the grounds for it shall also be communicated promptly and in detail to the review body, to the patient's personal representative, if any, and, unless the patient objects, to the patient's family."

Furthermore, any patient in a mental health facility must be informed at the time of admission, in a clear and understandable way, their rights in accordance with the principles of UN Resolution 46/119 and all domestic laws (Principle 12, article 1). Aside from those mentioned above, one of the most frequently contravened rights is that of freedom of communication (Principle 13, article 1.c) "which includes freedom to communicate with other persons in the facility; freedom to send and receive uncensored private communications; freedom to receive, in private, visits from a counsel or personal representative and, at all reasonable times, from other visitors; and freedom of access to postal and

¹⁸ UN Resolution 46/119, Principle 11, art. 2 defines informed consent as consent obtained freely, without threats or improper inducements, after appropriate disclosure to the patient of adequate and understandable information in a form and language understood by the patient on:

- (a) The diagnostic assessment;
- (b) The purpose, method, likely duration and expected benefit of the proposed treatment;
- (c) Alternative modes of treatment, including those less intrusive; and
- (d) Possible pain or discomfort, risks and side-effects of the proposed treatment.

telephone services and to newspapers, radio and television.”

DOMESTIC REGULATIONS

NATIONAL REGULATIONS AND LAWS

A number of national laws deal with some aspect of mental health issues but present a fragmented legal environment. These laws include, inter alia: the Criminal Law (1980), The Criminal Procedure Law (1980), The Administrative Law (1990), The Administrative Procedure Law (1982), the Law on the Protection of Disabled Persons (1990), the Law on Maternal and Infant Health Care (1994), and the Marriage Law (2001).

However, in many cases, national laws are manipulated to justify unfair and abusive treatment. For example, at the Committee Against Torture's Forty-First session, CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES UNDER ARTICLE 19 OF THE CONVENTION Concluding observations of the Committee against Torture, China, noted,

“While noting that article 18 of the Criminal Law allows a mentally ill person who has committed a crime but is not to bear any criminal responsibility for it to be given compulsory medical treatment by the authorities, the Committee also notes with concern that this provision has been misused to detain some people in psychiatric hospitals for reasons other than medical.”¹⁹

In an attempt to address the lack of a national standard, a national mental health program was formulated in 1992 and by joint cooperation among the Ministries of Health, Security, Civil Affairs and the China Disabled Person's Federation in April 2002 the National Mental Health Project of China (2002-2010) was enacted. The Project had three main focus areas: 1) integrated care and multi-section links, equity, and community care; 2) training of mental health professionals and increasing research; and 3) developing national mental health regulations.²⁰

Three years after The National Mental Health Project of China claimed that developing national mental health legislation was a core focus, a 2005 report by the World Health Organization reported,

¹⁹ <http://www2.ohchr.org/english/bodies/cat/docs/CAT.C.CHN.CO.4.pdf>

²⁰ World Health Organization Mental Health Atlas 2005

“There is no existing mental health legislation...The national mental health law is in the process of being drafted since 1986; the 15th draft was finished and is being reviewed by relevant departments. The Ministry of Health is hoping it will be enacted before 2007.”²¹

As of the date of this report in 2010 there is still no unifying national mental health law. The delay in approval of a national law is reported to numerous unresolved concerns, primarily the disparity in mental health services and funding that exists between richer urban centers and poorer areas. Additionally, debate on mandatory hospitalization and treatment is a key factor. A Beijing lawyer, Huang Xuetao, in response to the most recent draft regulation has commented that the, “law still wouldn't prevent healthy people from being sent to a mental hospital.”²²

National mental health regulations are a necessary step toward guaranteeing that psychiatric hospitals are governed within the framework of the rule of law and would provide a single set of standards by which to appraise the quality of psychiatric care. Finally, a national mental health law is a necessary, but not sufficient, requirement of protecting the rights of all patients.

In the absence of a unifying national law, most major cities still operate on their own municipal mental health regulations that govern administration and set the criteria and procedure for committing and holding patients. Legal experts have noted that local level officials often abuse their authority to detain politically sensitive individuals in these hospitals. “The government has given the police more power to incarcerate anyone in these hospitals,” said one Beijing Human Rights Lawyer.²³ A total of five provinces have enacted disease control policies or issued statements outlining intentions to enhance mental health. There are 11 different municipal level mental health regulations.

MUNICIPAL REGULATIONS

The first real set of municipal regulations for forensic psychiatry was the promulgation, on September 11, 1986, of the *Shanghai Municipal Regulations on the Guardianship, Treatment and Management*

²¹ WHO, Atlas 2005

²² “A 24 years' waiting for Mental Health Law,” 18th June, 2009. <http://www.radio86.co.uk/china-insight/from-chinese-media/headlines-in-china/11013/a-24-years-waiting-for-mental-health-law>

²³ Interview: Wed, 19 May 2010

of Mentally Ill People who Create Incidents or Disasters. The Shanghai regulations have since been amended; the current regulation is the *Shanghai Mental Health Bill*, April 7, 2002.

The Shanghai standards have served as the national example, although this should not be confused with a national mental health law in that, while several cities have modeled their own regulations on those of Shanghai, there are no legally binding regulations between cities or uniform standards or rights on a national level, outside of the fragmented set of national laws as mentioned above. Because it is the most detailed set of regulations, the Shanghai Mental Health Bill will be the primary focus of the following legal discussion.

The most deficient provision in the regulations is a clear explanation of when and how someone can be forcibly committed against their will. The limits of treatment are also not clearly defined.

The 1986 regulation included, Article. 8, that the public security bureau of the state has the right to forcibly commit someone to a hospital if they a) commit murder or other violent crimes, b) insult a women, c) damage public or private property, d) threaten traffic safety, or e) generally disturb public order.²⁴ There is no further clarification to what disturbing public order or undermining social order entailed. The general vagueness of this language essentially allowed for the police to make the final judgment in regard to forced hospitalization.

The 1990 ninth draft of the Mental Health Law of the People's Republic of China, never ratified, had similar provisions. Article 17 stated that persons who are diagnosed as mentally ill can be involuntarily hospitalized by their family member or guardians, work unit, or by the local police with certification following a psychiatric examination if they demonstrate: 1) violence toward others; 2) evidence of dangerous intents to commit suicide, injury to self or to others, or other seriously dangerous behavior; or 3) disturbing social order or endangering public security.²⁵

Article 31 of the 2002 *Shanghai City Mental Health Bill* (SH) effectively retains these vague parameters for forced hospitalization:

“Where mental illness sufferers or those suspected of suffering from mental illness

²⁴ *Shanghai Municipal Regulations on the Guardianship, Treatment and Management of Mentally Ill People who Create Incidents or Disasters*, 上海市监护治疗管理肇事肇祸精神病人条例, available online: <http://law.lawtime.cn/d564364569458.html/pos=1> (CN).

²⁵ HRW, *Dangerous Minds*, p. 290

cause harm to themselves, other people or society by their behavior, their guardians, close relatives, work unit, residents committee, village committee or the local PSB shall send the sufferer/suspected sufferer to a mental health treatment institution."²⁶

The Police Law, article 14, also grants explicit power to the police to detain a mental patient that seriously endangers public security or safety. They may, if necessary send a patient to a designated institution or place him/her in guardianship, if so, it shall be approved by the Police at the level of county or higher, and his/her guardian shall be notified immediately.

Because the notion of causing harm could be interpreted to include political or religious deviance or disruptions, the new law does not address this loophole.

The 1992 draft regulations also set forth the rights of the patient, stating that the rights of mentally ill persons to have correspondences, to purchase or receive items for daily living, to receive visits from relatives, friends and others, and to keep their privacy, shall be guaranteed. Furthermore, mental health care providers are prohibited from insulting, physically or mentally abusing or acting in any way to harm or injure patients.²⁷

SH article 32 goes on to state that during the entirety of their hospitalization the patient has the right to communicate and receive visitors, among other rights expressed elsewhere. If this right is to be suspended, permission from the patient's guardian must first be obtained.

The sixth session of the National People's Congress, April 12, 1986, discussed mental health issues and defined, in article 17, guardians are to be chosen from a) the spouse of the patient, b) parents, c) adult children, d) other close relatives, or e) any other closely connected relative or friend.²⁸

SH article 18, Guardians of patients who have 'wholly or partially' lost self-awareness shall bear the responsibility for their medical treatment. Guardians are defined on accordance with the process established in the Administrative Law. However, when a guardian(s) cannot come to a decision on the level of responsibility for the treatment of the patient, the residents or village committee where the patient lives can mediate and negotiate between guardians. Finally, where there is no sufficient

²⁶ *Shanghai City Mental Health Bill*, 上海市精神卫生条例, available online: <http://www.shanghai.gov.cn/shanghai/node2314/node2316/node2331/node2504/userobject6ai1083.html> (CN), and at <http://China-Action.org> (EN and CN) (under Resources> Laws and regulation section)

²⁷ HRW, *Dangerous Minds*, p. 291

guardian, one shall be appointed by the state in accordance with the law.

SH article 19 goes on to define, guardians who take responsibility for the medical care of mental illness sufferers shall perform the following duties:

- 1) Provide appropriate medical treatment to the sufferer and prevent injury to the sufferer and third parties or society;
- 2) Ensure that the sufferer receives outpatient or inpatient treatment in accordance with the advice of medical professionals, and assist with any formalities required to enter or leave hospital;
- 3) Assist the sufferer in receiving medical treatment or professional training and help them reintegrate into society

Guardians shall be able to entrust the performance of the above duties to a third party.

Relatives of patients must assist them to receive diagnosis and treatment. Mental health treatment institutions must provide positive and appropriate treatment to mental illness sufferers in accordance with the nature of their mental illness. Where treatment in hospital is needed this must accord with relevant standards and sufferers must not be kept in hospital for no reason (SH article 21). And Patients, guardians, and relatives have the right to find out about the specific illness, diagnosis, and treatment plan. They have the right to request the hospitals provide written documentation of their diagnosis (SH article 22).

In terms of diagnosis, SH article 25 notes,

“Diagnoses must be carried out by a mental health professional of at least a certain level of expertise [not clearly defined in the Shanghai regulations] or above in accordance with national medical standards in force at the time. Where no such national standards exist the diagnosis must be carried out in accordance with internationally recognized standards.”

The 2006 Beijing City Mental Health Bill (BJ) article 24 addresses the basic required level of experience and qualifications for mental health practitioners and counseling staff. Mental health

²⁸ *Guo nei yu jingshen weisheng xiangguan de falu, faguan xiangguan tiaokuan jielu*, 国内与精神卫生相关的法律, 法观相关条款节录, (Mental Health and Related Domestic Laws, Extracted Relevant Clauses)

practitioners are to be hired from individuals with: a) an official degree in psychology, b) National Vocational counseling staff qualifications, or b) from qualified psychiatric practitioners.²⁹

Article 26 (BJ) states that in mental illness diagnosis and treatment, staff should have qualified practitioners, and strictly abide by relevant laws, regulations and standards for mental illness diagnosis, treatment norms. Article 27 (BJ) goes on to state the diagnosis should be made by a psychiatrist with more than two years of mental illness diagnosis.

Article 21 of the 1992 draft notes that patients and their family members have the right to be informed about the treatment and its side-effects, and the doctors must be honest. Unless the treatment has already been determined to be involuntary, patients and their family have the right to decide on the treatment. Furthermore, before applying electroshock therapy or psycho-surgery, written permission by the patient or the patients family is required.³⁰

Similarly, SH Article 28: Where a patient or their guardian questions their re-examination or joint examination they shall be able to apply for a medico-legal psychiatric assessment; additionally, Article 36, the rights of the patient to be informed about their illness, diagnosis, and treatment are predicated on the basis of having self-awareness. While 'self-awareness' is defined in SH Article 47 as "the ability of the mental illness sufferer to recognize and understand their own mental illness," the final judgment is left up to the hospital staff and as has been reported, the hospital staff often makes forced diagnosis at the behest of the PSB.

Municipal regulations do attempt to define and enshrine protections for the rights of patients, however, as the UN Committee against Torture noted of national laws, these municipal laws are not always strictly adhered to. While Article 6 of the 2002 Shanghai Bill states that, "the rights and dignity of people suffering with mental illness are protected by law. It is forbidden to discriminate against, insult, abuse or abandon people suffering with mental illness," this declaration is often flagrantly abandoned when dealing with politically motivated cases. BJ Article 6 offers equally vacuous protections, the legitimate rights of all mental patients is protected by law.

Additionally, SH article 32, "Where in order to prevent incidents or due to the needs of medical treatment it becomes necessary to take preventative security measures in retaliation to a mental

²⁹ Beijing City Mental Health Bill, 北京市精神卫生条例, <http://www.lawtime.cn/info/sunhai/yjsgfg/2008110443147.html> (CN)

³⁰ HRW, *Dangerous Minds*, p. 291

illness patient..." nowhere in the law does it define the extent of preventative security measures, "...a record of this along with the reasons for doing so must be included in the patient's medical history;" relatives and former patients are often denied access to these records.

A BROAD SCOPE: POLICE DEFINING MENTAL ILLNESSES

In addition to city regulations the generally used criteria for administering the compulsory committal to Ankang facilities can be found in the 1990 Encyclopedia of Police work. The criteria are exceedingly broad:

The first category is commonly referred to as 'romantic maniacs,' *hua fengzi*, individuals who roam around the streets, grab food and drink from others, expose themselves naked, or look unkempt and disheveled, and so have an adverse effect on social decorum.

The next is known as 'political maniacs,' *zhengzhi fengzi*, for people who shout reactionary slogans, write reactionary banners and reactionary letters, make anti-government speeches in public, and express opinions on important domestic and international affairs.

The final category is 'aggressive maniacs,' *wu fengzi*, individuals who beat and curse at people, lasciviously pursue women, elderly people and children, smash up public property, commit murder or arson, or who otherwise endanger people's lives and the

safety of property.³¹

The treatise goes on to state that the public security organs have primary responsibility for the management and treatment of certain kinds of severely mentally ill individuals who pose a grave threat to social order. Under this classification of posing a grave threat to social order are included 1) Persons who disrupt the normal work of Party and government offices or who disrupt normal work and production in enterprises, scientific and educational institutions, thereby posing a danger; and 2) Persons who shout reactionary slogans, or who stick up or distribute reactionary banners and leaflets, thereby exerting an undesirable political influence; and finally 3) Mentally ill people who drift in from other areas and disrupt the public order of society.³² Of course petitioners and other dissidents who do not display any internationally recognized mental disease would fall into all three of these categories.

The most telling sign of the treatment of such individuals comes in the Police Encyclopedia's insistence that taking mentally ill individuals into custody is most needed during major public events and when foreign guests visit. It is the case that the rate of house arrests and arbitrary detentions is always at its highest on sensitive dates such as the meeting of the People's Congress or sensitive anniversaries such as those of June 4th or October 1st and when heads of State, major international NGOs or the UN visit China.

³¹ HRW, *Dangerous Minds*, p. 133.

³² *Ibid*, p. 134

CASES OF ABUSE: INDIVIDUALS AND INCIDENTS

Even as early as 2001, Paul Appelbaum, MD, the director of the division of Law, Ethics, and Psychiatry, at the Department of Psychiatry at Columbia University noted:

...both political and religious dissenters clearly are being arrested, hospitalized, or incarcerated for behaviors that under international standards are neither crimes nor indications for involuntary commitment. Indeed, persons detained by the police for “counterrevolutionary activities” or participation in banned religious groups face a no-win situation. If diagnosed as mentally ill, they face indefinite confinement in

psychiatric facilities...³³

Petitioners are an increasingly targeted demographic of forced hospitalization. A 2009 report in the Chinese periodical *Journal of Neuroscience and Mental Health* stated that the Department of Forensic Psychiatry at the University of Sichuan found that, out of a ten year survey of 3387 cases, the rate of petitioners diagnosed as mentally ill had risen from 0.53% to 1.11% in five years, with schizophrenia as the main diagnosis.³⁴

While the numbers in the Sichuan study are small, they are from a study of a single province and, while they do reflect the rise in petitioner related forced committal, they do not necessarily reflect the size of that increase. Shandong, Shanghai, Tianjin, and Beijing have much larger Ankang facilities. In terms of petitioners, Beijing obviously has a much higher concentration than other cities because the highest levels of the Letters and Visits bureau are located in Beijing.

A Civil Rights and Livelihood Watch study launched on World Mental Health Day, October 10, 2009, and concluded in early 2010 collected the details of over 300 petitioners currently languishing in mental hospitals. Shandong province provided the greatest number of cases. The report noted that petitioners, Falun Gong practitioners, and other dissidents make up the majority of the victims. Interestingly, there were more females than males in the data collected. Liu Feiyue, Civil Rights and Livelihood Director, commented that the cases were collected from victims of some of China's larger mental hospitals.³⁵

Liu Feiyue told Voice of America radio, “[Our] latest action is to establish daily record keeping of Chinese psychiatric victims. We hope these cases will be continuously collected and exposed to the rest of the world.”³⁶ The following is a brief survey of cases of manipulating mental health to suit the desires and needs of officials to persecute petitioners and the abuses they suffer.

THE CASE OF WANG WANXING

Wang Wanxing is probably the best known former patient of an Ankang facility. His case is unique in that he is the only former detainee to have left China, after considerable diplomatic pressure from

³³ Appelbaum, Paul MD, “Abuses of Law and Psychiatry in China.” *Psychiatric Services*, October 2001 Vol. 52-10

³⁴ Chen Disi; Kunti; Zhang Xiaoming; Tian Yuanyuan; Li Yan; Hu Junmei, “*shenjing jibing yu jingshen weisheng*,” (Nervous Diseases and Mental Health) *The Journal of Neuroscience and Mental Health*: 2009 9:1

the German government, Amnesty International, and other organizations. After his release in 2005 he immigrated to Germany to be with his family, his wife and daughter having already immigrated in 2003. He was threatened with the admonition, from a Beijing Ankang official as he was boarding the plane to Germany, "If you ever speak out about your experiences at our hospital, we'll come and bring you back here again."³⁷ Despite this warning he became an outspoken whistle-blower; his first hand account of life in psychiatric detention provided considerable insight into the level of abuses.

Wang is a clear case of politically motivated incarceration. He has been persecuted throughout his life. He was first detained for a month in 1968, during the Cultural Revolution while working in the countryside, because he wrote several letters challenging government abuses. In 1976 he wrote a letter against the way, then premier, Hua Guofeng was handling the country and demanded the rehabilitation of Deng Xiaoping. He was branded a 'reactionary' and imprisoned for 17 months until Deng Xiaoping came to power. He took part in the 1989 pro-democracy movement but did not participate in the direct actions in Tiananmen Square.

Then, on June 4, 1992, after unfurling a banner in Tiananmen Square, marking the third anniversary of the 1989 massacre, he was immediately taken into custody by the police, who also beat up any journalists who happened to capture his arrest on camera. His wife was informed by the police that if she signed a statement alleging he was mentally ill, he would be released into her custody. After she signed, however, the police sent him to the Beijing Ankang Hospital.³⁸ He did not have a trial. The authorities informed his wife that he was suffering from a condition they called 'political monomania,' a condition that is not recognized in any credible medical literature.

He was released on August 19, 1999 for a three month parole. After inquiring with the authorities on November 18, 1999 if he could hold a press conference to discuss his confinement, on November 23 eight public security officers came to his home and forced him back to the Ankang facility where he would remain for another 6 years.

Before his release he was given one final examination by the hospital staff. They stated, "When the topic of conversation turns to politics, [Wang] displays impairments of thought association and of mental logic. His systematic delusions have shown no conspicuous improvement since he was first

³⁵ *Bingtai zhenya shangfang fang min bei suo jin jingshen bingyuan* (Abnormal suppression of petitioners, locked away in mental hospitals) <http://soundofhope.org/programs/162/151218-1.asp> (CN)

³⁶ Robertson, Mathew; Wu, Grace, "Database Opens to Track Psychiatric Abuse in China," The Epoch Times. Thursday, May 27, 2010: <http://www.theepochtimes.com/n2/content/view/23803/>

³⁷ *ibid.*

admitted to the hospital, and his [mental] activities are still characterized by delusions of grandeur, litigation mania, and a conspicuously enhanced pathological will..."³⁹

Five months after his release and arrival in Germany, Wang was again examined, this time by two Dutch doctors. B.C.M. Raes and B.B. van der Meer, both forensic psychiatrists. They said, "There was no reason that Mr. Wang had to be locked up in a special forensic psychiatric hospital or to be admitted to a psychiatric facility...He was not suffering from any mental disorder that could justify his admission."⁴⁰ Why the stark contradiction in diagnoses? Robert van Voren, the chief executive of GIP clearly explained, "This independent assessment confirms, finally, what Wang himself has been arguing for 13 years: that he was detained not because he was 'dangerously mentally ill,' as claimed by the Chinese authorities, but solely on account of his peacefully held dissident viewpoints."⁴¹

Wang expressed confusion and frustration that the United States did not publicize his case and use it in order to put more pressure on China. He was concerned that China had pressured the US not to push the case; he feels that because there has been a lack of pressure from the international community, backed by the powerful voice of the US, the issue has not received the appropriate attention, in fact the circumstances have worsened.⁴²

The conditions within the hospital were far from those demanded by international standards and even basic human dignity. Wang related, "it was a regime of mismanagement and anarchy. The treatment meted out to inmates included electric shocks, insulin shocks and forced injections."⁴³ One fellow patient went on hunger strike, Wang recalled, "After he tore up his blanket the nurses let the other patients jump on him and force food down his throat. He choked. I watched him die."⁴⁴ Human Rights Watch reported that Wang later learned that all the Ankang staff were PSB officers and simply filed a report stating that the man had died from a heart attack. No staff members were disciplined for their blatant negligence.⁴⁵

³⁸ Robin Munro p. 44

³⁹ "No Medical Reason to Hold Dissident Expert Team Finds Wang Wanxing Wrongly Sent to Asylum for 13 Years," March 17, 2006. <http://www.hrw.org/en/news/2006/03/16/china-no-medical-reason-hold-dissident>

⁴⁰ Joseph Khan, "Sane Chinese Put in Asylum, Doctors Find," March 17, 2006.

http://www.nytimes.com/2006/03/17/international/asia/17china.html?_r=2&oref=login

⁴¹ No Medical Reason to Hold Dissident Expert Team Finds Wang Wanxing Wrongly Sent to Asylum for 13 Years

⁴² Interview: Wed, 09 June 2010

⁴³ "In the grip of the Ankang," December 20, 2005.

<http://www.guardian.co.uk/world/2005/dec/20/china.features11>

⁴⁴ *ibid.*

⁴⁵ "Political Prisoner Exposes Brutality in Police-Run Mental Hospital Eyewitness Testimonies from Notorious Ankang Asylum"

Throughout the course of his hospitalization, Wang was forced to take chlorpromazine, a powerful anti-psychotic drug, three times a day. The nurses would monitor him closely to make sure he took the medicine. He experienced agonizing mental and physical effects from the drug. At one point, in 2002, he was transferred to a ward with several convicted murderers, unlikely ward-mates for a peaceful activist, presumably to intimidate him or his wife.⁴⁶ The objective political motivation behind Wang's incarceration and the brutality he experienced and witnessed highlights and serves as an example of that of possible thousands other politically motivated incarcerations.

Wang's case identifies the two primary violations that exist within the Ankang and other mental health systems in China. The first is arbitrary detention. During the extended length of his incarceration, Wang observed frequently that the Beijing Ankang hospital served as an ad hoc detention facility for petitioners.⁴⁷ This kind of in and out, undetermined length, extra-legal, recurring detention of petitioners falls clearly under the rubric of arbitrary detention.

The second most common violation is torture. Petitioners and other political dissidents are subjected to two main forms of torture within Ankang and other mental hospitals. The first is physical violence or intimidation by disturbed inmates while guards or doctors stand by and watch, or by guards and doctors directly. The second most common form of torture is forced medication by hospital staff. The forced injection of such anti-psychotic medications as chlorpromazine produces excruciating pain and in the case of non-violent patients is patently unnecessary and sadistic.

In addition, once an individual is discharged from the hospital, regardless of the initial reasons for committal or the circumstances surrounding their release, they will face considerable problems. Patients will always be branded as, 'psychopaths,' and experience discrimination by the community and in the workplace. Despite several laws forbidding discrimination based on mental health, victims of politically motivated incarceration face distinct and lasting stigmatization.⁴⁸

ARBITRARY DETENTION

Xiong Liang's, 熊亮, case is an elucidating window into how mental hospitals are being used to

⁴⁶ Amnesty International, Update on Medical Action Wang Wanxing: dissident's continued detention in a psychiatric hospital, China. August 20, 2002

⁴⁷ Interview: Wed, 09 June 2010

silence petitioners. Xiong graduated from the police academy in 1996. He was described as honest, someone with a lot of integrity. However, after two strange incidents Xiong was dismissed from the police force without an explanation. The first incident involved an arrest of a wanted gambler, only to have the gambler released mysteriously by the local chief of police. When Xiong rearrested the criminal, Xiong was reprimanded by his superiors. The second case involved the escape of a patient at a drug treatment center. Although Xiong was not on shift when it happened he was blamed and put in charge of tracking down the escapee or be dismissed.

When he lost his job it was a huge blow to his parents and siblings. They had spent a lot of money to allow him to attend the police academy and he had spent a lot of time. Now he had no options for employment but to start from nothing. He felt he had been wrongfully terminated. He started to petition for answers in October of 2000; he went to the Guang'an city Public Security Bureau to present his case. On November 14, 2000 he was ordered to immediately halt his petitioning and move on. However, on the next day he took his petition to the Sichuan provincial level Ministry of Public Security Letters and Visits bureau.

After finding out that Xiong had disobeyed their command and proceeded to a higher level bureau, the Linshui county PSB quickly dispatched someone to meet Xiong. On November 16 Xiong was basically placed under house arrest for 7 days to read through Ministry of Security regulations, presumably the PSB officials thought this would startle him into dropping his cause.

At the end of the November the PSB arranged for Xiong to have a psychological examination by two mental health care providers. It was concluded that he was suffering from a persecution complex. Xiong was not informed of the diagnosis. Later his family expressed complete shock and disbelief that he could be suffering from any mental disorder.

His younger brother requested to see the doctor's examination book and be allowed to read the diagnosis and the details of the examination but he was unequivocally rebuffed. His younger brother Xiong Xiaotian, 熊筱天, later stated:

He (Xiong Liang) first went to the Linshui county procuratorate office on December 9th 2000, to register his case. After he was refused he again pushed his case on December 12th. He took his plea to the Guang'an prefecture level procuratorate. Once more he met with refusal. On the 17th of

⁴⁸ Interview: Tues, 08 June 2010

December he drove to Chengdu, the next day he went for an audience with the Sichuan provincial level procuratorate to present his materials.

It wouldn't have been long before Xiong went to Beijing to bring his case before the National level Ministry of Public Security office. This action would have caused Linshui county PSB to receive considerable criticism from the national Ministry of Public Security system. Because of this, the Linshui PSB had no choice but to decide to incarcerate Xiong in a psychiatric hospital for treatment.⁴⁹

Xiong was not told he was being taken to the hospital. The local PSB had several men come around to tell him they were going to Chongqing together to pick up a criminal suspect but when they arrived in Chongqing they went straight to the psychiatric hospital. Xiong realized what was happening. He vehemently protested, yelling, "I'm not crazy. I'm not going in."

Shortly, four police officers came and drug him into the hospital where he was immediately restrained and bound to a bed, given an injection and gradually lost consciousness. This was all done without his family's knowledge or permission. In total he suffered 203 days of arbitrary detention in mental hospitals.

On the morning of April 9th, 2010, in Shiyan city, Hubei, Peng Bao Quan, 彭宝泉, was arrested by police for photographing a group of petitioners; the next day he was sent to the Maojian Mental Hospital. None of his relatives were informed of these actions. Before being sent to the mental hospital Peng had explained to a friend, Zhang Hong Feng, that 20 workers from the Wujiachuo company had travelled to Hongzheng hotel to voice their grievances to the visiting provincial disciplinary committee over recent forced evictions and corruption. Peng said he had gone along to take photos and had not behaved wildly nor had he directly participated in the petitioning.

The next day his friend tried to call him but found that the phone was off. Later, another friend, Chen Yong Gang, found out that Peng had been transferred to the mental hospital. His wife and sister were not informed of his committal and only found out after contacting Zhong. When his sister went to the hospital to visit the police informed her that he had been denied visitation rights for one week. A nurse later informed a journalist for a Chinese blog covering the story that Peng had been admitted

⁴⁹ *Ziliao: minjing shangfang bei song ru jingshen bingyuan qiangxing zhiliao 203 tian* (Information: Police officer petitioner sent to mental hospital by force for 203 days of treatment)
<http://news.qq.com/a/20081209/001566.htm> (CN)

under orders from the police because he had been caught filming the petitioners.⁵⁰

In 2008 Huang Ding Bin, 黄定彬, an 80 year old petitioner from Sichuan province was put into a mental hospital by the local government during National Day, October 1st, a sensitive date on the Chinese calendar when dissidents are often heavily persecuted. While committed he was asked to sign documents promising not to petition again. He was not examined prior to his committal; it is clear that his petitioning activities were the only reason for his forced hospitalization. The local authorities wanted to prevent him from petitioning the provincial government or going on to Beijing.

Huang was detained on September 5, 2008 while attempting to deliver a petition letter to the Secretary of Sichuan Province Party Discipline Committee Ou Ze Gao, 欧泽高. He was accosted by the Party Secretary of his home village, Wenlin Village, Li Ming An 李明安, and four police officers and brought back to Wenlin. When he arrived back in Wenlin Village he was taken to the mental hospital.

Later when asked by an independent investigator, Li Ming An stated that Huang had a mental illness and was undergoing psychiatric observation and tests. He did not answer whether the hospital had Huang's family's permission to keep him. Huang's son Huang Wei told the investigator that the local officials had told him his father can be released when he signs an agreement to never petition again.

In another case, Professor Yang, 杨, a mathematics and statistic professor and PhD tutor at Wuhan University, was committed against his will to a mental hospital in 2009 for half a year and subjected to forced medical treatment as a result of his petitioning corruption at the university. University officials had been accepting bribes in connection with a construction project and there were reports of theft and embezzlement.

Professor Yang insisted that he was not ill. He noted a number of recently published academic papers in journals. His family members reinforced that he had no mental illness. He said he was forcibly committed to a mental hospital by the local authorities because of fear of his leadership in reporting on the corruption problem. He said, "They [local officials] are afraid of people speaking out. It is just because they engage in too much corrupt business."⁵¹ He was only finally released after signing a document agreeing not to continue petitioning.

⁵⁰ *Wangyou pai shangfang zhappian bei jingfang song jingshen bingyuan xu* (Online friend sent to mental hospital for photographing petitioners.) <http://post-social.news.tom.com/s/0E000AD81916.html> (CN)

In 2003 a 46 year old former nursery school teacher from Harbin, Zhang Gong Lai, 张共来, began petitioning as a result of being forced out of her job because she had a child without official permission. Her hospital birth expenses, which she was legally entitled to, appropriated by the officials. On one of her trips to Harbin to petition she was abducted by police and taken to a mental hospital where she was subjected to forced medical treatments by the staff. She was never examined by a health care provider. During her time in the hospital she reported being violently assaulted by other inmates.

The police pressured her to sign a document promising to discontinue her petitioning several times but she refused. Despite her recalcitrance, she was finally released to see her child but as soon as she went to petition her case again she was again taken into the mental hospital.

In a final example of a petitioner being incarcerated in a mental hospital until they sign renouncement forms, Hunan female worker's rights petitioner Liu Ping Yin, 刘萍因, was put into a mental hospital twice by local officials. She had been petitioning about the lack of compensation after the bankruptcy of her previous employer. In 2003 the diesel engine company she worked for declared bankruptcy but several years later the local government was still deliberately refusing to pay the bankruptcy relocation compensation to the displaced workers. In 2006 she moved to Beijing to petition.

She was first incarcerated in September 2006 after the Supreme People's Procuratorate in Beijing informed the Beijing office of the Hunan provincial government of her activities. She was then taken to a mental hospital in Hunan. There she was examined by doctors. They concluded she was not mentally ill, so the Hunan officials kept her locked in a hotel for a week against her will before releasing her.

Again in 2007 she was intercepted in Beijing and taken back to a mental hospital in Hunan where she was detained for 42 days and subjected to treatment against her will. She was given several injections of unknown medicine. Throughout this time she protested that it was illegal to continue holding her but the local officials refused to release her and forced her family to sign a notice guaranteeing they would not allow her to petition in Beijing again. Liu later reported that of the petitioners in Beijing, at

⁵¹ *Meiguozhiyin: wuda bodao shangfang jie tan bei guan jingshen bingyuan* (Voice of America: Wuhun University Professor exposes corruption and is forced into a mental hospital) Civil Rights and Livelihood Watch: <http://www.msguancha.com/Article/ShowArticle.asp?ArticleID=2545> (CN)

least 60% of them had been detained at one time or another in a mental hospital.⁵²

Exploiting the legitimate use of mental hospitals to intimidate petitioners into denouncing their causes as in the previous cases is becoming more common and in fact certain provincial governments are writing these practices into law. In one official government document from Heilongjiang it states that petitioners will only be released from mental hospitals when they agree to stop petitioning and promise not to contact media domestic or international organizations about their case or treatment in the mental hospital.⁵³

In the Xintai case, see *Introduction*, the article also stated that the Xintai Letters and Visits Department, the relevant government bureau responsible for petitioning, website announced that the department intended to use public security apparatuses to attack petitioners who are not abiding by the law and to use legal psychiatric evaluations to deal with other petitioners. While some local and provincial governments have announced such intentions and regulations, others simply operate with the same mentality regarding administrative detention in mental hospitals.

Petitioners who refuse to sign these documents, in most cases, are held for indeterminate periods of time or find themselves the victims of frequent re-incarceration.

TORTURE

The case of Xu Lin Dong, 徐林东, a petitioner in Henan has received coverage in a number of online Chinese news sites and blogs⁵⁴. Xu has been incarcerated in a mental hospital against his will for 6 and a half years. He was first apprehended by local officials in order to stop him from petitioning Beijing on behalf of his disabled neighbor over a land dispute with the same local officials responsible for his forced committal. Over the course of his six and a half years of hospitalization he has been tied up 50 times and tortured with electroshock 55 times. He attempted to escape twice. As a result of his harsh treatment and seeming hopelessness of his situation he also attempted suicide. As a result of forced

⁵² *Hunan zhuzhou nuzhigong shangfang weiguo bei qiangxing songjin jingshen bingyuan* (Zhuzhou Hunan female worker petitioner is unsuccessful and forcibly committed to a mental hospital) China Labour Bulletin: <http://www.clb.org.hk/schi/node/129240> (CN)

⁵³ *Nujiaoshi shangfang beiguan jingshen bingyuan si nian duo* (Female teacher and petitioner forced to more than four years in a mental hospital) Peacehall: <http://www.peacehall.com/news/gb/yuanqing/2003/01/200301080909.shtml> (CN)

⁵⁴ *Henan Luohe nongmin zhanggao xiang zhengfu bei guan jingshen bingyuan 6 nian ban* (Henan Luohe
CHINESE URGENT ACTION WORKING GROUP
人权卫士紧急救援协会

medication and electric shock treatment and other regular punishments his health has deteriorated severely.

He is currently held in the Luohe City Mental Hospital in Henan province. He was first intercepted, in October 2003, by the local authorities while he was petitioning his neighbor's case in Beijing and forced back to Henan. At the time he was first housed in the Zhumadian City Mental Hospital but in December 2009 he was transferred to his present location, Luohe City Mental Hospital.

His three brothers have tried repeatedly for his release but have, in all attempts, been refused by the deputy head of the hospital Ding Hong Yun, 丁红运, who made it clear that the local government will decide when he is fit to be released. A nurse informed them that the local government was paying the hospital 1500RMB a month to retain Xu.

His brothers and their lawyer were able to obtain his medical records from the Zhumadian Mental Hospital. They found that the original diagnosis given one month after he was first incarcerated was, 'paranoid personality disorder.' However, later medical records stated that subsequent examinations found him to be completely mentally normal. The reasons for the initial diagnosis clearly relates to his petitioning activities: he said he would continue to sue the local government and petition Beijing so he was forced into the hospital.

In Heilongjiang Bao Aiguo, 包爱国, has watched both of his parents suffer under the heavy handedness of the Ankang system. On May 3, 2006, Bao Zhangfu, 包长福, Aiguo's father, signed a contract with the Red Bridge Land Reclamation Bureau of Heilongjiang for the 30 year lease of 200 acres of barren hills but they were not given a written copy of the contract, despite repeated requests.

Many villagers helped to plant trees to forest the hills. After almost four years of hard work cultivating the land, the Bao family was on the verge of realizing the economic benefit of their efforts. According to Bao Aiguo the land reclamation bureau was also making secret contracts with other parties for grazing contracts. There were several fires Bao attributed to sabotage. Then on May 18, 2009 a field worker Zhang Yongchen, 张永臣, and several others drove a large vehicle knocking down 7,000 pines. Bao grabbed them, and planned to press charges.

peasant sues the township government and is detained in a mental hospital for six and a half years)
http://law.southcn.com/c/2010-04/23/content_11342916.htm (CN)

However, because Zhang was colluding with the land bureau Bao found that it was impossible to receive compensation for their serious economic loss. Bao's 75 year old father began to petition but was quickly arrested and kept in detention for seven days.

On December 31, 2009 Bao Zhangfu went to Beijing to petition for compensation again. He was intercepted and taken far from his home and incarcerated in a mental hospital, where he remains to the date of this reports publication. Bao's mother was also very old and the stress and trauma of the first ordeal and then having her husband incarcerated was too much. She suffered a heart attack and died. Bao's wife has also suffered greatly under their persecution and suffered a mental breakdown, she is receiving medical treatment. They had invested 10 million RMB in the land and were heavily in debt. Bao has tried to petition for his father's case and for the initial land issue but has not met with any success.

Jiangsu resident Liu Zhi Ming's, 刘志明, 27 year old son Liu Heng Chang, 刘恒昌, was beaten to death by hospital employees while he was receiving treatment for depression. He was committed by his father and sister. When the authorities returned his body they saw that his eyes, tongue, larynx, trachea, both his bronchial tubes, small intestine, large intestine, belly button, anus, penis, and testicles had all been surgically removed. The official cause of death was given as some kind of brain injury leading to pneumonia; the family was not permitted to be present when the autopsy was carried out.

His son, Liu Heng Chang, was first sent to the Shanghai Citizens No. 2 Mental Hospital on May 21, 2004. He died on the fourth of July. After the incident Liu senior began regularly petitioning in Shanghai and Beijing for redress and for the accountability of the staff members who murdered his son. He disappeared from Beijing on September 15, 2007. It was not until weeks later that his wife and daughter were informed that he had been sent to a mental hospital. Neither family member were allowed visitation rights. It is believed that he is still being held, at the time of this report, three years later.

In 2006 Liu Xinjuan, 刘新娟, and five others traveled to Beijing on February 17th to petition against local authorities in Shanghai. She was kidnapped and first brought back to the Minhang district, Shanghai Qibao police station before being transferred, two hours later, to the Minhang district mental hospital. A persistent petitioner, she had been forcibly incarcerated in mental hospitals four

times since 2003. This time she was forced to remain in the facility for 250 days.

The police, taking charge of the doctors decision, would not let her leave the hospital. When reporters for Radio Free Asia tried to contact the hospital they were told that the hospital would not disclose the nature of Liu's illness, nor would they disclose when she would be discharged. It was later reported that during her incarceration in the Minghang district hospital Liu was beaten and forcibly injected with what she related to be poison. Liu's fate is like that of many others in Shanghai and elsewhere. Petitioners are often kidnapped, threatened, put under house arrest, or moved in and out of mental hospitals, sometimes disappearing for long periods of time.

When Hubei resident, Peng YongKang, 彭咏康, did not return from a routine trip to petition in Beijing her family was concerned. After a year of no communication and no idea where she was they feared the worst, she had 'disappeared.' It wasn't until 2008 that her family finally learned of her whereabouts through China Civil Rights and Livelihood Watch. She had been incarcerated in Wuhan mental hospital for a total of more than 600 days.

On September 21, 2009 Civil Rights and Livelihood watch reported, "We had the opportunity to meet with her face to face and discuss her situation, afterwards she reported numerous injustices. We believe that she is wholly normal. We appeal to the Hongshan District court of Wuhan to put an immediate stop to her persecution, and call for her freedom."⁵⁵

Peng's story began in 2005. After a real estate dispute peng filed a lawsuit with the Hongshan district, Wuhan, Hubei, courthouse. The judge, Li Jie, 李杰, ruled against her. She claimed the court admitted false testimony against her that resulted in a great loss of her property and personal rights.

From 2005 she began making regular trips to the Hongshan district court to appeal her case. In March of 2006 she was accosted near the entrance of the courthouse by public security officers who beat her up before taking her into custody, where she remained for 15 days. Then, on July 12, 2006 while seeking an audience with the bureau chief of the local Letters and Visits bureau she was forcibly taken to the Wuhan Ankang hospital and detained there until November 16, 2007. During the entirety of her time in the Ankang she was heavily medicated against her will.

⁵⁵ RFI, *Guanjin jingshen bingyuan de shangfang ren yuan Peng YongKang Xiang waiji hujiu* (Locked in a mental hospital, Petitioner Ping YongKang asks the outside world for help). available online: http://www.rfi.fr/actucn/articles/119/article_17623.asp (CN)

On March 3, 2008, when she went to Beijing to petition, she was again taken away by force, by the Wuhan Letters and Visits Bureau staff. The next evening she managed to make a phone call using someone else's phone. She called CRLW to inform them of her location but when CRLW followed up, they discovered that she had already been transferred, from that time on she went missing for the next year.

Finally, in 2009 Peng managed to get a letter out, it was addressed to 'the outside world.' In the letter she wrote that she has already been incarcerated in a mental hospital for 607 days. She related that her life was miserable. She had very little to eat and was constantly hungry and suffering from stomach pains. While other patients were allowed to receive food from their families, Peng was not allowed contact with her family. Again, while other patients received new clothes from their families, Peng was forced to collect and wear the old clothes other patients threw out.

Wu Xiulan, 吴秀兰, is a petitioner from Tangjiang village in Nankang county, Jiangxi province. She has traveled to Beijing several times to press her case. She is 70 years old. On November 6, 2004, while she was petitioning in Beijing, representatives from Nankang county intercepted her and immediately forced her back to Nankang. On November 8, after returning to Nankang she was not allowed to return to her village, rather she was sent to the Ganzhou prefecture level Number 3 people's hospital. While there Wu was forced to take anti-psychotic drugs. Later she related that she was forced to endure countless injections, which started to leave her handicapped. She started to have serious trouble walking.

After she was discharged she resumed her petitioning and then on November 30, 2005 she was taken to the Tangjiang mental hospital. She was forcibly hospitalized until march 2007, by that point her health had seriously deteriorated. Her son was issued a document asking him to guarantee that she would halt her petitioning. He signed it to secure her release but shortly after she returned to Beijing. She has not returned home since. She told Boxun, "I don't dare return. If I return, they will kill me."⁵⁶

In 1997, after Hubei residents, Jin Han Yan (金汉艳) and Jin Han Qin (金汉琴), sisters, graduated from agricultural college they were entitled by law to job placement, unfortunately employment never materialized. They began to petition in Beijing. Between 1997 and 2009, as a direct result of their petitioning, they were detained for 10 days and 15 days, sentenced to RTL for one year and nine

⁵⁶ *Jiangxi Ganzhou fang min Wu Xiulan liangci bei guan jingshen bingguan*(Jiangxi Ganzhou peasant petitioner Wu Xiulan twice incarcerated in a mental hospital)
<http://news.boxun.com/news/gb/china/2010/03/201003312050.shtml> (CN)

months and then after release from RTL were again detained, this time in a Black Jail for 216 days. Finally in September 2009, while in Beijing, they were abducted from their home by a large group of PSB officers and taken back to Shiyan city. Shortly after they were taken to their respective mental hospitals. Jin Han Yan was incarcerated in the Shiyan Red Cross Hospital, and her sister Jin Han Qin the Dongfeng Maojian Mental Hospital in the same city.

They reported being constantly subjected to forced injections and constant beatings whilst in the hospitals. Jin Han Qin describes being given at least 4 different medicines three times a day for seven months, and now she says she suffers from constant headaches, and organ illnesses. The medicines included Sulpiride, and anti-psychotic, Vinocetine, a cerebral metabolism activator, Risperidone, another anti-psychotic, and several types of sedatives. She stated that she was forcibly sedated with anesthetic for 12 consecutive days after a visit from her father in March 2010; she was forcibly sedated in this way on two other occasions.

According to the chief nurse, the Maojian hospital is paid 5000 RMB every month by the local government for each petitioner kept in the hospital.

Liu Shi Hui , a human rights lawyer recently denied renewal of his license, took on their case. He has stated that the head nurse informed him that the sisters would be released only after they agreed to sign documents promising never to petition again.

Liu Shi Hui attempted to bring administrative proceedings against the local government but the local court refused to accept his case. He presented his pleadings and evidence (including a computer hard disk containing the recordings of his conversations with the two sisters inside their respective mental hospitals and video taken at the time) to the Maojian District court and the Zhangwan District Court. The Tumen village and Yunxi county governments and the Yunxi county PSB were the actual entities named in the documents as having harmed the Jin sisters by illegally detaining and subjecting them to treatment in mental hospitals against their will.

The Maojian District court officials first refused to accept the case on the grounds that it should be the Yunxi county court who accepts the case (being the Jin sisters official place of residence), whereas Liu felt that the Maojian District court had the right to accept the case as it is the closest to the place where Jin Han Qin was being held.

Finally the court accepted the papers and agreed to give an answer within a week. However at the Zhangwan District court, where Liu had gone to register the case earlier but had been turned away as court officials were having a meeting, his documents were later flatly rejected by the head judge Wang, who said they didn't meet the criteria for accepting cases. Liu argued with Wang and demanded to know why they didn't meet his criteria (especially as he hadn't looked at them yet), but Wang refused to discuss the matter. Liu was forced to leave the documents at the case registration counter. Wang even threatened to detain Liu if he persisted in arguing.

However, on April 22, 2010, after considerable diligence, Liu's efforts paid off and the two sisters were finally released. The sisters plan to get a full medical check up to find out if their recent seven months of heavy forced medication has left any serious long lasting side effects, especially for their liver and kidneys. Liu has stated that he is sure the heavy medication and sedation were done purely as a kind of punishment.

VICTIMS USING THE LAW FOR REDRESS

To end this section with a hint of optimism, while the majority of crimes committed against patients inside China's mental hospitals go unpunished there are occasionally cases where someone who has been mistreated or illegally detained has won compensation but these cases are very infrequent.

One such example is that of a petitioner named Yang Wen Ming, 杨文明. Yang had become a persistent petitioner at the Shihe district Letters and Visits Department in an attempt to solve unspecified 'work problems.' On January 4, 1999 he was turned away from the department twice, and on his way back home he was grabbed by 4 unidentified men and forced into a waiting car. The deputy director of the Letters and Visits Department, Tu Cheng, 涂成, was present at the time of his kidnapping. Yang was taken to the Xinyang Mental Hospital and kept in a locked cell, all along being given excessive doses of medicine.

He subsequently escaped, on January 18, by jumping out of a window. On March 30, 1999 Yang and his mother traveled to Wuhan, Hubei province and to have himself examined at the Wuhan Psychiatric Health Center. They found no psychiatric illness. He subsequently brought charges against the local government who had forced his hospitalization. After filing, court officials and a doctor visited Yang at work. The doctor made a diagnosis of paranoid psychosis and as a result the court of

first instance dismissed his suit. However, after appealing the original verdict he eventually won his appeal. The final court awarded him compensation for damage to his mental health, lost earnings, medical expenses and damage to his reputation. His main legal defense was that even if he had had a mental illness the government and mental hospital's actions were illegal as they were operating without his nor his guardian's consent.

A PLA veteran and environmental petitioner from Nanyang city Henan province named Ren Guo Chao (任国朝) attempted to travel to Beijing with a sample of polluted Danjiangkou reservoir water on 3 March 2003, but was stopped at the train station by several colleagues and prevented from leaving. His employer, a residential accommodation accumulation fund management centre (which may or may not be directly controlled by the Nanyang city government), was concerned about being criticized by higher authorities if one of its employees began petitioning Beijing.

The Danjiangkou reservoir is one of the main water sources for the central route of the national water transfer project from south to north China (there are three routes planned, western, central and eastern), and Ren was very concerned about the pollution he found in its water.

Two days later on the evening of March 5, 2003 Ren was forcibly taken to the Nanyang No. 4 Hospital by six male hospital staff at the request of his employer, who claimed he was mentally ill and required treatment.

Family and friends who knew that Ren was not mentally ill attempted to have him released, but were asked to sign a form guaranteeing he would not petition again as a condition to his release. He was eventually released on March 20, 2003, but began suffering from numerous physical ailments brought on by his treatment in hospital, which included electric shock therapy and heavy medication.

Ren succeeded in reaching Beijing to highlight the water pollution in Danjiangkou after his release – by walking for 47 days. On his arrival he poured the bottle of Danjiangkou water into the Summer Palace lake, and attracted the attention of media organizations such as CCTV, Xinhua and the Beijing Youth Daily. Over 20 media outlets published articles on Ren and his campaign, with CCTV 10 later broadcasting a special report on March 4, 2004.

On September 17, 2004 Ren brought a civil lawsuit in the Wolong District Court against two colleagues who played a large role in having him committed, Nanyang No. 4 Hospital, his employer

and the Nanyang city Finance Bureau, requesting an apology, compensation for the physical, mental and financial damage caused by his forced treatment and the restoration of his reputation in the national media.

On May 27, 2005 Ren became involved in an altercation with a colleague, who sustained a slight injury to his head. Ren was evaluated by the Henan province psychiatric evaluation department and was found to be suffering from paranoid schizophrenia. This meant he was not held criminally responsible for assaulting his colleague, but would also mean he would not be able to continue with his civil lawsuit. The court hearing his lawsuit ordered that he be evaluated by a Shanghai psychiatric evaluation centre in October 2005. In December they concluded that Ren was not suffering from any mental illness and had the capacity to continue with his civil lawsuit.

On March 20, 2007 the Wolong District Court ruled that the psychiatric evaluation carried out by the Nanyang No. 4 Hospital at the time of Ren's incarceration was not incompatible with the two evaluations carried out subsequently as they represented Ren's mental state at different points in time. For this reason Ren's claims were dismissed. Ren appealed, and on November 30, 2007 the court delivered a second ruling.

The second ruling held that there was insufficient evidence of any kind of mental illness in 2003 to justify sending him to the Nanyang No. 4 Hospital for treatment, and that his employer and the Nanyang No. 4 Hospital should bear legal responsibility for this malfeasance, which resulted in serious damage to Ren's mental and physical health.

The court ordered payment to Ren of 157,000RMB, representing compensation for the damage to his mental health, medical and transportation and sustenance expenses. His employer was ordered to take responsibility for any future medical expenses incurred. Ren's request for a restoration of his reputation in the national media was rejected as impractical and unnecessary. The court ruled that his employer should issue an apology.

His employer then appealed this ruling; however, on September 3, 2008 the Nanyang Intermediate Court upheld the 157,000RMB compensation payment and ordered that Ren's employer make a formal apology to him.

A more recent example of a successful suit, a Yangzhou petitioner identified in court documents only

THOUGHT CRIMES:

China's use of psychiatric institutions as detention centers

by his surname Niu, 牛. He had been petitioning with grievances against the local government included levying illegal and hefty charges on local farmers. He took his petitions to the Jiangsu Provincial Forestry Department because the local government was not responsive. Government officials and local police eventually took him to the Wutaishan Mental Hospital where he was diagnosed as having a paranoid personality disorder.

After spending nine years fighting the diagnosis he finally got the diagnosis overturned. In October 2009 he convinced the local Procuratorate to pressure the PSB into reviewing his treatment. On November 10, 2009 an out of court settlement awarded Niu 9,000 RMB in damages.

THE SYSTEM AND ITS OPERATION

“Whoever challenges the CCP leadership and undermines the socialist system can be treated as an enemy of the state.”⁵⁷

After the 16th party congress, (中国共产党第十六次全国代表大会 *Zhōngguó Gòngchǎndǎng Dìshíliùcì Quánguó Dàibiǎo Dàhuì*; abbreviated *Shíliù-dà* [十六大]), November 8-14, 2002, adopted *wending yadao yiqie*, stability over all else, as the crux of all new legislation, several major changes occurred in the treatment of unwanted elements in society. The rate of incarceration in reeducation through labor drastically increased and shortly after, around 2003 or 2004, the first reports of Black Jails surfaced.

A Beijing human rights lawyer noted, after 2006, in preparation for the August 2008 Olympic games and the Oct 1, 2009, 60th Anniversary, again the rate of sentencing skyrocketed but this time it was also observed that the rate of incarcerations in mental hospitals had dramatically increased over previous years.⁵⁸ Because 2010 witnessed a sudden rash of violence against children, responding to the public outcry for answers the government has increased its profiling of the 'criminally insane' to persecute not only violent and dangerous elements of society but also those who challenge the CCP.

Forced hospitalization is a convenient way for local governments and police to silence burdensome petitioners and other dissidents. Indeed, Liu Feiyue told the Chinese Urgent Action Working Group that people sent to Ankang hospitals are primarily those who independently express their opinions, dissidents, petitioners, human rights defenders, because their behavior jeopardizes, 'national security and stability.'⁵⁹ It is made easy by deficiencies in oversight of police powers in China and limited funding for the psychiatric profession.

A SMALL WINDOW INTO POLICE AND POLICE POWERS

The police are the most powerful institution in China's criminal justice system. The Minister of Public Security has always had close relations with the highest echelons of the CCP. Zhou Yongkang, for

⁵⁷ Fu Hualing, *Comparative Criminal Law and Enforcement: China-Concept of Crime, The Institutions of Criminal Justice, Powers and Process of the Criminal Justice Institutions*, available online: <http://law.jrank.org/pages/652/Comparative-Criminal-Law-Enforcement-China.html>

⁵⁸ Interview: Sun, 30 May 2010

example, the current Secretary of the CPC Central Political and Legislative Committee and a member of the Politburo Standing Committee, the highest rung of power within the CCP, previously served as the Minister of Public Security and the Chief of the Ministry of Public Security before his current position.

This close relationship, and official obsession with perceived stability, grants the Ministry of Public Security with extensive powers and extends their mandate into every facet of life in China: through the exponential growth in surveillance technology and implementation.

During the 1980s and China's push to develop its legal environment amid growing economic liberalization many laws were promulgated that aimed to limit the scope of MPS powers; however, the accompanying decentralization of power provided for police at regional levels to continue dominating the criminal justice system in patently asymmetrical alignment with local officials over ordinary citizens.

Furthermore the decentralization of political and economic power has created a system where the primary metric of success for local officials, the chance of promotion, is directly linked to silencing dissent. The current landscape of local corruption and coercive anti-petitioner mentality operates with often tacit but sometimes outright approval from the central government. Where the political elites are focused more on creating the impression of harmony than actually addressing grievances, rampant human rights violations occur. The person most often in charge of bridging political needs with criminal justice to maintain a semblance of harmony is the chief of police.

The chief of police is selected from the local political elite and generally holds three key positions: member in the Standing Committee of the local Party Committee; chairman of the local Political and Legislative Committee; and deputy mayor/governor in the regional government.⁶⁰ Therefore, when petitioners bring grievances of local government corruption or abuse the chief of police often has a personal stake in silencing the petitioner rather than tending to the claims.

While there are laws that govern the procedural requirements of the police, such as, inter alia, the Criminal Procedure Law, Criminal Law, Police Law, and Administrative Procedure Law, they are generally weakly enforced.

⁵⁹ Interview: Tues, 08 June 2010

Article 42 of the Police Law states that the police are to be supervised by the Procuratorate and that, article 43, police at higher levels exercise supervision of law enforcement at lower levels. Public Security bureaus shall establish a supervisory system to monitor the police's enforcement of laws and its observance of discipline, article 47.

Furthermore, article 48, any law enforcement official who commits an action stipulated in article 22 of the Police Law shall be investigated and punished accordingly. The relevant sections of article 22 state that the police are forbidden to: 22.4, extort confession by torture or subject criminals to corporal punishment or maltreat them; 22.5, unlawfully deprive other people of, or restrict, their freedom, illegally search a person, his or her belongings, or residence; 22.7, beat up another or instigate such actions; 22.12, other acts in violation of law and discipline.

However, as evidence in several cases above demonstrates, the police seldom impartially monitor from within and crimes committed by the PSB within mental hospitals often go unreported, investigated, or punished.

There are few measures to protect the rights of a suspect, while there are several measures that allow for the stripping of rights in the process of an investigation if the police decide that any number of conditions are present. That is, while the law encourages the police to discover the facts of a case, once they have reached a decision, all following investigations essentially become vacuous formalities, including mental health examinations by independent health care providers.

Each district in Beijing, for example, has its own independent mental illness prevention and control center administered by the district government. Based on our investigation Chaoyang District has the largest such facility.⁶¹ Over the whole country there are similar centers. This means that local and district governments have considerable control over the implementation of standards for their district's mental health centers.

The idea of this autonomy is to provide the hospital with the ability to accept sudden admittance of patients brought by the police or government officials. In practicality this translates to affording government officials or the police ultimate decision making power to essentially make diagnosis. Under these circumstances doctors cannot really doubt, challenge, or make public their opposition to the decisions of the police.

⁶⁰ *ibid.*

ADMINISTRATIVE PUNISHMENTS AND ARBITRARY DETENTION

The police can bypass the entire legal system and effectively avoid responsibility to the procuratorate, the court, or any other institution outside of the Ministry of Public Security by administering administrative penalties. Punishment for public order offenses can be imposed by the police summarily. The powers of the Ministry of Public Security under administrative penalties are quite broad, and the methods can be quite severe.

Minor offenses are those that are not explicitly stated in the criminal law. The police are granted the authority to mete out administrative penalties for all minor offenses. This means that there is no public hearing and the accused does not have the right to a lawyer or trial. Someone who feels that their rights have been trampled can appeal to a higher authority or court but the court can only subsequently review administrative penalties and such decisions of the police, as seen in the few cases above.

There are currently two main types of administrative penalty allowed by law in China. The first is simple public order punishment, brought into effect under the 1957 Regulations on Penalties for Public Security. The Regulations provide the police with the power to issue a warning or fine, or place someone in administrative detention for not more than fifteen days.

The second main type of administrative penalty is Reeducation Through Labor (RTL). This system of highly abusive, primarily preoccupied with, punishment of political incorrectness has no substantive legislative authority. It has drawn considerable international and domestic condemnation.

Identical to the management of the Ankang system, the police control the intake process and administer the RTL system. The range of minor offenses being punished within RTL is also similar to those within the Ankang system, "a great variety of offenders, ranging from thieves to prostitutes, drug addicts, and political dissidents, have received RTL penalties. Approximately 150,000 offenders are incarcerated under the RTL regime each year."⁶²

Until 1979 the term of incarceration within a Reeducation Through Labor camp was indefinite. After 1979 new regulations put a three year limit with a possible one year extension on the time of incarceration. However, because the decision to incarcerate within RTL is an administrative

⁶¹ Interview: Wed, 26 May 2010

punishment, left entirely to the police, the ability to repeatedly incarcerate an irksome petitioner or activist is theoretically available.

Wang Wanxing told the Chinese Urgent Action Working Group, "Ankang has become a tool to put pressure on petitioners, it has become more widespread and mysterious...even more dark and mysterious than RTL."⁶³

According to the Chinese government, the average term of hospitalization in an Ankang facility is five years but many inmates are held for more than 20 years. Wang Wanxing told Human Rights Watch after his release in 2005 that some of his fellow inmates had been held for upwards of 40 years.⁶⁴

THE BURDEN OF PSYCHIATRY

The Chair of the Geneva Initiative on Psychiatry commented:

...the vast majority of Chinese psychiatrists are good, ethical colleagues who almost certainly abhor political abuse and do not practice it. The point is that political abuse goes on at a governmental level, that is, through the security organs, just as Soviet abuse was essentially dictated by the MVD and KGB...⁶⁵

It is important to note that there are cases where mental health care providers are acting against their will and forced to comply with the orders of the Ministry of Public Security out of fear for their own livelihood, as reported above in the Xintai case. Or when victims of psychiatric abuse in Xuzhou Mental Hospital in Jiangsu Province, for example, asked why they were given drugs and medical treatment even when they were not sick some hospital staff responded, "It is not up to us; people at the top instructed us to do so. We don't want to treat you like this but we don't want to lose our jobs either."⁶⁶

⁶² Fu Hualing, *Comparative Criminal Law and Enforcement*: <http://law.jrank.org/pages/652/Comparative-Criminal-Law-Enforcement-China.html>

⁶³ Interview: Wed, 09 June 2010

⁶⁴ "Political Prisoner Exposes Brutality in Police-Run Mental Hospital Eyewitness Testimonies from Notorious Ankang Asylum," November 2, 2005. <http://www.hrw.org/en/news/2005/10/31/china-political-prisoner-exposes-brutality-police-run-mental-hospital>

⁶⁵ Jacoby, Robin 2005, 'Psychiatric Abuse in China', *Psychiatric News*, 3 June, Vol. 40, No. 11: <http://pn.psychiatryonline.org/content/40/11/33.1.full?maxtoshow=&HITS=10&hits=10&RESULTFORMAT=&fulltext=china&searchid=1&FIRSTINDEX=0&sortsp ec=relevance&resourcetype=HWCIT>

⁶⁶ Conscience Foundation, "Psychiatric Torture in China,"

Such commentary from hospital staff, that the will of the police can trump the facts of the diagnosis, is unequivocal evidence that the current system is maintained for illegal and arbitrary functions. That the rudimentary mental healthcare regulations state requirements for professional and independent psychiatric examination and evaluation before committals is nothing but a rhetorical tactic to maintain the appearance of a legitimized system.

The ability for mental health care providers: doctors, nurses, and other administrators to act autonomously, i.e. more in line with international and domestic mental health and human rights standards, and the well being of the patient rather than forced obsequiousness to the local police, is impeded in two major ways.

The primary and more obvious way is that mental healthcare providers in Ankang hospitals are employed by the MPS. They are required to comply with the decisions of their superiors or face termination. They are forced by the threat of losing their jobs, or sometimes more severe intimidation tactics to, as the testimonial above notes, do as the people at the top instruct. The second major cause behind healthcare practitioners' difficulties acting independently from the demands of the police stems from a serious lack of funding.

China's reported healthcare spending is about 5% of its GDP, and 80% of healthcare spending goes to the cities, despite the fact the roughly 70% of the population still live in rural areas. Most petitioners, while they travel to urban centers, are from rural areas and once they are detained are often returned to their localities. Despite the national level Chinese Society of Psychiatry, The National Mental Health Project of China, and several Ministry's insistence on the importance of greater mental health education and training, a 2008 study noted,

“psychiatry still occupies a historically low status within the medical profession; medical students tend to avoid entering psychiatry. A 1999 report found 13,000 physicians working in psychiatric hospitals, with only 2000 of them fully qualified psychiatric specialists or consultants; and most mental health workers had only high-school education, with very few allied professional such as psychiatric social workers.”

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The study went on to state, that in a 2002 study it was calculated that the Chinese national average of

<http://www.consciencefoundation.org/index.php/commentary/chinese-issues/225-psychiatric-torture-in-china>

psychiatric health care provider to patient is about 1:63,000, or one-sixth of the level when compared to figures in more developed countries.

This burdensome physician to patient ratio and general limited funding for mental hospitals translates to not only a diminished quality of care but also a stifling environment for health care providers. It furthermore, encourages low labor intensive treatment methodology, e.g. heavy medications and/or electroshock.

Because of this medication rich methodology it is easier for the admitting police officers or officials to manipulate the level of disturbance among politically sensitive committals. Doctors who are encouraged, or forced, to medicate and sedate rather than speak with patients are less likely to have a clear perspective of the nature of patient's mental state.

Out of this environment of limited funding comes the highly related final piece of evidence that mental hospitals are being used more as a further site for administrative, arbitrary, detention: the fact that in some cases local governments are paying hospitals bonuses for holding petitioners, see the cases of Xu Lin Dong and the Jin sisters. Because hospitals, and mental hospitals in particular, are quite underfunded in China, the opportunity for hospitals and hospital staff to augment their salary with government funds for holding petitioners creates a nefarious economic incentive.

Local governments are incentivizing the forced detention of petitioners with large sums of funding similar to the way in which Black Jails charge a holding fee from local governments. It has been noted that Black Jails charge a per day lock-up fee from local governments to detain petitioners. The price is contingent on the petitioner's place of residence; petitioners from rural areas cost less to detain than do those from urban settings. This practice is clearly not authorized by any municipal or national regulation.

Addressing and resolving the concerning situation discussed in this report is obviously a very complicated task due to the intricate nature of interaction between the police and the government. It is further complicated by the level of power exercised by the police and the relative weakness of the psychiatric profession because of limited funding. The various coercive and highly developed

⁶⁷ Law, Samuel F. 'Are western community psychiatric models suitable for China? An examination of cultural and socio-economic foundations of western community psychiatry models using assertive community treatment as an example', *International Journal of Culture and Mental Health*, 1:2, 134 - 154

THOUGHT CRIMES:

China's use of psychiatric institutions as detention centers

methods allowed and employed by the police and local government means that this system has not only been a long established institution but shows little sign of improving.

RECOMMENDATIONS

RECOMMENDATIONS TO THE NATIONAL PEOPLE'S CONGRESS

- In order to protect against the violations discussed in this report, a single national Mental Health Bill must be enacted and it must conform with all international standards of care and the rights of the patient;
- No national law should be accepted as legitimate unless it also provides for the protection of the rights enumerated within and carries enforceable punishments for violations; and
- Standardizing the procedure for carrying out mental health evaluations and giving the subject of the evaluation and their family members proper notice and explanation, making sure the evaluations are only carried out by fully qualified institutions or individuals acting independently from third party pressure is necessary.

RECOMMENDATIONS FOR PSYCHIATRIC INSTITUTIONS AND ANKANG CENTERS

- It should be ensured that the people carrying out the evaluations understand the petitioner's background and read all documentation to do with their grievance and why they have been petitioning and clarify any questions or discrepancies found in paperwork and check that the legal requirements and procedures for carrying out an examination have been taken to ensure the fairness of the evaluation;
- Mental health care providers must properly distinguish between the anger, frustration, despair etc. commonly experienced by petitioners and actual mental illnesses;
- Distinguish between petitioners who have full control over their actions and those who don't (the latter being characterized by an inability to adapt to normal society and control their actions properly, symptoms of genuine mental illness); and
- The institution carrying out the evaluation should promptly notify the instructing agency of the result, provide the evidence and a proper certificate of evaluation.

RECOMMENDATIONS TO THE WPA

- Addressing these violations should be a heavily discussed issue at the upcoming WPA International Congress on September 1-5, 2010 in Beijing;
- China should extend an unlimited invitation to the World Psychiatric Association and the to conduct a fact-finding mission;
- if this mission or other evidence does in fact confirm the reported presence of political abuse the WPA should take immediate action; and
- The WPA should not accept any excuses or reasons for the presence of abuse.

RECOMMENDATIONS TO THE UNITED NATIONS SPECIAL RAPPORTEURS ON PHYSICAL AND MENTAL HEALTH AND TORTURE

- China should extend an invitation to the UN Special Rapporteur on Physical and Mental Health;
- Invite the UN Special Rapporteur on Torture to return to judge the change in conditions since his last visit; and
- If cases of extreme violations are found by any of these investigating bodies, they should take immediate action to engage with China on ways to eliminate them, without putting undue burden on non-violating mental healthcare providers, and improve their mental health system.

CONCLUSION

The politicization of mental health in China has a long history. The use of mental hospitals to persecute dissidents reached its apogee during the chaos of the Cultural Revolution but as this report has demonstrated it has far from faded from the repertoire of the local and national Public Security Bureaus. The freedom of the Ministry of Security to administer these hospitals without legitimate independent domestic or international oversight only guarantees that this system will not likely diminish from use.

In order for this system to be treated as anything but an extension of administrative punishments such as RTL or the Black Jail network by the Ministry of Public Security and the police certain steps must be taken, including increasing funding for mental health and respecting the authority of qualified health care providers to determine if someone is legitimately ill. As long as Ankang hospitals are run with the same autonomy as RTL, the abuses are guaranteed to continue.

Furthermore, the international community must be watchful that, in an attempt to evade the increasing international attention and pressure on both RTL and Black Jails, the next Chinese government, at the 18th Party Congress in 2012, does not move away from these forms of overt control and detention toward more silent, but no less abhorrent, forms of coercion. That is, unless the Ankang system, in particular, and mental health facilities, in general, are subjected to the same scrutiny as the previously mentioned systems it is extremely unlikely that these human rights violations will decrease and in all actuality it is possible that they will increase.

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]