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World Report 2010 - China

Events of 2009

In 2009 the Chinese government continued to impose restrictions put in place for the 2008 Olympics, fearing unrest around a series of "sensitive" anniversaries including the 20th anniversary of the Tiananmen massacre and the 60th anniversary of the founding of the People's Republic of China. Officials obstructed civil society organizations, including groups and individuals working with victims of the May 2008 Sichuan earthquake, broadened controls on Uighurs and Tibetans, and tightened restrictions on lawyers and human rights defenders.

The Chinese Communist Party continues its monopoly on political power and, despite legal system reforms, requires judicial institutions to toe the party line. Citizens face significant limits on freedom of expression, association, and religion; government surveillance and censoring of internet communications is far reaching. While China's international profile and economic clout continue to grow, it is also drawing increasing international scrutiny for a foreign policy that fails to prioritize civil and political rights.

Freedom of Expression

China's journalists, bloggers, and estimated 338 million Internet users are subject to the arbitrary dictates of state censors.

Proponents of freedom of expression in China scored a rare victory on June 30, 2009, when the Chinese government indefinitely delayed a plan to compel computer manufacturers to pre-install the Internet filtering software Green Dam Youth Escort on all personal computers sold in China. That decision followed weeks of scathing criticism from some of China's more than 300 million netizens, unprecedented opposition by foreign computer manufacturers and international business associations, and a threat from both the United States trade representative and secretary of commerce that Green Dam might prompt a World Trade Organization challenge.

At this writing at least 28 Chinese journalists are in prison on ambiguous charges including "inciting subversion" and "revealing state secrets." In May 2009 authorities in Guangdong province demanded that state media outlets reduce "negative" coverage of government officials and public protests, among other issues. On August 31, two private security guards employed by the Dongguan municipal government in southern Guangdong province attacked *Guangzhou Daily* reporter Liu Manyuan when he attempted to take photos at a crime scene. The guards beat him, prompting his temporary hospitalization.

On February 13, 2009, the Chinese government issued a new "code of conduct," which threatens Chinese news assistants working for foreign correspondents with dismissal and loss of accreditation for engaging in "independent reporting." Foreign correspondents also noted an increase in reprisals against sources in 2009, particularly in the run-up to the one-year anniversary of the massive May 12, 2008, Sichuan earthquake. On April 6, 2009, for example, security forces in the Sichuan town of Shifang temporarily detained a father whose child died in a collapsed school to prevent him from speaking to a German TV crew.

Foreign correspondents in China also continue to face restrictions and are barred from visiting

Tibet freely. The Chinese government allowed significantly greater foreign media access to Urumqi following deadly rioting there on July 5-7, 2009, than it did to Tibet during the unrest that began there in March 2008, but access to areas outside Urumqi, particularly the city of Kashgar, was more restricted. On July 10, 2009, government authorities in Kashgar forced Elizabeth Dalziel, an Associated Press photographer, and Mark Mackinnon, correspondent for the *Globe & Mail*, to leave the city due to an unspecified "security" threat. Paramilitary police punched and kicked three Hong Kong television journalists covering a peaceful public protest in Urumqi on September 4. On September 18 a group of unidentified individuals attacked three reporters from Japan's Kyodo News Agency who were covering a rehearsal in Beijing for the October 1 National Day parade.

Activists also face persecution for working on behalf of victims of the 2008 Sichuan earthquake. Huang Qi, a veteran activist and founder of www.64tianwang.com, a website dedicated to publicizing human rights abuses across China, faced a one-day trial on August 5, 2009, on charges of "revealing state secrets" and "subversion" for his investigation of allegations that shoddy construction contributed to the collapse of schools in the earthquake zone. On August 12 Tan Zuoren faced trial on charges of "incitement to subvert state power" for compiling a list of children killed in the earthquake. Tan had also allegedly tried to organize a public commemoration of the 20th anniversary of the 1989 Tiananmen massacre. Authorities blocked the blog of renowned Chinese architect Ai Weiwei after he began posting names of student victims of the quake. On August 12, 2009, police broke into Ai's hotel room in Chengdu, the capital of Sichuan province, in the middle of the night. A policeman punched Ai in the face and then detained him for 11 hours, preventing him from giving evidence at Tan's trial.

Legal Reform

There has been slow progress in rights awareness and judicial professionalization in China, but the government continues to dominate the legal system. The new president of the People's Supreme Court (SPC), Wang Shengjun, continued the 2008 "Three Supremes" campaign, which emphasizes the centrality of the Communist Party to judicial work. Judicial personnel are asked to subordinate the demands of the law to maintenance of social stability and elimination of challenges to the party.

Reflecting growing concern over the rising number of public protests across of the country – 100,000 in 2008, up from 8,000 in 1994, according to official estimates – the SPC announced a program in September 2009 to train judges. This program aims to teach judges how to handle cases related to rising protests and so-called "mass cases," claiming that "hostile forces are gaining strength both at home and abroad" and menacing "national security and social stability."

The government also announced long-awaited revisions to the law on the protection of state secrets, a law that obstructs transparency and media freedom and is often used against human rights activists, journalists, and dissidents. The proposed revisions, expected to be adopted in 2010, do little to narrow scope of "state secrets," allow for retrospective classification of material as "secret," and extend the definition to cover internet and electronic information.

The criminal justice system remains plagued by forced confessions and torture of suspects by police, lack of due process, and sharp limits on legal representation. Officials have indicated that China will not reform its deeply flawed criminal procedure law before 2011. Government commitments to permit lawyers to meet clients in detention without prior police approval also remain unfulfilled.

In a case that generated a storm of internet debate, officials from a detention facility in Yunnan tried to explain the death of a 24-year-old prisoner, Li Qiaoming, telling his family that he died while "playing hide-and-seek." After it emerged that Li had died as a result of sustained beatings, the officials were fired.

In August 2009, however, press reports announced the drafting of measures that would make evidence obtained under torture inadmissible in court, a longstanding demand by human rights organizations and Chinese legal experts.

China continues to lead the world in the number of executions of prisoners, which different estimates put at between 3,000 and 10,000 annually, despite an official policy of reducing the number. Officials claim that the People's Supreme Court has rejected the death penalty about 15 percent of the time since it regained the authority to vet such cases in 2007.

On April 13, 2009, the government issued its first National Human Rights Action Plan (NHRAP). Described as proof that the government "unswervingly pushes forward the cause of human rights in China," the plan does not discuss serious and ongoing human rights abuses in China and does not provide a roadmap to end the violations, punish perpetrators, and assist victims.

Human Rights Defenders

China's growing number of right activists paid a high price in 2009 for their willingness to continue to push for greater civil and human rights. Police surveillance and monitoring of

NGOs, critical intellectuals, dissidents, and civil rights lawyers, often coupled with threats, warnings, or periods of house arrest, continued unabated. The government took unprecedented measures against several high profile activists whose activities they had previously treated less harshly.

In late May, Beijing judicial authorities, without giving any reason, refused to renew the professional licenses of about a dozen of China's most prominent civil rights lawyers, leaving them unable to practice law. Control over the yearly renewal of professional licenses remains one of the main obstacles to the independence of China's legal profession, but Beijing officials had until then been seen as relatively tolerant in granting renewals. One particular law firm, Yitong, was apparently targeted; some of its partners had challenged the government-controlled Beijing Lawyers Association over its mode of election and were subsequently suspended for six months in June.

On June 23, Liu Xiaobo, one of China's most well-known dissidents, was formally arrested after six months of arbitrary detention. Liu had helped draft Charter 08, a document calling for the gradual development of rule of law and democracy. Police arrested Liu on December 8, 2008, in an apparent effort to prevent publication of the charter on December 10, International Human Rights Day. Several Nobel laureates wrote a letter to President Hu Jintao asking for his release, but in June the Xinhua News Agency announced that Liu was being charged with "incitement to subvert state power," a charge regularly leveled against government critics.

In mid-July the government shut down the Open Constitution Initiative (OCI), a ground-breaking legal aid and research NGO, detaining its founder, Xu Zhiyong, and another staff member for three weeks on suspicion of "tax evasion." Beijing authorities accused Xu and OCI of not having paid taxes on a grant received from Yale University, and deregistered the group. A domestic and international outcry probably helped secure Xu's release, but China's leading public interest law NGO remains shuttered.

Other prominent activists arrested by the authorities include Xie Changfa, sentenced to 13 years in prison for attempting to set up a branch of the China Democracy Party in Hunan province, and Gao Zhisheng, whose whereabouts remain unknown since he was taken by state security personnel in February 2009. Officials continue to deny that he is in custody.

Migrant and Labor Rights

Independent trade unions are prohibited in China, leaving the All-China Federation of Trade Unions as the sole legal representative of workers.

An estimated 23 million workers, mostly internal migrants, have lost their jobs as a result of the global financial crisis since 2008. In several cases in 2009, officials helped defuse possible unrest by dispatching mediators and making severance payments. In late January 2009, for example, Shenzhen municipal government officials used a government fund to pay back wages to 2,100 laid-off furniture factory workers whose management had absconded without paying 10 million yuan (US\$1.46 million).

The household registration, or *hukou*, system, which is based on a person's place of birth, continues to effectively render large numbers of internal migrants unable to access public benefits including medical care and children's education. In March 2009 the Guangzhou municipal government announced that it would grant migrant workers rights to social insurance, vocational training, and legal aid previously reserved only for *hukou*-bearing residents. In June 2009 the Shanghai municipal government unveiled a plan to extend permanent residency status to migrants who meet rigorous educational, family planning, and tax payment history criteria, though this will only apply to a small fraction of Shanghai's estimated total of six million migrants.

Sexual Orientation and Gender Identity

Shanghai saw the country's first gay pride festival in June 2009, followed by a seven-day LGBT-themed film festival. Though homosexual conduct is no longer criminalized in China, the police shut down two film screenings and a play.

After a series of police raids on gay men's meeting places in public parks, about 100 gay men held a protest in People's Park in Guangzhou on August 25, 2009. Police questioned protest leaders for several hours in the park's public security house. This protest in defense of gay rights has been hailed as a milestone in LGBT rights organizing in China.

Women's and Girls' Rights

Chinese women continue to be victims of entrenched gender-based discrimination and violence. Women in rural areas are particularly vulnerable to abuses including gender-based discrimination, unequal access to services and employment, sexual trafficking, and violence. The case of Deng Yujiao, a 21-year-old pedicurist who on May 10, 2009, stabbed to death a local official in Hubei's Baodong town after he allegedly tried to rape her, prompted

widespread public attention to and concern about sexual violence in China.

HIV/AIDS

Chinese security forces continue to pressure HIV/AIDS activist organizations to maintain low public profiles. Chinese police forced prominent HIV/AIDS activist Wan Yanhai to leave Beijing and travel to the northern city of Changchun in the days leading up to the June 4 Tiananmen anniversary to avoid what they described as "possible conflict."

A new anti-drug law went into effect in June 2008 but fails to address ongoing abuses against injecting drug users (IDUs) that contribute to HIV/AIDS transmission. The law prohibits the use of China's notorious "re-education through labor" (RTL) system to confine IDUs but replaces it with ill-defined "community rehabilitation," prompting fears that abuses will continue under a new name.

Freedom of Religion

China's constitution guarantees freedom of religion, but the government restricts religious expression to government-registered temples, monasteries, mosques, and churches. The government vets religious personnel, seminary applications, and religious publications, and periodically audits religious institutions' activities, financial records, membership, and employees. The Chinese government considers all unregistered religious organizations, including Protestant "house churches," illegal; members risk fines and criminal prosecution. It also continues to designate certain groups as "evil cults," including the Falun Gong, and regularly cracks down on followers. There are no publicly available data about how many people are serving prison or reeducation-through-labor sentences for practicing their religion outside of state-sanctioned channels.

Tibet

The Tibet Autonomous Region and the adjacent Tibetan autonomous areas in Qinghai, Sichuan, Gansu, and Yunnan provinces remain tense, closely monitored, and saturated with troops long after the eruption of protests in the region in March 2008. Two Tibetans were executed in 2009 for their involvement in the 2008 protests. At this writing, foreigners' access to Tibet remains tightly constrained.

The whereabouts of several hundred Tibetans accused of participating in the protests remain unknown. While several trials have been held, they have been highly politicized affairs. The trials of Phurbu Tsering, a Tibetan religious leader in Sichuan, and Dhondup Wangcheng, arrested in connection with the filming of an unauthorized documentary in 2008, were indefinitely postponed by authorities in 2009 after reports of torture and serious procedural irregularities made their way to international media.

In Lhasa the authorities increased police operations aimed at identifying and detaining people suspected of hindering the government's anti-separatism campaign or planning to join protests in the run-up to the 50th anniversary of the Dalai Lama's escape to India in March 2009. These included former political prisoners and their families, minor offenders, and temporary visitors.

The government continues to arrest, detain, and sentence protesters and people suspected of having irredentist sympathies across all Tibetan areas. Authorities compel thousands of monks and nuns to follow political indoctrination programs, at times through coercive means such as collective detention in unmarked facilities.

In October 2009 Chinese officials suggested the government would resume talks with representatives of the Dalai Lama, but only if he stopped meeting with world leaders.

Xinjiang

In July 2009 Xinjiang was rocked by one of the worst episodes of ethnic violence in China in decades, followed by a massive deployment of troops and a harsh crackdown. The unrest began on July 5, when Uighurs in Urumqi protesting the killing of Uighur workers in a Guangdong toy factory turned violent after riot police tried to disperse them and arrested up to 70 of them. By that evening, large groups of Uighur youths launched brutal attacks against Han Chinese residents in southern parts of Urumqi, leaving scores dead or injured and setting dozens of buildings and cars on fire. Han Chinese mobs retaliated by attacking Uighurs. Security forces did not reestablish control until the morning of July 6. On July 7 they attempted to prevent retaliatory assaults by Han Chinese residents of Urumqi, although at least some Uighurs fell victim to these attacks. Official figures put the death toll from the protests at 197 people, the majority of them Han. More than 1,600 were injured. Uighur groups continue to question the official death toll, saying it vastly underestimates the number of Uighur victims.

In the aftermath of the riots, Chinese police, People's Armed Police, and the military conducted numerous large-scale sweep operations in two predominantly Uighur areas of Urumqi-Erdaoqiao and Saimachang. According to witnesses, the security forces sealed off

entire neighborhoods, searching for young Uighur men and boys. In addition to large-scale sweeps, the security forces also detained an unknown number of people in the course of targeted raids, usually involving smaller groups of police officers or soldiers who took Uighur men from their homes, places of work, hospitals, or the street. In some cases, the security forces seemed to act on leads received from previously detained individuals. These raids continued at least through mid-August. The victims of disappearances documented by Human Rights Watch were young Uighur men – most in their 20s, although the youngest victim was 14 years old.

Chinese authorities were quick to accuse a variety of external forces of masterminding and sponsoring the unrest. They specifically blamed Rebiya Kadeer, an activist and former political prisoner from Xinjiang living in exile in the United States, for planning and organizing the protests. No evidence, however, has been provided to support those claims, and many analysts believe the protests were largely a reaction to China's longstanding discriminatory policies toward the Uighur minority.

Chinese authorities also blocked channels of uncensored information, including the internet, international phone lines, and text messaging for all but accredited foreign reporters. At the same time, the Chinese government used both the official media and other means of mass propaganda to promote its version of events domestically and internationally.

On November 9 state media reported that eight Uighur men and one Han man had been put to death for their role in the rioting. All the trials took place without prior public notice, were conducted in less than a day, and did not meet minimum international standards.

Hong Kong Special Administrative Region

Hong Kong authorities still have not provided a clear roadmap for moving to fully democratic elections of the chief executive and all members of the Legislative Council, prompting fears that they will water down the "universal suffrage" requirement of Hong Kong's Basic Law.

Decisions by immigration authorities to deny entry to several visitors critical of China's human rights record raised concerns that the territory's autonomy was being eroded. On September 30, 2008, Hong Kong authorities handed over to mainland authorities an ex-dissident who had tried to enter the territory from Macao on a borrowed passport.

Key International Actors

The Chinese government continues to provide diplomatic and financial assistance to abusive regimes, including Burma, Sudan, and Zimbabwe, though it uncharacteristically agreed in July 2009 to United Nations Security Council sanctions against 15 North Korean officials. Chinese authorities contend that China is prioritizing economic development in its aid programs and foreign relations, but its foreign policy has come under scrutiny for ignoring human rights. The issue drew attention again in October 2009 with the announcement of a multi-billion dollar Chinese investment in Guinea just weeks after Guinea's military gunned down unarmed pro-democracy protesters.

In July 2009 Chinese prosecutors took the unusually aggressive step of arresting an Australian executive of mining giant Rio Tinto on charges of violating state secrets, causing concern in the international business community. The government also harshly criticized the Australian government for allowing the Melbourne Film Festival to show a documentary about Uighur activist Rebiya Kadeer, and the Germany government for allowing the Frankfurt Book Festival to invite Chinese writers critical of the Chinese government.

A number of governments appeared to take a softer position on China's human rights record. The EU gave in to Chinese pressure and limited NGO participation in two rounds of the "EU-China Human Rights Seminar" in 2009, including the session in Europe. En route to Beijing in February 2009, US Secretary of State Hillary Clinton stated that human rights "shouldn't interfere" in the US-China relationship, and President Barack Obama decided not to meet the Dalai Lama prior to his November visit to Beijing. While in China, Obama raised human rights broadly in his public statements but did not directly engage pressing issues of freedom of expression, religious minorities, the disbarment of civil rights lawyers, or ongoing crackdowns in Xinjiang and Tibet.

In February 2009 the Chinese government made its debut appearance before the United Nations' Human Rights Council as part of the UN's Universal Periodic Review (UPR), but it opted to brush aside rather than seriously consider the recommendations made during the process. In the UPR "Outcome Report," the government rejected every single recommendation, including those pertaining to freedom of expression and association, lawyers and rights defenders, the death penalty, "re-education through labor," and torture. Instead, the government asserted that, "There is no censorship in the country," "No individual or press has been penalized for voicing their opinions or views," and "There is no such thing as law enforcement organs using state secrets [prosecutions] to suppress human rights defenders."

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