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Our vision is for every person to enjoy all the rights enshrined in the Universal Declaration of Human Rights and other international human rights standards.

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INTRODUCTION

Amnesty International is submitting this briefing in advance of the United Nations (UN) Committee against Torture's (the Committee) review of China's fifth periodic report on the implementation of the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the Convention). The submission covers key issues of Amnesty International's concerns and recommendations, in particular in relation to Articles 1-4 and 11-16. These issues include:

- Definition of torture under Chinese Law
- Torture, other ill-treatment and harassment of lawyers
- Torture and other ill-treatment in detention
- Misuse of law enforcement equipment and trade in torture instruments
- Refoulement of nationals of the Democratic Republic of Korea
- Administrative detention and the aftermath of abolition of "Re-education Through Labour"
- Use of measures leading to torture or other ill-treatment to implement population policy
- Ill-treatment during forced evictions
- Death Penalty

In line with Amnesty International's current priorities for research and action, the scope of the submission is confined to mainland China and excludes the Special Administrative Regions of Hong Kong and Macao.

DEFINITION OF TORTURE AND CRIMINALIZATION OF ALL ACTS OF TORTURE (ARTICLES 1 & 4, QUESTION 1 OF THE LIST OF ISSUES)

Despite recommendations by the Committee in 2000 and 2008, recommendations in the Universal Periodic Review in 2013,[1] as well as recommendations by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment (Special Rapporteur) in 2006 following his visit to China,[2] the Chinese Government has not introduced an explicit and comprehensive definition of torture in Chinese law. The definition in the law and also those recently introduced in the legal interpretations of the Supreme

[1] Human Rights Council, "Report of the working group on the Universal Periodic Review", UN Doc. A/HRC/25/5, 4 December 2013.

[2] Manfred Nowak, "Report of the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment" (Report of Special Rapporteur: mission to China), UN Doc. E/CN.4/2006/6/Add.6, 10 March 2006, paras15-17.

People's Procuratorate and the Supreme People's Court have limited scope.

Various provisions of the Criminal Law and the Criminal Procedure Law prohibit and punish specific acts of torture but they do not cover all elements of torture contained in Article 1 of the Convention and as required by Article 4. Criminalization of torture is mainly restricted in the Criminal Law (CL) to the physical abuse of inmates and instigation of detainee-on-detainee violence (Article 248), unlawful detention and battery (Article 238), and extortion of confessions by torture or use of violence to extort witness testimony (Article 247). However, Article 248 is restricted to "any policeman or other officer of an institution of confinement like a prison, a detention house or a custody house". Prosecution under Article 247 is primarily limited to "judicial officers". Article 50 of the Criminal Procedure Law (CPL) prohibits extorting confessions by torture or collecting evidence by threat, enticement, deceit or other unlawful means and Article 54, while stating that such confessions shall be excluded, allows illegally obtained physical or documentary evidence to be included at trial if "justifications" can be provided.

TORTURE, OTHER ILL-TREATMENT AND HARASSMENT OF LAWYERS (ARTICLE 2, QUESTION 4 OF THE LIST OF ISSUES)

ATTACKS ON LAWYERS

In addition to torture and other ill-treatment of lawyers in detention, see further Chapter "Use of torture during detention", Amnesty International has documented several cases of lawyers who were attacked by police when entering courts or during court proceedings.

On 18 June 2015, lawyers Sui Muqing and Liu Zhengqing were preparing to appear in the Guangzhou Intermediate People's Court, Guangdong Province, on behalf of three human rights campaigners when they were seized by police in front of the court and bundled into a police vehicle, where they were searched and beaten. On 18 June 2015, when Wang Quanzhang, defence lawyer for several Falun Gong practitioners, was speaking in Dongchangfu District Court in Liaocheng City, Shandong Province, he was interrupted by the judge and expelled from the courtroom under the pretext of "disrupting court order". Court police dragged Wang out of the courtroom to another room in the building and beat him.[3]

On 9 – 10 July 2015, the Chinese authorities launched an unprecedented nationwide crackdown against human rights lawyers and activists. Many lawyers and activists who are

[3] Wang Quanzhang, "鐘的黑色十分法院昌府東聊城 —記事件速毆昌法院被東" (Ten minutes in darkness at Dongchangfu District Court in Liaocheng City), 22 June 2015, http://www.bannedbook.org/bnews/zh-tw/cbnews/20150622/414634.html, accessed 21 September 2015.

well-known for their work on human rights cases have variously had their homes or offices raided, been summoned or questioned by police or have been detained. As of 13 October, 248 lawyers and activists had been targeted and 28 remained in police custody or were unaccounted for.[4]

An article published on 12 July 2015 in People's Daily, an official newspaper of the Chinese Communist Party, stated that the Ministry of Public Security had launched an operation to destroy a "major criminal gang" that was using the Fengrui Law Firm in Beijing to draw attention to "sensitive cases". The article also claimed to expose the "severe harm" that a group of "rights defence" lawyers had brought to society, in cooperation with activists. As an example of the severe harm, the People's Daily cited a protest about the fatal police shooting of petitioner Xu Chunhe on 2 May 2015 at the Qingan county railway station in Heilongjiang Province that was organized by prominent activist Wu Gan (arrested in May 2015).

In February 2015, more than 10 lawyers held a meeting with family members of prisoners who had died in suspicious circumstances while being held at a prison in Ganzhou, Jiangxi Province. One of the main subjects of discussion was how to request the disclosure of information from the authorities about these deaths in prisons. To deter the lawyers from holding the meeting, plainclothes police tried to take the family members away and attempted to prevent the meeting by cutting off the electricity and locking a conference room in a hotel in Nanchang City, Jiangxi Province.[5]

HARRASSMENT OF LAWYERS AND INTEFERENCE WITH LEGAL PROFESSION

Since 2009, Chinese lawyers and law firms must undergo mandatory annual assessments and may have their licenses revoked if they fail. This assessment process has been misused by authorities to deny licenses to lawyers who have merely attempted to defend clients and otherwise carry out their legitimate legal work. In addition to the assessment system, the authorities use other tactics to stop lawyers from taking on cases deemed sensitive by the authorities for instance by temporarily suspending their license to practice.

Law firms handling cases considered embarrassing or problematic to the state have been targeted. For example, the license of Beijing Anhui Law Firm has been withheld since 2009. Lawyers of the law firm represented victims of land grabs, detainees in "Re-education Through Labour" camps, Falun Gong practitioners and other cases involving government accountability and several lawyers employed by the firm were also involved in advocating democratic elections in the Beijing Lawyers Association.[6]

Human rights lawyers Liu Wei and Tang Jitian had their licenses revoked permanently in 2010 when they walked out of a courtroom because, they claimed the judge was failing to follow criminal procedure and prohibiting them from defending their client. Many other human rights lawyers, such as Jiang Tianyong, Wen Haibo, Tong Chaoping, Liu Shihui, Teng Biao, Tang Jingling and Wang Cheng had their licenses withheld, revoked or were prevented

[4] Amnesty International, "China: Lawyers and activists detained or questioned by police since 9 July 2015 (As of 4:30pm Beijing time, 13 October 2015)", 13 October 2015, https://www.amnesty.org/en/documents/asa17/2655/2015/en/, accessed 13 October, 2015.
[5] Amnesty International interview, 2 September 2015.
[6] Amnesty International, *Against the law: crackdown on China's human rights lawyers deepens* (Crackdown on lawyers), Index: ASA 17/018/2011, June 2011, pp18-20, https://www.amnesty.org/en/documents/ASA17/018/2011/en/, accessed 1 September 2015.

from re-registering.[7]

A fundamental reason for the vulnerability of lawyers and the weak status of the legal profession is the lack of independent professional organizations for lawyers. The All-China Lawyers Association remains under the control of the judicial authorities, which in turn remains under the control and supervision of Chinese Communist Party (CCP) organs. The Chinese government claims that the Provisions on Safeguarding Lawyers' Practice Rights in Accordance with Law jointly issued by the Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security, the Ministry of State Security and the Ministry of Justice on 20 September 2015 "are the latest measures put forward for perfecting the safeguard mechanism for lawyers' practice rights". However, the provisions fail to handle the fundamental problem of the lack of independence of lawyers associations.

Recent amendments to the Criminal Law further threaten lawyers' ability to carry out their professional functions. Criminal Law Amendment (9) passed by the National People's Congress (NPC) on 29 August 2015, lists in Article 309 circumstances that can receive a sentence of up to three years if lawyers "seriously disrupt courtroom order" and one of these circumstances is "insulting, defaming or threatening judicial personnel or litigation participants, and not heeding the court's admonitions". Based on current experience of courts alleging that human right lawyers have "disrupted court order", these crimes will potentially become additional methods to intimidate and interfere in lawyers' professional functions, curtail lawyers' freedom of expression, and further prevent lawyers from representing clients. Harassment of lawyers and other interference with the legal profession means that detainees may find themselves without a lawyer and thereby in greater danger of torture and other ill-treatment and further obstructs the effective implementation of the Convention.

TORTURE AND OTHER ILL-TREATMENT IN DETENTION

LACK OF BASIC GUARANTEES TO PREVENT TORTURE IN DETENTION (ARTICLE 2, QUESTION 3 OF THE LIST OF ISSUES)

Gaps in the law as well as poor enforcement of existing laws have contributed to failures in ensuring basic guarantees for all persons deprived of their liberty, such as the right to promptly access independent legal counsel and the right to contact relatives, which significantly impacts the risk of torture.

Article 37 of the CPL gives detention facilities up to 48 hours to arrange for a lawyer to meet with a detained criminal suspect or defendant from the time the lawyer makes such a request, which falls short of the UN Special Rapporteur on torture's insistence that detainees be given access to legal counsel within 24 hours of detention.[8] Article 84 of the CPL which requires police to interrogate a person within 24 hours of their being taken into custody

[7] Crackdown on lawyers, pp14-17.

[8] Theo van Boven, "Report of the Special Rapporteur on the question of torture submitted in accordance with Commission resolution 2002/38", UN Doc. E/CN.4/2003/68, 17 December 2002, para26(g)

greatly increases the probability that the initial interrogation will take place with suspects being denied the benefits of legal assistance. The absence of an explicit provision for the presence of legal counsel during police interrogation and Article 84 of the CPL which allows interrogation of suspects and defendants to begin before the latter may have been able to contact or gain access to a lawyer, increases the risk of self-incrimination and forced "confessions".

If an offense involves a crime of "endangering state security", a crime of "terrorism" or a particularly serious crime of "bribery", the defence lawyer must seek permission from the investigating authority to meet with the suspect. However the law does not specify a timeframe within which such approval must be given, potentially delaying or obstructing the right of suspects to promptly access legal counsel.

The form of custody referred to as "residential surveillance in a designated location" is used with increasing frequency by the authorities to curb the activities of human rights defenders. Under the CPL, certain measures to prevent torture do not apply in cases involving "endangering national security", "terrorism" or "major bribery". Articles 72, 73 and 77 of the CPL authorize police, prosecutors or judicial personnel to hold individuals suspected of such crimes for up to six months in undisclosed "designated locations" for the purpose of carrying out "residential surveillance". These residential surveillances "may not be enforced at a detention facility or an investigation facility". Compared to detention centres, the "designated locations" for residential surveillance are virtually unregulated and unmonitored. Under Articles 73 and 83 of the CPL, family members of persons in residential surveillance or criminal detention must be informed within 24 hours. Though investigators are obligated to provide notice of "residential surveillance in a designated location", the new revision to the CPL which took effect in 2013 removed the clause which provided that the reason and location were to be included in the notification. In cases involving "endangering national security" or "terrorism", police may withhold notice of detention if they believe doing so would "impede the investigation". Combined, these conditions of "residential surveillance in a designated location" can constitute incommunicado detention. Those subjected to the measure are at even greater risk of torture and other inhuman and degrading treatment than those placed in ordinary detention.

Due to the lack of protection of the basic guarantees of informing family and access to legal counsel, many people are held incommunicado, sometimes for months on end, which in itself constitutes cruel, inhuman or degrading treatment and further increases their risk of torture. In addition to the twelve human rights lawyers and activists currently held under "residential surveillance in a designated location", Amnesty International has documented several other recent cases of incommunicado detention:

- Tibetan writer Druklo (pen-name Shokjang) was taken away by national security police on 16 March 2015 and has had no access to a lawyer or family since. The authorities have not told his relatives the reason for his detention or the charges for which he is detained.[9]

- Tibetan monk Choephel Dawa has not been heard from since he was detained by police on the night of 28 March 2015. It is not known where he is being held and the reason for his detention. He has not had any

[9] Amnesty International, "China: Disclose whereabouts of Tibetan writer Druklo (pen-name Shokjang)", Index: ASA 17/1437/2015, 13 April 2015, https://www.amnesty.org/en/documents/asa17/1437/2015/en/, accessed 1 September, 2015.

access to a lawyer or his family.[10]

- Women's rights activist Su Changlan was taken away by police on 27 October 2014. It was not confirmed where she was being held until her family received a notice of the charges against her on 3 December. Her family has not been able to visit her since she was first detained, despite repeated requests, and she was only allowed to see her lawyer for the first time in May 2015.[11]

- In the nationwide crackdown against lawyers and human rights defenders which started in July 2015, twelve prominent human rights lawyers and activists (Wang Yu, Bao Longjun, Sui Muqing, Xie Yang, Liu Sixin, Wang Quanzhang, Zhao Wei (a.k.a. Kao La), Lin Bin (a.k.a. Monk Wangyun), Gou Hongguo, Xie Yuandong, Gao Yue, Li Chunfu) were placed under residential surveillance at unknown locations without access to their lawyers and family members and have not been heard of since. All are at grave risk of torture and other ill-treatment.[12]

USE OF TORTURE DURING DETENTION (ARTICLES 1, 11, 14, 15 &16, QUESTIONS 15, 16, 19, 28 & 31 OF THE LIST OF ISSUES)

Torture and other ill-treatment remains prevalent, especially in pre-trial and arbitrary detention and frequently as a means to extract confessions and collect evidence.

- Beijing lawyer Yu Wensheng was tortured or otherwise ill-treated during his detention in 2014 at the Daxing Detention Centre in Beijing, in order to get him to confess to having encouraged the Hong Kong pro-democracy protests. During the 99 days of detention without trial, in which he was housed together with death-row prisoners, Yu was questioned for 15 to 16 hours every day while seated on a rigid restraint chair, handcuffed for long hours and deprived of sleep.[13]

- In 2012, lawyer Cai Ying was held without warrant, charge or trial for 87 days under incommunicado residential surveillance in a "guesthouse" in Yuanjiang City, Hubei Province by the Procuratorates of Yiyang and Yuanjiang cities, during which time he was questioned non-stop for five days on a "hanging restraint chair",[14] humiliated and beaten.[15]

- Prominent Uighur scholar Ilham Tohti, was not given food for two 10-day periods and had his feet placed

[10] Amnesty International, "China: Fears for Tibetan monk detained in China: Choephel Dawa", Index: ASA 17/155/2015, 28 April 2015, https://www.amnesty.org/en/documents/asa17/1551/2015/en/, accessed 1 September, 2015.
[11] Amnesty International, "Further informational: China: Husband and brother of activist detained", Index: ASA 17/1053/2015, 24 February 2015, https://www.amnesty.org/en/documents/asa17/1053/2015/en/; "Chinese activist faces life imprisonment", 5 February 2015, https://www.amnesty.ie/content/chinese-activist-faces-life-imprisonment, both accessed 1 September, 2015.
[12] Amnesty International, "China: Lawyers and activists detained or questioned by police since 9 July 2015 (As of 4:30pm Beijing time, 13 October 2015)", 13 October 2015, https://www.amnesty.org/en/documents/asa17/2655/2015/en/, accessed 13 October, 2015.
[13] Amnesty International interview, 2 September 2015.
[14] "hanging restraint chair" (diaodiaoyi) – It is a torture tool that restricted hands, upper and lower parts of the body of the person sitting on it to maintain a stress position, with no support on the back and with the feet suspended.
[15] Amnesty International interview, 2 September 2015.

in shackles for over 20 days in 2014 at the Xinjiang Uighur Autonomous Region (XUAR) Detention Centre in Urumqi, the provincial capital of the XUAR.[16]

- Detained for supporting the 2014 Hong Kong pro-democracy protests, Wang Zang was interrogated non-stop for five days, during which he was kicked, beaten and prohibited from sleeping when he was detained at Tongzhou Detention Centre in Beijing.

- Also detained for supporting the Hong Kong protests, women's rights activist Li Yufeng was reportedly interrogated more than 40 times in a single night when she was detained at Daxing Detention Centre in Beijing.[17]

- Deprived of enough clothing to keep him warm in an unheated prison cell at Xingyi Prison, Guizhou Province, where the temperature would drop to 3℃, activist Chen Xi developed chilblains and his health deteriorated.[18]

- Tang Jingling, Yuan Xinting and Wang Qingying were each detained at Guangzhou No. 1 Detention Centre , Guangdong Province, in cells of 20-30m2 together with 20-30 other inmates, were harassed by other inmates, and in the last 15 months have not been given daily exercise time outside as is provided to other prisoners.[19]

Amnesty International has documented many cases of detainees whose health deteriorated due to torture and other ill-treatment during detention and poor conditions in detention facilities, but who have been either denied or unable to access adequate medical treatment.

Tibetan monk Tenzin Deleg Rinpoche died in prison on 14 July 2015. The international community had consistently raised with Chinese authorities their concerns about his treatment while in detention including torture and other ill-treatment and most recently concerns for his health. For example, the U.S State Department asked for his release on medical parole in June 2015.[20] The Minister of State, Foreign and Commonwealth Office of the United Kingdom, Hugo Swire, urged the Beijing Government in 2014 to grant the monk medical parole.[21] The Tibetan community and his family made multiple requests for medical

[16] Amnesty International, "China: further information: Uighur scholar deprived food and shackled: Ilham Tohti", Index: ASA 17/038/2014, 27 June 2014, https://www.amnesty.org/en/documents/asa17/038/2014/en/, accessed 1 September 2015.

[17] Amnesty International, "Supporters of Hong Kong protests 'tortured'", Index: ASA 17/006/2015, 12 February 2015, https://www.amnesty.org/en/documents/asa17/0006/2015/en/, accessed 1 September 2015.

[18] Amnesty International, "Health fears for imprisoned Chinese activist: Chen Xi", Index: ASA 17/0003/2015, 3 February 2015, https://www.amnesty.org/en/documents/asa17/0003/2015/en/, accessed 18 October 2015.

[19] Tang Jingling, "唐荆陵在法庭上的自我辩护和最后陈述" (Tang Jingling's self defense and final statement at trial), 24 July 2015, posted on social media account of Tang Jingling's wife Wang Yanfang, https://twitter.com/veasareen/status/624613558546862080, accessed 24 October 2015.

[20] Jim McGovern, "Congressman McGovern statement on death of Tibetan activist Tenzin Delek Rinpoche", 20 July 2015, http://mcgovern.house.gov/media-center/press-releases/congressman-mcgovern-statement-on-death-of-tibetan-activist-tenzin-delek, accessed 18 October 2015.

[21] "Daily Hansard - Westminister Hall", 10 December 2014, http://www.publications.parliament.uk/pa/cm201415/cmhansrd/cm141210/halltext/141210h0001.htm,

parole but received no reply from the Chinese government.[22]

Another Tibetan monk, Karma Tsewang, suffers from hepatitis and it is not known whether or not he is getting the treatment he requires. As of 22 January 2015, his lawyers have repeatedly been denied access to him and his family have not been allowed to visit since he was first detained in August 2014.[23]

The authorities are denying calls from the international community to immediately release journalist Gao Yu, who is 71 years old and critically ill, and to ensure she receives proper medical treatment.[24]

Activist and prisoner of conscience Chen Xi has been suffering from a number of serious health problems, including chronic gastrointestinal complications, which are thought to be a result of the inadequate diet and poor conditions of detention during his previous imprisonments. He has not received the treatment he needs in prison. His family has made several requests for his release on medical grounds but these have been refused by the Chinese authorities.[25]

Women's rights activist Wu Rongrong, who has a chronic liver condition, received delayed medical treatment during her detention in March 2015.[26]

The lack of effective checks and balances among different components of the judicial system is a fundamental problem. For instance, it is common in China for public security agencies, prosecution agencies and courts to jointly handle important cases, under coordination of the CCP Legal and Political Committees, which operate out of the formal legal system. Contrary to the provisions of the Constitution, Chinese courts and procuratorates do not exercise their power independently. For example, lawyer Cai Ying filed a lawsuit seeking state compensation for his detention and torture carried out by the Procuratorates of Yiyang and Yuanjiang cities. After he requested copies of documentary evidence related to his detention and interrogation supplied to the court by the Procuratorate, a procurator of Yiyang city removed 34 pages of this evidence from the court records in front of the judge. Also, in clear violation of written court orders of the Yiyang Intermediate People's Court demanding personnel employed by the Procuratorate appear in court, none of the personnel attended the

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accessed 18 October 2015.

[22] Amnesty International, "China: Return the body of prominent Tibetan monk Tenzin Deleg Rinpoche who died in prison", Index: ASA 17/2102/2015, 14 July 2015, https://www.amnesty.org/en/documents/asa17/2102/2015/en/, accessed 18 October 2015.

[23] Amnesty International, "Concern grows for imprisoned Tibetan monk: Karma Tsewang" Index 17/0002/2015, 22 January 2015, https://www.amnesty.org/en/documents/asa17/0002/2015/en/, accessed 18 October 2015.

[24] Amnesty International, "China: Authorities show callous disregard for imprisoned journalist by denying appropriate medical care", 6 August 2015, https://www.amnesty.org/en/latest/news/2015/08/china-authorities-show-callous-disregard-for-imprisoned-journalist-by-denying-appropriate-medical-care/, accessed 18 October 2015.

[25] Amnesty International, "Health fears for imprisoned Chinese activist: Chen Xi" Index ASA 17/0003/2015, 3 February 2015, https://www.amnesty.org/en/documents/asa17/0003/2015/en/, accessed 18 October 2015.

[26] Amnesty International, "China: Detained after planning women's day events", Index: ASA 17/1150/2015, 9 March 2015, https://www.amnesty.org/en/documents/asa17/1150/2015/en/, accessed 18 October 2015.

hearing held on 18 September 2015, the court, however, took no legal action against them and allowed the case to proceed.[27]

The Chinese government failed to conduct prompt, impartial, independent and effective investigations into the deaths of Cao Shunli, who died from organ failure in a hospital in March 2014 after being denied adequate medical care in detention,[28] and veteran dissident and labour rights activist Li Wangyang, who was found dead in hospital on 6 June 2012, just days after speaking to Hong Kong media about being tortured during previous detentions. Li's sister Li Wangling and her husband Zhao Baozhu were detained in 2012 after demanding an independent investigation and autopsy.[29] The report from the investigation of the Hunan provincial police department released in July 2012 determined that Li Wangyang committed suicide.[30] However, Li Wangling and Zhao Baozhu have denied signing the autopsy report and maintain it was not a suicide.

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[27] Cai Ying, "关于蔡瑛律师酷刑国赔案两次质证会庭审情况反映暨投诉" (Complaints regarding the two hearings on lawyer Cai Ying's filing for state compensation), 21 September 2015, posted on Cai Ying's social media account, http://www.weibo.com/p/1001603889525603570537, accessed 28 September 2015.

[28] Amnesty International, "Fear of cover-up as Cao Shunli's body goes missing", 26 March 2014, https://www.amnesty.org/en/latest/news/2014/03/china-fear-cover-cao-shunli-s-body-goes-missing/, accessed 1 September 2015.

[29] Amnesty International, "Dissident's relatives disappear", Index: 17/02/2012, 11 July 2012, https://www.amnesty.org/en/documents/asa17/021/2012/en/, accessed 1 September, 2015.

[30] Amnesty International USA, "Li Wangyang autopsy results received with skepticism", July 13, 2012, http://www.amnestyusa.org/news/press-releases/li-wangyang-autopsy-results-received-with-skepticism, accessed 10 October 2015.

MISUSE OF LAW ENFORCEMENT EQUIPMENT AND TRADE IN TORTURE INSTRUMENTS (ARTICLES 1, 2 &16)

China has consolidated its position as a major manufacturer and exporter of a growing range of law enforcement equipment, including items which have no legitimate use for law enforcement and are inherently abusive as their use constitutes, or poses a substantial risk of, torture and other cruel, inhuman or degrading treatment, such as electric shock stun batons, spiked batons, weighted leg cuffs, thumb cuffs and rigid restraint chairs. Despite concerns about the use of weighted leg cuffs raised by the Special Rapporteur on torture after his mission to China in 2005,[31] as well as the recommendation of the Committee in 2000 to completely abolish rigid restraint chairs,[32] the Chinese authorities have not taken steps to ban the manufacturing, use or export of these tools.[33]

Amnesty International has also documented the export from China of equipment that, in addition to having legitimate use in law enforcement, is easy to abuse in ways that violate the Convention.

On the eve of the February 2011 elections Uganda reportedly received a large consignment of Chinese "anti-riot" equipment. According to press reports, the consignment included armoured vehicles with water cannons and tear gas launchers as well as pepper sprayers. Although the elections passed off relatively peacefully, throughout April 2011, Uganda police using Chinese-made crowd control gear harshly repressed the "walk to work" protests against rising food and fuel prices. Chinese manufactured armoured vehicles were used throughout the violent crackdown in which at least nine people were shot dead, over 100 injured and 600 detained.[34]

It was reported in December 2011 that the security forces of the Democratic Republic of the Congo (DRC) used "new" armoured anti-riot police vehicles and water cannon manufactured by Poly Technologies, a Chinese state-owned suppliers of law enforcement equipment. Prior to the DRC security forces receiving these Chinese vehicles and water cannon, Amnesty International had reported widespread human rights violations by DRC's military, intelligence and police services. Chinese equipment was subsequently used during the November 2011 elections, which ended in violence, with at least 33 dead and 83 injured.[35]

Even though there is substantial risk of equipment, such as tear gas or riot control vehicles, being used by the receiving law enforcement agencies to commit serious human rights

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[31] Report of Special Rapporteur: mission to China, para68.

[32] UN, "Conclusions and Recommendations of the Committee against Torture: United States of America, 24th Session, 1st-19th May 2000, Report of the Committee against Torture, A/55/44", p32.

[33] Amnesty International, *China's trade in tools of torture and repression* (Trade in torture tools), Index: ASA 17/042/2014, 23 September 2014, Chapter 1, http://www.amnestyusa.org/sites/default/files/asa170422014en.pdf, accessed 1 September 2015.

[34] Trade in torture tools, p27.

[35] Trade in torture tools, pp27-28.

violations, China's export controls suffer from inadequate export assessment criteria, weak oversight, lack of transparency and reluctance to enforce regulations.[36]

REFOULEMENT OF NATIONALS OF DEMOCRATIC REPUBLIC OF KOREA (ARTICLE 3, QUESTION 9 OF THE LIST OF ISSUES)

Chinese authorities have failed to apply safeguards to ensure that individuals are not forcibly transferred to other countries where there are substantial grounds for believing that he or she would be in danger of being subjected to torture or other ill-treatment. This applies in particular to refugees from the Democratic People's Republic of Korea (DPRK) who have fled to China, only to be intercepted by the Chinese police and forcibly returned to DPRK, where they typically face harsh punishment, including arbitrary detention, torture and other ill-treatment, and possible execution.

Amnesty International believes that all North Koreans in China are entitled to refugee status, or at the very least must not be returned because of the threat of torture if they were to be returned. Although China is a state party to the UN Refugee Convention, the Chinese authorities continue to label undocumented DPRK nationals as "economic migrants" and refuse to give them access to refugee determination procedures via the office of the United Nations High Commissioner for Refugees. Amnesty International documented the refoulement of a group of approximately 29 people, including a one-year-old baby, who were forcibly returned to DPRK in early August 2014 after being detained in China.[37]

ADMINISTRATIVE DETENTION AND THE AFTERMATH OF ABOLITION OF "RE-EDUCATION THROUGH LABOUR"

[36] Trade in torture tools, Chapter 3.

[37] Amnesty International, "Families forcibly returned to North Korea", Index: ASA 17/048/2014, 11 September 2014, https://www.amnesty.org/en/documents/asa17/048/2014/en/, accessed 1 September 2015.

(ARTICLES 11 & 16, QUESTIONS 17, 18, 19, 34, 35 & 38 OF THE LIST OF ISSUES)

While Amnesty International considers the abolition of the "Re-education Through Labour (RTL)" system in 2013 a step forward in ending torture and ill-treatment, as well as administrative detention, in China, authorities have increasingly used alternative means to arbitrarily detain people, including the same individuals and groups that were formerly targeted through the RTL system. Torture and other ill-treatment has been reported in all the following types of administrative detention.[38] In addition, at least some of these forms of prolonged arbitrary detention involve the infliction of at least cruel, inhuman or degrading treatment or punishment in and of themselves.

"LEGAL EDUCATION CLASSES"

The authorities operate "legal education classes" (falu jiaoyu xuexiban), "legal system education classes" (fazhi jiaoyu xuexiban) or "legal system training centres" (fazhi peixun zhongxin) consisting of both purpose-built facilities and more *ad hoc* locations, in order to "transform" Falun Gong practitioners, where they are coerced into renouncing their beliefs. No laws, regulations or directives have been published that give any legal basis for these facilities, regulate their use or operation, or justify their use to deprive individuals of their liberty. Torture and other ill-treatment, such as prolong interrogation and prohibition from sleeping, are endemic in these facilities.

"BLACK JAILS"

Another form of administrative detention used against petitioners are "black jails", which are unrecognized and unofficial detention facilities set up in a variety of places including hotels, psychiatric institutions, drug rehabilitation centres, government offices, residential and abandoned buildings. Zhou Jinjuan, age 84, a victim of forced eviction who was petitioning in Beijing in August 2015 was escorted back to her hometown Wuxi in Jiangsu Province by local officials, was questioned and then detained in a black jail for more than a week without medical treatment for an injury sustained while petitioning. The lack of medical attention contributed to the loss of sight in one eye.[39]

ILLEGAL HOUSE ARREST

A number of human rights defenders, as well as their family members, have been put under illegal house arrest, often for years, where they may be deprived of all means of communicating with the outside world. For example, Amnesty International has documented the house arrest, neither announced nor officially authorized, of Liu Xia since the award of the Nobel Peace Prize to her husband, Liu Xiaobo, in 2010. The prolonged period of isolation has contributed to her poor physical and mental condition.[40] Police held Ni Yulan and her

[38] Amnesty International, *"Changing the Soup but Not the Medicine?" Abolishing Re-education Through Labour in China* (Changing the Soup but not the Medicine), Index: ASA 17/042/2013, December 2013, p14, https://www.amnesty.org/en/documents/asa17/042/2013/en/, accessed 1 September 2015.

[39] Amnesty International interview, 2 September 2015.

[40] Amnesty International, "China: further information: Liu Xia receives medical treatment", Index: ASA

family in their home without food for three days in order to prevent her from meeting with diplomatic officials during the Asia-Pacific Economic Cooperation meetings held in Beijing in 2014.[41]

COMPULSORY PSYCHIATRIC INSTITUTIONALIZATION

The system of compulsory psychiatric institutionalization is misused by the authorities to incarcerate individuals on politically motivated grounds, including petitioners, Falun Gong practitioners, human rights defenders and political activists. For example, Amnesty International documented the forced institutionalization of 71-year-old Fan Miaozhen in the Shanghai Municipal Chongming County Psychiatric Centre and Zhang Haiyan in the psychiatric unit of the Fengcheng City Fourth Hospital in Liaoning Province, both without mental health evaluations. Both of these detentions took place after entry into force of the Mental Health Law on 1 May 2013.[42]

COMPULSORY DRUG DETENTION CENTRES

Local police at or above the county level can make a decision to incarcerate drug addicts in compulsory drug detention centres ("Compulsory Isolation Drug Treatment Centres") for two years' treatment under Article 38 of the Anti-Drug Law implemented in 2008 and Articles 25 and 27 of the Drug Treatment Regulation enacted in 2011. The decision to place individuals in up to two years' custody are directly made by local police without any judicial process and in addition can easily be misused to detain people for purposes other than drug treatment. These compulsory drug detention centres have, according to individuals interviewed by Amnesty International, been used to punish political and religious dissidents and other types of perceived troublemakers irrespective of whether or not there is any evidence of them being addicted to drugs.[43]

"CUSTODY AND EDUCATION"

"Custody and Education", is another type of administrative detention that continues to be used and is operated in a form similar to the RTL. "Custody and Education" authorises local police to investigate, decide on and execute the detention of alleged sex workers and their clients for between six months and two years without any judicial process. These deprivations of liberty are based not on any law, but rather on the Measures for Custody and Education of Prostitutes and their Clients (issued by the State Council in 1993 and amended in 2010). Article 66 of the Public Security Administration Punishments Law (PSAPL), which took effect in 2013, similarly provides for the detention of sex workers and clients for periods of 10 to 15 days and fines of up to 5,000 yuan (approximately US$787), without judicial review.

SHUANGGUI (ALSO REFERRED TO AS "LIANGGUI")

Separate from the ordinary law-enforcement system, the Central Commission for Discipline Inspection of the CCP, together with its lower-level affiliates, also has the power to summon and investigate individuals through the CCP's internal disciplinary process – Shuanggui. They order CCP members who are accused of "violation of CCP discipline", usually corruption, to

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17/017/2014, 25 March 2014, https://www.amnesty.org/en/documents/asa17/017/2014/en/, accessed 1 September 2015.

[41] Amnesty International, "China: submission to the United Nations Committee against Torture", Index: ASA 17/0005/2015, 9 February 2015, p8, https://www.amnesty.org/en/documents/asa17/0005/2015/en/, accessed 1 September 2015.

[42] Changing the soup but not the medicine, pp40-41.

[43] Changing the soup but not the medicine, p9.

provide explanations at a "designated time and place". Shuanggui is generally conducted in secret, without time limit. Suspects are denied any form of legal counsel or family visits and are at risk of being subjected to torture and other ill-treatment. China's state news agency, Xinhua, reported the case of Yu Qiyi, who was tortured to death during Shuanggui interrogation.[44]

USE OF BROADLY DEFINED OFFENCES TO PROSECUTE OR DETAIN WITHOUT TRIAL

The criminal justice system remains highly vulnerable to political interference. In cases which are deemed politically sensitive, the authorities prosecute under broad and vaguely defined offences provided in the Criminal Law and PSAPL as a tool to silence dissidents, such as "splitting the State", "undermining unity of the country", "subverting State power", "operating business illegally", "gathering a crowd to disturb social order", and "picking quarrels and provoking trouble".[45] A wide range of behaviours can fit into these offences, thereby enabling police and government officials to use discretionary power to penalize almost any conduct. Arbitrary detention and the threat of arbitrary detention are used to harass and intimidate human rights defenders and others.

As the crimes grouped under "endangering national security" and "terrorism" are either not defined at all or else defined broadly and vaguely in Chinese laws, there are risks that these crimes would be abused to criminalize or penalize a variety of acts that are protected under international human rights law.[46] For example, in the new laws the Chinese Government introduced in 2015, the definition of "national security" in Article 2 of the National Security Law is virtually limitless, and "extremism" in the draft Anti-Terrorism Law is broadly defined.[47] As states above, individuals charged with state security crimes are further denied access to lawyers and family and therefore are at heightened risk of torture and other ill-treatment.

Some of the cases Amnesty International documented show how the authorities make use of these crimes for detention without trial of human rights lawyers, civil society activists, public

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[44] Xinhua, "温州一官员双规期间猝死" (Sudden death of a Wenzhou official during Shuanggui), 10 April 2013, http://news.xinhuanet.com/legal/2013-04/10/c_124559856.htm, accessed 1 September 2015.

[45] Article 102, 103, and 105 under the section Crimes of Endangering National Security refer to crimes of "splitting the State", "undermining unity of the country" and "subverting State power". Article 225 refers to the crime of "operating business illegally" under the section Crimes of Disturbing Market Order. Article 290 under the section Crimes of Disturbing Public Order refers to the offence of "gathering a crowd to disturb social order". Article 293 of CL and article 26 of PSAPL both refer similar conduct to "picking quarrels and provoking trouble".

[46] According to Criminal Law Article 102-113, "crimes of endangering national security" mainly includes "endangering the sovereignty, territorial integrity and security of the PRC", "splitting the State or undermining unity of the country", "armed rebellion or armed riot", "subverting the State power or overthrowing the socialist system", "defecting to the enemy and turning traitor", "stealing, spying into, buying or unlawfully supplying State secrets or intelligence to organization or individual outside the territory of China".

[47] For Amnesty International's comments on the National Security Law and the draft Anti-terrorism Law, see "China: Scrap draconian new national security law", https://www.amnesty.org/en/latest/news/2015/07/china-scrap-draconian-new-national-security-law/ and "China: Draconian anti-terror law an assault on human rights", https://www.amnesty.org/en/latest/news/2015/03/china-draconian-anti-terror-law/, both accessed 31 August 2015.

intellectuals and others the authorities deem to be opponents of the state.

- Approximately 100 human rights lawyers and activists were detained between September and December 2014 for peacefully expressing support for the Hong Kong pro-democracy protests, mostly on suspicion of "picking quarrels and provoking trouble", and three were detained for "inciting subversion of state power", as part of a wider attempt by the Chinese authorities to silence support for the Hong Kong protests.[48] Eight of them were still detained as of 28 September 2015, the first anniversary of the Hong Kong protests, six for "inciting subversion of state power" and two for "picking quarrels and provoking trouble". Among them, Su Changlan's health has deteriorated in detention and she was denied adequate medical treatment. Zhang Shengyu told his lawyer that he was frequently beaten while in detention, and was once tied to a bed with heavy chains on his wrists and ankles for 15 days.[49]
- Human rights campaigners Tang Jingling, Yuan Xinting and Wang Qingying were initially detained in May 2014 on suspicion of "picking quarrels and provoking trouble", when scores of activists and government critics were detained ahead of the 25th anniversary of the Tiananmen crackdown, then charged on "inciting subversion of state power" for publishing books on democracy and activism.[50] They were under pre-trial detention until the trial on 19 June 2015, 23 July 2015 and 24 July 2015 and are still awaiting the verdict.
- Activists associated with prominent anti-discrimination NGO Yirenping, Guo Bin and Yang Zhangqing[51], as well as Guo Yushan and He Zhenjjun of non-profit think tank Transition Institute were detained in 2015 on suspicion of "illegal business operations", as part of a wider crackdown on civil society groups in China. During his detention, Yang Zhangqing slept with more than 20 inmates on a bed of five meter's width. Guo Bin and Yang Zhangqing had been detained on 12 June and released on 11 July 2015. Guo Yushan and He Zhengjun had been detained on 3 January 2015 and were released on bail on 14 September 2015.

Chinese laws give criminal investigators broad discretion to hold suspects for long periods in pre-trial detention. Article 89 of the CPL provides for pre-trial criminal detention for up to 14 days for ordinary criminal suspects, and 37 days for some categories of suspects. Article 16 of the PSAPL empowers police to impose administrative detentions for up to 20 days. Authorities abuse this legal flexibility to detain individuals for extended periods before trial, putting them at risk of torture and other ill-treatment:

- Prominent human rights lawyer Pu Zhiqiang, was detained on 6 May 2014 on suspicion of "picking quarrels and provoking trouble" after attending a meeting to discuss the anniversary of the 1989 Tiananmen crackdown, and charged with the additional crime of "inciting ethnic hatred" in May 2015, primarily on the basis of online comments he made.[52]

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[48] Amnesty International, "Urgent action: supporters of Hong Kong protests tortured", Index: ASA 17/0006/2015, 12 February 2015, https://www.amnesty.org/en/documents/asa17/0006/2015/en/, accessed 1 September 2015.

[49] Amnesty International, "China: Release supporters of Hong Kong pro-democracy protests", 28 September 2015, https://www.amnesty.org/en/latest/news/2015/09/china-release-supporters-of-hong-kong-protests/, accessed 28 September 2015.

[50] Amnesty International, "China: Rights activists face five years in prison for publishing books on democracy", 18 June 2015, https://www.amnesty.org/en/latest/news/2015/06/china-rights-activists-face-five-years-in-prison-for-publishing-books-on-democracy/, accessed 1 September 2015.

[51] Amnesty International, "Urgent action: activists remain in detention in China", Index: ASA 17/2005/2015, 6 July 2015, https://www.amnesty.org/en/documents/asa17/2005/2015/en/; "Further information: China: Two activists released in China", Index: ASA 17/2097/2015, 14 July 2015, https://www.amnesty.org/en/documents/asa17/2097/2015/en/, both accessed 1 September 2015.

[52] Amnesty International, "Urgent action: lawyer remains behind bars in Beijing", Index: ASA 17/034/2014, 11 June 2014, https://www.amnesty.org/en/documents/asa17/034/2014/en/; "China:

The procuratorate sent the case back for further investigation due to lack of evidence and he remains in detention pending the outcome.

- Human rights defender Yang Maodong (pen-name Guo Feixiong) was arrested on suspicion of "gathering a crowd to disrupt order in a public place" in August 2013, in a crackdown on the "New Citizens' Movement", a grassroots movement calling for greater government transparency.[53] He was tried on 28 November 2014 and remains in detention awaiting verdict. According to the formal complaint filed by Guo on 23 June 2015, he was hooded, cuffed and shackled on the way to court hearings, with the police intentionally tightening the mental cuffs and shackles so that the metal bands dug into the flesh on his hands and feet and caused partial numbness in his left ankle.[54] In his more than two years detention, he has not been given daily exercise time outside as is provided to other prisoners.[55]
- In the nationwide crackdown on human rights lawyers and activists in July 2015, activist Gen Caiwen was first placed under administrative detention for "picking quarrels and provoking trouble", which was then escalated to a criminal charge, with no written notification, on the fourteenth day, when the maximum period of 15 days of administrative detention was going to be exceeded. She was detained for 44 days in total, before being released.

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drop political motivated charges against prominent human rights lawyer", 15 May 2015, https://www.amnesty.org/en/latest/news/2015/05/china-drop-politically-motivated-charges-against-prominent-human-rights-lawyer/, both accessed 1 September 2015.

[53]Amnesty International, "China: human rights defender at risk of torture: Yang Maodong", Index: ASA 17/035/2013, 11 October 2013, https://www.amnesty.org/en/documents/asa17/035/2013/en/, accessed 1 September 2015.

[54] Yang Maodong, "国家赔偿要求书" (Complaints for state compensation), 23 June 2015, http://frame.bloglovin.com/?post=4401039792&blog=12482279, accessed 13 October 2015.

[55] Radio Free Asia, "Jailed Chinese Activist Guo Feixiong Wins International Rights Award", 11 September 2015, http://www.rfa.org/english/news/china/china-guofeixiong-09112015112310.html, accessed 10 October 2015.

USE OF MEASURES LEADING TO TORTURE OR OTHER ILL-TREATMENT TO IMPLEMENT POPULATION POLICY (ARTICLES 1, 2, 4, 12, 13 & 14, QUESTIONS 26 & 29 OF THE LIST OF ISSUES)

While Article 19 of the Law on Population and Family Planning provides that "family planning shall be practised chiefly by means of contraception" and obligates the State to "[create] conditions to ensure that individual citizens knowingly choose safe, effective, and appropriate contraceptive methods",[56] local government regulations in some locations state that intrauterine devices are the preferred method of contraception for women having one child and that vasectomy or tubal ligation procedures should be carried out on parents having two or more children.[57] In order to add children to official household registration (hukou), which gives them access to health care, education and other social security provisions, parents are required to document that they have followed the relevant family planning regulations.[58]

These regulations, which force parents to undergo intrusive forms of contraception with health risks, both physical and mental, lead to violations of the prohibition of torture and other cruel, inhuman or degrading treatment or punishment.

The policy of tying population control to job performance evaluations drives government personnel to resort to coercion and violence to achieve family planning goals. Under the system of "priority targets with veto power" (yipiao foujue zhi), meeting specific population control objectives is mandatory for positive evaluation and governments or units at any level that fail to achieve their objectives will fail their collective evaluation and be barred from receiving benefits. Responsible officials who fail evaluations twice during their term of appointment face demotion or discharge.[59]

Amnesty International has continued to receive reports of coerced abortions and sterilizations, such as the detention of 1,377 relatives of couples targeted for sterilization in

[56] Population and Family Planning Law of the People's Republic of China (Order of the President No.63), http://www.gov.cn/english/laws/2005-10/11/content_75954.htm, accessed 22 September 2015.

[57] For example, Article 24 of the Guangdong Province Population and Family Planning Regulation.

[58] For example, "端州区委办公室文件《关于做好新生婴儿、小孩随父随母入户市区的规定》（Regulation of Urban Hukou Registration of New-borns and Children of Duanzhou District.

[59] For example, refer to Chunan County Family Planning Policy, http://www.qdhnews.com.cn/col1498/article.htm1?id=970505, accessed 1 September 2015.

Puning City, Guangdong Province in 2010, in an apparent attempt to pressure the couple to consent to sterilization,[60] and the coerced operation of tubal ligation procedures, with no screening or evaluation, in Xia Runying in Dayu County, Jiangxi Province on April 2012, resulting in complications.[61] However, officials responsible for such abuses are rarely investigated or prosecuted and victims rarely receive reparations.

ILL-TREATMENT DURING FORCED EVICTIONS (ARTICLE 16, QUESTION 34 OF THE LIST OF ISSUES)

Over the past few years, millions of people across China have been forced from their homes without legal protection, safeguards or adequate consultation. Sometimes these evictions were carried out in a sudden and violent manner, on occasion resulting in death.[62]

For example, in the large scale development projects in the Wuxi city of Jiangsu Province, thousands of households are victims of forced eviction. According to local activists, in 2014-2015, more than 200 households who petitioned against their forced eviction were detained, tortured in black jails and attacked in their homes. Among the victims were pregnant women and older individuals. According to evictees, they were starved in black jails, placed on restraint chairs and hung on walls. Evictees Ding Hongfeng, her spouse, father and mother-in-law, were detained for a total of 1718 days in the years 2009-2015, including 467 days in black jails, 50 days' administrative detention and 1201 days in prisons after rescuing others from black jails. In September 2015, when other petitioners were detained in black jails, Ding and another petitioner called the police 99 times but no police showed up to investigate.[63]

China has issued regulations to outlaw the use of violence in urban evictions and to grant protection to urban homeowners facing eviction. However, the enforcement of these regulations has been poor. Moreover, local officials continue to be offered a fiscal incentive to clear land for development.[64] Amnesty International has documented cases where

[60] Amnesty International, "Thousands at risk of forced sterilization in China", 22 April 2010, https://www.amnesty.org/en/latest/news/2010/04/thousands-risk-forced-sterilization-china/, accessed 2 September 2015.
[61] Amnesty International interview, 2 October 2015.
[62] Amnesty International, "Despite legal reforms human rights violations widespread: Amnesty International Submission to the UN Universal Periodic Review, October – November 2013", Index: ASA 17/013/2013, March 2013, https://www.amnesty.org/en/documents/ASA17/013/2013/en/, accessed 1 September 2015.
[63] Amnesty International interview, 1 September 2015.
[64] Amnesty International, *Standing their ground: thousands face violent eviction in China*, Index: ASA 17/001/2012, October 2012, https://www.amnesty.org/en/documents/ASA17/001/2012/en/, accessed 1 September 2015.

authorities used hired thugs for forced evictions. In these cases, local authorities often collude with developers to hire thugs to intimidate, threaten and physically attack residents. Police often refuse to respond to calls for assistance on such occasions. The incidents are rarely investigated and perpetrators are not brought to justice except when a case involves a particularly violent incident that receives a lot of public attention, such as the case, of Fan Mugen, who killed, in self-defence, two members of a demolition gang who had stormed into his home and beat his family in a violent forced eviction in December 2013 in Suzhou, Jiangsu Province. Fan repeatedly called the police for assistance during the incident, but the police who eventually turned up failed to stop the crew from attacking Fan and his family.[65]

DEATH PENALTY (ARTICLES 15 & 16, QUESTION 37 OF THE LIST OF ISSUES)

Data on the use of the death penalty is designated as state secret in China. Death sentences continue to be imposed for non-lethal acts. Although revisions to the CL in 2011 and 2015 have reduced the number of capital offences to 46, many crimes that do not meet the threshold of the "most serious crimes" for which the death penalty can be imposed under international law and standards remain punishable by death, including economic crimes such as embezzlement and taking bribes; non-lethal crimes such as rape, trafficking of women and children, sabotaging communications or communication equipment; and drug-related crimes.[66]

Forced "confessions" continue to lead to miscarriages of justice with particularly grievous consequences for people facing the death penalty. For example, in 2014 the Fujian Provincial Higher People's Court acquitted Nian Bin of poisoning two children, ruling that there was insufficient evidence to convict him. First sentenced to death in 2008, Nian had earlier appealed his conviction three times in six years, alleging that he had been forced to "confess" to the crime under torture.[67] The provincial court sent the case back on grounds of insufficient evidence twice, upheld the conviction the third time, and he was only acquitted after the Supreme People's Court ruled to overturn the conviction.

In some instances, family members only found out about the executions of their relatives on the same day or after the death sentences were carried out. For example, in the case of 18-

[65] Amnesty International, "China: Police crackdown against activists outside forced eviction trial", 2 February 2015, https://www.amnesty.org/en/latest/news/2015/02/china-police-crackdown-against-activists-outside-forced-eviction-trial/, accessed 1 September 2015.
[66] Amnesty International, "Death sentences and executions in 2014", Index: ACT 50/0001/2015, 31 March 2015, p26, https://www.amnesty.org/en/documents/act50/0001/2015/en/, accessed 1 September 2015.
[67] Amnesty International, "China: Death row inmate freed after six years of trials and appeal", 22 August 2014, https://www.amnesty.org/en/latest/news/2014/08/china-death-row-inmate-freed-after-six-years-trials-and-appeals/, accessed 1 September 2015.

year-old Gao Pengcheng, the court of first instance initially handed down a death sentence with two-year reprieve in 2011, which is normally converted to a term of imprisonment at the end of two years. In September 2012, however, Gao's family received a notice from the court to come collect his remains. It was only eight months later, in May 2013, that the family received the decision of the Hebei Higher People's Court, which revoked the reprieve after the trial of second instance. Neither Gao's lawyer nor his family ever received any notice of the second trial. The CPL requires that all death sentences be approved by the Supreme People's Court's but the family and lawyer received no notice of the approval either.[68]

RECOMMENDATIONS

DEFINITION OF TORTURE AND CRIMINALIZATION OF ALL ACTS OF TORTURE

Amnesty International calls on the Chinese authorities to:

- bring national legislation into line with the Convention and introduce a definition of torture that is compatible with Article 1 of the Convention.

- amend the CPL and provide in clear and absolute terms that no statements made as a result of torture or other cruel, inhuman or degrading treatment or punishment may be admitted as evidence in any proceedings, except against a person accused of torture or other ill-treatment as evidence that the statement was made and all other evidence obtained by torture or other ill-treatment or through other human rights violations is similarly excluded.

TORTURE, OTHER ILL-TREATMENT AND HARASSEMENT OF LAWYERS

Amnesty International calls on the Chinese authorities to:

- stop the harassment, arbitrary detention, torture and other ill-treatment, imprisonment and enforced disappearance of human rights lawyers peacefully carrying out their work.

- undertake a comprehensive review of the Lawyers Law, the Criminal Law, the Criminal Procedure Law, the Administrative Punishment Law and other relevant laws to eliminate those that undermine the independence of the legal profession, and ensure that the administration of the legal profession in China accords with international human rights laws and standards.

TORTURE AND OTHER ILL-TREATMENT IN DETENTION

Amnesty International calls on the Chinese government to:

- amend the CPL and specifically: amend articles 37, 73 and 83 to provide all persons deprived of liberty, without exception, with prompt access to legal counsel of their choice, and where necessary legal aid, from the beginning of custody and at all

[68] Amnesty International interview, 30 August 2015.

stages of criminal proceedings; and include provisions for legal counsel to be present during all questioning; provide for families of persons deprived of their liberty, or other designated individuals, without exception, to be promptly notified of their arrest and the place where they are held in detention; amend article 73 and all other articles relating to the deprivation of liberty, to insure that individuals in custody are only held in recognized places of detention.

- thoroughly investigate all allegations of torture and other ill-treatment, including rape and other ill-treatment.

- end the impunity of officials who engage in torture and other ill-treatment by prosecuting and punishing those found responsible and by implementing the necessary institutional reforms to ensure effective enforcement of existing laws prohibiting torture; and provide proper redress and compensation to victims.

- immediately halt all policies and practices of torture and other ill-treatment of lawyers, activists or any other individuals, investigate all such cases, prosecute suspected perpetrators, including persons in places of authority who may have ordered, instigated or were otherwise involved in torture, as well as in at least deliberate acts of cruel, inhuman or degrading treatment or punishment.

MISUSE OF LAW ENFORCEMENT EQUIPMENT AND TRADE IN TORTURE INSTRUMENTS

Amnesty International calls on the Chinese government to:

- ban the production, promotion, trade, transfer and use of law enforcement equipment which have no other use than as a tool of torture or other ill- treatment; only export legitimate law enforcement equipment which may be abused to violate human rights after careful examination of the country's human rights record generally and its use of such equipment specifically.

REFOULEMENT

Amnesty International calls on the Chinese government to:

- stop forcibly transferring, either directly or indirectly, any individuals to a country where they are at risk of persecution, torture or other ill-treatment, or death.

ADMINISTRATIVE DETENTION AND THE AFTERMATH OF ABOLITION OF "RE-EDUCATION THROUGH LABOUR"

Amnesty International urges the Chinese government to:

- abolish all forms of administrative detention; close down all places of detention which deprive individuals of their liberty without due process, including the rights to judicial review and safeguards against torture and other ill-treatment.

- ensure in law, policy and practice that no one is subjected to arbitrary deprivation of liberty on grounds of drug abuse, sex work, mental disorder, or intellectual or psychosocial disability.

- stop criminal prosecutions, arbitrary detentions, enforced disappearances, torture and other ill-treatment as well as other violations of the human rights of individuals for peacefully exercising their rights to freedom of expression, association and assembly, thought, conscience and religion.

- ensure strict and narrowly-constructed definitions of all offences, including those related to national security and terrorism, and specifically exclude from their remit the peaceful exercise of human rights, including to freedom of expression, association and assembly, and to take part in cultural life.

USE OF MEASURES LEADING TO TORTURE OR OTHER ILL-TREATMENT TO IMPLEMENT POPULATION POLICY

Amnesty International calls on the Chinese government to:

- review and amend national and local legislation, policies and practices related to population and family planning to assure the prevention and punishment of all coerced sterilization and forced abortion.

- ensure prompt, impartial, independent and effective investigations into allegations of forced sterilization or forced abortion.

- guarantee that victims promptly receive fair and adequate reparations in line with Article 14 of the Convention.

ILL-TREATMENT DURING FORCED EVICTIONS

Amnesty International calls on the Chinese government to:

- halt immediately all forced evictions, explicitly prohibit them in law, and ensure that adequate safeguards and protections are in place in line with international standards.

- investigate all cases of state and non-state actors violating the rights of residents including but not limited to the use of violence, during the eviction process, and where appropriate prosecute perpetrators.

DEATH PENALTY

Amnesty International calls on the Chinese government to:

- establish an official moratorium on all executions with a view to abolishing the death penalty, as provided by four UN General Assembly resolutions, most recently resolution 69/186 of 18 December 2014, commute all existing death sentences and refrain from meting out new ones.

- abolish the death penalty for all crimes and in all circumstances.

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