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People's Republic of China Continuing abuses under a new leadership - summary of human rights concerns

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Summary

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While legal reforms in the commercial sphere have continued apace since China's entry to the World Trade Organization in December 2001, little attention has been paid to the reform of other laws or regulations, including the Criminal and Criminal Procedure Laws, which have wide-ranging implications for human rights.

Hundreds of thousands of people continue to be detained in violation of their fundamental human rights across the country, death sentences and executions continue to be imposed after unfair trials, torture and ill-treatment remain widespread and systemic, and freedom of expression and information continue to be severely curtailed.

This document summarizes a number of Amnesty International's key human rights concerns on China, including:

- The continued use of the death penalty during the ongoing "strike hard" campaign resulting in high numbers of executions, often after unfair or summary trials;
- The continued use of "Re-education through Labour", a system which allows for the detention of hundreds of thousands of individuals every year without charge or trial in contravention of international human rights standards;
- The persistence of serious allegations of torture and ill-treatment within China's criminal justice system, including police stations, "Re-education through Labour" camps and prisons;
- Increasing arrests and detentions of Internet users or so-called "cyber-dissidents" in violation of their fundamental rights to freedom of expression and information;
- An intensification in the crackdown on the human rights of the mainly Muslim Uighur community in the Xinjiang Uighur Autonomous Region under the guise of "anti-terrorism" measures;

¹ China's new administration under the leadership of President Hu Jintao and Premier Wen Jiabao formally took office in March 2003.

- Continued repression of the rights to freedom of expression and association in Tibet, including the ongoing imprisonment of scores of Buddhist monks and nuns as prisoners of conscience;
- The ongoing crackdown on the Falun Gong spiritual movement and other so-called "heretical organizations", leading to widespread reports of arbitrary detention, torture and deaths in custody;
- Serious human rights violations in the context of the spread of HIV/AIDS in China, including reports of torture and ill-treatment of people with HIV/AIDS, and the arbitrary detention, harassment and intimidation of HIV/AIDS activists;
- The plight of North Korean asylum seekers in China, who continue to face forced return to North Korea where they risk imprisonment, torture and even execution, together with the arbitrary detention of journalists and others attempting to raise awareness of their situation;
- Recent attempts by the Hong Kong administration to introduce new legislation on "treason, sedition, secession and subversion" despite widespread public concern that this could be used to restrict fundamental human rights or the legitimate activities of civil society groups in Hong Kong.

This report summarizes a 19-page document (7,425 words): *People's Republic of China: Continuing Abuses under a New Leadership- Summary of Human Rights Concerns* (AI Index: ASA 17/035/2003) issued by Amnesty International in October 2003. Anyone wishing further details or to take action on this issue should consult the full document. An extensive range of our materials on this and other subjects is available at <http://www.amnesty.org> and Amnesty International news releases can be received by email:

<http://www.web.amnesty.org/web/news.nsf/thisweek?openview>

INTERNATIONAL SECRETARIAT, 1 EASTON STREET, LONDON WC1X 0DW, UNITED KINGDOM

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People's Republic of China

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Introduction

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The Death Penalty

Amnesty International remains concerned about the extensive use of the death penalty in China. While 1,060 executions in China were recorded by Amnesty International in 2002, it must be noted that this figure was compiled using only public sources, and that the true figure is likely to be significantly higher.² A recent estimate cited by Andrew Nathan and Bruce Gilley based upon internal Chinese Communist Party documents suggests China executes around 15,000 people per year.³ Amnesty International is unable to verify these reports but continues to call on the Chinese authorities to make public statistics relating to death sentences and executions imposed nationwide.

According to official reports in China, the adoption of lethal injections as a method of execution is spreading rapidly as a "humane" and "civilized" alternative to firing squads. Official reports in March 2003 surrounding the introduction of mobile execution chambers in Yunnan Province also highlighted the comparative cost effectiveness of the method, requiring

² This is partially illustrated by the following example: Amnesty International recorded 17 executions in Yunnan Province in 2002, but the official media reported in March 2003 that Yunnan had purchased 18 mobile execution chambers – vehicles purchased and converted at a cost of 500,000 Yuan (£52,700) each, in which convicts in remote areas can be executed by lethal injection. It is highly unlikely that 17 executions in the province could justify investment in 18 mobile execution chambers.

³ *China's New Rulers - The Secret Files*, Andrew Nathan & Bruce Gilley, eds. Granta 2002 (p. 191). According to Nathan and Gilley, this figure includes people who were killed during police operations such as investigation, pursuit and arrest.

only four personnel beyond security guards required to guard the vehicle itself. Improving the “efficiency” and “cost-effectiveness” of executions raises further concerns about the death penalty’s increased application. Amnesty International believes that the introduction of lethal injection fails to address the major objections to the death penalty, such as risk of execution of the innocent, its arbitrary and biased application, the cruelty of death row and waiting for death, the lack of evidence for execution as a deterrent for crime, and the use of execution as a political distraction from implementing effective measures to address crime. Amnesty International repeats its concerns that involvement by the medical profession in conducting executions is contrary to medical ethics.

Use of the death penalty increases markedly during “strike hard” campaigns as a punishment for specifically targeted crimes that at other times might have been punished with a prison term. Luo Gan, a politburo standing committee member and director of the Central Committee for the Management of Public Security, announced a one-year extension to the “strike hard” campaign on 18 July 2003.⁴ Pressure mounts on all law-enforcement and legal bodies during “strike hard” campaigns to process as many cases as possible so as to achieve “quick approval, quick arrest, quick trial and quick results”.⁵ It is highly likely therefore that numerous people will be convicted through expedience rather than rigor on the part of the courts. Also of concern is the state’s strategic use of the death penalty to celebrate national events. Two prominent annual peaks in the number of executions appear towards the end of each September as China prepares to celebrate National Day on 1 October, and in June, when in 2003 for example, 54 people were reportedly executed on drugs-related charges in the single week leading up to the World Anti-Drugs Day on 26 June.

At an international conference in Hunan Province on the death penalty held jointly by the Chinese Academy of Social Science and the Danish Institute for Human Rights on 9-10 December 2002, it was reported that the vast majority of Chinese legal scholars in attendance strongly advocated abolition of the death penalty in China. Complex legal and ethical questions surrounding its use were openly discussed and debated at the conference. Reports of these debates appeared in the official press, where discussion on use of the death penalty continues – particularly regarding flaws in the appeal and review processes for condemned prisoners.⁶ In a widely publicised case, a farmer from Shaanxi Province had his death sentence halted four minutes before he was due to be executed after his lawyer gained access to the Supreme Court in Beijing under false pretences and persuaded a judge to review the case.

⁴ The current “strike hard” campaign began in April 2001, but was extended for a year in April 2002, and as noted above, yet again in July in 2003. A major feature of “strike hard” campaigns is the accelerated rate of executions throughout China, as well as increases in the number and length of prison sentences.

⁵ See: China “Striking harder” than ever before. AI Index: ASA 17/022/2001.

⁶ For example, *Nanfang Zhoumo* (Southern Weekend), 10 January 2003.

⁷ *Zhong Wai Faxue* (Chinese and Foreign Legal Studies) 2003 1, Beijing University Press. *Cong “qiangxia liuren” dao “faxia liu ren”* (From “hold the execution” to “hold the law”), Chen Xingliang, pp. 98-106. The farmer, Dong Wei, eventually lost his appeal and was executed on 5 September 2002.

Other serious flaws in the Chinese legal system in relation to the death penalty and its appeal and review procedures continue to appear. Amnesty International shared the deep concerns of numerous international governments and bodies over the execution of Lobsang Dhondup, an ethnic Tibetan, in January 2003 following a closed trial in Sichuan Province. Lobsang Dhondup was convicted on charges including "causing explosions", but no details have been made public of the evidence used against him. Official statements on the trial assert Lobsang Dhondup's case touched upon "state secrets", and was therefore closed. However, the justification for classifying the case as touching upon "state secrets" appears to have been a device to exclude observers from the legal process. Indeed, if Lobsang Dhondup's capital conviction had been "state secrets" related, Chinese law dictates that his case should have been referred to the Supreme Court for review. Instead, Lobsang Dhondup was executed hours after his sentence was passed, without his case being referred, and despite assurances from the Chinese government to the US State Department and the EU that Lobsang Dhondup's case would receive a "lengthy" review.

Whilst public debate in the official media on the death penalty is an encouraging sign, it remains to be seen how or even if these debates will inform government policy or the Chinese judiciary's sentencing practices. Indeed, recent amendments to laws along with judicial interpretations from the Supreme Court have extended the scope of articles in the Criminal Law to make the death sentence applicable in more instances. For example, following amendments to the Criminal Law in December 2001, the death penalty could be applied to vaguely defined offences of funding or carrying out "terrorist crimes", and for belonging to a "terrorist organisation", even if actual membership has involved no other crime.⁸ A judicial interpretation issued by the Supreme Court in May 2003 could apply the death sentence to people suffering from Severe Acute Respiratory Syndrome (SARS) and who break quarantine under a public order clause in the Criminal Law to prevent the deliberate spread of "contagious-disease pathogens".⁹ Another judicial interpretation issued on 8 September 2003 and valid from 1 October 2003 will apply the death penalty to people involved in the illegal production, trade and storage of defined quantities of toxic chemicals.¹⁰

Extending the scope of crimes punishable by the death penalty runs counter to international trends as exemplified consistently in resolutions at the UN Commission on Human Rights.¹¹

Re-education through Labour (RTL)

In October 2002, Amnesty International sent a Memorandum to the Chinese authorities calling for the introduction of effective measures to prevent torture and ill-treatment as well as

⁸ See: China's anti-terrorism legislation and repression in the Xinjiang Uighur Autonomous Region. AI Index: ASA 17/010/2002.

⁹ "Chinese judicial organs issue interpretations on punishing SARS-related crimes", Xinhua 15 May 2003.

¹⁰ "Poisoners face harsh punishment", China Daily 8 September 2003.

¹¹ See for example E/CN.4/RES.2003/67, 24 April 2003.

the abolition of two systems of administrative detention which contravene international human rights standards.¹² In June 2003, one of these systems, "Custody and Repatriation" (*shourong qiansong*) (C&R), was abolished in the wake of a public outcry about the brutal murder of migrant worker, Sun Zhigang, while he was detained unlawfully in a C&R Center in Guangzhou city.¹³ Amnesty International has welcomed this reform, but notes that the other system of administrative detention, "Re-education through Labour" (RTL) (*laodong jiaoyang*) remains in place and continues to be imposed in contravention of international human rights standards.

RTL involves detention without charge or trial, and without judicial review, for between one and three years – which can be further extended by one year. People receiving terms of RTL have no right of access to a lawyer and there is no hearing for them to defend themselves. "Sentencing" or assignment to a term of RTL is usually decided by the police alone, without judicial supervision or review.

The use of this form of administrative detention has increased considerably in recent years. According to official statistics, in 1996 there were 200,000 people in RTL camps in China. By early 2001, the number had increased to 310,000.¹⁴ Although recent official figures are not available, the number is believed to have further increased since then – notably due to the continuing campaign against the Falun Gong (see below) and the "strike hard" campaign against crime which has continued since April 2001.

RTL contravenes various international human rights standards, including the Universal Declaration of Human Rights, the UN Body of Principles for the Protection of All Persons under any form of Detention or Imprisonment, and the International Covenant on Civil and Political Rights (ICCPR) which was signed by China in 1998. In particular, RTL contravenes Article 9 of the ICCPR which prohibits arbitrary detention and Articles 8 (3)(a)

¹² See *People's Republic of China: Establishing the rule of law and respect for human rights – the need for institutional and legal reforms; Memorandum to the State Council and National People's Congress of the People's Republic of China*, October 2002 (ASA 17/052/2002). Cases of torture and ill-treatment perpetrated in such centres have been documented by Amnesty International for many years. See: *Torture a growing scourge in China – time for action*, Feb 2001 (ASA 17/004/2001).

¹³ For further information about the death of Sun Zhigang, please see *China: Abolition of "Custody and Repatriation" welcomed, but more needs to be done*, 27 June 2003, ASA 17/028/2003. The abolition of C&R was announced in June 2003 and formally replaced when new regulations on vagrancy came into effect on 1 August 2003. The system had been used to detain those in urban areas without fixed abode and millions, including homeless children, migrant workers and the mentally ill, had been caught up in this system every year. Detainees had reported being subjected to serious abuses in C&R centres, including rape, beatings, extortion and forced labour. The new regulations shift responsibility for welfare of "vagrants" and "beggars" from the police fully to civil affairs departments and explicitly forbid extortion, abuse and forced labour by officials running the shelters. Amnesty International has called for the legislation to be implemented effectively at local level and for the introduction of further safeguards to ensure that officials are held accountable for their actions.

¹⁴ See "Re-education Through Labour and its Reform", by Liu Renwen, *China Procuratorial Daily - Justice Net*, 5 January 2001.

and (b) of the ICCPR which prohibit forced or compulsory labour unless imposed as a punishment for a crime by a competent court.

Amnesty International continues to urge the Chinese authorities to abolish this abusive system of detention as an important step towards ratification of the ICCPR at the earliest opportunity.

Torture and ill-treatment

It is now 15 years since China ratified the Convention against Torture and other Cruel, Inhuman or Degrading Treatment or Punishment (CAT). Yet continued and widespread reports of torture and ill-treatment from various places of detention suggest that this serious human rights violation remains largely unaddressed.

The persistence of torture has been acknowledged by leading Chinese officials who have often issued strong, condemnatory statements against the practice. However, this rhetoric has not been backed up by the legal and institutional reforms necessary to safeguard against torture or ill-treatment. This includes the establishment of effective channels by which individuals can make complaints about their treatment without fear of retribution as well as mechanisms to ensure that all alleged abuses are investigated promptly and impartially.

Last month, China's official news agency, *Xinhua*, reported that the Ministry of Public Security has issued a new regulation in order to "stop illegal practices such as torture, threats and deception to secure confessions or investigate offences".¹⁵ The regulation will reportedly come into force on 1 January 2004. While Amnesty International welcomes attempts to curb such abuse, it remains unclear exactly how the regulation will be enforced in practice. Amnesty International is concerned that there is no legislation specifically preventing confessions extracted through torture from being admitted as evidence against a defendant. In addition, the new regulation only applies to police investigating "non-criminal" (i.e. administrative) cases, leaving the use of torture in criminal cases to be dealt with under existing legislation.

Amnesty International has documented elsewhere the failings of China's criminal legislation in connection with the prevention of torture.¹⁶ In particular, definitions of torture under China's Criminal Law fail to meet international human rights standards. Procedural failings relating to detainees' access to lawyers, medical treatment and family members combined with continued political interference in the criminal process in "sensitive" or "political" cases, help to sustain an environment which allows torture to flourish in China.

¹⁵ Xinhua news agency, Beijing, in English, 9 September 2003 (BBC Monitoring).

¹⁶ See most recently, *People's Republic of China: Establishing the rule of law and respect for human rights – the need for institutional and legal reforms*, October 2002 (ASA 17/052/2002).

Crackdown on “cyber-dissidents”

As the number of Internet users increases in China and the authorities enforce regulations and laws to restrict expression of opinion on the Internet, Amnesty International is concerned about the growing number of politically motivated arrests and sentences in connection with the use of the Internet. The organization has records of over 40 people who are currently detained or imprisoned for Internet-related offences. They include students, political dissidents and Falun Gong practitioners. Those that have been imprisoned have been sentenced to terms of between two and eleven years.¹⁷

Most of these so-called “cyber-dissidents” have been accused of crimes of “subversion” or “endangering state security”. These provisions of the Criminal Law are some of the main charges used against political activists in China today. Their application and definition are unclear and thus open to wide interpretation resulting in many people being imprisoned for the peaceful exercise of their right to freedom of opinion and expression. Some recent cases are as follows:

Liu Di, a female psychology student from Beijing Normal University, was detained in Beijing on 7 November 2002 after she posted messages in an Internet chat-room under the pseudonym, “Stainless Steel Mouse” calling for the release of Internet dissidents, including Huang Qi (see below). Her computer, floppy disks and notebooks were later confiscated by the Beijing Public Security Bureau. On 15 December 2002 Liu Di was charged with “endangering state security”.

Liu Di was held incommunicado for over four months, until she was allowed to meet with her lawyer in March 2003. Her family are still being denied access to her. She is reportedly being held awaiting trial at the Beijing Public Security Bureau detention centre (otherwise known as Qincheng Prison). Qincheng Prison is a highly secretive and isolated prison in Changping county, Beijing municipality.

In January and March 2003 two on-line petitions were produced in China which called for the release of Liu Di. The petitions were signed by almost 3000 Internet users. As a consequence of expressing their support for Liu Di several of the petitioners were detained.

¹⁷ In addition to these cases, in June 2003, over 100 people were reportedly detained in China for “spreading rumours” or “false information” about the spread of Severe Acute Respiratory Syndrome (SARS) through the use of the Internet or mobile phone text messages. It is unclear exactly how many still remain in detention, but Amnesty International fears that many may still be detained in violation of their fundamental human rights.

Human rights should be respected even under the most extreme situations, including a public health emergency. International human rights law requires that freedom of expression and association can only be limited in a necessary and proportionate way to achieve some legitimate aim, such as to stop the spread of disease, and the onus is on the government to demonstrate why certain restrictions are necessary. The Chinese authorities have failed to provide an explanation to justify taking the extreme step of depriving people of their liberty. In the absence of a credible, official explanation for these arrests, Amnesty International considers those detained for spreading rumours about SARS to be detained in violation of their right to freedom of expression.

Some have been released but three are still believed to be detained, of whom one, **Luo Changfu**, has reportedly been charged with "subversion". A four-week campaign launched on 7 October and intended to end on the anniversary of Liu Di's arrest on 7 November 2003 has reportedly already won the support of hundreds of people from China and overseas.

Amnesty International considers both Liu Di and Luo Changfu to be prisoners of conscience detained in violation of their fundamental human rights to freedom of expression.

Huang Qi, a computer engineer from Sichuan, was detained on 3 June 2000 for publishing various articles on his website relating to human rights and political issues. (www.6-4tianwang.com), including reports about the independence movement in the Xinjiang Uighur Autonomous Region, the 1989 Tiananmen crackdown, and the Falun Gong spiritual movement. In January 2001 Huang Qi was charged with "subversion" and tried by the Chengdu Intermediate Court in secret in August 2001. No verdict was announced, but Huang Qi remained in detention.

Almost two years after his arrest on 9 May 2002, Huang Qi was found guilty of "inciting subversion of the state" under Articles 105, 55 and 56 of the Criminal Law and sentenced to five years' imprisonment. On 18 May 2002 Huang Qi filed an appeal in which he reportedly pointed out that China's constitution guarantees the right to freedom of speech and of the press. His appeal was published on his own website which is now operated from overseas. According to reports, in August 2003 his appeal was rejected and the five years' sentence upheld.

According to reports, his family have not been allowed to visit him since his arrest in June 2000. They were not notified of the sentencing hearing and only learnt of the sentence after calling the court. His defence lawyers, Gao Xiaoping and Fan Jun however were present at the hearing. According to the verdict, they raised the issue of freedom of speech during his trial and argued that Huang Qi had the right to express opinions on any issue. However, the court rejected this, stating that "while freedom of speech is the political right of the citizens of this country, citizens must not harm the interests of the nation in exercising that right and should not use rumour or slander to incite the subversion of the state."¹⁸

Amnesty International questions how merely publishing information and discussion about political and human rights issues on the Internet could be construed as "inciting the subversion of the state and the overthrow of the socialist system."

Amnesty International believes that Huang Qi has been denied due process in violation of China's Criminal Procedure Law and international standards for fair trial. The organization considers him to be a prisoner of conscience, imprisoned in violation of his fundamental human rights to freedom of expression, and renews its calls for his immediate and unconditional release.

¹⁸ Unofficial translation of the verdict which was accessible for a limited period on Huang Qi's website.

Xinjiang Uighur Autonomous Region (XUAR)

Amnesty International remains concerned at China's continued use of the international "war against terrorism" to justify its ongoing repression of Uighur culture and religion and restrictions of other fundamental freedoms in the XUAR. The organization continues to receive reports of serious and widespread human rights violations in the region as the crackdown intensifies against those branded as "separatists, terrorists and religious extremists" among the XUAR's mainly Muslim Uighur community. Such policies have resulted in serious human rights violations, including the arrest and detention of thousands of Uighurs. Those detained for political offences in the XUAR are at serious risk of torture or ill-treatment.

The authorities continue to make little distinction between acts of violence and acts of passive resistance, such as peaceful demonstrations. In some respects repression has been manifested in an assault on Uighur culture as a whole as evidenced in the closure of mosques, restrictions on the use of the Uighur language and the burning of Uighur books and journals.

Amnesty International is concerned about reports of mass arrests of young Uighurs in Gulja (Yining), Yili prefecture in early February 2003 on the eve of the anniversary of a demonstration which took place in the city on 5 February 1997.¹⁹ Unofficial reports suggest that in the week before the anniversary, over 200 Uighur youths were detained by the police during a security crackdown in the prefecture. The operation appears to have been aimed at preventing people from marking the anniversary. It may also have been in reaction to a poster which reportedly appeared on a wall of the Yining City Telecommunications Building on 1 February 2003 (Chinese New Year), calling on Uighur people to "resist the Beijing authorities' policy of repressing and suppressing minorities".²⁰ Due to tight restrictions on the flow of information from the XUAR, Amnesty International has been unable to verify these reports. It is unclear whether any of these detainees were charged with any crimes or whether they were later released.

On 24 September 2003, the Chinese authorities publicly announced a renewed security crackdown in the XUAR which is due to last for 100 days from 1 October 2003 (National Day) to Chinese New Year in late January 2004.²¹ According to a spokesperson from the regional Public Security Bureau, the crackdown would target "violent crime, terrorist crimes, crimes involving explosives and guns and so on".²² It is unclear how the new

¹⁹ The 1997 demonstration was brutally suppressed by the security forces who reportedly fired into the crowd and beat protestors leading to hundreds of arrests and serious allegations of torture and ill-treatment. (See *People's Republic of China: Gross violations of human rights in the Xinjiang Uighur Autonomous Region, April 1999, ASA 17/18/99* for further information). In February 2003, Amnesty International wrote to Ismail Tiliwaldi, the Chair of the XUAR regional government reiterating calls for a full, impartial and independent inquiry into the incident. To date, Amnesty International has received no response to this letter.

²⁰ See <http://www.creaders.net>, 4 Feb 2003.

²¹ See "China set to crack down on Muslim northwest", Reuters, 24 Sept 2003.

²² Ibid.

campaign will differ from ongoing patterns of repression, but there are serious concerns that it will lead to an intensification in the crackdown on peaceful political dissent in the region over the coming months.

Amnesty International renews its appeals to the Chinese authorities to ensure that any measures taken against crime, including acts of violence, in the XUAR comply with international human rights standards. Anyone detained on suspicion of being involved in acts of violence should be given a fair trial; all those detained in the XUAR for peacefully exercising their fundamental human rights, including long-standing prisoners of conscience, **Rebiya Kadeer** and **Tohti Tunyaz**, should be released immediately and unconditionally.²³

As the political campaign in the XUAR intensifies, Amnesty International is concerned that China is also putting pressure on neighbouring countries to forcibly repatriate Uighurs. Amnesty International believes that any Uighurs suspected of being involved in pro-independence groups or activities and perceived by the authorities to be "terrorists, separatists or religious extremists" would be at risk of serious human rights violations, including torture, arbitrary detention and even execution, if forcibly returned to China. Amnesty International has documented several cases of Uighurs, including asylum seekers and individuals recognized as refugees by the UNHCR, who were forcibly returned to China in violation of international law.²⁴

Most recently on 16 July 2003, two Uighur activists, **Abdulwahab Tohti** (m) and **Muhammed Tohti Metrozi** (m) reportedly went missing in Rawalpindi, Northern Pakistan.²⁵ They both "disappeared" after Muhammed Tohti Metrozi received a telephone call from an official who reportedly worked for Pakistani Intelligence Bureau asking them to come, for a meeting. They went to meet the official and unconfirmed reports suggest that the two were transferred to China around three days later. They are currently believed to be detained in Urumqi although their exact whereabouts and legal status are unknown. Muhammed Tohti Metrozi had already been recognised as a refugee by the United Nations High Commissioner for Refugees (UNHCR) in Pakistan and was awaiting resettlement to Sweden.

²³ For further information about Rebiya Kadeer and Tohti Tunyaz, see *People's Republic of China: Serious human rights violations and the crackdown on dissent continue*, Sept 2002. (ASA 17/047/2002).

²⁴ For example, Shaheer Ali (or Shir Ali), Abdu Allah Sattar (or Abdullah Sattar) and Kheyum Whashim Ali (or Washim Ali) were forcibly returned to China from Nepal in 2002. All had been recognised as refugees by UNHCR. See Urgent Actions, ASA 31/033/2002, ASA 31/036/2002. In addition, Abdul Latif Abdulqadir (or Ablitip Abdul Kadir), Ilham Tukhtam (or Elham Tohtam) and Enver Tohti (or Enver Dawut) and possibly others were forcibly returned to China from Pakistan in 2002. There is no further information about their current legal status, treatment or state of health. See Urgent Actions ASA 33/011/2002, ASA 33/013/2002.

²⁵ See Urgent Action ASA 33/008/2003.

Tibet Autonomous Region (TAR)

Despite the release of several prisoners of conscience before the end of their sentence during 2002, and signs of a tentative dialogue between the Chinese authorities and the Tibetan government in exile, repression of political dissent and religious freedom has continued in recent months in the Tibet Autonomous Region (TAR) and in some Tibetan autonomous areas in Sichuan, and Gansu provinces. Since the beginning of 2003 several people have reportedly been detained and imprisoned after unfair trials, for peacefully expressing their political and religious views. In the majority of cases, the Chinese government does not reveal the charges against those arrested, their whereabouts, legal status or their health conditions.

In April 2003, **Jigme Jamdrup** (Jigme Jamtruk), 37, and **Kunchok Jamyang** (Kunchok Choephel Labrang), 40, two monks from the Labrang Tashikyel monastery in Kanlho Tibetan Autonomous Prefecture, Gansu Province, were detained apparently for being in possession of booklets containing speeches by the Dalai Lama. According to reports, Jigme Jamdrup was released on bail on 23 April 2003 while Kunchok Jamyang is still in custody. His current whereabouts and legal status are unknown. Both monks are well-known political activists who had been under heavy scrutiny since the early 1990s. Jigme Jamdrup was arrested in 1995 for pasting posters containing slogans such as "Stand up, Tibetans!", and was sentenced to two years in prison on charges of "inciting counter-revolutionary propaganda"; Kunchok Jamyang was also detained in 1995 for three months for engaging in political activities, and reportedly suffered beatings while in detention.

Over 100 Tibetans, mainly Buddhist monks and nuns, remain imprisoned in violation of their fundamental human rights²⁷. Many have been tortured in detention and are held in conditions which often amount to cruel, inhuman or degrading treatment. They include **Phuntsog Nyidron**, a Buddhist nun, who was imprisoned for taking part in a peaceful demonstration in Lhasa to call for Tibetan independence. She continues to be detained in Tibet Autonomous Regional Prison No.1 (commonly known as Drapchi Prison) where she has reportedly been subjected to torture or ill-treatment, including frequent beatings and solitary confinement. Her sentence was extended by eight years after she and another 13 nuns, including her fellow cell-mate Ngawang Sangdrol, secretly recorded pro-independence songs which were then smuggled out of prison. Her 17 years' imprisonment was later reduced by one year and she is now due for release in March 2005. According to Ngawang Sangdrol, Phuntsog Nyidron is in very poor health due to the torture she has suffered and a lack of proper medical care. She often faints and vomits and she is also suffering from depression.²⁸

Amnesty International is also concerned about a climate of repression and intimidation that reportedly continues in the Kardze Tibetan Autonomous Prefecture in

²⁷ See "Changes in pattern of political detention" by Tibet Information Network, News Updates 10 March 2003, <http://www.tibetinfo.net/news-updates/2003/1003.htm>.

²⁸ Ngawang Sangdrol, a nun and political activist, was released from Drapchi prison on 17 October 2002 on "good behaviour parole" before the end of her sentence. Ngawang Sangdrol, who was herself tortured while in Drapchi and suffers from various ailments as a consequence, was allowed to leave China in March 2003 following international pressure, to undergo medical treatment abroad.

Sichuan province following the suspended death sentence passed against Tenzin Deleg Rinpoche and the execution of Lobsang Dhondup in January 2003.²⁹ Reports indicate that people have been detained and questioned by the authorities over recent months for gathering in groups and discussing the case.

Following the recent forcible return of Tibetans from Nepal in May 2003, Amnesty International is increasingly concerned for the safety of Tibetan asylum seekers in neighbouring countries. On 31 May 2003, 18 Tibetan asylum seekers were forcibly returned to China from Nepal in a joint operation carried out by Nepalese and Chinese officials in violation of international refugee law and human rights standards. The 18 people were among a group of 21 Tibetans, including 11 under the age of 18, who had been detained by the police in mid-April 2003 after crossing the border into Nepal from Tibet. They were charged with entering Nepal "illegally" and, unable to pay fines imposed by Nepalese authorities, were given prison sentences of up to 10 months. At least eight of the prisoners were ill and were reportedly denied access to proper medical care.

Eye witnesses reported that Chinese and Nepalese officials worked closely together throughout the operation: the 18 Tibetans were removed from their detention centre by Nepalese officials, loaded on to a bus with a covered number plate and escorted to the border by Chinese and Nepalese officials. A Chinese police vehicle was waiting on the Nepalese side, from where the 18 were driven in a Chinese vehicle to the other side.

The UNHCR publicly stated that it had strong reasons to believe that the individuals would be of concern to them but that they had been denied access to them to assess their claims. It warned that returning people before their status had been determined would be in clear contravention of international law.

Following the deportations, the 18 Tibetan asylum seekers were reportedly held in a detention centre in Shigatse, in southern TAR. In August 2003, the Governor of the TAR was reported as saying that all detainees had been released and allowed to "go back to their farms and herds".³⁰

²⁹ Tenzin Deleg Rinpoche, a religious and community leader in Kardze, (Chinese: Ganzi), Tibetan Autonomous Prefecture, Sichuan Province, was charged in connection with several bombings in Sichuan and was given a suspended death sentence on 2 December 2002. There are concerns that he has been punished because of his peaceful religious and community work with Tibetan communities in Sichuan, not because of his alleged involvement in the bombings. Several people connected to Tenzin Deleg Rinpoche have also been implicated in the case. On 26 January 2003, Lobsang Dhondup, a former attendant of Tenzin Deleg Rinpoche, was executed for his alleged role in the bombings. After four recent releases, at least three people are still being held in connection with the case. The true figure may be much higher: one source indicates that as many as 80 people may have been detained. There are serious concerns for the health of one of the detainees, Tashi Phuntsok, who is suffering from tuberculosis. For more information on this case, see *People's Republic of China: Miscarriage of Justice? The trial of Tenzin Deleg Rinpoche and related arrests*, ASA 17/029/2003. Also see the "The Death Penalty" section in this document.

³⁰ See *Tibetan Escapees now farmers, nomads again- China*, Reuters, 25 August 2003.

Crackdown on the Falun Gong spiritual movement

*"The whole country has formed a situation in which the "Falun Gong" cult is being chased by all like rats running across the street [...] We must exterminate the cult, and the evil must be totally eradicated [...]"*³¹

The above statements, taken from a lengthy commentary published by *Xinhua* in early September 2003, make it clear that the Falun Gong spiritual movement remains a key target for repression in China.³² Amnesty International is deeply concerned at the nature and tone of such rhetoric, particularly given ongoing reports of the widespread use of violence, including torture and ill-treatment, against Falun Gong practitioners in custody. The organization fears that the continued publication of such inflammatory statements may exacerbate such abuses.

The majority of Falun Gong detainees continue to be held in RTL camps where they are sent without charge or trial (see above). Others have been sentenced to prison terms or held against their will in psychiatric hospitals. Amnesty International considers all those detained in violation of their rights to freedom of belief, expression and association, and who have not used or advocated violence, to be prisoners of conscience.

According to overseas Falun Gong sources, the death toll of those detained in connection with their practice of Falun Gong has now mounted to over 700 people, mostly as a result of torture or ill-treatment. Amnesty International is unable to verify these figures, but continues to receive reports from various sources of serious human rights violations, including arbitrary detention, torture and ill-treatment targeted at Falun Gong practitioners across the country, particularly those who refuse to renounce their beliefs.

Amnesty International has documented cases of Falun Gong practitioners who died in custody after being detained for accessing or posting information about Falun Gong on the Internet. For example Falun Gong practitioner, **Li Changjun**, a 33-year-old engineering graduate, was reportedly detained on 16 May 2001 for downloading and printing information from the Internet on Falun Gong. Li Changjun had worked at the Wuhan Tax Bureau but was said to have lost his job for refusing to renounce his Falun Gong beliefs. On 27 June 2001, 40 days after his arrest, the Wuhan police notified his family of his death. His mother, Wei Sumin, was allowed to see her son's body shortly after he died and reportedly said after seeing him, "...he had only skin and bones left. His face and neck were black and blue. His fists were clenched. His teeth were out of place. His face was distorted. His whole back looked as if it was burned and cooked. The scene was horrifying."

According to Falun Gong sources **Deng Shiyong** (f) died on 19 July 2003, the day after her release from Jilin Women's Prison in Changchun City, Jilin Province. Ms. Deng (42) was sentenced to seven years in prison on 18 February 2003 on charges relating to her alleged

³¹ Xinhua news agency domestic service, Beijing, in Chinese 0951 gmt 7 September 2003.

³² While Falun Gong appears to be the main target in the current crackdown, it is not the only group to have been banned as a "heretical organization" or "evil cult". Other groups include other unofficial Qi Gong groups as well as unofficial Christian groups. See *People's Republic of China: The crackdown on Falun Gong and other so-called "heretical organizations"*, March 2000 (ASA 17/11/00).

involvement in producing and distributing fliers and other material describing human rights violations against Falun Gong practitioners in China. Whilst in prison, Ms. Deng reportedly suffered extended periods of beatings and torture, sometimes carried out by up to 8 other inmates at the prison. According to information received by Amnesty International, prison guards often order other prisoners to beat Falun Gong detainees in return for certain privileges and favours. As Ms. Deng's condition deteriorated, two police officers reportedly demanded 3,000 Yuan (€ 310) from her family on 17 July 2003 to secure her release on bail for medical treatment. Her family were told to collect her from hospital on 18 July 2003, where she was described as unconscious and "near death". She died the following day.

Amnesty International urges the Chinese authorities to conduct full, impartial and independent investigations into the circumstances surrounding these alleged deaths in custody as well as all other reports of torture or ill-treatment against Falun Gong practitioners in detention. All those responsible for such abuses must be brought to justice in line with international fair trial standards.

Human rights violations in the context of the spread of HIV and AIDS

HIV infections have spread rapidly in China since the mid-1980s affecting the lives and livelihoods of a vast number of people across the country. The Joint United Nations Programme on HIV/AIDS (UNAIDS) has estimated that by the end of 2001 up to 1.5 million Chinese people were infected with HIV, and has warned that this figure could rise to 10 million by 2010 if no effective countermeasures are taken.³³

Reports on HIV/AIDS in the official Chinese media tend to highlight intravenous drug use and unprotected sex as the main causes for the spread of the virus. A less well-publicised factor has been the operation of blood-collecting stations in many parts of China during the late 1980s and 1990s, particularly in several villages in Henan and other central provinces. Many of these were run by local government health departments, while others were illegal blood banks known as "blood heads" (*xuetou*). They were established rapidly due to a highly profitable global demand for blood plasma. The blood-collection centres failed to implement basic safety checks in handling the blood, and as a consequence of the centres'

³³ See *HIV/AIDS: China's Titanic Peril*, UNAIDS, June 2002. Available here: <http://www.youandaids.org/unfiles/chinastitanicperillast.pdf>

Official Chinese national statistics are considered to be unreliable due to fears of under-reporting from local authorities, but official Chinese media reports tend to acknowledge around one million people living with HIV/AIDS. There are concerns that is likely to be a serious under-estimate. See also *China facing AIDS 'time bomb'*, BBC, 27 June 2002.

poor practice, infections soared.³⁴ Estimates on the number of people infected in Henan Province alone through their use of such facilities range from 150,000 to over one million.³⁵

In June 2003 several people were arrested in connection with protests and disturbances relating to lack of access to medical care in Xiongqiao village, Shangai county, Henan province, where over one third of villagers are HIV-positive. Five were reportedly detained after they visited the provincial capital Zhengzhou with around 100 other villagers to protest about the lack of adequate health care in Xiongqiao. The authorities apparently agreed to meet with them, but the villagers were not satisfied with their response and prevented officials from leaving the room. Reports from some sources suggest that they may have threatened to infect officials with their blood. The five were then detained by the police, who reportedly beat them. Two were later released and one claimed that the detainees were beaten to make them confess to crimes of "robbery" and "attacking government offices". The current whereabouts and legal status of the three who are believed to remain in detention are unclear.

Thirteen others were detained during a violent midnight raid on the village on 22 June 2003 by police wielding metal rods and electro-shock batons. At least 12 people were reportedly injured and several needed hospital treatment. The background to this raid remains unclear. Some sources suggest that it was provoked by further disturbances following the arrests of the five protestors, while others indicate that it was part of a wider operation aimed at cracking down on various criminal activities in the area.³⁶ Several of those detained in the raid were reported to be HIV-positive. According to reports, some have since been released while others – reportedly around seven people – were charged, although the nature of the charges remains unclear.³⁷

Amnesty International is unable to verify details of the incidents or whether or not those detained were involved in criminal activities, but is concerned at the apparent excessive use of force used by the police during this raid. The organization calls on the authorities to conduct an immediate and impartial investigation into the actions of the police in Xiongqiao and to clarify the whereabouts of all those who remain in custody and any charges against them. Amnesty International is also concerned that some of the detainees may be HIV positive or suffering from AIDS-related illnesses and urges the authorities to guarantee their

³⁴ For a detailed account of human rights violations in the context of the HIV/AIDS epidemic in China, including the development of blood-collection stations in Henan, see *Locked Doors: the human rights of people living with HIV/AIDS in China*, Human Rights Watch, September 2003.

³⁵ See *HIV/AIDS: China's Titanic Peril*, UNAIDS, June 2002, p. 27. Available here: <http://www.youandaids.org/unfiles/chinastitanicperillast.pdf>

³⁶ Information which has come to light since Amnesty International produced its Urgent Action on these incidents on 11 July 2003 (ASA 17/030/2003) suggest that the background to the raid is more complicated than initially reported. Amnesty International is attempting to obtain further information about these events.

³⁷ See *Several villagers detained in China AIDS raid formally arrested*, AFP, 28 July 2003

safety and ensure that they have full and adequate access to medical treatment, lawyers and their families while in custody.

The incidents detailed above have occurred in the context of little or no access to specialised medical treatment for HIV-positive people or those suffering from AIDS-related illnesses. Few villagers in Henan and other infected provinces have access to anti-retroviral drugs or other specialist care.

The extent of the spread of HIV/AIDS in Henan became better known last year when one of China's most prominent HIV/AIDS activists, **Dr Wan Yanhai**, head of the Beijing-based Aizhi Institute, published on his website (www.aizhi.org) lists of people who died in Henan province of HIV/AIDS-related illnesses after the Institute received anonymous official documents about the spread of the disease in Henan. He was arrested in August 2002 on suspicion of "leaking state secrets", but released around one month later after widespread international protest at his detention.³⁸ More recently in April 2003, **Ma Shiwen**, the deputy director of the Disease Control Section of the Henan Provincial Health Department, was also reportedly arrested on suspicion of "leaking state secrets". This may be in connection with the same documents sent to the Aizhi Institute last year.³⁹ According to reports, Ma Shiwen was released on 16 October 2003 without standing trial. No further details were available at the time of writing and it remains unclear whether he will be able to return to his work⁴⁰.

Amnesty International is concerned at this use of vaguely defined "state secrets" charges in an apparent attempt to prevent publication of important information about the extent of the spread of HIV/AIDS in China. The organization believes that such statistics should be made publicly available in the interests of public health as well as freedom of information, transparency and accountability.

One of those who succeeded in drawing attention to the epidemic is **Dr Gao Yaojie**, a 77-year-old gynaecologist who began research into the extent of infection in Henan in the mid-1990s. She has since reportedly been placed under surveillance by local police and warned against speaking to journalists or other independent researchers. According to media reports, members of her family have also received death threats, although the origin of these threats is unclear.⁴¹ In September 2003, Gao Yaojie was reportedly sued by a local medicine developer over her accusations that untrained "folk doctors" have made false claims about their AIDS remedies to make huge profits. She was due to appear in court on 16 September 2003, but the outcome of the hearing is unknown.

Amnesty International is concerned for the safety and well-being of Gao Yaojie and her family as well as others working in the field of HIV/AIDS education and research in Henan. The organization urges the Chinese authorities to ensure that HIV/AIDS activists are able to carry out their legitimate activities without fear of human rights abuses, including intimidation, harassment or arbitrary detention. Amnesty International also urges the Chinese

³⁸ See Urgent Actions, ASA 17/043/2002, ASA 17/044/2002, ASA 17/048/2002.

³⁹ See *Chinese health official arrested for leaking state secrets*, AFP, 19 August 2003.

⁴⁰ See *Arrested Chinese health official released without trial*, AFP 20 October 2003.

⁴¹ See *AIDS activist in court to face her accusers*, South China Morning Post, 16 September 2003.

authorities to conduct a full, impartial and independent inquiry into the establishment and operation of blood-collecting stations in Henan and other provinces as an essential step towards establishing accountability for these practices.

North Korean refugees in China

Amnesty International remains concerned for the plight of North Korean refugees in China. The vast majority of these refugees – estimated at thousands of people – are fleeing severe food shortages in North Korea following years of poor harvests and recent heavy flooding, which has been exacerbated by economic mis-management. Despite being party to the 1951 Refugee Convention, the People's Republic of China does not provide fair and satisfactory assessment of the refugee claims of North Koreans who cross the border into China, regarding them instead as illegal economic migrants. The government also continues to deny UNHCR and other independent international agencies access to North Koreans in China or to assess conditions in detention centres along the border.

North Korean law makes it a criminal offence to leave the country without official permission, and North Koreans sent back from China face interrogation, imprisonment and possible execution. Unconfirmed reports estimate that between September 2002 and January 2003, around 3,200 North Korean refugees were repatriated while a further 1,200 were being held in Chinese detention centres along the border.⁴²

There is particular concern for the welfare of North Korean women crossing the border. Amnesty International has received information that the majority of people crossing the border are women. Reports have emerged that many are sold as brides or forced into prostitution. Without any legal status in the People's Republic of China, these women have little or no protection under Chinese law.

Instances continue of North Koreans sometimes successfully attempting to enter foreign diplomatic missions and other foreign institutions throughout China, from where some have been sent to South Korea via a third country. However, in the wake of a spate of such episodes in 2002, the Chinese government reportedly increased the numbers of People's Armed Police along the border, significantly reducing the number of refugees able to leave North Korea. Numbers managing to cross the border are due to decrease further following a reported increase in People's Liberation Army troops along the border in August and September 2003 reportedly as a reaction to stalled international talks on North Korea's nuclear weapons development program, and apparently as an attempt to stop the flow of North Koreans into China.

The Chinese government's crackdown on North Korean refugees has in recent months extended to individuals and organisations assisting North Koreans or publicising their plight. Aware of the international condemnation of its treatment of North Korean refugees, China has attempted to stop foreign reporting on the issue. Three South Korean journalists

⁴² "Forcibly returned refugees face punishment in North Korea". The Guardian, 30 January 2003.

were recently detained by police in China while reporting on attempts by Japanese and South Korean NGOs to assist North Korean refugees reach South Korea.

Seok Jae-hyun was arrested at Yantai in Shandong Province in January 2003 while photographing a group of refugees boarding boats bound for South Korea and Japan, and was sentenced to two years in prison on 22 May 2003 on charges of "trafficking in human beings". There is mounting international pressure for his release. It is not known what became of the several dozen North Koreans boarding the boats who were detained at the same time.

Kim Seung-jin and **Geum Myeong-seok** were detained on 8 August 2003 in Shanghai while covering attempts by members of a Japanese NGO to take eight North Koreans into a Japanese school in Shanghai where they then intended claim asylum. A Japanese and a South Korean worker with the NGO were also detained, but all four were later released. China reportedly released the eight North Koreans in the border area of Jilin Province in September, although their legal status remains unclear.

Hong Kong Special Administrative Region (SAR)

In December 2002, Amnesty International made a submission to Hong Kong's Legislative Council (Legco) detailing its concerns about proposals to implement Article 23 of Hong Kong's Basic Law which calls on the Hong Kong Government, on its own, to enact legislation to outlaw "treason, sedition, secession and subversion" against the government of the People's Republic of China. Amnesty International was deeply concerned that the envisaged legislation could be used to suppress rights of freedom of expression and association as well as the legitimate activities of non-governmental organizations (NGOs) and the media.⁴³

The enacting of legislation under Article 23 of Hong Kong's Basic Law is one of the most important legislative decisions in Hong Kong since 1997 and could have wide-ranging implications for the protection of human rights in the territory. The Hong Kong authorities issued a consultation document containing draft proposals for such legislation in September 2002. Despite many calls for a more detailed Bill for public discussion the authorities pushed ahead with their proposals and set the date for gazetting the legislation as July 2003.

A "Blue Bill" was issued in January 2003 which was considered by many to be poorly drafted and ill-defined.⁴⁴ Several of the proposed sections appeared to go beyond the requirements of Article 23, including, for example, provisions outlawing Hong Kong groups which are subordinate to banned groups on the mainland. The proposals also included extensive restrictions on the publication of "seditious" materials, and leaking of state secrets as well as proposals to increase the investigative powers of the police.

⁴³ See *Response to Hong Kong SAR Government Consultation Document on proposals to implement Article 23 of the Basic Law*, December 2002. ASA 19/003/2002.

⁴⁴ National Security (Legislative Provisions) Bill.

There was mounting public criticism of the proposals from local and international human rights groups including Amnesty International, lawyers associations, and media and other commercial organizations. This culminated with a mass demonstration on 1 July 2003 (the anniversary of the resumption of Chinese sovereignty over Hong Kong) when over half a million people took to the streets of Hong Kong in protest. After initial attempts to revise the proposals, the HKSAR Government eventually withdrew the proposed legislation on 5 September 2003, promising instead further public consultation and revised proposals. No commitments were made on a timescale for re-introducing the proposals.

Amnesty International welcomes the withdrawal of these proposals. The organization urges the Hong Kong authorities to ensure that the consultation process for any future proposals is conducted in a fair and transparent manner and allows for full and adequate public debate. Any proposed legislation must be drawn up with the necessary clarity of definition and precision to ensure that it cannot be used to restrict fundamental human rights or the legitimate activities of civil society groups in Hong Kong.

