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Human Rights and Democracy: The 2010 Foreign & Commonwealth Office Report - Section VII: Human Rights in Countries of Concern

China

China has made huge progress in improving economic and social conditions, lifting nearly half a billion people out of poverty between 1990 and 2010. But these changes have not gone hand in hand with improvements in civil and political rights. Indeed there was no significant progress on civil and political rights in China in 2010 and in some areas there were negative developments, such as worsening treatment of activists and greater limitations on freedom of expression. The award of the Nobel Peace Prize on 10 December highlighted the plight of Liu Xiaobo, an activist whose calls for political reform and respect for human rights in China led to his imprisonment. Neither his wife nor his lawyer were permitted to leave the country to pick up the award on his behalf. A significant number of other activists were also placed under various forms of unlawful detention, or convicted at trials which were not conducted in accordance with international standards. China's National Human Rights Action Plan reached the end of its two-year period and lapsed. No evidence of progress against its benchmarks has been presented, and no successor plan has been announced.

China signed the International Covenant on Civil and Political Rights in 1998, but has not ratified it. Whilst China has publicly committed to ratification, it has also downplayed the likelihood of this occurring in the short term. In our view, serious barriers to ratification remain in areas, including the right for individuals sentenced to death to seek pardon or commutation; forced labour; the right to liberty and security of person; the right to a fair trial; freedom of religion; freedom of expression; and freedom of association.

We adopted a three-pronged approach to our engagement on human rights with China in 2010. This involved high-level lobbying, led by Prime Minister David Cameron; a human rights dialogue between officials and experts; and a portfolio of projects funded by the Strategic Programme Fund of the Foreign and Commonwealth Office (FCO), worth around £1.5 million in the period 2008–2011. Our engagement focused on criminal justice reform, abolition of the death penalty, freedom of expression and civil society. We worked with Chinese officials and experts to ensure the provisions of the 2008 Lawyer's Law, aimed at protecting the practice of law by lawyers, can be properly applied in future. And we continued to focus on the death penalty through our human rights dialogue and project work.

In March, the 18th round of the UK–China Human Rights Dialogue was held in Beijing. The UK delegation comprised academics and experts as well as government officials. The dialogue is a forum to raise our most serious areas of concern whilst also presenting opportunities for more detailed technical-level exchanges. Discussions took place on the full range of human rights issues, and there were also detailed expert discussions on minority rights in employment and the role and regulation of lawyers in human rights protection.

We are committed to continuing our engagement with China on human rights. Ministers have been clear that they will continue to raise human rights issues with China at the highest level. We will continue to use the UK–China Human Rights Dialogue as a means to foster exchanges between UK policy-makers and experts and their Chinese counterparts and to raise in a robust manner the full range of issues of concern. We will also continue to support projects on the ground in China, building on areas where there has been evidence of progress in procedural and legislative reforms.

Access to justice

We remain seriously concerned about access to justice in China, in particular about the lack of transparency and consistency in the application of the law. Whilst many legal rights are enshrined in the Chinese constitution, there are real problems in ensuring these are protected in practice.

Judges continued to rely on confessions, often signed in police-run pre-trial detention facilities. Manfred Nowak, the UN Special Rapporteur on Torture, concluded in February in a follow-up report to his 1995 visit that “China has failed to take concrete steps to guarantee the right to legal counsel, the presumption of innocence and the right to remain silent”. Police continued to receive incentives based on targets for conviction, which in turn placed pressure on them to extract these confessions. Additionally, a series of high-profile trials failed to meet international standards in 2010. One ended with the execution in Chongqing of a businessman, Fan Qihang, on the basis of a confession that he had subsequently claimed was obtained through torture. Harassment and intimidation of defence lawyers increased.

Torture and other ill treatment

We welcomed commitments by China in its National Human Rights Action Plan to take measures to prohibit acts of corporal punishment, insult of detainees, or the extraction of confessions by torture. However, the effectiveness of these measures was difficult to determine. The National Human Rights Action Plan does not specify the agencies responsible for implementation, nor which mechanisms will be used to evaluate progress.

A widely reported problem by lawyers and scholars in China is the transfer of prisoners from detention centres for interview at another unspecified location. Most recent reports of torture that we have received from defence lawyers and civil society representatives allege

that the torture occurred in such places. The existing legislation is vague and does not specify in clear terms where or when the interrogation of criminal suspects may take place, how long interrogations may last, or the frequency of subsequent interrogations.

Despite the provisions of Article 46 of the criminal procedure law, which state that confessions should only be considered as complementary to other material evidence, confessions remain central to securing a conviction in China. Because the security of suspects in detention cannot be guaranteed, and because police investigators retain the power to remove detainees at will from detention centres, measures aimed at preventing torture will remain difficult to monitor or implement effectively.

Our project work has supported Chinese experts and officials conducting pilot independent monitoring of pre-trial detention facilities, and we have used our human rights dialogue to maintain a focus on the rule of law and criminal justice. In September we used the UK pavilion at the Shanghai Expo as a platform for promoting engagement on the rule of law by holding a Law and Justice Week. Events included a mock trial at Fudan University, a rule of law round table at the Shanghai Academy of Social Sciences in which Minister of State Jeremy Browne participated, and a visit to the UK pavilion by a range of senior Chinese officials from relevant judicial ministries. The Law and Justice Week received a significant amount of positive press coverage in China, helping to publicise our messages on the importance of the rule of law and independent courts to the widest possible audience.

Death penalty

There was some positive progress on the death penalty in 2010. A revision to the Chinese criminal law in 2011 is expected to reduce the number of capital crimes from 68 to 55. However, whilst exact numbers remain a state secret, this year China almost certainly continued to execute more people than the rest of the world put together. Estimates for

the number of executions in the last year have ranged from 2,000 to 10,000. We were also concerned at the lack of transparency regarding the use of the death penalty by special tribunals set up in the aftermath of the 2008 Tibet protests and the 2009 Xinjiang riots.

In August the National People's Congress reviewed a draft amendment to China's criminal law which proposed reducing the current 68 crimes punishable by death to 55. If passed, this would be the first reduction in the number of capital crimes since China's criminal law was enacted in 1979. The Chinese government has stated that abolition is its ultimate goal, but has indicated that this is not an immediate prospect.

In 2010 we funded a number of human rights projects on the death penalty, which looked at sentencing guidelines and alternatives to capital punishment.

Prisons and detention issues

The Chinese media confirmed the existence of 'black jails' in November 2009, but the reports were subsequently denied by the government. We believe these facilities are primarily used by local officials to stop petitioners taking their cases to Beijing. The extralegal status of these facilities gives rise to concerns about unlawful detention, torture and other ill treatment.

The use of a system of administrative detention called Re-education Through Labour has continued. Under this system police can unilaterally impose sentences of up to three years without any trial or independent oversight. Inmates include minor criminals, human rights defenders, political activists and Falun Gong practitioners. The Chinese government had committed itself to abolish the Re-education Through Labour system in 2004, but has

since reversed this decision. Reforms to the Misdemeanour Correction Law drafted in 2005, which would have included improvements such as access to a court review for police sentences and increases in institutional transparency, continued to be stalled by strong opposition from the Ministry of Public Security.

We understand that the number of detainees being held in Re-education Through Labour facilities has reduced to 80,000 in 300 institutions in 2010, from a stated figure of 220,000 in 320 institutions in 2008 and NGO estimates of around 300,000. But the drop in inmates may largely be due to the removal of those charged with drug-related offences from the Re-education Through Labour system. This remained a vulnerable group. Under China's 2008 anti-drug law, those accused of drug-related crimes can be held for up to six years without charge or judicial recourse. The UN Joint Programme on HIV/AIDS has estimated that 500,000 drug users may be held in mandatory drugs detention centres at any given time.

We worked closely with the Chinese Ministry of Justice to establish a dialogue between officials, experts and prison governors on prison reform. In June, more than 10 prison governors from Anhui, Hubei and Xinjiang provinces visited the UK to learn more about a human rights-based approach to prison management. They visited prisons in Yorkshire and London and a community drugs project, and had meetings with Her Majesty's Chief Inspector of Prisons, the Chief Executive of the National Offender Management Scheme, the Prisons and Probation Deputy Ombudsman and parliamentarians.

Human rights defenders

Throughout 2010 the Chinese authorities used house arrest or denial of basic freedoms to put pressure on human rights defenders and activists. This was particularly the case during sensitive events and anniversaries, for example, the Tiananmen Square anniversary on 4 June. In the run-up to the 10 December Nobel Peace Prize award

ceremony, more than 100 people were reportedly detained or threatened. We were able to verify restrictions on more than 20 activists which were not made on any stated legal basis. These included Liu Xia, Liu Xiaobo's wife, who has not been contactable since the announcement of the award.

Lawyers, particularly those involved in human rights cases, continued to be subjected to significant restrictions. Incidents of harassment and intimidation by state security forces increased. Of particular concern to us is the fate of human rights lawyer Gao Zhisheng, whose whereabouts remain unknown. We are aware of reports that he was tortured during his last disappearance. We have also been monitoring the situation of ethnic Mongolian activist Hada, who was released from prison after 15 years in December and immediately disappeared with his wife and son, as well as that of blind lawyer Chen Guangcheng, who is apparently being held under house arrest without charge and denied medical treatment.

Foreign Secretary William Hague stated at the time of its announcement that the decision to award the Nobel Peace Prize to Liu Xiaobo shone a spotlight on the situation of human rights defenders worldwide. In 2010 UK ministers, including William Hague, raised concerns on individual cases.

Freedom of expression

The number of internet users in China grew to 450 million in 2010 and there was a vibrant online community. But where the internet was used to call for political reform, "state subversion" laws were increasingly used to silence dissent. On 8 June the Chinese government released a white paper on internet policy, which defended its right to censorship. The Chinese government maintain that only a limited number of websites are blocked and that these are mainly pornographic, violent or 'separatist' in nature. Websites containing information on Tibetan independence, Falun Gong and "separatism" are

regularly blocked. Twitter, Facebook and YouTube remained inaccessible across the mainland and thousands of blogs were censored or blocked. In January, Google announced that it was no longer prepared to filter content on its Chinese search site and subsequently re-routed it to its Hong Kong site.

Liu Xiaobo, who is currently serving an 11-year sentence for his part in drafting and disseminating a document advocating democracy and human rights, was awarded the Nobel Peace Prize in 2010. The Chinese government branded Liu's award a "desecration", and worked to ensure that no mainland citizen could pick up the award on Liu's behalf whilst putting pressure on countries not to attend the 10 December ceremony in Oslo. Zhao Lianhai, who set up a website to warn parents about tainted baby milk, was sentenced to two-and-a-half years in prison.

China dropped three places to 171 in the Press Freedom Index 2010, as compiled by Reporters Without Borders. Despite the publication of some articles criticising government policies, the print media remained tightly controlled. Some international journalists complained that they had come under pressure from the Chinese government to produce more "objective" reporting on China and had been told that failing to do so may cause problems with renewal of their visas.

Freedom of religion

Article 36 of China's constitution stipulates that "citizens of the People's Republic of China enjoy freedom of religious belief." However, such guarantees are not extended to the right to manifest one's belief, and while some religions, such as the Russian Orthodox Church, are tolerated in addition to the five official ones, Buddhism, Taoism, Islam, Catholicism and Protestantism, their status is less secure and can be subject to more arbitrary treatment by the state. Each official religion is governed by its own state-sanctioned body, but these official religions alone do not have the capacity to serve the religious demands of the population. For example, in Beijing there are only about 20 registered buildings serving

150,000 registered Christians. This has led to a large increase in the number of unofficial “house churches”, the existence of which is denied by the Chinese government. In some areas these are tolerated, but in others members are subject to harassment, fines and confiscation of property and assets. In October, 200 house church leaders were prevented from travelling to an evangelical conference in South Africa and some of these have since reportedly been the subject of threats and intimidation. We also noted reports that the state-sanctioned Catholic Church appointed a bishop without Vatican approval and forced other Chinese bishops to attend his ordination in November.

Other issues: Tibet

Dialogue between representatives of the Dalai Lama and the Chinese government resumed in January but there were no substantive outcomes. China maintained that the sides disagree on the scope of the negotiations and the status of the negotiators. The Tibetan government in exile maintained that the Chinese have no real interest in engaging.

Restrictions on Tibetan Buddhism remained a particular area of concern. It is apparent that the Chinese government places restrictions on the number of monks and nuns permitted to join religious institutions and interferes with their practices through “patriotic education campaigns”, which include forced denunciations of the Dalai Lama. Meanwhile, protests were sparked in October over the Qinghai provincial government’s plans to make Mandarin Chinese the primary language of instruction in the province’s Tibetan schools by 2015.

Our embassy officials visited Tibetan areas in Sichuan and Gansu in December. They found that, since 2008, basic stability had returned and the visible security presence was low. But sporadic protests continue to occur across the region. There was clear evidence on the ground of high levels of government development spending but local Tibetans reported obstacles to full participation in the economic opportunities flowing from this. Tibetans’ dissatisfaction with their political and economic circumstances is entrenched. Many maintain that only government suppression is preventing a recurrence of the 2008 unrest.

We remain concerned over the rights and freedoms of the Tibetan people. We have urged China to renew its dialogue with the Dalai Lama’s representatives as the best way to reach a solution.

Xinjiang

The Chinese media reported that 197 deaths occurred in unrest in Urumqi on 5 July 2009. Sources of Uighur discontent included the continued influx of ethnic Han Chinese into Xinjiang, bilingual education policies, restrictions on freedom of religion and access to employment. Approximately 45% of the population of Xinjiang is Uighur, and approximately 40% Han Chinese.

We believe that the special tribunals set up to try those arrested in relation to the 5 July unrest do not comply with international standards for fair trials. Our main concerns include the potential for political interference, that trials were not open, and the limits on the rights of defendants to choose their counsel.

We do not have comprehensive information regarding the use of special tribunals, but we have noted that by the end of 2010 at least 26 death sentences had been handed down and nine of these have been subsequently carried out.

Refugees and asylum seekers

China continued to consider individuals who cross the North Korean border into China as illegal economic migrants, and not refugees, despite evidence that many may be detained in prison, or even executed, on their return. Little reliable information is available, but the UN has estimated that 30,000–50,000 North Koreans cross the border every year, including people fleeing religious and political persecution as well as those escaping starvation and other economic difficulties.

Separately, China has not responded to UK and international requests in 2010 for information about a group of 20 Uighur asylum seekers returned to China by the Cambodian government in 2009. We remain concerned about their treatment and wellbeing.

Civil society

Many of the NGOs that concentrate on providing services thrived in China in 2010. But some NGOs engaged in advocacy or working in sensitive areas continued to suffer. Our Embassy in Beijing used the FCO's Strategic Communications Fund to mark six

“international days”, including International Women’s Day, World AIDS Day and the International Day Against Homophobia, with the aim of supporting independent civil society. David Cameron met some 50 NGOs receiving “social entrepreneurship” training from the British Council during his visit in November. We also used the UK pavilion at the Shanghai Expo to hold a “Civil Society Week”, to promote emergence of an independent civil society. We worked with the Central Executive Leadership Academy Pudong, local universities and NGOs to set up the event, and covered a variety of themes including corporate social responsibility, disability rights, and lesbian, gay, bisexual and transgender rights.

Hong Kong

The 1984 Sino-British Joint Declaration outlines the “One Country, Two Systems” model for Hong Kong. It provides that Hong Kong’s capitalist system and way of life will remain unchanged for 50 years, including the full range of autonomy, rights and freedoms.

In order to meet our commitments under the Joint Declaration, the FCO produces and publishes a six-monthly report to Parliament which assesses whether the “One Country, Two Systems” model is working in practice. Thirteen years after the handover, we have been able to conclude consistently that it is and that Hong Kong’s rights and freedoms continue to be respected. A striking recent example was the blanket media coverage given to the award of the Nobel Peace Prize to Liu Xiaobo. Despite strong Chinese opposition to the award, a number of Hong Kong legislators travelled to Oslo to take part in the ceremony. The rule of law and judicial independence continue to be seen by virtually all shades of opinion in Hong Kong as central to Hong Kong’s continued success, and are strongly upheld.

The year 2010 also saw an important step forward on constitutional reform in Hong Kong, with agreement on the next stage of democratic development. In June, Hong Kong’s

Legislative Council passed the Hong Kong government's proposals for changes to electoral arrangements for the chief executive and Legislative Council elections in 2012, making both more democratic. In regular statements, we have said that Hong Kong's rights and freedoms are best guaranteed by Hong Kong moving to a system of full universal suffrage as soon as possible.

Article 23 of Hong Kong's Basic Law provides for the Hong Kong Special Administrative Region to enact national security legislation. However, an attempt to introduce such legislation in 2003 brought half a million Hong Kong people to the streets in protest. At his annual policy address on 13 October, Hong Kong's Chief Executive Donald Tsang said the government would not attempt to re-introduce Article 23 "national security" legislation during the remainder of its term. Human rights groups welcomed the decision.