

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	317
Land:	Kina
Kilde:	UK Foreign and Commonwealth Office.
Titel:	Human Rights and Democracy: The 2012 Foreign & Commonwealth Office Report.
Udgivet:	15. april 2013
Optaget på baggrundsmaterialet:	2. juli 2013



Human Rights and Democracy: The 2012 Foreign & Commonwealth Office Report - China

Publisher [United Kingdom: Foreign and Commonwealth Office](#)

Publication Date 15 April 2013

Cite as United Kingdom: Foreign and Commonwealth Office, *Human Rights and Democracy: The 2012 Foreign & Commonwealth Office Report - China*, 15 April 2013, available at: <http://www.refworld.org/docid/516fb7cf9.html> [accessed 11 July 2013]

Disclaimer This is not a UNHCR publication. UNHCR is not responsible for, nor does it necessarily endorse, its content. Any views expressed are solely those of the author or publisher and do not necessarily reflect those of UNHCR, the United Nations or its Member States.

Economic growth over the last three decades has helped to deliver substantial improvements to the social and economic rights of Chinese citizens. However, progress on core civil and political rights was limited in 2012.

A new Politburo and Politburo Standing Committee was appointed at the 18th Party Congress in November 2012, marking the beginning of leadership transition. This period saw increased online censorship and harassment of human rights defenders.

Events in 2012 again highlighted the inadequacy of safeguards in China to guarantee the rule of law and access to justice. China did, however, continue to make legislative and judicial reforms, including a major revision of the Criminal Procedure Law, the passage of China's first ever Mental Health Law and the publication of the first ever White Paper on Judicial Reform. These developments indicate that there is interest in strengthening the rule of law, at least within parts of the Chinese system.

In June, the Chinese government issued its second National Human Rights Action Plan (2012-2015). This contained language about improving protection of civil and political rights, but lacked detailed benchmarks or implementation plans.

The UK Government's approach to human rights in China is one of constructive long-term engagement, to support modernisation and internal reform. We encourage China to lift the barriers that remain to its ratification of the International Covenant on Civil and Political Rights (ICCPR). We focus particularly on abolition of the death penalty, criminal justice reform, freedom of expression and the development of civil society.

In 2012, our approach was delivered through three main pillars: high-level lobbying and engagement, the bilateral human rights dialogue and financial support to projects in-country. We consistently raised human rights concerns directly with the Chinese leadership, both publicly and in private. We also increased our online diplomacy work, which promotes aspects of British society and values and raises awareness in China about international standards in human rights.

The UK-China Human Rights Dialogue

The 20th round of the UK-China Human Rights Dialogue was held in Nanjing in January 2012. Discussions included detainee rights, migrant rights, capital punishment, freedom of expression, freedom of religion, China's plans for ratification of the ICCPR, ethnic minority rights and individual cases. There were detailed expert discussions on the role of faith groups in civil society and the use of evidence in criminal trials.

The dialogue is an important channel for our concerns and supports the other pillars of our engagement, informing our lobbying and project work and helping to strengthen our working relationships with relevant ministries.

We continued to run a portfolio of projects worth around £600,000 in the 2012/2013 financial year. These enabled us to work directly with Chinese officials, academics and civil society to address issues such as use of the death penalty, torture prevention, strengthening civil society and the protection of media freedoms.

Democracy and elections

According to its constitution, China is a multi-party socialist state under the guidance of the Communist Party of China (CPC). China's leaders have consistently rejected the prospect of a separation of powers, and China operates essentially as a single-party state. Direct elections take place only for village councils and local People's Congresses. Electoral lists are dominated by party members. The 18th Party Congress in November did not signal any movement towards representative democracy. The appointment of a new Politburo Standing Committee was announced in November. Its members will hold office for five years.

Freedom of expression and assembly

There are now more than 500 million Chinese Internet users and over 400 million members of domestic micro-blogging sites facilitating discussion of political issues and popular concerns. The popularity of such sites continues to grow.

The Chinese authorities continue to impose limits on freedom of expression, so that despite being protected under the constitution it is severely restricted in practice. Both online and in traditional media, content that is considered politically sensitive is subject to extensive censorship.

Access to many foreign websites is either permanently or periodically blocked. Restrictions on Internet access were further tightened around the period of the Party Congress.

Foreign journalists reportedly remain targets of harassment, intimidation and occasional physical violence. In May, al-Jazeera correspondent Melissa Chan was expelled from China. In July, a Japanese journalist was reportedly beaten by police while covering a demonstration in Nantong.

Journalists, bloggers and intellectuals continue to be harassed or detained for exercising their right to free speech. Many high-profile activists, including Nobel Peace Prize Laureate Liu Xiaobo, are serving long prison sentences for speaking out about political freedom and human rights. There were more such convictions in 2012, including those of writer Li Tie and Internet cafe manager Cao Haibo, sentenced to ten and eight years' imprisonment respectively for subversion.

Although freedom of association and assembly are also guaranteed by the constitution, in practice these rights are also severely limited. The party continues to control the only officially recognised trade union, the All-China Federation of Trade Unions. Collective bargaining and the right to strike are restricted both in law and in practice. On 1 January, new Regulations on Consultation and Mediation for Labour Disputes in Enterprises entered into force. The regulations were a

positive step and should in time help to improve resolution of labour disputes, but their immediate effect has been limited.

Large-scale public protests continued in 2012, although reliable estimates of the number of such "mass incidents" are hard to obtain. They frequently centred on local issues, such as environmental issues. Protests over local grievances were often resolved through offers of concessions or public consultation, but protests criticising the party or touching on politically sensitive issues were swiftly put down.

The UK raised concerns about freedom of expression and association regularly in 2012 with the Chinese government, including at the Human Rights Dialogue and at the inaugural People to People Dialogue in April.

Human rights defenders

The use of unlawful and arbitrary measures to target human rights defenders continued during 2012. These included enforced disappearance, house arrest, restrictions on freedom of movement, communication and association, extrajudicial detention (including "re-education through labour" (RTL), "black jails" and involuntary psychiatric committal) and harassment of family members. Human rights defenders also continued to be subjected to criminal charges and procedurally flawed trials, often involving the poorly defined category of offences encompassing "endangering state security". Diplomats and media were repeatedly refused access to their trials.

The situation of human rights defender Chen Guangcheng drew global attention following his 27 April escape from extra-legal house arrest. Chen sought refuge in the US Embassy in Beijing, before he and his immediate family were granted permission to leave China. They arrived in the USA on 20 May.

Liu Xia, wife of Liu Xiaobo, remained under house arrest. The extra-legal restrictions in place around her were highlighted in December, when journalists and activists briefly managed to reach her apartment. Diplomats, including British officials, attempted to visit Liu Xia during 2012 but were repeatedly denied access.

On 1 January, relatives of disappeared rights lawyer Gao Zhisheng received notification that he was being held in Shaya prison in Xinjiang. They were allowed to visit Gao on 24 March. It is unclear whether he has been permitted any visitors since then; lawyers appointed by his family were refused access to Gao in August.

Ethnic Mongolian rights activist Hada disappeared on release from prison in December 2010 and remained in arbitrary detention at unknown locations during 2012. In October, his family reported that he was suffering from symptoms of psychosis but was being denied access to psychiatric care.

The use of enforced disappearance and arbitrary detention to silence other human rights defenders, including activists Song Ze and Zhu Chengzhi, continued. Several, such as Shanghai academic Feng Zhenghu, spent prolonged periods under house arrest in 2012, while others, such as Sakharov Prize winner Hu Jia and environmental activist Sun Xiaodi, continued to be subjected to periodic harassment and restrictions on their personal freedom.

Some human rights defenders, including artist Ai Weiwei and poet Li Bifeng, were investigated for "economic crimes", charges which they claimed were politically motivated.

Li was imprisoned for 12 years in November for contract fraud. In July, Ai's company, Fake Cultural Development Limited, lost its appeal against tax evasion penalties totalling around £1.5 million.

Several human rights defenders suffering from serious health conditions were denied access to adequate medical treatment during 2012. These included disabled rights lawyer Ni Yulan, sentenced to two years eight months' imprisonment in April for "picking quarrels and provoking trouble" and fraud (later reduced to two years and two months on appeal). Ni was diagnosed with a thyroid tumour in October. Her family applied for medical parole but did not receive a response. Veteran rights activist Mao Hengfeng was similarly sentenced in November to 18 months' RTL, despite fragile health.

British ministers, including the Prime Minister, Deputy Prime Minister and Foreign Secretary, continued to raise their concerns regarding individual human rights defenders, both publicly and privately, throughout 2012.

Access to justice and the rule of law

In March, the National People's Congress passed the first major revision for 15 years to China's Criminal Procedure Law. The judicial and public security authorities then began preparing for its implementation on 1 January 2013, training staff and drafting judicial interpretations to guide them in its application.

The law included a number of welcome steps in areas such as the exclusion of illegally obtained evidence, juvenile justice, the rights and role of defence lawyers and legal aid provision. Measures such as the establishment of a witness protection scheme increased the provision for witness testimony in trials, reducing reliance on confessions for obtaining convictions. The revision also included for the first time an acknowledgement that one of the objectives of the law was the protection and safeguarding of human rights.

But there were also some retrograde steps, particularly in respect of cases involving "endangering state security", terrorism or major corruption. In these circumstances lawyers will need permission from prosecutors to meet clients, with no avenue of appeal if permission is refused. The revised law also allows investigating authorities to place suspects in such cases under residential surveillance at a "designated place of residence" (that is other than their home) and to refrain from notifying their next of kin if they believe that doing so would impede the investigation. There was domestic and international concern that these changes would effectively legalise enforced disappearance.

In October, China published its first White Paper on Judicial Reform. This pledged to improve priority areas in the justice system, such as enhancing judicial capacity and improving protection of human rights. The paper demonstrated that the authorities acknowledge that further change is needed, but it lacked detail on implementation. We look forward to further information on the policies which will be put in place to effect these changes.

Broadly speaking, access to justice remains limited in China, and the rule of law is weak. There is no presumption of innocence. Although the constitution guarantees the independence of the courts, in practice the law is subordinate to the interests of the party and social stability. The party's Politics and Law Committees can intervene in court operations and give judges "guidance" on verdicts and sentencing in specific cases. Safeguards against judicial corruption are weak and poorly enforced.

Safeguards for the independence of the legal profession also remain weak. In March, the Ministry of Justice issued a requirement for new lawyers and those reapplying for licences to swear an oath including a profession of loyalty to the party. The past year also saw stricter enforcement of the requirement for law firms to establish party cells. The position of lawyers taking on politically sensitive cases, or those of human rights defenders, remained precarious.

The use of extrajudicial and extra-legal forms of detention persisted, including in "black jails", house arrest and involuntary psychiatric committal. Use of RTL, effectively a form of arbitrary

detention, also remained widespread. Public security organs can order the administrative detention of an individual without trial for RTL for up to three years, with the possibility of up to a year's extension. Although RTL is meant to be used to punish minor offences, it is also used to silence petitioners, Falun Gong practitioners and human rights defenders. There continued to be reports of abuse, mistreatment and torture in RTL facilities.

Public controversy around an RTL sentence in August stimulated widespread debate about the need for reform of the system. Tang Hui, who had been petitioning for justice for her daughter following her abduction and rape, was sent for RTL for 18 months for "disturbing social order". Following an online outcry, she was released after eight days. A survey carried out by state media in the wake of her case found that 87% of those polled favoured the abolition of RTL. An open letter published by rights lawyers in August gained widespread attention with calls to limit the influence of the public security organs in the RTL system. In October, a senior government official said that there was now a consensus on the need for reform of RTL. Pilot RTL reforms are reportedly under way in several cities, although no further information about these was available in 2012.

Death penalty

In 2012, China almost certainly continued to execute the highest number of people in the world in absolute terms. There are still 55 capital offences on the statute books, including many non-violent crimes. The number of executions per year has reportedly halved since the Supreme People's Court took back the power of final review over death sentences in

2007, although the number of executions continues to be a state secret. Informed estimates currently place the figure at around 4,000-5,000 per year. The medical sector continues to rely on organs from executed prisoners for transplants, although the prisoner's prior consent is required. In March, the Ministry of Health pledged to end this practice within the next three to five years.

The March, revision of the Criminal Procedure Law included measures intended to strengthen oversight of the use of the death penalty. Supreme People's Court judges will now be required to hear from defendants and their lawyers when reviewing death sentences, although it is not yet clear whether it will be feasible to do this in person in every case.

There was continued public debate on the death penalty in 2012, as in the case of female entrepreneur Wu Ying, sentenced to death in January for "illegal fundraising". Following an online outcry over the severity of the penalty, the Supreme People's Court overturned the sentence in May. However, while Chinese leaders have said that abolition is their ultimate goal, officials claim that a widespread public belief in retributive justice means that Chinese society is not yet ready for abolition. This remains a significant obstacle to China's ratification of the ICCPR.

Torture

Chinese law prohibits torture, physical abuse and the insulting of prisoners' dignity. However, there were widespread reports in 2012 of abuse, mistreatment and torture. Human rights defenders were particularly at risk. Reports detailed the use of methods of abuse and torture, including sleep deprivation, the use of stress positions, beatings and electric shocks.

The revised Criminal Procedure Law contains provisions which, properly enforced, could help to prevent torture and mistreatment. It codifies the Rules on the Preclusion of Illegally Obtained Evidence introduced in 2010. Police must transfer suspects to pre-trial detention centres within 24 hours of arrest and any successive interrogations must be carried out there. In the most serious cases, audio or video recording of interrogations is mandatory.

Confessions will be inadmissible where there is reason to suspect they were extracted under duress. When defendants make an allegation of torture, police should appear in court to testify.

The revised law also expands the interpretation of torture beyond the infliction of purely physical suffering.

The revised law seeks to limit the use of pre-trial detention and expand the use of bail and residential surveillance, which should help to reduce the risk of torture and mistreatment. However, the provisions on residential surveillance for cases involving "endangering state security", corruption and terrorism charges, could increase the risk of torture or mistreatment in such cases, as noted above.

Freedom of religion or belief

Freedom of religious belief is guaranteed by the constitution. However, the practice of religion remains restricted. There are five officially sanctioned religions (Buddhism, Taoism, Islam, Catholicism and Protestantism), governed by state bodies. Places of worship, institutes for religious education and clergy must be officially registered.

Due to restrictions on the number of registered places of worship and clergy, the official religions do not have sufficient capacity to serve the demands of China's growing numbers of religious believers, particularly Christians. This has led to a large growth in unofficial "house churches", which continue to face official harassment. A number of house church leaders were detained during 2012. Evangelising also continues to risk drawing a harsh response from the security forces. Christians Sun Yuefen and Ren Zhimin were reportedly sentenced to two years' RTL in September for "illegal evangelising" in Inner Mongolia.

Relations between the official Chinese Catholic Patriotic Association (CCPA) and the Holy See remained difficult during 2012. Ma Deqin, a Catholic bishop in Shanghai, disappeared after publicly resigning from the CCPA at his ordination in July. He was subsequently stripped of his title as an Auxiliary Bishop by the state-sanctioned conference of Catholic bishops in December, and he has been accused of violating state regulations on the administration of religious affairs.

Restrictions on Tibetan Buddhist religious practices and clergy remained particularly tight. New regulations on the role of Democratic Management Committees strengthened official control over monastic communities. Restrictions on the religious practices of the Muslim Uighur minority in Xinjiang are also strict, and were intensified during Ramadan. Minors are not permitted to attend Koranic study classes or worship in mosques. Police raids on illegal Koranic schools in May and June reportedly resulted in a number of children being injured and several deaths. A number of Uighurs received heavy prison sentences during 2012 for crimes such as selling illegal religious publications and holding illegal religious meetings. The authorities continue to crack down on groups classed as "illegal cults", including Falun Gong and the breakaway doomsday Christian sect Eastern Lightning.

There were however some signs in 2012 that the space for faith-based civil society groups is expanding. In February, the State Administration for Religious Affairs (SARA) issued a non-binding opinion encouraging religious groups to engage in charitable activities. This would for the first time permit religious organisations to establish foundations, social service bodies and non-profit hospitals.

Women's rights

Whilst women's access to education and employment in China is generally good, the representation of women at senior levels of the party and government remained very low.

Gender-based violence remains a widespread problem. An anti-domestic violence law is now expected to be on the legislative agenda within the next two years. The UK supported the contributions of Chinese civil society groups to the debate over the drafting of the law through relevant project work.

The Chinese government continues to enforce family-planning policies, and has re-affirmed that it does not currently intend major reforms or abolition of these policies. There were continued reports of the illegal use of forced abortions and sterilisations in 2012. Online outrage erupted in June over the case of Feng Jianmei, who was forcibly subjected to a late-term abortion by local family-planning officials.

Although sex-selective abortion is illegal in China, reports suggest that the practice continues to be widespread, particularly in rural areas.

Refugees and asylum seekers

The forced return of refugees from the Democratic People's Republic of Korea (DPRK): continued in 2012. The Chinese government refuses to recognise the status of refugees from the DPRK, categorising them as illegal economic migrants. The UK raised concerns about this at the March session of the Human Rights Council.

In August, around 1,000 Kachin refugees were returned to Burma from southern China. The UK raised concerns about this with the Chinese authorities.

There were further reports in 2012 of Uighurs and Tibetans being deported to China from neighbouring countries, with some subsequently receiving long prison sentences on charges such as inciting separatism.

Civil society

At the end of the year, there were around 460,000 registered NGOs in China, a growing number of fundraising foundations and up to three million unregistered NGOs. There is still no national legislation regulating NGOs and charities. A number of provinces and municipalities introduced regulations to improve registration for some types of NGO. Activists hope that these initial steps will lead to the passage of a long-awaited Charities Law. Some measures were introduced to improve the transparency and accountability of certain charitable foundations, but these remain a serious weakness across the sector.

The authorities introduced plans to contract out delivery of some social services to social welfare NGOs. However, in practice this is still dominated by government-organised NGOs, and few independent NGOs are able to participate.

The authorities have also announced plans to revise the regulations governing foreign NGOs. Despite their growth in number, both domestic and foreign NGOs continue to face extensive legislative, operational and policy barriers. NGOs involved in advocacy, legal aid or politically sensitive work frequently face particular difficulties and are regularly subjected to official harassment, interference and forced cancellation of their activities. There were reports of the suppression of labour NGOs in Shenzhen throughout the latter half of 2012.

Tibet

British officials were able to visit Tibetan areas in the provinces of Sichuan, Gansu and Qinghai in 2012. They found evidence of high levels of participation in religious activity. Some Tibetans are benefiting from rapid economic development and official subsidies but tensions and the security presence in many Tibetan areas are high. The Chinese authorities refused to issue permits to officials from a number of embassies, including the UK, to visit the Tibetan Autonomous Region.

Disturbingly, incidents of self-immolation by Tibetans increased in 2012. The UK government received reports of 82 cases in mainland China in the course of the year. At least 69 appear to have resulted in the death of the individual concerned. The Chinese authorities detained a number of monks for inciting the immolations and distributing information about them. FCO Minister Hugo

Swire issued a statement in relation to self-immolations calling for a resumption of dialogue to resolve underlying tensions and the situation in Tibet on 17 December. Similar statements were issued by, amongst others, the United Nations High Commissioner for Human Rights, Navi Pillay, on 2 November and the European Union's High Representative for Foreign Affairs, Catherine Ashton, on 14 December.

In January, there were several clashes in Tibetan areas of Sichuan province between Tibetans and Chinese security forces, with the security forces using lethal force against protesters. This was widely condemned by the international community, including by former FCO Minister Jeremy Browne in January. In November, security forces reportedly beat Tibetan student protesters. Eight students were subsequently imprisoned in connection with the demonstrations.

For the second year in succession, there were no talks between the Chinese authorities and representatives of the Dalai Lama. This is the longest gap between talks over the past decade. The Tibetans' lead negotiators announced their resignation in May in protest. The UK continued to call in public and private for all parties to engage in substantive dialogue as a means to address Tibetan concerns and relieve tensions. We continued to press the Chinese authorities to exercise restraint, respect religious and cultural freedoms and allow unrestricted access to Tibetan areas for international journalists and diplomats. Tibet was discussed at the UK-China Human Rights Dialogue in January. The UK also raised Tibet, focusing on the rights of Tibetans to assemble peacefully, during the UN Human Rights Council on 20 June.

Xinjiang

In 2012, China continued to combine significant security spending in the Xinjiang autonomous region with high levels of investment. However, many of the minority Muslim Uighur population failed to benefit from the region's economic development, and there were reports of increasing restrictions on their cultural and religious freedoms. The demolition of traditional Uighur neighbourhoods in cities such as Kashgar, the confiscation of Uighurs' farmland for development projects and continuing resentment over the harsh treatment of Uighurs during previous outbreaks of ethnic unrest all contributed to continuing ethnic tensions in the region. There were periodic reports of outbreaks of ethnic violence, notably in Yecheng in February, when an attack by Uighurs on passers-by reportedly resulted in 16 deaths. Eight of the attackers were shot dead by police, and in March Abdukerim Mamut was sentenced to death for organising the attack. The authorities continued to respond forcefully to what they characterised as separatism, extremism and terrorism, although Uighur exile groups frequently disputed official reports of terrorist incidents. Three Uighurs accused of attempting to hijack a plane in July were sentenced to death in December, in what exile groups claimed was a flawed trial. Embassy officials visiting Xinjiang during 2012 observed a heavy security presence in many areas.

Hong Kong

The UK Government continues to take seriously its commitments under the Sino-British Joint Declaration. The latest of the FCO's six-monthly reports to Parliament on the implementation of the "One Country, Two Systems" model concluded that after the handover, the rights and freedoms guaranteed in the joint declaration have in general been respected. The rule of law and the independence of the judiciary continue to be upheld.

The report expressed concerns about restrictions on freedom of the press and of expression, however, and urged the new Chief Executive to ensure the full protection of the rights and freedoms, which are essential to Hong Kong's success.

Hong Kong has made gradual progress towards democratisation since 1997. In his foreword to the six-monthly report, the Foreign Secretary said that he looked forward to further substantive progress towards full universal and equal suffrage for elections in 2017 and 2020.

Search Refworld

by keyword
and / or country

All countries 

[Advanced Search](#) | [Search Tips](#)

Countries

- [China](#)
- [Hong Kong \(Special Administrative Region of China\)](#)

Topics

- [Asylum-seekers](#)
- [Civil and political rights](#)
- [Death penalty](#)
- [Democracy](#)
- [Elections](#)
- [Freedom of assembly and association](#)
- [Freedom of expression](#)
- [Freedom of religion](#)
- [Human rights activists](#)
- [Refugees](#)
- [Right to justice](#)
- [Rule of law / Due process / Procedural fairness](#)
- [Tibetan](#)
- [Torture](#)
- [Uighur](#)
- [Women's rights](#)