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Country Policy and Information Note

China: Background information, including actors of protection and internal relocation

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Preface

This note provides country of origin information (COI) and policy guidance to Home Office decision makers on handling particular types of protection and human rights claims. This includes whether claims are likely to justify the granting of asylum, humanitarian protection or discretionary leave and whether – in the event of a claim being refused – it is likely to be certifiable as ‘clearly unfounded’ under s94 of the Nationality, Immigration and Asylum Act 2002.

Decision makers must consider claims on an individual basis, taking into account the case specific facts and all relevant evidence, including: the policy guidance contained with this note; the available COI; any applicable caselaw; and the Home Office casework guidance in relation to relevant policies.

Country information

COI in this note has been researched in accordance with principles set out in the [Common EU \[European Union\] Guidelines for Processing Country of Origin Information \(COI\)](#) and the [European Asylum Support Office’s research guidelines, Country of Origin Information report methodology](#), namely taking into account its relevance, reliability, accuracy, objectivity, currency, transparency and traceability.

All information is carefully selected from generally reliable, publicly accessible sources or is information that can be made publicly available. Full publication details of supporting documentation are provided in footnotes. Multiple sourcing is normally used to ensure that the information is accurate, balanced and corroborated, and that a comprehensive and up-to-date picture at the time of publication is provided. Information is compared and contrasted, whenever possible, to provide a range of views and opinions. The inclusion of a source is not an endorsement of it or any views expressed.

Feedback

Our goal is to continuously improve our material. Therefore, if you would like to comment on this note, please email [the Country Policy and Information Team](#).

Independent Advisory Group on Country Information

The Independent Advisory Group on Country Information (IAGCI) was set up in March 2009 by the Independent Chief Inspector of Borders and Immigration to make recommendations to him about the content of the Home Office’s COI material. The IAGCI welcomes feedback on the Home Office’s COI material. It is not the function of the IAGCI to endorse any Home Office material, procedures or policy. IAGCI may be contacted at:

Independent Chief Inspector of Borders and Immigration,

5th Floor, Globe House, 89 Eccleston Square, London, SW1V 1PN.

Email: chiefinspector@icinspector.gsi.gov.uk

Information about the IAGCI’s work and a list of the COI documents which have been reviewed by the IAGCI can be found on the Independent Chief Inspector’s website at <http://icinspector.independent.gov.uk/country-information-reviews/>

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Policy guidance

Updated: 18 February 2018

1. Introduction

1.1 Basis of claim

- 1.1.1 Whether in general those at risk of persecution or serious harm from non-state actors are able to seek effective state protection and/or internally relocate within China.

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2. Consideration of issues

2.1 Credibility

- 2.1.1 For information on assessing credibility, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).
- 2.1.2 Decision makers must also check if there has been a previous application for a UK visa or another form of leave. Asylum applications matched to visas should be investigated prior to the asylum interview (see the [Asylum Instruction on Visa Matches, Asylum Claims from UK Visa Applicants](#)).
- 2.1.3 Decision makers should also consider the need to conduct language analysis testing (see the [Asylum Instruction on Language Analysis](#)).

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2.2 Protection

- 2.2.1 The Ministry of Public Security coordinates the country's civilian police force, which is organized into specialized police agencies and local, county, and provincial jurisdictions, but oversight is localised and ad hoc (see [Police](#)).
- 2.2.2 Police and urban management officials reportedly engage in extrajudicial detention, extortion, and assault. The security forces are also reported to commit extrajudicial killings; enforced disappearance and incommunicado detention in harsh conditions, torture and coerced confessions of prisoners (see [Impunity/human rights abuses](#)).
- 2.2.3 Chinese citizens have the right to lodge complaints against the police but some local authorities have targeted those who have raised complaints against the police with punishments including arbitrary arrest and detention. There is no reliable data to show that police and security agents who commit abuses are held accountable for those abuses or that they generally enjoy impunity (see [Avenues of redress](#)).
- 2.2.4 The law states that the courts shall exercise judicial power independently, however, in practice the judiciary is not independent. The Chinese Communist Party (CCP) has influence in the appointment of judges, court operations and verdicts. Citizens can expect a degree of fair adjudication in non-political cases but those that touch on politically sensitive issues are subject to influential guidance from political legal committees (see [Independence](#)).

- 2.2.5 Although there is a fully functioning criminal justice system, it remains biased toward a presumption of guilt, especially in high-profile or politically sensitive cases. Defendants also faced numerous barriers to effective legal representation (see [Fair Trial](#)).
- 2.2.6 Difficulties remain for those pursuing cases against officials, despite recently introduced judicial reforms (see [Avenues of redress](#)).
- 2.2.7 Whilst the police force is highly susceptible to political interference and corruption in general a person is likely to be able to obtain state protection against persecution or serious harm from non-state actors. However, this should be carefully considered on the facts of each case, taking full account of the individual circumstances of the person.
- 2.2.8 For further guidance on protection, see the Asylum Instruction on [Assessing Credibility and Refugee Status](#).

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2.3 Internal relocation

- 2.3.1 Freedom of movement within China depends on the person's individual circumstances, including where they are located within China (see [Freedom of movement](#)).
- 2.3.2 The hukou system of individual registration in rural and city areas, historically a rigid family-based structure from which derives entitlement to most social and other benefits, has been significantly relaxed in recent times and many rural residents migrate to the cities.
- 2.3.3 Approximately 282 million Chinese migrant workers have moved away from rural areas for better employment opportunities but are unable to access key services and in some cases face institutionalised discrimination.
- 2.3.4 According to the Ministry of Public Security 28.9 million new urban residency permits were issued in 2016, mostly in third or fourth tier cities. Most cities have annual quotas for the number of new temporary residence permits that can be issued, and all workers have to compete for a limited number of such permits. Larger cities have tough restrictions on granting new permits but lower-tier cities (with fewer than 3 million permanent residents in downtown areas) are more willing to issue hukou, in line with government's aim to drive economic growth in less developed and less populated regions (see [Hukou \(Registration\)](#)).
- 2.3.5 Decision makers must give careful consideration to the relevance and reasonableness of internal relocation taking full account of the individual circumstances of the particular person. However, in general, a person fearing non-state (including 'rogue' state) actors is likely to be able to internally relocate to another area of China. Whilst hukou registration may cause difficulties when relocating to a larger city, it does not stop a person from relocating to smaller mid-sized towns which have fewer restrictions in regard to the issue of a hukou or indeed from relocating to a rural area.
- 2.3.6 For further guidance on internal relocation and the factors to be considered, see the [Asylum Instruction on Assessing Credibility and Refugee Status](#).

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Country information

Updated: 26 February 2018

3. History

- 3.1.1 An overview of China's recent history can be found in the [BBC News China profile](#) which also included a timeline of events¹.

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4. Geography

4.1 Physical geography

- 4.1.1 China is located in Eastern Asia, bordering the East China Sea, Korea Bay, Yellow Sea, and South China Sea, between North Korea and Vietnam. China also has land boundaries with Afghanistan, Bhutan, Burma, India, Kazakhstan, North Korea, Kyrgyzstan, Laos, Mongolia, Nepal, Pakistan, Russia (northeast and northwest), Tajikistan, and Vietnam. It has an area of 9,596,960 sq km².
- 4.1.2 For information on the cities and provinces in China please see the [China today](#) website³.
- 4.1.3 A comprehensive collection of maps, relating to China, covering provinces, cities, history, geography, culture, political and physical topics can be found at the following- [Maps of World: China](#)⁴ and the [Perry-Castañeda Library Map Collection](#)⁵.

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4.2 Demography

- 4.2.1 The Central Intelligence Agency (CIA) World Factbook, noted that China has an estimated population of 1,379,302,771 (July 2017) with 57.9% of the population living in urban areas⁶. The overwhelming majority of the population is found in the eastern half of the country; the west, with its vast mountainous and desert areas, remains sparsely populated.

Although ranked first in the world in total population, overall density is less than that of many other countries in Asia and Europe; high population density is found along the Yangtze and Yellow River valleys, the Xi Jiang

¹ BBC News, 'China country profile', last updated 8 November 2017, <http://www.bbc.co.uk/news/world-asia-pacific-13017877>. Accessed: 25 January 2018.

² The Central Intelligence Agency (CIA) World Factbook, 'China- Geography', last updated 17 January 2018, <https://www.cia.gov/library/publications/the-world-factbook/geos/ch.html>. Accessed: 17 January 2018

³ China today, China Information and Sources- Chinese Cities and Provinces <http://www.chinatoday.com/city/chinese-city-province-information.htm>. Accessed: 10 January 2018

⁴ Maps of the World: China, <https://www.mapsofworld.com/china/>. Accessed: 10 January 2018

⁵ The University of Texas at Austin, Perry-Castañeda Library Map Collection, China Maps, <https://legacy.lib.utexas.edu/maps/china.html>. Accessed: 10 January 2018

⁶ The Central Intelligence Agency (CIA) World Factbook, 'China- people and society', last updated 6 September 2017, <https://www.cia.gov/library/publications/the-world-factbook/geos/ch.html>. Accessed: 20 September 2017.

River delta, the Sichuan Basin (around Chengdu), in and around Beijing, and the industrial area around Shenyang.⁷

- 4.2.2 The capital of China is Beijing with a population of 20.384 million. Other major cities are Shanghai (23.741 million), Chongqing (13.332 million), Guangdong (12.458 million), Tianjin (11.21 million) and Shenzhen (10.749 million) as at 2015.⁸
- 4.2.3 China's age structure is as follows- 0-14 years: 17.15%, 15-24 years: 12.78%, 25-54 years: 48.51%, 55-64 years: 10.75%, 65 years and over: 10.81% (2017 estimate). The median age for the population in China is 37.4 years.⁹

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4.3 Ethnic/Tribal/Religious makeup

- 4.3.1 According to the CIA World Factbook updated in 23 January 2018, the main ethnic groups in China are:
- Han Chinese 91.6%
 - Zhuang 1.3%
 - Other (includes Hui, Manchu, Uighur, Miao, Yi, Tujia, Tibetan, Mongol, Dong, Buyei, Yao, Bai, Korean, Hani, Li, Kazakh, Dai and other nationalities) 7.1%- the Chinese Government officially recognizes 56 ethnic groups (2010 est.).
- 4.3.2 The main religious groups are: Buddhist 18.2%, Christian 5.1%, Muslim 1.8%, folk religion 21.9%, Hindu < 0.1%, Jewish < 0.1%, other 0.7% (includes Daoist (Taoist)), unaffiliated 52.2%.¹⁰
- 4.3.3 See country policy and information notes on [China: non-Christian religious groups](#), [China: Christians](#), and [China: Falun Gong](#).

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4.4 Languages

- 4.4.1 The languages spoken are:
- Standard Chinese or Mandarin (official; Putonghua [common speech], based on the Beijing dialect),
 - Yue (Cantonese),

⁷ The Central Intelligence Agency (CIA) World Factbook, 'China- people and society', last updated 23 January 2018, <https://www.cia.gov/library/publications/the-world-factbook/geos/ch.html>. Accessed: 5 February 2018.

⁸ The Central Intelligence Agency (CIA) World Factbook, 'China- people and society', last updated 23 January 2018, <https://www.cia.gov/library/publications/the-world-factbook/geos/ch.html>. Accessed: 5 February 2018.

⁹ The Central Intelligence Agency (CIA) World Factbook, 'China- people and society', last updated 23 January 2018, <https://www.cia.gov/library/publications/the-world-factbook/geos/ch.html>. Accessed: 5 February 2018.

¹⁰ The Central Intelligence Agency (CIA) World Factbook, 'China- people and society', last updated 23 January 2018, <https://www.cia.gov/library/publications/the-world-factbook/geos/ch.html>. Accessed: 5 February 2018.

- Wu (Shanghainese),
- Minbei (Fuzhou),
- Minnan (Hokkien-Taiwanese),
- Xiang,
- Gan,
- Hakka dialects,
- minority languages
- Zhuang is official in Guangxi Zhuang, Yue is official in Guangdong, Mongolian is official in Nei Mongol, Uighur is official in Xinjiang Uygur, Kyrgyz is official in Xinjiang Uygur, and Tibetan is official in Xizang (Tibet).¹¹

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5. Economy

5.1 Overview

5.1.1 The World Bank China Overview, last updated 28 March 2017, noted:

‘Since initiating market reforms in 1978, China has shifted from a centrally-planned to a market-based economy and has experienced rapid economic and social development. GDP growth has averaged nearly 10 percent a year—the fastest sustained expansion by a major economy in history—and has lifted more than 800 million people out of poverty.

‘With a population of 1.3 billion, China is the second largest economy and is increasingly playing an important and influential role in development and in the global economy. China has been the largest contributor to world growth since the global financial crisis of 2008.

‘Yet China remains a developing country (its per capita income is still a fraction of that in advanced countries) and its market reforms are incomplete. According to China’s current poverty standard (per capita rural net income of RMB 2,300 per year in 2010 constant prices), there were 55 million poor in rural areas in 2015.

‘Rapid economic ascendance has brought on many challenges as well, including high inequality; rapid urbanization; challenges to environmental sustainability; and external imbalances. China also faces demographic pressures related to an aging population and the internal migration of labor.’¹²

5.1.2 The CIA world factbook noted that:

¹¹ The Central Intelligence Agency (CIA) World Factbook, ‘China- people and society’, last updated 6 September 2017, <https://www.cia.gov/library/publications/the-world-factbook/geos/ch.html>. Accessed: 20 September 2017.

¹² The World Bank, ‘China Overview’, last updated 28 March 2017 <http://www.worldbank.org/en/country/china/overview>. Accessed: 20 September 2017.

'China continues to pursue an industrial policy, state-support of key sectors, and a restrictive investment regime. Measured on a purchasing power parity (PPP) basis that adjusts for price differences, China in 2016 stood as the largest economy in the world, surpassing the US in 2014 for the first time in modern history. China became the world's largest exporter in 2010, and the largest trading nation in 2013. Still, China's per capita income is below the world average.'¹³

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5.2 Employment

5.2.1 The 2017 US State Department's report, covering events in 2016 (the 2016 USSD report) noted that:

'There was no national minimum wage, but the law generally requires local and provincial governments to set their own minimum wage rates for both the formal and informal sectors according to standards promulgated by the Ministry of Human Resources and Social Security. The law mandates a 40-hour standard workweek, excluding overtime, and a 24-hour weekly rest period. It also prohibits overtime work in excess of three hours per day or 36 hours per month and mandates premium pay for overtime work.'¹⁴

5.2.2 Statista stated that 'The unemployment rate in China was 4.05 percent at the end of 2015 and is projected to remain stable over the next few years.'¹⁵

5.2.3 The 2017 Freedom House report noted that 'Exploitative employment practices such as wage theft, excessive overtime, student labor, and unsafe working conditions are pervasive in many industries. Forced labor and trafficking are also common, frequently affecting rural migrants, and Chinese nationals are similarly trafficked abroad. Forced labor is the norm in prisons and other forms of administrative detention.'¹⁶

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5.3 Social support

5.3.1 For a full list of available social support please refer to the [United States Social Security Administration](#) website.¹⁷

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5.4 Land ownership

5.4.1 The Law Library of Congress noted that:

¹³ The Central Intelligence Agency (CIA) World Factbook, 'China- economy', last updated 6 September 2017, <https://www.cia.gov/library/publications/the-world-factbook/geos/ch.html>. Accessed: 20 September 2017.

¹⁴ US Department of State, 'Country Reports on Human Rights Practices for 2016' (section 7), 7 March 2017, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dld=265328>. Accessed: 20 September 2017.

¹⁵ Statista, 'Employment in China - Statistics & Facts', undated, <https://www.statista.com/topics/1317/employment-in-china/>. Accessed: 20 September 2017.

¹⁶ Freedom House, Freedom in the World 2017 (civil liberties), 15 April 2017, <https://freedomhouse.org/report/freedom-world/2017/china>. Accessed: 16 October 2017.

¹⁷ United States Social Security Administration, 'Social Security Programs Throughout the World: Asia and the Pacific, 2016', China, undated, <https://www.ssa.gov/policy/docs/progdesc/ssptw/2016-2017/asia/china.html>. Accessed: 26 June 2017.

‘Individuals cannot privately own land in China but may obtain transferrable land-use rights for a number of years for a fee. Currently, the maximum term for urban land-use rights granted for residential purposes is seventy years. In addition, individuals can privately own residential houses and apartments on the land (“home ownership”), although not the land on which the buildings are situated.

‘Real estate may be transferred through sale, gift, or other legal means. When real estate is transferred, the land-use rights and home ownership are transferred simultaneously. Restrictions that may apply to the transfer of real estate include prohibiting transfer when the land-use rights are reclaimed by the state in accordance with law, or when the property has not been properly registered and certificates of ownership have not been obtained.

‘Both urban land-use rights and home ownership are subject to registration. The registration is performed by local authorities at or above the county level; certificates are issued to confirm the rights and ownership.’¹⁸

- 5.4.2 Freedom House, in its ‘Freedom in the World 2017’ report, (the 2017 Freedom House report), covering events in 2016, noted that ‘In October 2016, authorities eased limits on the transfer of land-use rights by farmers in an effort to facilitate more efficient agricultural enterprises.’¹⁹

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6. Political system

6.1 Constitution

- 6.1.1 The fourth [constitution](#) of the People’s Republic of China was adopted in 1982. It vests all national legislative power in the hands of the National People’s Congress and its Standing Committee. The State Council and its Standing Committee, by contrast, are made responsible for executing rather than enacting the laws. This basic division of power is also specified for each of the territorial divisions – province, county and so forth – with the proviso in each instance that the latitude available to authorities is limited to that specified by law.²⁰

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6.2 Structure

- 6.2.1 The 2016 USSD report noted that:

‘The constitution states that “all power in the People’s Republic of China belongs to the people” and that the organs through which the people exercise state power are the National People’s Congress (NPC) and the people’s congresses at provincial, district, and local levels. In practice the

¹⁸ The Law Library of Congress, ‘China: Real Property Law’, updated July 2015, <https://www.loc.gov/law/help/real-property-law/china.php>. Accessed: 25 September 2017.

¹⁹ Freedom House, Freedom in the World 2017 (civil liberties), 15 April 2017, <https://freedomhouse.org/report/freedom-world/2017/china>. Accessed: 26 September 2017.

²⁰ Encyclopaedia Britannica: China, Constitutional Framework, undated <https://www.britannica.com/place/China/Constitutional-framework>. Accessed: 25 September 2017.

Chinese Communist Party (CCP) dictated the legislative agenda to the NPC. While the law provides for elections of people's congress delegates at the county level and below, citizens could not freely choose the officials who governed them. The CCP controlled all elections and continued to control appointments to positions of political power. The CCP used various intimidation tactics, including house arrest, to block independent candidates from standing for local elections.

'Official statements asserted that "the political party system [that] China has adopted is multiparty cooperation and political consultation" under CCP leadership. The CCP, however, retained a monopoly on political power, and the government forbade the creation of new political parties. The government officially recognized nine parties founded prior to 1949, and parties other than the CCP held 30 percent of the seats in the NPC. These non-CCP members did not function as a political opposition. They exercised very little influence on legislation or policymaking and were allowed to operate only under the direction of the CCP United Front Work Department.

'No laws or regulations specifically govern the formation of political parties. The Chinese Democracy Party (CDP) remained banned, and the government continued to monitor, detain, and imprison current and former CDP members. Activists attempting to create or support unofficial parties were arrested, detained, or confined.'²¹

6.2.2 The 2017 Freedom House report noted that:

'The CCP has a monopoly on political power, and its Politburo Standing Committee (PSC) sets government and party policy. At the 18th Party Congress in 2012, a new PSC—headed by Xi Jinping—was announced, the outcome of opaque intraparty politics. Xi, the CCP general secretary, also holds the position of state president, and serves as chairman of the state and party military commissions. He heads an unusually large number of "leading groups" that give him direct supervision over domestic security, economic reform, internet management, ethnic relations, and other policy areas.

'The 3,000 members of the National People's Congress (NPC) are formally elected for five-year terms by subnational congresses, but in practice candidates are vetted by the CCP. The NPC formally elects the state president for up to two five-year terms, and confirms the premier after they are nominated by the president. However, only the NPC standing committee meets regularly, with the full congress convening for just two weeks a year to approve proposed legislation; party organs and the executive State Council effectively control law making.

'Although independent candidates who obtain the signatures of 10 supporters are by law allowed to run for seats on the lowest, county-level people's congresses, in practice they are prevented from getting their names on the ballot through intimidation, harassment, and in some cases detention, and only a very small number of independent candidates have actually

²¹ US Department of State, 'Country Reports on Human Rights Practices for 2016' (section 3), 7 March 2017, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265328>. Accessed: 20 September 2017.

gained office in elections. Nevertheless, dozens of individuals sought office as independent candidates in 2016. Elections for village committees are also supposed to give residents the chance to choose their representatives, but in practice they are frequently undermined by fraud, corruption, and attacks on independent candidates and their supporters.’²²

- 6.2.3 See country policy and information note on [China: Opposition to the Chinese Communist Party](#).

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7. Security apparatus

7.1 Police

- 7.1.1 An Immigration and Refugee Board of Canada response to an information request of 10 October 2014, ‘Structure of the public security police; whether witness protection programs exist for those fearing organized crime groups (2014)’, noted, based on various sources, that:

‘...the police system comprises the following components or branches: the public security police, the state security police, the prison police, and the judicial police for people’s courts and procuratorates.

‘According to a chapter titled “The Police System in China” by Yue Ma, which was published in the 2014 Routledge Handbook of Chinese Criminology, the “public security police” are the largest component of the police force.

Sources note that the public security police force [excluding auxiliary forces such as the People’s Armed Police Force (PAPF) and Chengguan police] is reportedly made up of approximately 1.9 million active duty police officers.

‘Ma states that the public security police force is directed and coordinated by the Minister of Public Security.

‘Ma describes the organization of the public security police force as follows:

‘Under the Ministry of Public Security, in each province, autonomous region, and municipality directly under the central government, there is a provincial level public security bureau [PSB]. Under the provincial level public security bureau, in provinces and autonomous regions, there are municipal and county public security bureaus. In municipalities, directly under the central government, there are district and county public security bureaus. At the bottom of the police hierarchy, numerous police stations are set up in larger communities across the country.

‘Sources report that the low ratio of public security force police to the population has resulted in local governments hiring temporary or irregular police, known as chengguan [also known as urban management security officials], to supplement the professional force.’²³

²² Freedom House, Freedom in the World 2017 (political rights), 15 April 2017, <https://freedomhouse.org/report/freedom-world/2017/china>. Accessed: 26 September 2017.

²³ Immigration and Refugee Board of Canada response to information request - ‘Structure of the public security police; whether witness protection programs exist for those fearing organized crime groups (2014)’, 10 October 2014 <http://www.refworld.org/country,...CHN,,54648cbd4,0.html>. Accessed 27 September 2017.

7.1.2 The 2016 USSD report noted that:

‘The main domestic security agencies include the Ministry of State Security, the Ministry of Public Security, and the People’s Armed Police. The People’s Liberation Army is primarily responsible for external security but also has some domestic security responsibilities. Local jurisdictions also frequently used civilian municipal security forces, known as “urban management” officials, to enforce administrative measures. Oversight of these forces was localized and ad hoc. By law officials can be criminally prosecuted for abuses of power, but such cases were rarely pursued.

‘The Ministry of Public Security coordinates the civilian police force, which is organized into specialized agencies and local, county, and provincial jurisdictions.’²⁴

7.1.3 The Australian Government’s Department for Foreign Affairs and Trade’s (DFAT) ‘Country Report for 2017’ (the 2017 DFAT report) stated that:

‘China’s Ministry of Public Security oversees the police force, which is organised into specialised police agencies and local, county, and provincial jurisdictions. China no longer publicises the size of its police force, but media estimates place the number at around two million. The People’s Armed Police, a paramilitary force responsible for internal security issues such as riots, terrorist attacks, natural disasters and other emergencies, has an estimated 660,000 members. Police undertake four-year training programs that include courses in procedural law and public order, as well as extensive physical training. Performance is statistics-driven and a national ranking system provides incentives for compliance. Local-level police are generally entitled to receive housing and food allowances as part of their monthly salaries, which are calculated according to local conditions rather than a national standard.

‘Maintaining public order and social stability – defined as defending CCP rule – are the key priorities of the police force in China, and outweigh protection of the public from criminal activity. Regular police do not generally carry firearms but can do so in areas of heightened security (such as in Xinjiang and Tibet). Reflecting the power held by the Ministry of Public Security, procuratorate oversight of the police is limited, localised and ad-hoc.’²⁵

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7.2 Intelligence agencies

7.2.1 The 2017 DFAT report noted that:

‘China’s internal security agencies include: the Ministry of Public Security, which is responsible, inter alia, for the police, border security and household registration; the Ministry of State Security, the main intelligence agency; the

²⁴ US Department of State, ‘Country Reports on Human Rights Practices for 2016’ (section 1), 7 March 2017, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265328>. Accessed: 26 September 2017.

²⁵ Australian Department for Foreign Affairs and Trade, ‘Country Report for 2017’ (sections 5.5 - 5.6), 21 December 2017 <http://dfat.gov.au/about-us/publications/Documents/country-information-report-china.pdf>. Accessed: 10 January 2018

People's Armed Police (PAP), a paramilitary force responsible for internal security; and the People's Liberation Army (PLA), China's military. In November 2013, President Xi Jinping established a new National Security Commission to strengthen coordination of both international and domestic security issues.²⁶

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7.3 Army

7.3.1 Encyclopedia Britannica noted in the section on the security systems of China that:

'The People's Liberation Army (PLA) is the unified organization of all Chinese land, sea, and air forces. The history of the PLA is officially traced to the Nanchang Uprising of Aug. 1, 1927, which is celebrated annually as PLA Day. The PLA is one of the world's largest military forces, with in excess of two million members. Military service is compulsory for all men who attain the age of 18; women may register for duty in the medical, veterinary, and other technical services. Demobilized servicemen are carried in a ready reserve, which is reinforced by a standby reserve of veterans and by the militia.²⁷

7.3.2 Global Security noted that:

'The active components of the PLA are the country's standing army, which mainly undertakes the task of defensive military operations and helps maintain social order, if necessary, in accordance with the law. Its basic organizational structures can be categorized into the general headquarters/departments, the services and arms and the military area commands.

'The PLA's general headquarters/departments system is composed of the General Staff Headquarters, the General Political Department, the General Logistics Department and the General Armaments Department, which are placed under the leadership of the CMC. The CMC, through these four general headquarters/ departments, directs all the military area commands and the services and arms. The routine work of the Ministry of National Defense is handled respectively by these four general headquarters/departments.'²⁸

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7.4 Impunity/human rights abuses

7.4.1 The 2016 USSD report noted that:

²⁶ Australian Department for Foreign Affairs and Trade, 'Country Report for 2017' (section 2.29), 21 December 2017 <http://dfat.gov.au/about-us/publications/Documents/country-information-report-china.pdf>. Accessed: 10 January 2018

²⁷ Encyclopaedia Britannica, China- Security, undated, <https://www.britannica.com/place/China/Constitutional-framework#ref589643>. Accessed: 8 November 2017.

²⁸ Global Security, China- People Liberation Army, undated, <https://www.globalsecurity.org/military/world/china/pla.htm>. Accessed: 8 November 2017.

‘Security forces reportedly committed arbitrary or unlawful killings. In many instances, few or no details were available.

‘There were multiple reports of individuals detained by authorities and held at undisclosed locations.

‘Procuratorate oversight of the public security forces was limited. Corruption at every level was widespread. Public security and urban management officials engaged in extrajudicial detention, extortion, and assault.

‘Regulations state that officers in prisons face dismissal if found to have beaten, applied corporal punishment, or abused inmates or to have instigated such acts, but there were no reports these regulations were enforced.

‘In the absence of reliable data, it was difficult to ascertain the full extent of impunity for the domestic security apparatus, but anecdotal accounts of abuse were common on social media and sometimes appeared in state media reports as well. Authorities often announced investigations following cases of reported killings by police. It remained unclear, however, whether these investigations resulted in findings of police malfeasance or disciplinary action.

‘The law prohibits the physical abuse and mistreatment of detainees and forbids prison guards from coercing confessions, insulting prisoners’ dignity, and beating or encouraging others to beat prisoners. Amendments to the criminal procedure law exclude evidence, including coerced confessions obtained through illegal means, in certain categories of criminal cases. Enforcement of these legal protections continued to be lax.

‘Numerous former prisoners and detainees reported they were beaten, subjected to electric shock, forced to sit on stools for hours on end, hung by the wrists, raped, deprived of sleep, force-fed, and otherwise subjected to physical and psychological abuse. Although ordinary prisoners were abused, prison authorities reportedly singled out political and religious dissidents for particularly harsh treatment. In some instances, close relatives of dissidents also were singled out for abuse.’²⁹

7.4.2 The United Nations Committee Against Torture stated that they remain:

‘[...] seriously concerned over consistent reports indicating that the practice of torture and ill-treatment is still deeply entrenched in the criminal justice system, which overly relies on confessions as the basis for convictions. It also expresses concern over information that the majority of allegations of torture and ill-treatment take place during pretrial and extra-legal detention and involve public security officers, who wield excessive power during the criminal investigation without effective control by procuratorates and the judiciary.’³⁰

²⁹ US Department of State, ‘Country Reports on Human Rights Practices for 2016’ (section 1), 7 March 2017, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265328>. Accessed: 26 September 2017.

³⁰ UN Committee Against Torture, ‘Concluding observations on the fifth periodic report of China’, 3 February 2016, (paragraph 20) <http://www.ohchr.org/EN/Countries/AsiaRegion/Pages/CNIndex.aspx>. Accessed: 26 September 2017.

7.4.3 The Human Rights Watch report of 12 May 2015, 'Tiger Chairs and Cell Bosses: Police Torture of Criminal Suspects in China', stated that:

'...Our analysis of court cases and interviews with former detainees show that police torture and ill-treatment of suspects in pre-trial detention remains a serious concern. Former detainees described physical and psychological torture during police interrogations, including being hung by the wrists, being beaten with police batons or other objects, and prolonged sleep deprivation. Some said they were restrained for days in so-called "tiger chairs" (used to immobilize suspects during interrogations), handcuffs, or leg irons; one convicted prisoner awaiting review of his death sentence had been handcuffed and shackled for eight years. Some detainees spoke about abuses at the hands of "cell bosses," fellow detainees used by detention centre police as de facto managers of each multi-person cell. In some cases, the abuse resulted in death or permanent physical or mental disabilities. Most suspects who complained of torture to the authorities had been accused of common crimes such as theft. Interviewees said torture is particularly severe in major cases with multiple suspects, such as in organized or triad-related crimes. In most of the cases we examined, police used torture and other ill-treatment to elicit confessions on which convictions could be secured. Abuses were facilitated by suspects' lack of access to lawyers, family members, and doctors not beholden to the police. ...'³¹

7.4.4 The Congressional Executive Commission on China in an undated report on Judicial Independence in China noted:

'The Chinese government and Communist Party emphasized the procuratorate's supervisory role over criminal investigation and continued to improve implementation of the existing legal provisions that address the problem of investigators' use of coercion and overreliance on confession in criminal cases.

'In March 2017, Cao Jianming, Procurator-General of the Supreme People's Procuratorate (SPP), reported that in 2016, the procuratorate corrected 34,230 cases of illegal investigation practices, such as extracting confessions by torture, but did not report any instance of criminal prosecution of investigators who engaged in abuse. Despite these official pronouncements, reports of coerced confession continued to emerge this past year, with some indicating that procurators participated in the practice.

'This past year, reports continued to emerge that Chinese authorities tortured and abused individuals in detention, including rights lawyers and advocates detained as part of the July 2015 crackdown.

'Other reports from this past year described additional instances in which authorities administered medication as a means of torture.'³²

³¹ Human Rights Watch, 'Tiger Chairs and Cell Bosses: Police Torture of Criminal Suspects in China', 12 May 2015, Summary p. 2-5 <https://www.hrw.org/report/2015/05/13/tiger-chairs-and-cell-bosses/police-torture-criminal-suspects-china>. Accessed: 26 September 2017

³² Congressional-Executive Commission on China, 'Congressional-Executive Commission on China Annual Report 2017', 5 October 2017, (p.105-108) <https://www.cecc.gov/media-center/press-releases/cecc-releases-2017-annual-report>. Accessed: 16 October 2017.

7.4.5 The 2017 DFAT report noted that:

‘A number of high profile deaths in custody have occurred in China in recent years. Media and NGO reports of deaths in custody include deaths caused by denial of access to proper medical care.

‘Where authorities have announced investigations into police misbehavior, the results are generally not made public [...]. In one high-profile case, the courts ordered that officers face internal discipline..’³³

7.4.6 The 2017 Freedom House report noted that:

‘Police and public security agents generally enjoy impunity for abuses. In December 2016, a court decided not to press charges against five policemen involved in the May death in custody of Lei Yang, who worked at a state-sponsored environmental NGO. This was despite the court’s conclusion that the policemen had broken the law by misusing force, delaying medical treatment, and lying about the circumstances of Lei’s death. Torture is widely used to extract confessions or force political and religious dissidents to recant their beliefs.’³⁴

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7.5 Avenues of redress

7.5.1 The 2016 USSD report noted that:

‘The law also allows compensation for wrongful detention, mental trauma, or physical injuries inflicted by detention centre or prison officials. Citizens seldom applied for state compensation because of the high cost of bringing lawsuits, low credibility of courts, and citizens’ lack of awareness of the law. Victims’ claims were difficult to assess because of vague definitions in the law and difficulties in obtaining evidence of damage. Judges were reluctant to accept such cases, and government agencies seldom ruled in favour of plaintiffs.’³⁵

7.5.2 The 2017 DFAT Report noted that:

‘Chinese citizens have the right to lodge complaints against the police in their city of residence through a telephone hotline, online complaints website, in person, or in writing to the Public Security Bureau Complaints Office. Local authorities have targeted petitioners (including those with complaints against police) with punishments including arrest and detention. Complaints against police rarely lead to disciplinary action and, where investigations are announced, their outcomes are not publicly released.

‘China has taken some positive steps to protect individual rights through amendments to the Criminal Procedure Law prohibiting the use of

³³ Australian Department for Foreign Affairs and Trade, ‘Country Report for 2017’ (section 4.2), 21 December 2017 <http://dfat.gov.au/about-us/publications/Documents/country-information-report-china.pdf>. Accessed: 10 January 2018

³⁴ Freedom House, Freedom in the World 2017 (rule of law), 15 April 2017, <https://freedomhouse.org/report/freedom-world/2017/china>. Accessed: 27 September 2017.

³⁵ US Department of State, ‘Country Reports on Human Rights Practices for 2016’ (section 1), 7 March 2017, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265328>. Accessed: 27 September 2017.

confessions obtained under torture as evidence, and requiring interrogations in major criminal cases to be audio and video recorded. However, these protections do not apply in cases involving national security, which are investigated outside of China's criminal justice system.³⁶

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8. Judiciary

8.1 Organisation

8.1.1 Lawinfochina.com, operated by Peking University, noted in an undated report on the judiciary:

'The judicial system of the PRC is established in Articles 123-135, and consists of the people's courts, the Supreme People's Court, the people's procuratorates, the Supreme People's Procuratorate, military procuratorates and other special people's procuratorates. Article 129 refers to the people's procuratorates as "state organs for legal supervision." The Supreme People's Procuratorate, accountable to the NPC and its Standing Committee, is the highest prosecutorial agency in China exercising and supervising prosecutorial authority at all state and local levels.

Procuratorates examine cases scheduled for investigation by public security agencies to decide whether a suspect should be arrested or not, and whether a case should be prosecuted or not. They institute and support public prosecution in criminal cases; and oversee the activities of the public security and state security agencies, people's courts, prisons, houses of detention and reform-through-labour institutions. The Prosecutor General of the Supreme People's Procuratorate is Jia Chunwang.

'There is a hierarchy within the court structure from the top down: The Supreme People's Courts, the Higher People's Courts, the Intermediate People's Courts, and the Basic People's Courts. The Basic People's Courts are comprised of more than 3,000 courts at county level, which are further subdivided into about 20,000 smaller units referred to as people's tribunals located in towns and villages. There are 376 Intermediate People's Courts and 31 Higher People's Courts located in the provinces. Additionally, there are a number of specialized courts, for example those dealing with railway transportation, forest affairs, the People's Liberation Army (PLA) and maritime issues. Jurisdiction is allocated partially through the Constitution, the 1979 Organic Law of the People's Courts, the Law of Criminal Procedure, the Law of Civil Procedure, and the Law of Administrative Procedure.

'Litigants are generally limited to one appeal, on the theory of finality of judgment by two trials. Cases of second instances are often reviewed de novo as to both law and facts. Requests for appellate review take the form of appeals and protests (in criminal cases). Appeals are lodged by parties to the case, defendants and private prosecutors. Protests are filed by the procuratorate in criminal cases when it is believed that an error has occurred

³⁶ Australian Department for Foreign Affairs and Trade, 'Country Report for 2017' (sections 5.5 - 5.7), <http://dfat.gov.au/about-us/publications/Documents/country-information-report-china.pdf>. Accessed: 10 January 2018

in the law or facts as determined by the judgment or order of the court of first instance. In civil cases the procuratorate does not possess a right to file a direct protest, but it can initiate adjudication supervision via a protest. Adjudication supervision refers to a type of discretionary post “final” decision review, which may occur in certain situations in criminal cases.’³⁷

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8.2 Independence

8.2.1 The Congressional Executive Commission on China in an undated report on Judicial Independence in China noted:

‘China’s judiciary continues to be subject to a variety of internal and external controls that significantly limit its ability to engage in independent decision making. Several internal mechanisms within the judiciary itself limit the independence of individual judges. A panel of judges decides most cases in China, with one member of the panel presiding at trial. Despite recent reforms to enhance the independence of individual judges and judicial panels, court adjudicative committees led by court presidents still have the power to review and approve decisions in complex or sensitive cases. Finally, judges in lower courts frequently seek the opinions of higher courts before making decisions on cases before them. Some legal reformers in China oppose this practice, arguing that it undermines the right of appeal. China experts differ on whether the practice has become more or less frequent as reforms have progressed in recent years.’³⁸

8.2.2 The 2017 Freedom House report noted that:

‘Judicial reforms introduced over the past decade or more have sought to exclude evidence obtained through torture, guarantee better access to lawyers, allow witnesses to be cross-examined, and establish other safeguards to prevent wrongful convictions and miscarriages of justice.

‘However, the CCP still dominates the judicial system, with courts at all levels supervised by party political-legal committees that have influence in the appointment of judges, court operations, and verdicts and sentences. While citizens can expect a degree of fair adjudication in non-political cases, those that touch on politically sensitive issues or the interests of powerful groups are subject to decisive “guidance” from political-legal committees.’³⁹

8.2.3 The 2016 USSD report noted that:

‘Although the law states that the courts shall exercise judicial power independently, without interference from administrative organs, social organizations, and individuals, the judiciary did not, in fact, exercise judicial power independently. Judges regularly received political guidance on pending cases, including instructions on how to rule, from both the

³⁷ Lawinfochina.com, ‘Judicial Branch’, undated, <http://www.lawinfochina.com/Legal/index.shtml>. Accessed: 27 September 2017.

³⁸ Congressional Executive Commission on China, ‘Judicial Independence in China’, undated <http://www.cecc.gov/judicial-independence-in-the-prc>. Accessed: 27 September 2017.

³⁹ Freedom House, Freedom in the World 2017 (rule of law), 15 April 2017, <https://freedomhouse.org/report/freedom-world/2017/china>. Accessed: 27 September 2017.

government and the CCP, particularly in politically sensitive cases. The CCP Central Political and Legal Affairs Commission has the authority to review and direct court operations at all levels of the judiciary. All judicial and procuratorate appointments require approval by the CCP Organization Department.

“Judicial independence” remained one of the reportedly off-limit subjects that the CCP ordered university professors not to discuss.⁴⁰

8.2.4 The 2017 DFAT Report noted that:

‘China’s 2016 White Paper on Judicial Reform includes measures to reduce political influence on courts, improve access to justice, strengthen professionalism of the judiciary, and increase transparency. In an effort to curb local corruption, new policy shifts funding of courts from the local to provincial level and courts have started recording attempts to influence proceedings. Since May 2015 there has been a mandatory nation-wide case filing system, through which courts cannot refuse to hear cases without sound legal justification. Courts now publish many routine judgements online, although coverage is patchy.

‘DFAT assesses that a lack of separation of powers creates structural vulnerabilities within the judicial system. Judicial autonomy is limited in cases that authorities consider politically sensitive or that involve vested economic or political interests. Public confidence in the ability of courts to enforce judgements, particularly in rural areas, remains low.’⁴¹

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8.3 Fair Trial

8.3.1 The Telegraph reported in March 2016 that:

‘Chinese courts found guilty all but a tiny minority of defendants last year, despite claims by Beijing to be confronting wrongful convictions and upholding the rule of law. Only 1,039 of more than 1.2 million people were found not guilty in the country’s Communist Party-controlled courts – resulting in an acquittal rate of around 0.08 per cent. China’s conviction rate is commonly well above 99 per cent, with 778 acquittals and 1.184 million convictions being recorded in 2014.’⁴²

8.3.2 The 2016 USSD report noted that:

‘Although the amended criminal procedure law reaffirms the presumption of innocence, the criminal justice system remained biased toward a presumption of guilt, especially in high-profile or politically sensitive cases. According to the March work report submitted to the National People’s

⁴⁰ US Department of State, ‘Country Reports on Human Rights Practices for 2016’ (section 1), 7 March 2017, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265328>. Accessed: 27 September 2017.

⁴¹ Australian Department for Foreign Affairs and Trade, ‘Country Report for 2017’ (section 5.9- 5.11), 21 December 2017 <http://dfat.gov.au/about-us/publications/Documents/country-information-report-china.pdf>. Accessed: 10 January 2018

⁴² The Telegraph, ‘Chinese courts convict more than 99.9 per cent of defendants’, 14 March 2016, <http://www.telegraph.co.uk/news/worldnews/asia/china/12193202/Chinese-courts-convict-more-than-99.9-per-cent-of-defendants.html>. Accessed: 21 November 2017.

Congress (NPC) by the Supreme People's Court (SPC), more than 1.2 million individuals were convicted while 1,039 were acquitted in 2015. The low acquittal rate of less than 1 percent has persisted for many years, although the overall number of acquittals during the year rose from the 778 recorded in 2014.

'In many politically sensitive trials, courts announced guilty verdicts immediately following proceedings with little time for deliberation. Courts often punished defendants who refused to acknowledge guilt with harsher sentences than those who confessed. The appeals process rarely reversed convictions and failed to provide sufficient avenues for review; remedies for violations of defendants' rights were inadequate.

'Corruption often influenced court decisions, since safeguards against judicial corruption were vague and poorly enforced. Local governments appointed and paid local court judges and, as a result, often exerted influence over the rulings of those judges.'

'Individuals facing administrative detention do not have the right to seek legal counsel. Criminal defendants were eligible for legal assistance, although the vast majority of criminal defendants went to trial without a lawyer. According to the State Council's 2016 White Paper on Legal Rights, 4.7 million cases received legal aid from 2012 to 2015.

'According to Chinese legal experts and statistics reported in domestic media, defense attorneys took part in less than 20 percent of criminal cases; in some provinces, it was less than 12 percent. In particular, human rights lawyers reported that authorities did not permit them to effectively defend certain clients or threatened them with punishment if they chose to do so. Some lawyers declined to represent defendants in politically sensitive cases, and such defendants frequently found it difficult to find an attorney. When defendants were able to retain counsel in politically sensitive cases, government officials often prevented attorneys from organizing an effective defense. In some instances, authorities prevented attorneys selected by defendants from taking the case and appointed a court attorney to the case instead.

'Tactics employed by court and government officials included unlawful detentions, disbarment, harassment and physical intimidation, and denial of access to evidence and to clients.

'Mechanisms allowing defendants to confront their accusers were inadequate. Only a small percentage of trials reportedly involved witnesses. Judges retained significant discretion over whether live witness testimony was required or even allowed. In most criminal trials, prosecutors read witness statements, which neither the defendants nor their lawyers had an opportunity to rebut through cross-examination. Although the law states that pretrial witness statements cannot serve as the sole basis for conviction, prosecutors relied heavily on such statements. Defense attorneys had no authority to compel witnesses to testify or to mandate discovery, although

they could apply for access to government-held evidence relevant to their case.¹⁴³

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8.4 Avenues of redress

8.4.1 The 2016 USSD report noted that ‘Courts deciding civil matters faced the same limitations on judicial independence as criminal courts. The State Compensation Law provides administrative and judicial remedies for plaintiffs whose rights or interests government agencies or officials have infringed.’¹⁴⁴

8.4.2 The 2017 DFAT Report noted that:

‘Judicial reforms implemented in recent years have led to an increase in administrative law cases, albeit from a very low base, including local cases of official abuse of power. As an example, the Shenzhen court has published figures for administrative cases showing 10,133 administrative cases in 2015, compared with 9,167 in 2014 and only 3,840 in 2013. In 2015, the government lost 381 (15.2 per cent) of 2508 lawsuits against it. While improving, these relatively low numbers even in one of China’s wealthiest and most international cities (Shenzhen has a population of 12 million) indicate the difficulties faced by ordinary people in pursuing cases against officials.’¹⁴⁵

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8.5 Death penalty

8.5.1 The 2016 USSD report noted that ‘Although legal reforms in recent years decreased the use of the death penalty and improved the review process, authorities executed some defendants in criminal proceedings following convictions that lacked due process and adequate channels for appeal.’¹⁴⁶

8.5.2 The 2017 Freedom House report noted that ‘While the government has gradually reduced the number of crimes carrying the death penalty, currently at 46, it is estimated that thousands of inmates are executed each year; the government treats the true figure as a state secret.’¹⁴⁷

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¹⁴³ US Department of State, ‘Country Reports on Human Rights Practices for 2016’ (section 1), 7 March 2017, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265328>. Accessed: 27 September 2017.

¹⁴⁴ US Department of State, ‘Country Reports on Human Rights Practices for 2016’ (section 1), 7 March 2017, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265328>. Accessed: 27 September 2017.

¹⁴⁵ Australian Department for Foreign Affairs and Trade, ‘Country Report for 2017’ (section 5.10), 21 December 2017 <http://dfat.gov.au/about-us/publications/Documents/country-information-report-china.pdf>. Accessed: 10 January 2018

¹⁴⁶ US Department of State, ‘Country Reports on Human Rights Practices for 2016’ (section 1), 7 March 2017, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265328>. Accessed: 26 September 2017.

¹⁴⁷ Freedom House, Freedom in the World 2017 (rule of law), 15 April 2017, <https://freedomhouse.org/report/freedom-world/2017/china>. Accessed: 27 September 2017.

9. Civil society groups

9.1 Legal rights

9.1.1 The 2016 USSD report noted that:

'The constitution provides for freedom of association, but the government restricted this right. CCP policy and government regulations require that all professional, social, and economic organizations officially register with and receive approval from the government. These regulations prevented the formation of autonomous political, human rights, religious, spiritual, labour, and other organizations that the government believed might challenge its authority in any area.'⁴⁸

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9.2 Numbers of groups

9.2.1 The 2016 USSD report noted that:

'According to the Ministry of Civil Affairs, by June [2016] there were more than 670,000 legally registered social organizations, public institutions, and foundations. According to the Ministry of Public Security, in August there were more than 7,000 foreign NGOs. Many experts believed the actual number of domestic NGOs to be much higher. Domestic NGOs reported that foreign funding dropped during the year, as many domestic NGOs sought to avoid such funding for fear of being labelled as "subversive" in the face of growing restrictions imposed by new laws. NGOs existed under a variety of formal and informal guises, including national mass organizations created and funded by the CCP that are organizationally prohibited from exercising any independence, known as government-operated NGOs or GONGOs.'⁴⁹

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9.3 Restrictions

9.3.1 The 2016 USSD report noted that:

'The government maintained tight controls over civil society organizations and in some cases detained or harassed NGO workers.'

'The regulatory system for NGOs was highly restrictive, but specific requirements varied depending on whether an organization was foreign or domestic. Domestic NGOs were governed by the Charity Law, which went into effect in September, and a host of related regulations. Domestic NGOs could register as one of three categories: a social group, a social organization, or a foundation. All domestic NGOs were required to register under the Ministry of Civil Affairs and find an officially sanctioned sponsor to serve as their "professional supervisory unit." Finding a sponsor was often challenging, since the sponsor could be held civilly or criminally responsible for the NGO's activities. All organizations were also required to report their

⁴⁸ US Department of State, 'Country Reports on Human Rights Practices for 2016' (section 2b), 7 March 2017, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265328>. Accessed: 10 October 2017.

⁴⁹ US Department of State, 'Country Reports on Human Rights Practices for 2016' (section 2b), 7 March 2017, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265328>. Accessed: 10 October 2017.

sources of funding, including foreign funding. Domestic NGOs continued to adjust to this new regulatory framework.

‘Although all registered organizations came under some degree of government control, some NGOs, primarily service-oriented GONGOs, were able to operate with less day-to-day scrutiny. Authorities supported the growth of some NGOs that focused on social problems, such as poverty alleviation and disaster relief. Law and regulations explicitly prohibited organizations from conducting political or religious activities, and organizations that refused to comply faced criminal penalties.’⁵⁰

9.3.2 The 2017 Freedom House report noted that:

‘Foreign NGOs operating in China would be required to register with the Ministry of Public Security (MPS) and to find a “professional supervisory unit”—a government or state organ willing to act as sponsor. The new law also vests authority for foreign NGO management in the MPS, rather than the Ministry of Civil Affairs, which has historically been tasked with managing civil society organizations in China. The changes give the police the authority to enter an NGO’s premises at any time to conduct searches without a court warrant, to seize property, to detain personnel, and to initiate criminal procedures.’⁵¹

9.3.3 The Diplomat, an international current affairs magazine, reported in June 2017 that:

‘China’s foreign non-governmental organizations (NGO) law has been in force for half a year, since January 1, 2017. Under the law, any not-for-profit, non-governmental social organizations lawfully established outside mainland China, such as foundations, social groups, and think tank institutions, should register with the Ministry of Public Security, or the police, before conducting any activities within mainland China.

‘China has never released any official data on the exact number of foreign NGOs operating in the country before the NGO law was issued. The closest we have to an official number was mentioned once by Fu Ying, former vice foreign minister of China. When talking about the foreign NGO law during the fourth session of the 12th National People’s Congress on March 4, 2016, Fu revealed that “there are more than 7,000 foreign NGOs operating in China.”

‘So how many foreign NGOs out of these 7,000-plus have successfully registered so far? Based on public information, The Diplomat has confirmed only 91. Beijing has approved 20 foreign NGOs, the most nationwide.’⁵²

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⁵⁰ US Department of State, ‘Country Reports on Human Rights Practices for 2016’ (section 2b), 7 March 2017, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265328>. Accessed: 10 October 2017.

⁵¹ Freedom House, Freedom in the World 2017 (civil liberties), 15 April 2017, <https://freedomhouse.org/report/freedom-world/2017/china>. Accessed: 11 October 2017.

⁵² The Diplomat, ‘More Than 7,000 Foreign NGOs in China: Only 91 Registered So Far’, 2 June 2017, <https://thediplomat.com/2017/06/more-than-7000-foreign-ngos-in-china-only-72-registered-so-far/>. Accessed: 11 October 2017.

10. Media and the internet

- 10.1.1 See country policy and information note on [China: journalists](#).

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11. Corruption

- 11.1.1 Transparency International ranked China 77 out of 180 countries (with a ranking of 1 being the best and 176 being the worst) in its 2017 Corruption Perceptions Index, and gave China a score of 41 for its level of clean governance, with 100 being the highest possible score.⁵³
- 11.1.2 BBC news reported in January 2017 that 'China's anti-corruption agency says it is going to watch its officials more closely, after uncovering corruption within its own ranks. It says 17 officials from the Central Commission for Discipline Inspection (CCDI) have been investigated for corruption since 2012. A sweeping anti-corruption drive has been a defining feature of Xi Jinping's presidency.'⁵⁴
- 11.1.3 Aljazeera reported in July 2017 that:
'Chinese authorities have punished more than 210,000 officials for corruption in the first half of 2017, according to the Communist Party's corruption watchdog. In a statement on Thursday, the Central Commission for Discipline Inspection (CCDI) said anti-corruption institutions received 1.31 million complaints and opened 260,000 cases this year. Of that number, "210,000 people have been punished for breaking the code of conduct", the CCDI said on its website. They include 38 senior officials from ministries and provincial administrations, and more than 1,000 at the prefecture levels, the CCDI said.'⁵⁵
- 11.1.4 According to a 2016 Pew Research Center poll '...official corruption is a major concern. President Xi Jinping has made fighting corruption a centerpiece of his time in office, leading to the arrests of many Communist Party officials. Roughly half (49%) the Chinese public says corrupt officials are a very big problem in the country, while another 34% believe they are a moderately big issue.'⁵⁶
- 11.1.5 The US Congressional Executive Commission's China annual report of October 2017 noted that:
'Local-level corruption reportedly remains common in rural China. Local officials reportedly engaged in embezzlement, land expropriation, and forced demolition of homes. Some officials reportedly had ties to criminal

⁵³ Transparency International Index ranking 2017, <https://www.transparency.org/country/CHN>. Accessed 26 February 2018

⁵⁴ BBC News, China combats corruption within anti-corruption agency, 9 January 2017, <http://www.bbc.co.uk/news/world-asia-china-38551841>. Accessed: 27 September 2017.

⁵⁵ Aljazeera, 'China punishes 210,000 officials for corruption', 20 July 2017, <http://www.aljazeera.com/news/2017/07/china-punishes-210000-officials-corruption-170720170506456.html>. Accessed: 26 September 2017.

⁵⁶ Pew Research Centre, 'Chinese Public Sees More Powerful Role in World, Names U.S. as Top Threat', 5 October 2016, <http://www.pewglobal.org/2016/10/05/chinese-public-sees-more-powerful-role-in-world-names-u-s-as-top-threat/>. Accessed: 15 January 2017

syndicates that used intimidation and violence to extort money from villagers. In January 2017, at separate high-level meetings for their respective agencies, Wang Qishan, the Secretary of the CCDI, and Cao Jianming, the Procurator-General of the Supreme People's Procuratorate (SPP), acknowledged problems of village-level corruption and indicated plans to tackle corruption among village officials and related criminal activities. The SPP subsequently issued an official directive instructing lower-level prosecutors to work with other government agencies and Party organizations to target "village tyrants," a term that the SPP used to describe officials who are involved in corruption and violence against villagers.⁵⁷

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12. Women

12.1 Rights under the constitution

12.1.1 The 2016 USSD report noted that:

'The constitution states that "women enjoy equal rights with men in all spheres of life." The law provides for equality in ownership of property, inheritance rights, access to education, and equal pay for equal work. Despite this, many activists and observers expressed concern that discrimination remained a problem. Women reported that discrimination, unfair dismissal, demotion, and wage discrepancies were significant problems.'⁵⁸

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12.2 Marriage

12.2.1 The Revised 1980 Marriage Law contained some specific stipulations, these include:

'Article 2: A marriage system based on the free choice of partners, on monogamy and on equality between man and woman shall be applied.

The lawful rights and interests of women, children and old people shall be protected.

Family planning shall be practised.

'Article 3: Marriage upon arbitrary decision by any third party, mercenary marriage and any other acts of interference in the freedom of marriage shall be prohibited. The extraction of money or gifts in connection with marriage shall be prohibited...Family violence shall be prohibited.

Bigamy shall be prohibited. [...]

⁵⁷ Congressional-Executive Commission on China, 'Congressional-Executive Commission on China Annual Report 2017', 5 October 2017, <https://www.cecc.gov/media-center/press-releases/cecc-releases-2017-annual-report>. Accessed: 16 October 2017.

⁵⁸ US Department of State, 'Country Reports on Human Rights Practices for 2016' (section 6), 7 March 2017, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265328>. Accessed: 7 November 2017.

‘Article 5: Marriage must be based upon the complete willingness of both man and woman. Neither party may use compulsion on the other party, and no third party may interfere.

‘Article 11: Where marriage is contracted by coercion, the coerced party may appeal to the marriage registration office or the People's Court for annulment of such marriage. Such an appeal for annulment of marriage made by the coerced party shall be submitted within one year from the date of marriage registration. Where the party concerned whose personal freedom is illegally restrained, such an appeal for annulment of marriage shall be submitted within one year from the date of the restoration of the personal freedom.’⁵⁹

12.2.2 The 2016 USSD report noted that ‘the legal minimum age for marriage is 22 for men and 20 for women. Child marriage was not known to be a problem.’⁶⁰

12.2.3 Time magazine’s article titled ‘Why China's Marriage Rate Is Plummeting’ noted that:

‘While the traditional practice of arranged marriage has been illegal in China since the 1950s, parents remain heavily involved in their children’s marital decisions. Many Chinese parents relentlessly try to persuade their children to enter wedlock through much-dreaded interrogations during festive family gatherings.

‘The Chinese government hasn’t sat idly by either. In 2007, the Ministry of Education publicly shamed women who were 27 years or older as “leftover women”, urging them to lower “unrealistic” standards during their search for a partner. While still alive and well in the public discourse to refer to both genders, the term “leftover” has been criticised by scholars and resisted by young women. In 2016, the government cancelled the extra seven-day honeymoon leave that had been granted to couples who married “late” (older than 25 years for men, and 23 years for women). The hope was that this would spur young people to marry (and eventually, bear children) as soon as possible.

‘The state is especially worried about the millions of surplus men in China, who were born after the 1970s as a result of gender-selective abortion and are now looking for brides. The number of these “leftover” men varies depending on the age group, and whether one talks about the current situation or the future. According to state media, it may be 24 million or 33 million.

‘Unlike their counterparts in the developed world, Chinese women receive no effective protection from the law in case their marriage dissolves.’⁶¹

⁵⁹ China.org, ‘Marriage Law of the People's Republic of China, Promulgated and adopted 10 September 1980’, 11 February 2011, http://www.china.org.cn/china/LegislationsForm2001-2010/2011-02/11/content_21897930.htm. Accessed: 24 October 2017.

⁶⁰ US Department of State, ‘Country Reports on Human Rights Practices for 2016’ (section 6), 7 March 2017, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265328>. Accessed: 7 November 2017.

⁶¹ Time, ‘Why China's Marriage Rate Is Plummeting’, 11 October 2016, <http://time.com/4526802/china-marriage-rate-plummeting-gender-inequality/>. Accessed: 24 October 2017.

12.3 Divorce

12.3.1 Article 31 of the marriage laws state that 'Divorce shall be granted if husband and wife both desire it. Both parties shall apply to the marriage registration office for divorce. The marriage registration office, after clearly establishing that divorce is desired by both parties and that appropriate arrangements have been made for the care of any children and the disposition of property, shall issue the divorce certificates.'⁶²

12.3.2 Time magazines article 'For Love or Real Estate: The Cost of Getting Divorced in China' published in September 2011 reported on the Supreme Court's interpretation of China's Marriage Law and stated that:

'Under the newly redefined law, which took effect on Aug 13, any property that was purchased before a marriage will no longer be up for negotiation after a divorce; it will belong solely to who bought it or whose name is on the deed. Also, if a house or apartment was purchased by the parents of either the bride or groom, it will revert to that person only, instead of being split between the couple.

"A lot of women contribute money to buying their marital homes together with their husbands, and the homes will be registered under the husband's name," says Leta Hong Fincher, a doctoral candidate in sociology at Beijing's Tsinghua University who has studied China's Marriage Law and its impact on the gender wealth gap. "[Those women's] effort will be completely invisible after they divorce their husbands."⁶³

12.4 Child custody

12.4.1 China Daily reported in December 2016 that:

'There are no laws against one parent taking sole possession of a child against the wishes of the other, lawyers say, reflecting a traditional view that family conflicts should handled privately.

'Under the law, parents are rarely granted joint custody, as is the case in some countries. Instead, judges usually give one parent "direct custody", often preferring to maintain the status quo living arrangement for a child aged 2 to 10.

'While no official data is available publicly, Yan Jun, a district court judge in Beijing, estimated that one parent will snatch a child from the other in 60 percent of cases in which both spouses are seeking custody.

⁶² China.org, 'Marriage Law of the People's Republic of China, Promulgated and adopted 10 September 1980', 11 February 2011, http://www.china.org.cn/china/LegislationsForm2001-2010/2011-02/11/content_21897930.htm. Accessed: 24 October 2017.

⁶³ Time, 'For Love or Real Estate: The Cost of Getting Divorced in China', 21 September 2011, <http://content.time.com/time/world/article/0,8599,2094016,00.html>. Accessed: 24 October 2017.

'A lawyer at a Beijing family law firm, who declined to be identified, said child-snatching regularly takes place before divorce proceedings, which allows one parent to argue the child has a stable living environment.'⁶⁴

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12.5 Reproductive rights

12.5.1 The 2017 Freedom House report noted that:

'A legal amendment allowing all families to have two children—effectively abolishing the long-standing one-child policy—took effect in January 2016. Ethnic minorities are still permitted to have up to three children. While the authorities will continue to regulate reproduction, the change means that fewer families are likely to encounter the punitive aspects of the system, such as high fines, job dismissal, reduced government benefits, and occasionally detention. Abuses such as forced abortions and sterilizations are less common than in the past.'⁶⁵

12.5.2 The 2016 USSD report noted that:

'On January 1 [2016], the government raised the birth limit imposed on its citizens from one to two children per married couple, thereby ending the "one-child policy" first enacted in 1979. The revised law permits married couples to have two children and allows couples to apply for permission to have a third child if they meet conditions stipulated in local and provincial regulations. The revised law did not, however, eliminate state-imposed birth limitations or the penalties that citizens face for violating the law. The government considers intrauterine devices (IUDs) and sterilization to be the most reliable form of birth control and compelled women to accept the insertion of IUDs by officials. The National Health and Family Planning Commission reported that all provinces eliminated an earlier requirement to seek approval for a birth before a first child was conceived, but provinces could still require parents to "register pregnancies" prior to giving birth, which could be used as a de facto permit system in some provinces.'⁶⁶

12.5.3 For more information on the family planning laws see the country policy and information note [China: Contravention of national population and family-planning laws](#)

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12.6 Violence against women

12.6.1 The Congressional Executive Commission on China in their annual report for 2017 noted that:

'Women in China continued to face challenges with domestic and sexual violence as officials continued to develop a legal and institutional infrastructure to prevent such abuse. All-China Women's Federation

⁶⁴ China Daily, 'Lawyers call for end to child-snatching custody tactics', 30 December 2016, http://www.china.org.cn/china/2016-12/30/content_40011718.htm. Accessed: 23 October 2017.

⁶⁵ Freedom House, Freedom in the World 2017 (civil liberties), 15 April 2017, <https://freedomhouse.org/report/freedom-world/2017/china>. Accessed: 16 October 2017.

⁶⁶ US Department of State, 'Country Reports on Human Rights Practices for 2016' (section 6), 7 March 2017, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265328>. Accessed: 25 October 2017.

statistics show that “30 percent of married women have experienced some form of domestic violence.” At the end of June 2017, courts reportedly had issued 1,284 total protection orders under the PRC Anti-Domestic Violence Law, in effect since March 2016. Experts on the domestic violence law note that challenges to implementation include lack of awareness, inadequate resources for training of officials, gender discrimination within the legal system, and enforcement that prioritizes family cohesion and “social stability” over the safety of victims. Victims of sexual violence also face challenges in obtaining legal redress—experts note that victims of sexual harassment are reluctant to come forward due to pressure from family and society. A 2013 UN study found that nearly one in five Chinese women reported being the victims of rape, and a 2015 survey of Chinese college students found that 34.8 percent of female respondents (and 35.6 percent of male respondents) had experienced sexual harassment or violence. The non-governmental organization China Labour Bulletin noted that while sexual harassment is “widespread,” it is rare for women to obtain justice through the legal system.’⁶⁷

12.6.2 The 2017 Freedom House report noted that:

‘Despite passage of the country’s first law designed to combat domestic violence in 2015, domestic violence continues to be a serious problem, affecting one-quarter of Chinese women, according to official figures. Several laws bar gender discrimination in the workplace, and gender equality has reportedly improved over the past decade, but bias remains widespread, including in job recruitment and college admissions. Women remain severely underrepresented in important CCP and government positions.’⁶⁸

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12.7 Employment

12.7.1 The 2016 USSD report noted that:

‘On average, women earned 35 percent less than men doing similar work. This wage gap was greater in rural areas. Women also continued to be underrepresented in leadership positions, despite their high rate of participation in the labor force. In 2015 women constituted 17 percent of legislators, senior officials, and managers.

‘Discrimination in employment was widespread, including in recruitment advertisements that discriminated based on gender, age, height, and physical appearance and health status.

‘Some employers lowered the effective retirement age for female workers to 50. This reduced overall pension benefits, which were generally based on the number of years worked. Many employers preferred to hire men to avoid the expense of maternity leave.

⁶⁷ Congressional-Executive Commission on China, ‘Congressional-Executive Commission on China Annual Report 2017’, 5 October 2017, (violence against women p.180) <https://www.cecc.gov/media-center/press-releases/cecc-releases-2017-annual-report>. Accessed: 16 October 2017.

⁶⁸ Freedom House, Freedom in the World 2017 (civil liberties), 15 April 2017, <https://freedomhouse.org/report/freedom-world/2017/china>. Accessed: 16 October 2017.

‘According to a study released in March, 50 percent of more than 10,000 female survey respondents working in 60 cities said they often experienced discrimination at the workplace, while 47 percent had encountered occasional discrimination and only 3 percent had never faced discrimination against them.’⁶⁹

12.7.2 The Congressional Executive Commission on China in their annual report for 2017 noted that:

‘Women in China continued to face a variety of institutional, legal, and social barriers to equal employment, which the Chinese government is obligated to address under its international commitments and domestic laws. Employers frequently discriminate against women in recruiting, hiring, and promotion. Although existing laws prohibit such practices, the system for enforcement remains inadequate: Repercussions for violating the law are rare and negligible, and victims of discrimination at work are reluctant to seek a legal remedy due to the risk of dismissal and time involved. Discriminatory legal policies also continued to bar women from performing certain jobs—in some cases based on whether they are menstruating, pregnant, or breastfeeding. Disparities in the workplace also manifested in widespread sexual harassment and women earning on average 65 percent of what men earn. Although the Commission did not observe statistics on the pay gap for rural women this past year, in 2011 women’s income was 56 percent that of men’s in rural areas, despite the fact that women reportedly make up a majority of the rural labor force, according to a February 2015 news report.’⁷⁰

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12.8 Land ownership

12.8.1 The Congressional Executive Commission on China in their annual report for 2017 noted that:

‘Women, particularly after marriage, continued to lack secure rights to property in both rural and urban areas due to a combination of legal policies and traditionalist cultural pressures. One NPC Standing Committee member noted that rural women continue to face challenges in asserting rights to land due to a lack of decision making power at both the household and village level. According to a 2016 interview with a Chinese professor, 18 percent of married rural women did not have their names included on the land contracts of the household of either their husband or parents, and nearly 53 percent of married women had had land contracts canceled by their home villages as of 2014. Urban women also face difficulties defending their property rights; for example, in fall 2016, a court ruled against a woman who, after her husband proposed divorce, sued to have her name added to the title of a home she had contributed to purchasing. A 2011 Supreme People’s Court

⁶⁹ US Department of State, ‘Country Reports on Human Rights Practices for 2016’ (sections 6 and 7), 7 March 2017, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265328>. Accessed: 20 September 2017.

⁷⁰ Congressional-Executive Commission on China, ‘Congressional-Executive Commission on China Annual Report 2017’, 5 October 2017, (Gender-based discrimination p. 178) <https://www.cecc.gov/media-center/press-releases/cecc-releases-2017-annual-report>. Accessed: 16 October 2017.

interpretation of the PRC Marriage Law grants property in a divorce to the party named on the deed. Research from 2012 indicated that a majority of married women or their families contribute to the purchase of homes, but most women are not named on the deed of the home.’⁷¹

12.8.2 On the Safe World for Women website in their China news section they noted that:

‘One huge issue facing women is that of property; there a number of issues relating to women’s position on the property ladder and these differ between urban and rural areas.

‘In more rural areas – though women may own property, they are often unable to obtain it in the first place, due to an inbuilt practice of patriarchal primogeniture whereby the eldest son will always inherit land. Though this is not the official government policy, this is the way it works in practice for many; however, the theoretical allocation of property by the Chinese state poses its own issues for women.

‘The current system is allegedly that the state owns all land and allocates it to households for farming purposes; however, this means that for a woman to own land it is contingent on her being part of a ‘household’ which in China is often a male-dominated entity with either a father or husband at the head, making true land ownership for women all the more difficult.’⁷²

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12.9 Political participation

12.9.1 The Congressional Executive Commission on China in their annual report for 2017 noted that:

‘The Chinese government is obligated under its international commitments and domestic laws to ensure gender-equal political participation; women, however, continued to be underrepresented in political decision making positions. Female representation in top- level Communist Party and government leadership remains low or non-existent, and one scholar noted that it would likely remain negligible after the leadership change at the 19th National Congress of the Chinese Communist Party scheduled for autumn 2017. Overall, representation at upper and lower levels of the government continues to fall short of the 30 percent target recommended by the UN Commission on the Status of Women. The proportion of female delegates at the 12th National People’s Congress (NPC), seated in 2013, was 23.4 percent. A draft decision presented during the annual session of the 12th NPC in March 2017 projected that a greater proportion of female delegates

⁷¹ Congressional-Executive Commission on China, ‘Congressional-Executive Commission on China Annual Report 2017’, 5 October 2017, <https://www.cecc.gov/media-center/press-releases/cecc-releases-2017-annual-report>. Accessed: 16 October 2017.

⁷² Safe World for Women, ‘China news- Challenges to Women's Rights and Gender Equality in China’, undated, <https://www.asafeworldforwomen.org/global-news/asia/china/4898-challenges-to-womens-rights.html>. Accessed: 24 October 2017.

would be elected to the 13th NPC in January 2018, but did not specify how.’⁷³

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12.10 Women’s rights groups

12.10.1 The Congressional Executive Commission on China in their annual report for 2017 noted that:

‘During the Commission’s 2017 reporting year, Chinese officials prevented some women’s rights advocates from engaging in activism and providing services—a continuation of the intensifying restrictions on women’s rights advocacy that began in 2015—while promoting Party-affiliated alternatives for protecting women’s rights and interests. A leading feminist activist described the political environment as “very difficult” and reported that independent groups were unable to organize activities on behalf of women’s rights. Activists also voiced serious concern about online censorship after a social media company blocked a prominent social media account for women’s rights, “Feminist Voices,” for 30 days in February 2017. The account shutdown was allegedly directed by the Cyberspace Administration of China, the government agency responsible for overseeing all online content.’⁷⁴

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13. Children

13.1 Child Rights

13.1.1 The Law Library of Congress page on child rights in China noted that

‘China has ratified major international documents with regard to children’s rights protection. China’s domestic legislation also provides protection for a wide range of children’s rights. The reality, however, is disputable. Few accurate statistics could be obtained directly from the official source. In practice, enforcement of the treaty obligations and the legislative declarations remains a huge problem.

‘Eighteen is the age of majority in China. Under the Minors Protection Law, “minors” are defined as citizens less than eighteen years old. The civil law of China provides that people above eighteen years old and those from sixteen to eighteen who make a living on their own have full civil conduct capacity. People aged from ten to eighteen have limited capacity of civil conduct, and may only engage in civil activities appropriate to the age range and intellect. People under ten years old have no civil conduct capacity. Unless

⁷³ Congressional-Executive Commission on China, ‘Congressional-Executive Commission on China Annual Report 2017’, 5 October 2017, (Status of Women p.176) <https://www.cecc.gov/media-center/press-releases/cecc-releases-2017-annual-report>. Accessed: 16 October 2017.

⁷⁴ Congressional-Executive Commission on China, ‘Congressional-Executive Commission on China Annual Report 2017’, 5 October 2017, (Status of Women p.176) <https://www.cecc.gov/media-center/press-releases/cecc-releases-2017-annual-report>. Accessed: 16 October 2017.

otherwise indicated, “children” or “minors” hereinafter refers to people under the age of eighteen.’⁷⁵

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13.2 Child Labour

13.2.1 The Law Library of Congress page on child rights in China noted that:

‘The minimum age for working in China is sixteen. Before the PRC Labor Law (Labor Law) was passed in 1994, the State Council issued The Provisions on the Prohibition of Using Child Labor (Child Labor Provisions) to prohibit child labor in 1991, which were amended in 2002. In 2003, eight central government authorities including the Ministry of Labor, the Ministry of Public Security, and the Ministry of Education jointly issued a notice to reinforce implementation of Child Labor Provisions.

‘Article 15 of the Labor Law prohibits an employer to recruit minors under the age of sixteen, with exception made for institutions of literature, art, physical culture, and special crafts which may recruit minors through investigation and approval of the government authorities, and must guarantee the minors’ rights to compulsory education. Using child labor without government approval may result in RMB5,000 (equivalent to about USD \$660) fine per child worker per month.

‘Despite the legislative requirements, the practice of child labor is believed to be “a persistent problem within China” by some China watchers. Though the Congressional-Executive Commission on China (CECC) agrees that “the overall extent of child labor in China is unclear due to the government categorizing data on the matter as “highly secret”,” it cited a report on child labor in China finding that “child labors generally work in low-skill service sectors as well as small workshops and businesses, including textile, toy, and shoe manufacturing enterprises.”’⁷⁶

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13.3 Education

13.3.1 The World Education Service report on Education in China, dated 7 March 2016, noted that:

‘Education in mainland China (excluding Hong Kong and Macau) is governed on three levels: national, provincial, and local. At the national level, the Ministry of Education is the central government agency responsible for formulating macro education policies.

‘Provincial education departments manage the local policy development and implementation under the guideline of the state regulations. Apart from prestigious universities under the direct jurisdiction of the Ministry of Education and other central government authorities, and a few universities administered jointly by the central and provincial governments, the majority of higher education institutions are affiliated with provincial authorities or

⁷⁵ The Law Library of Congress, ‘Children’s Rights- China’, undated, <https://www.loc.gov/law/help/child-rights/china.php>. Accessed: 8 November 2017.

⁷⁶ The Law Library of Congress, ‘Children’s Rights- China’, undated, <https://www.loc.gov/law/help/child-rights/china.php>. Accessed: 8 November 2017

lower local governments. The local education authorities have primary supervision responsibility over elementary education.

‘The most common language of instruction in elementary and secondary schools is Mandarin, the official language in China. In regions where the majority of students are ethnic minorities, instruction is offered in both Mandarin and the dominant local language.

‘There are two stages in China’s compulsory education system: elementary school and junior high school. Some provinces employ a 6+3 system – six years of elementary school followed by three years of junior high school – while others use a 5+4 system. Students can continue to study at senior secondary level if they pass the senior high school entrance examination (zhongkao.) Local education authorities organize the examination with the oversight from provincial administrative body.’⁷⁷

13.3.2 The Organisation for Economic Co-operation and Development (OECD), report ‘Education in China- a snapshot’, published in 2016 noted that:

‘China has the largest education system in the world. With almost 260 million students and over 15 million teachers in about 514 000 schools (National Bureau of Statistics of China, 2014), excluding graduate education institutions, China’s education system is not only immense but diverse. Education is state-run, with little involvement of private providers in the school sector, and increasingly decentralised. County-level governments have primary responsibility of the governing and delivery of school education. For the most part, provincial authorities administer higher education institutions. In recent years, the Ministry of Education has shifted from direct control to macro-level monitoring of the education system. It steers education reform via laws, plans, budget allocation, information services, policy guidance and administrative means (National Centre for Education Development Research, 2008).

‘In China, students usually enrol in pre-school at age two or three, and leave pre-school at the age of six. Pre-school education is not compulsory, and many pre-schools are privately owned. However, the government has taken on a more proactive role in promoting access following a national commitment to progressively universalise one to three years of pre-school by 2020.

‘In China, students must complete nine years of compulsory education. Most students spend six years in primary school, though a few school systems use a five-year cycle for primary school. Primary education starts at age six for most children. This is followed by three to four years of junior secondary education.

‘After finishing compulsory education, students can choose whether to continue with senior secondary education. Senior secondary education takes three years. There are five types of senior secondary schools in China: general senior secondary, technical or specialised secondary, adult secondary, vocational secondary and crafts schools. The last four are referred to as secondary vocational schools. Students undergo a public

⁷⁷ World Education Service, ‘Education in China’, 7 March 2016, <https://wenr.wes.org/2016/03/education-in-china-2>. Accessed: 16 October 2017.

examination called Zhongkao before entering senior secondary schools, and admission depends on one's score on this examination. The government uses examination results from Zhongkao to assign students to different senior secondary schools.⁷⁸

13.3.3 The 2016 USSD report noted that:

'Although the law provides for nine years of compulsory education for children, many children did not attend school for the required period in economically disadvantaged rural areas, and some never attended. Although public schools were not allowed to charge tuition, many schools continued to charge miscellaneous fees because they received insufficient local and central government funding. Such fees and other school-related expenses made it difficult for poorer families and some migrant workers to send their children to school.

'Denied access to state-run schools, most children of migrant workers who attended school did so at unlicensed and poorly equipped schools.'⁷⁹

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14. Citizenship and nationality

14.1.1 For the Nationality Laws of the Peoples Republic of China please see [China.org](#)⁸⁰ ,

14.1.2 The 2016 USSD report noted that:

'Citizenship is derived from parents. Parents must register their children in compliance with the national household registration system within one month of birth. Unregistered children could not access public services, including education. No data was available on the number of unregistered births. In 2010 the official census estimated there were 13 million individuals without official documentation, many of whom likely were "ghost" children whose births were concealed from local officials because they violated the population control policy. Some local officials denied such children household registration and identification documents, particularly if their families could not pay the social compensation fees.'⁸¹

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15. Freedom of movement

15.1.1 The 2016 USSD report noted that:

⁷⁸ The Organisation for Economic Co-operation and Development (OECD), 'Education in China- a snapshot', chapter 1, 2016, <https://www.oecd.org/china/Education-in-China-a-snapshot.pdf>. Accessed: 25 September 2017.

⁷⁹ US Department of State, 'Country Reports on Human Rights Practices for 2016' (section 6), 7 March 2017, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265328>. Accessed: 7 November 2017.

⁸⁰ China.org 'The Nationality Law of the People's Republic of China', <http://www.china.org.cn/english/LivinginChina/184710.htm>. Accessed: 24 October 2017.

⁸¹ US Department of State, 'Country Reports on Human Rights Practices for 2016' (section 6), 7 March 2017, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265328>. Accessed: 7 November 2017.

‘The law provides for freedom of internal movement, foreign travel, emigration, and repatriation, but the government at times did not respect these rights.

‘Authorities heightened restrictions on freedom of movement, particularly to curtail the movement of individuals deemed politically sensitive before key anniversaries, visits by foreign dignitaries, or major political events, as well as to forestall demonstrations. Freedom of movement for Tibetans continued to be very limited in the TAR and other Tibetan areas. Public security officers maintained checkpoints in most counties and on roads leading into many towns as well as within major cities, such as Lhasa. Restrictions were not applied to Han Chinese migrants or tourists in Tibetan areas.’⁸²

15.1.2 The 2017 DFAT Report noted that:

‘There are many opportunities for internal relocation in China and movement of people is fundamental to China’s push for continued economic growth and urbanisation. While there are no legal impediments to internal migration, the hukou system presents the biggest administrative impediment to freedom of internal movement. Linguistic and cultural barriers are not an inhibiting factor for ethnically Han Chinese to move away from their place of hukou registration. Ethnic minorities may face varying degrees of difficulty or discrimination, depending on their ethnicity and their destination. DFAT assesses that internal relocation is possible unless a person has attracted adverse attention from authorities at the local or national level. People subject to adverse attention from authorities are unlikely to be able to re-locate internally, due to the Chinese state’s significant surveillance capability.’⁸³

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16. Hukou (Registration)

16.1.1 City Lab, a website reporting on news and issues related the worlds cities and metro areas, noted on 16 December 2015 that:

‘Starting January 1, 2016, every city will be required to provide residency status and basic public services to anyone who’s lived, worked, or studied in that city for at least six months. Those who hold residency permits may eventually apply for hukou, or permanent residency, which would grant them access to the same services that local residents have. (The new regulation doesn’t apply to day laborers, however.)

‘In some cities—especially the densely populated, more prosperous ones such as Beijing, Shanghai, and Shenzhen—tougher conditions mean it will still be hard for migrants to obtain hukou. Some cities, for example, use

⁸² US Department of State, ‘Country Reports on Human Rights Practices for 2016’ (section 2d), 7 March 2017, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265328>. Accessed: 25 October 2017.

⁸³ Australian Department for Foreign Affairs and Trade, ‘Country Report for 2017’ (section 5.12), 21 December 2017 <http://dfat.gov.au/about-us/publications/Documents/country-information-report-china.pdf>. Accessed: 10 January 2018

rigorous point systems that evaluate applicants based on things like skill level, employment status, educational background, and criminal records.’⁸⁴

16.1.2 Reuters noted in December 2016 that:

‘A person without a hukou record in China is denied public services, such as education and health care, and is barred from getting married, finding a job or even opening a bank account. [...] “Although China’s household registration and one-child policy shouldn’t have been bound together, local authorities have been doing so for years because they found it useful to force families to comply with the family planning law,” said Youshui Wu, director at Zhejiang Bi Jian Law Firm.

‘Wu, who assisted many Chinese couples to register their second child, added there was also an economic incentive as people who had children born without permission were unable to register them unless they paid a hefty fee which became a lucrative source of local revenue.’⁸⁵

16.1.3 DFAT’s Thematic Report on Fujian Province in China, published 16 December 2016 noted that:

‘Hukou reform has been proceeding throughout China as part of wider economic reforms for some time in an effort to control urbanisation. In Fujian, authorities no longer distinguish between urban and rural hukou – all households are now registered as ‘residents’ and are entitled to access available social services. Despite this, local authorities throughout China still have significant flexibility in setting stricter (or looser) restrictions in order to control population flows to urban areas and therefore limit associated pressure on social services (which are often of a higher quality in urban areas, thereby exacerbating inequality between urban and rural residents). This flexibility has also created a greater potential for corruption.

‘Under the new system, children may be registered under the hukou of either parent, who must normally supply supporting documentation including the child’s birth certificate, household registration books of the parents, identification cards of the parents and the marriage certificate of the parents. If the child is born out of wedlock, the registering parent must supply a ‘declaration’ of the child’s situation and/or a paternity test certificate.

‘Hukous do not expire, but the supporting documentation (such as identity cards) must be renewed every 10 years, otherwise they do expire.’⁸⁶

16.1.4 The Independent noted in January 2017 that:

‘In recent years, the CCP has announced piecemeal reforms to the hukou system, to try to allow some of the 236 million migrants living away from

⁸⁴ City Lab, ‘Can China Keep Its New Promise to City Migrants?’, 16 December 2015 <https://www.citylab.com/equity/2015/12/can-china-keep-its-new-promise-to-city-migrants/420672/>. Accessed: 6 February 2018

⁸⁵ Reuters, ‘Lost lives: the battle of China’s invisible children to recover missed years’, 14 December 2016, <https://www.reuters.com/article/us-china-children-policy/lost-lives-the-battle-of-chinas-invisible-children-to-recover-missed-years-idUSKBN1431CX>. Accessed: 6 February 2018

⁸⁶ DFAT, Thematic Report on Fujian Province, People’s Republic of China, 16 December 2016 <http://dfat.gov.au/about-us/publications/Documents/country-information-report-china-fujian-thematic.pdf>. Accessed: 10 January 2018.

home to acquire an urban hukou and gain extra entitlements. A number of municipalities have introduced an Australian-style, points-based system, which means applicants who meet certain criteria become eligible for urban hukou.

‘The government has encouraged cities to relax their criteria, but requirements for first-tier cities such as Beijing and Shanghai remain far more onerous than those for second and third-tier cities in other parts of China. What’s more, additional caps on rural migrants means that in practice, only a fraction of those who are eligible are actually granted urban hukou.

‘Hukou reforms are also complicated by the fact that land reform has made little progress in China. Rural Chinese are wary of giving up their rural hukou, which entitles them to a small plot of land. Such land use rights provide a limited safety net for rural Chinese – particularly those who do not enjoy the benefits of an urban pension.’⁸⁷

16.1.5 The Diplomat noted in February 2017 that:

‘On February 11, China’s Ministry of Public Security announced that it had issued 28.9 million new urban residency permits in 2016, with 1.69 million issued in Beijing, 406,000 in Shanghai, 810,000 in Guangzhou, and 1.71 million in Shenzhen. But migrant workers’ chances of acquiring an urban hukou differ considerably across China.

‘New hukou rules introduced by local governments in China’s largest cities, such as Beijing, Shanghai, Guangzhou, and Shenzhen, as well as Chengdu, Wuhan, and Xi’an, make it tough for migrant workers by grading an application according to a points system based on an applicant’s education level, tax payments, and work experience.

‘Lower-tier cities, which are less developed and have smaller populations, have introduced comparatively easier regulations, in line with the central government’s goal of channeling migrants to these areas and providing extra labor to boost economic growth. That’s why China’s Ministry of Public Security stated recently that the points-based system doesn’t apply in cities with less than 3 million permanent residents in downtown areas.

‘But despite the government’s attempt to attract migrant workers to lower-tier cities and drive economic rebalancing toward its less developed regions, migrants moving to these areas face huge challenges, meaning that many millions of migrants have no interest in applying for an urban hukou at all.

‘For starters, migrants having to give up their land rights in rural areas as part of their application for a urban hukou are often not compensated properly, if at all. Indeed, disputes over improper compensation, or blatant expropriation by responsible government bodies, are the main source of unrest in China. Aside from having little left over to start again in a nearby city, migrants also lose their main source of support in their hometown

⁸⁷ The Independent, ‘Outdated ‘urban passports’ still rule the lives of China’s rural citizens’, 13 January 2017, <http://www.independent.co.uk/news/world/politics/outdated-urban-passports-still-rule-the-lives-of-china-s-rural-citizens-a7517181.html>. Accessed: 6 February 2018

should things go wrong. Despite regular government promises to secure property rights and ensure adequate compensation, swathes of research show that little has changed, meaning migrants have less incentive to consider moving to a local city.’⁸⁸

16.1.6 The 2016 USSD report noted that:

‘Although the government maintained restrictions on the freedom to change one’s workplace or residence, the national household registration system (hukou) continued to change, and the ability of most citizens to move within the country to work and live continued to expand. Rural residents continued to migrate to the cities, where the per capita disposable income was approximately three times the rural per capita income, but many could not change their official residence or workplace within the country. Most cities had annual quotas for the number of new temporary residence permits that could be issued, and all workers, including university graduates, had to compete for a limited number of such permits. It was particularly difficult for rural residents to obtain household registration in more economically developed urban areas.

‘A 2014 State Council legal opinion removed restrictions on rural migrants seeking household registration in small and mid-sized towns and cities. The regulations base household registrations on place of residence and employment instead of place of birth. The opinion exempts cities with large populations.

‘The household registration system added to the difficulties faced by rural residents, even after they relocated to urban areas and found employment. According to the Statistical Communique of the People’s Republic of China on 2015 National Economic and Social Development published by the Ministry of Human Resources and Social Security, 294 million persons lived outside the jurisdiction of their household registration. Of that number, 247 million individuals worked outside their home district. Many migrant workers and their families faced numerous obstacles with regard to working conditions and labor rights. Many were unable to access public services, such as public education for their children or social insurance, in the cities where they lived and worked because they were not legally registered urban residents. Poor treatment and difficulty integrating into local communities contributed to increased unrest among migrant workers in the Pearl River Delta. Migrant workers had little recourse when abused by employers and officials. Some major cities maintained programs to provide migrant workers and their children access to public education and other social services free of charge, but migrants in some locations reported difficulty in obtaining these benefits due to onerous bureaucratic processes.’⁸⁹

16.1.7 Congressional-Executive Commission on China’s annual report of October 2017 noted that:

⁸⁸ The Diplomat, ‘China’s Hukou Reforms and the Urbanization Challenge’, 22 February 2017, <https://thediplomat.com/2017/02/chinas-hukou-reforms-and-the-urbanization-challenge/>. Accessed: 6 February 2018

⁸⁹ US Department of State, ‘Country Reports on Human Rights Practices for 2016’ (section 2d), 7 March 2017, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265328>. Accessed: 25 October 2017.

'The Chinese government continued the use of the household registration (hukou) system established in 1958. The hukou system limits the right of Chinese citizens to freely choose their place of residence. The hukou system classifies Chinese citizens as either rural or urban, conferring legal rights and access to public services based on the classification. Implementation of hukou regulations discriminates against rural hukou holders, including those who migrate to urban areas, by denying them equal access to public benefits and services enjoyed by registered urban residents.

'During the Commission's 2017 reporting year, central and local governments continued to implement household registration (hukou) reforms to register "illegal residents" (heihu), a term commonly used to refer to people who lack hukou in China. According to 2010 national census data, there were approximately 13 million "illegal residents" in China, of whom over 60 percent were people born in excess of birth quotas. Other reports indicated that the number of "illegal residents" might be higher than 13 million. These "illegal residents" face considerable difficulty accessing social benefits typically afforded to registered citizens, including government-subsidized healthcare, public education, and social security. According to U.S.-based news media Duowei, survey data from the Chinese Academy of Macroeconomic Research of the National Development and Reform Commission showed that nearly half of the 13 million unregistered population were illiterate or people who had never received formal education, and about 43.8 percent of the unregistered population were unemployed.'⁹⁰

16.1.8 The 2017 DFAT Report noted that:

'The hukou system ties access to government services, such as education above a certain level and health, to a citizen's place of birth, or even their parents' place of birth, rather than their place of residence. Only an estimated 35 per cent of urban residents have an urban hukou. Chinese migrant workers (estimated at 282 million) who move away from rural areas for better employment opportunities, are unable to access key services and in some cases face institutionalised discrimination. An estimated 60 to 100 million children have been 'left behind', either in their grandparents' care or alone, while their parents work in cities. The government is committed to reforming the hukou system, including extending urban residency permits to migrant workers. The Ministry of Public Security reported 28.9 million new urban residency permits issued in 2016, mostly in third or fourth tier cities. The local governments of the largest cities, including Beijing, Shanghai, Guangzhou, Shenzhen, Chengdu, Wuhan and Xi'an, have tough restrictions on granting new hukou permits given the already high populations and overburdened infrastructure in these cities. Lower-tier cities (with fewer than 3 million permanent residents in downtown areas) are more willing to issue

⁹⁰ Congressional-Executive Commission on China, 'Congressional-Executive Commission on China Annual Report 2017', 5 October 2017, (p.37 and 157) <https://www.cecc.gov/media-center/press-releases/cecc-releases-2017-annual-report>. Accessed: 8 November 2017

hukou, in line with government's aim to drive economic growth in less developed and less populated regions.'⁹¹

16.1.9 For information on the different tier cities please see [South China Morning Post article on China's tiered city system explained](#)⁹².

16.1.10 For more information on the Hukou and the family planning laws see the country policy and information note [China: Contravention of national population and family-planning laws](#)

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17. Entry / exit

17.1.1 The English-language website for China's Ministry of National Defense(MND) noted that:

'The Exit and Entry Administration Law of the People's Republic of China, which came into force in July 2013, contains the following provisions in its Articles 9 through 13 of Chapter 2:

Article 9 Chinese citizens exiting or entering China shall apply for a passport or other travel credentials in accordance with law:

Chinese citizens traveling to other counties or regions shall obtain visas or other entry permits from such other countries or regions, except there is a visa exemption agreement in effect between the Government of China and the governments of such other countries or regions or as otherwise provided for by the Ministry of Public Security or the Ministry of Foreign Affairs.

Chinese citizens exiting or entering China or working on vessels abroad in the capacity of seaman shall apply for a seaman's book in accordance with law.'⁹³

17.1.2 The 2016 USSD report noted that:

'The government permitted legal emigration and foreign travel for most citizens. Government employees and retirees, especially from the military, continued to face foreign travel restrictions. The government expanded the use of exit controls for departing passengers at airports and other border crossings to deny foreign travel to some dissidents and persons employed in government posts. Throughout the year many lawyers, artists, authors, and other activists were at times prevented from exiting the country. Authorities also blocked travel of some family members of rights activists.

'Border officials and police cited threats to "national security" as the reason for refusing permission to leave the country. Authorities stopped most such persons at the airport at the time of their attempted travel. In January authorities detained journalist Jia Jia at the Beijing airport as he attempted to

⁹¹ Australian Department for Foreign Affairs and Trade, 'Country Report for 2017' (section 5.15), 21 December 2017 <http://dfat.gov.au/about-us/publications/Documents/country-information-report-china.pdf>. Accessed: 10 January 2018

⁹² South China Morning Post, 'Urban legend: China's tiered city system explained', undated, <http://multimedia.scmp.com/2016/cities/>. Accessed: 6 February 2018

⁹³ China's Ministry of National Defense(MND), http://eng.mod.gov.cn/publications/2017-03/03/content_4774217.htm. Accessed: 15 November 2017.

board a flight to Hong Kong. They held him for nearly two weeks with no charges and interrogated him about an open letter published online calling for Xi Jinping to resign.

'Most citizens could obtain passports, although individuals the government deemed potential political threats, including religious leaders, political dissidents, petitioners, and ethnic minorities, routinely reported being refused passports or otherwise prevented from traveling overseas. The passport of former political prisoner and Falun Gong practitioner Wang Zhiwen was physically cancelled at a border checkpoint as he attempted to leave the country.

'Uighurs, particularly those residing in the XUAR, reported great difficulty in getting passport applications approved at the local level. They were frequently denied passports to travel abroad, particularly to Saudi Arabia for the Hajj, to other Muslim countries, or to Western countries for academic purposes. Since October authorities ordered residents in some areas of the XUAR to turn in their passports or told residents no new passports were available. The passport recall, however, was not limited to Uighur areas. Family members of Uighur activists living overseas were also denied visas to enter the country.

'Uighurs in the XUAR also faced restrictions on movement within the XUAR itself. Although the use of "domestic passports" that called for local official approval before traveling to another area was discontinued in May, identification checks remained in place when entering cities and on public roads. Reuters reported that authorities required applicants for travel documents to provide extra information prior to the month of Ramadan. For example, residents in the Ili Kazakh Autonomous Prefecture in the XUAR had to provide DNA samples, fingerprints, and voice recordings in order to apply for travel documents, according a local government newspaper in June.

'In the TAR and Tibetan areas of Qinghai, Gansu, Yunnan, and Sichuan Provinces, Tibetans, especially Buddhist monks and nuns, experienced great difficulty acquiring passports. The unwillingness of Chinese authorities in Tibetan areas to issue or renew passports for Tibetans created, in effect, a ban on foreign travel for a large segment of the Tibetan population. Han Chinese residents of Tibetan areas did not experience the same difficulties.'⁹⁴

17.1.3 The 2017 DFAT Report noted that:

'Chinese law provides for foreign travel, emigration, and repatriation. A number of agencies within the Ministry of Public Security hold responsibility for monitoring entry and exit procedures at Chinese airports, including the Public Security Bureau, the Entry and Exit Authority, and the Frontiers Inspection Bureau. China's major airports have a centralised system with name matching alert capabilities. Facial recognition technology is also widely deployed at all international checkpoints (air, land and sea). Security

⁹⁴ US Department of State, 'Country Reports on Human Rights Practices for 2016' (section 2d), 7 March 2017, <http://www.state.gov/j/drl/rls/hrrpt/humanrightsreport/index.htm?year=2016&dliid=265328>. Accessed: 25 October 2017.

monitoring capabilities at airports are comprehensive, and departing passengers pass through several identity checks (including passport and ticket/boarding pass inspection) run by different agencies between arriving at the airport and boarding a flight.

‘DFAT is not able to verify the treatment of failed asylum seekers returned to China. DFAT has no information to suggest authorities target individuals solely for having sought asylum abroad if they have not otherwise come to adverse attention. DFAT is unable to verify whether having sought asylum abroad would worsen the situation of individuals attracting adverse attention from authorities for other reasons. Chinese authorities are likely, however, to be aware of the behaviour of Chinese asylum seekers while they are outside of China. Party members or public officials who return to China to face corruption offences are subject to Party disciplinary and potentially criminal prosecution.’⁹⁵

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18. Official documents

18.1 Birth certificates

18.1.1 The 2017 DFAT Report noted that:

‘While there are no official data on unregistered births, birth registration rates are low in rural areas and for marginalised children. The 2010 census found 13 million unregistered people, mostly relating to births concealed because they violated family planning policies. In 1996, the Law of the People’s Republic of China on Maternal and Infant Health Care introduced a nation-wide official birth certificate system. The Ministry of Public Health issues birth certificates through the hospital or facility where the child is born. Parents must register births in the police station of their hukou. Relevant branches of the Ministry of Public Security assess the issuing of hukou, and DFAT understands that family planning records are the most important documents required for this purpose. Procedures for registering deaths in China vary by area and location of death. The Ministry of Health usually issues death certificates. Death certificates are required to cancel hukou registration and to bury the deceased.’⁹⁶

18.1.2 For information on birth, death, marriage and divorce certificates please see the [US Department of State Bureau of Consular Affairs](#) website⁹⁷.

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18.2 ID cards

18.2.1 The Immigration and Refugee Board of Canada compiled a query response on identity cards, dated July 2017. The response stated that:

⁹⁵ Australian Department for Foreign Affairs and Trade, ‘Country Report for 2017’ (section 5.18), 21 December 2017 <http://dfat.gov.au/about-us/publications/Documents/country-information-report-china.pdf>. Accessed: 10 January 2018

⁹⁶ Australian Department for Foreign Affairs and Trade, ‘Country Report for 2017’ (section 5.21), <http://dfat.gov.au/about-us/publications/Documents/country-information-report-china.pdf>. Accessed: 10 January 2018

⁹⁷ US Department of State- Bureau of Consular Affairs, Visas section, <https://travel.state.gov/content/visas/en/fees/reciprocity-by-country/CH.html>. Accessed: 6 November 2017.

'In 2004, the government of China began issuing a second-generation Resident Identity (ID) Card to its citizens. The new computer-readable ID card replaces the first-generation card that has been in circulation for more than 20 years.

'The second-generation resident ID card measures 85.6 millimetres by 54 millimetres. The new card is covered with a "special coating", described by one source as a "hard wearing" polyester plastic. Unlike the old card, the new card contains cardholder data on both sides, which apparently allows ethnic minorities to have information in both Chinese Han characters and ethnic minority characters. The second-generation card is reportedly the same colour for both men and women, and the text on the card is written horizontally rather than vertically.

'One side of the new resident ID card includes the cardholder's name, gender, ethnicity, date of birth, residence, ID number and photograph. The cardholder's photograph appears on the right-hand side of the card, while the ID number appears at the bottom.

'The ID number has 18 digits: digits 1 to 6 represent the county or district in which the cardholder is registered; digits 7 to 14 represent the cardholder's birth date; digits 15 to 17 is a sequence of numbers for persons who have the same birth date and are registered within the same county or district (odd numbers represent males and even numbers represent females); and, the 18th digit is a number that is calculated using the previous 17 digits in a formula. Information on the formula used to determine the 18th digit could not be found among the sources consulted by the Research Directorate within the time constraints of this Response.

'The second-generation ID card, referred to as a "smart card," has an embedded digital microchip. The microchip contains cardholder information, including name, sex, birth date, address and household registration location.

'The new ID card's embedded microchip can apparently only be read by "special" card readers.

'According to a Public Security Bureau (PSB) official of Shenzhen, cited in a 10 February 2006 article of the city's Shenzhen Daily, only the PSB has the technology required to write information in the embedded microchips that is capable of being read by authorized machines. The Shenzhen official stated that the information found in the second-generation ID card "cannot be duplicated, as the process of decryption of its chip information could take as much as 10 million years.

'Resident ID cards are issued by the Public Security Bureau (PSB) at the county level in the area in which the cardholder permanently resides. Under China's law on Resident Identity Cards, all citizens aged 16 and older are required to apply for a Resident Identity Card. Persons under the age of 16 are eligible to obtain an ID card; however, their guardian must apply for the card on their behalf.

'If a resident ID card expires, is lost or damaged, the cardholder must make an application for a new one. A 28 January 2005 Taipei Times article also notes that since the resident ID card is no longer paper-based, a cardholder

must apply for a new card if changes to such categories as residence or marital status need to be made.

‘Unlike the old laminated paper ID card, the second-generation ID card is designed with a technology that is difficult to counterfeit. A 28 January 2005 Taipei Times article notes that the new card has 21 features that are "duplication-proof;" however, the article does not identify these features.

‘According to a 10 February 2006 Shenzhen Daily article posted on the Chinese government's official Web site, second-generation ID cards can be verified for authenticity through the use of card readers. The article states that: [w]hen an ID card is put in the [card reader] machine, a small device similar to a notebook PC [personal computer], the information displayed on the card can be seen on the machine's screen. If a fake card is used, no information is visible.

‘The card readers have been installed in such places as banks, customs and airports. The use of the readers is reportedly "strictly regulated"; only ten manufacturers in China have been authorized to produce them.’⁹⁸

18.2.2 Freedom House’s ‘Freedom on the Net report’ for 2016 published in November 2016 noted that:

‘China's "second generation" national ID cards – which are administered by police – are required to be digitally embedded with fingerprints; the first generation of cards became defunct in 2013. The State Council aims to link credit, social security, and other personal information to these biometric databases. Writer Mo Zhixu laid out some possible implications, saying "ID numbers culled online will soon become useless for repeated use"; "relatives and friends will not ... dare, to lend their ID numbers to anyone else"; and "personal credit information will necessarily include information about internet use.’⁹⁹

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18.3 **Fraudulent documents**

18.3.1 The 2017 DFAT Report noted that:

‘Second-generation cards are reportedly difficult to counterfeit. Since 2013, the government has run trials to include fingerprints on the cards making it more difficult to forge. Places such as banks, train stations and airports have card readers. Valid ID cards are required for hukou, employment, opening bank accounts, obtaining passports and driver licenses, applications for tertiary study, travel by plane or train, marriages and legal cases. Internet cafes and some shops also require proof of identity.

‘DFAT assesses it would be difficult to depart China on a forged passport. Chinese passports use sophisticated technology and Chinese authorities have a high surveillance capability, particularly at train stations, airports and ports. An ordinary citizen would find it difficult to bribe border protection

⁹⁸ Immigration and Refugee Board of Canada, ‘The second-generation Resident Identity Card; security features; and how the card can be tested for authenticity’ [CHN102481.E], 3 July 2007 <http://www.irb-cisr.gc.ca/Eng/ResRec/RirRdi/Pages/index.aspx?doc=451359>. Accessed: 26 January 2018.

⁹⁹ Freedom House, Freedom on the net 2016, 14 November 2016, <https://freedomhouse.org/report/freedom-net/2016/china>. Accessed: 6 November 2017.

agents because of sensitivities to corruption, and the professional and comparatively well paid status of public security officials. DFAT is aware of cases where genuine documents obtained by fraudulent means (such as hukou registration, proof of employment, academic transcripts, banking statements and ID cards) are submitted in support of visa applications. DFAT assesses such documents are relatively easy to obtain and are commonly used. DFAT is aware of sophisticated syndicates that provide targeted background stories to support fraudulent documents used in visa applications.¹⁰⁰

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¹⁰⁰ Australian Department for Foreign Affairs and Trade, 'Country Report for 2017' (section 5.30), <http://dfat.gov.au/about-us/publications/Documents/country-information-report-china.pdf>. Accessed: 10 January 2018

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