

China Human Rights and Rule of Law Update

July 2006
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United States Congressional-Executive Commission on China

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Message from the Chairmen

The Arrest of Chen Guangcheng

The Commission is concerned about the June 21st arrest of Chen Guangcheng, a blind legal advocate who has suffered months of official harassment and detention in retaliation for exposing violent abuses by local officials in Linyi city, Shandong province.

Mr. Chen spoke out courageously against abuses committed by population planning officials in Linyi, raising these issues peacefully, lawfully, and in the spirit of good citizenship. The activities that Mr. Chen criticized contravene Article 39 of the 2002 PRC Population and Family Planning Law, and a senior official of the National Population and Family Planning Commission called them "definitely illegal." The Chinese Constitution prohibits "unlawful deprivation or restriction of citizens' freedom of person," and confirms that the "State respects and safeguards human rights." The arbitrary restrictions placed on Mr. Chen's personal liberty, however, undermine these constitutional guarantees.

The Commission urges the Chinese government to ensure that Mr. Chen's rights are respected and to allow him to resume his valuable humanitarian work.

Announcements

Translations: Open Letters From Wife of Arrested Advocate Chen Guangcheng

In March 2006, local authorities in Linyi city, Shandong province, exceeded a six-month time limit on their house arrest of Chen Guangcheng and took him into custody for interrogation. They did not send formal notice of Chen's detention to his wife until June. Since June, authorities have placed Chen's wife, among other close relatives, under house arrest.

The Commission has translated [An Open Letter From Chen Guangcheng's Wife to President Hu Jintao and Premier Wen Jiabao](#), dated March 24, and [An Open Letter From Chen Guangcheng's Wife to UN General Secretary Kofi Annan on the Eve of His Visit to China](#), dated May 12, which raise these issues. For additional information, see [Authorities Formally Arrest Legal Advocate Chen Guangcheng](#) below.

Translation: Open Letter From Recently Confined Lawyer Zheng Enchong

Five years after local authorities suspended the law license of Shanghai lawyer and property rights activist Zheng Enchong, controversy over land disputes and forced demolitions remains prevalent there and throughout China. After releasing Zheng from prison on June 5, authorities provided him with written instruction about how to answer questions from the news media and confined him to the area immediately surrounding his home.

The Commission has translated Zheng's [Open Letter to the UN Human Rights Council](#), dated June 15. For additional information, see [Authorities Release Shanghai Lawyer Zheng Enchong, Restrict His Speech and Movement](#) below.

Translation: Petition From Advocates Criticizing Internet Censorship

The Commission has translated a March 2006 [petition](#) that several groups have submitted to the Legislative Review and Filing Office of the National People's Congress Standing Committee, asking it to consider the constitutionality and legality of the [Provisions on the Administration of Internet News Information Services](#), which the Chinese government used to shut down their Web sites.

The petition was organized by "Constitutional Review Application Delegations" from "Aegean Sea," which the Zhejiang Provincial Press and Publication Administration shut down on March 9; "Chinese Workers Net," "Worker, Farmer, Soldier BBS," and "Communist Party Peoples Net," which were shut down during a [government crackdown on freedom of the press](#) before the plenary sessions of the National People's Congress and the Chinese People's Political Consultative Conference; and "Democracy and Freedom" (Perspectives), which was shut down for the 47th time since the government [first shut it down](#) in November 2005. For additional information, see [Groups Petition Government to Review Constitutionality of Internet News Rules](#) below.

Update on Rights and Law in China

[Human Rights Updates](#) [Rule of Law Updates](#) [All Updates](#)

Authorities Formally Arrest Legal Advocate Chen Guangcheng

Public security officials in Yinan county, Shandong province, formally arrested legal advocate Chen Guangcheng on June 21, on charges of "intentional destruction or damage to property" and "gathering people to disturb traffic order," according to a June 25 Boxun [report](#) (in Chinese) containing the text of the notice of arrest. On March 11, about 100 security officials detained Chen after physically blocking him from seeking out Yinan county officials, according to a June 3 Chinese Rights Defenders (CRD) [report](#). Chen and his relatives had planned to report the beating of Chen's cousin Chen Guangyu by four unidentified men earlier that day.

In 2005, Chen, a self-trained lawyer drew [international news media attention](#) to population planning abuses in Linyi city, Shandong province. According to the June 3 CRD report, Chen is from a village in Yinan county, which is administratively subordinate to Linyi City. On September 6, 2005, officials abducted Chen in Beijing, transported him to Linyi, and placed him under house arrest in his home village. Officials beat him on [October 4](#) and again on [October 24](#). On March 9, 2006, after Chen's house arrest had exceeded the six-month limit imposed by Article 58 of the [Criminal Procedure Law](#) (CPL), CRD worked with Chen's defense lawyers to [submit](#) information about his case to the UN Working Group on Arbitrary Detention, the UN Special Rapporteur on the Independence of Judges and Lawyers, and the Special Representative of the Secretary General for Human Rights Defenders. On March 11, Linyi authorities notified Chen's wife that they had only called him in that day for interrogation, according to the CRD report. But officials subsequently detained Chen for three months without formal charge or trial even though Article 92 of the CPL limits interrogation to a maximum of 12 hours and mandates that a criminal suspect "shall not be detained under the disguise of successive summons or forced appearance." Chen's wife did not receive further notice about the status of his case until June 11, when Linyi officials [informed](#) her that they had placed him under criminal detention effective June 10.

Over 60 Chinese intellectuals have signed a [letter](#) (in Chinese, posted by Boxun on June 17) from Chen's wife, Yuan Weijing, requesting an end to authorities' harassment of Chen Guangcheng. Authorities have placed Yuan under house arrest since June 13, detained several of Chen's near relatives, beaten lawyers representing Chen, and placed several activists under house arrest to prevent them from holding a press conference about Chen's case.

For more information on Chen Guangcheng's case, see the CECC's analyses of [official confirmation](#) of population planning abuses in Linyi city in September 2005, Chen's [October 4, 2005](#) and [October 24, 2005](#) beatings, and a February 5, 2006 [clash](#) between villagers and officials in Linyi. More information on Chen is available through the CECC [Political Prisoner Database](#). For more information on [Population Planning in China](#), see Section III(i) of the CECC's [2005 Annual Report](#).

Authorities Release Shanghai Lawyer Zheng Enchong, Restrict His Speech and Movement

Local authorities released Shanghai lawyer and property rights advocate Zheng Enchong on June 5, upon the expiration of his three-year prison sentence, according to a [press release](#) by Human Rights in China (HRIC) issued the same day. A June 5 Radio Free Asia (RFA) [report](#) (in Chinese) noted that authorities gave Zheng written instruction about how to answer questions from the news media, and stressed that he "lacked the right to serve as a source of information." Zheng was convicted in October 2003 for "illegally providing state secrets to entities outside of China," according to the Shanghai No. 2 Intermediate People's Court [criminal judgment](#) (in Chinese) and Shanghai High People's Court appeals ruling. The trial court judgment subjects Zheng to an additional punishment of deprivation of political rights for one year following his release.

Despite the warnings, Zheng spoke about prison conditions in a June 8 [interview](#) (in Chinese) with RFA. In particular, he disclosed that while in prison, he suffered beatings at the direction of authorities at Tilanqiao Prison in Shanghai. He also told RFA that prison authorities denied him medical treatment for the injuries resulting from the beatings and [denied him visitation rights](#) after he refused to answer questions on a prison-administered political examination. On June 15, Zheng addressed an [open letter](#) to the newly-formed UN Human Rights Council and urged it to "pay attention to the various incidents that take place within Chinese prisons, in violation of human rights." He also reported that the Shanghai municipal government dispatched over 20 police officers and over 30 plainclothes security personnel to effectively place him under house arrest after his release from prison.

Since June 5, public security officials have twice summoned Zheng to appear before them for questioning, according to a June 11 RFA [report](#) (in Chinese) and June 18 Epoch Times [report](#) (in Chinese). RFA noted that on June 10, public security officials questioned Zheng for six hours about his contact with overseas news media. This occurred two days after Zheng's earlier interview with RFA. According to the Epoch Times, on June 18, officials questioned Zheng for another three hours about the same issue. A June 28 HRIC [press release](#) further reports that security officers have confined Zheng to his neighborhood and insist he has no right to freedom of movement because he is currently deprived of political rights.

Under Article 54 of the [Criminal Law](#), deprivation of political rights does not include deprivation of the right to freedom of

movement. The Criminal Law provides for deprivation of "the rights of freedom of speech [and] of the press," and in 1995, the Ministry of Public Security issued [provisions](#) that prohibit an individual who is subject to deprivation of political rights from accepting interviews or delivering speeches. Under Article 13 of the provisions, any individual who violates these prohibitions, but falls short of committing a criminal offense, is subject to public security administration punishments. Article 82 of a new [Public Security Administration Punishment Law](#) authorizes public security agencies to summon such an individual for questioning, but requires that agencies notify the individual of the reason and basis for the summons. Article 83 places a general time limit of eight hours on the interrogation process and 24 hours in cases that are "complex."

For information on Zheng Enchong's criminal case, see earlier analyses by the CECC regarding [official deprivation of his visitation rights](#) and [threats to take him into custody upon his release](#). See also case information searchable through the CECC [Political Prisoner Database](#) and the section on "Denial of Fair Public Trial," in the U.S. Department of State's [2005 Country Report on Human Rights Practices in China](#).

House Church Lawyers Promote Religious Freedom Through the Rule of Law

Li Baiguang and Fan Yafeng, lawyers who are also house church Protestants, have volunteered to represent a group of other house church members who were among the 28 persons public security officials detained without warrants following a [May 28 raid on a religious service](#) in Fugou county, Henan province, according to a June 8 [report](#) of the China Aid Association (CAA), a U.S. NGO that monitors religious freedom in China. Li and Fan, and other house church lawyers like them, have begun to promote the rule of law with respect to religious belief and practice by raising house church leaders' awareness of their legal rights, and by demanding that the government comply with the Chinese Constitution, Regulation on Religious Affairs, Criminal Law, Criminal Procedure Law, and other relevant laws and regulations. Among their activities:

- In 2005, Fan Yafeng, Gao Zhisheng, and Teng Biao were among the lawyers representing Protestant house church pastor [Cai Zhuohua](#) when the government prosecuted Cai for "illegal operation of a business" after he printed and gave away Bibles and other Christian literature. Fan, Gao, and Teng are house church members.
- On January 15, 2006, Gao Zhisheng issued a [report](#) (through CAA) about raids Chinese government officials conducted on January 8 and 15, 2006, against the Beijing Ark Church, where Li Baiguang and Gao Zhisheng worshipped. CAA reported the raid in a January 16 [press release](#).
- On January 20, CAA announced in a [press release](#) that Li and Fan were founding members of the Association of Human Rights Attorneys for Chinese Christians (AHRACC). Other founding members were Gao Zhisheng, Teng Biao, and house church member Wang Yi. AHRACC lawyers have offered advice and training materials to a number of house church leaders, to educate them on defending their rights.
- After Henan officials conducted a [March 13 raid](#) on a house church leadership meeting in Wen county, Fan Yafeng agreed to represent at least some of those detained and beaten, according to a March 20 CAA [report](#).
- On May 4, Li Baiguang and AHRACC co-founder Wang Yi spoke at a [conference on religious freedom in China](#) in Washington, D.C. Fan Yafeng, Gao Zhisheng, and Teng Biao were also invited to speak by the organizers, but authorities prevented them from attending, according to a May 16 CAA [press release](#).
- On May 11, Li Baiguang and Wang Yi met with President George W. Bush at the White House to discuss religious freedom in China, according to a May 11 CAA [press release](#).
- In April and May 2006, Anhui officials detained and [arrested house church pastor Wang Zaiqing](#) for giving away Bibles, and Li Baiguang volunteered to represent the pastor, according to a June 14 CAA [report](#).

Other Chinese lawyers and legal advocates who have used constitutional law to promote the rule of law and human rights in China [have faced official repression](#).

For more information on Protestants in China, see the [CECC 2005 Annual Report](#), Section III(d).

Rebiya Kadeer's Sons Charged With State Security and Economic Crimes

Authorities in the Xinjiang Uighur Autonomous Region (XUAR) arrested three grown sons of exiled Uighur activist [Rebiya Kadeer](#) and charged them on June 13 with state security and economic crimes, according to a June 14 [press release](#) from the Uyghur American Association (UAA). Authorities charged Ablikim Abdurehim (Abdureyim) with subverting state power, Alim Abdurehim with tax evasion and splitting the state, and Qahar (Kahar) Abdurehim with tax evasion, according to the report. Authorities also placed Kadeer's brother, Mamat Kadeer, under house arrest. In a June 23 [press release](#), the Uyghur Human Rights Project (UHRP) reported that authorities have tortured Alim Abdurehim since placing him in detention. The UHRP also reported that authorities have detained and questioned acquaintances of Kadeer's children.

The charges follow [earlier police custody and abuse of Kadeer's children](#) in late May and early June, evidently intended to prevent them from meeting with a visiting U.S. Congressional staff delegation, U.S. NGO and media sources reported.

Chinese news media also reported on the event, stating in a June 1 Tianshan Net [report](#) that authorities questioned Alim, Ablikim, and Kadeer's daughter, Roshengul Abdurehim, on May 31 regarding economic crimes that XUAR authorities claim Kadeer and her family committed while operating a local trading company. According to Tianshan Net, when Alim Abdurehim's attitude became "overbearing," authorities were "no longer able to carry out normal questioning." The article reported that authorities then held Alim and Ablikim Abdurehim under criminal detention on June 1 and placed Roshengul Abdurehim under house arrest.

On June 2, Tianshan Net posted the [same article but with an added sentence](#) reporting that when the authorities were continuing the questioning on June 1, Kadeer's three children forced their way onto a bus and fled. U.S. media and NGO sources reported on June 1 that authorities beat Alim and Ablikim that day after forcing them and their families to board a bus that took them to the outskirts of Urumqi, the XUAR capital. Ablikim was hospitalized after the beating, and members of Kadeer's extended family placed under surveillance. The June 14 UAA article reported that Kadeer's daughter Roshengul remains under house arrest and other members of Kadeer's family remain under surveillance, including grandchildren whom authorities are preventing from leaving home to attend school.

At a June 25 politics and law work conference, XUAR Party Secretary Wang Lequan made reference to "new trends in activity inside and outside the borders among the [three evil forces](#)" of splittism, terrorism, and religious extremism, according to a June 26 [report](#) from the Xinjiang Daily (via Tianshan Net). He called on the government to maintain stability in the region and use an "iron fist" to [strike hard](#) against separatist activity.

Dalai Lama Urges Patience in Dialogue With China

The Dalai Lama, a Chinese government official, and the head of the Tibetan government-in-exile expressed views on the outlook for the dialogue between Chinese officials and the Dalai Lama's envoys, the definition of "Tibet," and the level of autonomy that Tibetans living in China should exercise in a series of separate public statements between May 19 and June 1. Differences between Chinese and Tibetan views have not narrowed, but the Dalai Lama urged observers of the dialogue process to be patient as they await results, and the Chinese official described contacts between the two sides as helpful.

The Dalai Lama spoke to Members of the European Parliament (EP) in Brussels on May 31, reiterating his message that "we are not seeking separation" from China, but autonomy within the framework of the Chinese Constitution, according to an EP [report](#) the same day. The Dalai Lama said that the relationships between Quebec and Canada, and between Scotland and the United Kingdom are ideal models for autonomy. The following day, in an [interview](#) with the Financial Times, the Dalai Lama acknowledged that people may consider "the very slow results [of our discussions]" as discouraging, but that view is wrong, he said. "If you look very closely, in fact there are some results gradually coming. So you need more patience and determination . . . Results will definitely come."

A Chinese government official speaking to reporters in Beijing on May 26 said that the Dalai Lama's proposals, which call for the Chinese government to establish a "Greater Tibet" and allow Tibetans living in that area to exercise "high-level or real autonomy," are not consistent with "the history of Tibet," and have created "great obstacles" to resolving the Tibetan issue, according to a Reuters report the same day (via [Yahoo](#)). Lhagpa Phuntsog (Laba Pingcuo), Secretary-General of the China Tibetology Research Center in Beijing and former Vice Chairman of the Tibet Autonomous Region (TAR) government, said that, "To change the status quo would not be in accordance with the [Constitution](#) of [China] and it would not be in accordance with the laws on autonomy for minority peoples." The principal Chinese law on ethnic autonomy is the [Regional Ethnic Autonomy Law](#). Lhagpa Phuntsog's comment states a more detailed objection than most official Chinese statements, which typically describe the Dalai Lama's proposal as an attempt to gain "independence in disguised forms." (See, for example, this June 9, 2003, [article](#) in Xinhua.) Lhagpa Phuntsog said that contact between the Dalai Lama's envoys and Chinese officials "helps relations between the Dalai Lama and [the Chinese] government, and helps people in the Dalai Lama group know the reality of China and Tibet."

Lhagpa Phuntsog's remark about "the history of Tibet" refers to a distinction that the Chinese government makes between the provincial-level Tibet Autonomous Region (TAR), and the [12 Tibetan autonomous prefectures and counties](#) that are located in adjoining Qinghai, Gansu, Sichuan, and Yunnan provinces. The Chinese government considers "Tibet" to be the area formerly administered by "the local government of Tibet" (until 1959, the Dalai Lama's Lhasa-based government), an area now reflected by the boundaries of the TAR (established in 1965), according to a [statement](#) posted on the Web site of the Chinese Permanent Mission to the UN in New York City. For that reason, Chinese officials use the names "Tibet" and "Tibet Autonomous Region" interchangeably.

Samdhong Rinpoche, the head of the Tibetan government-in-exile, told an open forum of NGOs and media representatives in Dharamsala, India, on May 19 that the Dalai Lama and the government-in-exile are seeking "a genuine nationality regional autonomy" that would apply to "a democratic Tibet, composing all of its [three \(traditional\) provinces](#)," according to a May 20 [report](#) by the government-in-exile. The area that the Tibetan government-in-exile [identifies](#) as "Tibet" is about 965,000 square miles, or 100,000 square miles larger than the combined area of the TAR (463,000 square miles) and the Tibetan autonomous prefectures and counties in other provinces (402,000 square miles).

See Section VI - "Tibet," [The Status of Discussion Between China and the Dalai Lama](#), of the [CECC 2005 Annual Report](#) for more information.

Ministry of Health Implements Plan to Improve Rural Migrant Worker Health

The Ministry of Health implemented its [2006 Rural Migrant Worker Work Plan](#) according to a May 16 announcement on the Ministry of Health Web site. The plan's goals include preventing and controlling the spread of AIDS among rural migrant workers and improving infectious disease monitoring capabilities in large urban areas with migrant workers. The plan also seeks to raise the immunization rate among the children of migrant workers and improve workplace health and safety conditions for migrants.

In November 2005, Wang Longde, Vice Minister of Health, [criticized](#) local governments for limiting HIV/AIDS services to residents with local hukou registration, a policy which excludes many migrant workers from treatment. As a result of the discriminatory hukou system, both unregistered migrant workers and those who hold temporary residence permits often cannot obtain public services such as healthcare when residing in urban areas. [For more information on the hukou system, see the CECC topic paper [China's Household Registration System: Sustained Reform Needed to Protect China's Rural Migrants](#).] This, along with the significant healthcare [challenges](#) faced by rural residents due to the collapse of China's rural public health infrastructure make rural migrant workers a high-risk group for contracting infectious diseases such as HIV/AIDS. HIV statistics released in Shenzhen for the first five months of 2006 show that migrant workers are at a higher risk of contracting HIV/AIDS than the general population, according to a June 28 [report](#) in the South China Morning Post.

Recognizing the challenge of treating rural migrant workers with HIV/AIDS, the Ministry of Health plan advocates a collaborative effort among the Ministries of Finance, Labor, Construction, and Agriculture, to ensure that migrant workers with the disease obtain free medical treatment. The plan also sets forth the goal of educating more than 60 percent of the rural migrant worker population about HIV/AIDS by the end of 2006.

Many migrant workers are employed in industries in which they are exposed to occupational diseases and other workplace safety hazards, according to comments made by Li Dehong, an expert with the China Center for Disease Control, in an April 24, 2006, Xinhua [report](#). Migrant workers employed by small private enterprises and mines are especially vulnerable to occupational diseases such as pneumoconiosis, a lung disease caused by continued inhalation of mineral or metallic dust, according to a June 9, 2006, Xinhua [report](#). The Ministry of Health's new plan sets forth a number of goals for improving workplace conditions for rural migrant workers, including implementing health and safety training and instruction programs in mid- and small-scale businesses, and launching collaborative efforts with the World Health Organization and the International Labor Organization.

In October 2001, the National People's Congress passed the [Law on Prevention and Control of Occupational Diseases](#), however many businesses have not abided by the law, according to a July 16, 2005, China Daily [editorial](#). For more information on workplace health and safety conditions in China, see Section III(c) [Protection of Internationally Recognized Labor Rights](#) of the CECC's 2005 Annual Report.

Student Imprisoned for Falun Gong Activities Becomes Eligible for Parole

Imprisoned Falun Gong practitioner Wang Xin becomes eligible for parole between July and October 2006, after having served half of a nine-year sentence in relation to downloading, printing, and distributing Falun Gong materials.

According to [Amnesty International](#) and the Dui Hua Foundation, Wang was a 22-year old doctoral student at Qinghua University in Beijing when the university suspended him in 1999 for practicing Falun Gong. Between January and April 2001, Wang, four other Qinghua University academics and employees, and one student from a Shanghai university were detained for Falun Gong-related activities. Officials accused the six Falun Gong practitioners of using the Internet to download materials from foreign Falun Gong Web sites and printing leaflets for posting and distribution on Beijing streets. During proceedings on December 13, 2001, the Beijing No. 1 Intermediate People's Court found Wang and the others guilty of using a heretical sect to undermine implementation of the law, a crime under Article 300 of the [Criminal Law](#), and sentenced Wang to nine years in prison. After the trial, officials held the six at Beijing Public Security Bureau Prison No. 7. Dui Hua reports that Wang Xin currently is imprisoned in the Huazi Prison in Dengta city, Liaoning province. According to Amnesty International, Wang has received ill treatment and torture.

Under Article 81 of the Criminal Law, officials have discretion to grant parole to a prisoner after he or she has served half of a fixed term of imprisonment. A prisoner has a strong case for parole if he or she has observed prison regulations, accepted education and reform through labor, showed repentance, and will no longer cause harm to society. Under Article 44 of the Criminal Law, the prison term is calculated from the date of detention if the prisoner has been held in detention before the court judgment takes effect. As a result, Wang becomes eligible for parole between July and October 2006.

Full Analysis >> <http://www.cecc.gov/pages/virtualAcad/newsletterListing.phpd?NLdate=20060701&show=ALL#id54499>

Groups Petition Government to Review Constitutionality of Internet News Rules

Several groups have petitioned the Legislative Review and Filing Office (LRFO) of the National People's Congress Standing Committee (NPCSC) to consider the constitutionality and legality of a rule that the Chinese government used to shut down their Web sites, according to a [copy of the petition](#) posted on the Signature Net Web site on March 28 (in Chinese). A translation is available [here](#). The petition campaign closed on April 28, and was organized by "Constitutional Review Application Delegations" from the following Web sites:

- "Aegean Sea" ["Aiqinhai"], which the Zhejiang Provincial Press and Publication Administration shut down on March 9;
- "Chinese Workers Net" [Zhongguo Gongren Wang], "Worker, Farmer, Soldier BBS" [Gong, Nong, Bing BBS], and "Communist Party Peoples Net" [Gongchandang Ren Wang], Web sites that had advocated on behalf of workers' interests, and which were shut down during a [government crackdown on freedom of expression](#) before the annual March plenary sessions of the National People's Congress and the Chinese People's Political Consultative Conference; and
- "Democracy and Freedom" (Perspectives) ["Minzhu Yu Ziyou"], which was shut down for the 47th time since the government [first shut it down](#) in November 2005.

According to the petition, officials shut down the Aegean Sea Web site claiming that it violated Article 8 of [Provisions on the Administration of Internet News Information Services](#) (Provisions) promulgated by the State Council Information Office (SCIO) and the Ministry of Information Industry in September 2005, because it had not received SCIO authorization before being established. "Democracy and Freedom" (Perspectives) was similarly deemed to be in violation of Article 5 of these Provisions and was closed and had its [Internet Content Provider registration revoked](#). "China Workers Net," "Worker, Farmer, Soldier BBS," and "Communist Party People Net" and others were deemed to have violated Article 8 of the Provisions for not having fulfilled the 10 million yuan registered capital requirement and for not having a [government license to report news](#).

The petition asserts that Article 5 and Article 8 of the Provisions violate the [Administrative Licensing Law](#) (ALL) and the [Constitution](#) because:

- Article 35 of the Chinese Constitution grants citizens the freedoms of speech and of the press. Citizens reporting and commenting on fast-breaking social events, and political, economic, military, and foreign affairs are exercising these constitutional rights, and should not be subject to any unlawful [prior restraint](#).
- The requirements of Articles 5 and 8 of the Provisions are forms of administrative licensing, and as such are illegal because they violate the ALL. The ALL provides that government agencies may not establish examination and approval requirements except pursuant to law or regulation. The SCIO's authority to license news Web sites does not derive from any law or regulation, but rather derives from the State Council's July 2004 [Decision Establishing Administration Examination and Approval Matters That Must Remain Subject to Administrative Licensing](#) (Decision).

Under Article 14 of the ALL, the State Council may establish administrative licensing requirements using decisions, but must either submit a proposal to the NPCSC to formulate a law on the matter, or formulate an administrative regulation itself "in a timely manner." The petition argues that, assuming the SCIO retains the right to examine and approve licenses for Internet news publishing under the Decision, after almost two years the government has yet to enact any law or administrative regulation in the area, and the Provisions cannot replace administrative regulations as an administrative regulation itself.

The petition is necessary because the Constitution vests the power to interpret and enforce the Constitution in the NPCSC, and under the [Administrative Reconsideration Law](#), [Administrative Procedure Law](#), and [Legislation Law](#), Chinese courts lack the power either to apply constitutional provisions in the absence of concrete implementing legislation or to strike down national laws or State Council regulations that are inconsistent with the Constitution. Chinese government agencies may submit formal requests directly to the NPCSC's Legislative Affairs Commission for review of the constitutionality and legality of State Council regulations. Ordinary citizens, however, may only suggest "proposals" for constitutional and legal review, and these proposals must be sent to the LRFO, which is a screening office under the NPCSC's Legislative Affairs Commission.

China's constitutional review system is neither accountable nor transparent with respect to citizen proposals. The NPCSC has never declared a law or regulation unconstitutional, according to an April 17 [article](#) (in Chinese) posted on the China Law Society's Democracy and Law Times Web site. The NPCSC amended the [Working Procedures for the Filing and Review of Administrative Rules, Local Rules, Autonomous Region and Special Purpose Regulations, and Special Economic Zone Rules](#) (Legislation Procedures) in December 2005, to make notification of review completion voluntary. Moreover, the government is not required to inform citizens whether or not it will act on a citizen's proposal. The Democracy and Law Times summed the situation up this way:

As a system, constitutional review comprises proposal, acceptance, review, determination, and resolution.

If it lacks any one of these, then the constitutional review system is not complete. Although the meaning of citizens having been granted the right to submit proposals for constitutional review is very important, if all they have is the right of proposal, and they do not have the right of acceptance, review, determination, and resolution, then the right of proposal exists in name only. This also explains the reason why so few citizens propose constitutional review.

Apparently anticipating that the petition will get no response, the petitioners state that, if the government does not respond to the petition within the legally required time period (the petition did not specify to what time limit it was referring) by the time the number of signatories reaches 10,000, the delegations will make an application to a "model constitutional court" composed of members of the Chinese legal academic community, civil law scholars, and other experts.

The aforementioned problems notwithstanding, others in China have begun using this constitutional review mechanism to combat government abuses of power. For example, in April 2006 a Sichuan University law professor [petitioned](#) the NPCSC to review the constitutionality of a 2003 Supreme People's Court judicial interpretation that discriminates between urban and rural residents on the basis of their household registration (*hukou*) status.

Delegation members include: Chen Yongmiao, a Beijing-based activist who had advocated on behalf of [Cai Zhuohua](#) (a Beijing house church leader imprisoned for printing and giving away Bibles and other Christian literature); Sun Yueli, legal advisor for the Aegean Sea Web site; Liu Di (also known as the "Stainless Steel Mouse"), whom Chinese authorities held in detention for a year without charges after she posted a series of essays on the Internet discussing political reform and criticizing the Party; and Li Jian, who in November 2005 issued a public "[opinion](#)" calling on the State Council and NPCSC to review the constitutionality and legality of the Provisions. Unlike the Aegean Sea petition, Li's "opinion" based its complaint on Article 8 of the [Legislation Law](#), which provides that any deprivation of a citizen's political rights must be based on a national law, and the State Council and its subordinate agencies therefore lack the authority to adopt a rule to this effect.

China Daily Editorial Advocates Government Action on Local Minimum Wage Rates

Provincial governments in China are reluctant to review their minimum wage levels every two years, despite a Ministry of Labor and Social Security (MOLSS) provision requiring such review, according to a May 9 [editorial](#) published on the China Daily Web site. Provincial officials fear that higher minimum wages will make companies relocate manufacturing facilities to provinces where wages are lower, according to the editorial. The editorial writer adds that, since China is not ready to have market forces determine wage levels, "the central government should take the lead to ensure [that] the workers are reasonably paid." In addition, the writer advocates that the central government should develop a "more clearly defined methodology for the calculation of the minimum wage level to ensure it is not artificially low," and should also monitor compliance by local governments.

The Provisions on Minimum Wages, issued by the Ministry of Labor and Social Security in January 2004, mandates a biennial review of minimum wage levels by provincial-level governments, and provides general guidance on how local governments should calculate a minimum wage, allowing for "local conditions." In July 2006, Shenzhen (not a provincial-level government) set a new minimum wage, for the most industrialized parts of the city, at 810 yuan per month (US \$101), the highest minimum wage in the country. The current minimum wage set by the Gansu provincial government, 340 yuan per month (US \$43), is the lowest in the country.

The Party-led All China Federation of Trade Unions (ACFTU), the only union federation permitted under Chinese law, announced its support in May 2006 for minimum wage levels to be increased by 40 to 60 percent over the next five years, according to a May 22 item in [China CSR Newswire](#). In addition, government officials and scholars have been calling for raising minimum wage levels, according the China Daily editorial.

Senior ACFTU official Li Yonghai said that a "wealth gap" between urban elites and workers is the "main reason" for rising unrest and social instability, according to a March 8 Agence France-Presse report published in the [South China Morning Post](#) (subscription required). Li said that "China is becoming a region where wealth is being accumulated by a small number of people faster than any other place in the world." He said that this accumulation of wealth has not trickled down to the lowest level of Chinese society. "If we want to resolve this issue, then we have to adjust the overall income distribution system," Li told reporters.

Xinjiang Government Seizes, Confiscates Political and Religious Publications

Authorities in the Xinjiang Uighur Autonomous Region (XUAR) launched a month-long campaign on May 17 aimed at rooting out "political and religious illegal publications," according to a June 3 [article](#) from Tianshan Net. Officials began the campaign to create a "good cultural environment" for a national book fair held in Urumqi, the XUAR capital, and as part of the region's 2006 [Sweep Away Pornography and Strike Down Illegal Publications campaign](#). A May 18 Xinjiang Daily [article](#) (via Tianshan Net) on the campaign noted a large number of illegal political and religious publications in the XUAR, including political publications that "propagate holy war and propagate terrorism."

According to the June 3 article, authorities confiscated 609 illegal political and religious materials during the first stage of

the campaign. The investigation team charged with examining publication markets and manufacturing and storage sites found "the existence of books with seriously harmful religious inclinations," including a Uighur-language edition of "The Selected Works of Tantai." A second investigation team, which was in charge of examining printing and copying businesses, found illegal religious publications in the Uighur language with "unhealthy content" that had been printed without authorization. These publications included "The Image of Muslim Women" and "Halal and Haram" ("Lawful and Unlawful"). The article reported that authorities were in the process of trying the cases resulting from the confiscation of these publications.

The government exercises tight control over religious publications. National regulations impose [strict prior restraints](#) over the publishing of all religious materials and materials that deal with religious topics. In addition, the Islamic Affairs Steering Committee of the state-controlled Islamic Association of China oversees Islamic publications to ensure that they comply with Party and government policy. Local regulations and policies in the XUAR also place [strict controls over religious materials](#) as part of a broader crackdown in the region on Islamic practice and other expressions of Uighur identity.

For more information, see sections on [Rights Violations in Xinjiang](#) and [Religious Freedom for China's Muslims](#) in the CECC 2005 [Annual Report](#).

Women Sue Village Committees for Denying Them Land Rights

Twenty-eight women in a village in Hohhot city, Inner Mongolia Autonomous Region, have waited since November 2005 for the court judgment in a suit against their village committee, according to a May 22 [article](#) in China Women's News, posted on the All China Women's Federation (ACWF) Web site. The village committee denied the women land contracting rights when it reallocated collectively owned village land. The committee justified the decision by saying that the women did not have rights to collectively owned village property because they had married men from other villages, according to a May 15 Xinhua [article](#) (in Chinese).

Since August 2005, women in three similar cases have won lawsuits against their village committees, alleging the village bodies denied them land contracting rights guaranteed under the [Law on Land Contract in Rural Areas](#) (LLCRA) and the [Law on the Protection of Interests and Rights of Women](#) (LPIRW). A woman in a village in Chengdu city, Sichuan province, sued village authorities after they denied her land compensation rights, according to a November 2, 2005, Xinhua [article](#) (in Chinese) posted on the Xuzhou ACWF Web site. The village authorities refused to compensate the woman for requisitioning her land, finding her a non-resident for the purpose of distributing land compensation despite the fact that she had not changed her hukou (household registration) status to her husband's village and continued to pay agricultural tax in her original village. The Gaoxin District People's Court found that her hukou registration demonstrated that she was a member of the village collective economic organization and should receive her share of the land compensation, and that village rules suggesting that women who marry out of the village must shift their hukou registration to their husband's village improperly limited women's freedom of residence. Courts ruled in favor of different groups of women in similar lawsuits in Wulanchabu city, Inner Mongolia, in April 2006, according to an April 12 People's Court Daily [article](#) (in Chinese), and in Tongcheng city, Anhui province, in August 2005, according to a November 9, 2005, Gongyi Shibao [article](#) (in Chinese).

The 2002 LLCRA and the LPIRW, enacted in 1992 and amended in 2005, both have provisions guaranteeing women the same land rights as men. Article 32 of the LPIRW says that women have equal rights with men with regard to rural land rights, including land contracts and compensation for requisitioned land; Article 55 provides that villages cannot infringe upon the right of a woman to participate in the village collective economic organization because she is married, unmarried, or widowed, and that women can sue in court if these rights are violated and no other recourse, such as mediation or arbitration, is available. Article 6 of the LLCRA protects women's right to contract land, and Article 30 provides that if a woman marries out of her village and does not contract land in her new village, she can retain the contract to her land in her original village.

According to a March 7 China Court Network [article](#) (in Chinese), Ang Mao, a female member of the Chinese People's Political Consultative Conference, noted that existing law does not specify the qualifications for membership in rural collective economic organizations. According to a July 29, 2005, China Court Network [article](#) (in Chinese), the Supreme People's Court has requested that the Standing Committee of the National People's Congress issue a legislative interpretation regarding this question. Under the 1998 [Organic Law of the Village Committees of the People's Republic of China](#), village committees are autonomous institutions of village self-government. Village committees have made decisions concerning eligibility to receive shares of collectively owned village assets that legitimate discrimination against migrants, including women, who have moved out of the village. [See the CECC's [2004 Annual Report](#), Section III(f), Freedom of Residence and Travel.] Current discriminatory practices threaten women's property rights. According to a recent survey conducted by the ACWF, 70 percent of people without land in China are women, and among those, 43.8 percent lost land after they married and 0.7 percent of women lost land after a divorce, as reported in a May 22 China Youth Daily [article](#) (in Chinese).

Officials Arrest Third House Church Pastor for Giving Away Bibles

Officials in Anhui province questioned, detained, and eventually arrested house church pastor Wang Zaiqing on charges of "illegal operation of a business" in printing Bibles and other Christian literature, according to a June 14 [report](#) of the China Aid Association (CAA), a U.S. NGO that monitors religious freedom in China. According to the CAA, Wang printed Bibles and other religious literature and gave them away without government authorization. Anhui public security officials questioned Pastor Wang and Zhang Hongyan, his wife, on April 25, and then searched their house and confiscated religious literature and other items. On April 28, public security officials detained Wang, and on May 26 Zhang received notice of her husband's formal arrest for "illegal operation of a business." [Li Baiguang](#), a prominent legal rights advocate who is also a house church member, has volunteered to represent Wang.

Wang Zaiqing is the third house church pastor since 2004 accused of "illegal operation of a business" for printing and giving away Bibles and other Christian literature. A court [convicted](#) Cai Zhuohua, a Beijing house church pastor, in November 2005 of the same offense and sentenced him to three years' imprisonment. Officials also [detained and accused](#) Liu Yuhua, a Shandong pastor, of the same offense in April 2006. [Jiang Sunian](#) (also known as Jiang Shurang), an unregistered Catholic priest in Zhejiang province, served four years of a six-year sentence after an April 2000 conviction for illegal publishing of Bibles and hymnals.

The Chinese government has imposed a set of [prior restraints on religious publishing](#). For more information on Cai Zhuohua and Jiang Sunian, see the CECC [Political Prisoner Database](#). For more information on Protestants in China, see the [CECC 2005 Annual Report](#), Section III(d).

TAR Party Secretary Calls for Tighter Control of Tibetan Monasteries, Nunneries

[Zhang Qingli](#), the Tibet Autonomous Region (TAR) Communist Party Secretary, told senior Party officials meeting in Lhasa on May 16 that the Party is engaged in a "fight to the death struggle" against the Dalai Lama and his supporters, according to a Tibet Daily [report](#) published the same day (in Chinese, reprinted on the Web site of Xinhua). For this reason, Zhang said, the Party must push ahead with the patriotic education campaign [already underway](#) in TAR Buddhist monasteries and nunneries, the report said. Zhang called on provincial Party and government officials to widen the patriotic education campaign to include a broader population, and to intensify the "rectification" and restructuring of each monastery and nunnery's [Democratic Management Committee](#) (DMC). Monks or nuns who administer a monastery or nunnery form the DMCs. DMC members must implement Party policies on religion and ensure that monks and nuns obey government regulations on religious practice.

Zhang told the Party officials, some of whom also hold senior positions in the TAR government and people's congress, that comprehensive implementation of the Regulation on Religious Affairs (issued July 2004, effective March 2005, [translation available](#) on the Web site of China Elections and Governance) will lead to the "normalization of religious order" and the "standardization of religious activity," according to the Tibet Daily report. Tibetans inside and outside China regard the Dalai Lama as their spiritual leader, but Zhang described the Dalai Lama as "the biggest obstacle hindering Tibetan Buddhism from establishing normal order."

Li Guangwen, Executive Vice Chairman of the TAR People's Congress Standing Committee, stressed at a meeting of Standing Committee members "the need to step up legislative work in the area of the anti-separatism struggle and the management of religious affairs," according to a June 10 Singtao Daily report (translated in [OSC](#), 11 June 06) that said the meeting took place a few days earlier. Standing Committee Vice Chairmen Zhao Lian and Bai Zhao also said that the Dalai Lama intends to "reject the [autonomy system in minority regions](#), restore his rule in Tibet, and once again condemn the Tibetan people to slavery." Areas of ethnic autonomy are established under Article 4 and Chapter III of the Chinese [Constitution](#), and are subject to the provisions of the [Regional Ethnic Autonomy Law](#). The Singtao Daily report took note of the timing of the meeting, saying that, "Just as the Dalai Lama keeps extending olive branches to Beijing to signal his desire to come home after spending many years living in exile overseas, the standing committee . . . held a special meeting in Lhasa a few days ago to 'expose and criticize the crime of the Dalai Lama's separatist political group.'"

Expressions of resentment by Tibetan monks and nuns in the Lhasa area against the campaign of "patriotic education" resulted in [detentions](#) and expulsions, and an [apparent suicide](#) in 2005. Tibetan Buddhist monks and nuns constituted 21 of the 23 known political detentions of Tibetans by Chinese authorities in 2005, compared to 8 of the 15 such detentions known in 2004, based on data available in the CECC [Political Prisoner Database](#) (PPD). Few details are available about the continuing campaign in 2006 or the response of Tibetan monks and nuns to it.

The Party Central Committee appointed Zhang Qingli to the post of [acting TAR Party Secretary](#) in November 2005, and Secretary on May 29, 2006, according to a Xinhua [report](#) the same day. Zhang previously served as Deputy Party Secretary in the Xinjiang Uighur Autonomous Region, an area where the government and Party implement [repressive policies](#) toward ethnic Uighurs.

Chinese Authorities Imprison Three for Publishing Without a License

Reports have recently come to light regarding two incidents in which Chinese government officials imprisoned three Chinese citizens for publishing without a license. The first case was reported on May 12 on the Web site of the [National Sweep Away Pornography and Strike Down Illegal Publications Task Force](#) (in Chinese), and stated that in 2005 Gansu provincial justice agencies made "ample" use of the law as a weapon to punish illegal publishing activities. The report said that in Gansu's first case of illegal newspaper publishing, in May 2005 the Chengguan District People's Court in Lanzhou sentenced Liu Xiaopeng and Shi Xiaojun to five years in prison and 10,000 yuan in fines for illegal operation of a business for publishing and selling magazines without government authorization.

The second case was reported in the April 21 edition of the [Dui Hua Foundation's](#) Occasional Publications series, which translated an [article](#) (in Chinese) on the Henan Court Net Web site saying that in September 2004 the court sentenced Wang Lelan, a woman living in a rural area, to five years imprisonment and an 8,000 yuan fine for illegal operation of a business for printing books without government authorization. According to the report, Wang printed illegal books, including "China's Highest Levels," "Confidential Exclusive News," "High-Level Privilege Exclusive News," and "China Special Inside Stories" for Zhao Anjun and Ma Haijun. The court determined that in doing so Wang had "severely harmed social order and disrupted market order." The report said that Zhao and Ma had also been sentenced, but did not specify the crimes with which the two were charged or the nature of their punishment.

The right to publish is [guaranteed in the Chinese Constitution](#). Under the [Regulation on the Administration of Publishing](#), however, the Chinese government restricts the exercise of this right to [government-sponsored](#), [domestic](#) publishing houses that have enough money to meet the government's [burdensome registered capital requirements](#). Approved publishers must also be willing to obey the directives of the [Communist Party Central Propaganda Department](#) and the [General Administration of Press and Publication](#).

Chinese authorities can prosecute unlicensed publishers under Article 225 of the [Criminal Law](#), which makes it a crime for anyone to commit "illegal acts in business operation and thus disrupt market order," and Article 15 of the Supreme People's Court's 1998 [Explanation Regarding Certain Questions About the Specific Laws to be Used in Adjudicating Criminal Cases of Illegal Publications](#), which specifies that authorities can use Article 225 to punish instances of "illegal publication, printing, copying, or distribution." Punishments may include [fines, confiscation, closure, and imprisonment](#). Beijing municipal authorities used these provisions in August 2005 to imprison the head of the Beijing representative office of Hong Kong's Credit China International Media Group Limited [for publishing the magazine "Credit China,"](#) and in November 2005 to imprison Protestant house church leader Cai Zhuohua and two of his family members [for giving away Bibles and other Christian literature](#).

Licensing schemes, such as the one imposed by the Chinese government, are forms of prior restraint that contravene rights established in the [Universal Declaration of Human Rights](#) and the [International Covenant on Civil and Political Rights](#). As Jiao Hongchang and Yao Guojian, professors at the China University of Politics and Law, noted in "A Study of the Issues of Ratifying and Implementing the International Covenant on Civil and Political Rights":

This principle [that Article 19 of the ICCPR prohibits prior restraints] requires that government power may not be employed to suppress expressive activities before they are carried out, and no licensing measures or ideological content restrictions may be imposed on speech, books, periodicals, or radio or television programs prior to their dissemination, publication, distribution, or broadcast.

Three Gorges Resettlement Activist Paralyzed After Assault

An unidentified assailant assaulted Three Gorges resettlement activist Fu Xiancai after he met with a public security official on June 8, according to a June 12 Human Rights in China (HRIC) [press release](#), a June 13 HRIC [press release](#), and a June 14 Associated Press (AP) [article](#) that appeared in the Guardian of London. Fu met with the official to discuss an interview that Fu gave in May to a German television station. According to HRIC sources, the official warned Fu at the meeting that his "oppositionist" interview "would not have good consequences." Fu is paralyzed from the shoulders down as a result of the assault and is currently under 24-hour police surveillance at the No. 1 People's Hospital in Yichang city, Hubei province. HRIC sources also report that authorities attempted to prevent the public release of news of Fu's assault and injury.

Fu has been the target of repeated official harassment as a result of his petitions expressing dissatisfaction with the resettlement and compensation terms for those displaced by the Three Gorges Dam Project, according to the June 12 HRIC press release. Fu was assaulted and threatened on approximately 10 different occasions in 2005 and 2006. In the German TV interview, Fu recalled being threatened and beaten because he complained to the central government that he had not received his promised relocation compensation, according to the June 14 AP article.

According to a China Newsweek [article](#) (in Chinese) posted by Xinhua in January 2006, forced evictions and other abuses of power have been the focal point of citizen petitions. Human Rights Watch released a December 2005 [report](#) that contains first-hand accounts of [official abuses \(including beatings and torture\) against Chinese petitioners](#) and notes that petitioners

rarely succeed in obtaining redress. In 2005, the failure to resolve disputes over forced evictions and related abuses of power fueled mass protests in [Xi'an](#), Shaanxi province, [Taishi village](#), Guangdong province, and [Dongzhoukeng village](#), Guangdong province.

For more information, see related CECC analyses on [forced evictions resulting from the Three Gorges Dam Project](#) and on beatings that local officials have authorized against [rights defenders in the Taishi village dispute](#) and [Catholic nuns in a property dispute in Xi'an](#). See also Section III(g) on [The Environment](#) in the 2005 CECC [Annual Report](#).

Henan Officials Detain 28 House Church Protestants, Who Obtain Legal Counsel

Chinese officials raided a house church service on May 28 in Xiguan Ma Jia Chang, Fugou county, in Henan province, and detained 28 members of the church, according to a June 8 [report](#) of the China Aid Association (CAA), a U.S. NGO that monitors religious freedom in China. Officials released 23 of the house church members on the same day, and thereafter released Liu Yuemei on June 1 after she paid a 1,600 yuan (US \$200) fine, and Chang Xinhong on June 8 after she promised to pay a fine.

As of June 8 officials continued to hold Pastor Li Shunmin, Chen Xuelan, and Cao Yan at Bayi Prison in Fugou county, according to CAA, which also reported that security officials did not identify themselves during the raid, and did not present warrants or court summons. Article 64 of the [Criminal Procedure Law](#) requires officials to present warrants before detaining citizens. The CAA further reported that some of the detainees have decided to take legal action and that house church attorneys Li Baiguang and Fan Yafeng have agreed to represent them.

Li and Fan, and other house church lawyers like them, have begun to promote the rule of law with respect to religious belief and practice by raising house church leaders' awareness of their legal rights, and by demanding that the government comply with the Chinese Constitution, Regulation on Religious Affairs, Criminal Law, Criminal Procedure Law, and other relevant laws and regulations.

For more information on Protestants in China, see the [CECC 2005 Annual Report](#), Section III(d).

Supreme People's Procuratorate Recognizes Continuing Problem of Extended Detention

The Supreme People's Procuratorate (SPP) recognized that unlawful extended detention is a continuing problem in China, in a May 21 [article](#) (in Chinese) published in the Procuratorial Daily. The article cites SPP figures to report a steady decline in the number of extended detentions since 2003, when the SPP passed [Certain Provisions Regarding the Prevention and Correction of Extended Detention in Procuratorial Work](#) (2003 Provisions). Despite this decline, the article notes that authorities continue to misuse provisions in the Criminal Procedure Law to disguise extended detentions. The SPP is now working with the Supreme People's Court and Ministry of Public Security to approve a final version of "Certain Provisions Regarding the Prevention and Correction of Extended Detention" by the end of 2006.

Law enforcement authorities continue to hold Chinese citizens for long periods without formal charge or trial, despite official statements to the contrary. The May 21 article reported that in 2005, no cases of extended detention occurred in any of nine provinces and municipalities, including Beijing municipality, or in the Xinjiang Production and Construction Corps. During the same week that the Procuratorial Daily published its article, Chinese authorities announced a tentative trial date for Zhao Yan, a researcher at the New York Times Beijing bureau. Beijing authorities repeatedly had used provisions in Chinese law to [hold Zhao from September 17, 2004](#) until June 16, 2006 without trial. In June 2005, Beijing police claimed that they found new evidence of fraud against Zhao, so that they could hold him beyond the seven-month time limit on investigative detention. The Beijing procuratorate twice returned Zhao's case to investigators for supplementary investigation, to hold him for the maximum period between investigation and indictment. On March 17, 2006, the Beijing procuratorate received permission from the court to withdraw its case against Zhao, and should have released him. Authorities continued to hold him, however, and the procuratorate issued a new indictment against Zhao on May 12. To date, no investigation into the actions of the Beijing procuratorate in Zhao Yan's case has been announced.

A representative of the SPP Procuratorial Office for Prisons and Jails told the Procuratorial Daily that authorities must "strictly prohibit the handling of cases that exceed time limits and the use of prolonged detention periods, restarting of the detention clock, return of the case for supplementary investigation, withdrawing of charges, changing of jurisdiction, and other methods that disguise extended detention of a criminal suspect or defendant." The 2003 Provisions contain similar prohibitions and entitle a criminal suspect, his legal representatives, or his near relatives to complain to the people's procuratorate that made the decision to arrest him, or to the next higher-level people's procuratorate, if they believe that the detention has exceeded legal time limits. Criminal suspects held in extended detention also have a right to demand release from criminal detention or arrest. Moreover, the 2003 Provisions authorize disciplinary sanctions and criminal liability under Article 397 of the [Criminal Law](#) against procuratorate officials who abuse their authority to unlawfully hold an individual in detention.

The UN Working Group on Arbitrary Detention (UNWGAD) has [concluded](#) that Zhao Yan's detention is arbitrary. The

UNWGAD [defines](#) a detention as arbitrary if it meets one of the following three conditions: (I) there is clearly no legal basis for the deprivation of liberty (for example, when individuals are kept in detention after the completion of their prison sentences or despite an amnesty law applicable to them, or in violation of domestic law or relevant international instruments); (II) the individual is deprived of his liberty because he has exercised the rights and freedoms guaranteed in certain provisions of the [Universal Declaration of Human Rights](#) (UNDHR) or the International Covenant on Civil and Political Rights; or (III) noncompliance with the standards for a fair trial set out in the UNDHR and other relevant international instruments is sufficiently grave as to make a detention arbitrary. The UNWGAD concluded that Zhao's detention falls into categories II and III above because it contravenes Articles 9, 10, and 19 of the UNDHR. Articles 9, 10, and 19 guard against arbitrary arrest, detention, or exile; guarantee the right to a fair and public hearing by an independent and impartial tribunal to determine criminal liability; and guarantee the right to freedom of opinion and expression.

For additional information on [Arbitrary Detention in the Formal Criminal Process](#), see [Section III\(b\)](#) of the CECC's [2005 Annual Report](#).

Lhasa Conference Considers Judicial Role in Protecting Qinghai-Tibet Railway

Supreme People's Court and Party officials opened a conference on June 15 that considered the role the judiciary should play in assisting to maintain social stability following the opening of the Qinghai-Tibet railroad in July. Vice President Zhang Jun of the Supreme People's Court (SPC) addressed a conference on "The Judicial Response to the Opening of the Qinghai-Tibet Railroad" in Lhasa on June 15, according to a China Court Network [report](#) on June 16. Scheduled to begin operation on July 1, the [railroad](#) will link Lhasa, the capital of the Tibet Autonomous Region (TAR), with Beijing, Shanghai, Chengdu, Guangzhou, and Xining, the capital of Qinghai province. Zhang said that the railway has an important role in the Great Western Development (GWD) program, and that the inauguration of the rail service would create "new demands regarding the work of the courts."

Zhang said the purpose of the Lhasa conference was to "explore and research the measures and plans" necessary to address problems that could result from the railway's operation, according to the report. He stressed that courts along the rail line, the principal terminals of which are Xining and Lhasa, must strengthen their "communication and cooperation" to coordinate efforts to "resolve problems." The courts of both the TAR and Qinghai province must be active participants in the "comprehensive management of public security" to "assure the harmony and stability of the Qinghai-Tibet area, particularly the safe operation of the railroad," Zhang said. Under the [Criminal Law](#), acts of sabotage against trains and railways are crimes under Articles 116, 117, and 119, and gathering crowds to disturb order at railway stations, along railway lines, or to harm or obstruct business operation are crimes under Articles 290 and 291.

Wang Yibin, a TAR Party Standing Committee member who also heads the TAR Public Security Department, also spoke at the conference and provided specific judicial "requirements" linked to the TAR's "current anti-splittist struggle and public security situation," according to the China Court Network report. Wang listed several prerequisites for "striking hard against illegal activities along the railroad and assuring Tibetan political and social stability":

- Increasing the force of "strikes against all categories of criminal activity."
- Establishing a legal environment that is "favorable to the safety of the railroad."
- Protecting the legal rights and interests of workers while "preventing and appropriately handling mass incident work."

Central government authorities have emphasized the need to reduce the number of "mass incidents" that disturb public order, including strikes, marches, demonstrations, and collective petitions directed at government departments. In October 2005, the General Offices of the Communist Party Central Committee and the State Council [jointly issued](#) an opinion calling for increased social stability. An accompanying press statement said the government and Party had set a goal in 2006 to decrease the number of mass incidents, and in January, officials urged the nation's public security agencies to "[strike hard](#)" [against rising social unrest](#). Zhang and Wang's emphasis at the Lhasa conference on court participation in maintaining comprehensive public security and reducing mass incidents indicates that TAR Party officials want to coordinate the participation of the judiciary in these efforts, particularly along the railroad.

About [4,000 tourists](#) will arrive in Lhasa daily on the railway after it begins operation, according to a May 21 Xinhua [report](#) and a May 22 article in [Chinanews](#) (online). The China Tibet Tourism Bureau expects the railway to bring an additional 400,000 visitors to the TAR during the remainder of 2006, according to the Chinanews report. Official estimates are not available of the number of persons the government expects to arrive by train in Lhasa who will seek employment, conduct business, engage in a professional practice, or remain in the area for other reasons.

State Ethnic Affairs Commission Minister Li Dezhu observed in 2000 that the government's Great Western Development program encourages Han migration into Tibetan and other ethnic areas, a movement that Li described as a westward flow of "human talent" that would result in "clashes and conflicts" between ethnic groups (Qiushi, in [OSC](#), 15 June 00). Li added that GWD is "the necessary choice for solving China's nationality problems in the new historical conditions," and that the state "must use legal methods to provide legal guarantees for the implementation of these policies, and safeguard implementation [of GWD] with laws and regulations."

For more information about the Qinghai-Tibet railway and the Great Western Development program, see Section VI. - "Tibet," [Culture, Development, and Demography](#), of the CECC 2005 Annual Report.

Censorship Task Force Meets to Discuss 2006 Spring Campaign

The [National Sweep Away Pornography and Strike Down Illegal Publications Task Force](#) (Task Force), which coordinates government efforts to combat illegal publishing in China, convened a meeting on April 27 in Zhengzhou, the capital of Henan province, according to an April 29 Xinhua [report](#) (in Chinese). Over 200 representatives from the [Central Propaganda Department](#), [General Administration of Press and Publication \(GAPP\)](#), [Ministry of Public Security](#), [Ministry of Information Industry](#), [General Administration of Customs](#), Ministry of Culture, State Administration for Industry and Commerce, Ministry of Communications, Civil Aviation Administration, and Ministry of Railways attended the meeting.

Officials announced at the meeting that during its "spring campaign," the Task Force had confiscated over 37.5 million publications, banned 176 newspapers and periodicals, and investigated and prosecuted 2,000 Web sites, according to an April 27 Xinhua [report](#) (in Chinese). In the process, the Task Force organized 73,282 investigations involving 509,038 law enforcement and investigative personnel, who inspected 90,910 publication markets, 260,402 publication shops and stalls, and 55,740 printing and copying shops. These activities resulted in sanctions for 9,663 publication shops and stalls and 1,281 printing presses, and the closures of 16 copying enterprises, 8,776 publication shops and stalls, and 272 printing presses. The number of confiscated publications included approximately 37 million copies of obscene and pirated books and software, illegal education materials, and smuggled optical discs. The report did not specify what types of publications constituted the remaining 500,000 items, but in March the People's Daily reported that in 2005 [Chinese authorities seized almost 1 million publications](#) because of their political content.

According to an April 29 Xinhua [report](#) (in Chinese), Long Xinmin, director of the GAPP, called on attendees of the meeting to closely observe the "three bottom lines": stopping obscene publications; protecting intellectual property rights; and preventing publications from appearing in China that have "severe political problems that give rise to wide debate in society and that threaten social stability and political stability." Long said that grasping these three bottom lines forms part of the Communist Party's propaganda work, and is the Task Force's political duty. According to an April 28 Xinhua [report](#) (in Chinese), Long said it is necessary to intercept, confiscate, and strike hard at illegal political publications at their points of transportation, publication, and sales.

According to a May 1 Xinhua [report](#) (in Chinese), following the conference, Liu Binjie, deputy director of the GAPP, announced that the Task Force's "summer campaign" would focus on four areas:

1. Protecting intellectual property;
2. Eliminating publications that are obscene, promote terrorism and violence, and other kinds of "harmful cultural information;"
3. Striking hard at illegal and pirated teaching and educational materials; and
4. Shutting down and confiscating illegal political publications.

National People's Congress Standing Committee Enacts Law on Passports

The National People's Congress Standing Committee enacted the [Law on Passports](#) (Law) on April 29. It replaces the 1980 [Regulations on Passports and Visas](#) (Regulations) and will become effective on January 1, 2007.

The Law provides clearer rules than the previous Regulations about the conditions under which Chinese authorities may refuse to issue citizens a passport. Article 13 provides that the government may deny a passport application if the applicant is not a Chinese citizen, cannot prove his or her identification, commits fraud in the application process, is currently serving a prison sentence, is subject to a court order not to leave the country as a result of a pending civil case, or is a suspect or defendant in a criminal case. In addition, Article 13 says that Chinese authorities may deny passport applications if State Council ministries determine that the applicants' activities would harm national security or state interests. Official discretion to deny passports is more restricted under the language of the new Law than under that of Article 4 of the 1980 Regulations, which provides that authorities have blanket authority to deny passport applications. Article 20 of the Law provides that passport officials who fail to issue passports according to the above standards should receive disciplinary or legal sanctions.

Chinese officials deny passports to Chinese citizens living abroad who express views critical of the government, preventing them from returning to China and contravening international human rights standards. Article 12 of the [International Covenant on Civil and Political Rights](#) (which the Chinese government has [signed](#) but not ratified) provides both that "[e]veryone shall be free to leave any country, including his own" and that "[n]o one shall be arbitrarily deprived of the right to enter his own country." But Chinese citizens who are Falun Gong practitioners in the [United States](#), [Italy](#), and [Ireland](#) have reported that consular officials denied their requests to renew their passports to return to China. Practitioners have alleged that consular officials demanded that they renounce Falun Gong as a condition for processing their passport renewals, and

cited their refusal to do so as a reason for preventing their return to China. Throughout the 1990s, Chinese consular officials in the United States [refused](#) to issue a passport to Yang Jianli, a democracy activist, thereby barring him from returning to China legally. Yang is currently serving a five-year prison sentence in China in part for having entered the country on another person's passport. The UN Working Group on Arbitrary Detention has found that Yang's detention was arbitrary. For more information on Yang Jianli's criminal case, see the CECC's analyses in [October 2004](#), [December 2004](#), and [January 2005](#), along with case information searchable through the Commission's [Political Prisoner Database](#).

Two Ethnic Minority Web Sites in Inner Mongolia Closed

Authorities in the Inner Mongolia Autonomous Region closed down an ethnic Mongol bulletin board service (BBS) in April after the BBS posted messages from "overseas separatists," while a Web hosting company shut down another site in Inner Mongolia the same month after it permitted online chatting in the Mongolian language, according to a May 11 [report](#) from the Southern Mongolian Human Rights Information Center (SMHRIC). The events follow the [closing of two Inner Mongolian Web sites in September 2005](#) for allegedly posting separatist materials.

According to the SMHRIC, authorities closed down the "Mongol Youth BBS" (Mongol Zaluus BBS) on April 21, claiming that the site had exceeded its storage capacity. The SMHRIC contacted a forum administrator of this bulletin board, who said the closing was motivated by messages posted by alleged overseas separatists who were gathering information on conditions in Inner Mongolia. The [Web address](#) for this bulletin board now points to the Web site "Mongol Homeland Forum."

The SMHRIC also reports that on April 19, Web administrators ordered participants in the "Mongolian Net Communications" (Mengguzu Wangtong) chat room to "stop using the Mongolian language when chatting since all Inner Mongolians are Chinese citizens and therefore their mother tongue should be Chinese." The administrators also alleged that members had promoted Mongolian independence. The chat room was removed from its [hosting site](#) on April 23, after chatting in the Mongolian language continued. Under the PRC [Regional Ethnic Autonomy Law](#), ethnic minorities have the right to use and develop their own languages, but other government regulations create conditions that stifle expressions of ethnic identity. Chinese provisions and measures require [electronic bulletin board](#) and [Internet information providers](#) to censor content deemed to jeopardize ethnic and national unity and to report attempts to post such materials to authorities. These regulations do not, however, provide guidelines for evaluating such materials.

For more information on conditions for ethnic Mongols in China, see related CECC analyses on [land disputes in Inner Mongolia](#), the [arrest of a Mongol medical specialist](#), and [Mongol efforts to bar construction of a Genghis Khan theme park](#), as well as section III(a), "[China's Minorities and Government Implementation of the Regional Ethnic Autonomy Law](#)," in the 2005 CECC [Annual Report](#). See also the CECC [Political Prisoner Database](#) for information on Mongols imprisoned for advocating ethnic minority rights.

Shenzhen Authorities Detain Five for Importing Publications Without Permission

Law enforcement and customs officials in the Shenzhen Special Economic Zone raided three rented rooms and took five people into custody for storing and selling 120,900 "illegal foreign books" on May 30, according to a June 7 Southern Metropolitan Daily [report](#) (in Chinese). The report did not say why the government considered the books illegal, but Article 41 of the [Regulation on the Administration of Publishing](#) prohibits people from engaging in "publication importation services" without government authorization. In addition, Article 3 of the [Provisions on the Administration of Printed Materials and Audio/Visual Materials Imported or Exported by Individuals Via Carriage or Post](#) states that anyone importing publications for personal use must report it to customs authorities and submit to inspection.

The [Universal Declaration of Human Rights](#) and the [International Covenant on Civil and Political Rights](#) state that restrictions on freedom of the press are permissible, provided they are prescribed by law and are necessary to prevent the dissemination of speech that is obscene or defamatory, that poses a realistic threat to national security, or that is false and threatens public order. As the CECC noted in its [2004 Annual Report](#) -- [Free Flow of Information](#) section, however, Chinese customs officials use their authority under these provisions to confiscate Chinese language newspapers that individuals attempt to bring into China, as well as politically sensitive books published abroad, such as The Tiananmen Papers. In addition, Article 5 of the provisions imposes a blanket restriction on the private importation of religious publications to an amount "suitable for personal use." The [Provisions on the Management of the Religious Activities of Foreigners Within the PRC](#) and the [Detailed Implementing Rules for the Provisions on the Management of the Religious Activities of Foreigners Within the PRC](#) contain similar restrictions with respect to foreigners.