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CHINA'S PERVASIVE USE OF TORTURE

HEARING

BEFORE THE

CONGRESSIONAL-EXECUTIVE COMMISSION ON CHINA

ONE HUNDRED FOURTEENTH CONGRESS

SECOND SESSION

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CHINA'S PERVASIVE USE OF TORTURE

THURSDAY, APRIL 14, 2016

CONGRESSIONAL-EXECUTIVE
COMMISSION ON CHINA,
Washington, DC.

The hearing was convened, pursuant to notice, at 2:29 p.m., in Room 210, HVC, Hon. Christopher Smith, Chairman, presiding.

Also Present: Representatives Franks, Hultgren, and Walz.

OPENING STATEMENT OF HON. CHRISTOPHER SMITH, A U.S. REPRESENTATIVE FROM NEW JERSEY; CHAIRMAN, CONGRESSIONAL–EXECUTIVE COMMISSION ON CHINA

Chairman SMITH. The Commission will come to order. Good afternoon to everybody. Thanks for being here.

Gao Zhisheng's account of the torture he experienced is shocking, offensive, and inhuman. From the time he was first arrested in 2006 until his provisional release in 2014, Mr. Gao was regularly hooded and beaten, shocked with electric batons, had toothpicks inserted in his genitals, was sleep deprived and malnourished, and his life was threatened repeatedly by guards and fellow prisoners.

Mr. Gao was tortured because he dared to represent persecuted Christians and Falun Gong practitioners, and because he was critical of China's legal system. Gao wanted what was best for China, but he got the worst.

Mr. Gao's wife, Geng He, submitted testimony to this hearing, and I urge all of you to read it. It is over on the side and we will make it a part of the record without objection.

It is for Gao Zhisheng and the many other victims of torture that we are holding this hearing today. We are here today to shine a light on the brutal, illegal, and dehumanizing systemic use of torture in China. We shine a light in the dictatorship because nothing good happens in the dark, and as we will learn today, there are some very dark places in China where torture is used regularly to punish and intimidate political and religious prisoners as well as their lawyers.

We are also here to urge the U.S. Government to make ending torture a higher priority in bilateral relations and to urge the Chinese Government to fully enforce and implement its own laws. A country with China's global leadership aspirations should not engage in horrific practices so thoroughly condemned by the international community.

As our witnesses will describe today in great detail, the use of torture is pervasive in China's detention centers and criminal justice system. Torture is used to extract confessions for prosecution

and the coerced televised public confessions we have seen so often in the past year.

Torture is also used to punish those political prisoners the Chinese security forces view as destabilizing forces. Under President Xi Jinping, there has been an expansion in the number of individuals and groups viewed as threats to national security.

The victims of torture are very often human rights advocates and lawyers, union activists, members of non-state controlled Christian churches, Falun Gong practitioners, members of the ethnic minority groups like Tibetans as well as Uyghurs.

Chinese officials repeatedly tell me I should focus more on the positive aspects of China's human rights and not on the negative. This is a difficult task when you read Gao Zhisheng's story or read the testimony of our witnesses, Golog Jigme and Yin Liping, who will present in just a moment.

Nevertheless, I want to recognize that there have been changes made recently to China's Criminal Procedure Law that purport to prohibit the use of confessions obtained through torture and the requirement to videotape interrogations in major cases. According to Human Rights Watch, however, judges' videotaped interrogations are routinely manipulated, and police torture the suspects first and then tape the confession.

As professor Margaret Lewis will testify today, "Preliminary indications are, however, that recording interrogations is not significantly changing the culture of extreme reliance on confessions as the primary form of evidence in criminal cases. When I viewed an interrogation room in a Beijing police station last October, the staff was keen to point out the video technology. What I could not help but notice was the slogan 'Truthfully confess and your whole body will feel at ease.' They were looking down at this while they were sitting in the 'tiger chair.'" She says, "Faced with this slogan during prolonged questioning makes crystal clear to the suspect that there is no right to silence in Chinese law."

Perhaps there may be Chinese officials who want to end the use of torture in detention facilities and curtail the force and influence of the public security bureau. Their efforts should be encouraged and, of course, supported. But as with many other things in China, particularly in the realm of human rights, with each step forward, or seemingly forward, there is often a step back and sometimes two.

China's laws are too often either selectively implemented or completely ignored by security forces and the courts. Security forces, faced with the end of labor camps, created new forms of extralegal detention, such as "black jails" or residential surveillance in undisclosed locations where torture can continue without oversight or interruption.

Until suspects have lawyers at interrogations, until all extralegal detention centers are abolished and police and public security forces are held accountable for abuse, China's existing laws will continue to be undermined by existing practice. The U.S. Government must find effective ways to address this issue urgently at the highest levels because hundreds of thousands of Chinese people are victims of shockingly cruel, illegal, and inhumane activities.

Last week, the White House said that President Obama "reiterated America's unwavering support for upholding human rights and fundamental freedoms in China." President Obama has only a couple more meetings with Xi Jinping before his administration ends. He should make ending torture a priority.

This issue touches on so many other human rights issues that are also critical ones for U.S. economic and security interests in China, like protecting the rights of political prisoners, the right of due process in the arrest of human rights lawyers, curtailing police powers, and the expansion of national security laws that target peaceful reform advocates, encouraging an independent judiciary, protections for the freedom of expression and freedom of religion, and encouraging the establishment of the rule of law in China.

Torture will not end until the price of bad domestic policy is too high for Chinese leaders to ignore, or Chinese leaders understand that the use of torture harms their global interests. It already absolutely harms their standing in the world, and both the UN and the Special Rapporteur's Report, which, like the previous one, is a scathing indictment of the China's systematic use of torture.

President Obama should not only hesitate to name names and shine a light on horrific practices that the Chinese Government says it wants to end. If nothing else, doing so would bolster the spirits of those prisoners of conscience who are rotting in Chinese jails.

I will never forget when I first met Wei Jingsheng in Beijing in the early 1990s, when he was briefly let out of prison in order to get the 2000 Olympics, which they did not get, and they rearrested him and tortured him some more. He said, "You Americans and the world do not understand that when you kowtow to the Chinese leadership, when you are afraid to look them in the eye and speak boldly about human rights, they beat us more in the prisons. But when you are predictable and strong, and you have a resolve that they know is real, they beat us less." It gets right down to the level of the jails.

As a Washington Post editorial concluded last week, private discussions about human rights are important, but so is public messaging. Autocrats and dictators need to know unequivocally that the United States sees the freedom of expression, religion, rule of law, transparency, and an end to torture as critical interests necessary for better bilateral relations and to lengthen the expansion of mutual prosperity and integrated security.

I would now like to call on our witnesses, and we will be joined shortly by members of the House and Senate. Two of our members are in an intelligence briefing, Marco Rubio, for example; but he is making his way over here and will leave that shortly. Again, I want to thank all of our witnesses for being here and, without objection, your full statements and any information and additional materials you would like to add to the record is made in order, and we will include them in the record of this proceeding.

I would like to begin with Professor Margaret Lewis, professor of law at Seton Hall University, from my state. Welcome.

Professor Lewis will discuss the Chinese Government's track record in implementing criminal procedure reforms to prevent tor-

ture and the continuing use of extralegal forms of detention despite the abolition of reeducation through labor in 2014.

She will also talk about the unprecedented crackdown on human rights lawyers in July 2015 that led to the interrogation and harassment of hundreds of lawyers and their families, as well as the recent arrest of at least 11 of them on state subversion and inciting state subversion charges—nebulous charges at that.

Additionally, she will share observations regarding forces or coerced confessions extracted through mistreatment of criminal suspects, including recent high-profile cases involving activists, lawyers, booksellers, and others.

We will then hear from Golog Jigme, a Tibetan Buddhist monk, a human rights advocate, and a survivor of torture in Chinese detention centers, now living in exile in Switzerland. Mr. Jigme will discuss his personal experiences of torture at the hands of Chinese authorities during three periods of detention, 2008 to 2009 and 2012, as well as broader issues regarding the treatment of Tibetans in detention.

We will then hear from Yin Liping, a Falun Gong practitioner and survivor of torture in reeducation through labor camps, now living in the United States after being accorded refugee status in December of 2015. Ms. Yin Liping will discuss her personal experiences of torture at the hands of Chinese authorities during three periods: 1999, 2002, and 2004.

Then, finally, no stranger to this Commission or to another committee I chair, the Human Rights subcommittee of the Foreign Affairs Committee, is Sophie Richardson—and we welcome her back—who is the China Director of Human Rights Watch. Dr. Richardson will address documented cases in pretrial detention and problems with access to lawyers and medical treatment that were featured in Human Rights' May 2015 report and others, and on the devices known as tiger chairs and many other aspects relating to that.

She will also comment on the UN Committee against Torture, including her concluding observations, and the Chinese Government's participation in international human rights mechanisms. Dr. Richardson will provide policy recommendations to the Commission. All the others, of course, also are welcome to do so, as well as recommendations to the U.S. Government.

Without objection, we are including written testimony by Geng He, wife of human rights lawyer, Gao Zhisheng—as I mentioned earlier—as someone who this Commission and I and many of my colleagues have followed and who has spoken out repeatedly on his behalf. We will put her testimony into the record.

So, Professor Lewis, the floor is yours.

[The prepared statement of Ms. Geng He appears in the appendix.]

STATEMENT OF MARGARET K. LEWIS, PROFESSOR OF LAW, SETON HALL UNIVERSITY SCHOOL OF LAW

Ms. LEWIS. Thank you, Mr. Chairman. I am privileged to be invited to participate in this hearing. I also need to say, having worked closely with your staff on the 2015 Annual Report, that I

saw firsthand what an exceptional group of people you have supporting this Commission.

In addition to these brief opening remarks, I have submitted a more detailed statement that is available outside.

I want to begin by recognizing that China is undertaking a sizeable basket of reforms having to do with criminal justice. It is understandable that these reforms will take time to implement, both because of resource constraints and because of the entrenched practices of the police, the prosecutors, and the courts.

These transitional challenges are fundamentally different, however, from the government's decision to selectively ignore legal protections embodied both in Chinese law and international legal norms. Here lies the key problem: The Chinese Government places perpetuating one-party rule above a robust commitment to the rule of law and human rights.

For example, it is extremely rare for a court to use procedures in the Criminal Procedure Law for excluding illegally obtained evidence. Admittedly, courts should rarely have to exclude evidence if police and prosecutors are doing their jobs and not relying on illegally obtained evidence.

That said, ongoing concerns about the courts' unwillingness and even inability to stand up to police, coupled with personal accounts of coerced confessions, stretch the bounds of credulity that the careful work of police and prosecutors is what is responsible for the rare invocation of these rules.

The PRC Criminal Procedure Law also provides that no person shall be found guilty without being judged as such by a court. But the nearly 100-percent conviction rate in China underscores that the determination of guilt in practice occurs before a defendant enters a courtroom.

Any movement toward establishing a presumption of innocence has been further undermined by the disturbing practice of televised confessions, effectively replacing formal court proceedings with public shaming.

One of the more encouraging recent developments in criminal procedure reform has been the use of audio and video recordings of interrogation in serious cases. It is not yet of all cases.

Preliminary indications are, however, that the recording of interrogations is not significantly changing this culture of relying on confessions as the primary, if not sole, form of evidence in criminal cases. As the Chairman noted, when I was fortunate to visit a police station in Beijing, I was excited to see that there was videotaping technology. The staff was very quick to point this out.

What they did not point out—but what I could not help but notice was literally written in the floor right in front of the constraining metal interrogation chair—was the saying, "If you confess, your whole body will feel at ease." This is what a suspect faces while they are undergoing prolonged interrogation by the police. There is no right to silence, currently, under Chinese law.

The value of interrogation recordings is further limited if the defense has a difficult time accessing those recordings, or if there simply is no defense lawyer, which is the case in most cases today in China. Suspects need lawyers both to understand their rights and then to have someone actually advocate for those rights. Yet,

the Chinese Government is taking an increasingly hostile stance toward defense lawyers. Defense lawyers risk reprisals by the government, rather than praise for their contributions to the rule of law.

Turning to forms of detention outside of the formal criminal justice system, a variety of measures persist despite the end of reeducation through labor. While forms of so-called detention like compulsory drug treatment centers and custody and education centers have at least some basis in Chinese law, they do not satisfy international requirements for the legal review that must precede long-term deprivation of a person's liberty.

The Chinese Government also takes actions without any legal basis to silence voices perceived as threatening to the existing political structure. The fact that extralegal measures like "black jails" are not officially recognized complicates efforts to estimate their prevalence.

The Committee against Torture has stated that it "remains seriously concerned at consistent reports from various sources about a continuing practice of illegal detention in unrecognized and unofficial detention places. . . ."

This concerning state of affairs leads to the question, What are the implications for U.S. policy? I encourage U.S. policymakers to think of efforts to improve human rights in China on three levels: multilateral, bilateral, and unilateral.

Multilaterally engaging China through international bodies like the UN Committee against Torture emphasizes that China is being judged by the yardstick of international human rights norms to which China has voluntarily subscribed, not by standards imposed on China by the United States or any other country.

Bilaterally, the official U.S.-China Human Rights Dialogue and the slightly less official Legal Experts Dialogue are important forums, though I think we must keep our expectations very modest for the ability of these forums to actually spur legal reform right now in China.

Non-governmental organizations and American universities further serve an important role in organizing meetings between Chinese and American experts. Conversations with Chinese participants at these meetings restore my faith that there are many reform-minded people both inside the government and outside the government who are working to further criminal justice reforms.

Building interpersonal ties at these meetings is not an immediate deliverable, but instead this effort is going to lay the groundwork for long-term cooperation after the current political winds shift, whenever that may be.

Finally, the increasing resistance by the Chinese Government to engage meaningfully in discussions of human rights sometimes requires taking a unilateral stance. I was in Beijing when the government announced the trial date for the renowned civil rights lawyer Pu Zhiqiang on charges of inciting ethnic hatred and picking quarrels and provoking trouble through comments on his microblogs.

The U.S. Embassy's request that a representative be able to attend the trial was, not surprisingly, denied. Undeterred, a senior diplomat stood outside the courthouse and read a statement ex-

pressing concerns about Mr. Pu's treatment. Literally taking a stand on the courthouse steps reaffirms to ourselves that, despite our own country's transgressions sometimes of human rights norms, we remain committed to the fundamental dignity and rights of all human beings.

When President Obama addressed the treatment of detainees in the aftermath of 9/11 at a 2014 press conference, he recognized that "we tortured some folks." He continued that a detailed government report addressing instances of torture, "reminds us once again that the character of our country has to be measured in part not by what we do when things are easy, but what we do when things are hard."

While in China last December, several Chinese scholars and practitioners suggested that we stop focusing so much on what they term the exceptional cases when there have been marked reforms to the criminal justice system as a whole. I responded that the character of China's criminal justice system has to be measured not just by the handling of relatively easy, run-of-the-mill cases like petty thefts or assaults but also by the blatantly politically motivated prosecutions, even if such cases represent a relatively small percentage of all criminal cases.

The Chinese Government's failure to live up to the legal standards that it sets for itself in these hard cases undermines the legitimacy of the entire system.

Thank you for the opportunity to provide a statement and I look forward to our discussion with the Commission.

Chairman SMITH. Professor Lewis, thank you very much for your statement and thank you for complimenting the staff of this Commission, which are among the most knowledgeable and effective people.

Our report, as you know, that comes out is so heavily footnoted—almost half of our footnotes are because the research is so in-depth. I compare that to what the Chinese Government just did in their release on alleged human rights abuse in the United States, which we welcome.

As you point out, and I did a VOA talk show this morning. It was broadcast into China. Some of the call-ins were critical of the U.S. policies, and I said, criticize away. Criticism helps when it is benign; especially when it is well-meaning and constructive, it helps us to reform.

Just to come back to the Human Rights Report issued by the U.S. Department of State, which was, again, a near-scathing indictment of many of the practices that China's government engages in. People are going to break laws, and you have got to have due process rights, defense attorneys.

So I thank you for your input to our work on that important report.

Now I would like to recognize Golog Jigme, and thank you for being here today.

[The prepared statement of Ms. Lewis appears in the appendix.]

STATEMENT OF JIGME GYATSO, TIBETAN BUDDHIST MONK; HUMAN RIGHTS ADVOCATE; AND FILMMAKER

Mr. JIGME. First of all, I would like to offer my heartfelt gratitude to Congressman Smith, and to Members of the CECC, and those gathered here. My name is Golog Jigme. I consider myself a freedom fighter. I consider myself a social worker and filmmaker. As a result of our making the film "Leaving Fear Behind," we had some issues.

My written statement has already been submitted to you. What I would like to describe now is a little more about the torture that I experienced during the three different detentions that I had to undergo.

The real reason why we made the film "Leaving Fear Behind" is because overall Tibetans do not have human rights; Tibetans do not have democracy, including religious freedom, freedom of expression. Around 2007, the Chinese started propagandizing about how good the situation in Tibet was, how progress was being made in Tibet. That was all in connection with the upcoming Olympic Games. So we made that film to show the reality of Tibet to the world.

That film conveys the true feelings of the Tibetan people about their situation. In 2008, as you know, there were widespread demonstrations all over Tibet. In my hometown—I was then in Labrang—there were demonstrations on March 14 and 15. I participated in those demonstrations.

On March 23, I was detained for the first time. The nature of my detention then—I am just a simple monk—when they came to detain me, they came with 300 soldiers, 60 PSB [Public Security Bureau] personnel, and they had machine guns in front of me and behind me. They also brought electric cattle prods and other instruments of coercion.

I had seen the machine guns as I was lifting my head up when I was taken away. I looked up and there was one up there in the front, and there was one behind down there. There were people with guns pointed at me. So from the very nature of my detention, it is clear how counterfactual the Chinese propaganda is about Tibetans being given equality, Tibetans having rights, or Tibetans having progress.

I was taken to a room nearby where a security person was waiting. Then I was stripped naked and searched, and then my beatings began the whole night. Today, I want to give just a shortened version of the nature of the suffering that I underwent because if I explain in detail, it will take a long time.

I was then taken to a place called Kachu (Chinese: Lingxia) in that same region. There I was kept for 1 month and 22 days during which I continued to experience torture.

During this period, the main tool for torture that they used was what is called a "tiger chair." I was shackled on a chair like this: Both my feet and my hands were shackled. I was kept hanging on that chair nine times.

They had a strong light that was shone on me. As a result of all of this, my sensations failed, and although I knew that I was being beaten on my back with different instruments, I could not feel, except I could see the blood coming out of my body.

During that period—in terms of food—if you got one small roll of bread a week, that was very good. In one week, if you got a little bit of water, that was also good. So if you think in terms of that, rather than feeling hungry, the feeling of thirst was worse for me.

Among the many reasons why they tortured me was—first, that they wanted to know who the people that we interviewed were—for the film that we made. They wanted us to reveal their names.

Second, they wanted me to reveal the names of those who participated in the demonstrations that I participated in on March 14 and 15, 2008, in Labrang Monastery.

Today as I have this opportunity to address you here in the United States and as I have had the opportunity to address people in Europe, one thing that I am proud of is that despite all the torture that the Chinese inflicted upon me, I have not given up one name to them, whether it is those people involved with the film or with the demonstrations. So I can hold onto that as my principled stance even until my death.

When I did not reveal any names to the authorities, they said, "You do not seem to be giving us anything at all, so your mouth is useless. Therefore, we need to do something about your mouth." So they burned my mouth twice. That was very painful.

In addition to the physical torture that I briefly described, they also inflicted mental torture on me. That included asking me to speak ill of His Holiness the Dalai Lama, asking me to criticize the Central Tibetan Administration, asking me to say that I am a member of the Tibetan Youth Congress, and asking me to reveal the names of the members of the Tibetan Youth Congress.

Then they taunted me further, saying, "There is no one who will save you. The United States will not save you." At that time, President Bush was the President of the United States. They taunted me by showing me a phone, and saying, "Just call President Bush and see if he saves you. Just try calling the Dalai Lama to see if he saves you."

So it was like that. They said, "You will die like a dog and nobody will care about you."

Physical torture, although it was bad, was something that I could endure. But the mental torture that was inflicted upon me was something that I could not endure. I was physically tortured during my first two detentions in 2008 and 2009. At one time, during my third detention in 2012, they even wanted to kill me. Upon learning that, I had to escape.

So on September 30, 2012, I escaped, and for a year and several months I hid. Eventually, I was able to escape to India. In January 2015, I arrived in Switzerland, where I was given asylum. I want to end by saying that in 2007, on October 17, when the U.S. Congress decided to bestow the Congressional Gold Medal on His Holiness the Dalai Lama, we the people in Tibet felt it. I was in Tibet then. We saw it. So it was very gratifying.

Therefore, as I sit here today to talk to you about it, I also note that the United States cares about access to Tibet for people within Tibet, domestically, as well as for foreigners wanting to visit Tibet. Therefore in your 2015 Annual Report, you mentioned the issue about domestic travel for Tibetans as well as access for journalists, diplomats, and others. I wholeheartedly support that.

There are other recommendations that I have made that are in the written statement, so I will not talk about them now.

Chairman SMITH. Mr. Jigme, thank you very much for your testimony and for such difficult insights as to what you have suffered. I deeply appreciate—the Commission does—your testifying today.

Yin Liping, you are recognized for such time as you may consume.

[The prepared statement of Mr. Jigme appears in the appendix.]

STATEMENT OF YIN LIPING, FALUN GONG PRACTITIONER

Ms. YIN. I really appreciate the CECC Chairman, Mr. Smith, inviting me here. My name is Yin Liping, Falun Gong Practitioner from Liaoning province, China.

I would also like to thank the Members of the U.S. Congress and the Members of the European Parliament for rescuing me and admitting me into the United States. I arrived in this free land on December 10, 2015.

I was arrested seven times in China, tortured to the verge of death six times, and detained in labor camps three times, where I was made to do slave labor for nine months. I was sexually attacked and humiliated, and videotaped by a group of male prisoners while in police custody, all because I refused to give up my faith in Falun Gong. [Photo Display.]

This is Masanjia Forced Labor Camp, notorious for persecuting Falun Gong practitioners.

I was kept in Masanjia three times. In Mid-September 2000, Masanjia Director Su Jing addressed an assembly of hundreds of jailed Falun Gong practitioners: "This is a war without guns. Our government has spent more money persecuting Falun Gong than fighting an international war."

They also mentioned that the "transformation" rate must be 100 percent. "Transformation" is a word they use for forcing Falun Gong practitioners to give up their belief. When I heard this word, I was so scared.

On the fourth floor of that Masanjia building is a solitary confinement, a small area. I was jailed there. They kept broadcasting loud voices for so long that even now when I turn on a TV set, I am scared to turn it on.

Also on the first floor of another building in Masanjia, in 2004, I was kept in one of the rooms and I met an old lady, Ms. Qing from Fushun city. We talked to each other and promised each one that whoever survived this torture would come out and tell the world what we suffered. Unfortunately, I heard that the old lady, Ms. Qing, was already persecuted to death.

I was sent to the clinic of Masanjia due to my hunger strike. I was cuffed to a bed and injected with unknown drugs for over two months. This caused me to temporarily lose my vision. I was also put through involuntary ultrasound, electrocardiogram, and blood tests at a nearby hospital.

As a result, I developed endocrine disorders, incontinence, and had blood in my urine. In addition, their frequent violent force-feeding almost suffocated me.

Since I had never been "transformed" by them, one day I was transported to a very special location—I did not know at the time what that place was.

I will never forget the date, April 19, 2001. That morning, eight other female Falun Gong practitioners and I were handcuffed by male guards and taken to a police van. The van stopped at a men's labor camp. Later we learned it was Zhangshi Male Forced Labor Camp.

Then we were lined up in the courtyard. A policeman read an official announcement to us: "If a Falun Gong practitioner is beaten to death, the death will be counted as a suicide." We were told many times by policeman that this was a direct order from Jiang Zemin, then head of the Chinese Communist Party.

We were taken to nine different rooms—because there were nine of us. I was sent to the first room. There was a large double bed and a floor hanger in the room. Four men were already in the room waiting. When I went to the public restroom, I saw there was a big room with more than 30 men sleeping there.

I was so frightened and wondered what kind of place this was. Who were those men? Why were there so many men sleeping there?

And then I got the answer that evening. Those men all got up, made a lot of noises, banged on doors, and kept on shouting dirty words. They kicked open my room door and held a camcorder, videotaping me.

Then I heard my best friend, Ms. Zou Guirong's voice from the hallway shouting around 10 p.m. She kept calling my name, "Liping! Liping! We were sent from a wolf's den to a tiger's den. This government is a bunch of gangsters."

Hearing her miserable cries, I rushed into the hallway and met Ms. Zou there. We held each other tightly no matter how much the men beat us. One man used the wooden floor hanger in the room and hit my head. However, I desperately still wanted to protect her since she was shorter and thinner than me. The corner of my right eye was swollen from the beating.

Then my clothes, at the time, were torn off. I was almost naked. Ms. Zou and I were dragged back to our individual rooms.

Four or five male inmates threw me onto the bed. Some held my arms, some held my legs. One young man, around 30 years old, sat on me and beat me. I became dizzy and passed out. My memory stops there.

When I became conscious, three men were lying beside me; one on my left, two on my right. There was one sitting on the floor above my head. There were two others standing between my legs; one videotaping, one was watching. There were a few others standing below me.

I realized that I had been videotaped when I was sexually attacked and humiliated by gangs of inmates. I swore to myself, "If I ever get out of here alive, I will disclose their crimes and bring them to justice. If I die, my soul will never let them off the hook."

Chairman SMITH. Ms. Yin, if we could just take one brief moment. There is a—it will give you time to collect yourself as well. I thank you for your willingness to tell us, the Commission, and by extension other Members of Congress what you have been through.

We do have five votes on the floor. We are almost out of time on the first. We will take a short recess. Other Members, I know, will be coming back. Again, I thank you for your courage in coming forward, but we will take a very brief recess. I thank you for your forbearance.

[Whereupon at 3:23 p.m. the hearing was recessed.]

AFTER RECESS [3:31 P.M.]

Chairman SMITH. We will reconvene. We are in the middle of votes, but we have a short—we are joined by Commissioner Trent Franks who is also Chairman of the Judiciary Subcommittee on the Constitution and also Chairman of the Religious Freedom Caucus in the House. It is a delight and a privilege to recognize my good friend and colleague, Commissioner Trent Franks.

STATEMENT OF HON. TRENT FRANKS, A U.S. REPRESENTATIVE FROM ARIZONA

Representative FRANKS. Well, thank you, Mr. Chairman. I think probably most people in this room know that Chairman Smith is one of the great human rights advocates in the Unites States Congress for the past 30 years. He has the deepest respect on my part and I know many of yours.

I guess the primary thing that I would say to all of you is that your efforts are not wasted here. Only God knows what fruits will come from your talk here, but you are being responsible and you are letting your compassion, your commitment to humanity prevails here in this forum.

Torture is something that those who are perpetrators and those who are observers are completely shamed by it and the more that you are able to express it in open terms, the more that there are people out there that you will never see that will be spared that tragedy.

I just want to express the deepest gratitude on my part to all of you and just the honor that I afford to all of you because of your commitment. I am convinced that one day if time turns every star in heaven to ashes, that the eternal moment of deliverance will come to every last one of God's little children. Until then, he has given us the responsibility to do the best we can to prevent hurt and tragedy in their lives, and I thank you for exhibiting that commitment today.

With that, Mr. Chairman, I will yield back.

Chairman SMITH. Thank you very much, Commissioner Franks. I would like to now recognize Ms. Yin to continue your testimony.

STATEMENT OF YIN LIPING, FALUN GONG PRACTITIONER (Continued)

Ms. YIN. The following paragraphs are related to how I was force labored.

In 2000, January through September, I was transferred to Liaoyang Forced Labor Camp for nine months. For those nine months, I had so much forced labor.

In the daytime I had to load eight tons of steel bars onto trucks in a team of only four people. On those iron steel bars, there are a lot of thorns, sharp edges. I have always been cut on both of my

arms, bloody and cannot recover—even though the old one has not recovered, the new cuts are coming up.

Also, we need to bind flowers in the evenings until 2 a.m. Those flowers are used for exports. My hands were so badly injured because of what they needed to finish the quota—the flowers also are so very thorny, that my fingerprints disappeared and are also bloody.

Because I still do not want to be "transformed", they don't allow me to sleep. My menstrual period stopped within three months over there. I also threw up blood. My hair turned gray. They do not allow us to meet our family members. Almost all of the products we made were exported to overseas.

I have been suffering so much persecution, and I have written that down online. However, I want to spend a bit more time about this book. [Photo Display.]

This book was authored by Mr. Du Bin. He was a former New York Times reporter. There is a sentence from him I just want to recite. "To all of those who have suffered in China, the forced labor system, those who have been persecuted, punished, humiliated women—Chinese men like me, the only thing I can do is to send my very minor respect and sorrow."

Mr. Du Bin collected those survivors' testimonies of Masanjia Forced Labor Camp, all of their tortures, what they suffered from, those different torture methods, and particularly sexual abuses and crimes. Also, most of those are Falun Gong practitioners and other prisoners of conscience. [Photo Display.]

This is my hometown's Falun Gong practitioner. Her name is Wang Ling. You may see she has no teeth in her mouth. Before I escaped from China, I met her. I asked her what happened to your teeth? She said while she was in Masanjia Labor Camp, the policeman put an inspection device for female parts into her mouth and expanded it to the extreme. While doing that, they pulled her teeth out one by one.

In the meantime, the police put female sanitary napkins, dirty clothes, and even spit in her mouth. She also said, she was put into a place where she was stretched to the extreme and put into a cage. Then the policeman used three toothbrushes tied together and inserted into and stirred up her private part. That is what she told me.

There are so many other torture methods that have not been exposed. The persecution is still going on, even while we are speaking now.

Because of the time limit, I would like to talk a little bit about those lawyers who help Falun Gong practitioners in China.

We all talk about Mr. Gao Zhisheng, lawyer, and he helped a lot of Falun Gong practitioners in China. Because Mr. Gao's story has been exposed to the world, and other lawyers in China have learned from Gao Zhisheng's stories, they want to come out to help more Falun Gong prisoners such as those who I just talked about: lawyer Wang Yu, lawyer Wang Quanzhang, lawyer Tang Jitian, and many other lawyers in China.

Because of those lawyers, other human rights lawyers are willing to come out and help Falun Gong practitioners in China. Now a lot

of Falun Gong practitioners need their help and they formed like a news information group. They communicate with each other.

Because of those lawyers' help, the pressure from the Chinese Government on the Falun Gong practitioners is a little bit not so much. It's been helpful.

Unfortunately, on July 9, 2015—I will never forget about this day—I learned that lawyer Wang Yu was arrested that morning. Then we quickly had this internet group set up to rescue him. Luckily, I was in that group.

So a lot of other lawyers are trying to think about how to rescue lawyer Wang Yu. Unfortunately, in the evening, news from around all of China, in each city, large-scale arrests of lawyers happened.

That evening I could not sleep. I was paying very close attention to what was going on. Actually on July 6, I already submitted my suing paper, document, to the legal system in China to sue Jiang Zemin.

I thought because during that period a lot of Falun Gong practitioners are suing Jiang Zemin legally in China—then within a couple of days they have a large-scale arrests of those lawyers. So I didn't sleep for two nights. I really worry about Falun Gong practitioners, but not only Falun Gong practitioners, but also other persecuted groups in China.

Chairman SMITH. Ms. Yin, I have got two minutes to get to the floor for a recorded vote. It is an important vote. I will be back right after that, but Senator Cotton and some other Senators, we believe, are on their way as well. So please hold that thought.

We stand in brief recess.

[Whereupon, at 4:07 p.m., the Commission was recessed.]

AFTER RECESS [4:15 P.M.]

Chairman SMITH. We will reconvene. There are no further votes on the House side, so there will be no interruptions.

We are joined by Randy Hultgren, Commissioner. Also you probably have seen him presiding as Chair before 10 o'clock. He will do it again tomorrow. He did an excellent job of managing the House.

I would like to, again, go to Ms. Yin to conclude.

Ms. YIN. Because of the time limit, I will go back and focus more on myself a little. [Photo Display.]

This is a photo of Wang Jie, also a Falun Gong practitioner. She was arrested on October 8, 2002. The reason she was arrested is because she was at the time collecting evidence of the persecution of Falun Gong, and she was sentenced to seven years in jail.

After seven years and just when she was released, she was arrested again in September 2010. When she was released this time, within a year she passed away because of her bladder cancer due to the torture she suffered. I was just sitting next to her bed the last 10 days while she was in the hospital.

On April 21, 2012, the day of her daughter's birthday, she was actually dying. Her sister kept calling her and saying, "Wang Jie! Wang Jie! Please don't die. Please don't die this day, it is your daughter's birthday. How can she live on if you die now?" I do not know if it was Heaven's will or her will—she died around 9 a.m. the next morning in my arms. The other lady, Ms. Zou Guirong, the three of us went through all those persecutions. We promised

each other if any one of us can survive this persecution, we have to come out and tell the whole world our stories, expose those persecutions. Today, I bring both of them with me here to tell the people about what happened. [Photo Display.]

This is another practitioner from Shenyang city [sobbing]. Her name is Gao Rongrong [sobbing]. She was killed because she was also a Falun Gong practitioner. She cannot tell her story anymore.

I really appreciate the opportunity to be here to tell these stories. I took them all with me today.

Chairman SMITH. Ms. Yin, thank you very much again for sharing this with the Commission.

We are joined by Tim Walz. Thank you, Tim, for being here.

We will go to Dr. Richardson for as much time as you would like to use.

[The prepared statement of Ms. Yin appears in the appendix.]

STATEMENT OF SOPHIE RICHARDSON, CHINA DIRECTOR, HUMAN RIGHTS WATCH

Ms. RICHARDSON. Thanks. I think in the interest of welcoming your questions which I think everybody would like to answer, I am going to give you the Readers Digest condensed version.

I do want to say, Chairman Smith, Members of the Commission, thank you so much for your devoted leadership on these issues over the years. We are also extremely grateful for your world-class staff who are excellent colleagues.

I would like very much to associate HRW with Professor Lewis' remarks and to thank Golog Jigme and Yin Liping for their courage and for sharing their stories. I think the facts of the matter are established.

There is only one aspect of this issue, of the issue of torture that we covered in our May 2015 report that we have not talked about this afternoon. I want to take a moment to underscore that to give you a little bit of math or metrics.

In researching this report, we looked at a four-month slice of cases that were available through the Supreme People's Courts' database. We looked at 158,000 court verdicts looking for indications that suspects in criminal detention had alleged torture or ill-treatment in detention.

We found from that universe only about 432 cases which we think is very much a function of the difficulty the criminal suspect face in detention centers, getting claims of ill-treatment lodged with the authorities. Of those 432 cases, only 23 resulted in the court throwing out evidence, but not a single one resulted in an acquittal.

And we only found one prosecution involving three police officers responsible for torture. None of them served jail time, not a one.

Quite simply, police torture and ill-treatment of suspects in pretrial detention remains a serious problem, largely because the measure is taken that were described by Professor Lewis are ignored in practice. They are great on paper. They are not serving suspects in reality.

We had hoped in doing this research that many of the recommendations that we had made could be seized upon by the Chinese Government in advance of its November 2015 review under

the Convention Against Torture, which is taking place about six months after this report came out.

They could have worked to hold police accountable. They could have significantly reduced the amount of time a suspect can be held in police custody before seeing a judge. They could have moved to see that lawyers are present during police interrogations. They could have adopted legislation guaranteeing suspects rights to remain silent. They did none of those things.

In our view, the United Nations Convention Against Torture Review of China was critically important, especially at a time when torture survivors, lawyers, and other activists took so much difficulty accessing any forms of redress inside the country.

The list of issues which sketched out the Committee's concerns was unbelievably detailed and diverse. The actual interactive dialogue was quite extraordinary in that the Members of the Committee did not shy away from asking any of the difficult questions, not a one.

Unfortunately, they were not given the benefit of proper replies. Requests for data went unanswered. Direct questions were responded to with misleading or patently untrue replies. Arguably, the rock bottom moment was when the Chinese delegation leader suggested that tiger chairs, which people have spoken about and is depicted in the photograph on the cover of this report, were in fact used for suspects' "comfort" and "safety". We find that a little bit hard to believe.

You could not ask for a better roadmap to mitigating or hopefully irradiating torture in China, than this document. The Committee is concluding observations.

This is what China needs to do to fix the problem, whether you are talking about Tiananmen survivors or their family members, whether you are talking about North Koreans, Falun Gong practitioners, whether you are talking about criminal procedure reform, it is all there. It raises issues that are foundational.

The very definition of torture—China signed onto this in 1988. Its legal definition of torture still does not match what the Convention requires. It challenges procedural issues that they still have not replied to queries from their last review in 2008.

It addressed a number of the very significant needs for reforms in areas that we have talked about this afternoon. Whether China takes those, of course, remains to be seen.

Most of our recommendations were, of course, geared toward the Chinese Government because we always think that there are steps that the U.S. Government and Congress can take.

I think the first area of focus ought to be whether the United States is using all, and I mean all interactions to press Chinese counterparts on mitigation of torture. By that I mean everything from the Minister of Public Security, Guo Shengkun's, meetings with National Security Advisor, Susan Rice. I mean working level interactions about China's hunt for fugitives or securing nuclear materials. I mean in training programs for Chinese police here in the United States, in the sensitive issue session of the—or in the run-up to the G–20 in Hangzhou in September.

I think U.S. officials have to make clear and set benchmarks that significant progress towards mitigating torture is an essential pre-

cursor to more substantial bilateral law enforcement and other kinds of cooperation.

Chairman SMITH. Would you yield on that? When you talk about law, has the President, has Susan Rice, and has the Secret Service, for example, leading up to the G–20 done that?

Ms. RICHARDSON. Fine question.

Chairman SMITH. Oh, okay. We do not know.

Ms. RICHARDSON. It is a fine question. That and several other aspects of this debate are unclear to me. One of the recommendations I want to make is that it is harder, I think, than it ought to be to get clarity about the precise nature, particularly of law enforcement and any other kind of security force cooperation between the two.

It is amazing how infrequently you hear the term, "Leahy Vetting Invoked with China." I think there should be a review of what exactly this cooperation entails and what opportunities might be missed. So that is one area I think is important to look at.

The other is really in supporting UN mechanisms. And again, I want to stress—we have talked a little bit about the ways in which Chinese activists or activists from the mainland have been restricted in accessing these kinds of reviews in Geneva. They have been harassed. They have been prevented from traveling.

We all know the case of Cao Shunli who died for efforts trying to participate in the UPR. These mechanisms matter enormously for China. It is all people have these days. Obviously they cannot take their cases to court.

So in this sense what I would like to ask you to do is to push China to issue invitations to the Special Rapporteurs on all of these issues: torture, lawyers, and forced disappearances.

Speaking out as you have and we know you will continue to do, when accessed to mechanisms for independent activists the mainland has denied or restricted, we would ask that whenever you are speaking with the Chinese Ambassador to the United States or other officials, you ask why their government is unwilling to provide credible answers in these review processes. The more you reiterate those questions, the harder it is for them to avoid them.

The third area there is a lot of room, I think, for improvement in is in providing support to survivors of torture in the mainland. One aspect we had not been aware of was just how few services there are available to people, whether it is physical rehabilitation or psychological counseling.

The ironies of one of the best known cases, somebody who has been repeatedly tortured and essentially prosecuted for trying to get some redress for having been tortured was stopped on his way to Hong Kong which was the only place in the region where he could find a counselor who could work with him on PTSD. There are almost no services available to people.

I think this ranges from adding the names of torture survivors like people who share their stories with us today, or people like Nian Bin whose case we have written about to your list of cases of concern. You can engage groups like the American Medical Association or the American Psychiatric Association or any USG-funded medical or psychiatric exchanges to see if there is room in their work to actually provide support to survivors.

I am glad Mr. Walz is here because some of the U.S.'s best experts in this realm on assistance to torture survivors are in Minneapolis. They are in L.A. They are in New York. I think those are resources that we should tap. The United States could underwrite training specifically for people to provide these services.

Then last, but not least, I think there is merit in easing the way to the United States or other countries for torture survivors so that they can at least get out and have their stories heard.

I will just close by noting that I swapped emails last night with someone in the mainland who helped us with our research. She closed her message with the hope that someday such discussions would not only take place in Washington and Geneva, but also in Beijing.

In the meantime, she, we, and I am sure many others thank you for having this hearing.

[The prepared statement of Ms. Richardson appears in the appendix.]

Chairman SMITH. Dr. Richardson, thank you so very much.

On the torture victims, I actually authored the Torture Victims Relief Act four times. Then we have a pending bill that would reauthorize it.

We need to ensure that people, the walking wounded if you will—one estimate puts it at a half a million people who are in America, usually people have been granted asylum—carry PTSD or some form of it. I would like to coordinate with you to see how we could further ensure that the suffering Chinese diaspora avail themselves of those services because again, a good psychiatrist, psychologist, a good program may not eliminate the nightmares and the pain, but it could mitigate it. That has been the story of the Torture Victims Center. So I thank you for brining that up.

Let me ask—I will only ask one question then yield to my colleagues. Then I will have a few if time does permit.

The first would be on the—maybe Professor you might want to take this or others. The whole idea of providing video and audio recording of interrogations and "interviews" is often gamed, is often a fraud as it unfolds.

I will never forget—I have been in camps, prison camps in Russia, Indonesia, China, Northern Ireland and many other places. I will never forget being in Long Kesh in Northern Ireland when the British were showing me how—Long Kesh had a terrible reputation for beating people and coercing the coughing up of names and information and confessions.

So they put in these cameras. While I was there on the Potemkin Village tour, talking to the police at the time, they said oh, here in the next room is the monitor and it is all being surveilled and watched.

I said what is this button here? Oh, that's the off button. I said, well what happens in terms of the video if that is hit while someone is being beaten? Nothing.

The person who actually does the auditing is his fellow officer. So there is no kind of—there is a potential conflict of interest that is huge. I am wondering in China where they get kudos in the international community for at least stalling some of this, when it

comes to actual application, it seems to me it just invites fraud. I saw it myself at a Northern Ireland prison.

Ms. LEWIS. So at least some of the video recording equipment is the kind now where if someone enters the room, it turns on. That is what was emphasized to me by legal experts.

Of course, there is the problem of who is auditing the process. You can say the machinery is such that you enter the room, it turns on, but if the whole process is in the hands of the Procuratorate—the prosecutors—and the police, then how do we know that? This was raised in the report by the Committee Against Torture.

Of course, too, it only works if you are in a location where the videotape is recording. So if you are at one of these residential surveillance at a designated place, not necessarily the person's home, if you are at a black jail, if you are at an extrajudicial site, wherever that might be, you are just not going to have any recording.

So it is only as good as feeling confident that this is a true recording. Beyond that, if you do get a recording, you need to have a defense lawyer who could use this in court.

Then the final link that is lacking is a judge who is willing to stand up to the prosecutor and the police and say, did you actually do this—what happened in this room? You do not see judges in a position right now that they will question the police.

Police do not show up as witnesses. So that crucial final link to actually implement an exclusionary rule is lacking.

Ms. RICHARDSON. If I could just add one quick point to that—in a way, it is actually worst. We had interviewees tell us that they were being held in formal detention centers with all of the proper proceedings and they were simply taken out of the detention centers and beaten up, and then brought back.

You can equip the facilities until the cows come home, but if there is no accountability for the police for behaving that way, it is not going to matter much.

Representative WALZ. Thank you, Chairman Smith. First of all, thank you all for being here and sharing painful stories.

It is important. The one thing we always ask—and I returned in November from Tibet—is to ask people as they courageously approached us, does it hurt when we talk about these things? Does it hurt your cause? Does it make it worse? And they universally say no, continue to bring it to light. So I appreciate that.

Dr. Richardson, I appreciate you pointing out the Center for Victims of Torture and their rehabilitation programs.

I would just say—and it seems absurd to me that we would have to state this, but in today's world, we may. This nation rejects torture in all forms, no matter what any private individual may express. We have got to stand as strong as we ever have because listening to the stories here and this Commission and those Commissioners that sat on it I know share that, and make that case as strongly as we can because the moral authority we hold matters. The actions we take matters.

I say that because I think it is important for people to know and probably more so for me to say that because I never would have imagined in my life I as a United States Congressman would be de-

fending the United States' position that torture is unacceptable in all forms in any situation. So to clear that out.

Maybe, Dr. Richardson or Professor Lewis, you could help me with this. I had an opportunity to have supper with the Chinese Ambassador here. What was interesting to me is it was the first time I ever witnessed this.

We had a frank and candid conversation about Tibet in a way that was very "un-Chinese" if you will, not evasive, not let us change the subject, let us have that conversation. Is that misplaced optimism on my part to think that perhaps this conversation at higher levels is actually being taken seriously to understand that long-term rule of law is going to be dependent on getting this right? I know it is a subjective question, but your expertise would be appreciated.

Ms. RICHARDSON. Maybe I can take a stab at that and then there are plenty of other people on the panel who are qualified.

I will get optimistic when we see that there are no more political prisoners in Tibet. I will be optimistic when people have the freedom of movement. I will be optimistic when people can challenge in court the way they have had their religious practices restricted.

I am sure Ambassador Cui is plenty good at saying the right thing in the right moment.

Representative WALZ. Which you believe he knows? How much do you believe he knows of what is happening?

Ms. RICHARDSON. Well, I think he probably knows a fair amount. I think he is equally knowledgeable.

Representative WALZ. So the old fallback that it is a few bad apples——

Ms. RICHARDSON. What to say in the right moment.

Representative WALZ. Right. That does not work. You do not buy that at all. It is a few bad officials at lower levels, and that happens everywhere type of attitude?

Ms. RICHARDSON. I think it logically follows that if you think you have got bad apples, you fire them, or you prosecute them, or you hold them accountable. You do not then turn——

Representative WALZ. And there is no mechanism that really works to do that?

Ms. RICHARDSON. I am waiting to see it.

Representative WALZ. Yes.

Ms. RICHARDSON. And look, the mechanisms exist; right? I mean China has a legal system. It is just not used.

Representative WALZ. Because candidly to you nearly 30 years of visiting and certainly subjective from my position, it felt worse to me than it ever has. It felt worse to me in the oppression both from Christians in Hong Kong to Uyghurs to Tibet. So that troubles me that it is heading in the wrong direction.

Ms. LEWIS. It is a really tough time. I am an optimist, but a long-term optimist. I think that under the current leadership we are going to see very little good news when it comes to human rights. That is really unfortunate.

But, I do not want that to be a reason for disengagement. As you said, it matters that our voice is out there. I really sincerely believe there are wonderful people inside the government whose heart is in the right place and outside the government, too.

When I go over—not the official dialogues, but during the tea breaks, or over lunch—I see that they are concerned too about the future of their country and they believe in the rule of law. Right now they are concerned not just about themselves, but their families.

This is not just about if I stick my neck out, I might lose my job, I might end up in prison. I have kids and I need to make sure that they are going to be okay.

I understand why people are hesitant to speak out sometimes, but we need to cultivate those relationships and hope that not tomorrow, but longer-term, this will turn in the right direction.

Representative WALZ. You know something that was interesting in this dialogue with high-level officials of the Premier Li was when I would speak about this a little bit on this trip with them in Beijing in November, they would always mention, they would say, oh, Congressman, I see you used to live on Pine Ridge. How did that work for you?

I thought it was so interesting they were trying to make it, you have done it too. You have no moral authority.

That is why I brought this up earlier and I think we have to guard against that because it was an argument I had never seen them make before, that you have done it and we are on the equal status, and yes, we have, too.

Ms. LEWIS. I just want to add that when I go to China and they say, what about Guantanamo, or what about other transgressions? Then I point out that at Seton Hall we have a center at the law school that published the Guantanamo reports, a highly critical report of the U.S. Government using the Freedom of Information Act to get information.

Everyone who worked on that report went home to their families. No one lost a job. No one went to prison, in fact, they were celebrated as bringing to light problems that our government needed to face. That is the fundamental difference between our two governments.

Representative WALZ. Yes, absolutely. That is when we are our best. Anyone else on just general feelings of direction?

Ms. YIN. I would like to add something. Through the interpreter, I heard something that reminded me.

From my point of view, those who claim this is a war without guns, against Falun Gong in China. I believe those who made me suffer so much pain should be punished.

At the time, I asked those policemen who persecuted me, "Why are you doing this to me so cruelly?" Some policemen said, "I do not even want to do this, but this is from the very top of the CCP, Jiang Zemin, his order that—he wants to defame all of you and make all of your property disappear and also kill you—treat you as if you committed suicide, even though you were beaten to death."

Jiang Zemin was the top one in CCP who initiated this persecution. So there are so many people like myself, lost my home and happy family. A lot of students are expelled from schools, many arbitrarily detained and disappeared, and many, many other bad things happened.

So I really wish that those who are responsible for this war without guns be punished. They have to take the responsibility of their wrongdoings and its outcome.

Now I am holding a brief report listing the 42 perpetrators against me, which I want to submit to the CECC and Congress. I can still remember those who persecuted me, including Jiang Zemin, Bo Xilai, and Wang Lijun. Bo Xilai and Wang Lijun at the time were CCP leaders in Liaoning province in charge of the persecution.

Another major perpetrator is Wen Shizheng [No. 2 perpetrator in the report submitted]. He, at the time, was the Liaoning Provincial Communist Party Secretary. One time he assembled all the Falun Gong practitioners out in the field. A "transformed" person said there was no "torture" at all in Masanjia. Ms. Zou Guirong immediately stood out of line and said that was a lie. Then right away several police ran over and started beating Zou Guirong. Wen Shizheng saw it right over there.

Then on the same day, he changed the title of Masanjia Labor Camp to the Masanjia Mind Reeducation center. That label, that plaque at the gate has his own calligraphic signature. Those who persecuted us at the time in Masanjia are still working in Masanjia doing the same bad thing, persecuting Falun Gong practitioners now and all other people.

Also in my testimony I talked about Ms. Su Jin [No. 29 perpetrator in the report submitted]. She said in front of us that "This war is a war without guns; the money spent on this persecution of Falun Gong is like an international war."

I would like to officially submit this listing report of 42 perpetrators against me to the U.S. Congress. Hopefully, the U.S. Congress can help disclose and punish those people who are responsible for this persecution.

Chairman SMITH. I thank you.

Commissioner Hultgren?

Representative HULTGREN. Thank you so much for being here. Thank you for telling your story. It is so important and I appreciate your courage and coming before us so that we can find ways that we can help. We are just very grateful for you doing it.

I do have a couple of questions if I could. Ms. Yin, if I could address a question to you. We have heard stories and claims that China has abolished the reeducation through the RTL system back in 2014.

I wonder, to your knowledge, is the facility at Masanjia still in operation today? Is it still used to detain Falun Gong practitioners and do you know if Falun Gong practitioners currently detained there suffer the same kind of torture and abuse that you did?

Ms. YIN. Yes, my husband's sister, or my sister-in-law—on April 10, 2014, she was sentenced to three years to Masanjia. About 15 days ago, March 28, 2016, Mr. Li—also a Falun Gong practitioner—at the time he was, as I mentioned earlier, also suing Jiang Zemin in China. Then he was arrested and sentenced to seven years in prison.

Yes, as a matter of fact, I know many other practitioners are still being persecuted in mainland China. For their safety, I should not disclose their names.

Representative HULTGREN. Dr. Richardson, if I could ask you a couple of questions.

The UN panel of experts, noted in their concluding observations, that there were seven human rights defenders who were prevented from participating in the Convention Against Torture Review. I wonder if you would be able to provide an update on the status of those seven individuals and are they still unable to leave the country? Have they faced any further consequences of the CAT review?

Ms. RICHARDSON. That is a little bit of a difficult question to answer because not all of those people chose to identify themselves publically. I think it is a reasonable assumption that they have not been allowed to leave the country, especially if you sort of look at the general trends Ms. Lewis was alluding to earlier.

This has been a terrible period for civil society and we have seen either people prevented from leaving or grabbed back from other places. We know that the two who did publically identify themselves have been harassed, partly in response to their interest in participating in the review. The other five, I think we can only make reasonable assumptions about for now.

Representative HULTGREN. Dr. Richardson, also, the concluding observation noted that China told the Committee, "Government acts of intimidation and reprisals against citizens do not exist in China." Of course from your work at Human Rights Watch and just from our involvement, reading the paper, and other things, we just know that is absolutely false.

Statements like this from the Chinese Government suggest that they are not participating in international human rights mechanisms in good faith. Would you agree with this, first of all? If so, why is China participating in this review process at all? What can be done—I think you talked about some of this, but just to reiterate, what can we do either the United States unilaterally or through our involvement in international institutions to make these mechanisms more meaningful and productive and hold their feet to the fire?

Ms. RICHARDSON. It is a huge question. I will try to answer it in 60 seconds or less.

I mean, look, that statement on the delegation's part was just ludicrous. It did not pass the laugh test, not even close. We can document lots of cases to show that.

Why do they participate at all? Because they can participate in bad faith and there are no really lousy consequences.

This is the nature of the way the covenants are written and implemented. It is not that the UN is failing. I do not have enough positive things to say about how the Committee itself approached and carried out the review. It was exemplary. It is that there are not consequences for participating badly which is where other governments that care about human rights issues in China come in.

It is to say to the Minister of Public Security, I am sorry, but we are not going to be able to host you for X and such meeting unless you have answered some of these key questions, or release some of these people from prison. There has to be a consequence attached to it.

Representative HULTGREN. Has that happened at all, or no?

Ms. RICHARDSON. I think there is a tiny little bit of it. I think to the extent it happens, it is—look, if it is hard for me to see, and if it is hard for you to see, it is invisible to most of the people who desperately need to see it and who need to be seen to be treated that way; right? It has to be visible that there is some negative consequence for standing at the top of the torture apparatus and failing to follow your own laws.

That is where I think a scrub of issues like law enforcement cooperation come in to be able to more precisely identify the people who should be responsible without ruling out precisely the kinds of people Professor Lewis has spoken about who are essential long-term to solving the problem. I think people behave differently when they know there is a rotten consequence coming at them for not changing their ways. Energy has to go into creating those disincentives.

Representative HULTGREN. We, obviously, need to do a better job as a government here of being strong there. What other international allies or institutions do you think would maybe join with us because I think there is some power in numbers and maybe different avenues of attack there? Where would you recommend that we would have our best chance or best groups internationally to be working with, governments or institutions?

Ms. RICHARDSON. I'm going to answer that in two different ways. First of all, the United States gets a lot of credit for spearheading an unprecedented joint statement at the Human Rights Council in March. That had not happened since 2004, during the previous convention. Eleven other governments joined on. That is a practice that should be continued. It matters. It really registered in Beijing.

There were also a couple of joint letters. So it is our view that more of these efforts that can be done jointly with other likeminded governments and with some unusual suspects are effective. It really gets Beijing's attention.

The other way to think about it is to think about the kinds of engagements that Beijing cares about the most, the high profile, the glossy, the glitzy. Let us look at—there is supposed to be a real vigorous independent civil society component to the G–20.

I am going to go out on a limb and suggest that that ain't going to be happening in China this summer in advance of September. I think what we will probably see is a very government-run, NGO-driven process to sort of check the box. But it is not going to be the kind of discussion that involves independent activists.

I think there is real merit in dialing down the pomp and the glitz. I have to say the five hours I spent at the State dinner in September were trying. I have respect for people whose job it is to try to talk all day to Politburo members who really do not want to talk back, but that was an occasion that the Chinese cared enormously about.

You know what? I do not think a whole lot of very important U.S.-China business necessarily got transacting that night. It could have been handled very differently in a way that would have hurt for the right reasons.

Ms. LEWIS. I would just add that I think when we raise these issues with China we need to come with specifics, with the facts. If we just speak in terms of rule of law is important, human rights

are important, that not only is easy for China to come back with platitudes, but it also makes them think that we do not know what we are talking about.

One point, when I was at the Legal Expert's Dialogue in October, I really commend the State Department for showing up with facts. They said, well, what about this person and what about this instance. Then it forces the Chinese to be more specific and also to recognize that we are doing our homework.

If we are going to raise these issues, we need to raise them not just as abstract concepts, but bringing in the specific cases and the specific steps that need to happen in order to show progress.

Representative HULTGREN. That is good. That is helpful. Thank you all so much.

I yield back.

Chairman SMITH. Thank you. Let me just conclude with a few final questions.

Thank you again for your expertise and for coming forward and helping this Commission do a better job.

Let me first begin with the idea of consequences. I have been a critic of this Administration, and I will continue to be so. I would love to praise it instead, but there have been numerous times where a strong rhetorical expression on the part of the President on down could have and would have made a difference.

Certainly when Hu Jintao was here and was asked a pointed question about human rights in the press conference and the President defended the status quo by saying, well, they have a different culture and a different political system. The Washington Post very properly wrote a scathing editorial that said—the headline was President Obama Defends Hu, President Hu Jintao on Rights, because it gave him a pass. That is all they are looking for in my opinion. If they can get out unscathed or relatively unscathed, no harm done. They live to abuse and abuse another day.

State dinners and the like ought to be predicated on real progress. Liu Xiaobo ought to be released immediately. It is unconscionable that a Noble Peace Prize winner remains incarcerated and—his wife all but incarcerated under house arrest and not doing very well—continues to serve out a jail sentence for asking for reform and doing it in a totally nonviolent way.

Consequences—I have asked the Administration repeatedly to enforce the visa ban that I wrote in the year 2000 on the horrific forced-abortion and involuntary sterilization program that has led to disproportionality, males to females, the likes of which we have never seen. Girls targeted, the girl child, simply because she is a girl and is killed through sex-selected abortion has now exacerbated the trafficking issue. It is a gender crime with no parallels.

Yet, there are no visas being denied, which is the law. Just enforce the law. I will ask again that the Administration do this.

We had to ask Congressional Research Service to give us an accounting. You can count on two hands how many people have been denied visas, even though women have been so horrifically mistreated.

On trafficking, I just chaired a hearing. I wrote the Trafficking Victims Protection Act, so I follow that issue every single day. China was one among 14 countries that got a passing grade, in

other words, not Tier 3, egregious violator. It allows them to not be sanctioned for sex and labor trafficking which is exponentially increasing because of the missing girls and because of a great deal of buying and selling, turning women into commodities in China.

They should have been Tier 3 and sanctioned. That would have sent a clear unmistakable message.

On religious freedom, we have a tool sitting right there for all of these years. Frank Wolf wrote the International Religious Freedom Act in 1998. China has been a CPC country ever since.

They torture religious believers. They torture Falun Gong practitioners. They are CPC. Where are the sanctions?

His bill prescribed 18 specific mutually reinforcing sanctions that could be imposed on China. Some of them have real heavy serious consequences, economically as well as other ways.

Where is the sanction regime? For half of President Obama's term in office he did not even designate CPCs and had no Ambassador-at-Large. Now we have a very fine Rabi who runs it, but there was no enforcement of religious freedom—another big issue.

Xi Jinping—from my trip there with these two gentlemen in Shanghai, we know beyond any reasonable doubt that Xi Jinping is on a tear to do what he calls "sinificcation" of the churches, the practitioners, and everyone else who have a faith or who have any kind of religious expression to further tighten the screws on the free exercise of anything that even comes close.

Next week the Foreign Affairs Committee will mark up the Magnitsky Act, make it global. It will probably pass the House with flying colors, be signed into law. We will have another tool that I fear will go unutilized vis-á-vis China to hold all of these people, the ones that Ms. Yin just described.

The more in the weeds that we get in terms of people who commit torture, we can deny them visas now. Now we will have even a more moral imperative to do so and legislative sanctioning of that with the Magnitsky Act which has been applied, as we all know, to Russia. It will apply to the world. That is coming.

We have not had the rhetoric in my opinion. Yes, we have had some good State Department lawyers who know their business, who raise these issues with their interlocutors, but when it gets to the higher levels, there is a great big void. It is time.

At the UN, we do raise these issues. Again, as you pointed out Dr. Richardson, there is very little by way of enforcement.

Before yielding to—Golog Jigme, when you talked about, earlier, the issue of cattle prods—on April 3, 1995, I convened a hearing of my Human Rights Subcommittee. We had six survisors of the Laogai: Catherine Ho, who had been abused while she was held by the Chinese; but we also had Paul D'Angiotso who when he came he literally brought the cattle prod that was used—one that he bought since—to demonstrate how it is used against prisoners, in this case Tibetan nuns and monks.

He held it to different parts of his body and explained what the pain is like when this cattle prod is being applied to the genitals, under the arms, and in other sensitive areas.

When he came into the Rayburn House Office Building, our police stopped him from coming in because he was carrying some-

thing that looked very nefarious, which it is. I had to go down and escort him in.

You could have heard a pin drop as he talked about the torture that he had experienced personally, like you. I know that you wanted to elaborate on a question that was raised by Mr. Walz.

This issue of torture is so heinous. Doesn't Xi Jinping realize the dishonor it brings to his government because these torturers are government employees and obviously owe their employment to his regime. It brings a loss of face and dishonor to the regime. You cannot tell me he does not know.

Remember when that was used during the Third Reich, when people said, "If only the Führer knew." Well Xi Jinping, if he does not know, should know now, but I do believe he knows. He should take corrective action as should his government against these people who commit acts of perversion, sexual abuse, and rape against innocent people.

So please, if you could respond and also perhaps answer one of the earlier questions that I believe you wanted to answer.

Mr. JIGME. Congressman, I agree with you that since China is an authoritarian state there is nothing that Xi Jinping does not really know, except maybe one or two things.

In 2008, when I underwent these experiences, Hu Jintao was the leader and Zhou Yongkang was there among the nine members of the Politburo. Zhou Yongkang, who was holding the security position there, mentioned that too. All issues had to be completed in one month, which meant many things. Officers were given facilities like cars—free cars to undertake those actions.

So at that time the official who was torturing me was a Chinese official named You Dengzhou. He was the head of a seven-member unit. He has now been promoted to being the head of a county.

Therefore, with situations like this, there is nothing that all officials in China would not know. Therefore, it looks like people who commit such torture and who commit these crimes seem to get promoted from one level to another, from the prefecture level to the provincial, from provincial to—like this. So that indicates that officials at all levels know of these things.

Just to give you a case in point, in 2008, among those who came to investigate me were some people sent directly from Beijing by the central government.

Now there is discussion about whether we should trust the Chinese or have some hope in the Chinese. From what I have experienced, I do not have any basis for hope.

For example, at the United Nations Committee against Torture session in November, which I attended, there was a 39-member delegation from China and in their talk they mentioned that the "tiger chair" that Sophie mentioned earlier and I had mentioned earlier was not a torture instrument, but was meant for the safety and protection of the detainees. Protection because it will help prevent wounds on their backside.

They also said there are no political prisoners in China. They said no lawyers are being detained. So all this was said in the face of the fact that I, who underwent torture was there; I was very much present in that room, and they were telling these lies. So that does not give me any hope.

Even in the case if you are talking about political prisoners—the CECC itself has a list of around 640 names of Tibetan political prisoners. The Tibetan Center for Human Rights and Democracy in Dharamsala has more than 2,000 names. So all these names are of political prisoners and yet the Chinese have the audacity to say that there are no political prisoners.

I am glad that Congressman Walz is here, and you mentioned about your trip to Tibet. In our interaction with people in Tibet, we knew that they knew about your trip to Tibet, and they were very much pleased that you were able to go with Nancy Pelosi. They said that if I got the opportunity, to please thank you all on their behalf.

The Chinese will continue to hold onto their positions about development in Tibet and progress in Tibet, and so forth. I believe that it is important that we continue to engage with them and to try to understand the real situation in Tibet, whether it is going to Tibet or meeting people who will really be able to provide the real information about things relating to Tibet.

I want to say this: While I was in Tibet, I was aware of this issue, and now that I am out, I am more aware of it. This is the issue about opening a U.S. Consulate in Lhasa. The Tibetan people have great expectation, great hope that something like this would happen because they know that if any country can do something about the Tibet issue, it's the United States.

These are the words that I hear from the Tibetan intellectuals. These are words that I hear even from Tibetan nomads who may not know many things, but they will know that there are some American leaders who care about Tibet.

The United States is a country that bestowed the Congressional Gold Medal on His Holiness the Dalai Lama. Its leaders have always cared about Tibet. Although I respect President Obama as an individual, when he went to China for the first time in 2009, I had expected that he would raise certain specific issues about Tibet, particularly about the Tibetan prisoner—by the name of Loyak; but unfortunately, nothing like that happened. That is sort of a disappointment that I continue to have about the President's trip.

Very soon there will be a new President. I hope that whenever the new President goes on his or her maiden trip to China, there would be some benchmarks, some conditions that lead to such a visit. Otherwise, it might lead to disappointment for some people.

I listened to the discussion about providing relief to survivors of torture. I also think that former political prisoners and current political prisoners also need such assistance. I would appreciate it if that could be considered, too. For example, I have a relative, Chokyi, who is in Tibet and who was detained on June 19. Although his physical condition is not good, he has not received any medical treatment in the hands of the Chinese.

I want to reiterate one of the recommendations that is in my written statement. I care deeply about my colleague, Dhondup Wangchen; we made the film together. He is still in Tibet. His family—wife and children—are in the United States. His parents are in India. I would appreciate any steps that you can take to enable the family's reunification.

I also want to raise the case of another Tibetan prisoner, Shokjang, who is a blogger and writer. He has been sentenced to three years, but he has denied all of the charges that authorities have leveled against him. He has, in fact, written a strong denial about all the charges. I would appreciate anything that you can do about his case.

I would like to conclude by requesting Members of this Commission, as well as journalists and other independent individuals to consider visiting Tibet to understand the real situation of the people there. Thank you.

Ms. RICHARDSON. I am going to add a quick lever, a possible realm to your list. There is an organization called the Rhodium Group that put out a great report earlier this week about FDI [foreign direct investment] from the mainland and the United States.

I want to be clear, investments are good, jobs are good. This is not an objection, but I think there are a lot of questions to be asked about—especially if that investment is coming from state-owned enterprises—who those enterprises are. If there are opportunities to press for improvements through those enterprises back onto the Chinese Government as a condition of their having access here in the United States.

So I am just going to toss that out to you.

Ms. YIN. Through this meeting, I would like to also express my concern about another 160 Falun Gong practitioner refugees now in Thailand. As far as I know, their condition in Thailand is not very good—actually, in a lot of danger.

Those practitioners in Thailand have already been told by the people who confine them that their cases cannot be moved forward because of pressure from the Chinese Government. Their interviews with the United Nations for refugee status cannot go through directly, but has to wait for at least three years in Thailand.

Another problem is that the Thailand Government does not allow them to work in Thailand. So for the three-year waiting period, how are they going to survive?

And then I heard recently that there were nine people, including some Falun Gong practitioners that could not stay in such poor conditions, so they tried to escape. They found a boat. Unfortunately, the boat was wrecked, and now they all have been arrested by the police in Thailand.

As a matter of fact, just yesterday I called the wife of one of the persons who tried to escape. She told me that her husband is already now in the custody of Thailand police, but the Chinese Government has already sent somebody to get this gentlemen's passport.

So during that time, the wife just sent me this statement about her husband's case in Thailand. She would also like to submit it to the CECC for help.

On March 16, 2001, for unknown reasons, Masanjia bought a lot of sports goods that were hung on the wall. The entire building was cleaned and sanitized. All manual work products were moved to the storeroom downstairs. All persecution was stopped. A little after 8 a.m., Zhang Xiurong, a policewoman, took out a list of names. Those called out were divided into groups to be transported to watch a movie in turns. The movie's title was "The Choice." Six-

teen of the 32 people in our room, including me, were called up and taken to a large bus. This action was campwide; the same took place in other groups. Those on the bus were Falun Gong practitioners who were not "transformed." They were flanked by the Labor Camp personnel. There were three large buses taking these practitioners from Masanjia to a Youth Detention Center where we were herded into the canteen. It wasn't a movie theater. We were brought back to Masanjia in the evening. We learned later that we were taken away because a delegation of foreign media reporters was visiting the Camp that day.

Thank you.

Chairman SMITH. Thank you. I would like to thank all of our distinguished witnesses. I would like to thank our staff: Jen Salen, Andy Wong, Scott Flipse, Elyse Anderson, Judy Wright, Deidre Jackson, and Paul Protic who is the Chief of Staff for their work, not just for this hearing and our series of hearings that we have been holding, but for the work that they do every day on this vital information, trying to convey both to China, to other parts of our government, including the Executive Branch and, of course, for working so diligently on the Human Rights Report, the annual report that lays bare the record, the good, the bad, and the ugly, and sadly so much of it has been ugly of late. I want to thank them for that as well. [Applause.]

Let me also just conclude by again reminding everybody that the Chinese Government told the Committee, the Convention against Torture as Randy Hultgren said so well, "Government acts of intimidation and reprisals do not exist in China." That is a big lie and it needs to be so denounced as that.

Then to say, as it was pointed out in our testimony, that tiger chairs are utilized for the safety and comfort of women and men who are being interrogated and tortured is absolutely absurd.

The hearing is adjourned.

[Whereupon the hearing was concluded at 5:29 p.m.]

A P P E N D I X

PREPARED STATEMENTS

HEARING OF THE CONGRESSIONAL-EXECUTIVE COMMISSION ON CHINA

"CHINA'S PERVASIVE USE OF TORTURE"

Thursday, April 14, 2016
Room HVC 210 of the Capitol Visitor's Center

Statement of Margaret K. Lewis
Professor of Law, Seton Hall University

Mr. Chairman, Mr. Cochairman, and distinguished Members of the Commission, I am privileged to be invited to participate in this hearing. Having worked closely with the Commission's staff on the Access to Justice and Criminal Justice sections of the 2015 Annual Report, I saw first-hand what an exceptional group of people you have supporting the Commissiou.

In my opening remarks, I have been asked to discuss the Chinese government's track record in implementing criminal procedure reforms aimed at preventing torture as well as concerns about the continuing use of extralegal forms of detention and abuse despite the abolition of reeducation through labor in 2014. I have also been requested to provide policy recommendations.

I want to begin by recognizing that China is undertaking a sizeable basket of reforms, and a sudden, comprehensive overhaul of the criminal justice system is impossible. Reforming a criminal justice system is extremely difficult. The process requires tremendous resourees and resolve. For example, the United States still struggles to provide quality criminal defense to indigent defendants. It is understandable that China requires time to implement reforms both because of resource constraints and because of the obstacles inherent in changing entrenched practices of the police, prosecutors, and judges. These transitional challenges are fundamentally different, however, from the government's decision to selectively ignore legal protections embodied both in Chinese law and international legal norms.

In recent years, the Chinese government has introduced discrete reforms that could decrease the prevalence of torture. The United Nations Committee against Torture flagged a number of these positive aspects in its Concluding Observations of China's compliance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. Yet each of these reforms needs to be viewed with a critical eye because, as Teng Biao, a Chinese lawyer who has testified before this Commission, astutely explained, "The major problem with rule of law in mainland China is not establishing legal provisions but rather implementing laws."[1] And here lies the key problem: The Chinese government places perpetuating one-party rule above a robust commitment to the rule of law and human rights.

[1] "专家不看好中共四中全会提出的依法治国", Radio Free Asia, 28 October 2014, www.rfa.org/mandarin/yataibaodao/zhengzhi/xql-10282014100811.html.

For example, the 2012 amendments to the PRC Criminal Procedure Law that introduced procedures for excluding illegally obtained evidence were welcomed with great fanfare. Use of these procedures, which are focused on excluding statements and do not cover physical evidence, is extremely limited in practice. Admittedly, courts should rarely have to exclude evidence if police and prosecutors are doing their jobs correctly and not relying on illegally obtained evidence. That said, ongoing concerns about the courts' unwillingness and even inability to stand up to the police coupled with personal accounts of coerced confessions stretch the bounds of credulity that the careful work of police and prosecutors accounts for the rare invocation of these rules.

The PRC Criminal Procedure Law also provides that no person shall be found guilty without being judged as such by a court. Nevertheless, the nearly one-hundred-percent conviction rate in China underscores that the determination of guilt in practice occurs before a defendant enters the courtroom. Any movement towards establishing a presnmption of innocence has been further undermined by the disturbing practice of televised confessions, effectively replacing formal court proceedings with public shaming. Last month, a Deputy Chairman of the All China Lawyers Association spoke out against televised confessions, warning that they can lead to "trial by public opinion" (舆论审判).[2] In the past year, for example, videotaped confessions of human rights lawyer Zhang Kai and journalists Liu Wei and Wang Xiaolu were broadcast on China Central Television while they were being held in pretrial detention.

One of the more encouraging recent developments in criminal procedure reform has been the use of audio and video recordings of interrogations. This reform was initially aimed at major criminal cases such as when a defendant faces life imprisonment or the death penalty. China has since broadened use of recordings with an announcement by the Ministry of Public Security in September 2015 that it sought to gradually expand videotaping to all criminal cases.[3] The hope is that recording interrogations will both provide evidence of how individual cases are handled and prompt changes in police culture away from coercive practices.

Preliminary indications are, however, that recording interrogations is not significantly changing the culture of extreme reliance on confessions as the primary form of evidence in criminal cases. When I viewed an interrogation room in a Beijing police station last October, the staff was keen to point out the videotaping technology. What I could not help but notice was the slogan "truthfully confess and your whole body will feel at ease" (如实坦白，一身轻松) that was written in large characters on the floor in front of the metal, constraining interrogation chair, otherwise known as a "tiger chair." Faced with this slogan during prolonged questioning makes crystal clear to the suspect that there is no right to silence in Chinese law.

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[2] "朱征夫 嫌犯电视里认罪不等于真有罪", Beijing News, 2 March 2016, http://epaper.bjnews.com.cn/htrul/2016-03/02/content_624607.htm; *see also* Nathan Vanderklippe, "Prominent Chinese Lawyer Speaks Out Against Televised Confessions", The Globe and Mail, 2 March 2016, http://www.theglobeandmail.com/news/world/prominent-chinese-lawyer-speaks-out-against-televised-confessions/article28995020/.

[3] "所有刑案讯问将全录音录像", Beijing News, 22 September 2015, http://www.bjnews.com.cn/news/2015/09/22/378359.html.

The primacy of confessions as evidence was accentuated when I was fortunate to view part of a criminal trial in Beijing this past December. The case largely turned on whether the defendant threatened the alleged robbery victim, but the alleged victim was not called as a witness. In fact, the court announced that no witnesses would be called, which is the case in the nearly every criminal trial. The judges focused almost solely on statements made by the defendant while in custody.

The Chinese government has introduced procedures to keep interrogators separate from suspects outside the interrogation room, to medically examine detainees upon arrival at police stations, and for recordings to be transferred promptly to the courts. What are lacking are additional reassurances that these procedures are sufficiently rigorous to prevent tampering with the process. The Committee against Torture noted the lack of independent medical examinations, the lack of independence of the officials charged with investigating allegations of torture, and the lack of independence of the auditing system to verify the recordings' accuracy.

The value of recordings is further limited if the court does not view the interrogation process with a skeptical eye, if the defense has a difficult time accessing the recordings, or if there simply is no defense lawyer, which is true for most criminal cases in China. Suspects need lawyers in order to understand their rights and then have someone advocate for those rights. No recording, even if completely accurate, can ever replace this crucial role that lawyers play. Yet the Chinese government is taking an increasingly hostile stance towards defense lawyers who zealously advocate for clients' rights. Defense lawyers risk reprisals by the government rather than praise for their contributions to the rule of law. The Committee against Torture expressed deep concern for the recent crackdown on defense lawyers stating, "This reported crackdown on human rights lawyers follows a series of other reported escalating abuses on lawyers for carrying out their professional responsibilities, particularly on cases involving government accountability and issues such as torture and the defence of human rights activists and religious practitioners."[4]

The plight of defense lawyers is epitomized by the December conviction of renowned civil rights lawyer Pu Zhiqiang on charges of "inciting ethnic hatred" and "picking quarrels and provoking trouble" through comments on his microblogs. Among the issues raised in the Committee against Torture's Concluding Observations were prolonged pretrial detention, restrictions to the right to access a lawyer, and prosecution based on broadly defined offenses, all of which directly apply to Mr. Pu's case. Further connecting Mr. Pu's case to the Committee's observations, one of the many sensitive cases for which Mr. Pu provided representation prior to his detention was that of a Communist Party official who was tortured to death while subjected to the Party's disciplinary system.

Turning to forms of detention outside of the formal criminal justice system, in December 2013, the Chinese government announced the end of the longstanding practice of reeducation through labor. This welcomed decision brought China a step closer to compliance with the International Covenant on Civil and Political Rights, which China signed in 1998 but still has yet to ratify. Despite reeducation through labor's abolition, alternative ways of depriving people of their liberty persist in

[4] Committee against Torture, "Concluding Observations on the Fifth Periodic Report of China", 3 February 2016, para. 18.

the forms of so-called "administrative" or otherwise non-criminal measures, blatantly extralegal actions, and disciplinary actions by the Chinese Communist Party against its own members.

Examples of continuing methods of arbitrary detention include the use of psychiatric facilities to detain people who do not necessarily have mental health conditions; compulsory drug treatment centers to detain drug addicts; "legal education centers" to detain Falun Gong practitioners and people who petition the government, among others; and "custody and education" centers that are largely used against sex workers and sometimes their customers. Each of these measures has at least some basis in Chinese law but does not satisfy international requirements for the legal review that must precede long-term deprivation of a person's liberty.

The Chinese government also takes actions without any legal basis to silence voices perceived as threatening to the existing political structure. Measures range from home confinement (sometimes called "soft detention" for the Chinese term 软禁) to holding people at secret detention sites known as "black jails." The very fact that these are extralegal measures and thus not officially recognized by the Chinese government complicates efforts to estimate their prevalence. Nonetheless, repeated, credible accounts have surfaced, many of which are documented in the Commission's annual reports. The Committee against Torture itself stated that it "remains seriously concerned at consistent reports from various sources about a continuing practice of illegal detention in unrecognized and unofficial detention places . . . ."[5]

The Committee against Torture also expressed concern that the nearly 90 million members of the Chinese Communist Party may be held under a disciplinary process called *shuanggui* (sometimes translated as "double designation"), which requires them to appear for interrogation at a designated time and place.[6] The almost complete lack of transparency makes it difficult to evaluate the extent to which the Party's procedures comply with international human rights norms though reports have documented severe physical and mental abuse while Party members were detained.

This concerning state of affairs leads to the question, what are the implications for US policy? I encourage US policymakers to think of efforts to improve human rights in China on three levels: multilateral, bilateral, and unilateral.

Multilaterally, engaging China through international bodies like the United Nations Committee against Torture emphasizes that China is being judged by the yardstick of international human rights norms to which China has voluntarily subscribed, not by standards unilaterally imposed on China by the United States or other countries. China has rejected the vast majority of requests by UN special rapporteurs who have asked to visit China, in part because of the highly critical report issued by the Special Rapporteur on Torture and Other Cruel, Inhuman or Degrading Treatment following his visit to China in 2005. The international community's unceasing requests for first-hand information have symbolic power even if China continues to block access. That in itself is telling of what the rapporteurs might find.

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[5] *Id.* at para. 42.

[6] *Id.* at para. 44.

Bilaterally, the official US-China Human Rights Dialogue and slightly less official Legal Experts Dialogue are important forums for high-level bilateral discussions, though I think we must keep our expectations very modest for these forums' ability actually to spur legal reform in China. The discussions can, at a minimum, provide a window into what topics the Chinese side is willing to discuss and to what degree. For example, a conversation regarding police use of violence at the most recent Legal Experts Dialogue underscored how unwilling the Chinese side was to even broach the topic of use of violence as part of the highly secretive investigations conducted by the Party's disciplinary forces.

Non-governmental organizations like the National Committee on US-China Relations further serve an important role in organizing bilateral meetings between American and Chinese experts. Although the Chinese co-organizers usually are at least quasi-governmental bodies, such meetings provide a less formal venue for an exchange of views than government-to-government dialogues, especially when combined with time to chat informally outside of the conference hall. These ancillary conversations restore my faith that there are many reform-minded individuals both within and outside the government who are working, albeit within a very constrained space, to further criminal justice reforms. Building interpersonal ties is not an immediate deliverable but instead lays the groundwork for long-term cooperation after the current political winds shift, whenever that may be.

As an academic, I further want to highlight the role played by American universities in cooperating with Chinese counterparts both to hold conferences on topics like interrogation techniques and to welcome Chinese visitors to the United States so that they can see with their own eyes how our system operates in practice. It is helpful, for example, to explain to a Chinese audience how American courts determine whether evidence was illegally obtained. It is infinitely more powerful to have them watch a suppression hearing in a US court, especially one in which a police officer testifies—a virtually unheard of event in China. American efforts to increase use of bail and other forms of release pending trial can likewise be instructive to Chinese authorities as they take preliminary steps to implement revisions to the PRC Criminal Procedure Law that call on prosecutors to use pretrial release for suspects who do not require detention.[7]

Finally, the increasing resistance by the Chinese government to engage meaningfully in discussions regarding human rights sometimes requires taking a unilateral approach. I was in Beijing when Pu Zhiqiang's trial date was announced. The US Embassy, along with a number of other countries, requested that a representative be able to attend the trial. Having become accustomed to hearing courtrooms are "small" and "full" in similar sensitive cases, I do not think that the US Embassy staff was the least bit surprised when the request was denied. Undeterred, the US Embassy not only released a statement expressing grave concerns about Mr. Pu's treatment but also had a senior diplomat read the statement outside the courthouse.

The United States needs to keep showing up and standing up for the principles that are core both to our country's values and more generally to international human rights norms. When the Chinese government will not engage, we still need to make our voice heard. Such statements may not have a

[7] PRC Criminal Procedure Law, article 93; 人民检察院办理羁押必要性审查案件规定(试行), issued by the Supreme People's Procuratorate on 13 January 2016.

direct, measurable impact on the Chinese government's practices, but they are heard by people in China who have seen their human rights, as well as those of friends and family, violated. Literally taking a stand on the courthouse steps also reaffirms to ourselves that, despite instances where our own government has transgressed human rights norms, we remain committed to the fundamental dignity and rights of all human beings.

When President Obama addressed treatment of detainees in the aftermath of 9/11 at a 2014 press conference, he recognized that "we tortured some folks."[8] He continued that a detailed government report addressing instances of torture "reminds us once again that the character of our country has to be measured in part not by what we do when things are easy, but what we do when things are hard."

While in China last December, several Chinese scholars and practitioners suggested that we stop focusing so much on the "exceptional" cases when there have been marked reforms to the criminal justice system as a whole. I responded that the character of China's criminal justice system has to be measured not just by the handling of the relatively easy run-of-the-mill criminal cases like petty thefts and assaults, but also by the blatantly politically motivated prosecutions, even if such cases represent a relatively small percentage of all criminal cases. The Chinese government's failure to live up to the legal standards that it sets for itself in these hard cases undermines the legitimacy of the entire system.

Thank you for this opportunity to provide a statement. I look forward to our discussion with the Commission.

[8] Press Conference by the President, 1 August 2014, https://www.whitehouse.gov/the-press-office/2014/08/01/press-conference-president.

PREPARED STATEMENT OF VENERABLE GOLOG JIGME

APRIL 14,2016

I would like to first thank the CECC, particularly Chainnan Smith and Co-Chainnan Rubio, for holding this important hearing today, and for inviting me to participate. As a survivor of torture inflicted by Chinese public security officers, and now as a human rights advocate living in exile in Switzerland, I believe that it is essential for the U.S. and other governments, as well as the UN and other entities, to understand what actually happens inside Chinese detention facilities from someone who has experienced it, and to understand the human rights situation in Tibet today. Not only behind bars, but beyond the prison walls, my Tibetan brothers and sisters are suffering. I urge the CECC and the U.S. Congress to continue to pay attention to the situation inside Tibet. For the future of Tibet, it is very important to break the "lockdown" that the Chinese government has imposed around the Tibetan people. As human beings, we Tibetans have the right to peacefully express our views without fear of being arrested or tortured. We have the right to freedom of movement and to freedom of religion, and China should be held accountable for denying us these basic freedoms, and subjecting us to arbitrary detention and torture when we try to exercise these basic human rights. It is my profound hope that the CECC and Congress will continue to pay attention to the suffering of Tibetans.

* * *

MY STORY (IN BRIEF)

My name is Golog Jigme, and I am also known as Jigme Gyatso. I was born into a Tibetan nomadic family in eastern Tibet, and when I was a teenager joined the Labrang Monastery in Kanlho, Amdo (Gansu province). I was involved in various social causes while at Labrang, including teaching children about Tibetan culture and promoting the Tibetan language, and [was engaged in social welfare work, such as relief efforts following the Yushu earthquake in 2010.

In 2008, I worked with the filmmaker Dhondup Wangchen to interview a wide range of Tibetans—including nomads, elders, monks and people in remote areas—about their thoughts and feelings before the Beijing Olympics, which became the documentary film "Leaving Fear Behind." We wanted the world outside Tibet to understand the reality of what was happening in Tibet; and for people to hear the voices of Tibetans themselves, discussing their feelings and experiences.

As a result of this work, Dhondup Wangchen was imprisoned for six years. I was detained three times during the period from 2008 to 2012. While in Chinese custody for seven months in 2008, I was severely tortured. Chinese officials accused me of shooting the film "Leaving Fear Behind" and of being a member of the Tibetan Youth Congress, and they also accused me of not denouncing His Holiness the Dalai Lama.

In April 2009, I was detained again, and accused of disclosing State secrets. I was held for several months, and was subjected to severe beatings, but not tortured brutally like during my first detention in 2008.

In September 2012, I was detained yet again but managed to escape from the detention facility. Chinese security officers had accused me of being the main instigator of the self-immolations protest across Tibet, among other baseless allegations. After my escape from detention, I went into hiding for more than a year and a half before I escaped to India, in May 2014. I arrived in Switzerland in January 2015, where I have been granted political asylum.

I was never formally arrested. I was given two separate detention warrants (*juliuzheng*), but only after I had been released. During my three detentions, I was never given any document setting forth formal charges against me. I was never given a trial. Neither my monastery nor my family was informed of my whereabouts; I was held incommunicado. I had no access to a lawyer. I never received any medical treatment.

* * *

Here I will describe in brief the torture I suffered at the hands of Chinese security officers. If I were to describe everything, it would take a very long time, so I will summarize. At the outset, I would like to emphasize that I am walking proof of Chinese government torture. Today, I still have severe back pain, scars on my wrists and ankles, and other injuries from the torture that still cause pain in my knees, ribs, and eyes. The first incarceration, in 2008, was the most difficult for me because I was brutally tortured. For one month and 22 days I was tortured continuously. I was forced to sit in the "tiger chair" (also known as the "iron chair") day and

night. This was the worst fonn of torture I experienced during my three detentions. My arms were handcuffed in front of me on a small metal table, and my legs were bent beneath the seat and strapped to the chair with iron cuffs. My joints suffered horribly and at one point my feet became so swollen that all my toenails fell off. I still have scars on my wrists and ankles from when I was turned backwards in the chair and suspended from the ceiling, for hours at a time. I was deprived of sleep and given very little to eat. The pain of thirst was the second worst torture; I was given only a very small amount of water, and felt unbearably thirsty because of blood loss from my body. During the first and second detentions, I was subjected to severe beatings and kicking; some of my ribs were broken and my knee joints were dislocated.

During the third detention in 2012, Chinese security officers told me I would be transferred to Lanzhou City Military Hospital for a medical exam to see if I had any diseases, and that if they I was fortunate that I was able to escape before they moved me to the hospital. While I was in hiding, I learned that the Chinese government had issued a warrant for my arrest accusing me of murder, and offered a large sum of money to anyone who could provide information about my whereabouts. I am deeply grateful to the people who risked so much in order to arrange things and help me get out of the country. My safe escape was a collective effort, and the people who gave so much are an ongoing source of inspiration for me.

UN COMMITTEE AGAINST TORTURE'S REVIEW OF CHINA'S COMPLIANCE WITH THE CONVENTION AGAINST TORTURE (NOVEMBER 2015)

As a survivor of torture at the hands of Chinese security officials, I was grateful to have been able to attend the UN Committee against Torture's review of China in Geneva this past November. But I was shocked that the Chinese government told such lies at the UN. I was glad to be able to tell the Committee my story—the true story of China's torture record. I was very happy to see the Committee ask tough questions of the Chinese delegation. Moreover, I felt the strength and commitment of the Committee to stand by the truth. It was heartening to watch the Committee hold the Chinese government accountable for torture, arbitrary detention and otherhuman rights abuses in Tibet and China.

It is absurd for Chinese officials to say that torture doesn't exist in China. I was detained three times and tortured numerous times by Chinese authorities. I was beaten with wooden batons and electronic devices and had my face, eyes and lips burned when I was tied to a hot stove. I was shackled with my hands behind my back and hung from a pipe on the ceiling and I was also physically assaulted by a group of five Chinese officials who trampled all over my body.

Unbelievably, when asked by the Committee about the ″tiger chair″ used during police interrogations, a Chinese government official said the chair was for the protection and safety of the detainees. I spent days and nights in such a chair; it was horrific torture.

The Chinese delegation also claimed that there were no political prisoners in China. This is absurd. The CECC Political Prisoner Database has over 640 records of Tibetan political prisoners; some NGOs have a much higher number. Regardless, it is laughable for the Chinese government to say that political prisoners do not exist in Tibet and China. Not only were Dhondup Wangchen and I political prisoners, but Shokjang, a popular blogger and my good friend, was recently sentenced to three years in prison for "inciting splittism"—based on nothing other than the peaceful expression of his own views on ethnic policy and other issues of concern to Tibetans. We are just a few examples of many other political prisoners who have come before us, and of those who are currently serving time in prison or detention facilities, or who have been disappeared, for simply exercising their basic human rights of freedom of expression, religion, movement, among other rights.

In conclusion, I would like to thank the U.S. and the international community for the attention given to my case during my detentions in Tibet. The support and pressure of governments, outside media, the UN and human rights groups do make a difference to those imprisoned or otherwise detained in Tibet.

RECOMMENDATIONS

• I urge the U.S. Congress and the Administration to challenge China's oppressive policies in Tibet and to continue to pay attention to the suffering of the Tibetan people.

• The U.S. government should press China to invite the UN Special Rapporteur on Torture for a follow-up visit to the last one conducted by the Special Rapporteur on Torture, which was over 10 years ago. Unimpeded access to prisons and prisoners in Tibet should be part of the terms of the visit.

• I urge the U.S. government to continue raising the case of Dhondup Wangchen with Chinese officials, and ask that he be allowed to travel internationally in order to be able to reunite with his wife and three children, who now live in the U.S.

• Urge China to release all Tibetans who have been detained or imprisoned for peaceful, nonviolent views and opinions such as Shokjang, the young Tibetan blogger sentenced to three years in prison in February 2016.

• I fully support the CECC's recommendation to Congress and the Administration to press China to respect the right of freedom of movement of Tibetans domestically, and to allow greater access to foreign diplomats, journalists, NGOs and others to the Tibet Autonomous Region (TAR) and Tibetan autonomous areas, as well as the other recommendations on Tibet contained in the CECC's 2015 Annual Report.

Testimony of Ms. Yin Liping (Written Version)

Hearing on "China's Pervasive Use of Torture"
Congressional-Executive Commission on China (CECC)
HVC 210, U.S. Capitol, 2:30pm – 4:30pm, Thursday, April 14, 2016

My name is Yin Liping, a Falun Gong practitioner from Liaoning Province, China. First of all, I would like to thank the Members of U.S. Congress for rescuing me to the United States. I arrived on this free land on December 10, 2015.

I was arrested seven times in China, tortured to the verge of death six times, and detained in labor camps three times, where I was made to do slave labor for nine months. I was sexually attacked and humiliated, and videotaped by a group of male prisoners in police custody, all because I refused to give up my faith in Falun Gong.

[Show Photo 1] This is Masanjia Forced Labor Camp, notorious for persecuting Falun Gong practitioners.

In mid-September 2000, Masanjia Director Su Jing addressed to an assembly of hundreds of jailed Falun Gong practitioners, "This is a war without guns. Our government has spent more money persecuting Falun Gong than fighting an international war." She stressed the "order from the above," that the "transformation" must be 100%. "Transformation" is their word for forcing Falun Gong practitioners to give up their belief.

I was sent to the clinic of Masanjia due to my hunger strike. I was cuffed to a bed and injected with unknown drugs for over two months. This caused me to temporarily lose my vision. I was also put through involuntary ultrasound, electrocardiogram, and blood tests at a nearby hospital. They injected two or three bottles each day. As a result, I developed endocrine disorders, incontinence, and had blood in my urine. In addition, their frequent violent force-feeding almost suffocated me.

I will never forget the date April 19, 2001. That morning, other 8 practitioners and I were handcuffed by male guards and taken to a police van. The van stopped at a men's labor camp. Later we learned it was Zhangshi Male Forced Labor Camp.

We lined up in the courtyard. A policeman read an official announcement to us, "If a Falun Gong practitioner is beaten to death, the death will count as a suicide." We were told many times by policemen that this was a direct order from Jiang Zemin, then head of the Chinese Communist Party.

We were taken to nine different rooms. I was sent to the first room. There was a large double bed and a floor hanger in the room. Four men were already in the room waiting. When I went to the public rest room, I saw there was a big room with more than 30 men sleeping there.

I was frightened and wondered what kind of place this was. Who were these men? Why were there so many men sleeping here?

I got the answer that night. Those men all got up, made a lot of noise, banged on doors, and kept on shouting dirty words. They kicked open my room door and held a camcorder, videotaping me. I heard Ms. Zou Guirong's voice from the hallway at about 10 p.m. She kept calling my name, "Liping, Liping, we were sent from a wolf's den to a tiger den. This government is a bunch of gangsters!"

Hearing her miserable cries, I rushed into the hallway and met Ms. Zou there. We held each other tightly no matter how much the men beat us. I desperately wanted to protect her, since she was shorter and thinner than me. The corner of my right eye was swollen from the beating. My clothes were torn off, and I was almost naked. Ms. Zou and I were dragged back to our rooms.

Four or five male inmates threw me onto the bed. Some held my arms. Some held my legs. One younger man sat on me and beat me. I became dizzy and passed out.

When I came to conscience, three men were lying beside me. I realized that I had been videotaped when I was sexually attacked and humiliated by gangsters of inmates. I swore to myself, "If I ever get out of here alive, I will disclose their crimes and bring them to justice. If I die, my soul will never let them off the hook," because their actions were not human.

I was detained at Liaoyang Forced Labor Camp for nine months from January to September 2000. After three days of forced labor, my hair turned grey. My menstrual period stopped within three months of detention.

I had to load eight tons of steel bars onto trucks in a team of four. I also paved railroads and worked with asbestos and cement bags without a facemask.

In the evening, we were not allowed to rest. We bound flowers until 2 am. My hands were so badly injured that my fingerprints disappeared. My entire body was in so much pain that I couldn't even climb up into bed at night.

We were forced to start working at 5:10 a.m. each day. I often threw up blood from the excessive fatigue. My weight dropped from 75 kg to 60 kg within a few months. I was deprived of sleep for three days and nights for not willing to sign the "Three Statements," which were vows to give up, "expose," and criticize Falun Gong. I could only sleep for a few minutes when squatting in the restroom.

[Show Photo 2] This book documents many unbelievable torture methods, particularly sexual abuses and crimes, that Falun Gong practitioners and other prisoners of conscience were put through. Three toothbrushes were tied together, and inserted into and stired up female private parts. I saw with my own eyes a group of bad guys beating an elderly Falun Gong practitioner in the restroom. They forcefully inserted a broken broom stick into her private part.

[Show Photo-3] Among the Falun Gong practitioners whom I know personally, ten were persecuted to death. Thirty developed mental disorders from the torture. Ms. Wang Jie was one of them. She died in my arms on April 21, 2012. This is a photo of Wang Jie.

She was arrested and accused of collecting evidence of the persecution of Falun Gong, and was sentenced to seven years in prison on March 5, 2003. Her case was documented by the United Nations Commission on Human Rights. She contracted bladder cancer as a result of the torture she suffered in the 7-year jail term. The day before she died, it was her daughter's birthday. Her sister kept calling her and saying, "Wang Jie, please don't die today. It is your daughter's birthday. How can she live on if you die today?" I don't know if it was heaven's will or hers, but she died around 9 a.m. the next morning in my arms.

Wang Jie, Zou Guirong, and I had gone through brutal and evil persecution. We promised one another that any one of us who survives will expose the persecution to the world. Today I'm speaking up for them, the forever voiceless victims. Thank you for this opportunity to stand before and testify at the U.S. Congress and the Congressional-Executive Committee on China.

(Photo 1 - Masanjia Forced Labor Camp, Liaoning, PRC)

(Photo 2 – Book of Sexual Crimes: "Vagina in Coma")

(Photo 3 – Voiceless Victims: Zou Guirong & Wang Jie)

Tiger Chairs and Cell Bosses

Police Torture of Criminal Suspects in China

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Glossary of Terms

CCP	Chinese Communist Party
CPL	Criminal Procedure Law
EU	European Union
MPS	Ministry of Public Security
PRC	People's Republic of China
PSB	Public Security Bureau
SPP	Supreme People's Procuratorate
SPC	Supreme People's Court
UN	United Nations

Summary

In May 2010, Chinese media went into a frenzy over the case of Zhao Zuohai, a 57-year-old man who in 1999 had been convicted of murdering a neighbor. On April 30, 2010, the neighbor reappeared in their village, apparently having merely fled after a violent dispute with Zhao. Zhao, who said police torture in 1999 had led him to confess to a murder he did not commit, was released after 11 years in prison. The Zhao case is one of a number of cases of police brutality that have emerged from across China around 2009 and 2010, prompting a national outcry against such abuse.

The Chinese government adopted legal prohibitions on the mistreatment of persons in custody as early as 1979, ratified the United Nations Convention against Torture in 1988, and launched official campaigns to curb torture in the 1990s. Yet at the time of the 2009 and 2010 outcry, the use of torture and forced confessions had long been endemic to China's criminal justice system. Even Chinese officials had characterized torture in detention as "common," "serious," and "nationwide." It has received attention at the United Nations, by Chinese legal scholars, and in reports of Chinese and international nongovernmental organizations.

Following the 2009 cases, the government announced various measures to curb torture as well as convictions based on evidence wrongfully obtained. The measures included legislative and regulatory reforms, such as prohibitions on using detainee "cell bosses" to manage other detainees, and practical steps such as erecting physical barriers to separate police from criminal suspects and videotaping some interrogations.

In 2012, the National People's Congress revised the country's Criminal Procedure Law to require law enforcement officials to improve access to legal counsel for suspects and to exclude suspects' confessions and written statements obtained through torture. The Ministry of Public Security, the agency in charge of the police, claims that the use of coerced confessions decreased 87 percent in 2012, that cell bosses who abuse fellow suspects are "things of the past," and that deaths in custody reached a "historic low" in 2013. Some Chinese legal scholars contend that, due to these efforts, torture is "gradually being curbed" at least for ordinary, non-political criminal defendants.

This report— based on Human Rights Watch analysis of hundreds of newly published court verdicts from across the country and interviews with 48 recent detainees, family members, lawyers, and former officials—shows that the measures adopted between 2009 and 2013 have not gone far enough.

The detainees and defense lawyers we spoke with said that some police officers deliberately thwart the new protections by taking detainees from official detention facilities or use torture methods that leave no visible injuries. In other cases, procurators and judges ignore clear evidence of mistreatment, rendering China's new "exclusionary rule"—which prohibits the use of evidence directly obtained through torture—of no help. Out of 432 court verdicts from early 2014 examined by Human Rights Watch in which suspects alleged torture, only 23 resulted in evidence being thrown out by the court; none led to acquittal of the defendant.

While measures such as the exclusionary rule and videotaped interrogations are positive, they are being grafted onto a criminal justice system that still affords the police enormous power over the judiciary and offers police numerous opportunities to abuse suspects. For example, the Ministry of Public Security operates the detention centers, not the Ministry of Justice, permitting police unlimited and unsupervised access to detainees. Lawyers cannot be present during interrogations and suspects have no right to remain silent, violating their right against self-incrimination. Procurators and judges rarely question or challenge police conduct, and internal oversight mechanisms remain weak. According to academic sources, only a minority of criminal suspects have defense lawyers.

Absent more fundamental reforms in the Chinese criminal justice system that empower defense lawyers, the judiciary, and independent monitors, the elimination of routine torture and ill-treatment is unlikely.

In 2014, the reversal of two verdicts by appeals courts brought positive outcomes, but more than anything the reversals demonstrated the entrenched failings of the existing system. In a landmark case, a court acquitted Nian Bin who spent eight years on death row for the murder of two children based on his confession obtained through torture. In another case, a court in Inner Mongolia issued a posthumous exoneration of Huugjilt, an ethnic Mongolian teenager executed in 1996 for rape and murder also based on a confession obtained through torture. In both cases, the internal mechanisms responsible

for police oversight—police internal supervision units, the procuratorate, and the courts—missed or ignored the use of torture to obtain convictions.

If China's leadership is genuinely committed to legal reform and to addressing growing public frustration over miscarriages of justice, it should move swiftly to ensure that lawyers are present during police interrogations, adopt legislation guaranteeing suspects' right to remain silent, and establish an independent commission to receive and investigate complaints of police abuse. It should also go beyond measures adopted since 2009, which were modifications to a fundamentally abusive system, and instead make systemic changes that strengthen the procuratorate and the judiciary relative to the police. Such reforms should include transferring responsibility for detention facilities to the Ministry of Justice, which currently oversees prisons, and freeing the judiciary from Party control. Allowing a visit by the UN special rapporteur on torture would be a serious indication of commitment to reform.

China's November 2015 review before the UN Committee against Torture affords the Chinese government an important opportunity to demonstrate its commitment to vigorously implementing existing laws, and to making key improvements to eradicate torture and ill-treatment of detainees. Failure to do so will raise larger questions about the government's willingness to bring reforms to improve public confidence in the country's judicial system.

***

A central component of the research for this report was our search of a large database of Chinese court verdicts—made possible by a Supreme People's Court (SPC) decision requiring all courts to post decisions online starting January 1, 2014—and our analysis of the resulting subset of verdicts in which suspects alleged police torture. We searched all of the roughly 158,000 verdicts published on the SPC website between January 1, 2014, and April 30, 2014. As noted above, a total of 432 verdicts referenced torture allegations and judges excluded confessions in only 23 cases.

Further analysis of the 432 verdicts shows that very few judges investigated torture allegations in any detail. Thirty-two verdicts mention suspects' alleged torture and then say nothing further about it. In the remaining 400 verdicts, judges addressed the torture

claims, but most often relied solely on documentary evidence (247 of the 400) or on the existing case record with no additional evidentiary sources (118 of the 400). In only 35 verdicts is there any mention of live witness testimony and in every instance those witnesses were police officers; there is no sign that defense witnesses or medical or forensic experts were allowed to testify in relation to a torture claim.

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 center 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.

Former detainees and relatives described the difficulty of retaining lawyers willing to challenge the police in court over allegations of mistreatment. In addition, many told Human Rights Watch that medical personnel who have the opportunity to report apparent torture or ill-treatment do not do so, denying detainees a critical source to validate their allegations. Videotaped interrogations are routinely manipulated, such as by first torturing the suspects and then taping the confession, further weakening suspects' claims of ill-treatment. Police use of torture outside detention centers means that detainees often live in terror of being taken from the centers, whether for purported transfers to another facility or for any other reason.

As noted above, the exclusionary rule, one of the most important protections established to protect detainees from torture, has also proved to be of limited utility thus far. Lawyers told Human Rights Watch they welcome the rule insofar as it provides an opportunity to challenge police behavior in legal proceedings. However, in practice procurators and judges too often ignore their requests, often providing no reason for doing so, or give them only perfunctory consideration without seeking evidence to corroborate detainees' torture claims.

Judges often evaluate torture claims solely on the basis of documentary evidence that is either produced or controlled by the police and, unlike with live witnesses, is not subject to cross-examination. In the court verdicts Human Rights Watch analyzed, not a single defense witness or expert witness testified regarding the torture claims. Although the exclusionary rule places the burden of proof on the procuratorate to demonstrate that the police obtained evidence legally, judges often continue to expect detainees to prove that torture had taken place.

The extraordinary power of the police is reflected in the pervasive lack of accountability for police abuse, recent reforms notwithstanding. Those whom Human Rights Watch interviewed—including a former judge and a former police officer—agreed that mechanisms to supervise the police are inadequate, and that police officers are rarely held legally accountable for abuse. Among the SPC verdict database cases we found only one prosecution of three police officers responsible for torture, but none served jail time. The lack of prosecutions in turn means that compensation or rehabilitation for victims is especially difficult to obtain. Former detainees who had tried to press claims for compensation said that police at most offered them some money in exchange for their silence, and that it is very difficult to access formal state compensation. Detainees' efforts to seek accountability have produced few positive results and in some cases have even led to further punishment.

Finally, while this report focuses on the mistreatment of ordinary criminal suspects in custody, the torture and ill-treatment of those detained for political reasons remains a severe problem. Political prisoners such as Gao Zhisheng, Guo Feixiong, Hada, Cao Shunli, and countless others have suffered repeated torture and other abuses at the hands of police and cell bosses under police control to punish them for their activism and to deter others from challenging the state. They have experienced much of what is described in this report and often worse.

Key Recommendations

- Transfer the power to manage detention centers from the Ministry of Public Security to the Ministry of Justice;
- Ensure that anyone taken into police custody be promptly brought before a judge, normally within 48 hours of being apprehended;
- Revise the Criminal Procedure Law to ensure that suspects may have lawyers present during any police questioning and interrogations, and stipulate suspects' right to remain silent during questioning;
- Establish an independent Civilian Police Commission with power to conduct investigations with respect to alleged police misconduct, including deaths in custody and police abuse;
- Amend the Detention Center Regulations to allow suspects to receive visits, phone calls, and letters from families without prior detention center approval;
- Ensure that suspects have access to doctors not beholden to the police, and train doctors and psychiatrists who work with detention centers to recognize evidence of torture and other mistreatment, both physical and psychological.

Human Rights Watch Submission to the United Nations Committee against Torture

During its Consideration of the Fifth Periodic Report of the People's Republic of China

November 2015

Introduction

This memorandum, **submitted to the United Nations Committee Against Torture ("the Committee") ahead** of its upcoming review of China, highlights areas of concern Human Rights Watch hopes will inform the **Committee's consideration of the Chinese government's ("the government") compliance with the International Convention against Torture and Cruel, Inhuman or Degrading Treatment or Punishment ("the Convention"). It contains information on** how China**'s treatment of detainees is inconsistent with the** Convention, and proposes specific recommendations that Committee members could raise with the government of China.

Human Rights Watch has closely monitored the human rights situation in China for more than two decades. In May 2015, Human Rights Watch published a 145-page report on the treatment of pretrial **detainees in China's criminal detention system ("May report").**[1] It was based on first-hand interviews and documentary evidence, including a government database of court verdicts, and finds that torture remains routine in these facilities. This is **despite government measures adopted since the Committee's last** review of the government in 2008 **("2008 review"), which included a new "exclusionary rule"** that prohibits the use of evidence directly obtained through torture and the videotaping of certain interrogations. Because the criminal justice system continues to value confessions above all other forms of evidence, and because police wield considerably greater power than the judiciary and the procuratorate, there are few ways for suspects to avoid or find redress for torture at the hands of the police.

Human Rights Watch has called on the government not only to vigorously implement existing laws, but most importantly, to carry out fundamental reforms in the system that empower defense lawyers, the judiciary, and independent monitors.

The Committee's upcoming review takes place against the backdrop of a broader deterioration in the human rights climate in China, with significant encroachments by the government on the freedoms of expression, association and religion, as the authorities have moved to narrow the space for civil society. Since President Xi Jinping came to power in March 2013, his government has detained and imprisoned

[1] **Human Rights Watch, "Tiger Chairs and Cell Bosses: Police Torture of Criminal Suspects in China," May 13, 2015, p.16**-17.

hundreds of critics and activists, if not more, and vowed to clamp down on human rights and civil liberties. Between July and September 2015 alone, about 280 human rights lawyers and activists were briefly detained and interrogated across the country. About 30 remain in custody, most in secret locations without access to lawyers or family, and are **charged for being part of a "major criminal gang" that "seriously disrupts public order."**[2]

The Chinese government's reply to the Committee's List of Issues (LOI), as noted in this submission, omits critical statistical information, makes a slew of patently false claims, and in general fails to note the wide gulf between Chinese laws and regulations and their implementation in practice.

Inadequate measures to prevent torture (Convention article 2)

A. Unduly long detention period

The Chinese government has not taken any significant steps to shorten the period a detained suspect is held before being brought before a judge in line with international standards. As noted in Human Rights Watch**'s** May report, detainees can be held for a period of up to 37 days, during which they can be subjected to repeated instances of incommunicado interrogation before the procuratorate approves their arrest.[3] It can then take months and sometimes years before the police finish their investigation, the procurator decides to prosecute the suspect, and the suspect is put on trial, which is the first time the suspect will see a judge. While they await trial, most suspects are held in detention centers that are managed by police and it is during this time they are vulnerable to torture.

Although Chinese law, as cited by the Chinese government's reply to the LOI **("LOI** reply**"),** enumerates set circumstances and approval procedures **under which suspects' detention can be extended to the 37**-day maximum before they see a procurator, there are no effective checks to prevent officers from exploiting these rules.[4] In practice, officers regularly extend this period to the maximum in most criminal cases.[5]

Recommendation:

- Ensure that anyone taken into police custody be promptly brought before a judge, normally within 48 hours of being apprehended.
- Transfer the power to manage detention centers from the Ministry of Public Security to the Ministry of Justice.

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[2] Chinese Human Rights Lawyers Concern Group, **"709 Crackdown" Lawyers and Activists' Case Update"** (2015.10.03-2015.10.15), http://chrlawyers.hk/en/content/%E2%80%9C709-crackdown%E2%80%9D-lawyers-and-activists%E2%80%99-case-update-%EF%BC%8820151003-20151015%EF%BC%89 (accessed October 20, 2015).

[3] **See Human Rights Watch, "Tiger Chairs and Cell Bosses: Police Torture of Criminal Suspects in China," May 13, 2015, p.16**-17.

[4] LOI reply, para.3.

[5] Li Weiqiang, "Combing through and Reflections on Detention Legal Limits in Criminal Procedure Law (对我国刑事诉讼中羁押期限的梳理和反思)."February 2, 2015, China Lawyers Net, http://www.acla.org.cn/html/lvshiwushi/20150202/19616.html (accessed October 20, 2015).

B. Right to access lawyers restricted

Under Chinese law, suspects have no right to have lawyers present while they are interrogated in police stations and detention centers.[6] The government has not made any attempt at guaranteeing such access since the 2008 review.

In "crimes endangering State security" cases, it is clear that existing procedures as stated in the government's LOI reply are inadequate in preventing officers from abusing the process to deny suspects' rights to access their lawyers.[7] The government has also failed to provide actual data requested by the Committee in the LOI regarding the number of requests for approval, the number of such requests approved versus those rejected, or information on the number or outcomes of complaints regarding access to legal counsel.[8]

Currently, police alone have the power to deny such access, and can do so for an indefinite period of time until they decide that "circumstances impeding investigation" have "disappeared."[9] There are also no effective means to challenge such decisions. Human Rights Watch has documented numerous cases in which officers refuse to let lawyers access their clients for lengthy periods of time, citing "state security" concerns. This is the case even when the detainees are not charged with state security crimes, such as when they are held on public order charges. In this recent crackdown on human rights lawyers, most detained suspects have been held without access to lawyers, raising serious concerns about torture.

Human Rights Watch's May report documents lawyers' reluctance to represent clients who were tortured.[10] That reluctance stemmed in part from a fear of being subjected to article 306 of the Criminal Law, which penalizes lawyers who "entice" suspects to "falsify evidence" or "change their testimony contrary to facts."[11] The Chinese government's LOI reply claims that the article aimed to "protect the rights of lawyers while at the same time prevent and punish illegal activities."[12] It also claimed that they are "prudent" in prosecuting these cases, which must be done through special procedures. However, the government's LOI reply fails to explain how lawyers' rights are effectively protected, or by whom. Defense lawyers who, for example, advise a client to retract a forced confession, may find themselves the subjects of investigation under this provision, given the close cooperation of the police, the procuratorate, and judges in criminal matters.

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[6] The Criminal Procedure Law (刑事诉讼法, CPL), National People's Congress, 2013, arts. 116 and 117.

[7] LOI reply, para.3.

[8] LOI, para.3.

[9] LOI reply, para.3.

[10] See Human Rights Watch, "Tiger Chairs and Cell Bosses: Police Torture of Criminal Suspects in China," May 13, 2015, p.60.

[11] See Human Rights Watch, "Walking on Thin Ice: Control, Intimidation and Harassment of Lawyers in China," April 29, 2008, p. 55-61.

[12] LOI reply, para.4.

When the Criminal Law was revised in 2015, two changes put lawyers at further risk of prosecution. One is a revision to article 309 of the Criminal Law. The government's LOI reply claimed that revisions "clarified" the original provision, which read, "Whoever gathers people to stir up trouble in a court or assault the court or beats a judicial officer, thus seriously disrupting the order of the court, shall be sentenced to fixed-term imprisonment of not more than three years, criminal detention, or public surveillance or be fined."[13] But the revised article actually introduced new ambiguity by replacing "thus" with the word "such as" (等), making unclear the scope of actions that could constitute the unlawful behavior of "seriously disrupting the order of the court," and opening the possibility that strong defense objections might fall into this category. The revision also expands punishment to anyone who "insults, slanders and threatens judicial officers or participants in the proceedings," an accusation often used against anyone who interrupt judges and procurators for failing to adhere to legal procedures in court.

Another problematic revision involves article 308, which originally criminalized "retaliation against witnesses." That article has now been expanded to criminalize the "revealing of information that should not be disclosed in a case that is not tried in public in accordance with law, causing the information to be publicly transmitted or other serious consequences." Under Chinese law, certain types of cases can be tried in close trials, including those involving "state secrets."[14] The Chinese government has long had an extremely expansive view of what constitutes a state secret, including information related to "economic and social development" as well as a catch-all "other matters" category. The result is that trials of peaceful critics can also be closed for "state secret" reasons. It is unclear what constitutes "information that should not be disclosed," and lawyers of peaceful critics in these trials are at risk of prosecution for sharing any information with the press or the public. A new set of regulations (关于依法保障律师执业权利的规定) cited in the government's LOI reply as an improvement to the rights of lawyers also poses some new similar restrictions on lawyers.[15] Instead of having access to clients' case files in all cases, a right of lawyers protected in the Criminal Procedure Law and the Lawyers' Law, the new regulations now require lawyers to seek authorities' permission to get access to files that involve "state secrets."[16] Lawyers are also not allowed to use case files for any other purposes except for the purpose of the court case, including publishing material from them online.[17] Rights lawyers frequently speak to the press or publish information related to their political cases, and are likely to be constrained and put at risk by these changes.

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[13] This is excerpted from the official translation of the Criminal Law on the National People's Congress website, http://www.npc.gov.cn/englishnpc/Law/2007-12/13/content_1384075.htm (accessed October 23, 2015).

[14] Others include those that involve "personal privacy," "commercial secrets," and those involving juveniles. In cases involving commercial secrets, the persons involved in the cases need to make an application to the court for a closed trial. See articles 183 and 274 of the Criminal Procedure Law.

[15] LOI reply, para. 4.

[16] Regulations Regarding the Protection of Lawyers' Right to Practice in Accordance with the Law (关于依法保障律师执业权利的规定), the Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security, the Ministry of State Security and the Ministry of Justice, September 2015, art. 14.

[17] Ibid.

Recommendations:

- Revise the Criminal Procedure Law (CPL) to ensure that suspects may have lawyers present during any police questioning and interrogations.
- Repeal articles in the CPL that allow suspects charged with terrorism, major corruption, or state security offenses to be denied access to lawyers during police custody.
- Revise the Criminal Law to abolish article 306 and the changes to articles 308 and 309 described above that increase the risk of prosecution of lawyers for defending their clients.

C. Right to access families limited and enforced disappearance

International law requires that states guarantee suspects' right to be able to communicate with family members, including through visits, subject only to restrictions and supervision necessary to the security and order of the facility.[18] According to Chinese law, suspects can meet with their families in the presence of police officers after they obtain permission from the police.[19] But in practice, detention centers severely **restrict suspects' communication with their families**, thus denying suspects one of their only means to seek help about mistreatment in detention. Detention centers generally do not allow suspects to meet with family members until they are convicted and either choose not to pursue appeals or have exhausted the appeals process.[20] They also do not allow suspects to call their families. While letters are permissible, detention center officials often intercept those that reveal mistreatment.

In 2012, the government revised the CPL to effectively legalize enforced disappearances. As the Committee **noted in the LOI, article 83 allows the police not to inform families about detainees' criminal detentions if their families cannot be contacted, or if their cases involve "endangering state security" or "terrorism," and if such notification would "impede investigation."**[21] Police alone make that determination during the period of criminal detention, which can be up to 37 days. No effective safeguards exist to prevent disappearance under this article, and no effective remedies to challenge such a determination.

Article 73 of the 2012 CPL revisions also allows police to hold suspects in an undisclosed location for up **to six months under "designated residential surveillance" if they "endanger state security" or are involved in "terrorism" or "major corruption."** article 37 of the CPL also states that lawyers need to obtain permission from the police before they can meet with their clients in the above three categories. Although

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[18] UN Committee against Torture, Observations on the UN Standard Minimum Rules, paras. 16, 17 and 48; Body of Principles for the Protection of All Persons under Any Form of Detention or Imprisonment, para. 19.

[19] Detention Center Regulations, art. 28.

[20] **Gao Yifei and Zhang Shaosong, "Rights Discounted: Reflections on the Current State of Suspects' Access to Families (被打折的权利----未决在押人员亲属会见权现状与反思),"** *Dongfang Fayan Web*, January 2, 2015, **http://www.dffyw.com/faxuejieti/ss/201501/37756_2.html; Zhao Xiaoyan, "An Exploration of the System and Rights of Suspects'** Access to Families (未决人员家属会见权制度探索)**,"** *Legal Daily*, http://www.legaldaily.com.cn/zfb/content/2012-01/29/content_3321843.htm (accessed April 30, 2015).

[21] LOI, para.3.

families in these cases have to be notified of the detention, they are not told where the suspects are held. In essence, police can hold these suspects without access to lawyers and families in an undisclosed location for up to six months, leaving them highly vulnerable to torture or ill-treatment.

Recommendations:

- Amend the Detention Center Regulations to allow suspects, under reasonable terms of supervision, to receive visits, phone calls, and letters from families without prior detention center approval;
- Repeal articles in the CPL that allow families of certain groups of suspects to be denied notification of their relative's detention and abolish secret detention under "designated residential surveillance."

D. Medical personnel lack independence (Convention articles 2, 10)

The government's LOI reply failed to respond to the Committee's question regarding safeguards that "are in place to ensure that medical personnel are able to examine victims out of the hearing and sight of police officers, and are able to report in strict confidentiality signs of torture, without fear of reprisals."[22] Human Rights Watch's May report finds that suspects generally report that they are unable to express concerns to doctors who examine them upon admission to the detention center without fear of being overheard or retaliated against by the officers.[23] The government's LOI reply that doctors can report any abuses they may encounter to the police or the procuratorate is also insufficient: neither the police's internal mechanisms for monitoring police conduct, nor the procuratorate, is independent.

The government claims in its LOI reply that all medical personnel in detention facilities have been given "anti-torture training."[24] It has failed to give details about such training, including whether it involves training these medical professionals to recognize evidence of torture and other mistreatment in accordance with international standards, including the Istanbul Protocol.

Recommendations:

- Ensure that suspects have fully confidential access to doctors who operate independently of the police and custodial authorities.
- Train doctors and psychiatrists who work with detention centers to recognize evidence of torture and other mistreatment, both physical and psychological, and require that they report torture cases to an appropriate independent authority.
- Provide a secure and anonymous system for doctors to submit reports of police abuse and take measures to prevent retaliation against doctors who make such reports.

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[22] LOI, para.3.

[23] See Human Rights Watch, "Tiger Chairs and Cell Bosses: Police Torture of Criminal Suspects in China," May 13, 2015, p.62-68.

[24] LOI reply, para.13.

- As part of their evaluation process every two years, evaluate the conduct of doctors who provide services to detention centers; doctors found complicit in obscuring evidence of torture or ill-treatment should be subject to appropriate disciplinary measures such as suspension or removal from practice.

Deaths in custody (Convention article 11)

The government's LOI reply to the Committee's question regarding "measures taken to ensure that all instances of deaths in custody are independently and impartially investigated and that those responsible ... are prosecuted"[25] consists of a list of the regulations for handling deaths in custody.[26] However, the reply contained none of the statistical data on these deaths or concrete information regarding the outcomes of complaints, investigations, or penalties for violators of these regulations.

Human Rights Watch's research included interviews of family members of detainees who died in custody, and those interviews revealed that these procedures are often ignored in practice.[27] Family members were told by police that suspects had died of "natural causes"; in most cases, it was unclear to the family members whether investigations had been conducted at all. Chinese regulations provide that families should be consulted in the process of conducting an autopsy, and authorities "should allow" them to involve forensic experts other than those chosen by the police or the procuratorate.[28] However, interviewees told Human Rights Watch that they were not allowed to use forensic experts other than those appointed by the police.

Recommendations:

- Revise the Regulations on the Management of Deaths in Custody to ensure that families have access to independent forensic experts and the power to authorize them directly and immediately to conduct autopsies.
- Ensure that police and the procuratorate investigate not only alleged physical abuse but also alleged denial of medical treatment, negligence, or delay in providing such treatment in cases of death in custody.

Use of restraints and disciplinary procedures (Convention articles 11, 16)

The government's reply claiming that solitary confinement ("xiaohao")(小号) is used "as a management approach, not punitive measure" is patently untrue.[29] Article 36 of its Detention Center Regulations states that solitary confinement can be used on those detainees who "seriously violate" rules in detention centers and those who refuse to "change their ways upon education." Behaviors that warrant such

[25] LOI, para. 15.
[26] LOI reply, para.15.
[27] See Human Rights Watch, "Tiger Chairs and Cell Bosses: Police Torture of Criminal Suspects in China," May 13, 2015, p.47-53.
[28] Rules on the Handling of Deaths in Detention Centers, art. 13.
[29] LOI reply, para.19.

confinement include, according to article 47 of the Implementing Methods of the Detention Center Regulations, "spreading corrupt thoughts" or getting into fights. These regulations state clearly that solitary confinement is used in pretrial detention facilities, and for the purpose of punishment, in contradiction to the Committee against Torture's opinion that the use of solitary confinement should be prohibited for pre-trial detainees.[30] Interviewees who spoke to Human Rights Watch said that detainees who engaged in fights and who were "noisy" are punished with solitary confinement; political detainees who protested against their treatment also found themselves held in small rooms without human contact for days.[31]

The government's reply also failed to note any due process rights the detainees have with regard to the use of restraints.

The government's reply that it does not use of "tiger chairs," but uses "interrogation chairs in line with national standards," is misleading;[32] they are the same and enable torture.[33] According to a written statement by the Guiyang City Public Security Bureau, "the 'tiger chair' is in fact an 'interrogation chair' used by the public security."[34] According to a Ministry of Public Security notice, interrogation rooms should be equipped with "special seats" for suspects that should be "secure" and "fixed to the ground" with "safety features."[35] However, the notice did not give details as to the kinds of features this seat should have, the circumstances under which the chair should be used, or how long suspects can be strapped to the chair. While police have contended the chair is to protect suspects from hurting themselves or others, the relevant regulations governing police equipment and restraints do not include interrogation chairs.[36]

The government's LOI reply acknowledges that inmates on death row are shackled, but it fails to note the duration of the shackling as requested by the Committee.[37] Death row inmates and family members who spoke to Human Rights Watch said that these suspects are shackled 24 hours a day, and since they are shackled from the moment they are convicted, they can be shackled for years while their appeals are pending. Lawyers, family members, and former death row inmates told Human Rights Watch that the

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[30] Principles on Extrajudicial Executions, principle 9.

[31] See Human Rights Watch, "Tiger Chairs and Cell Bosses: Police Torture of Criminal Suspects in China," May 13, 2015, p.45-46.

[32] Tiger chairs, typically made of metal, are designed to immobilize suspects during interrogations. Former detainees told Human Rights Watch that they were strapped in this metal chair for hours and even days, deprived of sleep, and immobilized until their legs and buttocks were swollen.

[33] LOI reply, para.19.

[34] "Police Denies Using "Tiger Chairs" in Forcing Confession in the Triad Case of Guizhou Political Consultative Committee Member (贵州政协委员涉黑案 警方否认用"老虎凳"逼供),供"Jinqian Zaixian (金黔在线), June 20, 2012 http://news.shm.com.cn/2012-06/20/content (accessed April 22, 2014).

[35] "The MPS on the Issuance of 'Rules Regarding the Settings in Places of Law Enforcement and Investigation' (公安部关于印发《公安机关执法办案场所设置规范》的通知)," *MPS*, 2010, art. 13.

[36] "Regulations of the People's Republic of China on Use of Police Implements and Arms by the People's Police (中华人民共和国人民警察使用警械和武器条例)," *State Council*, 2014.

[37] LOI reply, para.37.

shackling involves both handcuffs and leg irons, and in many cases their hands and feet are shackled together, leaving them unable to stand up straight.[38]

Recommendations:

- Amend the Detention Center Regulations to prohibit the use of solitary confinement of pretrial detainees; to ensure that detainees' due process rights are respected when subjecting them to disciplinary actions; and to establish mechanisms for lawyers and suspects to effectively challenge these actions.
- Revise the Regulations on the Use of Police Equipment and Weapons to bring the use of restraints in line with relevant international standards; prohibit the use of chains or irons as forms of restraints; and prohibit the use of chairs with built-in restraints ("tiger chairs" or "interrogation chairs") for interrogations.

The lack of independence of the procuratorate (Convention articles 12, 13)

The procuratorate is, in theory, charged with supervising police conduct, and is repeatedly cited in the government's LOI reply as a safeguard against police abuse. For example, it is tasked with reviewing and approving police requests for extending the period of criminal detention, or ensuring that police do not withhold notification of families in violation with the law. But the procuratorate's "dual role" both as the supervisor of the police and of prosecutor of crimes make its independence questionable. While the government's LOI reply emphasizes that "two different departments" within the procuratorate carry out these conflicting functions "independently and objectively," it is unclear how a department within the procuratorate can exercise such independence.[39] The procuratorate as a whole is required under the Chinese law enforcement system to cooperate with the police and the court to solve crimes under the leadership and coordination of the CCP's Political and Legal Committee.[40]

Recommendations:

- Establish an independent Civilian Police Commission composed of independent members with knowledge of detention facility conditions and police practices and provide adequate funding to it by law. The Commission should be empowered to conduct investigations with respect to alleged police misconduct, make unannounced visits to detention facilities, publish statistics, make public recommendations, provide compensation to victims of torture or ill-treatment, and determine demotion or suspension for officers who have engaged in misconduct and recommend to the procuratorate those who should face criminal charges.

Rehabilitation (Convention article 14)

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[38] See Human Rights Watch, "Tiger Chairs and Cell Bosses: Police Torture of Criminal Suspects in China," May 13, 2015, p.42-44.
[39] LOI reply, para.28.
[40] CPL, art 7.

The LOI asked the government **to provide information on "the extent to which rehabilitation programmes,** including medical and psychological support, are available to victims of torture and ill-treatment, including in cases of domestic or gender-**based violence and of trafficking."**[41] **The government's reply** failed to respond to this question, except in the cases of domestic violence and trafficking women and girls.[42] Human Rights Watch is not aware of any rehabilitation programs run or supported by the government for victims of police abuse or torture, or any private or non-profit programs openly available for such victims.

Recommendations:

- The Chinese government should establish and/or allow the establishment of rehabilitation centers to treat victims of police abuse.

No right to silence (Convention article 15)

The government's LOI **reply that the "relevant provisions of the Criminal Procedure Law is consistent with the spirit of the right to silence" is inaccurate.**[43] Suspects have no rights to remain silent under Chinese law. Although the Chinese government introduced a provision in the revisions of the 2012 CPL that allows suspects to refuse to answer incriminating **questions, the law continues to require them to "answer truthfully" in police interrogations, rendering the new provision largely meaningless and ineffective.**[44]

Recommendations:

- Revise the **Criminal Procedure Law to stipulate suspects' right to remain silent during questioning.**

We look forward to the spotlight brought by the Committee's review on China's deeply problematic torture record, and the resulting authoritative assessment of the steps needed to address the concerns identified, as a significant contribution toward furthering urgently needed reforms.

[41] LOI, para. 29.
[42] LOI reply, para. 29.
[43] LOI reply, para. 32.
[44] CPL, art. 118.

https://www.hrw.org/print/283312

NOVEMBER 11, 2015

HRW Letter to UN Committee against Torture

Re: Cases of Chinese Torture

Re: Cases of Chinese Torture

To the members of the UN Committee Against Torture,

Human Rights Watch is an independent international organization that monitors human rights in more than 90 countries around the world. We write regarding the Committee's review this month of the People's Republic of China.

Human Rights Watch has submitted information to the Committee ahead of its pre-sessional review of China for the List of Issues and for the session. In May 2015, HRW published a 145-page report on police torture and other ill-treatment of criminal suspects in China, based on our analysis of hundreds of newly published court verdicts from across the country and interviews with 48 recent detainees, family members, lawyers, and formal officials. The report is available here: https://www.hrw.org/report/2015/05/13/tiger-chairs-and-cell-bosses/police-torture-criminal-suspects-china

In light of China's forthcoming review under CAT, we wish to share a number of cases of torture with the Committee, as they illustrate many of the problems discussed in the report. We believe they will serve as useful bases of questions for the Chinese delegation.

1. **Nian Bin (念斌)**

Nian Bin, born in 1976, and originally from Fuzhou City in Fujian Province, spent eight years on death row. He was detained in August 2006, and convicted in February 2008 for "placing dangerous materials [poison]."

Nian said that during the initial police investigation of his case between August 7 and 10, 2006, police forced him to confess by jabbing him in the ribs with sharp bamboo sticks and hitting him with hammers. Throughout

his eight years in detention, per detention center regulations requiring death row detainees to wear restraints at all times, Nian's hands and feet were shackled together for 24 hours a day and he was unable to fully extend his body.

In August 2014, Nian was granted a rare exoneration on the basis of "insufficient evidence" after his family and lawyer repeatedly appealed his verdict. His exoneration coincided with broader Chinese government pledges to reduce wrongful convictions through implementing the "exclusionary rule" to remove illegally-obtained evidence.

Since his release, Nian was diagnosed with a range of physical and psychological illnesses and disabilities, including post-traumatic stress disorder and depression. He has faced significant difficulties seeking adequate compensation, treatment and accountability. He applied for compensation under the Law of State Compensation, and received 1,139,000 RMB (about US$ 179,800) for "damages to his personal liberty," calculated on the basis of daily average wage, and "psychological harm" as a result of wrongful conviction in February 2015. But the court did not recognize many of Nian's other claims, such as medical and rehabilitation costs, and it did not compensate Nian for the psychological damages incurred as a result of torture. The court argued that its responsibility towards Nian is limited to the judicial system's wrongful rulings which led to his loss of liberty, but not for any damages to his health. Nian has sought a re-evaluation with the Fujian High Court, but it has twice delayed hearing the case.

Authorities have also failed to provide him with any rehabilitation services. In November 2014, he identified psychologists in Hong Kong willing to provide him free treatment, and that month he applied for an Exit-Entry Permit for travelling to and from Hong Kong and Macau in order to access that treatment. Upon making that application, however, he was told that the Pingtan County Police Bureau had again listed him as a criminal suspect because they had found "new evidence" against him, and that they could not issue him the document. Nian has filed a lawsuit against the police; the court heard the case in April 2015, but no ruling has yet been issued.

Nian has filed complaints in December 2014 to the Supreme People's Procuratorate and the Fujian Provincial Procuratorate seeking accountability for the officers who tortured him, but so far has received no response.

2. **Xiao Yifei (肖疑飞)**

Xiao Yifei, born in 1976, from Yongzhou City in Hunan Province, is a former government official who was held from June to July 2012 in the Chinese Communist Party's extralegal detention system, known as "shuanggui" (双规). Xiao says he was tortured while in solitary confinement.

Xiao was out for a walk in Changsha on June 2, 2012, when cadres from the Party's Disciplinary Commission seized him. They beat and hooded him, and took him away in hand and leg cuffs. The officials told Xiao that he had been put under "shuanggui" but did not present any official documents. Under shuanggui, most basic

protections afforded under China's criminal justice system are not available, including being given official documents about the detention or having the right to a lawyer.

According to Xiao, his captors were trying to force him to admit to accepting bribes. His tormentors beat him with their fists and feet, wooden rods, and leather whips; they dragged him around on the ground; forced water down his nostrils; put clips on his eyelids, lips and genitals; put a handful of lit cigarettes up to his nostrils; handcuffed his hands and hung him from the window grill; and forced him to stand without rest or food while blasting cold air at him. The investigators told Xiao that his case was jointly handled by the police, the procuratorate, and the disciplinary commission; Xiao identified the two main persons who tortured him as police officers. Xiao's case was later transferred to the formal legal system's procuratorate, and he was released on bail in July 2012.

Xiao submitted complaints to the procuratorate and the disciplinary commission about his torture, but got no response, and officials about whom he had complained were later promoted. In March 2014, he spoke to the Associated Press about his experience.

In July 2014, Xiao was taken into custody again. Prior to his trial, he was repeatedly prevented from meeting his lawyers. He was also pressured to dismiss the lawyers of his choice and instead hired new lawyers suggested by the authorities. He was convicted of "bribery and embezzlement" and sentenced to 13 years in prison in October 2015. Xiao is currently held in Shuangpai Detention Center in Yongzhou City, Hunan Province.

3. **Yang Jinde (杨金德)**

Yang Jinde, born in 1968, is a businessman originally from Nanyang City in Henan Province. In July 2011, he was convicted of six crimes associated with triad activities and sentenced to 20 years, which was subsequently reduced to 18 upon appeal. In October 2011, Yang told his lawyers that while he was being interrogated by Nanyang City Public Security Bureau in September 2010 he was tortured such that he was left fully paralyzed and lost his eyesight in his left eye.

During his interrogation, Yang said police officers beat him, forced him to kneel for hours, forced him to drink water infused with chili, and poked him with needles. Police forced beer bottles into his anus, and made him sit with his fully body weight on the bottles. Police also confined him in a cage with a police dog while his hands and legs were shackled.

According to his family and lawyers, Yang's allegation of torture was not examined seriously during the trials in July 2010 and November 2011 in Nanyang City. Police submitted written statements denying torture instead of testifying in court, and refused to provide a copy of the video recording of the interrogations or a copy of his detention medical records.

His sister and mother, who have continued to advocate for him by petitioning higher authorities, have been repeatedly detained by officials. In July 2015, Yang's sister, Yang Jinfen (杨金芬), was sentenced to three years and six months in prison for petitioning about her brother's case.

Yang Jinde, who is being held in Henan Provincial No.2 Prison, has reportedly not been given any medical treatment for injuries sustained during torture and has repeatedly been barred from meeting with his family.

4. **Human Rights Lawyers in Enforced Disappearance**

Since July 10, 2015, 233 human rights lawyers and activists have been taken into custody across the country as authorities have accused them of being involved with the activism of the Beijing Fengrui Law Firm. While most of the 233 have been released after being threatened for supporting the firm, 36 remain in custody. Of those, four have been criminally detained, 25 have been placed under "designated residential surveillance," three have been placed under other forms of police custody and four have disappeared.

Among these 36 still detained, 33 are held incommunicado, leaving them vulnerable to torture and other abuses. Police have not informed the families of the detainees of their whereabouts, nor given them access to lawyers. A full list of these individuals can be found here.

We hope this will be useful to you as begin China's review, and that the Committee will ask the Chinese delegation about these cases.

Sincerely,

Sophie Richardson
China Director
Human Rights Watch

Region / Country

- Asia
- China and Tibet

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Links

[1] https://www.hrw.org/report/2015/05/13/tiger-chairs-and-cell-bosses/police-torture-criminal-suspects-china

[2] http://bigstory.ap.org/article/china-brutality-yields-confessions-graft-1.

https://www.hrw.org/print/283312

[3] http://www.chrlawyers.hk/zh-hant/content/%E2%80%9C709%E5%A4%A7%E6%8A%93%E6%8D%95%E2%80%9D%E4%B9%8B%E5%BE%8B%E5%B8%AB%E5%8F%8A%E7%B6%AD%E6%AC%8A%E4%BA%BA%E5%A3%AB%E5%80%8B%E6%A1%88%E9%80%B1%E5%A0%B1%EF%BC%8820151024%E8%87%B320151030%EF%BC%89.

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February 12, 2015

Members of the United Nations Committee against Torture
Office of the United Nations High Commissioner for Human Rights
52 rue des Pâquis
CH-1201 Geneva
Switzerland

Re: Pre-Sessional Review of China

Dear Committee Members:

We write in advance of the upcoming Committee against Torture (the "Committee") pre-sessional review of China to highlight areas of concern that we hope will inform your consideration of the Chinese government's compliance with the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (the "Convention"). This submission discusses violations of the rights of people in China that are inconsistent with articles 1, 2, 4, 12, 13, 14, 15, and 16 of the Convention.

This submission is based on Human Rights Watch's current research on police abuse during pre-trial detention, and on our ongoing monitoring of the human rights situation in China.

In your upcoming Committee pre-sessional review of China, Human Rights Watch urges you to question the government of China about the following key issues:

1. Definition of torture in Chinese law inconsistent with that of the Convention (articles 1 and 4)

Although the word "torture" (*kuxing*) exists in Chinese, the term is not used in domestic law, media reports, or in colloquial speech. Instead, the government uses the term "*xingxun bigong* (or "coerced confession" 刑讯逼供)," the infliction of corporal treatment or quasi-corporal treatment by judicial officers to force suspects to confess, and makes it a criminal

offense.[1] It also criminalizes the same behavior against detainees in institutions of confinement and against witnesses to compel testimonies.[2]

The Committee has repeatedly raised concerns that these crimes related to torture in Chinese laws do not "fully compl[y] with the definition [of torture] contained in the Convention."[3] At the time of the 2008 Committee review, the relevant provisions only prohibited physical, but not mental or psychological, pain.[4] The Chinese government made some progress towards addressing this problem when the Supreme People's Court issued a judicial interpretation in 2012, which for the first time recognized the infliction of severe mental pain as an act of torture.[5] But the judicial interpretation has not specified the types of behaviors that would constitute such mental pain; consequently, tactics such as prolonged sleep deprivation remain lawful.[6]

The government has also not yet fully addressed the fact that the laws do not clearly prohibit the use of torture except for the purpose of extracting confessions.[7] The laws only prohibit torture by judicial officers and officers of detention facilities, and do not cover torture by all "others acting in an official capacity, including those acts that result from instigation, consent or acquiescence of a public official," such as those by "jail bullies."[8] The Committee should ask the government to provide an explanation about both loopholes and when it plans to close them.

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[1] Criminal Law of the People's Republic of China (中华人民共和国刑法), *National People's Congress*, adopted on July 1, 1979 (amended on March 14, 1997), art. 247; The Supreme People's Procuratorate's Standards on Filing malfeasance Cases (最高人民检察院关于渎职侵权犯罪案件立案标准的规定), *the Supreme People's Procuratorate*, effective since July 26, 2006.

[2] Criminal Law, arts. 247 and 248; the Supreme People's Procuratorate's Standards on Filing Malfeasance Cases.

[3] UN Committee Against Torture, "Concluding observations of the Committee against Torture: China," CAT/C/CHN/CO/4, December 12, 2008, http://www.refworld.org/docid/496c854b2.html, para 32.

[4] Ibid.

[5] SPC Judicial Interpretation on the CPL, art. 95. However, the relevant provisions on the filing of cases involving official crimes by the Supreme People's Procuratorate, effective since 2006, refer only to physical violence and abuses and do not mention mental pain. Since it is the procuratorates in lower levels which investigate official crimes, it is unclear how they handle torture complaints involving mental suffering in practice.

[6] Although state media has reported that the SPC was drafting such a judicial interpretation on the issue, it has not been released. See Xing Shiwei, "Sleep Deprivation Proposed to be Considered as an Act of Coerced Confession (疲劳审讯拟算变相刑讯逼供)," *The Beijing News (新京报)*, December 8, 2014, http://epaper.bjnews.com.cn/html/2014-12/08/content_550984.htm?div=0 (accessed January 7, 2015).

[7] Ibid.

[8] Concluding Observations of the Committee against Torture on China, para. 33.

2. Ineffective measures to prevent torture (articles 2, 13)

Human Rights Watch welcomes the positive steps the Chinese government adopted since it was last reviewed by the Committee in 2008, some of which were noted in the government's report. Those include: improvement of physical infrastructure in detention centers around 2009 following the suspicious death of a suspect; revisions to the Criminal Procedure Law in 2013 that formalized the rule of excluding confessions obtained through torture and other ill-treatment from criminal proceedings; and the abolition of the administrative detention system Re-education through Labor (RTL) in 2013.

However, under Chinese law, criminal suspects are interrogated in the absence of lawyers or the monitoring of third parties, often in locations controlled by the police including detention centers and police stations.[9] Suspects are not guaranteed the right against self-incrimination by remaining silent.[10] In theory suspects can appoint and meet with lawyers, but most have none.[11] In addition, police are legally entitled to deny certain categories of suspects—such as those charged with terrorism, major corruption and state security charges—access to lawyers.[12] Detainees also have no access to medical professionals independent of the police, and very restricted or no communication with their families, creating conditions that are conducive to the use of torture.[13] New safeguards introduced in recent years that have strengthened internal monitoring mechanisms of police abuse are commendable, but they have had limited impact in preventing torture because they rely on the state to restrain and police itself. Because of the way the Chinese law enforcement system is structured—that the police, procuratorate, and the courts are required to "mutually cooperate"[14] with each other to solve crimes under the leadership and coordination of the Communist Party's Political and Legal Committee at the same level—the arrangement makes it difficult for the procuratorate and the court to check police abuse.

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[9] Ibid.; CPL, arts. 116 and 117.

[10] While the law allows suspects to refuse to answer irrelevant questions and to not incriminate themselves in police interrogations, it also requires suspects to "answer truthfully" in police interrogations. CPL, arts. 50 and 118.

[11] Wu and Beken, "Police Torture in China and Its Causes: A Review of Literature," *The Australian and New Zealand Journal of Criminology*, p.566. The lack of legal representation is likely because both the suspects are reluctant to hire lawyers because of cost as well as their beliefs that other means, such as bribing relevant officials, might be better alternatives; and because lawyers are reluctant to take criminal cases because they fear official retribution and prosecutions against criminal defense lawyers. There are also cases in which suspects have no means to contact lawyers because they cannot communicate directly with their families as detention centers severely restrict or bar their communication with families. See Congressional-Executive Commission on China, "Defense Lawyers Turned Defendants: Zhang Jianzhong and the Criminal Prosecution of Defense Lawyers in China," http://www.cecc.gov/publications/issue-papers/defense-lawyers-turned-defendants-zhang-jianzhong-and-the-criminal (accessed September 1, 2014).

[12] CPL, art. 37.

[13] The use of incommunicado detention is considered to raise the risk of torture and ill-treatment and can in itself constitute a form of cruel, inhuman or degrading treatment or even torture. Although international standards do not prohibit incommunicado detention, international standards and expert bodies have stated that it should be restricted to very short periods of time and in very exceptional circumstances.

[14] CPL, art 7.

The Committee should ask the following questions regarding measures to prevent torture during pre-trial detention:

- The Ministry of Public Security (MPS) announced in June 2013 that six months after the Criminal Procedure Law revisions came into effect, that there was "an 87 percent drop in coerced confessions nationwide."[15] But the report did not provide the numbers of detainees who were coerced to confess. *The Committee should ask the government to provide such data during pre-trial custody during the reporting period so that this claim can be evaluated.*

- The Chinese government's report claims, in paragraph 33, that "From March 2010 to the end of 2011, the Ministry of Public Security deployed a task force to collect and rectify issues of abnormal deaths of persons involved in cases in the process of law enforcement by public security authorities throughout the country... bringing about a clear decline in the number of accidents involving the safety responsibilities of law enforcement." In 2009, official data quoted in Chinese press noted only 15 cases of deaths in custody in detention centers due to "unnatural causes," and subsequent reports by the MPS state that both the numbers of unnatural and "natural" deaths dropped consecutively in 2010 and 2011.[16] The MPS said that deaths in detention centers dropped to a historical low in 2013.[17]

    a. *The government should provide the number detainees who died during pre-trial custody, broken down according to causes of deaths, from 2010 to 2015 so the Committee can evaluate this claim.*
    b. *The government should provide the number of investigations launched and number of autopsies conducted, broken down according to causes of deaths, from 2010 to 2015.*

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[15] "Coerced Confessions Has Reduced by 87 percent Nationally in the Past Year (全国刑讯逼供案件去年下降 87%)," *Shanghai Evening Post (新闻晚报)*, June 27, 2014, http://news.sina.com.cn/c/2013-06-27/132027513471.shtml (accessed March 21, 2014).

[16] "The Supreme People's Procuratorate: 15 Cases of Deaths in Custody Were Received This Year (最高检：今年接到在押者非正常死亡报告 15 人)," People's Net (人民網), April 19, 2014, http://politics.people.com.cn/BIG5/1026/9153861.html (accessed July 8, 2014); Zhao Chunguang (赵春光), "Insist on Protecting Criminal Proceedings and Protecting Human Rights: Innovations in National Management Mechanism in Detention Center Have Achieved Remarkable Results (坚持保障刑事诉讼与保障人权并重——全国看守所管理机制创新取得显著成效), *Legal Daily*, March 7, 2012, http://www.legaldaily.com.cn/Frontier_of_law/content/2012-03/07/content_3405904.htm?node=33424 (accessed July 8, 2014).

[17] "Unnatural Deaths in Custody in Detention Centers Have Fallen to a Historical Low in 2013 (2013 年全国看守所非正常死亡率达历史最低水平)," People's Net (人民网), July 18, 2014, http://news.163.com/14/0718/14/A1EMC7K200014JB6.html (accessed September 15, 2014).

c. *The government should provide any MPS guidelines for detention centers on the kind of documentation (for example, surveillance video footage, medical reports) that they are required to give to families to inform them of the investigation.*

d. In cases of deaths in Detention Centers, according to the Rules on the Handling of Deaths in Detention Centers, families should be consulted in this process of seeking forensic experts to investigate the deaths, and if they wish to seek experts other than those chosen by the police or the procuratorate, the authorities "should allow" them. *What measures has the government taken to ensure families' choices are respected?*

- *Has the government taken measures to ensure that the police fulfill the requirement to make audio or visual recordings of all interrogations, and how it safeguards against police selectively recording only interrogation sessions that do not involve torture or other ill-treatment?*

- The state report in paragraph 30 noted that "local public security authorities have undertaken a standardizing reconstruction of the physical facilities of law enforcement ... with electronic monitoring and control equipment installed for the guidance of the people's police in law enforcement standardization. As of the end of 2012, 90 percent of the local police stations throughout China had completed this standardizing reconstruction." Our research suggests detainees are frequently taken out of the detention centers to evade these protections. *Has the government taken measures to ensure that torture or other ill-treatment does not take place outside of these facilities?*

- The government report stated in paragraph 12 that police supervisory authorities monitor and handle cases of suspected torture. *The government should provide the numbers of police officers who have been disciplined as a result of monitoring by these police supervisors in the reporting period, the violations for which they are being disciplined, and the nature of the punishments they have received.*

- The government report stated in paragraph 59 that persons in custody have "meeting schedules for on-site procurators" and other opportunities to meet with the procurators to make complaints about abuses. *Given the close relationship*

between the police and the procuratorate to "mutually cooperate" to solve crimes, and that the police guarding the detention centers share facilities with the on-site procurators, how does the government ensure the independence and impartiality of procurators when handling complaints against police officers?

Paragraph 103 of the state report asserts that "Article 37 of the amended Criminal Procedure Law clarifies procedures for defence lawyers to meet with criminal suspects...stipulating that where a defence attorney ... requests to meet with a detained criminal suspect or defendant, the criminal detention facility shall promptly arrange such a meeting, and no later than within 48 hours." *The Committee should ask why three categories of suspects—those suspected of major corruption, terrorism and state security crimes—require police permission prior to meeting with their lawyers.*

a. Improving suspects' access to lawyers is one of the key protections against torture. But often criminal lawyers refuse to take cases involving police abuse or failed to advocate on behalf of their clients due to police pressure. In addition to fears of offending the authorities, there are also legal consequences for lawyers challenging the police on torture, article 306 of the Criminal Law penalizes lawyers for "enticing" suspects to "falsify evidence" or "change their testimony contrary to facts." The widely reported case of Li Zhuang, a lawyer who was imprisoned for helping his client to speak out about torture, reportedly deters many criminal lawyers from taking such cases.[18] *The Committee should ask the Chinese government to explain article 306 of the Criminal Law as well as measures it has taken to ensure that lawyers are not retaliated against for filing complaints about torture.*

Outside of criminal detention, Human Rights Watch research shows that torture and ill-treatment remain common in other types of detention facilities. The use of torture is particularly pervasive in "black jails" (also known as "legal education classes" in some cases), extralegal facilities in which petitioners—people who expose and file complaints about local officials' misconduct—and practitioners of banned religions are often held. The government refuses to acknowledge that such facilities exist let alone provide redress for those mistreated there. There have also been media and victim reports of torture in "*shuanggui*," an extralegal form of detention run by the Chinese Communist Party against

[18] Liu Jianyong, "Troubles that come from nowhere (飞来横祸)," *Legal Weekly*, December 31, 2013, http://www.legalweekly.cn/index.php/index/article/id/1790 (accessed May 21, 2014).

members facing disciplinary investigations. *The Committee should ask the government to provide an explanation about the shuanggui facilities.*

3. Impunity for perpetrators of torture (articles 6 and 12)

Police officers rarely face criminal sanctions for torturing or ill-treating suspects although the law makes such actions a criminal offense. Few of the state mechanisms—including internal police supervisors, the procuratorate, and the courts—supervise police function effectively. Few police officers appear to face serious disciplinary action, such as suspension or dismissal and at most, their superiors typically issue a reprimand and move them to posts elsewhere in the force. The procuratorate rarely prosecutes police officers for torture except in serious cases when suspects have died or acquired a disability.[19] In those cases, the courts tend to give police officers light sentences such as probation.

The state report provides statistics of individuals convicted of three crimes related to torture from 2007 and 2011 in paragraph 74. The Committee should ask the government to provide:

1. *A breakdown of these numbers according to identity (officials, detainees, or others); of the length of prison sentences; of the type of injuries sustained by the victims; and of the geographic location of these sentences.*

2. *Information pertaining to disciplinary actions taken, if any, against police officers for abetting "jail bullies" or detainees who were convicted of abuses in detention centers.*

3. *The number of complaints or reports of torture and ill-treatment received by the procuratorate organs across the country, and the number of such reports investigated during the same period.*

4. *The number of officials subjected to internal disciplinary actions instead of criminal sanctions for torturing and ill-treating detainees in the same period.*

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[19] See also Wu Danhong (吴丹红), "Roles, Contexts and Social Tolerance—Torture from the Perspective of Sociology (角色、情境与社会容忍——法社会学视野中的刑讯逼供)," *Peking University Law Journal* (中外法学, vol. 2 (2006).

4. Mechanisms and measures still inadequate upon review (article 11)

The state report in paragraph 61 asserts that "criminal detention facilities throughout the country have also established documentation files on the physical health of persons in custody, to keep records of their physical condition and ensure that those with illnesses receive prompt medical care." In practice, however, medical personnel do not ask suspects about obvious evidence of physical abuse, and the presence of police at the examinations makes it difficult for suspects themselves to raise the subject with the medical personnel. Detainees' medical records are kept within the police force and are not often included in case files, making it difficult for prosecutors, lawyers and judges to spot abusive police behavior. Another part of the problem is the lack of independence of the medical personnel –they are either stationed in the detention center, in which case they are MPS employees or police officers, or, increasingly, they are doctors in designated local hospitals that often have contractual or close relationships with the detention center. We urge the Committee to ask the government:

a. *Among China's 2700 detention centers, how many have their medical services provided by staff paid for by the MPS, and how many are services provided by medical facilities not under the MPS?*

    i. *For the latter, what is the relationship between the public security organs and the medical service providers? Are they contractors of the detention centers? Who pays for their services?*

    ii. *What kinds of guidelines exist for doctors while conducting the physical check-ups for suspects to ensure they can identify and note instances of torture and abuse?*

    iii. *Are doctors who serve detention centers trained to identify torture and ill-treatment?*

b. *Are Detention Centers required to include physical health records of detainees during pre-trial detention in suspects' case files? Do procurators, judges and lawyers have access to them?*

c. *Does the National Health and Family Planning Commission have guidelines on identifying torture and ill-treatment for doctors who conduct the physical check-ups for criminal suspects?*

d. *Does the National Health and Family Planning Commission have a mechanism for doctors who examine criminal suspects to submit reports of police abuse?*

e. *Does the National Health and Family Planning Commission have a mechanism to regularly review the conduct of doctors in detention centers to ensure that they are not complicit in obscuring evidence of torture or ill-treatment?*

The state report noted in paragraph 64 that,

> Since 2009, the Ministry of Public Security has been promoting the opening of criminal detention facilities to the public, requiring criminal detention facilities to take account of views from all quarters, broadly accept public oversight and continuously improve and update their work, by means of convening meetings with the relatives of persons in custody and with their lawyers, inviting visits by the news media and welcoming visits by people from all walks of life.

According to the law, suspects can meet with their families in the presence of police officers after they obtain permission from the police. But in practice, detention centers severely restrict suspects' communication with their families.

- *The Committee should ask the government what measures it has taken to ensure that suspects have effective means of communication with their families while in detention, including visits, phone calls, and letters.*

5. No or inadequate compensation for victims of torture (article 14)

Torture victims can apply for compensation under the Law of State Compensation.[20] But there are many challenges to obtaining compensation, for example, having to prove torture and that certain government officials were responsible for it. Even if in the rare cases in which authorities acknowledge responsibility, state compensation is only available to those who have physical injuries. Those who have no physical injuries may still be eligible for state compensation for lost work days if they were illegally or wrongfully detained. But the amount of compensation for that is small, as it is calculated on the factor of average work wage of the year across the country. The difficulty of accessing state compensation for torture victims is often noted in official press reports.[21] The Committee should ask the Chinese government:

- *How many applications for state compensation for torture and abuse in pre-trial detention and detention centers has the Supreme People's Court received during the reporting period? How many of the applicants received compensation, and how much was the average compensation for each victim?*

- *Does the government have a rehabilitation program to treat detainees who have been tortured or ill-treated?*

- *Does the National Health and Family Planning Commission provide or facilitate training to doctors, psychiatrists, and psychologists so they provide rehabilitation services to torture victims?*

6. New exclusionary rule lacks effectiveness (article 15)

One of the most important protections established recently in China to protect detainees from torture –the exclusionary rule—has also proved to be of limited utility thus far, according to Human Rights Watch's research. Some procurators and judges ignore the defense lawyers' requests to initiate the procedure to evaluate torture claims, and often

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[20] State Compensation Law of the People's Republic of China (中华人民共和国国家赔偿法), *Standing Committee of the National People's Congress*, adopted on May 12, 1994 199 (amended on April 29, 2010). Those who were beaten or abused by government officials, or those instructed by them, and whose abuse led to injury or death are entitled to such compensation. These victims are entitled to expenses related to medical treatment and care, as well as loss of work hours; those who became disabled get additional disability compensation depending on the level of disability; and a living allowance for those who are so severely disabled that they cannot work. Families of those killed by torture are eligible to death compensation, funeral expenses and living allowance. Loss of work hours and disability and death compensations are capped at a certain factor of the national average wage, while living expenses are the same as the minimum living allowance at the local level given out to families earning under a certain minimum income. In serious cases, victims are also given compensation for psychological harm, but the amount is unspecified.

[21] Shan Yuxiao, "Observations of 2014 Local Justice: State Compensation is Being Rendered Useless (2014 地方司法观察：国家赔偿遭"架空")," February 10, 2015, http://china.caixin.com/2015-02-09/100782653.html (accessed February 10, 2015).

provide no reason for doing so. In other cases, the requests have been given only perfunctory consideration. Judges often evaluate torture claims on the basis of documentary evidence alone, evidence that is either produced or controlled by the police and cannot be cross-examined in court unlike live witnesses. Few defense witnesses or expert witnesses testify regarding torture claims. Although the exclusionary rule places the burden of proof on police to demonstrate that they obtained evidence legally, in reality judges continue to expect detainees to prove that torture had taken place.

Regarding the procedure to exclude evidence illegally obtained in criminal cases, the Committee should ask the government:

- *What measures have been taken to ensure that procurators and judges do not ignore or unjustifiably refuse requests by the defendants to initiate the procedures?*

- *What guidelines exist regarding the amount or type of evidence that would be deemed sufficient for the procurators and judges to rule out the possibility of torture, to ensure that the procurators and judges examine these claims seriously?*

- *What guidelines exist regarding the use of medical "expert witnesses" to testify in court during the exclusionary procedures and how many such experts have appeared in trials when the court examined suspects' torture claims since 2013?*

- *To provide statistics on the number of requests to initiate the exclusionary rule, the number of such requests granted, the number of confessions or statements excluded due to concerns over torture, and the number of defendants acquitted in these cases due to torture.*

- A joint document is reportedly being drafted by the Supreme People's Court, the Ministry of Justice, the Ministry of Public Security, the Supreme People's Procuratorate, and the Ministry of State Security that explains the

procedure of exclusion of illegally obtained evidence.[22] *The Committee should ask the government to make public a copy of the proposed document for public discussion.*

7. Cruel, inhuman or degrading treatment sanctioned under Chinese law and regularly practiced (article 16)

Police officers regularly use restraints—which victims call the "tiger chair"—to immobilize suspects during interrogations of suspects for hours or even days, often as a means to coerce confessions. Detention center staff regularly use handcuffs, leg irons, or both on detainees.[23] China's relevant regulations allow individuals be restrained up to two weeks, and this period can be extended further upon authorization from the Public Security Bureau (PSB) or the head of the PSB.[24] This contravenes proposed international standards, which provide that the use of restraints be a last resort to prevent the risk of harm to the individual or others and used as short as possible, that is, minutes rather than hours or days.[25] Relevant regulations require that detainees on death row awaiting court review and execution be restrained using leg irons and handcuffs, often with leg irons and handcuffs linked together presumably to prevent escape.[26] China's Detention Center Regulations allow for the use of solitary confinement, called "small cell" (*xiaohao*), for up to 15 days upon authorization by the head of the detention center. *The Committee should ask the government on its use of restraints and solitary confinement in pretrial detention:*

- According to the Ministry of Public Security notice, "Rules Regarding the Settings in Places of Law Enforcement and Investigation (公安机关执法办案场所设置规范)," police interrogation rooms should be equipped with "special seats" for suspects that should be "secure" and "fixed to the ground" with "safety features." But the notice did not give details as to the kinds of features this seat should have, the

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[22] "Supreme People's Court: Proposal to Consider Sleep Deprivation in Interrogations as a Form of Coerced Confessions (最高法：疲劳审讯拟算变相刑讯逼供)," December 8, 2014, http://news.xinhuanet.com/yuqing/2014-12/08/c_127286219.htm (accessed February 10, 2015).

[23] Chinese law allows the use of restraints in four conditions: when detainees may harm themselves or others or escape, when detainees "seriously disturb" the detention center, when they are transferred out of the detention center, and for detainees on death row pending execution.

[24] Implementing Methods of the Detention Center Regulations of the People's Republic of China (中华人民共和国看守所条例实施办法), MPS, 1991, art.20.

[25] UN Committee against Torture, Observations of the Committee against Torture on the Revision of the United Nations Standard Minimum Rules of the Treatment of Prisoners, para. 37, http://www.refworld.org/docid/53429c014.html.

[26] Detention Center Regulations, art. 17. See also, "Another Question Regarding the Heilongjiang Incident: How Should We Watch 'Death Row Inmates' (再问黑龙江事件：如何看管"死刑犯"？)," *Caixin Magazine* (*财新网*), September 3, 2014 (accessed September 4, 2014), http://opinion.caixin.com/2014-09-03/100724834.html. The Committee against Torture has advised that restraints should not be used on the basis of the "status, penalty, legal condition" of an individual. UN Committee against Torture, Observations of the Committee against Torture on the Revision of the United Nations Standard Minimum Rules of the Treatment of Prisoners, para. 36.

circumstances under which the chair should be used, or how long can suspects be strapped to the chair.

a) *Does the MPS have further guidelines on the use of these interrogation chairs, known as "tiger chairs" by detainees?*

b) *Do criminal suspects and death row inmates in detention centers have any due process rights for disciplinary actions including the use of restraints and solitary confinement?*

c) *Are detainees informed in writing of the charges against them or provided a copy of the disciplinary decision, as required under international law?*

d) *What are the complaint procedures for detainees subjected to these disciplinary measures?*

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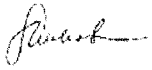
We hope you will find the comments in this letter useful and would welcome an opportunity to discuss them further with you. Thank you for your attention to our concerns, and with best wishes for a productive session.

Yours sincerely,



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Asia Division

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HUMAN RIGHTS WATCH

JANUARY 27, 2016

China: Reverse Downward Rights Spiral

Aggressive Crackdown on Expression, Religion, and Association

(New York) – The Chinese government stepped up its repression of human rights defenders and abused police and state powers in the name of national security, Human Rights Watch said today in its *World Report 2016*. Since President Xi Jinping assumed power in March 2013, his government has stepped up its hostility toward peaceful dissent, freedoms of expression and religion, and the rule of law.

In the 659-page *World Report 2016*, its 26th edition, Human Rights Watch reviews human rights practices in more than 90 countries. In his introductory essay, Executive Director Kenneth Roth writes that the spread of terrorist attacks beyond the Middle East and the huge flows of refugees spawned by repression and conflict led many governments to curtail rights in misguided efforts to protect their security. At the same time, authoritarian governments throughout the world, fearful of peaceful dissent that is often magnified by social media, embarked on the most intense crackdown on independent groups in recent times.

A police officer guards a corridor that is forbidden for visiting journalists to see during a government-organized tour of the Number One Detention Center in Beijing, Oct. 25, 2012.

Alexander F. Yuan / AP

"President Xi Jinping has vowed to eradicate corruption, maintain economic growth, and promote the rule of law in China," said Sophie Richardson, China director. "But Xi's 'China Dream' has been a nightmare for rights advocates as they face Orwellian laws, indefinite detention, and torture, with little hope for redress. Their dire plight is only made worse by the world's inaction."

In 2015, senior Chinese leaders imposed a more hardline ideology, blaming "foreign forces" for social discontent in the country while emphasizing the supremacy of the Communist Party. The government enacted multiple measures to curtail free speech on the Internet, in institutions of higher education, in traditional media, and within the party. The government's attempts to restrict "foreign influences" and freedom of religion included a high-profile campaign to demolish churches or remove crosses from them in Zhejiang province, an area with a strong tradition of Christian influence.

The Chinese government drafted or passed a slew of new laws that cast public activism and peaceful criticism of the government as state security threats; strengthen censorship, surveillance and control of individuals and social groups; and deter individuals from campaigning for human rights. These include the State Security Law, passed on July 1, 2015, the draft Counterterrorism Law, the draft Cybersecurity Law, and the draft Foreign NGO Management Law.

Since President Xi came to power, the authorities have detained and prosecuted hundreds of human rights defenders. Between March and April 2015, police held five women's rights activists for planning protests against sexual harassment on public transport on International Women's Day. Since their release on bail, all five have been subjected to monitoring and harassment. Between July and September, authorities interrogated some 280 lawyers – the backbone of China's human rights movement – in a nationwide sweep; nearly 40, including Beijing lawyers Wang Yu, Li Heping, and Wang Quanzhang, remain detained or forcibly disappeared and at risk of torture. The government has provided no information on their whereabouts.

International attention to the deteriorating rights situation in China was woefully inadequate. With the exception of the draft Foreign NGO Management Law, which received broad international condemnation, most governments continued to rely on occasional statements about individual cases and closed-door bilateral human rights dialogues of limited utility. The Chinese government had not provided meaningful cooperation with the United Nations Committee Against Torture's review, which describes China's ill-treatment of suspects "deeply entrenched."

"Despite extraordinary risks, people across China continue to push for a fair judicial system, access to information, and the ability to hold those in power to account," said Richardson. "Those who fearlessly promote rights are key to China's future and deserve far greater global support."

Region / Country

- Asia
- China and Tibet

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DECEMBER 9, 2015

China: UN Review Slams Lack of Progress on Torture

Meaningful Reform Requires Judicial System Overhaul

(Geneva) – The outcome report of China's fifth review under the Convention against Torture highlights the absence of accountability and need for broad legal reform to eradicate torture in the country, Human Rights Watch said today. China's review, under the United Nations Committee Against Torture, concludes at the UN Human Rights Council on December 9, 2015, in Geneva. Many of the committee's recommendations have been raised in previous reviews.

"More than a dozen pages of fundamental and longstanding recommendations show that China's compliance with the UN review has been at best superficial," said Sophie Richardson, China director at Human Rights Watch. "China has shown no serious willingness to adopt the independent experts' recommendations to eradicate torture and ill-treatment in detention. In doing so, the Chinese government rejects the core purpose of UN reviews, and deepens the pain of torture survivors." The committee's "concluding observations" document, reflecting a year-long process, praises the Chinese government for a half-dozen steps, primarily the adoption of specific legal provisions to combat torture and ill-treatment. But it then addresses at unusual length and in considerable detail "principal subjects of concern" on issues such as the definition of torture – as China has still not adopted a definition that fully meets international standards – and the persistent problems of prolonged pre-trial detention, restrictions on access to lawyers, and the shortfall in medical professionals independent of the police and detention centers.

The report details the Chinese government's unwillingness to provide critical data about the number of allegations of torture in detention and the efficacy of the "exclusionary rule" in protecting criminal suspects from abuse. It raises concerns about the crackdown on human rights lawyers, and about the torture of 1989 Tiananmen Square protesters, and refugees forcibly returned to North Korea.

In the interactive dialogue, held on November 17-18, 2015, the Chinese delegation refused to

> China has shown no serious willingness to adopt the independent experts' recommendations to eradicate

answer critical questions from the committee; claimed that the term "torture" was difficult to translate into Chinese; and tried to assert that "tiger chairs" – devices used, according to Human Rights Watch research, to immobilize suspects for days at a time and sometimes longer – are in fact used for suspects' "comfort" and "safety."

torture and ill-treatment in detention. In doing so, the Chinese government rejects the core purpose of UN reviews, and deepens the pain of torture survivors.

Sophie Richardson

China Director, Human Rights Watch

Chinese authorities should not only vigorously pursue the committee's detailed, thorough recommendations, but should also be pressed to report to the committee and other UN human rights mechanisms on pressing cases raised in the review: accountability for the more than 40 human rights lawyers and activists being detained, many of them in unknown locations; the need for investigations into the deaths of peaceful government critics including Cao Shunli and Tenzin Delek Rinpoche; investigations into those who brutally tortured victims like Nian Bin; and the harassment of activists from China who wanted to participate in the CAT review.

China ratified the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment in 1988. Parties to the convention are required to submit "reports every four years on any new measures taken [to implement the treaty] and such other reports as the Committee may request."

"These extraordinary recommendations reflect the UN Committee's deep commitment to ending torture and providing support to torture survivors in China," said Richardson. "But the question remains: Does Beijing share that commitment?"

Region / Country

- Asia
- China and Tibet

Topic

- Torture
- United Nations

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NOVEMBER 11, 2015

China: Tell the Truth on Torture at UN Review

Commitments to Accountability Key to Curbing Ill-Treatment

(New York) – As the worst crackdown on human rights in two decades unfolds, the Chinese government is also failing to respond candidly to a key United Nations torture review, Human Rights Watch said today. The review is China's fifth under the Convention against Torture and will be held on November 17-18, 2015, in Geneva.

The review takes place after years of Chinese government promises to curb wrongful convictions, which are often the result of endemic torture.

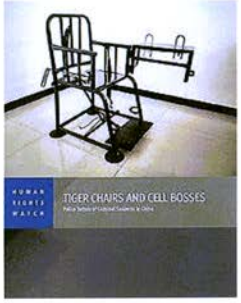
"Torture remains a daily reality in China, and this is a critical moment for Beijing to answer tough questions about why this problem persists," said Sophie Richardson, China director at Human Rights Watch. "Dishonesty, evasion, or obfuscation from officials at the review can only deepen torture survivors' agony. An honest discussion that commits to accountability for torturers might help mitigate survivors' pain and indicate willingness to reform."

> We'll know China's leaders are serious about eradicating torture when officials provide credible information to these reviews, when all who want to participate can do so without fear of reprisals, and when all who have been ill-treated see their tormentors prosecuted.
>
> **Sophie Richardson**
>
> China director

The review is to be broadcast live between 10 a.m. and 1 p.m. Central European Time (5 p.m. and 8 p.m. China Standard Time) on November 17, and between 3 p.m. and 6 p.m. (10 p.m. and 1 a.m. China Standard Time) on November 18.

The Committee against Torture (CAT), the international panel of experts that assesses state compliance under the Convention against Torture, last reviewed China in 2008. Since then, the government has made a series of reforms to its criminal justice system after domestic press accounts exposed cases of severe torture of criminal

suspects leading to wrongful convictions, deaths, and a public outcry.



May 13, 2015 Report

Tiger Chairs and Cell Bosses

Police Torture of Criminal Suspects in China

But a 145-page report on the treatment of pretrial detainees in China published in May 2015 by Human Rights Watch finds that torture remains routine in criminal detention facilities. Criminal justice reforms to date, such as the introduction of the "exclusionary rule" – which prohibits the use of evidence directly obtained through torture – are easily circumvented.
Over the years China's government has failed to implement most of the CAT's recommendations, including adopting a definition of torture that fully complies with the Convention against Torture, which China ratified in 1988. Beijing has not acknowledged its lack of implementation or amendment of key laws, or its systematic failure to hold torturers accountable, particularly members of the security forces.

The Chinese government's reply to the CAT's 2015 List of Issues, as explained in Human Rights Watch's submission to the CAT, omits critical statistical information requested by the Committee, makes a slew of unsupportable claims, and in general fails to note the wide gulf between Chinese laws and regulations and their implementation in practice. For example, the government's reply claiming that *xiaohao,* or solitary confinement during pretrial detention, prohibited under international law, is used just "as a management approach" rather than as a punishment is untrue. In practice as well as prescribed in the relevant regulations, solitary confinement is used to punish detainees who have violated detention center rules. The government's reply that it does not use "tiger chairs," but uses "interrogation chairs in line with national standards," is misleading; they are the same and enable torture.

Since March 2013 when President Xi Jinping assumed formal power, his government has also detained and imprisoned hundreds of human rights defenders. Many have been subjected to or are at risk of torture, particularly those who have been held incommunicado, including human rights lawyers Wang Yu and Wang Quanzhang.

Human Rights Watch is also concerned about reprisals against activists from China who have tried to participate in the 2015 torture review, particularly in light of the death of Cao Shunli. Cao had pressed authorities to allow independent civil society participation in China's 2013 Universal Periodic Review, the mechanism for examining all UN members' human rights records every four years. She was detained in Beijing in September 2013 en route to Geneva and held incommunicado for more than a month before being charged with "causing a disturbance." She was denied access to adequate healthcare in detention for months even though she was seriously ill, and died in March 2014, days after authorities finally transferred her from detention to a hospital.

In preparation for China's 2015 CAT review, dozens of activists filed more than a hundred requests seeking public disclosure of information relating to contentions in the government's CAT report they find dubious, according to the group Chinese Human Rights Defenders. The government has refused, claiming the requested information either falls outside of the scope of that ministry which received the request, or that the information "does not exist." At least five of these individuals were reportedly questioned by Beijing and Jiangsu police and briefly detained in August and September 2015 after they submitted the requests.

Human Rights Watch urged the CAT to ask in the interactive dialogue about the treatment of these activists, and reiterate the importance of genuine civil society participation in all UN proceedings and reviews.

"Civil society members in China should not have to risk jail or their lives to participate in the Committee against Torture review," Richardson said.

Human Rights Watch calls on the Chinese government to commit at the review to enacting fundamental reforms that could enable defense lawyers, the judiciary, and independent monitors to play their proper role in countering torture. The government should:

- Ensure that anyone taken into police custody be promptly brought before a judge, normally within 48 hours of being apprehended;
- Revise the Criminal Procedure Law to ensure that suspects may have lawyers present during any police questioning and interrogations, and stipulate suspects' right to remain silent during questioning; and
- Transfer the power to manage detention centers from the Ministry of Public Security to the Ministry of Justice.

"For 15 years the Committee Against Torture, civil society, and many others have pushed Beijing for these basic changes, yet Chinese authorities have resisted," Richardson said. "We'll know China's leaders are serious about eradicating torture when officials provide credible information to these reviews, when all who want to

participate can do so without fear of reprisals, and when all who have been ill-treated see their tormentors prosecuted."

For more Human Rights Watch reporting on China's use of torture, please visit:
Tiger Chairs and Cell Bosses: Police Torture of Criminal Suspects in China
HRW Letter to the UN Committee Against Torture re: Pre-Sessional Review of China
HRW Submission to the UN Committee Against Torture (November 2015)
HRW Letter to the UN Committee Against Torture re: China Torture Cases
China Must be Pressed to End Torture by Police, by Maya Wang

Region / Country

- Asia
- China and Tibet

Topic

- United Nations

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AUGUST 24, 2015

China Must be Pressed to End Torture by Police

Published in The Washington Post

Maya Wang

China Researcher

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When Chinese President Xi Jinping arrives for a state visit in Washington next month, will President Obama press him to improve China's disturbing record on torture in detention?

If so, Xi might point to the case of Nian Bin, who was released last year through a rare exoneration after spending eight years on death row in China, convicted of a crime he did not commit on the basis of a confession that he says was obtained through torture. But Xi will probably not mention the reality that Nian remains plagued by flashbacks of being tortured in detention and reflexively assumes the position of being shackled while he sleeps.

Beijing has adopted some measures over the past six years to rein in abusive police conduct during criminal investigations, but research for a new Human Rights Watch report shows there is a long way to go before routine torture is eradicated.

Former criminal suspects told us that, to make them confess, police officers shackled them for days to "tiger chairs" — metal chairs with hand and leg cuffs — hung them by the wrists and deprived them of sleep. Others described beatings at the hands of cell bosses, fellow detainees who oversee cells for the police in detention centers. Like all those given death sentences, "Yang Jinhua" — not his real name — spent eight years shackled hand and foot. His sister told us he was unable to feed or properly dress himself.

Detainees who are ill-treated have few opportunities to get help. Although they have a right to a lawyer, an estimated 70 percent to 90 percent of criminal defendants in China have none. They are not allowed to have

lawyers present during interrogations, and they have no right to remain silent.

One former suspect, "Cao Zuowei," told Human Rights Watch that while being beaten by police in Hunan province, he threatened to hire a lawyer to sue. The police retorted, "Hire a lawyer? You think this is ... the U.S.?" and kept on beating him. Detainees also have very limited access to their families and no access to independent medical personnel , a critical link for reporting torture or ill treatment in an otherwise closed environment.

Why is it so hard to end torture in China? At the heart of the matter is broad police power. The police make all initial decisions to detain people and can subject them to 37 days of incommunicado interrogation before the procuratorate, an agency with investigatory and prosecution powers, must approve their continued detention. In many other places, including Hong Kong, suspects must be taken before a judge within 48 hours. The Ministry of Public Security, which is in charge of the police, operates the detention centers, permitting police unlimited and unsupervised access to detainees. Few officers are disciplined — let alone prosecuted and imprisoned — for torture.

New measures adopted since 2009 include an "exclusionary rule," which should mean that confessions obtained through torture cannot be admitted as evidence in court. But some police and other key officials appear to have adapted their tactics to thwart or circumvent the new measures. With some detention facilities now equipped with metal bars separating interrogators and suspects or other facilities to prevent torture, several people told us they were taken out of the centers, tortured and then returned. This was sufficiently common that former detainee "Wu Ying" told us that detainees feared nothing more than being taken out of their cells.

Many procurators showed little enthusiasm for investigating or holding police responsible for abuse. Torture victims and families told us that their credible allegations of torture were given little consideration throughout the process. In one case, a provincial procurator in Fujian refused to investigate, telling "Chen Aomin" that the torture that left her husband disabled was "just a small issue."

Although judges are required to exclude coerced evidence, they sometimes ignore clear evidence of mistreatment or fail to examine the claims seriously. We searched a large database of more than 150,000 newly published court verdicts in the first four months of 2014 and found 432 verdicts that referenced torture allegations. The court threw out evidence in only 23 of those cases, and none led to an acquittal.

The new rules prompted Nian's exoneration, and some well-known cases are being reheard. But some of the victories are pyrrhic: There has been no meaningful accountability for Nian's ill treatment or wrongful conviction, and late last year Fujian police reopened the case, saying that they found new evidence against him in the case in which he was convicted of poisoning his neighbors — and so he is again a criminal suspect.

Unless the government substantially curtails police power and significantly increases the basic rights of the accused, officers will still be able to get away with torture, and wrongful convictions such as those of Nian will

continue to occur.

The failure to eradicate routine torture prolongs terrible suffering and undermines public confidence in the justice system. If the United States is serious about pushing for legal reform in China, Obama and Xi should discuss steps toward ensuring that Nian — and so many others — can again sleep at night.

Region / Country

- Asia
- China and Tibet

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https://www.hrw.org/print/279467

JULY 20, 2015

China: Secretly Detained Lawyers at Risk of Torture

More Than 200 Lawyers Interrogated, 20 Remain in Custody or Missing

(New York) – Thirteen people who were detained in the course of an unprecedented nationwide attack on human rights lawyers remain in police custody incommunicado, leaving them vulnerable to torture and other abuses, Human Rights Watch said today. Police have not informed the families of the detainees of their whereabouts, nor given them access to lawyers. Six other lawyers and activists have disappeared, and it remains unclear whether they have also been detained by authorities.

Since July 10, 2015, 233 human rights lawyers and activists have been taken into custody across the country as authorities have accused them of being involved with the activism of the Beijing Fengrui Law Firm, which appears to be at the center of the crackdown. While most of the 200 have been released after being threatened for supporting the firm, 14 remain in custody while 6 others have disappeared, according to the Hong Kong-based NGO Chinese Human Rights Lawyers Concern Group. Of the 14, 8 have been criminally detained, 3 have been placed under "designated residential surveillance," and 3 have been placed under other forms of police custody. Only 1 of these 14 has had access to a lawyer.

"Detaining anyone incommunicado and in secret leaves them at high risk of torture or ill-treatment, especially when they are detained on politicized charges," said Sophie Richardson, China director at Human Rights Watch. "Beijing's blatant failure to guarantee even basic protections for these individuals demonstrates the government's extraordinary disdain for rule of law."

Human Rights Watch has recently and extensively documented routine use of torture against criminal suspects in police custody. Former suspects described their torture, which included being hung up and beaten, forced to remain immobile for hours and even days, and extended sleep deprivation. Many of these detainees also lack access to their families, lawyers, and independent doctors.

Wang Yu, a lawyer at the Fengrui Law Firm, was detained in Beijing on July 9, 2015 along with her husband and colleagues.

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Shortly after the wave of detentions began, state media outlets published unsubstantiated allegations about lawyers, activists, and the Fengrui Law Firm, as well as confessions by some of the detained in an apparent effort to discredit the individuals and their work. On July 12, state news agency Xinhua published an article calling the Fengrui Law Firm and other lawyers and activists detained in relation to the case, "a major criminal gang" that "aim[s] to create disturbances and disturb order" in the name of "defending [human] rights." On July 18, Xinhua quoted the confession of lawyer Zhou Shifeng, the director of Fengrui, stating that he had said the firm "had broken the law" and "brought great risks to social stability."

Except for lawyer and law professor Chen Taihe in Guangxi Province and human rights activist Jiang Jianjun in Liaoning Province, who were both detained for "creating a disturbance" on July 13 and July 12, respectively, none of the families of the other 12 remaining in police custody have been informed of their whereabouts. Only Chen has been able to meet with his lawyer. The others who are detained incommunicado and at undisclosed locations include:

- Zhou Shifeng, director of Fengrui Law Firm; Wang Yu, Wang Quanzhang, and Huang Liqun, lawyers of the same firm; Liu Sixin, administrative assistant at the firm; and Bao Longjun, a legal representative and husband of Wang Yu, who were criminally detained in Beijing between July 9 and 10, according to Xinhua. The charges against them are not known;
- Lawyers Sui Muqing in Guangdong Province and Xie Yang in Hunan Province, and Tianjin activist Gou Hongguo, who were placed under "designated residential surveillance," a form of detention police can use to hold individuals at a location other than their homes, between July 10 and 11. Sui and Xie have been held for "inciting subversion" while Xie is being accused of an additional charge of "disrupting court order." Gou has been held for "creating a disturbance." The police have notified their families that these three are being subjected to residential surveillance, but have not disclosed where they are being held;
- Beijing lawyers Li Heping, Xie Yanyi, and Xie Yuandong, who were taken away by police around July 10. Their status is unclear. The state press has reported that Xie Yanyi and Xie Yuandong have been

subjected to unspecified "coercive criminal procedures," while Li's wife was told by the police upon his arrest that he had been taken "for involvement in a criminal case"; and

- Six others, including lawyer Li Shuyun and accountant Wang Fang, who work for Fengrui Law Firm; Zhao Wei, assistant for lawyer Li Heping; and activists Liu Yongping, Hu Shigen, and Lin Bin, who have disappeared. Their status or whereabouts are not known.

Article 83 of the Chinese Criminal Procedure Law (CPL) allows the police not to inform families about detainees' criminal detentions if their families cannot be contacted, or if their cases involve "endangering state security" or "terrorism," and if such notification would "impede investigation." If, as according to Xinhua, the lawyers' and activists' alleged crimes involve charges of "disturbing public order," there is no legal basis for the police to withhold information about their whereabouts or the charges against them.

Article 73 of the CPL allows individuals be held in an undisclosed location for up to six months under "designated residential surveillance" if they "endanger state security" or are involved in "terrorism" or "major corruption." Article 37 of the CPL also states that lawyers need to obtain permission from the police before they can meet with their clients in the above three categories. In essence, police can hold these lawyers without access to lawyers and families in an undisclosed location for up to six months.

"If Chinese authorities are even remotely serious about the law, they'll release all these people immediately and without charge," Richardson said. "At a minimum, they should be granted full, unfettered, and immediate access to family members and lawyers to prevent ill-treatment in detention."

In the course of the crackdown police have also harassed and briefly detained some of the lawyers' family members, including thechild of one of the detained lawyers and legal advocates. Bao Mengmeng, the 16 year-old son of Wang Yu and Bao Longjun, was at the airport with his father when his father was taken into custody. Between July 9 and July 18, police took Bao Mengmeng into custody briefly and interrogated him four times. Three other family members of Wang and Bao were also briefly detained by police and warned not to hire lawyers for the couple. Police also took away Bao Mengmeng's passport.

Human Rights Watch also notes the disturbing uptick in the detentions of relatives of activists in the past year. In May 2014, authorities briefly detained Zhao Meng, the adultson of prominent journalist Gao Yu, who later said she was forced to confess out of concern for him. Gao was imprisoned for seven years. Also in May 2014, authorities detained and later released lawyer Qu Zhenhong, the niece of lawyer Pu Zhiqiang, who is detained on charges of "inciting ethnic hatred" and "creating a disturbance." In July 2015, authorities detained Xu Xiaoshun, the father of activist Wu Gan, who is held for "inciting subversion" and "creating a disturbance," and whose detention immediately predated that of the lawyers in Fengrui Law Firm.

"The Chinese government may think that the crackdown is an effective way to discredit an increasingly vocal

community of lawyers," Richardson said. "But what it has ended up discrediting is its own legitimacy and any claims to meaningful legal reform."

Region / Country

- Asia
- China and Tibet

Topic

- Free Speech

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- Arbitary detention

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HUMAN RIGHTS WATCH

MAY 13, 2015

China: Torture by Police Dodges Reforms

Officers Adapt to Evade New Measures

(Hong Kong) – Chinese government measures since 2009 to curb torture by police and wrongful convictions have not gone far enough to combat abusive interrogations, Human Rights Watch said in a report released today. Government claims of a reduction in detainee abuse will be scrutinized by the United Nations Committee against Torture in November 2015.

The 145-page report, "Tiger Chairs and Cell Bosses: Police Torture of Criminal Suspects in China," is based on Human Rights Watch analysis of hundreds of newly published court verdicts from across the country and interviews with 48 recent detainees, family members, lawyers, and former officials. Human Rights Watch found that police torture and ill-treatment of suspects in pretrial detention in China remains a serious problem. Among the findings are that detainees have been forced to spend days shackled to "tiger chairs," hung by the wrists, and treated abusively by "cell bosses" – fellow detainees

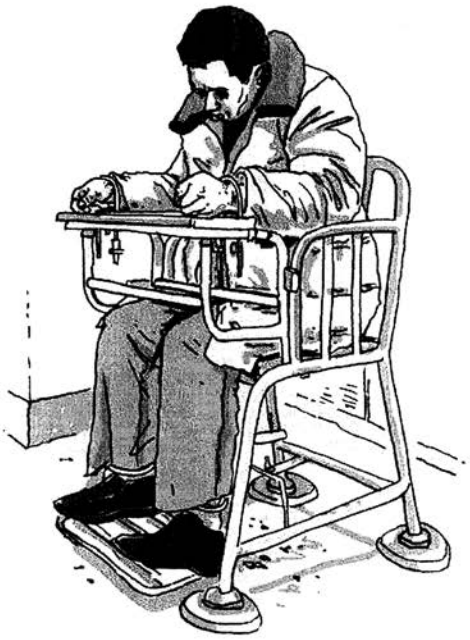

Illustration of a suspect restrained in what the police call an "interrogation chair," but commonly known as a "tiger chair." Former detainees and

who oversee cells for the police.

lawyers interviewed say that police often strap suspects into these metal chairs for hours and even days, often depriving them of sleep and food, and immobilizing them until their legs and buttocks are swollen.

(c) 2015 Russell Christian for Human Rights Watch

"Despite several years of reform, police are torturing criminal suspects to get them to confess to crimes and courts are convicting people who confessed under torture," said Sophie Richardson, China director. "Unless and until suspects have lawyers at interrogations and other basic protections and until police are held accountable for abuse, these new measures are unlikely to eliminate routine torture."

After cases of police brutality against criminal suspects emerged in 2009 and 2010, causing a major public outcry, the Chinese government announced new measures to curb miscarriage of justice and torture. These included legislative and regulatory reforms, such as prohibitions against using "cell bosses" to manage other detainees, and practical steps such as videotaping some interrogations. In 2012, when the government revised the Criminal Procedure Law, there were hopes that the strengthened procedural protections, including an "exclusionary rule" prohibiting the use of evidence directly obtained through torture, might improve the treatment of ordinary criminal detainees. The Ministry of Public Security, the agency in charge of the police, claims that the use of coerced confessions has dropped significantly in 2012 as a result of the reforms.

While the measures appear to have reduced certain abuses, such as those conducted inside police detention centers where suspects are held before trial, some police officers deliberately thwart the new protections by taking detainees away from these facilities for interrogations or by using torture methods that leave no visible injuries. Videotaped interrogations are routinely manipulated: for example, rather than recording the full interrogation, some officers take the suspects out of detention centers to torture them, then take them back into the detention centers to videotape the confession. Procurators – officers from the agency responsible for the investigation and prosecution of crimes – and judges sometimes ignore clear evidence of mistreatment or fail to examine the claims seriously, rendering the exclusionary rule of little benefit.

In addition to conducting interviews, Human Rights Watch searched a large database of Chinese court verdicts, made possible by a Supreme People's Court decision that in principle required all courts to post decisions online beginning January 1, 2014. Human Rights Watch searched approximately 158,000 verdicts published on the court's website between January 1 and April 30, 2014, for verdicts in which suspects alleged police torture. A total of 432 verdicts referenced torture allegations, but only 23 resulted in the court throwing out evidence. None led to an acquittal. Chinese judges rarely hand down not-guilty verdicts: in 2013, only 825 out of an estimated 1,160,000 criminal defendants, or 0.07 percent, were acquitted.

Abuses were facilitated by suspects' lack of access to lawyers, family members, and doctors not beholden to the police. Former detainees and relatives described the difficulty of retaining lawyers willing to challenge the police in court over allegations of mistreatment. Academic and official sources estimate that 70 to 90 percent of criminal defendants in China have no lawyers. In addition, many told Human Rights Watch that medical

personnel who have the opportunity to report apparent torture or ill-treatment do not do so, denying detainees a critical source to validate their allegations. China has virtually no rehabilitation services for torture victims.

"We heard appalling stories of detainees being hung by the wrists, shackled for years, and terrorized by cell bosses, yet having no real means to hold their tormentors to account," Richardson said. "It's hard to square such consistent accounts of abuse with claims by President Xi Jinping that the government respects the rule of law."

China's criminal justice system facilitates numerous opportunities for the police to abuse suspects and gives them enormous power over the judiciary, hindering any accountability efforts. Police alone make all initial decisions to deprive suspects of their liberty, and can subject them to 37 days of repeated instances of incommunicado interrogation before the procuratorate must approve their arrests. This contrasts starkly to the requirement in Hong Kong and many other jurisdictions, where suspects have to be brought before a judge within 48 hours of being apprehended.

The Ministry of Public Security operates the detention centers, permitting police unlimited and unsupervised access to detainees. Lawyers are not allowed to be present during interrogations; and suspects have no right to remain silent, violating their right against self-incrimination. Procurators and judges rarely question or challenge police conduct, and internal oversight mechanisms remain weak.

Police are rarely held accountable for their abuses, even among the most prominent cases of wrongful convictions. Among the Supreme People's Court verdict database cases, Human Rights Watch found only one prosecution of three police officers responsible for torture, but none served prison time. The lack of prosecutions in turn means that compensation for victims is especially difficult to obtain.

Absent more fundamental reforms in the Chinese criminal justice system that empower defense lawyers, the judiciary, and independent monitors, the elimination of routine torture and ill-treatment is unlikely. Authorities should move swiftly to significantly reduce the amount of time a suspect can be held in police custody before seeing a judge, ensure that lawyers are present during police interrogations, adopt legislation guaranteeing suspects' right to remain silent, and establish an independent commission to receive and investigate complaints of police abuse.

The government should also go beyond measures adopted since 2009, and instead make systemic changes that strengthen the procuratorate and the judiciary relative to the police. Such reforms should include transferring responsibility for detention facilities to the Ministry of Justice, which oversees prisons, and freeing the judiciary from Communist Party control.

The Chinese government has several near-term opportunities to demonstrate its commitment to vigorously implementing existing laws, and to making key improvements to eradicate torture and ill-treatment of detainees. The Ministry of Public Security is drafting a new law to replace the 1990 Detention Center Regulations, which could address some of the legal loopholes enabling the abuse of criminal suspects. In November, China's

measures to end torture will be reviewed by the UN Committee against Torture, an independent expert body that monitors compliance with the Convention against Torture.

"China's upcoming appearance before the UN Committee against Torture will put Beijing's record under global scrutiny," Richardson said. "The measures introduced since 2009 are improvements, but to a profoundly abusive system. If the government fails to take further steps against routine torture, it will raise larger questions about its willingness to carry out reforms that will improve public confidence in the country's judicial system."

Region / Country

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PREPARED STATEMENT OF HON. CHRISTOPHER H. SMITH, A U.S. REPRESENTATIVE FROM NEW JERSEY; CHAIRMAN, CONGRESSIONAL-EXECUTIVE COMMISSION ON CHINA

ENDING TORTURE IN CHINA: WHY IT MATTERS

APRIL 14, 2016

Gao Zhisheng's account of the torture he experienced is shocking, offensive, and inhumane. From the time he was first arrested in 2006 until his provisional release in 2014, Gao was regularly hooded and beaten, shocked with electric batons, had toothpicks inserted in his genitals, was sleep deprived and malnourished, and his life was threatened repeatedly by guards and fellow prisoners. Gao was tortured because he dared to represent persecuted Christians and Falun Gong and because he was critical of China's legal system.

Gao wanted what was best for China, but he got the worst.

Gao's wife, Geng He, submitted testimony to this hearing and I urge you to all read it. It is for Gao Zhisheng, and the many other victims of torture, that we hold this hearing today.

We are here today to shine a light on the brutal, illegal, and dehumanizing use of torture in China. We shine a light on a dictatorship because nothing good happens in the dark. And, as we will learn today, there are some very dark places in China were torture is used regularly to punish and intimidate political and religious prisoners and their lawyers.

We are also here to urge the U.S. government to make ending torture a higher priority in bilateral relations and to urge the Chinese government to fully enforce and implement its own laws. A country with China's global leadership aspirations should not engage in horrific practices so thoroughly condemned by the international community.

As our witnesses will describe today in great detail, the use of torture is pervasive in China's detention facilities and criminal justice system.

Torture is used to extract confession for prosecution and to coerce the televised "public confessions" we have seen too often in the past year.

Torture is also used to punish those political prisoners the Chinese security forces view as destabilizing forces. Under Xi Jinping, there has been an expansion in the number of individuals and groups viewed as threats to national security.

The victims of torture are very often human rights advocates and lawyers, union activists, members of non-state-controlled Christian churches, Falun Gong practitioners, and members of ethnic minority groups, like the Tibetans and Uyghurs.

Chinese officials repeatedly tell me I should focus more on the positive aspects of China's human rights and not on the negative. That is a difficult task when you read Gao Zhisheng's story or read the testimony of our witnesses Golog Jigme and Yin Liping.

Nevertheless, I want to recognize the changes made recently to China's Criminal Procedure Law that prohibits the use of confessions obtained through torture and the requirement to videotape interrogations in major cases.

According to Human Rights Watch, judges' videotaped interrogations are routinely manipulated—and police torture the suspects first and then tape the confession.

And as Professor Margaret Lewis will testify today, "Preliminary indications are that recording interrogations is not significantly changing the culture of extreme reliance on confessions as the primary form of evidence in criminal cases. When I viewed an interrogation room in a Beijing police station last October, the staff was keen to point out the videotaping technology. What I could not help but notice was the slogan "truthfully confess and your whole body will feel at ease" that was written in large characters on the floor in front of the metal, constraining interrogation chair, otherwise known as a "tiger chair." Faced with this slogan during prolonged questioning makes it crystal clear to the suspects that there is no right to silence in Chinese law.

Perhaps there may be Chinese officials who want to end the use of torture in detention facilities and curtail the force and influence of the Public Security Bureau, their efforts should be encouraged and supported, but as with so many other things in China—with each step forward there is another step or two back.

China's laws are too often either selectively implemented or completely ignored by security forces and the courts.

Security forces, faced with the end of labor camps, created new forms of extralegal detention—such as "black jails" or "residential surveillance in an undisclosed location"—where torture can continue without oversight or interruption.

Until suspects have lawyers at interrogations, until all extra-legal detention centers are abolished, and police and public security forces are held accountable for abuse, China's existing laws will continued to be undermined by existing practice.

The U.S. government must find effective ways to address this issue urgently and at the highest levels, because hundreds of thousands of China's people are victims of shockingly cruel, illegal, and inhumane activities.

Last week, the White House said that President Obama "re-iterated America's unwavering support for upholding human rights and fundamental freedoms in China."

President Obama has only a couple more meetings with President Xi before his Administration ends. He should make ending torture a priority. This issue touches on so many other human rights issues that are also critical ones for U.S. economic and security interests in China such as: Protecting the rights of political prisoners; advancing the right to due process; addressing the arrests, disbarments, and disappearances of human rights lawyers; curtailing police powers and the expansion of national security laws that target peaceful reform advocates; encouraging an independent judiciary; protecting the freedom of expression and religious freedom; and encouraging establishment of the rule of law in China.

Torture will not end until the price of bad domestic publicity is too high for China's leaders to ignore or when finally China's leaders understand that the use of torture harms their global interests. On this last point, only the United States has the ability to deliver such a blunt message to China.

President Obama should not hesitate to name names and shine a light on horrific practices that the Chinese government says it wants to end.

If nothing else, doing so would bolster the spirits of those prisoners of conscience who are rotting in Chinese jails. We know their jailers tell them repeatedly that the world has forgotten them.

As a Washington Post editorial concluded last week, private discussions about human rights are important, but so is public messaging. Autocrats and dictators need to know unequivocally that the United States sees the freedom of expression, the freedom of religion, the rule of law, transparency and an end to torture as critical interests, necessary for better bilateral relations, and linked to the expansion of mutual prosperity and integrated security.

PREPARED STATEMENT OF HON. MARCO RUBIO, A U.S. SENATOR FROM FLORIDA; COCHAIRMAN, CONGRESSIONAL-EXECUTIVE COMMISSION ON CHINA

APRIL 14, 2016

Despite government pledges to reform, torture remains a systemic problem in the Chinese criminal justice system. These abuses are well documented and they demand our attention.

The State Department's 2015 Annual Human Rights Report, released just yesterday, found that in China, "Numerous former prisoners and detainees reported they were beaten, subjected to electric shock, forced to sit on stools for hours on end, deprived of sleep, 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."

As the Department's Report makes clear, the victims of this horrific treatment are as diverse as the Chinese government's means of denying them justice.

In May 2015, the non-governmental organization (NGO) Human Rights Watch issued a sobering report titled "Tiger Chairs and Cell Bosses" which explored police torture of criminal suspects in China. The report found that interrogation, or "tiger," chairs are routinely used to restrain detainees. Several of those interviewed indicated that they were strapped into these metal chairs for hours and in some cases days at a time. They also reported physical and psychological torture during police interrogations, including being hung by the wrists, being beaten with police batons or other objects, and deprived of sleep for prolonged periods of time. One convicted prisoner awaiting review of his death sentence had been handcuffed and shackled for eight years.

While the Human Rights Watch report focused on the deplorable treatment of ordinary criminal suspects, torture is often employed in cases involving political prisoners as the State Department noted.

Today's hearing Record will include a letter from Geng He, the wife of noted rights lawyer and political prisoner Gao Zhisheng who has suffered unimaginable abuse at the hands of the Chinese authorities. Geng He fled China with their two children in 2009 just one month before Gao was again kidnapped and disappeared.

She writes movingly of the sacrifices her husband has made saying, "Even though he lost his own freedom and suffered unspeakable torture, he never lost his belief in freedom and human rights."

Unfortunately, disappearances of the sort Gao experienced are all too commonplace. Extralegal detention facilities such as "black jails" are routinely used as is "residential surveillance at a designated location" whereby people are held for up to six months for undefined crimes of endangering state security. This was true for several of the human rights lawyers and activists rounded up last July during a nationwide sweep, some of whom have been held incommunicado for nearly nine months making them especially vulnerable to mistreatment or even torture.

In March, the NGO China Human Rights Defenders (CHRD) reported that a significant number of the detained lawyers and advocates have apparently "dismissed" their lawyers or allegedly "hired" other lawyers to represent them. But when family members and family-authorized lawyers have requested to meet the detainees to confirm such "decisions," police have rejected the requests outright raising alarms about coercion. CHRD further reported that "Most of the individuals who have allegedly 'fired' their lawyers have been arrested for 'subversion,' a political crime for which a conviction carries a minimum of three years, and up to life imprisonment." They also noted that police-appointed lawyers are not likely to challenge "evidence" obtained through torture or coercion.

The phenomenon of televised confessions has also been on the rise with most legal experts inferring that such "confessions" are obtained through force or coercion of suspects. The Chinese government has for years acknowledged the problem of wrongful convictions, including the use of torture to extract confessions, as documented in the Congressional-Executive Commission on China's (CECC) 2015 Annual Report.

The overreliance on confessions in the criminal justice system perpetuates this practice. Notably the airing of confessions on state television, in violation of Chinese law, has become more common since President Xi Jinping's ascent to power.

Several such confessions— including that of Christian rights lawyer Zhang Kai, Hong Kong bookseller Gui Minhai, veteran dissident and journalist Gao Yu and Swedish national and NGO worker Peter Dahlin—have rightly garnered international attention.

As with so many other areas the CECC monitors, there is little evidence of progress and in many cases continued erosion when it comes to mistreatment in China's criminal justice system. China will never be viewed as a responsible global stakeholder as long as it persists in subjecting its own people to torture and denying them basic human rights and legal protections.

SUBMISSIONS FOR THE RECORD

WRITTEN TESTIMONY SUBMITTED BY MS. GENG HE, WIFE OF LAWYER GAO ZHISHENG

APRIL 14, 2016

Respected Ladies and Gentlemen:

My husband Gao Zhisheng is one of China's top ten lawyers, but starting in 2005, he became a target of the Chinese government's persecution and torture for his legal defense work on behalf of persecuted Christians and Falun Gong practitioners. In November 2005, the government revoked his lawyer's license and forcibly closed down his law firm. On August 15, 2006, the police unexpectedly kidnapped him, and by holding our children and me hostage, they forced my husband to admit he was "guilty." After Gao had been "disappeared" for four months, on December 22, 2006, the police found him guilty of "inciting subversion of state power," and sentenced him to serve three years in prison, a sentence that was suspended for five years, with deprivation of his political rights for one year. He came home, but was now reputed to be a convicted criminal. However, while serving a suspended sentence at home, the Chinese Communist Party's police kidnapped Gao Zhisheng more than six times, with one of those disappearances lasting for 21 months. He suffered many forms of torture during each disappearance.

He first experienced torture on September 21, 2007. Gao Zhisheng had sent an open letter to the U.S. Congress that exposed the Chinese Communist Party's trampling of human rights, and, in retribution, the Chinese Communist police placed a black hood over Gao's head and took him away for 50 days. The day he was kidnapped was September 21, during which Gao Zhisheng experienced terrifying torture and suffering at the hands of the police. On that day, six or seven policemen placed a black hood over his head, brought him into a room, and stripped him naked. After beating him, four of the policemen each took an electric baton in hand and struck him all over his body, including his genitals, causing his entire body to shake convulsively and to roll on the floor in pain as his sweat rolled off him like rain. The police continued to use electric shocks to torture him for several hours, during which time he fell in and out of conscious, almost to the point of death. On the second morning, the police set alight five cigarettes and let the smoke go into his nose and eyes, and pricked his genitals with toothpicks. They continued to use many forms of torture through the afternoon of the third day. By then, Gao Zhisheng was desperate to break free of this pain, and calling out the names of his two children, he began to smash his head against the table in an effort to kill himself. But his suicide attempt did not succeed, though it left Gao with swollen eyes and head, and blood running down his face. Gao Zhisheng begged his captors to put him in jail, but the police responded, "If you think you're going to prison, dream on. We can make you disappear permanently!" As they said this, they continued to cruelly torture my husband throughout the day until nighttime. At the end of it, Gao Zhisheng's eyes were so swollen from the smoke that he could no longer open his eyes and his skin was darkened all over at the places he had been touched by the electric batons. And the torture didn't end there and then.

In an attempt to protect our two children and in a state of absolute terror, in January 2009, I escaped China with my daughter and son. On February 9, 2009, Gao Zhisheng again was kidnapped and disappeared.

On September 25, 2009, Gao Zhisheng was hooded and taken away by several burly men of Uyghur ethnicity in front of secret police from Beijing. When Gao was being taken to a secret jail, his captors beat him severely with their fists. Upon arriving at the secret jail, they roughly stripped off his clothing and shoes, but leaving the black hood on, they proceeded to mercilessly beat and torture Gao for the next 48 hours. One of the men punched his chin with his bare fists, and another grabbed his neck, dragged him backwards and shoved him into the wall. They began to throttle him, causing his lungs to lack air, blood to swell his brain, his eyeballs to protrude and almost pop out, and make him feel as if death were imminent. But unexpectedly, they loosened their grip, and Gao weakly leaned against the wall as he sank to the floor. Several of the thugs began to curse him, and started to shamelessly kick his legs, making Gao scream out in pain. Under the barrage of both curses and kicks, Gao couldn't move his legs anymore, and was shaking uncontrollably. When they were tired of hitting him, they sat down and ate. Following their break, they continued to beat Gao for a day and a night. They tried to force Gao to beg for mercy, but Gao refused, and they went crazy with anger and beat him till the sun rose the next day. But Gao didn't beg for mercy. One of the thugs cursed

him, saying: "You animal, if you don't kneel today, I'm definitely going to kill you." Sure enough, their beatings became even more inhuman! Gao's two legs and feet were already swollen and bent, yet they still harshly kicked him and with each kick, Gao suffered greatly. But Gao adamantly refused to kneel down. One of the thugs completely lost his cool and pointed a gun at Gao's forehead. Gao said to him, "You are a spiritual pygmy, and don't have the guts to fire a gun." Gao's statement enraged the thug who angrily went into another room. Gao prepared for more torture and the result was that the thug returned with the gun wrapped in a pillow and put it against Gao's head. Gao lost conscious, thus easing his pain.

One year later, in April 2010, Chinese Communist officials arranged for Gao Zhisheng to be interviewed by the Associated Press. During the interview, Gao didn't hew to the script prepared by the officials, and instead revealed to the Associated Press the truth of his being tortured. Gao again was "disappeared" following the interview.

A period of torture in Beijing started, all of it done at night. On the evening of April 28, 2010, a group unexpectedly barged into Gao's cell room (this group turned out to be the same who conducted the torture in 2007). They rushed him from behind and began to throttle Gao, saying, "Little boy, you've fallen again into the hands of your uncles! We'll do a good job of taking care of you!" As before, they used a black hood to cover his head and tightly shackled his hands behind his back. They additionally put two pillow cases over the black hood and forced his body into a ninety degree angle. Two of them then forced Gao to kneel and they put him in a car, as if the whole process was a robbery. While in the car, the torture went on and on, like a living death. Two of the men were behind him, crushing his body, but this was a specially designed car that had no support. Gao was shackled, and from behind, the two were crushing him. What made it even worse was that he lacked oxygen under the thickly layered hoods. His labored breathing began to cause him to shake uncontrollably with sweat pouring off his body and his eyeballs about to pop out of his head. A little while later, his knees had gone completely numb and he momentarily felt his body disconnect from the physical pain. But when trying to get out of the car, Gao found that his legs were numb. He couldn't stand and fell to the ground whereupon the thugs began to kick him without mercy. Gao didn't even have the strength to curl up. Several of them raised him up, only to throw him back to the ground. One pulled his hood off, and another pulled him up into a half sitting position. Three of them unexpectedly began to hit him in the face for several minutes. One brought a lighted cigarette up to Gao's eyes and asked if he still wanted to write essays? After this, he struck Gao's chest with his knee. Gao heard himself cry out with an almost non-human sound, his eyes blurred, and it felt as if his head was spinning and he was floating in the ocean waves. But the non-human cry turned into a strong shout of pain because the thug suddenly loosened his hands and Gao's forehead smashed down on the ground. Gao began to vomit, with half of his face stuck to the ground. Gao's hands were still shackled behind his back so there was no way to reposition himself. The thugs were there smoking and cursing him. Once they finished their cigarettes, someone called Director Wang began to use an electric baton to strike Gao. Gao was in so much pain that he screamed in anguish, and words cannot fully describe that physical pain. They thought that, with enough time and cruelty, the torture would force Gao to kneel for mercy, but Gao never kneeled down. This utterly exasperated the thugs who beat him with greater fury. Finally, Gao was carried to an empty room where he was locked up for 21 months. In almost two years locked up there, the world didn't hear any news of Gao Zhisheng.

According to the Communist Party authorities, the verdict of a "three-year sentence, suspended for five years" should have ended by August 15, 2012 and Gao should have been able to go home. But after his disappearance of more than a year and a half, the words of his tormentors came true and it was as if he had "disappeared."

Not until the end of 2011, following the period of the five-year suspended sentence, Xinhua issued a brief English news report that on December 16, Gao Zhisheng had violated the terms of his suspended sentence and had been sent back to jail to serve the entire three-year sentence. But within two weeks, there was no news of Gao serving his sentence at the prison, and his family had not yet seen the official paperwork or received any kind of notification about visits. The news also didn't mention what regulation Gao had violated or where he had been for 21 months or why Gao Zhisheng again had been disappeared. On January 1, 2012, Gao Zhisheng's older brother , Gao Zhiyi finally received a "criminal imprisonment notification" regarding Gao Zhisheng from Shahe Prison in the Xinjiang Uyghur Autonomous Region.

Torture at the Shahe Prison came in disguised form. Gao Zhisheng was imprisoned in a small cell and for three years, did not feel fresh air on his face. From the very start of his detention, they played loud noises on a large speaker to disturb him, and this went on for 96 weeks. All of Gao's teeth fell out from living in this horrific environment and being given poor quality food, resulting in his being unable to walk or speak. At the completion of serving his sentence, he was on the verge of death and had to be lifted out of his cell and carried home.

Gao Zhisheng has sacrificed greatly on behalf of the Chinese people's freedom and human rights. Even though he lost his own freedom and suffered unspeakable torture, he never lost his belief in freedom and human rights. He adamantly believes that a free and democratic system will be realized in China in the near future. He sincerely hopes that the United States will be able to shoulder the moral responsibility of all humankind, and that the U.S. Government will be able to make human rights a key priority in U.S.-China relations. An increasingly powerful China, without human rights, is a threat to the United States and the whole world that can no longer be ignored.

With thanks to God!

Thank you all.

Geng He

CHINA'S PERVASIVE USE OF TORTURE

APRIL 14, 2016

Witness Biographies

Margaret K. Lewis, Professor of Law, Seton Hall University School of Law

Professor Margaret Lewis's research focuses on China's legal system with an emphasis on criminal justice. She joined Seton Hall Law School as an Associate Professor in 2009. Professor Lewis is a graduate of the NYU School of Law and Columbia University, and also studied at the Hopkins-Nanjing Program. Her recent publications have appeared in the Columbia Journal of Transnational Law, NYU Journal of International Law and Politics, Vanderbilt Journal of Transnational Law, and Virginia Journal of International Law. She also co-authored the book Challenge to China: How Taiwan Abolished its Version of Re-Education Through Labor with Jerome A. Cohen. Professor Lewis participated in the U.S.-China Legal Experts Dialogue in October 2015 at the invitation of the U.S. State Department. She is also a Term Member of the Council on Foreign Relations, a Public Intellectuals' Program Fellow with the National Committee on U.S.-China Relations, and an Affiliated Scholar of New York University School of Law's U.S.-Asia Law Institute.

Jigme Gyatso, Tibetan monk, Tibetan language education advocate, and filmmaker

Jigme Gyatso (a.k.a. Golog Jigme) was born in Serthar county, Sichuan province, and became a monk when he was 15 years old. He later joined the Labrang Monastery in Gansu province and has been involved in Tibetan language education advocacy, environmental protection, and earthquake relief. In 2007 and 2008, Jigme Gyatso worked with filmmaker Dhondup Wangchen to interview 108 Tibetans for the documentary "Leaving Fear Behind," which was shown prior to the start of the Olympics held in Beijing in August 2008. Chinese authorities detained Jigme Gyatso for two months in 2008, four months in 2009, and three months in 2012, during which he was severely tortured by Chinese public security personnel. In 2012, he escaped from detention in fear of his life, and spent one year and eight months on the run until he arrived in India in May 2014. He received asylum in Switzerland and has testified about his own experiences of torture and abuse to the UN Human Rights Council in Geneva, the European Parliament, and the International Olympic Committee, among others.

Yin Liping, Falun Gong Practitioner

Yin Liping is a Falun Gong practitioner who survived torture, forced labor, and sexual violence in Masanjia and other forced labor camps. Since 1999, she was arrested seven times and given three separate sentences totaling seven-and-half years. During her detentions she was often severely tortured and was sexually abused by both police and male prisoners. Her story is featured in the documentary "Above the Ghost's Heads: The Women of Masanjia Labor Camp" by former New York Times photographer Du Bin. In August 2013 she escaped from China to Thailand and, in December 2015, was granted refugee status in the United States.

Sophie Richardson, China Director, Human Rights Watch

Dr. Sophie Richardson serves as the China director at Human Rights Watch. A graduate of the University of Virginia, the Hopkins-Nanjing Program, and Oberlin College, She is the author of numerous articles on domestic Chinese political reform, democratization, and human rights in Cambodia, China, Indonesia, Hong Kong, the Philippines, and Vietnam. She has testified before the European Parliament and the US Senate and House of Representatives. She has provided commentary to the BBC, CNN, the Far Eastern Economic Review, Foreign Policy, National Public Radio, the New York Times, the Wall Street Journal, and the Washington Post. Dr. Richardson is the author of China, Cambodia, and the Five Principles of Peaceful Coexistence (Columbia University Press, Dec. 2009), an in-depth examination of China's foreign policy since the 1954 Geneva Conference, including rare interviews with policy makers.