



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.

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%E2%80%99-%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.**

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.

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

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.

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

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)

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.



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

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

[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%E5%BC%8820151024%E8%87%B320151030%E5%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.

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 (最高人民法院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.

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.*

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 (最高檢：今年接到在押者非正常死亡報告 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 (人民網)*, 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.*

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

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

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.

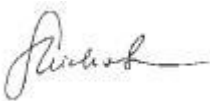
circumstances under which the chair should be used, or how long can suspects be strapped to the chair.

- 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,



Sophie Richardson
China Director
Asia Division



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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[4] <https://www.hrw.org/about/people/sophie-richardson>

[5] https://www.washingtonpost.com/opinions/china-must-be-pressed-to-end-torture-by-police/2015/08/21/faace9de-0fb7-11e5-aded-e82f8395c032_story.html

[6] <https://www.hrw.org/news/2015/05/13/china-torture-police-dodges-reforms>

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[8] <https://www.hrw.org/news/2015/06/02/china-end-denial-about-tiananmen-massacre>

[9] <https://www.hrw.org/news/2015/11/21/china-dont-return-nine-north-korean-refugees>

[10] <http://www.treatybodywebcast.org/cat-56th-session-china/>

[11] <http://chrlawyers.hk/en/content/%E3%80%90%E2%80%9C709-crackdown%E2%80%9D%E3%80%91latest-statistics-and-cases-update-1800-27-november-2015>

[12] <https://www.hrw.org/news/2015/09/14/china-government-should-account-activists-detention-death>

[13] <https://www.hrw.org/news/2015/07/17/dispatches-death-tibetan-monk>

[14] <https://www.hrw.org/it/node/283312>



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

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- [Asia](#)
- [China and Tibet](#)

Topic

- [United Nations](#)

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[5] <https://www.hrw.org/supporting-resources/283311/human-rights-watch-submission-united-nations-committee-against-torture>

[6] <https://www.hrw.org/news/2015/07/20/china-secretly-detained-lawyers-risk-torture>

[7] <https://chrndnet.com/2015/10/chinese-government-refuses-to-disclose-data-on-torture-for-un-review-citizens-face-reprisals-for-seeking-information-1022-29-2015/>

[8] http://wqw2010.blogspot.de/2015/09/blog-post_730.html

[9] http://wqw2010.blogspot.se/2015/08/blog-post_119.html

[10] <https://www.hrw.org/supporting-resources/283317/letter-un-cat-re-pre-sessional-review-china>

[11] <https://www.hrw.org/news/2015/11/11/hrw-letter-un-committee-against-torture>

[12] <https://www.hrw.org/news/2015/08/24/china-must-be-pressed-end-torture-police>



AUGUST 24, 2015

China Must be Pressed to End Torture by Police

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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.

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[2] https://www.washingtonpost.com/world/asia_pacific/in-china-a-rare-criminal-case-in-which-evidence-made-a-difference/2014/12/29/23f86b80-796b-11e4-9721-80b3d95a28a9_story.html

[3] <https://www.hrw.org/news/2015/05/13/china-torture-police-dodges-reforms>



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.

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.”



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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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 the child 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 adult son 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.”

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- [2] <https://www.hrw.org/about/people/sophie-richardson>
- [3] <http://www.hrw.org/asia/china-and-tibet>
- [4] <https://www.hrw.org/view-mode/modal/279464>
- [5] <https://www.hrw.org/report/2015/05/13/tiger-chairs-and-cell-bosses/police-torture-criminal-suspects-china>
- [6] <http://politics.people.com.cn/n/2015/0712/c1001-27290030.html>
- [7] http://news.xinhuanet.com/2015-07/18/c_1115967431.htm
- [8] http://wqw2010.blogspot.com/2015/07/blog-post_956.html
- [9] http://www.washingtonpost.com/opinions/chinas-irrepressible-lawyers/2015/07/19/81d0a04e-2a7b-11e5-a250-42bd812efc09_story.html
- [10] http://news.xinhuanet.com/legal/2015-07/12/c_128011235.htm
- [11] <http://wqw2010.blogspot.com/2015/07/71021122-1564.html>
- [12] http://msguancha.blogspot.hk/2015/07/blog-post_24.html
- [13] <http://wqw2010.blogspot.hk/2015/07/71066.html>
- [14] <http://bj.people.com.cn/n/2015/0719/c82840-25637580.html>
- [15] http://wqw2010.blogspot.hk/2015/07/710_10.html

[16] <https://www.hrw.org/news/2012/03/12/china-dont-legalize-incommunicado-detentions>

[17] http://wqw2010.blogspot.com/2015/07/4_18.html

[18] http://wqw2010.blogspot.hk/2015/07/blog-post_554.html

[19] <http://www.rfa.org/cantonese/news/Gao-05262014095240.html>

[20] http://wqw2010.blogspot.hk/2014/06/blog-post_8904.html

[21] <http://www.rfa.org/mandarin/yataibaodao/renquanfazhi/q11-07042015115511.html>

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.

“Despite several years of reform, police are torturing criminal suspects to get them to confess to crimes and courts are convicting

(c) 2015 Russell Christian for Human Rights Watch

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.”

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