



**Convention against Torture
and Other Cruel, Inhuman
or Degrading Treatment
or Punishment**

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COMMITTEE AGAINST TORTURE
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**List of issues to be considered during the examination of
the fourth periodic report of CHINA (CAT/C/CHN/4)**

Article 1

1. Please update the Committee, in particular on how Chinese law addresses the elements of the definition of torture that have been found to be not sufficiently covered in current law, with particular reference to mental suffering, purpose and instigation, consent or acquiescence of a public official or other person acting in an official capacity.

Article 2 and effective measures to prevent torture

2. According to information before the Committee, despite new laws and regulations adopted by the State party to prevent torture and ill-treatment, an array of mutually reinforcing conditions contribute to its continued pervasiveness in the criminal justice system. A lack of information regarding torture and ill-treatment is allegedly compounded by the fact that much basic data is classified under the State secrets system. Please provide the following information on legal safeguards and effective measures to prevent torture:

(a) According to the State party's reports, basic legal safeguards - particularly the guarantee of access to a lawyer - may be seriously limited in practice, particularly in cases where State secrets are involved. Please define what constitutes a State secret in this context. Please provide information on the number and nature of cases per year in which State secrets have served as the basis for delaying access to a lawyer, to an independent doctor or the right to notify a relative. In how many cases have the authorities retroactively classified information, as reportedly permitted? Please clarify whether the detainee has a right to challenge the determination that State secrets are involved, and, if so, how often this has been done, and with what result. Also, please explain why the requirement for a detainee to apply for permission

before obtaining access to a lawyer has not yet been abolished, as recommended by the Committee in its previous conclusions and recommendations.

(b) Public statements confirmed that hundreds of persons were detained in connection with the unrest that followed the March 2008 demonstrations in the Tibetan Autonomous Region and neighbouring Tibetan prefectures and counties in Gansu, Sichuan, Qinghai provinces. Please provide a list of all persons detained in connection with these incidents, including their current location, convictions, etc. What secrecy regulations applied in these cases and why? In view of allegations that lawyers who offered to defend Tibetan protesters were warned that they would have their professional licenses suspended if they attempted to do so, please clarify what counsel was provided and whether the defendants were permitted to meet with that counsel in private, in advance of their trials. According to information before the Committee, a detainee does not have the right to access to an independent doctor during pretrial detention or after conviction. Please explain why. Please explain if persons detained in connection with these demonstrations were provided with medical examinations prior to trial. As 30 persons were found guilty and sentenced less than six weeks after the events, please clarify the basis of the sentences, including how many cases involved confessions from the defendants. What opportunity to appeal the verdicts is provided to the defendants? Is there an independent review or oversight board assigned to these cases, and if so, has it examined any of them?

(c) It is reported that there were a number of deaths in connection with the unrest in the Tibetan Autonomous Region and neighbouring prefectures and counties. Please provide information on any investigations into those deaths and whether there will be a transparent public inquiry into them.

(d) According to information before the Committee, the criminal justice system is still strongly focused on the admission of guilt, confessions and re-education through labour, which create conditions for the occurrence of torture and cruel, inhuman or degrading treatment or punishment. Please provide information on the number of cases in which individuals have been convicted solely on the basis of confessions. How many medical examinations were ordered by judicial authorities in such cases, and what were the results? Please provide data on instances of police officers causing injuries or disabilities to prisoners, and statistics on unusual deaths in prisons and other detention facilities.

(e) Please clarify the legal status of regulations issued by the Supreme Peoples' Procurate Criminal procedure laws aimed at investigating abuses and clarify how they can be enforced. Please provide any relevant data about the results of such investigations and whether any persons have been found guilty of torture following them.

(f) How long is the period before a detained suspect has to be presented before a judge, what are the exceptions and under what circumstances? Is it correct that this period may be extended to 37 days? Please indicate under which authority the detained suspect remains after his or her detention has been reviewed by a judge. Are all pre-trial detainees segregated from convicted persons? Are women and minors separated from men both during pre-trial detention and after conviction? Please provide information on how persons in pre-trial detention can challenge the lawfulness of their detention, including through habeas corpus proceedings.

(g) Please provide detailed data on the total number of detainees in the State party (i) on remand, (ii) convicted, (iii) in so-called “re-education through labour” camps and (iv) in rehabilitation centres. If possible, please disaggregate these data by gender, ethnic origin and places of detention. Are all detained persons systematically registered and, if so, is the registry public?

(h) Please comment on the apparent inaction of the State party in response to the Committee’s previous recommendation to abolish the Re-education through Labour (RTL) system and all forms of administrative detention. According to information before the Committee, administrative detention is still applied in the RTL system, especially to persons exercising their human right to freedom of expression, assembly, association or religion. The RTL system, through coercion, humiliation and punishment, aiming at altering the personality of detainees, reportedly causes severe physical and mental pain and suffering. Please indicate what judicial mechanisms are available to detainees to challenge such administrative detention, and provide statistics on the outcome of any such challenges.

(i) In addition to administrative detention for re-education through labour, please provide information on other administrative detention centres as well as on persons detained under the 1997 Law on Administrative Penalties. Please explain why certain groups of persons are overrepresented in such detention centres, such as Falun Gong practitioners and Tibetans.

(j) According to information before the Committee, unofficial personnel hired by public authorities are commonly responsible for attacks, harassment, intimidation and beatings of lawyers or petitioners - those who travel to major cities such as Beijing to petition for redress of abuses by local officials. Please clarify the number of complaints against such unofficial personnel, and the administrative sanctions or prosecutions initiated and completed in such cases. What measures exist to hold accountable so-called “retrievers” (*jiefang ren yuan*) who round up petitioners in so-called “sweeps” and are reported to use violence, threats and kidnapping as they carry out these actions with impunity? Please provide details on the results of complaints against such personnel.

(k) According to information before the Committee, a large proportion of petitioners claim that they have been detained by unofficial personnel hired by public authorities, and it has been alleged that the State party has established detention facilities especially to detain petitioners coming to Beijing. Please provide information on such places of detention. Which institution has oversight of those facilities? How many persons are detained in such places, what charges exist against them and what is their legal status? Please comment on the cases and whereabouts of the following petitioner activists: Ma Yaling, Wang Qiaojuan, Ye Guoqiang, and Ye Guozhu.

(l) According to information before the Committee, there have been several cases of enforced disappearance in the State party. Please provide information on the investigation into any such cases, including that of Ms. Wang Guilian, a petitioner detained on 28 February 2008, whose whereabouts are still unknown. Please clarify the whereabouts of the human rights lawyer Gao Zhisheng, last seen on 22 September 2007 in the presence of municipal security officials at his home. Please provide information on the whereabouts of Bishop Su Zhimin and of Genden Choekyi Nyima, neither of whom have been seen since the last periodic report, and who are alleged to have been forcibly disappeared.

(m) According to the “Public Security Organs Regulations on Pursuing Responsibility for Policemen’s Errors in Implementing the Law”, an order from a superior may be invoked to exclude criminal responsibility in case of confession or testimony extracted by force, which will prevent the perpetrator from being prosecuted. Please explain how this is compatible with paragraph 3 of article 2 of the Convention.

(n) According to information before the Committee, human rights defenders are often harassed by personnel of the Public Security Bureau and other law enforcement personnel, who detain them for long periods of time for interrogation without any judicial warrant, such as the case of Mr. Teng Biao, arbitrarily arrested and detained in March 2008. Please provide information on the measures taken to prevent such arbitrary arrest and on the investigation into such cases. Also, please provide information on (i) the case of Chen Guangcheng, a human rights defender reportedly subjected to house arrest, then six months in incommunicado detention, followed by a year in jail before being sentenced to a term of four years and three months, and (ii) attacks on the lawyers who came to Chen’s defence, including Li Fangping and Li Subin. Have there been investigations regarding the police officials or unidentified men reportedly engaged in the physical abuse of these and other lawyers, including Wang Lin, Gao Weiquan, Mao Liequin and others, and if so, with what result? Also, with particular reference to section 306 of the Criminal Code, please clarify under what circumstances lawyers may be prosecuted for defending their detained clients.

(o) Does the State party monitor sexual violence in prisons and other places of detention, and if so, with what results? Also, please provide information on the measures taken to prevent torture or ill-treatment of women in places of detention or confinement.

(p) Please inform the Committee on the legal safeguards of persons in health institutions subjected to involuntary hospitalization, particularly in psychiatric hospitals but also in other hospitals or institutions for persons with disabilities who are involuntarily hospitalized. What mechanisms are available to challenge such decisions and how is the placement reviewed? Please provide information on the work of any independent review or oversight mechanisms in relation to involuntary hospitalization. Please also provide information on independent oversight mechanisms in Ankang Psychiatric Hospital. Please comment on reports that Falun Gong practitioners and Tibetans are hospitalized in psychiatric hospitals not for medical reasons. Please explain why such health institutions are under the authority of the Ministry of Interior.

Article 3 and forced returns

3. According to information before the Committee, almost 5,000 North Koreans were deported by the State party in 2002, with roughly similar numbers in subsequent years. Upon return to the Democratic People’s Republic of Korea, a very high proportion of them have been arrested and detained. Further, the use of torture and cruel, inhuman or degrading treatment or punishment reportedly occurs in a wide range of detention centres and prisons in the Democratic People’s Republic of Korea despite a ban on such practices under criminal law, according to the Special Rapporteur on the situation of human rights in the Democratic People’s Republic of Korea. According to allegations, torture and ill-treatment are routine in detention centres in the border regions for persons returned to the Democratic People’s Republic of Korea, where victims report having being subjected to torture or cruel, inhuman or degrading treatment or punishment

through techniques such as “pigeon position”, “pumping”, beatings, sexual assault and intrusive body cavity searches. In connection with the State party’s obligations under article 3 of the Convention, please clarify:

(a) According to paragraph 45 of the State party report, article 8 of the Extradition Law of 2000 enables extradition to be refused if the person sought has been or may be subjected to torture. Please provide information on cases where extradition was refused for this reason. Further, paragraphs 45 to 58 of the State party report refer only to extradition and not to other forms of return or expulsion. Do mechanisms other than the extradition law exist to ensure compliance with article 3? What authority coordinates law enforcement, border guards, and other relevant personnel to ensure that the obligations of article 3 are met in all cases of return? As the State party does not report a bilateral extradition treaty with the Democratic People’s Republic of Korea (para. 72), please include information on whether the State party monitors the treatment of returnees to determine that they have not been subjected to torture;

(b) Please provide statistical data, since the last periodic report, on the number and geographical origin of asylum-seekers, refugees and immigrants as well as on expulsions, extradition or other returns from the Chinese territory, including to which countries;

(c) Please comment on the State party’s relationship to and cooperation with UNHCR, including regarding cases involving the border between China and the Democratic People’s Republic of Korea. Please clarify when and why the term “illegal immigrants” is used regarding border crossers and whether its use stigmatizes bona fide refugees and asylum-seekers. Does the State party recognize the concept of refugee *sur place*? Please provide statistics on the number of recognized refugees and asylum-seekers in the State party and countries from which they have come. Please comment on the alleged special vulnerability of women border crossers;

(d) Please clarify existing legal safeguards, including whether an individual may challenge impending return if the person claims there is a risk of torture, and other existing legal safeguards. If appeals are permitted, please clarify the procedures involved, including whether these have suspensive effect. Please provide statistics and details regarding any such cases, including information on the number of cases in which expulsion or extradition or return was denied because of the risk of torture. Please include information about returns to the Democratic People’s Republic of Korea;

(e) Please clarify whether any diplomatic or other assurances must be given to the State party by a State requesting the extradition or return of persons;

(f) Please clarify how the bilateral agreements between the State party and the Democratic People’s Republic of Korea ensure that the obligations of the Convention are met with regard to article 3 as well as to articles 6, 7, and 8. Please provide copies of the following treaties to the Committee: “Mutual Agreement on Security in Border Areas and Maintenance of Social Order” of July 1978, and the Judicial Assistance Treaty of 19 November 2003 (as cited in paragraph 74).

(g) According to information before the Committee, Park Yong-chol, a national of the Democratic People’s Republic of Korea, was forcibly returned from China in October 2004, and his whereabouts are unknown since he was returned to the authorities. Please provide

detailed information on this case and on those of other returned persons involved in the Yantai boat incident, in which 30 North Koreans attempted to travel from China to the Republic of Korea by boat.

Article 4

4. Please provide updated statistics and concrete examples of sentences applied to perpetrators found guilty of acts of torture or ill-treatment under articles 43, 136, 143, 144 and 189 of the Penal Code (paras. 74 and 78 of the supplementary report, cited in para. 59 of the report) as well as of articles 232 and 234 mentioned in paragraphs 61 and 62 of the report. Under which other provisions may public officials be prosecuted for torture or ill-treatment of detainees? Please provide statistical data for the years since the review of the last periodic report on those convicted under such other provisions. In particular, please provide further data on the number of convictions and length of sentences for criminal cases of State officials abusing their power, particularly to coerce confessions, as cited in paragraph 108 of the State party's fourth report.

5. Are the above-mentioned provisions of the Penal Code applicable to all public officials, including military, paramilitary or any other public officials with specific status? Are they also applicable to unofficial personnel? Please indicate any exception. In such case, what provisions are applicable? Please provide examples of judicial decisions where the Convention has been directly applied by the courts.

6. Following the Committee's previous conclusions and recommendations, please provide information on the recurrent reports of the use of coercive and violent measures, particularly against women, by some local officials in the implementation of the population policy, including forced sterilization, forced abortion, and according to reports, including other abuses such as arbitrary detentions. Please outline the role of medical personnel in implementing sanctions regarding the State's population policy, and provide statistics on the number of persons sanctioned by this policy, male and female. Please describe the results of any investigations into such cases and the prosecution and convictions of officials who abused their authority, maltreated citizens or used violence against citizens, either to coerce information or to punish persons not abiding by the policy.

7. Noting with appreciation the explicit prohibition of domestic violence in the 2001 Marriage Law, the Committee would appreciate information on actions taken to combat domestic violence and all forms of violence against women. Please indicate what measures have been adopted to sensitize and train law enforcement personnel and other relevant staff to recognize domestic violence, and to ensure that they take preventive measures. In particular, please provide information on how the State party provides victims of violence against women with access to justice and whether there have been prosecutions of those responsible. If so, please provide details on relevant cases.

Articles 5, 6, 7, 8, and 9

8. Please provide information on the extradition from Uzbekistan of Mr. Huseyin Celil, a Uighur Muslim citizen of Canada, who was reportedly held incommunicado in China for a long

period, and allegedly tortured, before being sentenced to life imprisonment. Please comment on reports that persons of Uighur ethnicity have been forcibly returned to China from neighbouring countries (including Uzbekistan, Kazakhstan, Kyrgyzstan and Nepal). Please provide statistics on the number of such cases since the review of the last periodic report. Please clarify the whereabouts of and legal safeguards available to such persons.

Article 10

9. Please provide detailed information on training programmes for the persons enumerated in article 10 of the Convention and, in particular, on the training of judges, prosecutors, forensic doctors and medical personnel dealing with detained persons, to detect physical and psychological *sequelae* of torture, including on the Istanbul Protocol, as recommended by the Committee in its previous conclusions and recommendations. Please update the Committee on ongoing training programmes in medical ethics for medical and other health personnel.

10. Regarding the prevention of torture and ill-treatment, what specific training has been provided to the police with regard to the provisions of the Convention? Is there a specific training with regard to torture and ill-treatment of persons with special needs and groups made vulnerable, for instance elderly, women, children, persons with disabilities, persons of diverse sexual orientation and others at risk of discrimination?

Articles 11, 12 and 13

11. Please provide the Committee with updated information on conditions in detention, particularly in pre-trial detention with respect to the number of persons kept in same cells, possibilities for activity, disciplinary reactions, forced re-education and contact with family while in detention.

12. Please inform the Committee on the conditions in local detention houses for persons deprived of their liberty and confined in detention houses by the local organs of public security. Please explain why the conditions vary considerably across the State party and what measures are taken to deal with these inequalities in the basic treatment of detainees.

13. Please provide statistical data on how many prisoners sentenced to death are awaiting execution and on how many were executed since the review of the last periodic report. What methods of executions are used by the State party and what specific procedures are in place to reduce to a minimum any unnecessary suffering? What are the conditions of detention for prisoners on death row?

14. Please provide information on the number of persons deprived of their liberty in psychiatric hospitals and in institutions for the disabled. What is the situation with respect to alternative forms of treatment, such as community-based rehabilitation services and other forms of out-patient treatment programmes?

15. According to paragraph 26 of the State report 274,219 “procuratorial corrections” were made in relation to 25,736 detainees. Please explain how such a large number of cases of illegal detention has been possible and what specific measures have been taken to prevent a similar

situation from recurring. Were those errors investigated and those responsible prosecuted? Has compensation been granted to all the victims? Please provide detailed data.

16. Please provide data on complaints and complaint mechanisms about acts of torture and ill-treatment, disaggregated by, inter alia, gender, ethnic group, region, type and location of detention, as recommended by the Committee in its previous conclusions and recommendations. Please also provide statistical data for the years since the last periodic report on the investigation into these complaints and their respective outcomes, including discontinuation, administrative procedure or penal prosecution. Please explain how procuratorial and other bodies referred to in paragraphs 94 and 95 of the State party report are independent from the alleged perpetrators as well as from the authority investigating or prosecuting the alleged abuse.

17. Please provide detailed information on any independent authority in China responsible for monitoring all places of detention, including pre-trial detention facilities, prisons, detention and custody houses, police stations, re-education through labour camps, and rehabilitation camps. Please clarify how many times detainees have independently accessed or complained to such authorities. Please provide statistics on the number of monitoring visits undertaken, whether any non-governmental organizations have access to them and under which conditions, and the results of any such inspections.

18. Are public officials, including prosecutors and judges implicated in colluding in torture or ignoring evidence, when under investigation for torture and ill-treatment, suspended from duty pending trial and prosecution? Please provide statistical data on this issue for the years since the review of the last periodic report.

19. Please provide information on the nature of charges and sentences applied upon conviction in the cases mentioned in paragraphs 108 and 117 of the report, and indicate the sources of such information. Please also provide information on any administrative disciplinary sentences applied in relation to torture and ill-treatment inflicted by public officials (para. 47 of the third report, cited in para. 110 of the report).

20. According to information before the Committee, Mr. Yang Chunlin, a human rights defender collecting signatures in the framework of the campaign “We want human rights, not the Olympics” was detained in July 2007 in Heilongjiang Province, allegedly tortured while in detention and prosecuted for “inciting subversion of State power”. Please provide detailed information on any investigation into those allegations and their outcome.

21. A number of serious allegations of torture were received by the current Special Rapporteur on the question of torture and his predecessors over the last years and transmitted to the Government, which has not yet provided information on a number of them. Please provide information on the investigation into all cases cited in the Special Rapporteur’s report (E/CN.4/2006/6/Add.6), especially individual cases noted in appendices 2 and 3 of the report.

22. Following the June Fourth Incident at the Tiananmen Square in 1989, groups of relatives of persons killed, arrested or disappeared have asked for investigations and justice in relation to the events. Please provide information on the status of such investigations, or whether independent investigations, and legal sanctions against those found responsible, are planned. If not, please explain.

Article 14

23. What are the procedures to obtain rehabilitation and compensation for victims of torture and their families? What rehabilitation programmes currently exist for victims of torture in China? Considering that “all victims who conform to stipulation ... have received compensation” (para. 119 of the report), please provide statistical data on the number of victims of torture who received compensation and on the amounts provided to them. Has compensation or rehabilitation been provided to persons who are victims of trafficking in humans or other forms of sexual exploitation, including children?

Article 15

24. How are article 43 of the Code of Criminal Procedure, article 181 of the Procedural Provisions for the Handling of Criminal Cases by Public Security Organs and article 265 of the Rules of Criminal Litigation for the People’s Procuratorates implemented in practice? Please provide examples.

25. According to paragraph 8 of the report, evidence collected by illegal means are not to be used as “the basis for punishment” (article 75 of the Law on Administrative Penalties for Public Security). Is such evidence admissible in any proceedings? Can it be used, as complementary evidence, for prosecution, as paragraphs 122 and 124 of the report mention “conviction” and “accusation”? Please explain how this is compatible with article 15 of the Convention prohibiting the use of any statement obtained as a result of torture as evidence in any proceedings, except against the alleged torturer. Please provide examples of any judicial cases where the courts have declared statements inadmissible on the ground that they were obtained as a result of torture.

26. Please comment on whether coerced confessions are used as an incentive for proper medical care.

Article 16

27. Please provide detailed statistical data on the health of detainees, including HIV/AIDS, tuberculosis and any other transmissible diseases, especially in re-education through labour camps, including in coal mines. How many deaths in custody occurred in each of the years since the last periodic report, and were their causes investigated? Please outline the findings and provide information on sanctions in cases where public officials, prisoners, or other persons were found responsible. Please provide information on health services in all places of detention.

28. Certain political crimes were abolished in the State party legislation, however persons sentenced for such crimes before their abolition are still serving prison sentences, including long

ones. Please explain the rationale behind such a situation. Why is the principle of the "most favourable law" not applicable to those convicted for political crimes? Are there special regulations for persons convicted for political crimes?

29. According to information before the Committee, prisoners on death row are shackled 24 hours a day. Please explain such treatment and whether it constitutes cruel, inhuman or degrading treatment or punishment.

30. Please provide detailed information on the activities that detainees have during the day, including those serving long prison sentences, such as work, recreation, especially reading, and physical exercise. Please explain any limitations to the right of prisoners to manifest, practice or teach their religion.

31. Please provide statistical data on inter-prisoner violence since the review of the last periodic report. What measures have been taken to prevent such violence?

32. Please provide information on the measures taken to ensure that juvenile justice standards are fully implemented, such as the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (Beijing Rules).

33. The second periodic report (para. 32), cited in paragraph 75 of the report, mentions a decree forbidding the parading of prisoners. However, in December 2006, alleged sex workers were paraded in Shenzhen. Please provide information on any investigation into such treatment.

34. Please provide information on excessive use of force by the police as well as statistics on investigations of police violence and excessive use of force since the review of the last periodic report. Please include information on the reported excessive use of force by police forces in dispersing the peaceful demonstrations by monks on the 49th anniversary of the exile of the Dalai Lama in March 2008 (see also para. 2(d)).

35. What measures have been taken to prevent and combat trafficking and sexual exploitation in the State party, especially of women and children? Please provide relevant statistical data for the last five years on this issue, especially on the number of complaints, investigations, prosecution, and convictions related to trafficking.

36. Serious allegations have been raised in relation to discrimination against and ill-treatment of persons of ethnic minority groups. Please provide the Committee with information on the number of persons in detention and involuntary psychiatric hospitals with ethnic minority background, as well as on the number of complaints from persons belonging to these groups on ill-treatment. Please comment on the treatment of Ablikim Abdureyim, who reportedly needs medical attention, in Bajiahu prison near Urumchi, Xinjiang Uyghur Autonomous Region. It is alleged that police authorities claim his health would deteriorate if he continues to fail to "cooperate" and "confess."

37. According to information before the Committee, there are numerous allegations with regard to ill-treatment perpetrated by private security guards. What measures have been implemented to prevent and combat such abuses? Please provide information on the investigation of such cases.

38. According to information before the Committee, serious concerns have been raised in relation to working conditions, including health and safety issues, like overexposure to hazardous chemicals, heat and noise, as well as very long working hours, seven days a week, in factories in the State party. Please provide information on monitoring mechanisms and steps taken to improve such conditions and sanction anyone responsible for abuses.

Other issues

39. Please provide information on the legislative, administrative and other measures the State party has taken to respond to the threat of terrorist acts, and please describe if and how these measures have affected human rights safeguards in law and practice. Please describe the relevant training given to law enforcement officers, the number and types of convictions under such legislation, the legal remedies available to persons subjected to anti-terrorist measures, whether there are complaints of non-observance of international standards, and the outcome of these complaints.

40. Is the State party considering making the declaration under articles 21 and 22, as recommended by the Committee in its previous conclusions and recommendations, or withdrawing its reservations to articles 20 and 30 of the Convention?
