



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

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## Committee against Torture

### Forty-fifth session

1–19 November 2010

### List of issues prior to the submission of the fifth periodic report of China (CAT/C/CHN/5)\*

### Specific information on the implementation of articles 1 to 16 of the Convention, including with regard to the Committee's previous recommendations

#### Articles 1 and 4

1. In light of the Committee's previous concluding observations (paras. 32 and 33),<sup>1</sup> has the definition of torture contained in article 1 of the Convention been incorporated into domestic law? Have there been any cases of direct application of the Convention by the courts, including application of the Convention's definition of torture?

2. Please provide up-to-date information on the measures taken or envisaged to ensure compatibility of the draft Criminal Law with the Convention. Please elaborate the legislative measures taken to introduce specific provisions in the Criminal Law concerning the criminal liability for the acts of torture, attempted acts of torture, orders to commit torture and complicity in committing torture with a view to ensuring that torture is made punishable by appropriate penalties in accordance with the requirements of article 4(2) of the Convention. Further to the recommendations by the Working Group on the Universal Periodic Review (A/HRC/11/25, para. 114), what progress in legal and judicial reforms has been made to bring Chinese criminal law into line with the requirements of articles 1 and 4 of the Convention?

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\* The present list of issues was adopted by the Committee at its forty-fifth session according to the new optional procedure established by the Committee at its thirty-eighth session, which consists in the preparation and adoption of lists of issues to be transmitted to States parties prior to the submission of their respective periodic report. The replies of the State party to this list of issues will constitute its report under article 19 of the Convention.

<sup>1</sup> Paragraph numbers in brackets refer to the previous concluding observations adopted by the Committee and published under symbol CAT/C/CHN/CO/4.

3. Please clarify the status of the Convention in the domestic legal system. Have the rights contained in the Convention been invoked by national courts, either as a ground for a case or as interpretative guidance for legal norms.

## Article 2<sup>2</sup>

4. In light of the Committee's previous concluding observations (para. 11), please provide detailed information on the measures taken to prevent acts of torture carried out during detention, and in particular:

(a) To bring detainees before a judge promptly and to reduce the length of the pretrial detention period in line with international standards. Please comment on reports that pretrial detention continues to be applied excessively, and in cases involving State secrets, for indefinite periods. Please provide specific information on the specific circumstances which can warrant an extension of pretrial detention for criminal suspects up to 30 or 37 days. Please also provide statistics, disaggregated by gender, location and alleged offence, for the number of criminal suspects who have had their pretrial detention extended beyond the three-day limit provided for in article 69 of the Criminal Procedure Code.

(b) To systematically register all detainees, including juveniles, and keep records of all periods of pretrial detention. Please include detailed information about the information recorded at the time of registration - does this include a record of the actual time of detention/loss of custody; is the name of the arresting officer or any other law enforcement personnel who may have accompanied the suspect to the detention facility recorded; are family members permitted access to these registration records? Please report on any cases of negligence or abuse in connection with such registration; include information on the measures taken to ensure compliance and those sanctioned for failure to complete these documents properly.

(c) To ensure that all detainees are offered, in practice, fundamental legal safeguards from the outset of detention, inter alia, access to lawyer, doctor of their own choice, contact with their families, and habeas corpus. Please include information on how detainees and suspects may access their right to a doctor—can they request an examination, and how many have done so at their own request. Also please provide information on any complaints by those who initially waived this right. Please also provide detailed, statistical information on the number of cases of torture reported by doctors following medical examinations of detainees, as well as information on the outcomes of these cases—were investigations initiated? Please also provide information on the prohibitions, if any, in the right to access to legal counsel for detainees, in particular in cases involving “State secrets”. According to information before the Committee, in such cases, access to legal counsel is subject to an approval procedure—please provide detailed information about this procedure, how detainees may access it, and statistical information on the number of detainees who have been denied their right to legal counsel on the grounds that their case falls within the State secrets laws, as well as information on the reason for such denials.

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<sup>2</sup> The issues raised under article 2 may also imply other articles of the Convention, including but not limited to article 16. As stated in general comment No. 2 (CAT/C/GC/2), paragraph 3, “The obligation to prevent torture in article 2 is wide-ranging. The obligations to prevent torture and other cruel, inhuman or degrading treatment or punishment (hereinafter “ill-treatment”) under article 16, paragraph 1, are indivisible, interdependent and interrelated. The obligation to prevent ill-treatment in practice overlaps with and is largely congruent with the obligation to prevent torture. [...] In practice, the definitional threshold between ill-treatment and torture is often not clear.” See further chapter V of the same general comment.

Please include information on whether detainees who initially waive the right to defence counsel may exercise it subsequently, lodge a complaint or address this issue when they subsequently appear before a judge.

5. Please indicate whether police officers are present or monitor, using audio devices, when the detainee meets with his/her lawyer and doctor. Please comment on the case of Huang Qi, human rights activist, who was charged of illegal possession of State secrets in July 2008. It is reported that he was held incommunicado for over 100 days before his first meeting with a lawyer in September, and has been denied medical treatment while in detention. His family has also been denied visitation rights since his arrest (A/HRC/13/39/Add.1, para. 37).

6. In light of the Committee's previous concluding observations (para. 18), please provide information on:

(a) The steps taken to abolish or amend legal provisions which undermine the independence of lawyers, including article 306 of the Penal Code and article 39 of the Criminal Procedure Law, in line with the recommendations of the Committee on the Elimination of Racial Discrimination (CERD/C/CHN/CO/10-13, para. 19). In addition, please indicate the measures taken to prevent and combat unlawful interference of any kind of judges, prosecutors and lawyers, as well as to promptly, effectively and independently investigate such interference with a view to bringing those responsible to justice. Please provide information on results of such cases.

(b) The State party's view on concerns raised by the Special Rapporteur on the independence of judges and lawyers regarding legislative amendments to the Law on Lawyers, and regulations on professional licenses for lawyers (A/HRC/11/41/Add.1, paras. 71-76, 90).

(c) Allegations of the continuous intimidation, repression and harassment of lawyers who take on sensitive cases, as well as their detention and conviction on arbitrary grounds, including the cases of Tang Jitian and Lieu Wei, two human rights lawyers whose licenses to practice law were revoked in May 2010 by government authorities (A/HRC/13/39/Add.6, para. 21). Please comment on cases taken up by the Special Rapporteur on the independence of judges and lawyers in relation to the situation of defence lawyers and other human rights defenders facing judicial and other proceedings as a consequence of their professional activity (A/HRC/14/26/Add.1, para. 226).

(d) Data and the outcome of investigations into cases involving intimidation and other ways of impeding the independent work of lawyers.

7. Please provide updated information about the whereabouts of Gao Zhisheng, referred to in the Committee's previous concluding observations, and the reasons for his detention. Subsequent to the information provided on 14 April 2009 by the Government of China to the Working Group on Enforced or Involuntary Disappearances indicating that he was on probation in Beijing, he reportedly disappeared again in April 2010 (A/HRC/13/31, paras. 128-129). Please also indicate whether he has been afforded all fundamental legal safeguards, including access to a lawyer of his choice, and contact with his family, both while on probation and at present.

8. Please provide information on the steps taken, including concrete data about enforcement efforts, to fully implement the National Human Rights Action Plan 2009-2010 (NHRA), in which the State party had made a commitment to combat torture and to continue legislative, judicial and administrative reforms in order to bring domestic laws into line with the International Covenant on Civil and Political Rights. Please provide specific data on what progress has been made in establishing and improving supervisory mechanisms for law enforcement and the administration of justice, conducting physical

examinations of detainees before and after any interrogation, and improving the treatment of detainees in the context of the NHRA? Has there been any public reporting on the results of efforts to monitor and evaluate implementation of the NHRA?

9. In light of the Committee's previous concluding observations (para. 13), please provide information on:

(a) The steps taken towards the abolishment or reduced use of administrative detention, including "re-education through labour (RTL)". Please provide up-to-date information on the review of the RTL system, including discussions in the National People's Congress to this end. What is the status of the legislation on "illegal behaviour correction law" which has been presented to the Commission for Legislative Affairs of the National People's Congress Standing Committee in an effort to "reform and standardize" the RTL system? What plans are in place to investigate past allegations of torture and ill-treatment in RTL custody, especially with regard to members of certain religious and ethnic minority groups?

(b) Statistics on those currently subject to administrative detention, the reasons for their detention, the means of challenging such detention and any safeguards put in place for them. How many such challenges have been lodged, where, and with what results? With regard to State party's follow-up replies (CAT/C/CHN/CO/4/Add.2, p. 8), please provide information on the cases where persons concerned stated their case and defended themselves, as well as the compensation granted under the State Compensation Law to those who have been erroneously detained in RTL facilities.

(c) The recent decrees passed by localities permitting the use of the RTL system as punishment in cases of "abnormal petitioning" as well as recent reports that individuals, including Chen Yulian and Liu Jiayuan, were abused by police as a result of their actual or assumed status as petitioners.

(d) State party's response to concerns raised by the Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment regarding the treatment of persons with HIV/AIDS in administrative detention, and alleged ill-treatment in coercive quarantine for drug rehabilitation (CQDR) (A/HRC/13/39/Add.6, para. 20 and p. 47).

10. In light of the Committee's previous concluding observations (para. 16), please provide detailed information about the amendment made to the 1988 Law on the Preservation of State Secrets. What is the situation at present with regard to the availability of information, including statistics on detainees in all forms of detention and custody, relevant to the assessment of the State party's compliance with the provisions of the Convention? Does the amended Law contain provisions ensuring that the determination as to whether a matter is a State secret can be appealed before an independent tribunal, and that every suspect involved in a case on State secrets is afforded the right to have prompt access to a lawyer of their choice? Please also clarify for the Committee how the new law on State secrets, due to come into effect in October 2010, impacts the existing legislation on State secrets. Please provide the number and the outcome of cases where detainees have challenged decisions as to whether a matter constitutes a State secret. Please also provide information on the process by which information becomes classified under the State secrets system, and the criteria by which such determination is made.

11. In light of the Committee's previous concluding observations (para. 17) and further to the State party's follow-up replies (CAT/C/CHN/CO/4/Add.2, p. 11), please provide the following information:

(a) Statistical data relevant to the monitoring of the implementation of the Convention at the national level, disaggregated by gender, ethnicity, age, geographical region and type and location of place of deprivation of liberty. Please include data on

complaints, investigations, prosecutions and convictions of cases of torture and ill-treatment, detention conditions, abuses by public officials, administrative detention, death penalty cases, and violence against women, ethnic and religious minorities. If the compilation of the requested data has not been completed yet, please indicate when it is expected to become available.

(b) The efforts made by the State party to establish a scientific and effective system of data collection, management and dissemination of information.

12. In light of the Committee's previous concluding observations (para. 14), while noting the State party's follow-up replies stating that no detention facilities exist other than those established according to law (CAT/C/CHN/CO/4/Add.2, p. 9), the Committee continues to receive reports of arbitrary administrative detention, so called "black jails", where detainees are deprived of fundamental legal safeguards. Please elaborate the State party's position on the joint study on secret detention, presented by four Special Procedures mandate holders to the Human Rights Council, in which they referred to several urgent communications with regard to cases of alleged secret detention of Tibetans accused of separatism and other State-security offences, and of secret detention in the aftermath of unrest in the Xinjiang Autonomous Region in July 2009 (A/HRC/13/42, paras. 168-170).

13. With regard to the events in Tibet Autonomous Region and other Tibetan prefectures and counties in 2008, as well as the events in Xinjiang Uighur Autonomous Region in 2009 and thereafter, please provide information on:

(a) The measures taken to ensure that those detained in connection with aforementioned events are afforded fundamental legal safeguards and guaranteed humane treatment while in custody, in full conformity with the Convention.

(b) The investigations into allegations of torture and other ill-treatment of detainees in the aftermath of the July 2009 unrest in Xinjiang Autonomous Region, as well as the executions of persons, mostly from the Uighur ethnic group, for their involvement in the violence. Has the State party allowed independent observers, including the Independent Expert on minority issues of the Human Rights Council (A/HRC/13/23, paras. 4 and 17), full access to scenes of confrontation, relevant documents, witnesses and detainees?

(c) Disaggregated data by sex, age and ethnicity for both events with regard to the number of persons detained, tried and convicted, including the information on the punishments received. Please also include statistical information on the number of complaints of abuse from those detained following the events in March 2008 and July 2009, how many of these complaints were investigated, and the outcomes of these investigations.

14. In light of the Committee's previous concluding observations (para. 24), please provide information on:

(a) Practical steps taken to ensure prompt, impartial and effective investigations into acts of discrimination or violence by the police and authorities concerned. Please provide information on investigations into ethnically-motivated violence and discrimination, including examples of convictions for such acts.

(b) Progress made to adopt a comprehensive law on the elimination of discrimination on the grounds of national or ethnic origin, as recommended by the Committee on the Elimination of Racial Discrimination (CERD/C/CHN/CO/10-13, para. 11).

(c) Data disaggregated by ethnicity on law enforcement officials belonging to ethnic minorities, as well as the steps taken or envisaged to expand their number among law enforcement officials.

(d) The issue of the list of 817 names handed to the State party's delegation during the dialogue for the consideration of the previous report in 2008.

(e) The status of Ablikim Abdureyim, as raised in the previous concluding observations.

15. In light of the Committee's previous concluding observations (para. 25), please provide information whether there has been any independent investigation of the ongoing allegations that some Falun Gong practitioners have been subjected to torture and used for involuntary organ transplants. In particular, what measures have been taken to address the request for a full investigation that would clarify the discrepancy cited by the Special Rapporteur on torture regarding the finding that an increase in organ transplants coincided with the "beginning of persecution" of some Falun Gong practitioners? Has anyone been sanctioned or otherwise relieved from duty or transferred for actions in this regard? Please comment on allegations of unlawful arrest, torture and deaths due to injuries sustained in custody by Falun Gong practitioners such as Zhou Xiangyang, Hu Yanrong, and defence lawyers for Falun Gong practitioners such as Wang Yonghang (A/HRC/13/39/Add.1).

16. In light of the Committee's previous concluding observations (para. 27), please provide information on:

(a) The measures, including legislative ones, taken to combat various forms of violence against women, including trafficking, domestic violence, marital rape and abandonment of girl babies, to investigate all allegations of ill-treatment and abuse, and to protect the victims.

(b) Data on complaints relating to such violence, related investigations, prosecutions, convictions, and on the punishment applied.

(c) The protection provided to victims of such acts, including access to medical, social and legal services, and temporary accommodation or shelters.

(d) Number of victims that have received such protection and the specific form of protection they received as well as the number of perpetrators sentenced under article 3 of the Marriage Law, article 45(1) of the Law on the Protection of Women's Rights and Interests and other relevant legislations.

17. In light of the Committee's previous concluding observations (para. 29), please provide information on steps taken with regard to prevention, complaints, investigation, prosecution and punishment in response to alleged use of coercive and violent measures used to implement the population policy. Please provide information on any investigations or prosecutions launched regarding persons responsible for resorting to coercive and violent measures to implement such policy and violating article 19 of the Law on Population and Family Planning, with appropriate details as to the results, sanctions, and any relevant redress provided. Further to the comments made by State party's follow-up responses (CAT/C/CHN/CO/4/Add.2, p. 17), please specify to what extent the State party has investigated, prosecuted and punished officials in Linyi and what types of punishment and disciplinary measures have been applied against them.

### **Article 3**

18. With reference to the Committee's previous concluding observations (para.26), please provide information on:

(a) The measures taken to bring national legislation and policy into conformity with article 3 of the Convention, thereby preventing any persons from being expelled,

returned or extradited to another State where there are substantial grounds for believing that they would be in danger of being subject to torture.

(b) Steps taken to establish an adequate screening process for status determination in order to determine whether persons subject to return may face a substantial risk of torture. Please provide information on appeal procedures to review or challenge decisions to extradite or to expel and examples of decisions taken on cases relevant to article 3 of the Convention.

(c) The treatment given to children and women asylum seekers apprehended on the territory of the State party.

(d) Data 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. Please include the number of cases in which expulsion or extradition or return was denied because of the risk of torture, including information about returns to the Democratic People's Republic of Korea. What post-return monitoring arrangements are in place, if any?

(e) The State party's relationship to and cooperation with UNHCR, in particular regarding cases involving persons who have crossed the border between China and the Democratic People's Republic of Korea.

19. According to information before the Committee, a number of North Koreans who cross the border without government permission, are caught and forcibly returned by the Chinese authorities. Please comment on allegations claiming that they often face torture and ill-treatment in prison camps, such as the case of 84-year-old Jeong Sang-un, in view of the fact that it is a criminal offence to depart unofficially from the Democratic People's Republic of Korea. Please provide information regarding this case and clarify what measures are in place for medical review and legal advice concerning return of the elderly or persons with disabilities?

20. Are there adequate infrastructures in migrant retention or detention centres for migrant children? Please describe the facilities where they are held upon arrival and/or under administrative detention pending deportation. Do they have access to free and easy health services, legal advice, including how to effectively appeal an expulsion order? How long do children remain in such facilities on average, and do they have the possibility to come and go freely? In addition, are procedures in place for the rapid identification of child victims of trafficking in the context of deportation or return?

## **Articles 5 and 7**

21. Since the consideration of the previous report, please indicate whether the State party has rejected, for any reason, any request for extradition by another State of an individual suspected of having committed an offence of torture, and has started prosecution proceedings as a result. If so, please provide information on the status and outcome of such proceedings.

22. Please provide information on domestic legislation establishing universal jurisdiction over the offence of torture, and examples of current practice in this respect, as well as any relevant case examples.

## Article 10

23. In light of the Committee's previous concluding observations (para. 36) and further to the recommendations of the Working Group on the Universal Periodic Review (A/HRC/11/25, para. 114), please provide information on the instruction and training provided for:

(a) Law enforcement personnel at all levels with respect to human rights, specifically the treatment of detainees and the non-refoulement obligation of article 3 as well as on the absolute nature of the prohibition of torture. Please provide information on training in areas such as non-coercive investigatory techniques and gender-sensitive training, including the issues related to violence against women, domestic violence and trafficking.

(b) Judges and prosecutors on the specific obligations under the Convention.

(c) Medical personnel involved with detainees on the guidelines to detect signs of torture and ill-treatment in accordance with international standards, such as those outlined in the Istanbul Protocol. What safeguards are in place to ensure that medical personnel are not subject to police intimidation and are able to examine victims independently of the police?

24. Please outline measures to develop and implement a methodology to assess the effectiveness of training provided to law enforcement and judicial officials, as well as grassroots officials, to detect signs of torture or ill-treatment, and to prevent and prohibit it. Please outline the role of independent non-governmental organization in these efforts, if any.

## Article 11

25. Please provide information on any new interrogation rules, instructions, methods and practices, as well as arrangements for the custody of persons subject to any form of arrest, detention or imprisonment, that may have been introduced since the consideration of the last periodic report, and the frequency with which they are reviewed, with a view to preventing any cases of torture or ill-treatment. With regard to the Committee's previous concluding observations (para. 12), please specify the information on the measures taken:

(a) To ensure that all instances of deaths in custody are independently and impartially investigated and that those responsible for such deaths resulting from torture, ill-treatment or wilful negligence are prosecuted. Please indicate the outcome of such investigations, including penalties imposed on perpetrators and remedies provided to family members of victims. Please include information about the death of 14 detainees caused by beating in detention facilities in 2008 and any others in subsequent years, as referred to in the State party's follow-up replies (CAT/C/CHN/CO/4/Add.2. p. 7). Please comment on ongoing reports of deaths in custody in prisons, re-education through labour facilities, and police detention centres as a result of torture or ill-treatment, including the report published by the Zhejiang Daily which cited five additional cases of deaths in detention facilities since the beginning of 2010.

(b) To keep under systematic review existing and available health services in all places of detention. Noting that the State party, in its follow up response, has stated that "detention facilities in China always provide timely medical treatment to all detainee patients". Please comment on allegations that the Beijing Public Security Bureau (PSB) has refused to supply Hu Jia with necessary medication in detention, and to deliver to him the medication brought by his relatives to the detention centre. Further to the State party's

follow-up replies, please provide detailed statistical data on the health records and treatment of detainees (CAT/C/CHN/CO/4/Add.2, pp. 7-8). Please provide information on the findings and results of investigations by police inspectors in detention facilities, as described in the State party's follow-up response.

26. Please provide information on the outcome of the review of detention centre management undertaken jointly by the Supreme People's Procuratorate (SPP) and the Ministry of Public Security (MPS) in mid-2009, and the concrete steps being taken to address the issue of deaths in State custody since the joint review.

27. In light of the Committee's previous concluding observations (para. 28), please provide information on measures to monitor law enforcement officials guarding women and girls, and the number of investigations into alleged incidents of violence against women in detention, including complaints lodged with a resident procurator and of persecution of officials responsible. Were any officials removed from their posts or otherwise sanctioned? Please elaborate rules of interrogation for the protection of women in police custody and during interrogation.

28. With regard to all detainees and other persons in State custody, what measures monitor and address prevention and punishment of acts of sexual violence?

29. Please indicate how the State party ensures that (i) children in custody receive care, protection and all necessary individual assistance and safeguards—social, educational, vocational, psychological, medical and physical—that they may require; and (ii) the physical environment and accommodation of juveniles is in line with the United Nations Rules for the Protection of Juveniles Deprived of their Liberty. In addition, please provide information on the number of children detained in police custody or other facility, and their ages, as well as the measures taken to guarantee that children deprived of their liberty are kept separate from adults and further, that children are held in separate facilities by age-group.

## Articles 12 and 13

30. Please provide detailed statistical data, disaggregated by crime committed, ethnicity, age and sex, on complaints relating to torture and ill-treatment allegedly committed by, or with the acquiescence or consent of, law enforcement officials, on related investigations, prosecutions, convictions and on the penal or disciplinary sanctions applied.

31. In light of the Committee's previous concluding observations (paras. 20 and 31) as well as the recommendations made by the Special Rapporteur on torture (E/CN.4/2006/6/Add.6, para. 83.), please provide information on:

(a) The specific measures taken to fight impunity for violations of human rights, including disappearances and torture and other cruel, inhuman or degrading treatment or punishment committed by public officials as well as private actors acting with the acquiescence or consent of government officials.

(b) The measures taken to establish an effective and independent oversight mechanism to ensure that all allegations of torture and ill-treatment are promptly, impartially and effectively investigated and that the perpetrators are prosecuted, in addition to receiving disciplinary penalties if applicable, and sentenced in accordance with the gravity of their acts. Please clarify how the Procuratorates are able to exercise full independence in their prison-monitoring function, particularly in light of their dual role as supervisors and prosecutors of law enforcement personnel. Please also provide information on the oversight mechanisms in place to ensure that the Procuratorates are able to exercise full independence in their prison monitoring, as well as in their investigative capacity.

(c) The mechanisms in place by which detainees can submit complaints of ill-treatment or torture without fear of reprisal and with a guarantee of prompt, effective and impartial investigations into their claims.

(d) Whether all suspects in prima facie cases of torture and ill-treatment are, as a rule, suspended or re-assigned during the process of investigation. What efforts have been made to enhance the independence, mandate and resources of the Correspondence and Visit Offices (A/HRC/WG.6/4/CHN/3, para. 24.)? Please comment on reports that perpetrators of torture are rarely suspended, indicted or held legally accountable.

(e) Complaints relating to torture and cruel, inhuman or degrading treatment lodged since the examination of the last periodic report, if any. Please provide information and statistics on cases in which those accused of torture or ill-treatment have been brought before courts and have been prosecuted, and sentenced in accordance with the gravity of their acts.

(f) Data on letters sent by prisoners to the superior organ of the prison and judicial organs under Article 47 of the Law on the Prison (CAT/C/CHN/Q/4/Add.1, p. 32). What do they refer to, and what have been the outcomes, if any, of these letters?

32. In light of the Committee's previous concluding observations (para. 21), please elaborate on the outcomes of any investigation into the suppression of the Democracy Movement in Beijing in 1989, including information on persons still in detention since then, and details as to their whereabouts, length of sentence, and whether and when the State party informed the relatives? Further, regarding any officials found responsible for excessive use of force, torture and other ill-treatment during that period, or responsible for loss of life, has the State party informed the relatives or otherwise made this information public? Please comment on reports that in June 2009, at least five activists were sent to re-education-through-labour camps for organizing activities to commemorate the twentieth anniversary of the Movement, and officials harassed and temporarily detained dozens of other individuals to prevent them from organizing or taking part in commemorative activities.

#### **Article 14**

33. Please provide information on redress and compensation measures, including the means of rehabilitation ordered by the courts and actually provided to victims of torture, or their families, since the examination of the last periodic report in 2008. This information should include the number of requests made, the number granted, the amounts of compensation ordered and those actually provided in each case. To what extent are rehabilitation programmes provided to victims of torture and ill-treatment, including cases of domestic, sexual and other violence and trafficking? Is medical and psychological assistance also provided to such victims? Please elaborate on practical steps taken to fully implement the Committee's previous concluding observations (para. 30), as well as the new Law on State Compensation, in particular in terms of the procedure for obtaining compensation and the actual compensation provided.

#### **Article 15**

34. Please provide information on the steps taken to ensure that criminal convictions require evidence other than the confession of the detainee, and that statements made under torture are not invoked as evidence in any proceedings, except against a person accused of torture, in particular in light of the introduction of "Rules concerning questions about exclusion of illegal evidence in handling criminal cases", and "Rules concerning questions

about examining and judging evidence in death penalty cases". Please elaborate on the implementation and the impact of these rules, including effectiveness of the implemented measures, such as the new regulations that went into effect on 1 July 2010, in prohibiting the use of evidence obtained through torture or ill-treatment. Please provide information on all instances where the new regulations have been invoked and the outcome of each instance. Please provide statistical information on the number of cases in which detainees have alleged that their confessions were extracted through torture, the number of such complaints which led to investigations, and the outcomes of these investigations, including punishments meted out to convicted perpetrators, if any, and reparations and compensation offered to victims, if any.

35. Specifically, please also provide information on the investigation, if any, carried out in the case of Yang Chunlin, who alleged that he was subjected to torture during his interrogation so as to extract a confession, including information on whether he was examined by a medical doctor following his complaint, and if so at what stage in the investigation. Please provide information on the outcome of any investigations into this case.

36. Has the State party investigated reports of the use of torture and other compulsions to extort confession, including the case of Gan Jinhua, who lost an appeal against the death sentence, which is allegedly the result of a confession extracted through torture (A/HRC/14/26/Add.144, paras. 220-224)? Please indicate whether video and audio taping of all persons present during proceedings in interrogation rooms has been expanded throughout the country, and provide statistics on its use and any results or cases lodged against law enforcement or other officials as a result.

37. Please advise the Committee on the status of Fan Qihang's appeal of his death sentence. It was reported that his lawyer submitted a video to the Supreme People's Court (SPC), in which Fan describes the torture that he had been subjected to by the police seeking his confession.

## Article 16

38. In light of the Committee's previous concluding observations (para. 19), please comment on allegations of acts of violence and intimidation against human rights defenders, including human rights activists and petitioners, housing and land rights activists protesting against forced evictions and seizures, defenders of the Uighur community and the Tibetan community, environmental activists, HIV/AIDS activists and labour rights activists. Reports before the Committee, including those submitted by the Special Rapporteur on the situation of human rights defenders to the Human Rights Council, indicate that human rights defenders are subject to threats, intimidation, harassment, surveillance, arbitrary detentions and forced disappearances. Please provide information on steps taken to ensure that all persons, including those monitoring human rights, are protected from any intimidation, unjust imprisonment or violence as a result of their activities, as well as the prompt, impartial and effective investigation of such acts.

39. Please comment on reports of increased harassment and intimidation, including arrests and detention, against signatories of "Charter 08", as well as against contributors to the Report on the situation of human rights defenders in China, prepared by Chinese Human Rights Defenders, a non-governmental organisation, including Xiaobo Liu and Wand Debang (A/HRC/13/22/Add.1, paras. 298-396).

40. Please respond to reports involving the alleged pattern of intimidation and abuse of human rights defenders by State officials, including the cases of Xu Yishun and Liu Shasha. What is the status of investigations regarding these cases? Please also provide

information on the case of human rights defender Chen Guangcheng, who was released from detention in September 2010 after serving his full sentence of four years and three months. According to information before the Committee, Guangcheng and his family continue to be under heavy surveillance and are subjected to harassment and intimidation by police. Please comment on these reports. Please also provide information on the investigation, if any, into the alleged ill-treatment and torture to which Guangcheng was subjected while in detention, including lack of access to medical care for chronic illness.

41. With regard to the Committee's previous concluding observations (para. 34), please specify information on the impact and effectiveness of the new legal provisions, in particular in relation to the draft Criminal Law, restricting the imposition of the death penalty, as well as guaranteeing the protection provided for under the Convention for all persons on death row. Has such information been made public or is it still prohibited under the Regulation on State Secrets? Are shackles still utilized 24 hours a day for convicted prisoners on death row? In how many cases does this currently apply? Has there been any investigation into the questions raised by the Special Rapporteur on torture regarding the removal of organs of persons sentenced to death without free and informed consent (A/HRC/7/3/Add.1, para. 36)? If so, please provide details.

42. In light of the Committee's previous concluding observations (para. 35), please provide information on:

(a) The steps taken to ensure that no one is involuntarily placed in psychiatric institutions for non-medical reasons; that any involuntary hospitalization for medical reasons is based on the advice of independent psychiatric experts; and that decisions by the State party to involuntarily hospitalize individuals in psychiatric institutions may be appealed.

(b) The progress of the draft national mental health law and its provisions regarding the process by which an individual may be involuntarily hospitalized, and how an individual can challenge such a decision, as well as the time frame within which the central government intends to act on this draft law.

(c) Please respond to the report involving Zhao Xiuzhen, who was reportedly held against her will in a psychiatric hospital in the Nan'an District, and indicate any steps that have been taken to investigate the incident.

## **Other issues**

43. Please elaborate on the State party's position on rejection of the recommendation made by the Universal Periodic Review for it to implement the Committee's previous concluding recommendations. In addition, please clarify why recommendations concerning the following were rejected: ending administrative detention, ending persecution for exercising rights to freedom of expression, association and assembly, ending repression of national ethnic minorities, including Tibetans and Uighurs, and eliminating persecution of other religious practitioners (A/HRC/11/37, paras. 540-551).

44. Please provide updated information on the measures taken by the State party to respond to any threats of terrorism and please describe if, and how, these anti-terrorism measures have affected human rights safeguards in law and in practice, and how it has ensured that those measures comply with all its obligations under international law, especially the Convention, in accordance with relevant Security Council resolutions, in particular resolution 1624 (2005) as well as resolutions 1373 (2001) and 1566 (2004), as recommended in the Committee's previous concluding observations (para. 37). Please describe the relevant training given to law enforcement officers; the number and types of persons convicted under such legislation; the legal safeguards and remedies available to

persons subjected to anti-terrorist measures, in law and in practice; whether there are complaints of non-observance of international standards; and the outcome of these complaints.

45. In light of the Committee's previous concluding observations (para. 38) and the recommendations by the Working Group on the Universal Periodic Review (A/HRC/11/25, para. 114), please provide updated information on measures to fully implement the recommendations made by the Special Rapporteur on the question of torture, following his visit to China in 2005 (A/CN.4/2006/6/Add.6). Please indicate whether the State party considers inviting the special procedures mandate holders who have requested a visit, including the Special Rapporteur on extrajudicial, summary or arbitrary executions, the Special Rapporteur on the situation of Human Rights Defenders, and the Independent Expert on minority issues.

46. Pursuant to the Committee's previous concluding observations (paras. 39 and 40), has the State party considered making the declaration under articles 21 and 22 of the Convention, and withdrawing its reservations and declarations to the Convention, especially with a view to recognizing the competence of the Committee as provided for under article 20?

47. Pursuant to the Committee's previous concluding observations (para. 41), has the State party considered ratifying the major United Nations human rights treaties to which it is not yet a party, including the Optional Protocol to the Convention against Torture, and the Statute of the International Criminal Court? In addition, has China taken steps to set up or designate a national mechanism which would conduct unannounced independent periodic visits to places of deprivation of liberty in order to prevent torture or other cruel, inhuman or degrading treatment or punishment?

### **General information on the national human rights situation, including new measures and developments relating to the implementation of the Convention**

48. Please provide detailed information on relevant new developments regarding the legal and institutional framework within which human rights are promoted and protected at the national level that have occurred since the previous periodic report, including any relevant jurisprudential decisions.

49. Please provide detailed and relevant information on the new political, administrative and other measures taken to promote and protect human rights at the national level that have occurred since the previous periodic report, including any national human rights plans or programmes, and the resources allocated to thereto, as well as their means, objectives and results.

50. Please provide any other information on new measures and developments undertaken to implement the Convention and the Committee's recommendations since the consideration of the previous periodic report in 2008, including the necessary statistical data, as well as on any events that occurred in the State party and are relevant under the Convention.