



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

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COMMITTEE AGAINST TORTURE

Written replies by the Government of the People's Republic of China to the list of issues (CAT/C/CHN/4) to be taken up in connection with the consideration of the fourth periodic report of CHINA (CAT/C/CHN/4)*

[8 September 2008]

**Written replies to the list of issues to be taken up in connection with
the consideration of the fourth and fifth periodic reports of China**

* In accordance with the information transmitted to States parties regarding the processing of their reports, the present document was not formally edited before being edited sent to the United Nations translation services.

Article One

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.

All elements defining torture in the Convention have found their expressions in the Chinese law. For example, Article 43 of the Criminal Procedure Law stipulates: extortion of confession by torture, or collection of evidence by threats, inducement, hoaxing and other illegal means are strictly prohibited. Article 32 of the Law on Judges and Article 35 of the Law on Public Procurators stipulate respectively that judges and procurators shall not commit acts in violation of law and disciplines, such as extorting confessions by torture. Article 22 of the Law of the People's Police stipulates, the people's police shall not engage in extorting confession by torture, or corporal punishment and ill-treatment of detainees; shall not illegally deprive or restrict other person's personal freedom, or illegally search other person's body, belongings, residences or places; shall not beat up or instigate others to beat up other people and execute punishment illegally. Article 79 of the Penalty Law of Public Security Management stipulates, "the public security organs and the people's police shall conduct their investigations of public security cases in accordance with provisions of law. Extortion of confessions by torture, or collection of evidences by threats, inducement, hoaxing and other illegal means are strictly prohibited", "evidences collected by illegal means shall not be used as grounds for punishment". Article 238 of the Criminal code provides with the definition of the crime of illegal custody, i.e., acts of illegally putting other persons into custody, or illegally depriving other persons of their personal freedom by other means. Staff of the State organs who have committed this crime by abusing their power are subject to serious punishment, so are acts of beating and degradation. Article 247 of the Criminal Law gives definitions of the crimes of extorting confessions by torture and collecting evidence by force while Article 248 defines the crime of subjecting persons in custody to corporal punishment and ill treatment. Acts of extortion of confessions by torture and other illegal acts defined in the above-mentioned provisions cover the basic elements of "torture" as defined in the Convention.

In addition, crimes of intentional murder, intentional injury, illegal confinement, humiliating, illegally searching or intruding into residence, illegally depriving citizens of their right of religious freedom or violating custom of ethnic minorities as defined in the Criminal Code are applicable respectively to acts of torture according to the nature of each case.

The criminal acts prohibited by law in China cover acts causing physical sufferings by means of torture and torture in a disguised form as well as acts causing mental sufferings, for the purpose of extorting confessions or other purposes, therefore, they are in conformity with the relevant requirements of the Convention.

Persons who committed the above acts under instigation, consent or acquiescence of public officials or other persons who exercise power in their official capacity shall also be dealt with according to the relevant provisions of the Criminal Law concerning co-crime. Article 25 of the Criminal Law stipulates: "Co-crime refers to intentionally committing crimes together by two or more persons." Article 29 provides: "The person who instigated other persons to commit crimes shall be punished according to the role he (or she) played in the co-crime. More serious

punishment shall be given to those who abet persons under 18 to commit a crime. If the person who was abetted did not commit the crime he (or she) was abetted to commit, the abettor may be leniently punished, or his punishment may be reduced.”

Article 2

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.

With regret, the Chinese side wishes to point out that the above comment which based its allegation of “continued pervasiveness in (China’s) criminal justice system” solely on the unproven so-called “information” runs counter to the principle of impartiality and objectivity, therefore, is not acceptable to the Chinese side.

(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.

The scope of the State secrets. Article 2 of the Law on Keeping State Secrets stipulates: State secrets refer to matters concerning the State security and interests the knowledge of which is limited to certain scope of personnel within certain timeframe which is determined according to legal procedures. Article 8 of the Law clearly defines the specific content of the State secrets. The scope of the State secrets and their confidentiality level are determined by the department in charge of the State secrets in cooperation with the competent authorities of the Central Government.

With regard to the question whether there are cases in which certain information were “retroactively” classified. If it’s a matter which can clearly be defined by levels of confidentiality, but somehow was not done so, it is not allowed to be “retroactively” appraised. In practice, some meetings or activities are related to certain extremely important matters, however, there is no way to determine its level of confidentiality, but personnel involved in these matters have the obligation to keep these secrets according to law. In case there is a dispute, the department in charge of State secrets of the Central government or the provincial government should conduct an appraisal, and this has nothing to do with “retroactive”.

To challenge classification of a matter as State secret. A detainee has the right to challenge

the classification of the matter he is involved in as a State secret, and the matter shall be appraised by departments in charge of State secrets at the central or provincial levels. Article 46 of the Regulations for House of Detention stipulates, a detainee has the right of appeal and can appeal against the decision rejecting his request for accessing a lawyer.

With regard to the question of involvement of medical doctors. There are medical doctors in every house of detention. When a detainee is sick, he'll receive timely medical treatment; when there is a need to be treated in the hospital, the local hospital will take up the responsibility. The fact that a case itself involves the State secrets will no cause a delay of involvement of doctors.

With regard to the question of notifying a relative. According to Articles 64 and 71 of the Criminal Procedure Law, after a criminal suspect is detained or arrested, the public security organ will notify within 24 hours the relative of the detainee or his (or her) employer about the reasons of the detention or arrest and the locality of confinement, no delay of notification to his (or her) relative can be caused by the fact that the case involves the State secrets.

With regard to the question "why the requirement for a detainee to apply for permission before obtaining access to a lawyer has not yet been abolished", in Para 146 and 147 of the 4th and 5th periodic report of China (CAT/C/CHN4), China has made clarifications in this connection. Here, China wishes to provide the following explanations: According to Article 96 of the Criminal Procedure Law, a criminal suspect does not need permission to hire a lawyer; however, if the case involves the State secrets, permission should be sought from the investigating organ for the criminal suspect to hire a lawyer and a lawyer to meet the criminal suspect who is under detention. This rule aims at preventing a disclosure of the State secrets and is in conformity with the prevailing international practice. It should be emphasized that the need for permission when State secrets are involved does not mean rejection of involvement by a lawyer. In practice, the competent authorities see to it that there is a balance between guaranteeing lawyers' involvement and safeguarding the State secrets.

For example, Article 37 of the Regulations for Procedures of Handling Criminal Cases by the Public Security Bureaus stipulates, "cases involving the State secrets" refer to cases whose details or nature concern with the State secrets, whereas the fact that certain materials obtained during the course of investigation and opinions thereon need to be handled confidentially does not make them cases involving the State secrets. When handling cases involving the State secrets, the Public Security organ would approve the request of a suspect for hiring a lawyer provided it would not lead to a disclosure of the State secrets. A denial of lawyer's access to the criminal suspect under detention by personnel who are handling the case on the grounds that the investigation work needs confidentiality constitutes a violation of law, and those involved shall bear legal responsibility.

Prisons in China effectively guarantee the right of lawyers to meet their clients serving sentences in prison, with detailed procedural regulations for the access which are effectively implemented. With regard to matters involving secrets, prisons in China strictly follow the legal definitions and denial of access on grounds of confidentiality is not allowed.

(b) Public statements confirmed that hundreds of persons were detained in connection with the unrest that followed the March 2008 demonstration in the Tibetan

Autonomous Region and neighboring 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 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 confession 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?

The incident happened in March 2008 in Lhasa and Gansu, Sichuan and Qinghai was not parades and demonstrations, there is also no such a thing as “hundreds of people” have been arrested because of the demonstrations. Some law-breakers, resorting to violent means of beating, smashing, looting and burning, set fire on schools, hospitals, shops and residences in an organized and premeditated way. They forced their way into the State organs, public institutions and enterprises to smash and burn properties and kill innocent people and attack law enforcement personnel. Their actions have violated the Criminal Code of China, therefore, the justice departments in China investigated and affixed their criminal responsibilities according to the relevant provisions of the Criminal Code and the Law on Criminal Procedures. As of July 2008, the justice departments detained 953 persons, among them, 362 persons surrendered themselves to the police; 42 have been convicted and sentenced, and another 116 criminal suspects are under trial according to law.

On 29 April 2008, the intermediary people’s court of Lhasa sentenced 30 persons to imprisonment, and another 12 persons were sentenced to imprisonment by the people’s courts in the Chengguan District of Lhasa, Mozhu Gongka county, Dazi county, Linzhou county and the intermediary people’s court of the Shannan prefecture. All the sentences have become legally effective. The people’s courts in the Tibet Autonomous Region openly handled the above cases strictly according to the relevant provisions of the Criminal Code and Criminal procedure law. The above 42 defendants were sentenced to imprisonment respectively for committing crimes of arson, robbery, obstructing public affairs, trouble-making in streets, gathering to disrupt the public order and to attack the state organs.

Like other criminal suspects, the above-mentioned criminals enjoyed all kinds of litigation rights according to the Criminal procedure law, including the right to defend, hiring and accepting assistance from lawyers, the right to appeal, etc. In the course of trial, the people’s court provided interpreters for ethnic minority defendants. For defendants who did not commission a lawyer, the people’s court designated defending lawyers for them and the defendants accepted. In all the completed cases, all the defendants had defending lawyers. Before trial, criminal suspects were allowed to meet with their lawyers in private; during trial, in addition to defending themselves, all the defendants’ lawyers also fully expressed their opinions. To summarize the above in a word, the litigation rights of the criminal suspects were fully

guaranteed and their ethnical custom and personal dignity were respected.

In the Criminal procedure law, there are clear stipulations on the duration of criminal investigation, prosecution and trial. If criminal facts are clear and with sufficient hard evidences, it is in full conformity with the above stipulations to pass judgment within 6 weeks. According the principle of “all are equal before law”, the uniform procedure, including procedure for supervision over trials, provided in the Criminal procedure law applies to the criminal cases, therefore, there is no need to separately set up the so-called independent review or supervision committee for certain cases.

According to the Regulations for House of Detention, all criminal suspects who fall ill during detention can receive timely treatment by medical doctors; if there is a need to be treated in a hospital, the local hospital is responsible for the treatment; if the illness is serious, it is possible to obtain bail. If criminal suspects believe their legal rights were violated by the law enforcement department during their detention, they and their relatives may report it to the local prosecution organ and lodge complaints.

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

According to the investigation conducted by the department concerned, during the incident on 14 March in Lhasa and other places, the criminal violence committed by law-breakers caused the death of 18 innocent persons who were chopped, smashed or burned to death (among them, 3 were Tibetans), and one law enforcing personnel died a martyr’s death. This has already been published.

(d) According to information before the Committee, the criminal justice system is still strongly focused on the admission of guilt, confession 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.

The notion that “the criminal justice system is still strongly focused on the admission of guilt and confession” is groundless. Article 46 of the Chinese Criminal procedure law stipulates clearly: “In the trial of all cases, emphasis must be laid on evidences and investigation, do not readily believe confessions. A defendant cannot be convicted and sentenced solely on the basis of his (or her) own confessions, without other evidences. A defendant can be convicted and sentenced without his (or her) confession, if there are sufficient iron-clad evidences.”

The justice organs in China strictly abide by the Criminal procedure law when handling cases. In the course of criminal investigation and litigation, the public security organs shall transfer all the evidences (including written evidence, material evidence and witnesses’ testimony) they have collected to the public prosecution organ for review and prosecution; the

latter shall critically review all the evidences, analyze and determine whether the facts are clear, evidences are solid and sufficient. If they believe the evidences do not constitute a crime, or there is no need to pursue for criminal responsibilities, a decision not to prosecute would be made; if they believe additional investigations are necessary, the case would be sent back to the public security organ for further investigation; if they believe the case stands on clear facts and solid and sufficient evidences, they would take it to the court for public prosecution. The court would review all the evidences of the case and open a court session to listen to the defending statements of the criminal suspect and his (or her) lawyer and their challenges. A judgment by the court on whether the criminal suspect is guilty or innocent can only come after hearing the opinions of both the accusing side and defending side and reviewing and checking all the evidences. From the above strict procedure, one can see that there is no such a thing that a criminal suspect would be convicted solely on the basis of his (or her) confessions. In practice, the justice organs have all along stick to the principle that a single evidence can not form basis for concluding a case and no such case has been found across the country.

The extremely few cases of torture found in detention facilities are personal law-breaking acts towards detainees by a few keepers who failed to perform their duties properly. Cases of ill-treatment of detainees are subject to serious investigation and punishment in accordance with law. Article 248 of the Criminal Law stipulates: Ill-treatment of detainees by detention facility keepers constitutes a crime, and perpetrator shall bear criminal responsibilities. Every year, tens of such cases are investigated and handled by the prosecution organs in China. Please refer to our replies to Articles 4 and 18 for specific figures.

(e) Please clarify the legal status of regulations issued by the Supreme People's Procuratorate Criminal procedure law 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.

The responsibility of the procuratorate in China for investigating abuses by civil servants is vested by law. Articles 129 and 131 of the Constitution of the People's Republic of China stipulate: the People's Procuratorate of the People's Republic of China is the supervisory body of the laws of the country and exercises independently the procuratorial right according to law. Article 18 of the Criminal procedure law provides: " crimes of corruption and bribery, malfeasance by public servants, illegal detention, extortion of confessions by torture, frame-up in retaliation by staff of state organs, and crimes of violating personal rights of citizens by illegal searching and crimes of violating the democratic rights of citizens, shall be registered and investigated by the people's procuratorate. Other serious criminal cases involving abuse of power by staff of the state organs, when they need to be taken up directly by the people's procuratorate, the people's procuratorate may put the case on file and investigate if it is so decided by the people's procuratorate at the provincial level or higher level."

The Regulations on the criteria for registering the criminal case of malfeasance and violation of other's rights issued by the Supreme People's Procuratorate in July 2006 clearly defines the scope of the criminal subject and further refines the conditions for registering the criminal case of malfeasance and violation of rights. The Regulations constitute the judicial interpretation of the Criminal Law articles concerning the crime of malfeasance and violation of other's rights, and are legally binding for the people's procuratorate in handling such criminal cases. Following the Regulations, the people's procuratorates at various levels in China

registered and handled 527 criminal cases in 2007, involving staff members of the state organs who violated other citizens' personal rights and democratic rights.

(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 the detention, including through habeas corpus proceedings.

Before trial, not all suspects have to be detained. According to the relevant provisions of the Criminal procedure law, during the period of investigation, the investigating organ may, in the light of the case, choose not to take forced measures against suspects, or non-compulsory, non-detaining measures, such as on bail before trial or residence under surveillance.

With regard to duration of detention of criminal suspects, Article 69 of the Criminal procedure law stipulates, if a suspect of a criminal case is covered by one of the circumstances listed in Article 61, the public security organ may detain the suspect; with regard to detainees, if it is considered necessary to arrest them, a request for arrest warrant should be submitted to the people's procuratorate for approval within 3 days following the detention. In special circumstances, the deadline for submitting the request for authorization to arrest the suspect can be extended by one to four days. The deadline can be extended by 30 days in the case of major suspects who commit multiple crimes in a mobile way in the form of a gang. It should be pointed out in particular: in China, it is the responsibility of the procuratorate to decide whether a suspect should be arrested or not. Article 124 of the Criminal procedure law stipulates: the duration of investigation and detention of a criminal suspect after arrest shall not exceed 2 months. For cases which can not be completed before the deadline due to their complexity, it could be extended by one month with the approval by the people's procuratorate at a higher level.

Article 13 of the Regulations for Detention Facilities stipulates the detainees shall be segregated from each other by sex and minors shall also be segregated from adults.

The Chinese law attaches importance to the protection of the legitimate rights and interests of the detainees and prevents unwarranted detention. Article 41 of the Constitution of the People's Republic of China stipulates that when their legitimate rights and interests are infringed upon, the citizens may exercise their rights of appeal, complaint and report. According to this, a pre-trial detainee may, either by himself, or through his lawyer, challenge the legitimacy of his detention. Article 75 of the Criminal Procedure Law stipulates: When the forced measures adopted by the people's court, the people's procuratorate or the public security organ have exceeded the legal time limit, the criminal suspect and defendant and their legal proxy and close relatives, or the lawyer and other defending party commissioned by the criminal suspect and defendant have the right to request for the removal of the compulsory measures. With regard to the criminal suspects and defendants who have been subjected to compulsory measures which have exceeded the legal time limit, the people's court, the people's procuratorate or the public security organ should release them, or lift their bail and surveillance, or alter the forced measures according to law. Article 46 of the Regulations for Detention Facilities stipulates: the detainees

have the right to appeal. If a detainee and defendant challenges the legitimacy of his detention, he (or her) may raise the request to the public procurator stationed in the facility to investigate the legitimacy of his detention, or entrusts his (or her) relative or lawyer to do so, and the procurator will carry out an investigation.

(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?

First, it should be pointed out: the notion of “reform through labour/re-education through labour” is not correct. The facilities of detention in China were set up according to law and the legitimate rights and interests of the various kinds of detainees are fully guaranteed.

As of the end of 2007, there were 692 prisons in China, with 1589222 prisoners, accounting for 1.2 per thousand of the total population. Among them, females totaled 78428 and minors numbered 21809. By the end of June 2008, there were 191532 registered detainees in China, of them, 170912 were males and 20620 were females.

To register prisoners when they enter the prison is a part of the work of imprisonment which constitutes a very important link of law enforcement and concerns the proper execution of the sentence. The prison management at various levels in China all conduct systematic registration of prisoners, with individual files for prisoners, and periodically notify their relatives about them. To respect and protect personal privacy, the registration of the prisoner and his (or her) conditions of imprisonment shall be notified to his (or her) relatives only and shall not be made 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.

The notion “administrative detention is applied to persons exercising their human right to freedom of expression, assembly, association or religion” is not in conformity with facts. The competent authorities in China only adopt relevant measures in accordance with law towards law-breakers. It is also mentioned in the question: “The RTL system, through coercion, humiliation and punishment, aiming at altering the personality of detainees, reportedly causes severe physical and mental pain and suffering”, such notion is totally groundless.

Para 148 in 4th and 5th periodic report submitted by China (CAT/C/CHN/4) contains clarifications of the issue. Here, the Chinese side wishes to add the following:

The Chinese law provides strict conditions for application of the administrative detention and the procedure for its review and approval, and bestows upon the detainees the relief right to administrative review, administrative litigation, etc. Any detainee has the right to request the judge to review and verify the facts of the case and its applicable law, when the people's court concludes that the administrative detention is wrong, it has the authority to alter or lift it according to law. If a citizen has been wrongly detained, he (or she) may apply for compensation from the State according to the relevant provisions of the State Compensation Law.

The work on re-education through labour in China is implemented strictly according to the Decision of the State Council on the Issue of Re-education through Labour, The Supplementary Rules of the State Council Concerning Re-education through Labour, which were adopted by the Standing Committee of the National People's Congress, and the Decision of the Standing Committee of the National People's Congress on Strict Prohibition of Prostitution. Re-education through labour is a forced education and reform measure and is an effective means for educating and correcting those who repeatedly violated the rules of the public security regulation with misdemeanours which were not up to the level deserving criminal penalty. The people's governments of all the provinces, autonomous regions, the municipalities directly under the central government and other large and medium-sized cities have set up relevant management committees to exercise leadership over the work on education through labour, which is also under the supervision of the people's procuratorate, the people's court, the people's government and people of all social strata.

There is a strict legal procedure for any decision on imposing re-education through labour on law-breaking suspects. With regard to persons with misdemeanours who meet the legal conditions, the competent management committee makes decisions on imposing re-education through labour according to the relevant law and administrative regulations and in the light of the law-breaking facts, nature of the case and degree of harmness. The person who is to receive re-education through labour and his (or her) relatives has the right to know the grounds for the decision and its duration. If the decision is not acceptable to the person concerned, he (or she) may lodge application with the people's government at the same level, or the management committee at a higher level, for an administrative review, or bring the case to the court. If the decision on imposing re-education through labour was made by the management committee in violation of a law and has infringed on the legitimate rights and interests of a citizen, he (or she) may apply for State compensation according to the provisions of the State Compensation Law.

In 2005, the competent authorities in China adopted 5 reform measures; namely, lawyer handling cases of re-education through labour by proxy, all-round hearing and inquiring system (similar to hearings), shorten the decision-making duration, extending the scope for outside-the-facility implementation and tightening oversight. At present, the reform measures are basically in place with good effects. The governments at all levels across the country attach great importance to the work on outside-the-facility implementation, exploring ways and means to improve the work and help the relevant law enforcement personnel.

(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.

In addition to the system of re-education through labour, other administrative penalty and forced measures, such as administrative detention, take-in for re-education, forced rehabilitation of drug addicts in confinement, are imposed on those who have breached law but their actions have not yet constituted a crime. Accordingly, detention facilities, take-in facilities and rehabilitation facilities have been set up. The detention facility is a place for implementation of the decision on administrative detention for those who have breached security management regulations. The law enforcement is based on the following: the Penalty Law of Public Security Management, The Administrative Penalty Law, The Law of the People's Republic of China on Management of Border Crossing, the Law on Management of Border Crossing by Aliens, the Law on Road Traffic Safety, etc. Take-in for re-education facility is a place for the public security organ to impose, according to law, forced re-education on prostitutes and their clients. The main task is to give those persons education on law and morality and to examine and treat sexual diseases. The law enforcement is mainly based on the following: The Decision of the Standing Committee of the National People's Congress on Strict Prohibition of Prostitution, the Rules on Take-in for Education of prostitutes and their clients, etc. Forced rehabilitation in confinement facility is a place to give forced treatment in confinement according to the Law on Prohibition of Drug Abuses to those addicts who refused rehabilitation in the community where they live, or continued drug abuse by smoking or injection during rehabilitation in the community, those who have seriously breached the agreement for rehabilitation in the community, those who returned to the habit after rehabilitation in the community and are found hard to give up the habit, as well as addicts who volutarily accept forced rehabilitation in confinement.

China has never imposed detention on any person on grounds that he (or she) belonged to a certain specific group or ethnic group. The so-called "certain groups of persons are overrepresented in such detention centres, such as Falun Gong practitioners and Tibetans" is totally groundless.

(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 renyuan) 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.

It is an important right bestowed by the Constitution and law to present claims through the channel of correspondence and visits. The Chinese government has all along respected and safeguarded this legitimate right and adopted effective measures to solve problems in this regard. In January 2005, the State Council promulgated the revised "Regulations for Petition by Correspondence and Visits", which legally defines how to make this channel to function smoothly, how to strengthen its responsibility and regulate the order of the work in this field, thus safeguarding legally the right of the people to express individual will by way of correspondence and visits to governments at various levels, to safeguard their own legitimate rights and interests, to exercise democratic supervision and to participate in the management of

the State affairs. It contains provisions which define clearly the responsibility of governments at all levels and their respective function organs and offices in charge of petition through correspondence and visits. Therefore, it is the legal responsibility of the government at all levels and their respective function organs to receive petitioners. The personnel doing this job are official personnel of the relevant department of the government, they receive and handle the work in this field strictly according to the relevant rules and regulations of the State, the so-called hiring non-official personnel for the purpose of “attacks, harassment, intimidation and beatings of lawyers and petitioners” and “round up petitioners in ‘sweeps’” simply does not exist. So far, no case of accusation against non-official personnel has been found in the course of receiving petitioners.

The allegation of “use violence, threats and kidnapping” in the “sweeps” is untrue. So far, we haven’t found such cases. If such things happen, the responsible organs and personnel concerned shall be severely punished according to law.

(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.

Illegal detention is strictly forbidden by the Chinese law. Article 37 of the Constitution stipulates: personal freedom of citizens shall not be infringed upon. No citizen can be arrested, unless it is approved or decided by the people’s procuratorate, or decided by the people’s court, and implemented by the public security organ. Illegal detention, or illegal deprivation or restriction of personal freedom of a citizen is prohibited. So is body search of a citizen. Detention facilities beyond those provided by law do not exist in China.

Governments at all levels in China fully respect and protect the right of citizens to petition by correspondence and visit. According to the Regulations for Petition by Correspondence and Visit, petitioners should go to the reception facilities set up or designated by the relevant institution to present their cases, if they choose the form of visit. While most of the petitioners coming to Beijing abide by law and regulations, extremely few people do not follow the relevant regulations and do not report their cases through normal channels at the designated facilities. Some individuals even engage in illegal activities by gathering crowds to make troubles at places which are not designated reception facilities, thus violating the relevant law and regulations. To maintain normal public order, the staff of the relevant State organs went to those places to disseminate information about the relevant law and regulations, persuade them to petition according to law and in an orderly manner and guide them to the designated reception facilities to report problems and present their cases. This is what the Regulations stipulate and the basic requirement for petitioners to follow. There is no such a thing as “has established detention facilities especially to detain petitioners coming to Beijing”.

With regard to Ma Yaling, Wang Qiaojuan, Ye Guoqiang and Ye Guozhu mentioned in the list, due to the fact that the information is incomplete, our investigation has found nothing about

these persons.

(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 Guilan, 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.

First of all, we wish to point out that the so-called “forced disappearance” of the persons mentioned in the above communication from the Committee is not true. At the same time, the Chinese side understands that the issue of “forced disappearance” falls beyond the scope of the Convention against Torture, besides, the Chinese government does not accept the optional clause of Article 22 of the Convention, which provides the competence of the Committee to handle communications from individuals. Notwithstanding all this, out of our sincere desire for dialogue and cooperation with the Committee, we wish to give factual explanations as follows:

1. Wang Guilan, due to incompleteness of the information, we can offer nothing about this person.
2. Gao Zhisheng, male, born in June 1946, of Han Nationality, residence in Xiao Guan Bei Li, Chaoyang District, Beijing; subjected to investigation on 15 August 2006 by the public security organ of Beijing according to law, due to suspicion of criminal offences; arrested on 21 September with the approval of the procuratorate. On 22 December of the same year, the Beijing No. 1 Intermediary People’s Court sentenced him to 3 years in prison with a 5-year reprieve and political rights deprived for one year, on grounds of instigating to overturn the State power. After the announcement of the sentence, Gao indicated his acceptance of the sentence and did not appeal.
3. Su Zhimin, male, aged 74, born in Qingyuan county, Hebei province, Roman Catholic. The public security organ has never taken any forced measures against him.
4. Genden Choekyi Nyima. Both Genden Choekyi Nyima and her family indicated clearly that in order to keep their normal life from being disturbed, they do not wish to meet with any organization or outsiders. This desire of theirs should be respected.

(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.

The Public Security Organs Regulations on Pursuing Responsibility for Policemen’s Errors in Implementing the Law has been formulated for the purpose of protecting the legitimate rights and interests of the citizens and pursuing the responsibilities of policemen for errors in law enforcement. Article 6 of the Regulations lists fraud and collecting confessions by force, by

coaxing and by inducing in the course of handling cases by policemen as errors in law enforcement, and Article 16 contains the measures to punish those who are responsible for the error in law enforcement. Article 18 further provides, if the above acts constitute a crime and criminal responsibility should be pursued, the case should be transferred to the people's procuratorate to handle. It is stipulated in the Regulations that whether or not the implementation of torture is based on an order from a superior or the government, the legal responsibility of the relevant personnel shall be pursued. This is in conformity with the spirit of the Convention.

The Public Security Organs Regulations on Pursuing Responsibility for Policemen's Errors in Implementing the Law does not contain "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". Article 13 and Para3 of Article 14 of the Regulations mean that in cases on which instructions have been sought from the superior organ and errors in implementing law have been caused by the errors in the reply and decision of the superior public security organ, the responsibility for the error should be borne by the relevant responsible person in the superior public security organ; if alteration of determination of the nature of the case and the conclusion thereon is down according to an order from the superior, the responsibility of the policemen who handled the case shall not be pursued. It does not mean that implementing an order from the superior may become grounds for excluding criminal responsibility in case of extracting confession or testimony by force, which will prevent the perpetrator from being prosecuted. Anyone, who implemented extraction of confession or testimony by force or torture, whether it was a personal act or upon an order from the superior, shall be pursued for legal responsibility. To summarize the above, the Public Security Organs Regulations on Pursuing Responsibility for Policemen's Errors in Implementing the Law is in complete conformity with Para3 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.

With regard to Teng Biao, the public security organ has not taken measures to arrest or detain him.

Chen Guangcheng, male, born in November 1971 in Dong Shi Gu Cun Village, Shuang Hou Township, Yi Nan County, Linyi Municipality, Shandong Province. On 10 June 2006, he was put under criminal detention by Yi Nan county public security bureau as a criminal suspect

for intentional vandalism and gathering crowds to interrupt traffic order and was arrested on 21 June with the approval of the procuratorate. On 1 December 2006, the people's court of Yi Nan county sentenced Chen Guangcheng to 4 years and 3 months in prison for the crimes of intentional vandalism and gathering crowds to interrupt the traffic order. With regard to the allegation in the List of issues that Chen's lawyers Li Fangping and Li Subi were attacked, the Chinese side hasn't received any complaints in this regard.

The Law on Lawyers of China established immunity of lawyers from responsibility for speech during court proceeding. Para 2 of Article 37 clearly stipulates: legal responsibility shall not be pursued for a lawyer's speech as proxy and on behalf of the defendant. While stipulating this right of the lawyer, the Law on Lawyers also clearly provides exceptions to the enjoyment of this right, namely, except for remarks of lawyers which jeopardize the national security, virulently slander other people and seriously disrupt the court order. In addition, according to the provisions of Article 306 of the Criminal Code, criminal responsibility shall be pursued for defendants and their proxy who, during the criminal proceedings, destroyed or falsified evidences, assisted the litigant in destroying and falsifying evidences, threat or induced witnesses to alter their testimony contrary to the truth, or to make false testimony. These clauses provide safeguards for lawyers to fully exercise their right to defend while maintaining the authority and fairness of the law.

(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.

China attaches great importance to the work of supervision and management of the female criminal suspects and female defendants detained in the detention facilities and female prisoners serving sentences in prisons, and to the protection of their human rights. Measures taken are mainly: 1. Female criminal suspects are segregated from male criminal suspects in the detention facilities in accordance with law in China, and are under supervision and management by female officers. Female prisoners serving fixed-term sentences and life imprisonment will be sent to the female prisons in various provinces to serve their sentences, and will be under direct management by female police officers. If a female prisoner is pregnant or breast-feeding her baby, she may be allowed to serve her sentence outside the prison temporarily in accordance with the Criminal Procedure Law. 2. In the detention facilities and prisons where female criminal suspects or female prisoners are detained, there are female procurators in charge of the oversight work. If a female criminal suspect or a female prisoner believes that she has been ill-treated or inhumanly treated, she may report or lodge complaints to the procurator stationed in the place, or entrust her relative or lawyer to do so to the procuratorate.

Due to the strict segregation and separate management in the detention facilities and prisons which are under close oversight of the procuratorate, cases of detainees being sexually harassed are extremely rare. If the procuratorate receives a report or complaint in this regard, immediate action will be taken to investigate the case and if proved to be true, the legal responsibility of the person concerned will be pursued.

(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.

In China, “involuntary hospitalization” and “forced medical treatment” are two different concepts. Involuntary hospitalization refers to the following: due to a severe mental disease, the patient suffers from impediments of cognizance, control, etc., therefore, could not be hospitalized of his own accord and has to be escorted by his guardian to the hospital for hospitalization. The procedure, prospective patient and requirements of involuntary hospitalization are formulated and implemented by the health administrative department. At present, the relevant elements regulating involuntary hospitalization of mental patients have already been incorporated into “Law on Mental Health (draft)”, which contains specific provisions on the procedure of involuntary hospitalization. The department concerned is now actively pushing the legislation process of the above-mentioned law.

“Forced medical treatment” refers to a type of forced measures provided in the Criminal Code. Mental patients who violated the criminal law but are not capable to bear the relevant criminal responsibility are the object of such measure. At present, forced medical treatment is imposed on those mental patients who committed serious and harmful acts, such as killing people, seriously wounding people, arson, or severely disrupting public order, damaging public facilities, jeopardizing the safety of the public, etc. The decision on forced medical treatment and its review procedure are: when a mental patient has committed severe and harmful act in violation of the criminal law, the professionally qualified special institution and psychiatrist would give an expert testimony, if it confirms that the patient has no criminal responsibility capability, the public security organ of the people’s government above the county level shall, on the basis of the expert testimony, make a decision that forced medical treatment be given to the patient. If the mental patient concerned and his guardian challenge the forced medical treatment, they may request for another expert testimony, if the second testimony still concludes that the patient is not capable to bear criminal responsibility, the forced medical treatment would continue. The Ankang Hospital across the country routinely admit about 2000 patients for forced medical treatment.

According to the epidemiological survey on mental impediments in some areas in recent years, 15% of the population above 15 years old suffer from such impediment, this does not exclude the fact that there are patients suffering from mental impediment among Falun Gong practitioners. With regard to the patients suffering from mental impediment among Falun Gong practitioners, on the basis of the application filed by the guardian of the patient for involuntary hospitalization, the health department would assign licensed psychiatrists to examine and make a diagnosis, using the same standard as other groups of people: The Chinese Standard for Classification of Mental Impediments and Diagnosis , Third Edition, (CCMD-3). If it’s not covered by CCMD-3, International Classification of Diseases, 10th Edition, (ICD-10), would be used for diagnosis. The mental patient with a definite diagnosis shall receive treatment in the mental hospital according to the Standard for Medical Diagnosis and Treatment in China: Mental Diseases, Guide for Prevention and Treatment of Schizophrenia, etc.

In the Tibet Autonomous Region, there is no mental hospital under the management by the public security organ and the latter does not get involved in the hospitalization and treatment of the mental patients. The notion “Falun Gong practitioners and Tibetans are hospitalized in Ankang Hospital not for medical reasons” is groundless.

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 obligation 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.

Of the extradition cases handled according to the Chinese law on extradition and bilateral treaty on extradition, the situation in which a returnee expresses his objection to extraditions for fear of the possibility that he might face torture has never occurred.

There is no bilateral treaty of extradition between China and DPRK.

(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;

**Statistics of cases of criminal suspects returned by China to foreign countries
2000-June 2008**

Year	Destination country	Number of persons
2000	ROK	1
	Mongolia	1
	United States	2
2001	United States	1
	Khazakstan	1
2002	ROK	1
2003	United States	1
	Canada	1
	France	1
	Palau	1
	Nigeria	1
2004	—	0
2005	ROK	3
	Mongolia	1
2006	ROK	3
	Russia	1
2007	—	0
2008	ROK	2

(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;

The Chinese government maintains friendly cooperation with UNHCR. In 1979, China and UNHCR signed the agreement on Assisting Indo-Chinese refugees in China, and UNHCR established a task office in China. With the agreement from the Chinese government, the task office was upgraded to the office of the representative in China in 1995. China and UNHCR working in good cooperation on repatriation and settlement of Indochinese refugees, and legislation on refugees.

China is a party to the 1951 Convention on the Status of Refugees and its 1968 Protocol. For years, the Chinese government has all along strictly abided by the convention and its protocol, fulfilled its obligations under the convention and actively participated in the international protection of refugees. Since 1978, China has admitted nearly 300,000 Indochinese refugees, thus making a great contribution to the cause of refugee protection in the Asian and Pacific region and the world at large. As a party to the convention, the Chinese government has all along abided by the principle of “non-pushing back” established by the convention and other retreat provisions, and does not returned the asylum-seekers and refugees in China on grounds of illegal entry or over-stay. With regard to the criteria for determining refugees, the Chinese government has always adhered to the 1951 Convention on the Status of Refugees and its Protocol.

In recent years, some Koreans illegally entered China for economic reasons, they do not meet the criteria for refugees established in the 1951 Convention on the Status of Refugees and its Protocol. The Chinese government and people have all along treated them kindly and helped them in all possible ways, and basing themselves on the general principle of maintaining peace and stability on the Korean peninsular, have satisfactorily handled individual cases in accordance with the principles of the domestic law and international law and in the humanitarian spirit, which is in line with the interests of all parties concerned, therefore, is well understood and consented by the parties concerned.

(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;

China’s report contains detailed explanations of the relevant provisions of the law on extradition. Article 8 of the law provides:” the person who has been requested for extradition was subjected or may be subjected to torture or other cruel, inhuman or degrading treatment or punishment in the requesting country” constitutes a reason for rejecting extradition; Article 23 stipulates:” when handling cases of extradition the high people’s court should listen to the presentation of the person who has been requested for extradition and his Chinese lawyer’s opinion.” Article 25 stipulates, if the person who does not accept the judgment passed by the high people’s court that he(or she)meets the conditions for extradition, he(or she)and the Chinese lawyer commissioned by him may request the supreme people’s court to review the case. Article 26 stipulates, the supreme people’ court shall, basing itself on this law and the treaty on extradition, review the judgment of the high people’s court and pass its judgment according to the actual situation: to approve, to cancel, to return the case for retrial, or to directly alter the original judgment. Extradition will not be executed until the above-mentioned procedure is fully completed. So far there has been no such a case.

(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;

Of the past cases of extradition and repatriation, there is no case in which the person who

had been requested for extradition or repatriation expressed objection to extradition citing the risk of torture as the reason, therefore, “diplomatic assurance” is not relevant.

(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).

The bilateral agreements between China and other countries do not affect China’s obligation under the Convention against Torture.

(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.

In the Yan Tai boat incident occurred in March 2003, 23 Koreans involved in the case who entered China illegally and Park Yongchol, a Korean who entered China illegally and organized human smuggling, were escorted out of the country according to law. Those Koreans who entered China illegally in violation of the Chinese law disrupted the normal public order of China. The relevant authorities in China handled the case satisfactorily in accordance with the international law, the domestic law and principles of humanitarianism, and won understanding of all parties concerned.

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.

In 2006 and 2007, the procurator in China handled according to law 160 cases covering extracting confessions by torture, ill-treatment of detainees and collection of evidence by force, which involved 258 persons, the specific data are as follows:

2006:

- 66 persons were prosecuted in 37 cases of extracting confession by torture.
- 60 persons were prosecuted in 47 cases of ill-treatment of detainees.
- 3 persons were prosecuted in 2 cases of collecting evidence by force.

2007:

89 persons were prosecuted in 40 cases of extracting confession by torture.

34 persons were prosecuted in 30 cases of ill-treatment of detainees.

6 persons were prosecuted in 4 cases of collecting evidence by force.

As for the people's courts, in 2006, the people's courts completed all together 137 cases of extracting confessions by torture, ill-treatment of detainees and collection of evidence by force, involving 213 persons; in 2007, 92 cases of the above 3 categories, involving 140 persons. In 2006, 64 cases of extracting confessions by torture, involving 119 persons, and in 2007, 40 cases, 80 persons. In 2006 and 2007, it was 4 cases of collecting evidences by force, involving 5 persons and 2 cases involving 3 persons respectively; and 69 cases of ill-treatment of detainees, involving 89 persons and 50 cases involving 57 persons respectively.

The serial number in the question is the serial number in the 1979 criminal code, according to the 1997 criminal code, the prosecution of the civil servants who perpetrated torture as defined in the convention is mainly based on the following: Article 247 which defines the crime of extracting confessions by torture and the crime of collecting evidence by force, and Article 248 which defines the crime of ill-treatment of detainees.

In addition, with regard to acts of torture perpetrated by civil servants, other crimes defined in the criminal code may be applied in the light of the differing nature of the cases, such as: crimes of intentional killing, intentional injury, illegal detention, humiliation, illegal search or illegal intrusion into residence, illegal deprivation of citizen's freedom of religion, violation of custom of national minorities, etc. (please refer to the reply to issue 1)

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.

The above-mentioned articles of the criminal code are applicable to all public servants, including the military and other public servants of special status, and also applicable to all non-public servants who committed crimes together with the public servants. Besides, the crime of illegal detention defined in article 238 of the criminal code, and the crimes of illegal search and illegal intrusion into residences defined in article 245 of the code, refer to ordinary personnel as the subject of the crime, however, if the crime is committed by staff members of the state institution or judiciary personnel, more severe punishment is provided by law. The subject of the crime of extraction of confessions by torture or collecting evidence by force as defined in article 247 of the criminal code is judiciary personnel, whereas the subject of the crime of ill-treatment of detainees as defined in article 248 is the keepers and officers of the prisons and detention facilities. This is because the above crimes belong to the category of functional crimes. However, if non-public servants committed the above crimes due to instigation, consent or acquiesces of the above public servants, they should also be punished according to the provisions concerning co-crime.

The convention is implemented through Chinese law. In handling cases, the Chinese courts do not directly quote the convention, the implementation of the Chinese domestic law which are

in line with the convention ensures the implementation of the provisions of the convention.

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.

The Chinese government has pursued family planning since 1970s, in the course of which protection of citizens' legitimate rights and interests has been the focus of attention. In 2001, China promulgated the law on population and family planning which enhanced such protection in the implementation of family planning. The law on populations and family planning puts forth the following requirements to the administrative organs when implementing the policy of family planning: when pursuing family planning, the people's governments and their staff should administer in strict accordance with law to ensure civilized law enforcement and shall not infringe upon the legitimate rights and interests of the citizens. With regard to contraceptive measures, Article 19 of the law clearly stipulates: "family planning shall be implemented mainly through contraception, the State shall create conditions to ensure that citizens choose safe, effective and suitable contraceptive measure in a well-informed manner. When performing contraceptive operations, safety of the operation-receiver should be guaranteed." Article 3 of the regulations for management of family planning technical service stipulates: "family planning technical service follows the principle of a combination of State guidance and personal voluntariness. Citizens have the right to informed choice of the contraceptive method". Article 17 says: "The institutions delivering family planning technical services should seek personal consent from the operation-receiver prior to the performance of contraceptive and birth control operations, special examination or special treatment, and ensure the safety of the operation-receiver." in order to implement the above law and regulations, and to safeguard the legitimate rights and interests of the child bearing population while implementing family planning, the State commission on Population and Family planning highly recommends informed choice of contraceptive and birth control methods and strengthens law-abiding administration, ensuring that work on family planning is done strictly according to laws and regulations in all localities and no one is forced to accept operation. Those who violated the relevant law shall bear corresponding administrative responsibilities. With regard to compulsory induced-abortion, for the sake of health of both mother and baby and to prevent harmful effect of artificial termination of gestation on the health of the woman, the Chinese government demands that family planning operation routines must be strictly implemented by the family planning technical service and health care institutions at all levers across China, and artificial termination of middle-stage, or higher, gestation be strictly restricted and induced abortion of late stage gestation must be ended, except for the medical necessity. With regard to illegal detention, according to Para 1 of Article 238 of the Criminal Code, illegal detention, or illegal deprivation of other people's personal freedom by other means, constitutes a crime. Once found, the perpetrator will be punished by law"

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.

Domestic Violence is obviously outside the scope of the convention, however, the Chinese side is willing to provide the relevant information as follows:

The Chinese government attaches great importance to the problem of domestic violence. The government and civil society work together to prevent and stop domestic violence by actively taking a variety of measures in legislation, mechanism, education and training, legal assistance, and so on.

(1) Legislation and policy measures

At the level of legislation, the 2005 revised law on safeguarding the rights and interests of women further defines the responsibility of the State to prevent and stop domestic violence, specifying the important roles of the public security organ, civil administration, judicial administration, urban and rural grass-root self-administration organization and civil society organizations, and stresses the problem of domestic violence should be solved through cooperation of multiple departments and provides that women victims have the right to appeal to the public security organ and court.

The 2007 revised law on the protection of the minors stipulates explicitly “domestic violence against minors is prohibited”. In addition, 25 provinces, autonomous regions and municipalities directly under the central government in China have introduced local regulations and policies against domestic violence, with some more broadly defining the concept of domestic violence and some specifying the principles and procedures to be followed in handling complaints about domestic violence, thus clarifying the responsibilities of the relevant authorities.

At policy level, the Chinese Women Development Programme(2001-2010)formulated by the State Council prohibits in unequivocal terms all forms of violence against women and lists anti-domestic violence as the main goal of the programme. At present, the departments concerned are working on formulating opinions concerning preventing and stopping domestic violence to specifically define the roles and responsibilities of the relevant departments in this regard.

(2) Mainstreaming the work against domestic violence (D.V.)

The relevant departments carried out extensive publicity activities against domestic violence to promote healthy domestic ethics and custom characterized by equality, democracy and civilization. For example, the nation-wide campaign of “safe and peaceful home” lists “violence-free” family as one of the main tasks.

The national committee for creation of spiritual civilization lists anti-domestic violence as a criterion in the appraisal of “the civilized city”.

(3) In exploring effective ways to prevent and stop domestic violence, a work system is taking shape, in which governments at all levels exercise leadership, multiple department of the public security, judiciary, civil administration, health, etc. work in cooperation with each other to provide relief and rescue assistance to the victimized groups.

The National coordination group for safeguarding rights and interests of women and children which was established in November 2001, now consists of 19 central government level member units. 29 Provinces and autonomous regions and most of the prefecture-level cities saw the establishment of similar groups or joint sessions, with over 35,000 right-safeguarding agencies, thus forming a coordination system from top to the bottom. These coordination groups have played an important role in promoting local law-making against domestic violence, law enforcement inspection and coordinating the work on major criminal cases.

Most provinces saw the establishment of “110” domestic violence emergency call and more than 12,000 police station and community-level police units established right-safeguarding complaint-reception station or anti-domestic violence reporting-point. Courts at various levels have established over 3,200 “right-safeguarding court”. “right joint session court”, “Anti-domestic Violence Joint Session Court”. More than 4,00 women asylums and relief and assistance stations have been established across the country. Tianjin, Liaoning and Jiangsu have put the homeless caused by domestic violence under the coverage of relief and aid by the local civil administration. Over 27,000 legal assistance agencies and service stations have been established across the country to provide legal assistance to women victims. 21 provinces saw establishment of over 350 domestic violence injury appraisal centres in their health systems, which give medical assistance and conduct appraisal work.

There is a nation-wide right-safeguarding hot line for reporting cases of domestic violence so as to receive prompt and confidential assistances. The DV victims can also get free legal assistances, such as legal counsel and legal proxy, from the federation of women. In March this year, All-China Federation of Women, in cooperation with the Chinese Fund for Legal Assistance, established a special fund for Chinese Women’s right and legal assistance in the development fund of Chinese Women, with initial fund of one million Yuan, to finance legal assistance activities for Women in 10 provinces, focusing on the victimized women and children. In addition, 14 provinces have established funds for women’s rights and relief and 16 provinces have legal aid centres to obtain funds by way of government allocations and donations in society to do practical things for women and children in difficulty.

(4) Actively carry out anti-DV education and training to raise Anti-DV consciousness of the policy-makers, law enforcement personnel and the public at large.

In recent years, the competent authorities in China actively carried out education and training on safeguarding the rights and interests of women and children, focusing on anti DV, as a result, the trainees’ human right awareness and ability to handle DV cases have been improved. For example, in July 2007, a national anti-DV training workshop was held in Liaoning province, with 100 trainees, including the relevant personnel from the internal justice committee of the national people’s congress, the supreme people’s procuratorate, ministry of public security and

ministry of justice. The ministry of public security compiled “opposing domestic violence against women—training materials for public security personnel”, and held training courses focusing on police’s anti-DV awareness and action to enhance their awareness and skills for handling such cases.

In addition, the May 5 law dissemination program incorporated the law on safeguarding the rights and interests of women for a large scale legal counsel and publicity of law. Some non-governmental organizations, including China anti-DV network, Beijing university centre of legal assistance for women, also did quite a lot of work in training. News media and show business also played an important role in giving publicity to anti-DV.

(5) Resolutely crack down on criminal activities which violated the legitimate rights and interests of women and effectively carry out special operation to prevent trafficking of women.

The public security organs at all levels promptly handled complaints, charges and reports of cases of infringement on women’s legitimate rights and interests and severely cracked down on such criminal acts according to law and carried out the work against trafficking of women. At the same time, the Chinese government, through operation of “prevention of trafficking of girls and young women for the purpose of exploitation”, promoted awareness of safety, and established community cooperation centres to provide information on safe mobility and service to transient girls and young women. For example, during the 2007 Spring Festival, the public security organs in cooperation with the relevant department carried out a publicity campaign on “safe travel, guard against human trafficking” at 22 railway stations and long-distance bus terminals in 5 provinces, providing information to transient women on safe travel, decent work, women’s rights, AIDs, self protection, social skills, etc.

The couple Jiang and Sun in Xuzhou had a dispute in 2002. Sun wounded Jiang causing bone fraction in two ribs. On 28 June 2002, a legal medical report concluded that it constituted a minor wound, In April 2003, Jiang brought the case to a county court of Xuzhou, requesting divorce from Sun, and a judgement from the court that due to the mental losses caused by the injury as a result of the domestic violence perpetrated by Sun against her, Sun should pay her 5000 yuan as compensation. The original court did not support the claim for the reason that Jiang could not provide the medical report of the injury and the evidences provided were not sufficient to prove that Sun perpetrated DV against her. After that Jiang appealed to the Xuzhou municipal intermediary people’s court, and the latter, after reviewing the case, supported the claim and ordered Sun to pay 5000 Yuan to Jiang as compensation for her mental damages.

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.

Yushan Jiang is a Chinese citizen from Khashi prefecture, Xinjiang Uighur Autonomous Region and was illegally smuggled out of China. As a back-bone member of the Eastern

Turkistan Islam Movement, an international terrorist organization confirmed by the United Nations, participated in a number of terrorist activities. He was sentenced to life imprisonment in April 2007 for committing the crime of separating the country and organizing and leading a terrorist organization, and is now servicing his sentence in the No.1 prison of the Autonomous Region. His legitimate rights and interests have been fully guaranteed during his detention, trial and the period of servicing his sentence. China and the central Asian countries concerned have established law enforcement and judiciary cooperation mechanism for suppressing cross-border crimes, according to which, the two sides extradite and expatriate criminal personnel to each other. This plays an important role in maintaining public order and bringing about judicial justice in the respective country. What should be pointed out here is: this law enforcement and judiciary cooperation is directed at criminals strictly according to law, and not directed at any specific ethnic group or religious group.

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.

To give training on professional ethics, vocational standards and skills to the jurists and relevant medical workers is high on the agenda of the relevant departments of the Chinese government, so as to avoid occurrence of torture, or to promptly detect its consequences.

The training in the prevention of extracting confessions by torture and obtaining evidences by force has been conducted by the public security organs regularly and systematically.

According to the relevant provisions of the regulations for detention facilities, medical workers are deployed in the detention facilities to give timely treatment to sick detainees. The norms for work in detention facilities spells out strict rules for the work procedures. The doctors there should exam the health of the detained criminal suspects, defendants and convicts according to the items and content listed in the registration form of health examination of detainee, write down comments at the end of the examination and duly sign or chop it. if injury is found in the body, its cause should be found out, and be recorded in the health examination registration form, and signed by both the escort and the detainee for acknowledgement.

The prison doctors must have relevant qualifications, and the prisons attach great importance to on-job training and continued education, holding regularly professional training courses with different focuses every year to enhance their awareness of the health laws and regulations, professional knowledge and skills, so as to strengthen their sense of professional ethics in the interest of protection of the criminal's right to health care.

The procurator attaches great importance to the professional training of their staff stationed in the detention facilities, focusing on law enforcement oversight, prohibition of torture, protection of human rights of the detainees and prisoners. Since 2004, the Supreme People's Procuratorate has conducted two training courses a year, with 100 participants at each course, to

train responsible persons of the procuratorate at the provincial level and senior prosecutors.

The provincial procuratorates also hold training courses to train their staff stationed in the detention facilities, focusing on the protection of human rights of the criminals. Since 2004, the prosecution office for detention facilities of the Chinese Supreme People's Procuratorate has worked in cooperation with international organizations and foreign agencies, such as the UNDP, the office of the administrative prosecutor of Norwegian parliament, the Australian human rights and equal opportunity committee, and the British cultural council, and have co-sponsored seminars in Xian, Kunming, Fuzhou, Taiyuan, Hangzhou, namely, "Seminar on the protection of human rights of detainees and prisoners", "seminar on penalty enforcement and prisoner's human rights protection", and invited foreign experts to brief the Chinese prosecutors on experiences on protection of prisoners' human rights. In addition, 4 study tours were organized for the responsible persons of province-level procuratorate and senior prosecutors to Norway and the UK to study the system of penalty implementation oversight and prisoner' human rights protection, and more than 900 prosecutors stationed in detention facilities participated in the study tour. In order to enable more Chinese prosecutors to learn about the status of human right protection in the international community, the office of prosecutions for detention facilities of the Supreme People's Procuratorate compiled the speeches of foreign experts on human right protection into a book for use in the training of prosecutors.

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?

In recent years, the Chinese public security organs regularly carried out education on rule by law, focusing on the constitution, the criminal code, the criminal procedure law, the regulation for detention facilities and other relevant laws and regulations and rules of procedure of case-handling, in conjunction with the Convention against torture and other cruel, inhuman or degrading treatment or punishment, to strengthen education and training on professional knowledge and law enforcement skills, tackling the problem of torture at its source by enhancing the professional capacity and awareness of the police of rule by law, procedure, evidence and human right, so as to reduce and end occurrence of such cases. Newly recruited police training and police promotion training system is being implemented and a law enforcement qualification exam system is in place. Those who failed in the exam are not allowed to engage in law enforcement activities. The Ministry of public security also has exchanges and cooperation with international organizations, such as the UN and police departments of other countries, by sponsoring human right training courses to improve the capacity of the police in human right protection. The above trainings courses were conducted with a special focus on the human right protection of the minors, women, the old, persons with disabilities, and other vulnerable groups.

Extraction of confession by torture and corporal punishment and ill-treatment of prisoners by prison police are strictly prohibited by law in China. The prison administrations in China attaches great importance to education and training of prison police on the concept of civilized law enforcement. These trainings are mainly in the following forms: 1. before job training--prison administration give professional education and training to the newly recruited prison police on law, law enforcement, prison regulations, and physical fitness training, so that

the raw recruits know the basics about prison management and law enforcement and disciplines.

2. On-job training. To give regular trainings to prison police on the job, with a focus on fair and civilized law enforcement, to update their knowledge and improve personal qualities.

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.

The infrastructure construction has been going on in detention facilities and prisons in China to improve living conditions of the detainees and prisoners. As a result, fairly comfortable living conditions are available for them. Due to different sizes of the facilities, it's not possible to provide the information about the number of persons kept in the same cells. According to statistics, the area actually used by detainees is no less than 2.6 square meters per person. Every cell is connected with an open-air space, which is no less than 2 meters per person. The detainees have at least one to 2 hours for out-door activities.

No solitary confinement is practised in China's prisons. Article 53 of the Chinese law on prisons stipulates: "prison cells should be strong with good ventilation and sun light, and clean and heat-insulated". In the prisons, the use-area in the built facilities is more than 5 square meters per prisoner and living area is no less than 3 square meters per person, places for study and recreation by prisoners such as reading room, class room, basketball field, exercise field, auditorium, etc. are also available in prisons.

Article 58 of the Law on prisons stipulates: the prison may give a warning, record a demerit, or place in confinement vis-a-vis the prisoners who did one of the following which disrupted the management order of the prison: (1) gather together to disrupt the normal order of the prison; (2) use abusive language to or beating the police; (3) bully and oppress other prisoners; (4) theft, gambling, scuffle, pick a quarrel and make trouble; (5) able-bodied but refuse to do labour or be slack in work and refuse to mend his (or her) way s after repeated education; (6) to avoid labour by wounding or disabling self; (7) deliberately violate operating rules in the productive labour, or intentionally damage tools of production; (8) other acts violating prison disciplines. A 7-15 day confinement may be imposed to a prisoner based on the above. If a prisoner did the above while serving sentence and what he did constituted a crime, his criminal responsibility will be pursued. According to the relevant rules on prison construction and management, the in-door height of the confinement cell is no less than 3 meters, the floor space is no less than 6 square meters, window size is no less than 0.8 square meters. The bed should be damp-proof with heat insulation, the cell be well ventilated and have sun light, with an out-door space for activities. According to the regulations for detention facilities, during detention, with the consent of the case-handling authorities, detainees may meet with their close relatives, except for severe and major cases. If the spouse, parents or children of the detainee are critically ill, with the consent of case-handling authorities, and subject to approval by the public security organ, the detainee may return home to visit the patient. The detention facility gives education to detainees on the legal system and morality and necessary education through labour. During detention, a detainee may be praised and encouraged for observing rules and regulation and well behaviour with a meritorious service, a report may be sent to the case-handling

authorities for lenient treatment. Detainees may be given a warning or reprimand for violation of rules; for severe cases, and no improvement in behaviour, the detainee may be ordered to submit a written statement of repentance, or be placed in confinement, with the approval of the director of the detention facility.

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.

As China is a developing country, economic development is uneven between regions, there is indeed a disparity, in terms of the facility and secured funds of the detention facility, between the advanced and less developed regions. To change the situation, the central government has allocated large amount of funds to the western underdeveloped region as an enabling measure.

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?

In China, statistics on death sentences, death sentences with a two-year reprieve, life imprisonment and imprisonment above 5 years are combined and are reported to the national peoples' congress by the president of the Supreme People's Court in March every year. During the 5 years between 2003 and 2007, the total figure in this category is 760,000, accounting for 18.18% of the total convicts.

According to Para.2 of Article 212 of the Criminal procedure law, death sentence is executed by shooting or injection.

To minimize unnecessary pains, the people's court reduces the form of shooting whenever possible and adopts the form of injection as much as possible. The people's courts concerned are intensifying construction of facilities for death penalty by injection. In the developed regions, such as the eastern region, facilities specially for execution by injection have been set up, whereas in the less developed regions, such as mid-west region, the central government allocate special fund for local courts to purchase special vehicles for death execution by injection. The Supreme People's Court has specially formulated rules of procedure and operation regulations for death execution by injection for people's courts at all levels to implement. It covers: injection procedure, drug mix, injection pump installation and testing, monitoring of the criminal's life signs, on site command, on site oversight by prosecutor, security guard, etc. Normally, the vehicle is a reequipped bus, equipped with a bed, injection pump, monitoring meter, etc. and space for all the personnel involved in the operation. It can secure safety for the execution and is reliable and in conformity with the procedure.

In the Chinese prison, the prisoners are detained in groups, and convicts sentenced to death are also among them, with equal treatment like other prisoners, except for cuffs and shackles

they must wear according to law.

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?

In the mental hospitals in China, in order to ensure effectiveness of the treatment, mental patients receive closed treatment, which is a temporary measure.

With regard to alternative treatment, at present, mental disease community management has been included in the coverage of urban community public health service by health institutions.

In order to effect a shift in the pattern of mental disease management service, in 2005 in the budget of the central government, treatment of severe cases of mental disease was incorporated in the local public health items to be funded with funds to be transferred from the central government, in an effort to establish a continuous management treatment pattern for severe cases of mental disease through integration of the hospital and the community, which suits local conditions, and to establish a mechanism and network for prevention and rehabilitation, with the ultimate aim of providing services centred on the patients. Over the past 4 years, the central government invested 59.21 million Chinese yuan in setting up 60 project demonstration zones across the country, with 30 each in urban and rural areas, covering more than 42 million people. With the deepening of the work, the number of project zones and the amount of investment will keep growing.

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.

The figure “274219” mentioned in Para.27 is a typing error, it should be “27429”. Before 2003, there was a rather large number of illegal detention, due to poor sense of law in handling cases on the part of grass root judicial personnel, unsatisfactory oversight system and lack of punitive measures.

In 2003, a special campaign was launched in China to clear and correct cases of illegal detention. The above-mentioned 27429 cases of illegal detention were corrected during that campaign. During the same campaign, 15 judicial personnel responsible for serious consequences of illegal detention were given criminal or disciplinary punishment. Through the campaign, the judicial personnel at all levels all received an education on rule by law, thus enhancing awareness of law in handling cases, a long-effect mechanism emerged thanks to strengthened effort to establish rules and regulations. As a result, cases of illegal detention at different stages of investigation, prosecution and trial drastically reduced year by year. Thanks to efforts for the past years, the problem of illegal detention has been solved effectively. 2004 saw 4947 such cases; 2005, 271 cases; 2006, 210 cases, 2007, 85 cases, which is the lowest level in

history. New occurrences can all be corrected within a fair short time.

To prevent its recurrence, the prosecution office for the detention facilities of the procuratorates in China have in recent year taken the prevention and correction of such cases as a major element in the oversight of the detention facilities, with a view to protecting human rights of the detainees. According to the rules for prevention and correction of illegal detention in the work of prosecution issued by the Supreme People's Procuratorate, the prosecution personnel stationed in the detention facilities have institutionalized notification of duration of detention, "advanced notice of expiry of detention term", "complaint on illegal detention and pursuance of responsibility", to establish a long- effect mechanism.

The public security organs in China also take prevention and correction of illegal detention as an important part of their work, requiring the police to abided by law in handling cases, so as to put an end to such cases.

The measures taken in this regard are mainly:

(1) To organize special case-cleaning activities, to discover and correct such cases in good time. This effort has been intensified in recent years. During the campaign in 2003, the public security organ thoroughly reviewed cases of illegal detention occurred at the stage of investigation and set a deadline for their correction. According to the instruction of the Ministry of Public Security, all such cases must be corrected by the end of December 2003. On the basis of this effort, the public security organs at all levels take effective measures to consolidate the achievement of the focused effort and effectively keep the problem with in limits.

(2) To enhance the education of the police on law enforcement to improve the capacity of law enforcement. In recent years, the Ministry of Public Security sponsored a number of major trainings and awareness education on rule by law in the public security organs across the country, with a focus on illegal detention. So that the police will have the concept of enforcing law for the people and human right firmly in mind to combine suppression of law-breaking crimes with the protection of human right and to improve the case-handling capacity and its efficiency.

(3) To establish a long-effect mechanism for the prevention and correction of illegal detention, and institutionalize it. In recent years, various rules and regulations have been established and improved in the light of the actual situation at the public security organs at all levels, such as, law enforcement responsibility system, case-handling quality appraisal system, pursuing responsibility for misjudged cases, pursuing responsibility of leaders, and leader taking the blame and resign, etc, as well as the system of transferring detainees between detention facilities (a kind of law enforcement activity in which the competent authorities in charge of the case is to inform the detention facility to undergo necessary procedures for transferring the detained suspect and defendant to another competent authorities when the former decide to do so ;) the system of urging for action when detention limit is approaching and the system of reporting and informing cases of illegal detention, etc. These efforts have brought the work on prevention and correction of cases of illegal detention onto the track of institutionalisation, thus laying a sold foundation for the work. In November 2003, the Ministry of Public Security, the Supreme People's Court and the Supreme People's Procuratorate jointly issued " Circular on effective prevention and correction of illegal detention by strictly implementing the criminal

procedure law ”, which laid down rules for the work on protection and correction in terms of law enforcement concept, standard and responsibility pursuance. At the same time, in light of the problems discovered over the past years in this field, the Ministry of Public Security issued in 2007 “Criminal detention timeframes applicable to Public Security organs”, which further specified case-handling rules, law enforcement procedure and the system of rewards and punishment. It plays an effective role in improving the work of the public security organs in this field.

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.

In recent years, the judicial organs in China have established and improved complaint mechanisms in order to protect the legitimate rights and interests of the detainees.

The Chinese Constitution stipulates that the people’s procuratorate exercises the right of independent prosecution, free from interference from administrative organs, civil society groups and individuals. Article 6 of the law on the prison stipulates: “the people’s procuratorate oversights according to law whether the execution of sentences in the prison is in conformity with law ”; Article 47 stipulates: “letters written by prisoners to the superior organ of the prison and judicial organs are free from censorship”.

To guarantee free exercise of the right to complaint and charge by the detainees and prisoners in the detention facilities, the Chinese procuratorates have adopted the following measures:

(1) The prosecutors stationed in the detention facilities frequently visit the living and labour zones of the detainees and prisoners to oversight the law enforcement activities. The detainees and prisoners may directly hand their materials of complaint and charges to the prosecutors and they have the right to make appointment with the resident prosecutor for talks to report problems.

(2) The prosecution office stationed in detention facilities and prisons have prosecutor’s letter box, the detainees and prisoners may put their materials of complaint and charges into it at any time which will be opened by the prosecutor regularly (no one, except the prosecutor, is allowed to open it).

(3) The resident procuratorate makes public the telephone number for complaints and its office address, the relatives and lawyers of the detainees and prisoners may present complaints and charges to the prosecutors. To establish a system of reception by the leadership of the detention facilities and the resident prosecutors and to fix the date to receive complaints from the relatives of the detainees and prisoners.

The procuratorate will, after having received the materials of complaint and charges, conduct independent investigation and keep secret for the complainant, and will inform the complainant of the results upon completion of the investigation.

With regard to the statistics disaggregated by gender, ethnic group, etc. China didn't specifically collect such data, therefore, cannot provide them to the committee.

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.

According to law, the prosecution office in the detention facilities in China has the responsibility of oversight of the prisons, detention facilities, re-education-through-labour facilities, including mainly the following: (1) to ensure that criminal proceedings and execution of sentences are conducted according to law and maintain the dignity and uniformity of law and its correct implementation; (2) to safeguard the human rights of the detainees and punish illegal acts that infringe upon personal rights, such as corporal punishment and ill-treatment of detainees and prisoners so as to ensure their rights bestowed by law. Specifically, the following functions:

(1) To oversight the reception and release of detainees and prisoners by detention facilities and prisons according to law, so as to prevent illegal and extra detention of the litigant and guarantee citizens are free from arbitrary detention, arrest and confinement.

(2) To ensure that in detention facilities and prisons sentences and penalty are executed according to law, law enforcement conducted in scientific and civilized manner, humanitarian treatment enjoyed by criminal suspects, defendant and convicts, and their legitimate personal and democratic rights fully protected.

(3) To oversight whether the execution of sentences, judgements and decisions by the public security organs is lawful, such as surveillance, deprivation of political right, reprieve, parole and temporary implementation outside the prison, so as to protect the rights of convicts outside the prison from illegal infringement.

(4) To oversight whether alteration of sentences, such as penalty reduction, parole, temporary implementation outside the prison, is executed by the people's court, prison and public security organ according to law to guaranty that convicts serving sentences have the right to a fair reduction of penalty, parole and temporary implementations outside the prison according to law.

The oversight work is done mainly in the following ways:

(1) Routine oversight, namely, the prosecutors stationed in the prison and detention facilities oversight directly the law enforcement activities on site. At present, there are over 12,000 such prosecutors in China, of them, 8,800 are resident prosecutors in those facilities. As of 2007, there are 77 procuratorates stationed in large prisons or areas where prisons concentrate and over 3,300 resident prosecution offices in medium and small prisons to conduct on-site prosecutions. The people's procuratorates conduct full-time resident prosecutions in 98% of prisons and detention facilities across the country. To the few detention facilities and prisons where there is no procuratorate or prosecution office, mobile prosecution is carried out there.

(2) Special prosecution activities, namely, the prosecutes concentrate their time and effort on a special prosecutorial oversight of the law enforcement activities of the penalty execution offices and detention facilities. For example, in 2003, a nation-wide special campaign was launched to clear and correct illegal detention cases, which basically ended the problem that had frustrated China for many years. In 2004, a nation-wide special prosecution campaign on penalty reduction, parole and medical treatment on bail was launched in China to clear and correct illegal cases in this regard. 2007 saw a special prosecution activity aiming at verifying and correcting cases in which convicts serving sentences outside the prison evaded surveillance or being omitted from surveillance.

(3) To exercise the right of investigation according to law. The prosecution office in the detention facilities have place on file and investigate the criminal cases in which the prison and detention facility personnel infringed upon the legitimate rights and interests of the convicts by abusing their power to illegally detain, impose corporal penalty and ill-treatment, extract confession by torture, embezzle funds for convicts life and sanitation, effect illegal penalty reduction, parole, temporary execution of sentences outside prisons for personal interests, other criminal activities of corruption, bribery, dereliction of duty and infringement on rights, and to pursue the criminal responsibilities of the relevant public servants.

The work of the procuratorates in this regard is characterized by the following:

(1) Specificity. The procuratorate has set up prosecution office and resident prosecutor in the detention facilities with the specific responsibility to oversight the detention facilities and prisons, with a view to ensuring that the detainees enjoy humanitarian treatment according to law and their legitimate right which has not been deprived is free from infringement. To our knowledge, China is the only country in the international community to implement such prosecutorial system. This indicates how much China values the protection of the convict' human right.

(2) Timeliness. Through mobile prosecution and letter box in the detention facilities and prisons, as well as receiving the complaints, charges and reports from the convicts and their relatives, the prosecutors are able to discover illegal acts which infringe upon the legitimate rights of the convicts and correct them on the spot. With the advances of science and technology, the means of oversight have also adopted hi-tech. many resident prosecutor's office and detention facilities and prisons are connected by information network or surveillance network. The prosecutors can monitor the execution of penalties and prison activities through video camera and check what's going on inside the prison at any time, thus discovering and correcting

any illegal acts that infringe upon the legitimate rights and interests of the detainees.

(3) Effectiveness. The prosecutors in the detention facilities have the right to oversight law enforcement and to investigate crimes committed by abusing power, if such case are discovered, they can place it on file and investigate and pursue the criminal responsibilities of the perpetrators, thus more effectively protecting the legitimate rights and interests of the detainees.

The institutional structure of the prosecutorial system in the detention facilities and prisons in China: at the level of the supreme procuratorate is the department of prosecution in detention facilities and prisons; at provincial level—a division; at gross-root level- a section. Each has resident prosecution organ in the detention facilities and prisons of the corresponding level. All of them accept and handle cases of charges and complaints from convicts and their relatives, and NGOs can also report cases to them.

In addition to the peoples' procuratorates, the police oversight department of the public security organ is in charge of oversight of the detention facilities, the collecting post and compulsory rehabilitation post for drug addicts. And these facilities also receive oversight by delegates of the people's congress, members of the political consultative committee, the news media and the public. Delegates of the peoples' congresses and members of the people's political consultative committees at all levels also inspect the prisons and detention facilities. The rights of the convicts to complaint, charge and report is protected by law. They can do so at any time, either orally or in writing.

According to statistics, the Chinese procuratorates accepted 12437 cases of complaint submitted by prisoners in 2006, of which the procuratorates handled 5815 cases, the rest were transferred to other relevant departments; 11135 cases were accepted in 2007, of which, 5339 cases were handled by the procuratorates and the remaining ones were transferred to other relevant departments.

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.

Cases suspect of torture and inhuman treatment perpetrated by public servants, such as police, prosecutor and judge are handled by different State organs, which will decide if it's necessary to suspend the job of the person concerned, depending on whether those acts constitute torture and their severity. Once it is proved with evidence that the public servant did perpetrated torture, his job will be suspended immediately. if what he (or she) did does not constitute a crime, the case would be handled by the internal inspection office and disciplinary measures will be taken against the person. If it has possibly constituted a crime, the case would be handled by the people's procuratorate. If the investigation concluded with hard evidence that t it has violated law, the criminal responsibility will be pursued.

In 2006 and 2007, 160 such cases were handled by the procuratorates in China, involving 258 persons. For specific data, please refer to the reply to issue 4.

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).

Between 2005 and 2007, administrative disciplinary measures taken against policemen for violation of administrative regulations and law across the country are as follows:

In 2005, 95 persons were subjected to administrative disciplinary punishment for extracting confession by torture and 20 persons for ill-treatment of detainees; the corresponding figures for 2006 are 19 and 14 and for 2007, 23 and 14

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.

Yang Chunlin, male, aged 51, from Jiamusi municipality, Heilongjiang province. Between June 2006 and 2007, he published tens of articles on the websites outside the country, such as “subversion of the state power is actually national salvation, the merit of which cannot be neglected” to instigate subversion of the state power of China by starting rumours and slander. On 7 July 2007, Jiamusi municipal public security bureau subjected Yang to criminal detention for suspect of the crime of instigating subversion of the state power. On 13 August, with the approval of the procuratorate, he was arrested. His detention and arrest by the public security bureau were promptly notified to his relatives. On 8 October, his case was transferred to the Jiamusi municipal people’s procuratorate for review and prosecution. After accepting the case, the Jiamusi intermediary people’s court delivered a copy of the indictment to Yang on 9 January 2008(10 days prior to the court session) and informed him that court session will open for the case and he may exercise the right to defence by himself or commission a lawyer to act as his defendant, as required by law. The court session opened on 19 February 2008. During that period, Yang had sufficient time to prepare his statement of defence against the allegations in the indictment. During the court session, Yang’s legitimating right was fully guaranteed and Yang exercised his right to defence by himself and the two lawyers commissioned by him all presented fully their statements of defence. Yang confessed that the relevant charges were true. No handcuffs and shackle were used. The court session concludes: the accusation brought by the prosecution organ that Yang, in collusion with others, published on website “we want human rights, not the Olympics” with fabricated signatures of peasants caused certain degree of harm to society, but not yet to the degree for conviction according to law. However, the other 45 articles he published on website are an act constituting the crime of instigating subversion of the State power, which is a clear fact with hard evidences, and should be punished by law. On 24 March 2008, the Jiamusi intermediary people’s court passed the first trial judgement and pronounced it to the public to: sentence Yang to 5 years imprisonment with a deprivation of political rights for 2 years. Yang appealed and the case is under the second trial at the Heilongjiang provincial high people’ court.

It can be seen from the above that collecting signatures by Yang Chunlin on “we want

human rights, not Olympics” was not used as an evidence for indictment and all his litigation rights were respected; the notion that Yang Chunlin was detained for collecting signatures in the framework of the campaign “we want human rights, not the Olympics” and “allegedly tortured while in detention” was totally groundless.

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.

The special rapporteur on the question of torture is not a mechanism established by the Convention and questions thereunder fall outside the scope of the terms of reference of the Committee. Nevertheless, in the spirit of cooperation, the Chinese side wishes to present its principled position as follows:

(1) With regard to replies to letters of allegations

The Chinese government attaches great importance to the UN human rights special mechanism and has worked hard to reply in a timely manner to allegations from all special human rights mechanism, including the special rapporteur on the question of torture. China is a developing country with a huge population and vast territory with drastically uneven development between regions, there exist a large variety of local languages and many other complex factors, such as many people sharing exactly same names--- family names and given names. The information contained in some letters was too simple and even erroneous, causing a lot of difficulties to the Chinese government in investigation and verification. These factors have impeded to a certain degree our timely reply. The statement in para.21 of the list that the Chinese government “has not yet provided information on a number of them” is not accurate. Besides, the replies of the Chinese government were usually not completely reflected in the relevant documents.

(2) Status of investigations into the cases listed in the report

Most of the cases listed in the report (E/CN.2006/6/Add.6) of the Special Rapporteur on the question of torture were information gathered by the Special Rapporteur during his visit to China in 2005 where he met with some convicts serving their sentences, detained suspects, prisoners and ordinary Chinese citizens, which was published in the form of an annex to the report. They are not letters of allegations transmitted by the Special Rapporteur. With regard to the letters of allegations, the Chinese side has made serious efforts to investigate and replied to all of them. Please refer to the following documents of the UN Human Right Council for replies in recent years: A/HRC/4/37/Add.1, A/HRC/7/3/Add.1, A/HRC/4/37/Add.1, A/HRC/7/3/Add.1, A/HRC/4/37/Add.1, A/HRC/7/3/Add.1, A/HRC/4/37/Add.1 and A/HRC/7/3/Add.1.

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.

With regard to the political incident occurred in late Spring and early Summer in 1989, the Chinese government has already drawn its conclusions. The practice over the past almost 20 years has proved that the timely and resolute measures taken by the Chinese government at that time was absolutely necessary and right.

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?

China’s Law on State Compensation stipulates: in cases where illegal use of power by the State organs and staff thereof infringed upon the legitimate rights and interests of citizens, legal persons and other organizations and caused damages, the victims have the right to compensation by the State. The law specifies in unequivocal terms the scope, procedure and amount of compensation, so that the eligible victims can receive compensation in a timely and effective manner.

According to Articles 3 and 15 of the Law, if the administrative organs and their staff, while exercising their administrative power, caused physical injuries or deaths of citizens by beating or other violence, or by instigating other persons to do so, or by illegally using weapons or police instruments, or by other illegal means, the victims have the right to compensation. If organs performing duties of investigation, prosecution, trial and prison management and their staff, while exercising their power, caused physical injuries or deaths of citizens by extorting confession by torture or beating, or illegally using weapons and police instruments, or instigated other persons to beat or use violence which caused physical injuries or deaths of citizens, the victims have the right to compensation.

In 2006, the people’s courts completed 1316 cases of criminal compensation by the State, and 959 cases in 2007. Of the above cases, cases of claiming State compensation as a result of extorting confession by torture, or by using violence and instigating other persons to use violence, numbered 3 and 1 respectively, with a total of 4 in 2006, and numbered 2 and 1 respectively, with a total of 3 in 2007. It should be noted that the Chinese Criminal Code criminalizes acts, such as extracting confession by torture, according to different charges. Ordinary crimes of extracting confession by torture, obtaining evidences by force and ill-treatment of detainees are indicted and sentences according to their own charges. If such acts caused severe injuries or death of the victim, the defendant shall be indicted and sentenced on the basis of charges deserving more severe penalties, such as intentionally wounding other person and intentionally killing, rather than the offences with less severe penalties, such as extracting confession by torture, obtaining evidences by force and ill-treatment of detainees. The Law on the State compensation also applies to the above-mentioned crimes of intentionally wounding and intentionally killing other persons committed by official personnel.

Temporary placement of the victims and their physiological and psychological rehabilitation have always been an important element in the work of the public security organs against human trafficking. To solve the problem of temporary placement, the Ministry of Public Security established, with the support of UN Children's Fund, 3 transit and rehabilitation centres for the victims during the nation-wide special operation against human trafficking in 2000, respectively in Xuzhou of Jiangsu province, Chengdu of Sichuan province and Kunming of Yunnan province. In recent years, with the support of the UN Children's Fund, another 2 centres have been set up in Dongxing of Guangxi and Kunming of Yunnan province, which provided relief and psychological and physiological treatment and rehabilitation to the rescued women and children with the assistance from department of civil administration and federation of women. On 13 December 2007, the Chinese Plan of Action against trafficking of women and children (2008-2012) was promulgated for implementation. The plan points out clearly that the rescue and aid mechanism must be improved constantly, the proportion of the rescued children receiving training, relief and aid, physiological and psychological treatment should increase, the privacy of the victimized women and children must be protected and they should be helped to return home and society and be protected from being hurt a second time. Their sufferings must be minimized, and necessary relief and help must be provided to them for their quick return to society and normal life.

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.

Article 43 of the Code of Criminal Procedure, Article 181 of the Procedural Provisions for Handling of Criminal Cases by Public Security Organs and Article 265 of the Rules of Criminal Litigation for the People's Procuratorates, all clearly stipulate that extracting confession by torture, or collecting evidences by threats, inducement, coaxing or other illegal means by the judicial organs are strictly prohibited. In the judicial practice, the Chinese security organs and procuratorates require their case-handling staff, while implementing the above provisions, to do the following:

- (1) Must obtain evidences according to the legal procedure, evidences obtained by illegal means cannot be used as grounds for criminal charges.
- (2) Evidences must be collected from all sides, including all kinds of evidences proving the suspect is innocent, or guilty, not just evidences which are not favourable to the suspect and defendant.
- (3) It is strictly forbidden to collect evidences by subjecting the criminal suspect to confession by torture, or by other illegal means, such as threats, inducement, or coaxing. If this is violated, the criminal responsibility of the perpetrator shall be pursued.

A specific example: Both the Ministry of Public Security and local public security organs have established rules and regulations for case handling, to closely guard against extraction of confession by torture. According to the Implementation methodology for the Regulations of detention facilities, bringing the detained criminal suspects out of the cell for interrogation must

be done inside the facility, and except for special cases, they are not allowed to be brought out of the facility, and the criminal suspects must have health examination before and after interrogation.

An analysis of the law enforcement situation in recent years shows that the overwhelming majority of prosecutions strictly abided by the Criminal Procedure Law and other relevant laws and handled cases according to law, thus ensuring the quality of case handling. However, it should be pointed out that cases of extracting confession by torture or collecting evidences by force still exist, due to lack of awareness of rule by law on the part of very few case-handling personnel. Such cases are subject to strict investigation and punishment by the Chinese government in accordance with law.

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.

The Criminal Procedure Law strictly prohibits extorting confession by torture and collecting evidences by threats, inducement, coaxing and other illegal means. Article 61 of the Interpretation of certain points in the implementation of the Criminal Procedure Law of the People’s Republic of China issued by the Supreme People’s Court and Article 265 of the Rules of Criminal Proceedings of the People’s Procuratorates, while stressing “collection of evidences by illegal means is strictly prohibited”, stipulate that confessions of criminal suspects extracted by torture, statement of the victim and testimony of the witness collected by threats, inducement, coaxing, or other illegal means, can not be used as grounds for accusation of the suspect. These rules apply to all criminal proceedings, with only one exception, namely, the confession obtained as a result of torture can be used for “accusation” or “conviction” of the crime of extorting confession by torture or collecting evidences by force, which is in line with the spirit of Article 15 of the Convention.

In addition, if it was found, in the view of prosecutors, that the investigators had collected evidences by illegal means, the prosecution organ should put forth recommendation for rectification, and at the same time, request that another group of investigators should be sent to collect evidences, or should make investigations and collect evidences by itself.

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

It is clearly stipulated in the Chinese Criminal Procedure Law, the Regulations of Detention Facilities, the Rules of Procedure of Criminal Case-handling by Public Security Organs, as well as other relevant laws, rules and regulations that detention facilities and prisons should give timely medical treatment to sick detainees, and relevant conditions and procedures were laid down by those instruments for measures, such as pre-trial bail due to sickness,

residence under surveillance and release on bail for medical treatment outside the prison. In judicial practice, the public security organs strictly abide by the above-mentioned legal provisions, and coerced confession is not allowed to be used as a condition for receiving legitimate medical treatment.

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.

The Chinese government attaches importance to the physical and mental health of detainees. It is clearly provided in the Criminal Code, the Criminal Procedure Law, the Law on Prison and the Regulations of Detention Facilities that detention facilities and prisons must give timely medical treatment to sick criminal suspects, defendants and convicts serving their sentences, and for severe cases, pre-trial bail or medical parole may be permitted.

The Law on Prison provides: "There should be medical facility and life and hygiene facilities in prison." Prison provides basic medical service to convicts and gives timely treatment to them when they are sick and promptly isolate those who are suffering from transmissible diseases for treatment in isolation. The prison gives health examination to convicts once a year, and newly admitted convicts will also receive medical examination.

Further more, detention facilities and prisons across China take effective measures to improve medical care conditions. For example, there are full-time medical doctors in every detention facility in Beijing. In order to improve the professional skills of the medical personnel, since 2005, experts have been invited on several occasions to give professional trainings to officers in charge of medical work of the facility and medical personnel there on treatment of conventional transmissible diseases and prevention of AIDS. In 2007, Beijing Red Cross "999" emergency centre opened a hospitalization zone for persons in custody for unified and centralized management of medical treatment of the hospitalized persons in custody. According to the plan of the Beijing Municipal Public Security Bureau, 243 professional medical personnel have been deployed in the detention facilities, as a result, medical treatment for detainees has been raised to a higher level. Along the same lines, clinics in those facilities have been equipped with additional instruments for conventional diagnosis and epidemic prevention, thus, medical conditions there have been comprehensively improved and the detainees' right to medical treatment fully guaranteed. Detention facilities in Xicheng, Haidian and Chaoyang districts worked with the Red Cross "999" emergency centre to set up joint clinics in the facilities, where social service institutions with necessary medical qualifications take up full responsibility for medial examination and treatment of ordinary diseases, thus guaranteeing timely detection, diagnosis and handling of acute and severe cases of detainees and prisoners. The No. 1 Lockup in Wuhan, Hubei province, gives careful health examination to every newly admitted detainee. In the case of female detainees, all of them must receive gynaecological examination in addition to conventional check-ups. If someone is found pregnant, or in the period of breast-feeding, or

contracted a transmissible disease, a recommendation would be made to alter the forced measures. In 2006, 3 such female detainees were found by the medical personnel of the lockup and all were recommended to the case-handling institution for pre-trial parole, thus promptly protecting the legitimate rights of the female detainees.

Oversight of the medical and hygiene conditions of detention facilities and prisons has always been a focus of attention in the work of the prosecution offices in the detention facilities and prisons. When an abnormal death of a convict occurred, the prosecution office would send its staff to examine the case and form a judgment on the cause of the death. Therefore, the living conditions as well as medical conditions for detained criminal suspects, defendants and prisoners serving their sentences in prison are guaranteed.

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?

There has been no definition of political prisoner in the Chinese law, still less a special approach to “political prisoners”. “Criminal penalty must be determined by law”, “criminal penalty must correspond with criminal responsibility” and “all are equal before law” are the three major principles laid down by the Chinese Criminal Code. All persons are protected equally by law. Anyone who commits a crime must bear responsibilities for his (or her) pernicious action.

China’s 1979 Criminal Code contains the definition of counter revolutionary crime. It penalizes crimes which jeopardize the national security. In the 1997 revised Criminal Code, the counter revolutionary crime was deleted and the crime of jeopardizing the national security was added. Its definition, in addition to retaining the wording “plot to jeopardize the sovereignty, territorial integrity and security of the motherland in collusion with foreign countries”, spells out in more explicit and specific terms cases of separating the country, armed rioting, subversion of the State power and overturn of the socialist system, as well as perpetration of these crimes jeopardizing the national security in collusion with agencies, organizations and personnel outside the country.

In the Chinese law, there is no “most favourable law” principle. The principle of referring to the old and lenient penalty is a legally applicable principle established by the Chinese Criminal Code and is followed in practice. It is mainly used to solve the problem of whether to pursue criminal responsibilities of those persons who had already perpetrated actions jeopardizing the society before the promulgation of the 1997 Criminal Code, and how to convict them and measure penalty. Paragraph 2 of Article 12 of the 1997 Criminal Code stipulates: “The judgment in force which was passed before the promulgation of this law and in accordance with the law in force then, continues to be valid.” This is why after the Criminal Code was amended in 1997, the convicts of the cases on which judgments passed by the people’s courts according to the 1979 Criminal Code already came into force are still serving their sentences. This is to uphold the dignity of law and authority of the established court decision.

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.

Article 17 of the Regulations of Detention Facilities stipulates: “The convicts who have been sentenced to death and not yet executed must wear shackles.” According to this provision, the Lockups put convicts sentenced to death in shackles and under special surveillance until death sentence is executed. This is a temporary and preventive measure aiming at preventing the relevant convicts from committing violence, escaping, suicide and actions disrupting the normal order in the lockup, therefore, not a part of “cruel, inhuman or degrading treatment or punishment”. According to the relevant rules of “the Rules of the Work of Lockups”, using shackles as a means of inquisition by torture and corporal punishment is strictly prohibited.

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.

The laws in China provide civil rights for convicts which are not restricted by law during their term of imprisonment. The law defines in specific terms all the rights a convict is entitled to during the whole process from being admitted into the prison to his (or her) release upon completion of prison term. Ill-treatment of prisoners and detainees by personnel in those facilities is prohibited by the Chinese law, and the former have the right to appeal, complaint and report according to law. The law explicitly stipulates that any prison personnel who committed malfeasance shall be subjected to criminal sanction.

The prison management in China attaches great importance to the training of convicts serving their sentences so that they may acquire skills for survival and employment when they return to society. Therefore, apart from routine labour and education sessions, various kinds of learning opportunities are available to them, such as school courses by correspondence or by journals, so that they can earn their qualification certificates on various subjects. In every day life, they are entitled to legal holidays and traditional festivals during which they are allowed to watch T.V. and videos and have cultural and sports activities, such as ball games and chesses. They are also organized to give various kinds of theatrical performances, have sports matches and knowledge competitions. In addition, they have the right to religious belief.

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?

In recent years, the Chinese government has adopted quite a number of measures against violence in prison. In 2005, a special rectification operation was launched in detention facilities and prisons across the country to strengthen standardized management. In order to establish a durable effect mechanism to prevent and suppress “prison overlord and tyrant”, the Regulations subjecting those convicts with “prison overlord and tyrant” behaviours to stricter controls in lockups were issued. In 2006, a reform of duty system was effected in lockups, calling for implementation of a principal-and-assistance management system in cells, so as to guarantee that all activities of the detainees are under the control of police, thus removing the soil for breeding prison overlords and tyrants.

In prison management, measures to control the violent type of crime are mainly: 1. to regulate behaviour and set strict demands. 2. to step up efforts to effect a change by persuasion, focusing on approaches of management in relation to emotional characteristics of the violent type of crime, so as to facilitate reform of prisoners. 3. to organize the convicts for activities, such as reading, speech contest and cultural and sports activities, to create a favourable environment for self-control and reform in civilized surroundings.

With regard to data on inter-prisoner violence, there are no such statistics. However, we can provide figures of prisoners died in prisoner violence from 2003 to 2007 as follows:

2003, 7 persons; 2004, 17 persons; 2005, 6 persons; 2006 9 persons; and 2007, 11 persons.

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).

Laws and regulations in China, such as the Criminal Code, the Criminal Procedure Law, Law on Protection of the Minors, Law on Preventing Minors from Committing Crimes, Law on the Prison, Penalty Law of Public Security Management, as well as the Regulations of the Remand Home for Juvenile Delinquents promulgated by the Ministry of Justice, provide effective legal guarantees for full implementation of juvenile justice standards. For example, the Law on Protection of the Minors devotes one chapter to legal protection of minors and provides rules in specific terms for handling cases involving minors by judicial organs, such as minors who committed criminal offences should be dealt with leniently, with penalty being reduced or exempted; when interrogating a juvenile suspect, or inquiring a juvenile witness or victim, his (or her) guardian must be notified to present, juvenile convicts should be separated from adults held in custody or serving sentences in prison; the minors in custody and serving a sentence who has not completed the compulsory education should be given compulsory education; when reporting cases of juvenile delinquency, their names, residences, photographs, pictures and any other information which may lead to identification of the minor shall not be disclosed in news reports, TV programmes, publications, websites, etc. For another example, Article 12 of the Penalty Law of Public Security Management stipulates, lenient or reduced punishment shall be given to those who are 14 but below 18 and breached the public security regulation; to those who are not yet 14, no penalty, but should order his (or her) guardian to strictly discipline him (or her). Article 16 of the Law on Prohibition of Drug Abuses stipulates, if a minor below the age of 16 is addicted to drug abuse, he (or she) may be exempted from compulsory treatment and rehabilitation in isolation.

In the judicial practice, the competent departments strictly abide by the relevant laws and regulations in the course of handling cases of criminal offences by minors, so as to effectively guarantee the legitimate rights and interests of juvenile criminal suspects and delinquents. With regard to juvenile suspects of criminal offences, especially those who did it for the first time, or is a casual offender, the criminal justice policy of leniency and harsh punishment supplementing each other is implemented and use of compulsory means, such as detention, is avoided as much as possible. The public security organs in some areas set up special task forces or designated staff who know well the characteristics of physical and mental development of minors and are good at giving ideological education to minors to handle criminal cases involving minors. In the course of handling those cases, due consideration is given to the physiological and psychological

characteristics of minors, and pointed education is given to them on the basis of their past behaviour, family conditions, cause of the offence, whether showing repentance, etc.

In prosecution organs and courts with no separate sections for handling cases of juvenile delinquency, prosecutors and judges, especially women prosecutors and judges, with rich experiences will be selected to handle those cases. Public prosecution and trial mechanisms which suit characteristics of minors have been set up to handle cases of juvenile delinquency in special juvenile courts. Cases of criminal offences by minors who are 14 but below 16 shall not be publicly prosecuted with no exception; and such cases by those who are 16 but below 18 normally are not publicly prosecuted either; cases of criminal offences committed jointly by adults and minors, normally they are separately prosecuted and tried.

With regard to juvenile delinquents, prisons in China, basing themselves on the guiding principle of “Combining punishment with reform aiming at transforming the person” and “ Education, Persuasion and Redeem”, have conducted pointed education by taking into full consideration of the characteristics of juvenile delinquents, with a focus on protection of their rights and interests, and adopted effective measures to ensure various regulations and juvenile justice standards are fully implemented.

(1) To improve the legal system to ensure institutional safeguards for the legitimate rights and interests of the minor. In December 1999, the Ministry of Justice promulgated the Administrative Regulations of Remand Homes for Juvenile Delinquents, spelling out the work policy, organizational structure, management system, education system, life and health system and appraisal system for juvenile delinquents serving their sentences. At present, a legal system with the Law on Prisons, the Criminal Code, the Criminal Procedure Law, the Law on Protection of the Minors and the Administrative Regulations of the Remand Homes for Juvenile Delinquents forming the main body, has taken shape. As a result, the work on protection of the rights and interests of juvenile delinquents has become more legally based and standardized.

(2) To create favourable discipline and education environment for juvenile delinquents by separate imprisonment. According to the Law on Prisons, Remand Homes for juvenile delinquents have been set up in all provinces for separate detention of them, so as to take into full account their physiological and psychological characteristics and protect their legitimate rights and interests.

(3) To strengthen direct management focusing on nurturing good behaviours. Juvenile delinquents are at the stage of psychological and physiological development characterized by a fairly strong plasticity in both thinking and behaviour. Strict house regulations and discipline are of paramount importance for their reform and correction and ensuring the effectiveness of their education and prison management as well as the quality of their transformation. In recent years, a series of rules and regulations that suit the characteristics of juvenile delinquents have been formulated in various places across the country, aiming at strengthening direct management according to the provisions of the law and relevant rules and regulations with a focus on nurturing good behaviour and effecting ideological transformation in a highly disciplined and orderly manner.

(4) To explore ways and means of psychological corrections to help juvenile

delinquents form sound personalities. In the light of the fact that the physiological and psychological development of juvenile delinquents has a transitional character due to their puberty, the remand home introduced psychological correction to give psycho-tests and psycho-counsel to juvenile delinquents and administer psycho-corrections to those showing signs of morbid psychological tendencies. This has been crowned with visible achievements as it sharpens the focus of the work in this field.

(5) To conduct a variety of supplementary education activities so that juvenile delinquents receive education and gain enlightenment through recreational activities. In addition to classroom education, remand homes organized various kinds of cultural activities and healthy supplementary education activities inside the confined zone, aiming at nurturing a sense of collective honour among juvenile delinquents, so that they become more adaptable in society.

(6) To mobilize resources in society for extensive help and education. Remand homes organize public help and education in various ways by tapping rich resources in society, thus tremendously increasing the work capacity in this field. Governmental departments, public institutions and enterprises, civil society organizations, public volunteers and relatives of juvenile delinquents have all become important forces in educating and redeeming juvenile delinquents.

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.

In December 2006, the public security organ in Shenzhen publicly announced the decisions on the cases of prostitutes and their clients who were rounded up during the special operation to crack down on criminal offences involving pornography. As the system of democracy and rule by law advances in China, the public's awareness of law increases constantly, raising new and higher demand on the law enforcement activities of the public security organs. Therefore, the Ministry of Public Security instructed the public security organs at all levels to firmly establish the concept of enforcing law for the people, further rectify their attitude towards law enforcement and further improve their approaches to law enforcement, so that law enforcement will be conducted in a civilized manner strictly according to law.

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)).

With regard to use of police instruments and weapons by the people's police, there are strict rules laid down by law and regulations, such as the law on the People's Police and the Regulations on Use of Police instruments and Weapons by the People's Police, which specify the different scenarios in which use of weapons is not allowed, use of weapons should stop immediately and use of dispelling, subduing and restraining instruments or weapons is permitted, as well as the legal responsibilities for illegal use of such instruments and weapons. In recent

years, public security organs at all levels carried out in-depth education on rule by law and enhanced transparency of police work and standardization of law enforcement operations. Great efforts have been made to solve problems of case-handling in violation of procedure, arbitrary law enforcement and law enforcement against rules. As a result, awareness of procedure, evidence, litigation and time-limit have further increased among the police. Their stronger legal sense has been manifested in their administration work and lawful case handling. There is a visible improvement in the quality of law enforcement as a whole. Cases of law breaking and discipline breaching have been reduced drastically. Further more, the police inspection department strengthened its function of on-site inspection and strictly implemented systems, such as compulsory measures be reported to the inspector's office for record, responsibility system for the first receiver of reports of homicide cases and the system of directly report to the authorities. Preventive police inspection of law enforcement prior to and during case-happening as well as real-time dynamic oversight of law enforcement process by network monitor have been strengthened, so as to detect and correct precursors and tendencies of excessive use of force by police to ensure strict, fair and civilized law enforcement by the police.

It should be pointed out in particular that the so-called "exile of the Dalai Lama" is an expression which is out of tune with historical facts. And the notion "dispersing the peaceful demonstrations by monks" is sheer fabrication.

The incident which happened in Tibet and the neighbouring areas in March this year was not "peaceful demonstration" at all, rather, it was an organized law-breaking serious incident of violence. In the course of handling the case, the law enforcement personnel strictly abided by law and performed their duty of protecting the safety of life and properties of the people, thus, "excessive use of force by police" does not exist.

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.

Human trafficking and sexual exploitation are criminal offences which are always subjected to severe suppression by the Chinese government, but do not belong to the realm of "torture" as defined by the Convention. Nevertheless, the Chinese side is willing to provide information as follows:

With regard to cracking down on trafficking, the Chinese government has adopted the following measures:

(1) To formulate and implement a national action plan against trafficking and establish a multi-departmental coordination and safeguard mechanism. On 13 December 2007, the Chinese Plan of Action against Trafficking of Women and Children (2008-2012) was promulgated for implementation. The plan points out that it is necessary to have a sound coordination and safeguard mechanism for the work against trafficking, to clarify responsibilities and mandates of the relevant departments and to establish a durable effect mechanism integrating prevention, prohibition, rescue and rehabilitation, so as to minimize physical and mental sufferings of the victims. With regard to institutional and safeguarding measures, the action plan decides to establish an inter-ministerial meeting system for work on actions against trafficking of

women and children. The inter-ministerial meeting system consists of 28 ministries and departments, including the Ministry of Public Security, the Legal Work Committee of the Standing Committee of the National People's Congress, the Ministry of Civil Administration, the Ministry of Human Resources and Social Protection. Based on the division of responsibilities as defined in the action plan, all the member ministries have formulated their respective detailed implementation plan of the Action Plan.

(2) To implement publicity and education activities, so as to proactively prevent and severely suppress the criminal activities of trafficking of women and children. In order to enhance awareness of the importance of the work against trafficking among governments at all levels, the relevant departments and all circles of society, publicity and education campaign and training activities of various kinds on protection of the legitimate rights and interests of women and children have been conducted across the country by the Ministries of Public Security, Civil Administration, Human Resources and Social Protection, as well as All-China Federation of Women. Public security organs have maintained a tough stance of high pressure and dealing heavy blows to crimes of trafficking and have for the past years effectively performed their duties by unremittingly implementing "anti-trafficking " special operation and subjecting the perpetrators to severe punishment.

(3) To place high on the agenda the setting up of rescue and aid agencies for the victims and effectively improve the rescue and aid mechanism for the rescued women and children. A number of rescue and aid centres have been set up by departments of public security, civil administration and women's associations. A variety of channels have been explored to rescue and assist the victims of trafficking, such as international aid projects, government subsidies and donation from society.

(4) To strengthen international cooperation on anti-trafficking projects and actively promote international judicial and police cooperation against trafficking. In recent years, the Chinese government has implemented a number of projects against the crime of trafficking in cooperation with the UN agencies and non-governmental organizations, such as UN Children's Fund, British Save the Children Fund, ILO, IMO, UNODC, UN Inter-agency anti-trafficking cooperation of the Greater Mekong Subregion, and all these efforts have been crowned with positive results.

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."

The Chinese side expresses its deep regret for raising the issue by the Committee on the basis of totally groundless rumours. In June this year, the Chinese government submitted its 10th to 13th reports on its implementation of the Convention on Elimination of All Forms of Racial Discrimination to the UN Committee against Racial Discrimination, which contain a detailed presentation of the relevant laws, policies and measures implemented by the Chinese

government for the implementation of autonomy in regions of national minorities and equality between all nationalities. Please refer to that document for more information.

China is a multi-ethnic group country, and according to the relevant provisions of the Constitution, all ethnic groups are equal to each other and enjoy the same rights and fulfil same obligations. During their detention and imprisonment, prisoners of ethnic minority groups, apart from being treated equally as other prisoners, will be given certain special treatment based on the custom of his (or her) ethnic group by the prison authorities according to the relevant provisions of Law. For example, Muslim foods are prepared for prisoners of minority ethnic origin who is a Muslim. If they are sick, they'll be given timely treatment like other prisoners. There is no such a case as to give involuntary psychiatric treatment to prisoners.

The procuratorate of Bajiahu District, Urumchi, Xinjiang Uyghur Autonomous Region, is specifically in charge of oversight of the prison work of the 7 prisons in Zone 8, Bajiahu District and accepts complaints and accusations from prisoners and their relatives. According to the above prosecution office, no complaint or accusation has been received from a prisoner whose name is Ablikim Abdureyim or his relatives.

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.

Security guards are personnel employed by guard service companies, public institutions or enterprises to perform security services, such as defence by person, escort, defence with technology, etc. Security guards are not civil servants and have no law enforcement right.

In February 2000, the Ministry of Public Security issued Rules for Regularization of Management of Security Service Companies which contains strict rules for the conduct of security service company, particularly security guards, such as security guards must not deprive citizens of their personal freedom, or restrict their freedom, or subject other persons to body search; must not distract other person's legitimate documents and properties; must not humiliate and beat, or instigate others to beat other person; must not obstruct staff of the State organs from performing official duties according to law; must not, on behalf of clients, dun or settle labour disputes, or engage in other conduct in violation of law and administrative regulations. At present, the legislative body in China is working on formulation of administrative regulations for management of security companies to spell out in more systematic, explicit and specific terms the rights and obligations of security guards, so as to further regulate the market order of security service and conduct of security guards on duty.

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.

It is the view of the Chinese side that work conditions in factories do not belong to the realm of "torture" as defined by the Convention and this issue is beyond the terms of reference of

the Committee. Nevertheless, the Chinese side is willing to provide the relevant information as follows:

The Chinese government has always attached great importance to workers' right to safety and health. Following promulgation of the Law on Prevention and Treatment of Occupational Diseases and Rules of Labour Protection in the Use of Poisonous Materials in 2002, the relevant department formulated 17 sets of compulsory rules concerning the law and a number of normative standards, thus, a system of legal standards for oversight of occupational health is taking shape, and safety and hygiene conditions of work place and labour protection in the field of occupational health have been basically regularized.

To ensure implementation of the relevant laws and regulations and protect health and safety of workers, the Chinese government will further adopt the following measures: 1. to closely monitor implementation by employers of the relevant laws, rules and regulations and standards concerning occupational health, so as to motivate their conscientious implementation. 2. to faithfully implement the reporting system for hazardous items. 3. to put in place a licensing system of occupational health to regularize business conduct. 4. to subject work places to stricter testing and monitoring of occupational hazards. 5. to find out hidden hazards for their timely removal and improving work conditions. 6. to strengthen hygiene inspection of work places. 7. to seriously investigate accidents related to occupational hazards and affix responsibilities to deter illegal conduct.

The Chinese government subjects places of poisonous and hazardous operations to strict oversight and regulation, by launching special operations, such as special operation to regularize production, marketing and use of poisonous and hazardous chemicals; special operation to bring under control hazards of occupational disease in rural township enterprises and among self-employed individuals; special operation to inspect occupational health work in the target industries and target groups of the population. In recent years, the department concerned in China investigated and handled the following cases: farmers in Gaobeidian, Hebei province, poisoned by benzene; benzene poisoning case of Tianhua company in Beijing; benzene poisoning case of Shifeng group in Shandong province; farmers from outside working in Xianyou country, Fujian province, contracting pneumoconiosis; incident of occupational hazards of Chongqing Southwest Pharmaceutical company Ltd, etc. As a result, 117 persons were subjected to criminal penalty by justice organs, of whom, 17 property owners were sentenced to 1-4 years' imprisonment respectively.

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.

The Chinese government attaches great importance to anti-terrorist work and has adopted effective measures in the fields of anti-terrorist legislation, mechanism building, criteria of

identification of terrorist organization and terrorists, international cooperation against terrorism, etc., aiming at preventing and suppressing terrorism.

(1) To strengthen anti-terrorist legislation. The 1997 Criminal Code contains provisions on criminal activities of terrorists. On 29 December 2001, the Standing Committee of the 9th National People's Congress adopted at its 25th session the 3rd Amendment of the Criminal Code, which provides supplementary revisions by adding the crime of financing terrorist activities and the crime of intentionally spreading false terrorist information and subjecting crimes of organizing, leading, participating in terrorist organizations to more severe penalty. The Penalty Law of Public Security Management adopted by the Standing Committee of the 10th National People's Congress at its 17th Session held on 28 August 2005 provides penalties, such as detention and fines, for illegal manufacture, transaction and use of dangerous materials in violation of regulations, so as to tighten management and control of such materials.

(2) To strengthen building of an anti-terrorist coordination agency in China. Ministries of Public Security, State Security and Foreign Affairs, as well as the military and armed police have all respectively established special bodies to deal with and handle cases of terrorism, and formed a relatively satisfactory inter-ministerial cooperation mechanism.

(3) To strengthen anti-terrorist capacity building.

Coordinated and guided by the anti-terrorist special body of the Ministry of Public Security, all regions and relevant departments have strengthened focused preventive measures with a clear target of prevention in mind to guard against occurrence of terrorist attacks and prevent terrorists from illegally crossing the Chinese border for terrorist activities. In addition, many law enforcement organs and relevant government departments have formulated contingent action plans, strengthened anti-terrorist command system and building of anti-terrorist force, and intensified anti-terrorist drills, to ensure highly efficient handling of incident of terrorist attack once it occurs.

(4) To identify terrorist organizations and terrorists.

In December 2003, the Ministry of Public Security published the first list of terrorist organizations and terrorist, which identifies 4 terrorist organizations and 11 terrorists, of which, the "Eastern Turkistan Islamic Movement" has been identified by the 1267 Committee of the UN Security Council as international terrorist organization and is included in the comprehensive list of sanctions.

(5) To enhance anti-terrorist awareness and education of the people. In areas where terrorist activities are rampant, a variety of means have been adopted to enhance awareness of the people to prevent and fight against terrorist activities, to motivate them to participate in the anti-terrorist struggle, to prevent establishment of terrorist and extremist organizations, and to contain occurrence of terrorist acts.

(6) To tighten oversight and control of dangerous materials.

The legislative body and competent departments of the government have formulated and promulgated laws and administrative regulations concerning management of dangerous materials

and established strict management system to tighten oversight and control of firearms, munitions, explosives, poisonous and hazardous materials, radioactive materials, biological and chemical materials. At the same time, the customs inspection and control as well as immigration and border control have been tightened to prevent inflow of dangerous materials from abroad.

(7) To cut off financial sources of terrorists. Anti-terrorism in the field of finance is one of the effective means to prevent and crack down on terrorist activities. China faithfully fulfils its treaty obligations under the International Convention for the Suppression of the Financing of Terrorist, and has adopted a number of effective measures to resolutely stop any act which finances and supports terrorist organizations, particularly in the field of finance, where multiple rules and regulations have been promulgated to strengthen anti-money-laundering mechanism and to tighten the monitoring and control of illegal financial transactions, with a view to closely guarding against funding activities of terrorists.

(8) To strengthen international cooperation against terrorism. China actively participates in the UN Convention against Terrorism and attaches great importance to strengthening anti-terrorist cooperation with international organizations in the region. As a Member State of the Shanghai Cooperation Organization, China has signed with other member states the Shanghai Convention on Combating Terrorism, Separatism and Extremism and jointly established the regional anti-terrorist agency of the Shanghai Cooperation Organization for effective cooperation against terrorism. There are also anti-terrorist exchanges between China and ASEAN. In terms of bilateral cooperation, China has established anti-terrorist consultation mechanism with the United States, Russia, Pakistan, India, Germany, Canada, and has entered various types of anti-terrorist dialogues and cooperation with the UK, ROK and Saudi Arabia.

In its struggle against terrorism, China attaches great importance to the protection of human rights by handling criminal cases strictly according to law and guaranteeing the legitimate right of criminal suspects and defendants to litigation.

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?

Making the declaration under Articles 21 and 22 is an optional provision and the right to make reservations to the Convention is also a part of the sovereignty of States parties. The Chinese government faithfully fulfils its obligation under the Convention and respects the Committee's recommendations, and at the same time, China's national conditions should also be taken into full account. At present, this issue is under careful study by the Chinese government.
