

CHINA HUMAN RIGHTS AND RULE OF LAW UPDATE

United States Congressional-Executive Commission on China

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CECC Releases Chinese Translation of 2011 Annual Report Executive Summary

A Chinese translation of the Executive Summary of the 2011 Annual Report of the Congressional-Executive Commission on China is now available. The executive summary includes major trends such as disregard for and misapplication of the law, and increased Communist Party control over society, as well as potential areas for progress.

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CECC News and Analysis

Relatives and Supporters of Chen Guangcheng Harassed, Beaten, Detained

Following his escape from illegal home confinement on April 22, 2012, legal advocate Chen Guangcheng sought safety

in the U.S. Embassy in Beijing for six days while U.S. and Chinese officials negotiated a deal for his and his family's freedom. Chen left the U.S. embassy under U.S. official escort on May 2 to receive medical treatment at a nearby hospital for injuries sustained during his escape as well as for an ongoing gastrointestinal illness.

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Chinese Human Rights Defender Chen Guangcheng Escapes Illegal Home Confinement

On April 27, 2012, international human rights organizations and news agencies reported that human rights defender Chen Guangcheng escaped from his home outside of Linyi city, Shandong province, on or around April 22, after being subjected to extralegal home confinement (*ruanjin*) for 19 months. Chen reportedly received assistance from others who brought him to a "secret location" in Beijing. BBC and New York Times, citing human rights advocate Hu Jia and Chinese state security sources, have suggested that Chen may currently be in the U.S. Embassy in Beijing, but those reports could not be confirmed.

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Chinese Authorities Implement Real Name Microblog Regulations

Beginning March 16, authorities in Beijing and Guangdong province reportedly began enforcing a requirement that microblog users must register their accounts with their real name and identity information before being allowed to post or re-post content online. The announcement that authorities would begin enforcing this requirement follows the December 2011 issuance of regulations introducing this registration requirement in several cities in China, including Beijing, Shanghai, Tianjin, and the Guangdong cities of Guangzhou and Shenzhen. Given that Beijing and Guangdong are home to a number of China's major microblogging service providers, the real name registration requirement could affect large numbers of microblog users in China. Authorities have expressed concern over "online rumors," and the recent measures follow a spate of high-profile incidents in recent years in which large numbers of Chinese microbloggers took to their blogs to openly criticize the government.

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Chinese Authorities Reportedly Repatriate North Korean Refugees

In early March 2012, South Korean news outlets and CNN reported claims that Chinese authorities had repatriated approximately 30 North Korean refugees who were detained in northeast China. The reported repatriations occurred during the 100-day mourning period for the late Kim Jong-il, a time during which his son and new leader of North Korea vowed to "exterminate three generations" of any family with a member caught defecting. The fate of those repatriated or their family members is not known. China's policy of considering all North Korean refugees economic migrants violates international law to which China itself is subject and which prohibits China from returning refugees who face the risk of political persecution. The case of the North Korean refugees prompted international concern over China's repatriation policy, including from the UN High Commissioner for Refugees.

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Zhu Yufu Case: Chinese Authorities Application of Inciting Subversion Provisions Falls Short of International Standards

In February 2012, a Chinese court sentenced long-time democracy activist Zhu Yufu to seven years in prison on the charge of "inciting subversion of state power." The court's judgment claimed that his writings and activities "harmed national security" and that in early 2011, amid Internet calls for "Jasmine" protest rallies in China, Zhu sent a poem and information to a number of people via the Internet "inciting" them to commit subversion. The court's judgment, however, did not explain how Zhu "harmed national security" or indicate the potential or real subversive effect of his words. Chinese criminal provisions regarding inciting subversion are vague, and, as in Zhu's case, their application falls short of international standards because officials have used them to punish peaceful political expression and activity.

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Amended Occupational Disease Law Seeks To Improve Protections for Workers as Occupational Health Continues To Face Risks

On December 31, 2011, the National People's Congress Standing Committee passed an amendment to the PRC Law on Prevention and Control of Occupational Diseases, effective the same day. The amended law contains provisions

that could improve worker rights by making it easier for workers to obtain the certification they need in order to receive compensation for work-related diseases. It also requires the government and employers to take general measures to protect the health of workers, including dedicating sufficient funding to the prevention and control of occupational diseases. According to recent reports from Chinese and international media organizations, factors that continue to pose risks to workers' health include inadequate government supervision, illegal actions by employers, a lack of transparency in diagnosing and certifying diseases, and a lack of knowledge among workers about health in the workplace. In addition, officially reported cases of occupational disease have grown at increasing rates in recent years, especially in the mining sector.

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China Revises Foreign Investment Guidance Catalogue

On December 24, 2011, Chinese authorities released the revised foreign investment guidance catalogue, which came into effect on January 30, 2012, repealing the 2007 catalogue. The revisions implement the changing priorities of the Chinese government and the Chinese Communist Party in developing the Chinese economy, and directing foreign investment in China toward certain industries to meet these priorities. The revision of the catalogue, however, does not lessen the role of the Chinese government in the economy, or do anything to combat the lack of transparency in the foreign investment approval process that all foreign investment in China must undergo.

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Officials Review Second Draft of Mental Health Law, Final Draft Expected in 2012

China's first national mental health law continues to move through the final stages of consideration, and unofficial sources indicate that the law may be finalized in 2012. In June 2011, a new draft was released for public comment, and in October 2011, the National People's Congress Standing Committee reviewed a revised draft of the proposed legislation. The October draft retains language from the June draft, but also contains some revisions that, if faithfully implemented, could further constrain officials from abusing psychiatric detention to stifle or punish dissent. Despite these potential improvements, however, the October draft continues to raise concerns regarding the law's compliance with international standards to which China has committed. Specific concerns include the draft's failure to make independent reviews of an initial diagnosis mandatory, lack of provision for the appointment of legal counsel, and lack of safeguards that would place time limits on involuntary commitment.

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Workers Demonstrate in Various Industries and Locations in Late 2011 and Early 2012

From late fall 2011 through early 2012, Chinese and international media outlets reported on a series of strikes and demonstrations in at least 10 provincial-level areas in China that some international news sources and labor rights advocates characterized as the most significant series of worker actions since the summer of 2010. While the exact number of worker actions that occurred during this period is difficult to determine, they involved a variety of industries, and recent statements from the Chinese government reflected concern over social strife as a result of labor disputes. In some cases, workers demonstrated in response to cost-cutting measures that managers took, reportedly designed to pass the costs of slowed macroeconomic activity on to workers. In some of those cases, workers said their motivations for demonstrating included the failure of management to consult with them in the implementation of cost-cutting measures. In other cases, workers reportedly demonstrated in response to wider systemic abuses and other labor-related grievances, such as excessive overtime demands and abusive management practices. Management and local officials in some cases reportedly used force against or detained demonstrating workers while seeking to put a stop to these disputes.

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Environmental Protection Law Draft Revisions: Authorities Remove Language Regarding Strengthening Public Participation, Accountability, and Transparency

Chinese lawmakers are discussing draft revisions to the 1989 PRC Environmental Protection Law but do not appear poised to conclude the first reading prior to the end of the current legislative calendar in March 2011. Lawmakers already eliminated language from the draft revisions that expressed stronger official support for public participation, and improved incentives for governmental accountability and enforcement in the environment sector. Removing the language may have implications for developing the rule of law and democratic participation in the sector, and for channeling public demand for a cleaner environment in a manner that prevents protests. Top leaders limited the scope of revisions, and while environmental authorities later incorporated recommendations from experts and central and local

officials before submitting the proposed draft revisions to the National People's Congress Standing Committee for review, the role of the non-governmental sector has been less clear.

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Enterprise Labor Dispute Provisions Emphasize "Harmony" and "Stability," Do Not Address Fundamental Worker Rights Issues

On December 1, 2011, China's Ministry of Human Resources and Social Security issued the Provisions on Consultation and Mediation for Enterprise Labor Disputes, effective January 1, 2012. The Provisions impose a new requirement on all medium and large enterprises to establish committees responsible for mediating disputes in the workplace, and the Provisions stipulate some additional, limited protections for worker rights. The Provisions, however, fail to address the fact that workers in China are not guaranteed the right to organize into independent unions, leaving the government, Communist Party, and employers with greater bargaining power in the process of dispute resolution. Workers continued to organize public demonstrations in late 2011 and early 2012 to advocate for their demands in labor disputes, and in some of those cases, officials tasked with maintaining "harmony" and "stability" used force against or detained workers while trying to stop such demonstrations. In addition, recent statements and reports from high-level officials, as well as local governments and Party organizations, indicate a continued emphasis on prioritizing "harmony" and "stability" in dealing with labor disputes.

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Chinese Authorities Issue New Regulations To Control Journalists and "Unverified Reports"

In mid-October 2011, the Chinese government released regulations that aim to control journalists' use of "unverified information" and to regulate news agencies' review procedures. The regulations prohibit Chinese journalists from directly including "unverified information" obtained from the Internet or mobile text messages in their reporting. In addition, the regulations require that news agencies improve the system of accountability for "fake" or "false" news reports, terms that are not defined in the regulations. The October 2011 announcement followed official calls to restrict news reporting and to limit so-called "rumors" in the media.

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The U.S. and China Hold the 22nd Meeting of the JCCT in Chengdu, China on November 20 to 21, 2011

On November 20 to 21, 2011, the United States and China held the 22nd meeting of the Joint Commission on Commerce and Trade (JCCT). The meeting addressed areas of concern in the development of rule of law in China, including China's failure to protect intellectual property rights (as required under China's WTO commitments), market access on a level playing field in strategic emerging industries such as new energy vehicles, and innovation. However, the JCCT's achievements were reportedly modest.

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Status of Uyghur Children in Detention Unknown Following Border Clash

Five Uyghur children from a county in Hoten, Xinjiang, are in detention, following a December 2011 clash between a group of Uyghurs and security officials. Local sources say the children were part of a group attempting to leave China due to religious persecution, while official Chinese sources describe the group as terrorists traveling to Pakistan for training. According to multiple accounts, a public security officer was stabbed to death after officials confronted the group, and security forces then opened fire. Official sources report four people in the group were killed and four wounded and taken into detention. Local sources say those in detention are five children, at least four of whom range in age from 7 to 17, and that information on their status and health conditions is not known. Security in the area reportedly remains tight as authorities have attempted to restrict the flow of information about the events and detained family members and others in the aftermath of the clash. The news follows other recent incidents that Chinese authorities have described as terrorist attacks, while other sources have reported facts that differ from the official accounts.

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Beijing Cracks Down On Private Security Companies Used to Detain Petitioners

According to Global Times, a publication that operates under the official People's Daily, Beijing municipal Public

Security Bureaus launched an official six-month "crack down" on illegal detentions of petitioners by private security companies. The crackdown comes after Chinese news media exposed instances of abuse by "stability maintenance organizations" under contract by local governments to prevent petitioners from airing their grievances to the central government. While authorities have cast the "crackdown" as a serious attempt to restrict the use of private "stability maintenance organizations," the implications and effectiveness of the crackdown remain unclear.

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