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An NGO Submission to the UN Committee Against Torture for the LOIs and LOIPR  
Of the 54<sup>th</sup> Session for the 6<sup>th</sup> Periodic Report of the People's Republic of China on the  
Implementation of the Convention Against Torture and Other Cruel, Inhuman or  
Degrading Treatment or Punishment

The China Human Rights Concern Group (CHRLCG “The Concern Group”) is a non-profit organization based in Hong Kong Special Administrative Region (HKSAR). Its objective is to advocate for the protection of the human rights lawyers and legal rights defenders in China. It was established on 20 January 2007 by a group of lawyers, legislators and academics in Hong Kong. Despite their endeavors to fight for the rights of the underprivileged within the legal framework, many lawyers and legal activists in China have been subjected to tremendous political pressure and unfair treatment by the Chinese authorities. They and their families deserve more attention and support from Hong Kong and the international community. We believe that the status and rights of the lawyers must be respected before China can successfully develop constitutionalism and rule of law.

The Concern Group has prepared this briefing for the Committee against Torture to assist its consideration of China's 6<sup>th</sup> periodic report under the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (“the Convention”). In line with the scope of our organization, this briefing is confined to mainland China and excludes the Special Administrative Regions of Hong Kong and Macau.

Cases to exemplify issues of our concerns are presented in the form of footnotes.

#### RESERVATIONS

1. China made reservation upon signature and confirmed upon ratification: "(1) The Chinese Government does not recognize the competence of the Committee against Torture as provided for in article 20 of the Convention."(2) The Chinese Government

does not consider itself bound by paragraph 1 of article 30 of the Convention."

We urge China to fully recognize the international mechanism and render itself fully accountable and bound by the terms of the Convention.

**Q(1): When will China lift the reservation?**

ARTICLE 1 AND 4: DEFINITION OF TORTURE AND CRIMINALIZATION OF ALL ACTS OF TORTURE

2. Despite China's 2008 reply to the 2008 the Convention List of Issues ("LoIs"), claiming the existence of definition of torture and the relevancy of various laws in preventing it, we are concerned that the definition cited in the reply has remained limited and did not fully address the basic elements, that of the nature, purpose and severity of the treatment applied, that constitute an act of torture as prescribed in the Convention.

More significantly, with existing laws and monitoring mechanism being defective, torture and inhuman treatment has remained a daily experience of many of those being targeted as political dissidents, human rights defenders and sometimes, lawyers who insist to take up human rights related cases.

**Q(2): Given the discernible gaps and inadequacy in the existing laws, will the Chinese government incorporate into its Criminal Code a specific article to prohibit torture with the purpose and spirit of the Convention fully and comprehensively addressed? If yes, when? If no, why not?**

ARTICLE 2: EFFECTIVE MEASURES TO PREVENT TORTURE

■ Defective Laws, Poor implementation and Monitoring

3. Articles 32, 33 and 37 of the Criminal Procedure Law stipulate that criminal suspect(s) and defendant(s) have the right to entrust a lawyer, and that defense lawyers may have meeting and correspondence with criminal suspects or defendants who are under detention.

However, for many human rights related and so-called political sensitive cases, detention centres at local level most often will refuse defense lawyers' requests to meet their clients. Those deprived of the right to meet their lawyers are often

subjected to torture and abuse.<sup>1</sup>

**Q(3): What has the Chinese government done to effectively supervise law enforcement units at local level to ensure that the suspects' and defendants' rights to meet lawyers are upheld? What penalties are in place for law-enforcement agents and judicial personnel if they violate suspects/defendants' right to meet their defense lawyers?**

4. Article 37 of the Criminal Procedure Law also provides that for “crimes endangering State security, involving terrorist activities or involving significant amount of bribes, defense lawyers shall obtain the approval of investigating organs before they meet with the criminal suspects.” Due to the lack of definition for, and the elusiveness of the concept of “national security”, this provision has been commonly used to deprive a suspect or defendant – often dissident, human rights defender and or lawyer who represent them, his or her right to meet with a lawyer. Hence subjecting him or her again to torture and or abuse.<sup>2</sup>

**Q(4): Will the Chinese government clarify what kind of cases are to fall under the category of “national security” with suspects and defenders thereby deprived of their right to meet with lawyers? Who are to decide, and what criteria are used in making such decision-making?**

5. Article 64 of the Criminal Procedure Law provides that “according to the circumstances of a case”; a suspect or defendant may be compelled to “residential surveillance.”

According to the legislative intent, “residential surveillance” is meant to be a mandatory measure of minor degree, and it has been employed in this way in most of the cases.

Only in exceptionally “grave” cases implicating “national security and or terrorist

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<sup>1</sup> Mr. Yu Wensheng (余文生) is a Beijing human rights lawyer who was criminally arrested by the Beijing Daxing District Public Security Bureau with the charge of ‘picking quarrels and making troubles’ on 13 October 2014 for performing his legal duties. During detention, neither his family nor lawyers were allowed to meet with him. Yu was held incommunicado for 99 days. He was finally released on bail on 20th January 2015 with legal professionals’ continuous attention and lawyers’ petition. Yu was severely tortured during detention. Now he has difficulties in walking and climbing stairs, and is suffering from hernia. He received a surgery on 2 February 2015 and doctors advised him to stay in hospital for more than one week. Yu’s health is in a very bad situation, which is very different from the past.

<sup>2</sup> Mr. Chang Boyang (常伯阳) is a Henan human rights lawyer who was detained on suspicion of “gathering a crowd to disrupt public order” on 27 May 2014 for his legal representation of a number of detained human rights defenders in Henan province. On 29 November 2014, Chang was released on bail following a 6 months detention in Zhengzhou No. 3 Detention Centre, during which Chang was not allowed to meet with neither his lawyers nor families. Chang’s lawyers were told by the Zhengzhou Police that they could not meet with Chang Boyang because his case is related to “endangering national security”.

activities” or in case where no fixed domicile can be identified, “residential surveillance” shall be enforced at the domicile of the suspect or defendant.

However, when it comes to targeted individuals, such as dissidents, human rights defenders or lawyers representing cases of human right implications, “residential surveillance” will almost always arbitrarily take place in “designated place of residence”, subjecting these individuals to complete loss of personal liberty, as well as to full control and manipulation of the law-enforcers who may summon, interrogate and abuse them any time at will.<sup>3</sup>

**Q(5)(i): Will the Chinese government explain the meaning of “according to the circumstances of a case” as in Article 64 of the Criminal Procedural Law, and the criteria in qualifying the application of “residential surveillance”?**

**Q(5)(ii): Will the Chinese government explain why when “residential surveillance” is applied to dissidents, human rights defenders or lawyers representing cases of human right implications, it is almost always enforced at “designated place of residence” rather the individual’s own domicile, despite their cases not being one of “national security” nor “terrorist activities” in nature.**

**Q(5)(iii): Please explain the differences, in terms of rights of the suspects and defendants implicated and facilities provided, between a “designated place of residence” and a detention centre. What measure has the Chinese government taken to effectively prevent torture and abuses being taken place in “designated place of residence”?**

**Q(5)(iv): Please provide data and statistics of individuals being subjected to “residential surveillance” at “designated place of residence” between 2008 and 2014. What was the percentage of these individuals being charged and successfully convicted?**

6. Article 83 of the Criminal Procedure Law provides that the family of the detainee shall be notified of the detention within 24 hours after the detention, unless the notification cannot be processed or where the detainee is involved in crimes

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<sup>3</sup> Mr. Tang Jingling (唐荆陵) is a Guangzhou human rights lawyer who was subjected to residential surveillance for 5 months and 1 day in 2011. He was taken away on 31 Feb 2011 to Guangzhou Dashi Police Training Centre and from 6 Feb onwards, he was questioned by the police for more than a week. The police officers rotated every 8 hours every day and Mr. Tang was not allowed to sleep. Mr. Tang protested to them about this and said such acts amount to torture under the Convention, but the police officers replied that “this is the order from the superior”. It was not until Mr. Tang was shivering all over, his hands became numb, his heart felt bad and his health was in serious danger that he was allowed to sleep for 1-2 hours a day.

endangering State security or crimes of terrorist activities, and such notification may hinder the investigation.

However, it has become apparent that in recent years, and during the 2011 Jasmine Revolution in particular, many families of dissidents, human rights activists and lawyers representing them did not receive official notification when these latter were arrested and or detained. Cases of enforced disappearance have turned up as means for intimidation and coercion as a result. In between 2014 and 2015, there have been several cases of lawyers and activists being subjected to enforced disappearance or detention incommunicado for over 3 months. There is evidence of them being tortured during their detention.<sup>4</sup>

**Q(6)(i): Will the Chinese government explain how the implementation of Article 83 of the Criminal Procedure Law is monitored as that the detainee family's right to information, and the detainee's right to meet his or her family are both well protected?**

**Q(6)(ii): What measures will the Chinese government take to effectively prevent and prohibit enforced disappearance from taking place?**

7. Articles 154, 155, 156 and 169 of the Criminal Procedure Law stipulates that an extension of the pre-trial and or pre-conviction detention period, respectively up to 14-3/4 months and 28-1/4 months, can be applied for cases that are “major”, “complex”, “grave” or “cannot be concluded within the time limit”.<sup>5</sup>

**Q(7)(i): Please explain the criteria and standards of qualifying a case as “major”, “complex”, “grave” or “cannot be concluded within the time limit” in order for extension of pre-trial/ pre-conviction detention period to be applied?**

**Q(7)(ii): Will the Chinese government attest the application of the**

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<sup>4</sup> Mr. Tang Jitian (唐吉田) is a Beijing human rights lawyer, he was the defense lawyer of Falun Gong, forced eviction victims, AIDS patients etc. In February 2011, after his attendance of a lunch meeting about Chen Guangchen (陈光诚), a Chinese rights lawyer, the police barged into his home, attacked and abducted him. His family and lawyers were not notified of his whereabouts and during the detention he was exposed to cold wind for prolonged period of time, thus he was diagnosed with tuberculosis.

<sup>5</sup> Mr. Pu Zhiqiang (浦志强) is a prominent human rights lawyer and partner at the Huayi Law Firm in Beijing. Police seized Pu on May 4, 2014, after he attended a private event the previous day commemorating the 1989 Tiananmen Massacre, and he was criminally detained two days later. Pu was arrested just as the legal limit for holding him under criminal detention was set to expire. He told his lawyer during a visit in June 2014 that he was being interrogated for up to 10 hours a day and that his health was worsening, in part due to inadequate treatment for his diabetes. Pu also suffers from high blood pressure and high cholesterol. Officials confiscated his medication when he arrived at the detention facility in Beijing, and he was later offered pills that he did not recognize. Before Pu was arrested, an application for his medical bail was rejected, with officials stating Pu would “pose a danger to society” if released. In November, the public security bureau recommended he be tried on two additional charges – “inciting ethnic hatred” and “inciting separatism” – reportedly due to a social media post Pu had written that criticized government policies in Xinjiang.

**“proportionality” and “necessity” test and principles in the measures of prolonged pre-trial and pre-conviction detention?**

**Q(7)(iii): Will the Chinese government review and revise respective Articles in the Criminal Procedure Law to effectively shorten the period for pre-trial and pre-conviction detention by, for instances, improving the bailing system. If yes, when to start? And if not, why not?**

**Q(7)(iv): Please provide data and statistics regarding rate of criminal cases being granted bail between 2008 and 2014.**

8. Article 105, 290 and 293 of the Criminal Code regulates respectively acts of “subverting the political power of state”, “inciting the subversion of the political power”, “assemble to disturb public order with serious consequences”, “assemble to attack state organs” and “undermine public order with provocative and disturbing behaviours” (this latter more commonly translated as “picking quarrels and provoking disturbances”).

The crimes have however remained ambiguous in their definitions. Cases in recent years showed that these crimes have increasingly used to target human rights defenders and activists, as well as lawyers in their defense.<sup>6</sup>

**Q(8)(i): Please elucidate the criteria and standards used to qualify the application of the crimes of “subverting the political power of state”, “inciting the subversion of the political power”, “assemble to disturb public order with serious consequences”, “assemble to attack state organs” and “undermine public order with provocative and disturbing behaviours” (“picking quarrels and provoking disturbances”)**

**Q(8)(ii): Please provide respective data and statistics to indicate how many lawyers have been arrested on ground of the above crimes and how many**

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<sup>6</sup> Shenzhen lawyer Jiang Yuanmi (蒋援民) is the lawyer of the Sanya farmers, he posted online exposing the corruption of the Secretary-General, and reported to the relevant departments about the Public Security Department intervention to land disputes and torture of the farmers. He was acting in his capacity as the defense lawyer for the farmers and fulfilling his citizen’s responsibility by reporting wrongs by the departments. However, the law was used and he was arrested in 2013 for “disturbing public order to a serious extent that work cannot go on and caused heavy losses”. During the 170 days detention, he was not given prompt medical care and his legs’ condition was worsened and he couldn’t stand or walk for more than 3 minutes.

Mr. Pu Zhiqiang (浦志强) is a Beijing human rights lawyer, who was put in criminal detention in May after he joined an event marking the 25th anniversary of the Tiananmen crackdown, has been charged with "picking quarrels and provoking trouble", “inciting to split the country”, “inciting racial hatred” and “illegally obtaining personal information”. About 30 microblog messages sent by Pu from 12 Weibo accounts between 2011 and 2014 were used to indict him. He faces a lengthy jail term.

**successfully convicted between the years of 2008 and 2014.**

9. Article 26 of the Detention Centre Regulations stipulates “a detention centre shall be equipped with the necessary medical instruments and common pharmaceutical products. An inmate falling ill shall be given timely care; one in need of hospitalization shall be given prompt treatment by the local hospital; one whose illness is serious may be released on bail pending trial, in accordance with the law”. Similar provisions also exist in the Detention House Regulations and in the Criminal Procedure Law to ensure the medical care and treatment for detainees in need.

However, cases have occurred in recent years in where health conditions of human rights activists and lawyers in detention deteriorated, leading even to death, consequential to the deprivation of timely medical care and treatments. Examples include Mr. Jiang Yuanmin (lawyer), Cao Shunli (human rights defender, deceased), Pu Zhijiang (lawyer) and Wang Yonghang (lawyer, disabled).<sup>7</sup>

**Q(9)(i): Please clarify the meaning of “serious illness” and the criteria used to qualify the application of measures noted in Article 26 of the Detention Centre Regulations.**

**Q(9)(ii): Please provide data and statistics on number of detainees with serious illness have been hospitalized with treatment as provided by Article 26 between 2008 and 2014. For those detainees admitted to hospitals, who paid for their medical fees?**

**Q(9)(iii): Please provide data and statistics on number of suspects and defendants not admitted to the detention centres, dismissed, and granted bail, as a result of serious illness. Number of detainees deceased, respectively in detention centres and in administrative detention houses, as a result of lack of timely medical care and treatment? What measures have been taken to penalize the managing personnel of these detention facilities, and what redress has been provided for the detainees’ family, in the case of death due to lack of timely**

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<sup>7</sup> Since 2007, Wang Yonghang (王永航) has been the defense lawyer of Fa Lun gong. He has written an open letter to department of justice in 2008 saying that the government’s accusation to Falun Gong is unconstitutional and unlawful. On 16<sup>th</sup> June 2009, he represented the Falun Gong member, arrested at home and detained at Dalian detention centre. He was beaten up during detention and his right leg broke. Later he was sentenced to jail for 3 years. During the 3 years, his broken leg was not given medical care and was inflamed. His leg is now permanently disabled. Furthermore, he was intubated and beaten up by the jail doctor and inmates. After the first intubation, his airway bled. The later intubation made him almost suffocate. After the appeal in 4<sup>th</sup> Feb 2010 which sentenced him to 7 years, he continued to be tortured in jail. On 11<sup>th</sup> Oct 2010 and the day after, the jail officers ordered the other inmates to beat him up. Because he was tortured for a prolonged period, in May 2012, he caught Pneumonia, his chest was congested and fluid was found in his stomach. He is now paralyzed waist down.

**provision of medical care and treatment?**

10. Article 3 of the Counter-espionage Law and Article 4 of the Criminal Procedure Law entrust state security personnel with power to arrest and to conduct administrative detention.<sup>8</sup>

Article 17 of the Counter-espionage Law stipulates that respective personnel shall “perform their duties strictly according to law, not to exceed one’s mandates, or abuse one’s power or to infringe the legal rights and interests of individuals and organisation.

**Q(10)(i): What measures has the Chinese government taken to effectively prevent and prohibit power abuse and acts of torture, inhuman and degrading treatment by state security personnel?**

**Q(10)(ii): What mechanism and procedure exist to effectively monitor and oversee the exercise of power by the state security personnel? What mechanism exists for redress and remedy in case of abuse and torture?**

11. Article 37 of the Law of Lawyers provides a lawyer in court with legal immunity, that s/he “shall not be legally liable” for the opinions s/he presents as an agent ad litem or defender in court,” but with the exception of those endangering “state security, maliciously slander another person, or seriously disrupt the court order”.

However in daily reality of courtrooms, it is not uncommon for lawyers, especially those representing activists or dissidents, to be beaten up or barred from entering the courtroom by force. Even if they could manage to get into the courtroom, they might still be expelled by the judge or be violently evicted by police in the course of the defending his or her client.<sup>9</sup>

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<sup>8</sup> Mr. Jiang Tianyong (江天勇) was the defense lawyer of religious groups, he was detained and interrogated by Beijing National Security Officials for 13 hours after his visit to the United States in November 2009. On 16<sup>th</sup> February 2011, Mr. Jiang, after attending a lunch gathering and discussing with lawyers about how to assist Cheng Guangcheng, was taken away by Beijing National Security Officials to a dark room without sunlight and was forced to memorize patriotic songs and lyrics. He was also deprived of sleep for the first five days.

<sup>9</sup> Xiangdong (襄祥棟) is from Shandong and he went to attend court in Jilin Songyuan City Qian Guo court. Before the trial, the court refused his application and refused his rights to access to legal documents. The special police unit, chief judge, prosecutor, chief officer of the lawyers’ management of department of justice all stood outside the courtroom to bar Mr. Xi to enter. 4 special police unit officers wrung his neck, grabbed his shoulders and forced him away from the court. In the years of 2013 and 2014, there are 11 reported case of lawyer being evicted out of the courtroom. The following is an example of lawyer being arrested in courtroom: On 21<sup>st</sup> May 2014, Guangxi lawyer Mr. Wu Liang Shu (吴良述) was representing client in Guangxi Hezhou intermediate court, the judge Mr. Chen Yilin refused the witness to appear in court and Mr. Wu raised his hands up to seek approval to speak on this matter. The judge immediately ordered the court police to rush over to the defense lawyer’s stand to evict Mr. Wu. They took away Mr. Wu’s personal belongings and hit him on the face

**Q(11)(i): Please provide definition of “lawyers jeopardize national security, virulently slander other people and seriously disrupt the court order.”**

**Q(11)(ii): Between the years of 2008-2014, how many complaints are documented for cases of lawyers being unreasonable barred from going to court to represent their clients?**

**Q(11) (iii): How has been done by the Chinese government to effectively prevent ths above from happening and what are the mechanisms to supervise judges and personnel in court?**

■ Absence of Law

12. Existing Criminal Procedure Law has no provision for the “right to silence”, detainees are henceforth more prone to forced confession which increased the chance of torture.

**Q(12): Will the Chinese government add “right to silence” into the criminal procedural proceedings?**

13. The Chinese government replied to the Commission’s LoIs in 2008 that mental torture is within the scope of torture, however referring to all the Chinese laws and regulations, the laws have yet to provide specifications on this.<sup>10</sup>

**Q(13): What legal provisions has the Chinese government made to protect its citizens from mental and psychological torture? How are citizens’ complaints of mental and psychological torture dealt with in practice?**

We are concerned that dissidents and human rights lawyers, who represent human rights and politically sensitive cases, are arrested and charged. They are often subject

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<sup>10</sup> In 2012, Lawyer Mr. Cai Ying (蔡瑛) reported Yiyang Intermediate People’s Court Chief Judge Bo Xuemei’s abuse of power, thus was revenged by Vice-chief Judge Zhuang Xiaoyang and Yiyang’s Political and Legal Affairs Commission Deputy Secretary Chen Liming. The Yiyang Political and Legal Affairs Commission instructed the Yiyang Procuratorate to investigate Cai Ying for trumped-up charges of bribery case. Cai Ying was detained for 87 days and was tortured. During the detention, Cai was forced to sit in a high hanging chair to be interrogated for 3 days and nights. The room was especially made for the purpose, it blocks out sounds and the interrogator told Cai, “no laws apply here, this is a place without laws”. Cai reported to feel scared and hopeless. The interrogator threatened and slandered Cai. On the 6th day, he was forced to sit on a chair with sharp spear installed and his legs could not touch the floor. After 5 days and nights of interrogation, Cai’s voice is almost gone, when he was fed one spoonful of water, he kept vomiting. The next day, he started excreting blood yet he was forced to sit in the sharp spear chair again. He was continuously tortured and on the 25th day, they started to verbally insult him and threatened to take him to “overnight torture”.

to prolonged interrogation.<sup>11</sup>

**14. Q(14): How will the Chinese government effectively protect the criminal suspects and defendants' right to rest? How will the practice of "grueling interrogation" be effectively prevented and supervised?**

15. We are also concerned that the family members and especially the minors of the above mentioned dissidents and lawyers are being interrogated, intimidated and coerced, which has severely negative effects on their physical and mental well-being.<sup>12</sup>

**Q(15)(i): Will the Chinese government protect minors from mental and psychological torture by law?**

**Q(15)(ii): How many complaints of relevant public authorities harassing and threatening minors are documented? What are the results?**

■ **Illegal and Extrajudicial measures**

16. Reports show that officials frequently take suspects or defendants to places outside detention center at midnight for torture and interrogation. This practice is called 'interrogation outside detention center'(外提). Most cases are related to drug and religion crimes.

**Q(16)(i): Please explain whether Chinese government has established any mechanisms to effectively prevent and forbid the practice of 'interrogation outside detention center'.**

**Q(16)(ii): Please provide each year's statistics from 2008 to 2014 of number of cases, follow-ups, and investigation results of abnormal deaths of detainees in detention centers. What measures has Chinese government taken to prevent abnormal deaths and all kinds of torture in detention centers?**

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<sup>11</sup> Mr. Teng Biao (滕彪) was taken away for 70 days in a secret room in 19<sup>th</sup> Feb 2011. During the detention, he was not allowed to sleep and was slapped on the face. For a certain period in the 70 days, he was not allowed to shower, to sing, to exercise, to write. He was made to sit up straight facing the wall from 6am to 12 midnight. He was handcuffed for 24 hours a day for a continuous of 36 days.

<sup>12</sup> Mr. Jiang Tianyong (江天勇) was the defense lawyer of religious groups, he was detained and interrogated after his visit to the United States in November 2009. Meanwhile, his family was beaten up and interrogated and his daughter was also questioned when she was only 7 years old. We have been told that the incident as well as the other nuisance from the police throughout the year has impact on the little girl, she felt very insecure and uneasy towards the police.

17. Article 9 of the Law on Administrative Compulsion allows governments to take administrative compulsory measures against citizens, such as restricting the personal freedom of a citizen, seizing premises, facilities or properties, impounding properties, and freezing deposits or remittances. In recent years there are an increasing number of cases where governments exert violence against citizens in name of administrative compulsory, especially in cases of petition and forced eviction.

**Q(17)(i): Please explain whether Chinese government allows local governments to employ or allow any unofficial personnel to violently forbid citizens' petitioning activities or perform land eviction violently.**

**Q(17)(ii): If not, what measures shall Chinese government take to prevent such practices?**

18. Cases show that quite a few lawyers have suffered from attack and harassment from unofficial personnel when representing human rights cases.<sup>13</sup>

**Q(18)(i): Please explain whether Chinese governments employ or allow any unofficial personnel to attack or threaten any lawyers.**

**Q(18)(ii): If not, what measures shall Chinese government take to prevent such practices?**

19. Despite Chinese government's repeated denials, we constantly received complaints regarding illegal or extralegal detention from human rights defenders and persons fighting for freedom of religion.<sup>14</sup>

**Q(19)(i): Please clarify the nature of, and the daily routines that take place in a "legal education centre"(法制教育基地). How is it different from a detention centre? Is the admission into it mandatory or voluntary?**

**Q(19)(ii): Please explain what measures has the Chinese government taken to**

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<sup>13</sup> On 12th December 2013, lawyer Fu Yonggang (付永刚), Shi Yongsheng (石永胜), Lu Jingmei (卢京美), Liu Weiguo (刘卫国), Jian Tianyong (江天勇), Guo Lianhui (郭莲辉), Chen Jianguang (陈建刚), Xia Jun (夏钧), Wang Hongjie (王红杰), Zhang Weiyu (张维玉) requested to meet with Christian clients in Henan Nanle detention centre but were refused. They were followed, video-taped and their phones were snatched away by unknown persons. On 13th December 2013, they were refused to see their clients again and were beaten up by unknown personnel, in which Liu's head was smashed by a piece of brick. On 24th December 2014, Guo, Xia and Cheng Weishan (程为善) was surrounded by hundreds of unknown persons with wooden sticks for 24 hours and Cheng's clothes were torn.

<sup>14</sup> Li Heping (李和平) is a Beijing human rights lawyer. On 29th September 2007 5:30pm, he was abducted by unknown men in a car with black bag over his head. Then he was taken to the suburb and locked in rural underground room, where he was beaten up and electrocuted for four to five hours.

**effectively prevent and prohibit illegal or extralegal detentions.**

20. In 2014, a documentary revealed that detained persons who were “shuanggui'd” under the “Chinese Communist Party discipline inspection organs cases inspection regulations” article 28 (3) were seriously tortured and abused.

**Q(20): Can the Chinese government explain the above provision and legality and constitutionality of “shuanggui”? How does the Chinese government oversee the current “shuanggui” system, so that torture and ill treatment can be effectively prevented?**

ARTICLE 10: EDUCATE GOVERNMENT PERSONNEL ABOUT PROHIBITION OF TORTURE AND HAS SYSTEMATIC REVIEW

21. **Q(21): With regard to education and training on the Torture Convention, training for public officials, will such training be extended to courts, prosecution, state security organs, and government staff? If yes, please provide the timetable and progress for the implementation for the relevant programmes. If not, why not?**

ARTICLE 12-14: OBLIGATION TO ENSURE A PROMPT AND IMPARTIAL INVESTIGATION INTO ALLEGATIONS OF TORTURE, RIGHT TO COMPENSATION

22. **Q(22): From 2008 to 2014, what was the number of applications for state compensation in relation to wrongful convictions as a result torture? How many cases were granted compensation?**
23. According to the written replies to LoIs by the Chinese government to the Committee Against Torture in 2008, the Chinese laws provide the Procuratorate the independent power to monitor law enforcement procedure, inspect detention organs and related facilities frequently, and receives complaints.

**Q23(i): Will the Chinese government clarify what is meant by “frequently”? And provide statistics of complaints received by the Procuratorate from detainees in the period between 2008 and 2014?**

**Q23(ii): From 2008 to 2014, what percentage of the complaints by detainees was investigated into? What percentage of complaints resulted in having officials penalized?**

**Q23(iii): How many public security officers were given a demerit, recorded a serious demerit, demoted, dismissed, or convicted as a result of their unlawful restriction of citizens' personal freedom or their conducting arbitrary detention?**

We are aware that, despite the role of monitoring, the prosecution offices were frequently reported to use torture against suspects.<sup>15</sup>

**Q23(iv): What was the number of prosecutors whose liability was being pursued? As the organ for legal supervision, the People's Congress and its Standing Committee have the power to monitor the Procuratorate, what was the number of cases of effective supervision by different levels of People's Congress and its Standing Committees?**

24. **Q24: Please provide figures, in the period between 2008 and 2014, how many investigation officers or officials at different levels of investigative organs were complained or charged against and eventually penalised as a result of using torture or illtreatment against criminal suspects or defendants?**
25. **Q25(i): How many complaints has Chinese government received from 2008 to 2014 because family members of detainees did not receive official notice about the detention made according to article 83 of Chinese Criminal Procedure Law? How many complaints have been accepted? What is the follow-up mechanism? How many officials have been punished because of this?**
26. According to "Criminal Code" article 248, supervisory and management personnel of prisons, detention centers, and other guard houses who beat or physically abuse their inmates, if the case is serious, are to be sentenced to three years or fewer in prison or put under criminal detention. If the case is especially serious, they are to be sentenced to three to 10 years in prison...Supervisory and management personnel who order inmates to beat or physically abuse other inmates are to be punished

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<sup>15</sup> See FN9, in 2012, the Yiyang Political and Legal Affairs Commission instructed the Yiyang Procuratorate to investigate lawyer Cai Ying for trumped-up charges of bribery case. He was detained for 87 days and was tortured.

according to stipulations in the above paragraph.

**Q(26)(i): Please provide the data for the period of 2008-2014, the number of supervisory and management personnel being sued for involving in beating and corporal punishment.**

**Q(26)(ii): If the personnel involved are non-supervisory or management level, such as jailer or medical personnel, what laws apply and govern them?**

27. Article 8 of the Law on Administrative Compulsion allows citizens to make complaints, and apply for administrative reconsideration or lodge an administrative lawsuit against administrative compulsion implemented by an administrative organ. Citizens are also entitled to compensation for damage suffered from an administrative organ's illegal administrative compulsion.<sup>16</sup>

**Q(27)(i): With regard to land eviction, please provide numbers of complaints, administrative reconsideration and administrative lawsuits against administrative compulsion filed by citizens during the period from 2008 to 2014, and specify how many cases are relevant to forced eviction and forced expelling of petitioners, how many citizens have successfully got compensation or remedies, how much compensation and what kind of remedies they have got. Please classify the statistics in gender and races. If no statistics can be provided, please explain when Chinese government will start collecting the information.**

**Q(27)(ii): As to the petition system, please specify how many victims who were attacked, abused, or threatened by officials, have successfully got compensation or remedies. Please classify the statistics in gender and races. If no statistics can**

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<sup>16</sup> Ms. Li Yuhan (李昱函) was a 56 years old lawyer and she was hung from the ceiling and beaten in 2008 by officials ordered by Zhou Changjiang of the Shenyang Heping police station. Her arm was broken. She continued to collect video evidence of cases and was beaten by the Heping police station's captain Zhang Jiafung for no reason. She immediately reported to the police inspector but no results came out of it. Thus, Ms. Li complained to the relevant departments and went to Beijing for petition. On 2<sup>nd</sup> March 2009, she was offered a deal by the deputy chief of the department of complaint of Heping police station, and the public security team that if she cancelled the petition, she will be compensated for RMB \$ 100,000. She accepted the agreement orally but later on 9<sup>th</sup> March 2009, the police officers of Heping police station cheated her to board a police car and was detained and beaten up. She has high blood pressure which caused her heart attack. In 12 October 2009, she was detained again. On 9<sup>th</sup> March 2010, she was taken to a hotel for 10 hours by the officers of Heping police station using the excuse of a chat with the leader of the district politics and law committee. Her health condition was bad and was temporarily paralyzed, till then the police left. In 2011, she was taken away from Beijing to Heping police station again by the officers and was detained for 8 hours. She had heart attack again and fainted and was left at the entrance of a hospital. On 2<sup>nd</sup> July 2011, Li went to register at the Bureau for Letters and Calls of the Ministry of Public Security and was beaten up by the officers of Heping police station again and thus had a heart attack. She was sent to Beijing Jianguo hospital. On 4<sup>th</sup> June 2012, she intended to hand in petition at Ministry of Supervision, 10 staff of the Liaoning-Beijing Office carried her onto a vehicle and yelled at her and was later detained at Liaoning Liaison Office in Beijing. Again, she had a heart attack and fainted. When she woke up, she was told that the petition that she did was illegal and would be subject to administrative punishment. From 2009 March to 2012, under the harassment of the authorities, her health deteriorated that she could not work and she visited the hospital 10 times and was sent to emergency room for 20 years and she could not afford the RMB \$ 80,000 surgical fees.

**be provided, please explain when Chinese government will start collecting the information.**

ARTICLE 15: EXCLUSION OF EVIDENCE OBTAINED THROUGH TORTURE FROM ANY PROCEEDINGS

28. Article 54 of the Criminal Procedural Law stipulates the exclusion of “testimony of witnesses and statements of victims collected by violent means, threat or other unlawful means”.

**Q(28)(i): Would the Chinese government provide statistics for the years 2008-2014, including the number of legal cases handled by courts that adopted the procedure of “exclusion of unlawful evidence”, and the number of legal cases where the courts decided to exclude unlawful evidence eventually?**

**Q(28)(ii): It is reported that dissidents who went on hunger strike during detention were force-fed in ways that harm their body. How did the Chinese government prevent and monitor force-feeding effectively?**<sup>17</sup>

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<sup>17</sup> Mr. Jin Guanghong (金光鸿) was the defense lawyer of a Fa Lungong member in April 2010. He was taken away for 2 weeks to a mental hospital, where he was injected and forcibly fed various medicine and was beaten up while tied to the bed. During the torture, he lost appetite and was forced to eat by someone injecting a tube through his nostril. After his release, he felt pain all over, could only take in liquefied food and was so weak he could only walk for a short period of time.