



Physicians for Human Rights Submission to the Office of the High Commissioner for Human Rights

Universal Periodic Review: China, 17th Session – 22 October 2013

About Physicians for Human Rights

PHR is an independent, non-profit organization that uses medicine and science to stop mass atrocities and severe human rights violations against individuals. PHR was founded in 1986 on the idea that health professionals, with their specialized skills, ethical duties, and credible voices, are uniquely positioned to stop human rights violations.

PHR has been instrumental in investigating allegations of torture, calling on states to implement effective measures to protect people from torture, training medical and legal professionals in international standards of investigation for torture, and assisting asylum seekers in the US by connecting them with medical professionals trained to document the signs of torture and ill treatment. Armed with hard evidence of torture and its effects, PHR works to end the cycle of impunity. PHR's training ensures that medical professionals understand the relevant laws in their home countries as well as common torture methods and their physical and psychological consequences. PHR teaches these practitioners how to conduct the clinical interview and exam in order to document physical and psychological evidence and adhere to proper ethical guidelines. PHR has trained hundreds of health professionals in 15 countries to use the Istanbul Protocol standards.

In the US, PHR trains and coordinates a network of clinicians to provide forensic evaluations of asylum seekers fleeing torture and persecution in their home countries and document their findings in medical-legal affidavits. The affidavits PHR clinicians produce on behalf of survivors are frequently the determining factor in judges' decisions to grant asylum or other humanitarian relief to those fleeing persecution. Hundreds of volunteer clinicians in PHR's network have helped thousands of survivors of torture and other brutal forms of persecution gain asylum in the US. Our goal is to discover the abuses and persecution asylum seekers face in their home countries, and highlight them, in order to bring about justice and change.

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Executive Summary

1. In this submission, PHR provides information on China's use of torture and other persecution against its citizens. Over the past four years PHR's medical experts have conducted numerous forensic evaluations for asylum seekers who were persecuted in China. This submission will focus on select cases of torture and other ill treatment by police, government officials, and medical professionals against, religious minorities, political dissidents, landowners and women.. This is relevant to sections I (B) and (C) of the Human Rights Council's Guidelines.¹

Background

2. Since China's last periodic review by the HRC in 2009, some legislative progress has been made in an effort to meet its human rights obligations. In June of 2012, China passed the National Human Rights Action Plan (NHRAP). The action plan calls for greater civil and political rights, including the implementation of criminal procedure laws, which will contain preventative and remedial measures against extortion of confessions by torture. China also pledges to strengthen their efforts in the investigation and punishment of torture committed by state officials. The plan re-emphasizes the principle of freedom of religious belief, stipulated in the Constitution and in the implementation of the Regulations on Religious Affairs, as well as reaffirming women's rights. However, the NHRAP is based on the "principle of practicality."² This principle places limits on the government's enforcement of human rights by stating that it "also upholds [those rights] proceeding from China's national conditions and new realities to advance the development of its human rights cause on a practical basis."³ Without defining "national conditions," "new realities" or a "practical basis," the principle of practicality allows the Chinese government to circumvent human rights enforcement while appearing to promote development in the field. Despite the passage of the NHRAP, political activists, religious minorities, and women continue to be subjects of torture and other persecution in China. China ratified the Convention Against Torture on October 4th, 1988, with a reservation to Article 20. Under this reservation the Chinese Government does not authorize the Committee Against Torture to investigate allegations of torture in China.

3. The following case studies have been derived from medical-legal affidavits submitted in support of asylum applications based on allegations of torture and persecution in China. Identifying information has been omitted in order for the security of the asylum applicants.

¹ Human rights Council, *Follow-up to Human Rights Council resolution 5/1*, UN Doc. A/HRC/DEC/6/102, September 27, 2007.

² National Human Rights Action Plan of China (2012-2015), Chinese Government's Official Web Portal, http://english.gov.cn/2012-06/11/content_2158183_3.htm

³ *Id.*

Rights of the Individual in Civil and Political Society

A. Overview

4. The NHRAP upholds freedom of religion and implements the Regulations on Religious Affairs to guarantee citizens' freedom of religious belief.⁴ The State protects what it refers to as "normal religious activities" and safeguards these rights while balancing against the unification of the country and stability of society.⁵ In reality, China only allows groups registered with the government and belonging to one of the five state-sanctioned "patriotic religious associations" (Buddhist, Taoist, Muslim, Roman Catholic, and Protestant) to legally hold worship services. Other religious groups are not permitted to register as legal entities, while some religious and spiritual groups are outlawed completely. Proselytizing in public or unregistered places of worship is forbidden.⁶ Evidence of this religious persecution can be seen in the rising number of self-immolation protests in Tibet, which has reached 105 in the last three years, with 82 occurring in 2012.⁷⁸

5. Chinese officials contend that authorities detain persons not for their political or religious views but because they violated the law. However, authorities continue to imprison citizens for reasons related to politics and religion. Prisoners remain incarcerated for their views, some in prisons and others in "reeducation" through labor camps (RTL) or administrative detention.⁹

B. Religious Persecution: The Story of Ms. Y

6. *The affidavit of Ms. Y was prepared following a forensic evaluation conducted by a licensed psychologist. Key details have been omitted in order to protect the identity of the asylum applicant.*

7. In 2005, Falun Gong practitioners, including Ms. Y, were arrested by police in Pingluo, Ningxia, China for distributing religious materials. Ms. Y was forcibly taken to the local police station, where she was separated from the other practitioners and beaten severely. Interrogators forced her to squat with her hands handcuffed behind her head. She was kicked in the head, face, and body by police officers who questioned her about how she obtained the Falun Gong materials. Ms. Y was detained in the precinct for two months, during which time she was continually beaten and told to denounce her faith. She was sentenced to 1 ½ years of RTL at Mansanjia camp. Prisoners were forced to work long hours, exercise, and watch anti-Falun Gong propaganda films. They were forced to sleep in tight quarters, with ten prisoners to each room, and no showers were allowed. Ms. Y was constantly intimidated and punished for her faith, and was subjected to anti-Falun Gong lectures and harsh treatment. On occasion Ms. Y was chained to bedposts, or left outside in the snow barefoot for hours as punishment. At one point Ms. Y became severely ill as a result of working with chemicals. Despite the presence of a hospital at the camp, Ms. Y was never offered medical assistance. Often people at the camp disappeared never to return. Because Ms. Y feared death at the camp, she denounced her faith and was released in 2007. After her release, she and her family have moved constantly from place to place in order to avoid police while practicing

⁴ NHRAP 2012-2015

⁵ Regulations on Religious Affairs, Chap. I, Art. III, Decree of the State Council of the People's Republic of China No. 426.

⁶ U.S. Department of State Bureau of Democracy, Human Rights and Labor, International Religious Freedom Report for 2011, <http://www.state.gov/j/drl/rls/irf/religiousfreedom/index.htm#wrapper>

⁷ Tibetan Center for Human Rights and Democracy, "TCHRD releases 2012 Annual Report on Human Rights Situation in Tibet," <http://www.tchrd.org/2013/01/tchrd-releases-2012-annual-report-on-human-rights-situation-in-tibet/> Last accessed 25 Feb. 2013.

⁸ Forbes Magazine, "Tibet's Growing Tragedy: Self-Immolation Protests Reach 105." <http://www.forbes.com/sites/robertolsen/2013/02/25/tibets-growing-tragedy-self-immolation-protests-reach-105/>. Last accessed 25 Feb. 2013.

⁹ U.S. State Department, U.S. Department of State 2011 Human Rights Report on China, <http://www.state.gov/documents/organization/186478.pdf>

their religion, because arrest and detention of Falun Gong practitioners is still widespread in China. Ms. Y fled to the US in 2011, when a friend was arrested for dispersing Falun Gong literature in Shenyang, Liaoning, China.

C. Political Persecution: The Story of Mr. X

8. *The affidavit of Mr. X was prepared following a forensic clinical interview by a licensed psychiatrist. Key details have been omitted in order to protect the identity of the asylum applicant.*

9. In 2009, Mr. X was arrested by police in plain clothes for distributing information via e-mail regarding Charter 08 and human rights activist Liu Xiabo. Charter 08 was a petition calling for the respect of human rights and the implementation of democratic reform in China. Police searched Mr. X's apartment and seized his computer hard drive and software that could bypass government firewalls. The officer's forced Mr. X into a van and drove him to an undisclosed location where he was interrogated by police officers. They placed Mr. X in a stress position by hanging him by thumb-cuffs over his head. Mr. X was severely beaten by the officers, who kicked him in the legs and hit his head against the wall while asking him where he obtained the software. He was beaten with a rubber truncheon until he passed out. Mr. X was released later that evening and was informed the next day by the security bureau that he would be placed on a list of people under surveillance. The following week, Mr. X was fired from his job. He subsequently fled to the US to seek asylum from persecution.

Property Disputes

A. Overview

10. Property-related disputes and forced relocation is widespread in both urban and rural areas of China. Disputes often stem from local officials colluding with property developers to displace residents from their homes with little or no compensation. There is a lack of government oversight of local officials, and little or no legal remedy for the displaced. While the central government has made efforts to standardize compensation and impose stronger controls over illegal land takings by local governments, the problem persists.¹⁰

B. Arbitrary Detention: The Story of Mr. W

11. *The affidavit of Mr. W was prepared by a licensed psychologist following a forensic psychological evaluation.*

12. In 2007, the national government informed Mr. W's family that their land would be acquired to expand a nearby national park in exchange for adequate compensation. According to Mr. W, the local government never properly allocated the compensation funds to affected families. Later that year Mr. W's mother, who was the title owner to the property, was detained and beaten by police on multiple occasions and asked to relinquish her property rights. She refused, and the family sent her to the US for her own safety in 2008. In 2009, harassment by local authorities in China continued when Mr. W and his father tried to enter a complaint with the appropriate national government agency in Beijing. They were seized by 5 men in plain clothing, put in a van, and brought to a police station in Beijing. On arrival the police officers swore at them and slapped them. They were kept in separate cells all day and they were not offered food, water, or a phone call. That night they were transported back to their local police station. On arrival, Mr. W was handcuffed to a hot radiator inside his cell and beaten for over 4 hours by police officers, who used truncheons and belts to strike the back of his head. As he was beaten the police officers told him to turn over his property. Mr. W was handcuffed to the radiator for three days without ever formally being charged with a crime. When he was released Mr. W could barely walk. Following his release Mr. W was continually harassed by police and local officials. The water to his home was shut off, and he was often

¹⁰ U.S. State Department, U.S. Department of State 2011 Human Rights Report on China, <http://www.state.gov/documents/organization/186478.pdf>

threatened verbally. In 2010, Mr. W was detained in the police station for 24 hours, handcuffed to a bedpost and beaten by police officers. Again in 2011, Mr. W, was detained by police who slapped him, and slammed his head against a wall. He was charged with disrupting the social peace and detained for a week, during which time he was subject to severe physical and psychological abuse. Mr. W was placed in a cell with eight other inmates who were, reportedly, instructed by guards to torture him. They kicked Mr. W in the head and face, threw cold water on him, made him sleep on the floor, suffocated him with pillows until he became unconscious, and deprived him of sleep. Mr. W obtained a student visa and fled to the US in August of 2011 to apply for asylum.

China's One-Child Policy

A. Overview

13. The Population and Family Planning Law prohibits the use of physical coercion to compel persons to submit to abortion or sterilization.¹¹ However, pressure to meet birth limits set by government regulations results in instances of local family-planning officials using physical coercion to meet government goals. Regulations in many provinces either require women who violate family-planning policies to terminate their pregnancies, or require the use of unspecified "remedial measures" to deal with unauthorized pregnancies.¹² Mandatory abortion is endorsed as a "remedial measure" in 18 of China's 31 provincial-level jurisdictions.¹³ Forced abortions and forced sterilizations continue in China. These forced abortions often do not take into account the age of the fetus, and many abortions occur 7-9 months into development. Late term abortions are extremely dangerous to the mother's health and increase the chances that the fetus will be born alive. These practices are highly dangerous, leaving women mentally and physically scarred.¹⁴

14. Laws and regulations also forbid the termination of pregnancies based on the sex of the fetus. However, due to the intersection of China's One Child Policy and a cultural preference for male children, particularly in rural areas, many families use ultrasound technology to identify female fetuses and terminate these pregnancies.^{15,16} This preference has led to a large gender imbalance throughout the country. This gender imbalance in turn catalyzes other human rights violations, including, infanticide, human trafficking and sexual slavery. It is estimated that 37 million Chinese men will never marry because they cannot find wives. This is a driving force behind trafficking in women and sexual slavery from surrounding nations.¹⁷

B. Forced Abortion and Forced Sterilization: The Stories of Ma Jihong and Ms. Z

15. *The affidavit of Ms. Z was prepared following a forensic psychological and clinical evaluation by a PHR trained psychiatry resident. The story of Ma Jihong is provided by field workers from All Girls Allowed.*

16. PHR asylum seeker, Ms. Z, accidentally became pregnant with her second child in 1993 after her Intrauterine Device fell out. She fled from her home province to have the child, a daughter, who she left with a distant relative to avoid detection. Despite her efforts, Ms. Z's daughter was discovered by the government. Four Family Planning Commission (FPC) officials arrived at her home and ordered her to come with them and be

¹¹ Population and Family Planning Law of the People's Republic of China. Art. 4. September 1, 2002.

¹² US State Department, US Department of State 2011 Human Rights Report on China. <http://www.state.gov/documents/organization/186478.pdf>

¹³ "One Child Policy Statistics," All Girls Allowed. http://www.allgirlsallowed.org/one-child-policy-statistics#_edn1 Last accessed Feb. 25, 2013.

¹⁴ "The Consequences of China's One Child Policy," Compiled from on-the-ground research by All Girls Allowed, Women's Rights Without Frontiers, China Aid Association, and the U.S. Congressional-Executive Commission on China, Nov. 5, 2011.

¹⁵ Population and Family Planning Law of the People's Republic of China. Articles 35 & 36. 1 Sept. 2002.

¹⁶ US State Department, US Department of State 2011 Human Rights Report on China. <http://www.state.gov/documents/organization/186478.pdf>

¹⁷ The Consequences of China's One Child Policy," Compiled from on-the-ground research by All Girls Allowed, Women's Rights Without Frontiers, China Aid Association, and the U.S. Congressional-Executive Commission on China, Nov. 5, 2011.

sterilized. When Ms. Z resisted, the officials began to threaten the safety of her family. Officials grabbed her and forced her to go against her will. During the sterilization process, the anesthesia wore off, and she became conscious during the surgery, subjecting her to intense pain.

17. Unfortunately these stories have been commonplace in China for many years and continue today. In 2011, the story of Ma Jihong was widely covered by world media outlets. In October 2011, the Lijin County Family FPC, in Shandong province, sent a dozen agents by van into the village of Ma Jihong. Ma, being pregnant with her third child, began running away as soon as she saw the FPC agents. The FPC agents chased Ma and caught her in a cotton field nearby. They dragged her to the van and drove away immediately. She was taken to the local hospital to undergo a forced abortion. Ma Jihong died that night from complications with the operation while she was seven-months pregnant.¹⁸

Recommendations

18. In order to uphold its obligations and commitments to human rights, the Chinese government should immediately take the following actions:

- Ratify the International Covenant on Civil and Political Rights and integrate all provisions into domestic legislation.
- Remove reservations to the Convention Against Torture, and allow the Committee to investigate allegations of torture in China.
- Ratify the Optional Protocol to the Convention Against Torture.
- Remove the “Principle of Practicality” from the National Human Rights Action Plan and uphold human rights obligations.
- Abolish state sanctioned religions, remove requirements to register religious groups with the government, and allow people to freely practice their faith.
- Grant detainees access to legal counsel and fair trials.
- Abolish Re-education through Labor (RTL) camps, and eliminate instances of arbitrary detention.
- Sign and ratify the International Convention for the Protection of all Persons from Enforced Disappearance.
- Allow the U.N. to investigate acts of violence against pregnant women.
- Implement mechanisms that allow for better government oversight of local police and public officials.
- Enact legal remedies for those who have been displaced in property taking.
- Remove forced abortions and forced sterilizations as remedial measures under Family Planning Commission regulations.

¹⁸ Id.