

**Responses of the People’s Republic of China to the Committee against Torture’s List of Issues (LOI)
October 2015**

[English translation by Human Rights in China¹]

LOI para	Chinese original	English translation
Articles 1 & 4, Convention Against Torture		
1	<p>2014 年提出的《刑法》修正案不直接涉及酷刑定义。现有《刑法》的相关条款已涵盖了公约关于酷刑定义各个方面，包括：一、以公职人员为行为主体的定罪和处罚条款，如第 238 条规定的非法拘禁罪，第 247 条规定的司法工作人员刑讯逼供罪、暴力取证罪，第 248 条规定的监管人员虐待或者指使他人虐待被监管人员的犯罪；二、行为主体不限于公职人员、视情形可适用于酷刑行为的定罪处罚条款，如非法拘禁罪、故意伤害罪、侮辱罪、非法搜查罪、非法侵入住宅罪、非法剥夺公民宗教信仰自由罪或者侵犯少数民族风俗习惯罪等。</p> <p>对于《刑法》规定的一些要求行为主体为公职人员身份的犯罪，如刑讯逼供罪、暴力取证罪等，不具有相应公职人员身份的人在公职人员的教唆、同意或者默许情况下实施上述犯罪的，根据刑法有关共同犯罪的规定，应当作为共犯，追究刑事责任（具体可参见本次报告附件第 4 条下所引“第四、五次”报告第 60-64 段）。</p>	<p>The 2014 Amendments to the <i>Criminal Law</i> do not directly address the definition of torture (<i>kuxing</i>). Relevant provisions of the existing <i>Criminal Law</i> already cover various aspects of the <i>Convention</i>’s definition of torture, including: One, provisions on conviction and punishment for acts by government personnel, such as crimes of “unlawful detention,” under Art. 238; “extracting a confession under torture” and “obtaining evidence by violence” by justice system personnel, under Art. 247; and maltreatment of prisoners by prison personnel or other persons at the direction of prison personnel, under Art. 248; two, provisions on criminal conviction and punishments for acts not limited to those by government personnel, but those that may be characterized as torture depending upon the circumstances, such as for the crimes of “unlawful detention,” “intentional infliction of bodily harm,” “humiliation,” “unlawful searches,” “unlawful entry into residences,” “unlawful deprivation of citizens’ freedom of religious belief,” or “infringement upon the customs of ethnic minorities,” etc.</p> <p>For crimes under the <i>Criminal Law</i> where necessary actors are government personnel, such as “extracting a confession under torture,” or “obtaining evidence by violence,” etc., persons without government personnel status who engage in these crimes at the instigation, consent, or acquiescence of government personnel, should, in accordance with the provisions of the <i>Criminal Law</i> relating to joint crimes, be treated as accomplices and be held criminally responsible. (For specifics, refer to Art. 4 of the appendix to the current Report quoting paras. 60–64 of the Fourth and Fifth Reports.)</p>

¹ Pending the release of an official translation of the State Party’s responses, HRIC has prepared this English translation to facilitate a constructive review and interactive exchange. We welcome corrections and translation suggestions. Please send to communications@hrichina.org.

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	<p>对出于“逼供”以外目的实施“刑讯”的，可根据其行为类型和结果，根据刑法相关规定追究刑事责任，如故意伤害罪、非法拘禁罪等。</p>	<p>Where interrogation under torture (<i>xingxun</i>) is not conducted with the goal of extracting a confession (<i>bigong</i>), criminal responsibility may be pursued according to the nature and consequences of the conduct and according to relevant provisions of the <i>Criminal Law</i> for crimes such as “intentional infliction of bodily harm,” or “unlawful detention,” etc.</p>
2	<p>根据中国法律，《公约》一经中国最高立法机关批准，即在中国具有法律效力，中国政府依《公约》承担义务，通过国内法律严格履行《公约》规定。目前在实践中尚无在中国法院直接援引《公约》的案例，中国法院是通过适用与《公约》内容一致的国内法（包括法律和司法解释）来落实《公约》的规定，保障公民根据《公约》享有的各项权利。</p>	<p>Pursuant to Chinese law, upon approval by China’s highest legislative organ, the <i>Convention [Against Torture]</i> has the force of law in China, and the Chinese government assumes the obligations under the <i>Convention</i> and strictly implements the provisions of the <i>Convention</i> through domestic laws. At present, no case in Chinese courts has yet directly cited the <i>Convention</i> in practice, but through consistent domestic laws (including laws and legal interpretations), Chinese courts are implementing the provisions of the <i>Convention</i>, guaranteeing the rights and interests to which citizens are entitled under the <i>Convention</i>.</p>
ARTICLE 2		
3	<p>(1) 检察机关是国家的法律监督机关，在刑事诉讼中对于采取刑事拘留等强制措施的合法性负有监督职能。</p> <p>中国《刑事诉讼法》规定了在侦查阶段对犯罪嫌疑人的羁押期限。根据该法第 69 条的规定，公安机关对被拘留人认为需要逮捕的，应当在拘留后的 3 日内，提请人民检察院审查批准。在特殊情况下，提请审查批准的时间可以延长 1 至 4 日。对于流窜作案、多次作案、结伙作案的重大嫌疑分子，提请审查批准的时间可以延长至 30 日。公安机关办理的案件，需要延长拘留期限的，应当经县级以上公安机关负责人批准。人民检察院应当自接到公安机关提请批准逮捕书后的 7 日以内，作出批准逮捕或者不批准逮捕的决定。</p>	<p>(1) Procuratorial organs are the state organs for legal supervision, and, during the criminal process, possess oversight functions with respect to the lawful use of criminal detention and other compulsory measures.</p> <p>China’s <i>Criminal Procedure Law</i> stipulates detention periods for criminal suspects during the investigation phase. According to Art. 69 of this law, a public security organ which believes that a detained person needs to be arrested should apply to the people’s procuratorate for examination and approval [of the arrest] within three days of the detention. Under special circumstances, the time for submitting the application may be extended by one to four days. With respect to major suspects who have committed crimes in different places, repeatedly, or in a gang, the period for submitting an application for arrest may be extended to 30 days. For cases handled by public security organs, where it is necessary to extend the period of detention, approval should be obtained from the responsible persons at the county level public security organ or above. A people’s procuratorate should issue a decision whether to approve or not approve an application for arrest within seven days of receipt of the application.</p>
	<p>根据中国法律，公安机关不得以涉及国家机密为由无限期拘留，问题中所引的报告不实。</p>	<p>According to Chinese law, public security organs must not use state secrets (<i>guojia jimi</i>) as a basis for detention of unlimited duration, and reports from which this question has been derived are untrue.</p>

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	<p>(2) 中国看守所凭拘留证、逮捕证收押犯罪嫌疑人并进行登记，登记事项包括被羁押人被采取拘留、逮捕强制措施的时间、期限和将被羁押人带至羁押场所的侦查人员姓名等。同时，看守所为所有在押人员逐人建立医疗档案，记载其病史、入所健康检查情况、在所期间每次健康检查情况、患病情况、服药情况、在所和出所治疗情况等。目前，全部看守所均建立了登记制度。</p> <p>经公安机关批准，被羁押人的直系亲属可以查阅看守所管理登记和医疗记录。各级公安机关的执法监督部门、驻所检察部门将看守所是否落实相关登记和记录制度作为检查重点，确保执行到位；对不如实记录的，依照相关规定追究责任。</p> <p>(3) 按照看守所条例的规定，看守所收押犯罪嫌疑人时，医生应当对收押的犯罪嫌疑人和罪犯进行健康和体表检查。发现有伤的，要问明情况，并登记在入所健康检查表上，由送押人员、在押人员本人、看守所民警三方签字确认。看守所不具备健康检查条件的，由公安机关送当地县级以上医院进行健康检查。目前，全国看守所全部实行了入所体检制度，体检过程不受办案机关干涉。</p>	<p>(2) Based upon detention warrants and arrest warrants, China's detention centers take into custody and register criminal suspects. Registration [information] items include the time of and the time limit for the detention, arrest, [or other] compulsory measures, and the names of the investigator(s) who brought the detained person to the detention facility. At the same time, detention centers establish medical records for all detainees, recording their medical history, health status upon entering the detention centers, conditions at every health checkup, illnesses, medications taken during detention, and treatments inside and outside the detention centers. At present, all detention centers have established a registration system.</p> <p>With the approval from public security organs, immediate family members of detainees may inspect the detention center's management and medical records. Law enforcement and supervision departments of public security organs at all levels, and the procuratorate departments based in detention centers, shall make as their priority inspection of whether detention centers are implementing registration and recording systems, to ensure implementation is in place; and shall, in accordance with relevant provisions, pursue responsibility of those not making records based upon facts.</p> <p>(3) In accordance with provisions of the <i>Detention Center Regulations</i>, when a detention center takes criminal suspects into custody, a doctor should undertake health and body-surface examinations of the detained criminal suspects and offenders. Upon discovering injuries, the doctor needs to ask for clarification of the situation, and record it in the health examination form for new detainees, which shall be verified with the signatures of the person who brought the detainee to the detention center, the detainee him/herself, and the police officer (<i>minjing</i>) at the detention center. Where detention centers lack health examination facilities, the public security organs [shall] take [the detainees] to a local hospital at county level or above for health examinations. At present, detention centers in the whole country all have implemented a system of physical checkup at intake, and the physical checkup process is not interfered with by organs handling the case.</p>

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	<p>中国公安机关不断推进看守所基础设施和装备建设，给予在押人员更多人性化关怀。通过积极推行医疗卫生社会化，由医院在看守所设立门诊或医院，医生定期在监室巡诊，对患病在押人员及时医治，病情严重的及时送医院治疗，充分保障在押人员的生命健康权益。2014年，公安部会同国家卫生部门联合印发《公安监管场所医疗卫生专业化建设工作方案》，力争到2016年底在全国公安监管场所全部实现“公安监管部门负责监管安全、卫生部门负责医疗卫生”的专业化运作模式。此项工作正在有序开展中。</p> <p>医生在对在押人员进行健康检查或者治疗过程中如发现其可能存在因酷刑受伤的情况，可以向公安机关督察部门或者人民检察院派驻看守所的部门报告。有关部门将依法进行调查，对于查证属实的，将依法追究有关人员的责任。</p> <p>（4）中国《刑法》第102至112条明确规定了“危害国家安全罪”的各项罪名，包括背叛国家罪、分裂国家罪等。根据《刑事诉讼法》，在该类案件中，对辩护律师提出的会见申请，公安机关应当在收到申请后四十八小时以内，报经县级以上公安机关负责人批准，作出许可或者不许可的决定。除有碍侦查或者可能泄露国家秘密的情形外，应当作出许可的决定。公安机关不许可会见的，应当书面通知辩护律师，并说明理由。“有碍侦查”的情形包括：（一）可能毁灭、伪造证据，干扰证人作证或者串供的；（二）可能引起犯罪嫌疑人自残、自杀或者逃跑的；（三）可能引起同案犯逃避、</p>	<p>China's public security organs continuously advance the construction of detention center infrastructure and facilities, giving greater humane care for the detainees. Detainees' rights to life and health are fully guaranteed through the active promotion of the socialization of medical treatment and health care, hospitals establishing outpatient clinics or hospitals inside detention centers, doctors conducting cell rounds at fixed intervals, prompt medical treatment for ill persons in detention, and prompt transportation of the seriously ill to hospitals for treatment. In 2014, the Ministry of Public Security and a national health department [National Health and Family Planning Commission] jointly issued the <i>Work Plan for Building the Professionalization of Medical Treatment and Health Care in Places Supervised and Managed by Public Security</i>, striving by the end of 2016, to implement in all places supervised and managed by public security [detention, correctional, custody and education, and rehabilitation facilities] a professionalized operating model where “public security supervision departments are responsible for supervising safety, and health departments are responsible for medical treatment and health care.” This work is being carried out in an orderly manner.</p> <p>Doctors who, when conducting health checkups on or in the process of providing treatment for detainees, find injuries that may have resulted from torture, may report this to the supervisory department of the public security organ or the department of the people's procuratorate that is stationed in the detention center. The relevant departments will investigate in accordance with the law, and, where investigation in accordance with the law verifies that [such reports] are true, shall pursue legal responsibility of relevant persons in accordance with the law.</p> <p>(4) Arts. 102–112 of China's <i>Criminal Law</i> clearly set forth the various crimes that constitute “endangering state security,” including “treason,” “separatism,” etc. According to the <i>Criminal Procedure Law</i>, in such cases, with regard to defense lawyers' applications to meet with clients, public security organs should, within 48 hours of receipt of such an application, notify the responsible person of a public security organ at the county level or above for approval, and decide whether to permit the meeting or not. A decision permitting the meeting should be issued except when doing so would hinder the investigation or might result in the leaking of state secrets. Where public security organs do not permit a</p>

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	<p>妨碍侦查的；（四）犯罪嫌疑人的家属与犯罪有牵连的。</p> <p>实践中，公安机关严格按照《刑事诉讼法》和《公安机关办理刑事案件程序规定的要求》依法开展侦查活动，依法保障律师的执业权利，不允许侵犯犯罪嫌疑人获得律师帮助或律师会见犯罪嫌疑人的权利，对于该类案件也无不准会见律师的最长期限。根据法律规定，有碍侦查或者可能泄露国家秘密的情形消失后，公安机关应当许可会见。</p> <p>《刑事诉讼法》第 37 条第 4 款规定，辩护律师会见犯罪嫌疑人、被告人时不被监听。公安部禁止看守所以任何方式监听律师会见谈话的内容。看守所律师会见室均未安装任何监听设备，公安机关不会对律师会见进行监听。</p> <p>（5）《刑事诉讼法》第 83 条规定：“除无法通知或者涉嫌危害国家安全犯罪、恐怖活动犯罪通知可能有碍侦查的情形外，应当在拘留后二十四小时以内，通知被拘留人的家属。”为防止该条被滥用，《人民检察院刑事诉讼规则（试行）》第 133 条和《公安机关办理刑事案件程序规定》第 123 条，分别对该条规定的“无法通知”和在“涉嫌危害国家安全犯罪、恐怖活动犯罪”案件中通知“有碍侦查”的情形予以明确规定。其中，“无法通知”的情形分别是被拘留人无家属的、与其家属无法取得联系的和受自然灾害等不可抗力阻碍的；“有碍侦查”的情形分别是可能毁灭、伪造证据，干扰证人作证或者串供</p>	<p>meeting, they should notify the defense lawyer in writing and provide an explanation. Circumstances which would “hinder an investigation” may include those resulting in: (a) possible destruction or fabrication of evidence, interference with witness testimony, or collusion with others to commit perjury; (b) suspects inflicting self-harm, committing suicide, or fleeing; (c) accomplices fleeing or hindering the investigation; or (d) implicating suspects’ family members.</p> <p>In practice, public security organs undertake investigative activities in strict accordance with the <i>Criminal Procedure Law</i> and <i>Procedural Regulations on the Handling of Criminal Cases by Public Security Organs</i>, safeguarding lawyers’ practice rights in accordance with the law, not permitting violations of criminal suspects’ rights to have the assistance of a lawyer or to meet with a lawyer; and with respect to these types of cases, there is also no maximum period for non-approval of lawyer meetings. According to the law, once the circumstances which would result in hindering the investigation or which might result in the leaking of state secrets have disappeared, public security organs should permit the meetings [between lawyers and clients].</p> <p>Art. 37, para. 4 of the <i>Criminal Procedure Law</i> stipulates that a meeting between a defense lawyer and a criminal suspect or defendant [shall] not be monitored. The Ministry of Public Security prohibits detention centers from using any method to monitor the contents of conversations in meetings with lawyers. No detention center lawyer interview rooms have listening devices installed, and public security organs do not monitor meetings with lawyers.</p> <p>(5) Art. 83 of the <i>Criminal Procedure Law</i> stipulates: “The family members of the detained person must be notified within 24 hours after the person is taken into custody, except where it is impossible to deliver a notice or where crimes of endangering state security or terrorist activities are suspected and the notification would hinder the investigation.” In order to prevent abuse of this article, Art. 133 of the <i>People’s Procuratorate Criminal Procedural Regulation (Trial Version)</i> and Art. 123 of the <i>Procedural Regulations on the Handling of Criminal Cases by Public Security Organs</i> clearly stipulate the respective circumstances where “it is impossible to deliver a notice” and where “it would hinder the</p>

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	<p>的，可能引起同案犯逃避、妨碍侦查的，犯罪嫌疑人的家属与犯罪有牵连的。有碍侦查情形消失后，公安机关应当通知被拘留人家属。</p> <p>另外，根据《人民检察院刑事诉讼规则（试行）》第 564 条、第 565 条第 19 项和 566 条第 1 款的规定，人民检察院依法对公安机关侦查活动是否合法进行监督，其中包括对犯罪嫌疑人拘留、逮捕后依法应当通知家属而未通知的情况；发现存在违法的，人民检察院有权依法以口头或书面方式通知纠正违法行为，发现犯罪的依法追究刑事责任。</p> <p>所谓一些“持不同政见者”被实施了禁止与外界接触的羁押超过 3 个月和遭受“酷刑”的“报告”不属实。</p> <p>（6）《看守所条例》规定，收押时应当告知在押人员在羁押期间应当遵守的规定和享有的合法权益。为进一步规范在押人员权利和义务告知工作，2011 年 9 月，公安部通过并颁布《看守所告知在押人员权利和义务的规定》（注，报告英文译文说“草案”是误译，实为通过和颁布），要求看守所在收押时向每一名新入所的在押人员发放权利和义务告知单，列明在押人员依法享有的权利、必须履行的义务以及权利受到侵害时的救济途径，并将被羁押人依法享有的权利张贴在监室内。看守所对少数民族、外籍在押人员，发放民族语</p>	<p>investigation” of cases of “suspected crimes of endangering state security or terrorist activities.” The circumstances where “it is impossible to deliver a notice” are divided into those where the detained person lacks family members, there is no means of communicating with his/her family members, and there are <i>force majeure</i> obstructions such as a natural disaster; circumstances that would “hinder the investigation” have been divided into those that might result in possible destruction or fabrication of evidence; interference with witness testimony, or collusion with others to commit perjury; accomplices fleeing or hindering the investigation; or implicating suspects’ family members. Once the circumstances that would hinder the investigation have disappeared, public security organs should inform the families of the detainees.</p> <p>In addition, according to Art. 564, Art. 565 (19), and Art. 566, para. 1 of the <i>People’s Procuratorate Criminal Procedural Regulation (Trial Version)</i>, people’s procuratorates shall undertake supervision, in accordance with the law, of whether the investigatory activities of public security organs are in compliance with the law, including where families should have been notified in accordance with the law but have not been notified after suspects are criminally detained or arrested. Where legal violations are discovered, a people’s procuratorate has the authority, in accordance with the law, to issue an oral or written notice to correct the unlawful conduct, and to pursue criminal responsibility where criminal conduct is discovered.</p> <p>“Reports” that some so-called “holders of different political views” have been forbidden from having contact with the outside world and detained for periods exceeding three months and have been “tortured” are untrue.</p> <p>(6) The <i>Detention Center Regulations</i> stipulate that while in detention, detainees should be informed of rules that they must follow and the lawful rights and interests to which they are entitled. To further standardize notification work concerning the rights and obligations of detainees, in September 2011, the Ministry of Public Security promulgated the <i>Detention Center Regulations for Notification of Detainees of their Rights and Obligations</i> (note: the English version of the report’s reference to “draft” regulations is an error; the regulations have been passed and promulgated), which require that detention centers issue each new</p>

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	<p>言、外文的权利义务告知单。对文盲等无阅读能力者进行口头告知，并在所内滚动播放相关视频、图片。看守所还通过对新收押人员实行过渡管理，由民警负责指导新入所人员熟悉相关权利和看守所相关规定，告知监室内常见问题的处理办法，特别要告知其享有不被打骂、体罚、虐待的权利。看守所每个监室都安装有报警装置，如发生上述情形，在押人员可通过报警装置报告，也可以通过约见驻所检察官等方式检举和控告。各级公安机关的执法监督部门、驻所检察部门将看守所是否落实这项制度作为检查重点，以切实维护在押人员的合法权益。</p>	<p>detainee entering the detention center a notice that sets forth the rights and interests to which detainees are entitled, the obligations that must be complied with, and emergency relief channels for when rights are infringed upon; and that the list of rights and interests to which detainees are entitled be posted in the cells. For detained ethnic minorities and foreign nationals, [detention centers shall] issue notices on rights and obligations in ethnic or foreign languages. For those unable to read, such as illiterates, the notice of rights and interests shall be conveyed orally, and relevant photographs and videos shall be displayed within detention centers in a rolling fashion. Detention centers shall also undertake transitional management of new detainees, and police (<i>minjing</i>) shall guide new detainees in familiarizing them with their relevant rights and interests and the detention center's corresponding regulations, informing them of methods for handling common issues inside cells, and especially informing them of their rights to be free from beatings, corporal punishment, and maltreatment. Each detention center cell has equipment installed within it that allows detainees to call the police, and if the aforementioned circumstances occur, detainees may report them via the police reporting equipment; they may also make a report or file an accusation through arranged interviews with the procuratorial official stationed within the detention center and other methods. Law enforcement and supervision departments at public security organs of all levels, and procuratorial departments stationed inside detention centers will make it a priority to check on whether such systems are being implemented, so as to conscientiously defend the lawful rights and interests of detainees.</p>
4	<p>(1) 中国《律师法》确立了律师庭审中言论责任豁免权，在第 37 条第 2 款中明确规定，律师在法庭上发表代理、辩护意见不受法律追究，但律师发表危害国家安全、恶意诽谤他人、严重扰乱法庭秩序的言论除外。此外，《刑法》第 306 条规定在刑事诉讼中，对辩护人、诉讼代理人毁灭、伪造证据，帮助当事人毁灭、伪造证据等妨害司法的行为追究刑事责任。上述规定旨在保障律师执业权，同时防范和惩戒违法违规行为，维护司法公正。中国《刑事诉讼法》对追究涉嫌构成妨害司法罪律师的刑事责任是审慎的，专门规定了特别程序。根据该法第 42 条规定，律师帮助犯罪嫌疑人、被告人隐匿、毁灭、伪造证据或者串供，威胁、引诱证人作伪证以及进行其他干扰司法机关诉讼活动的行为涉嫌犯罪的，应当由办理律师所承</p>	<p>(1) China's <i>Lawyers Law</i> establishes immunity from prosecution for lawyers in respect of speech made during a court hearing; Art. 37, para. 2 clearly stipulates that lawyers who express opinions in court as defense representatives or defense counsel may not be legally investigated, but speech by lawyers that endangers state security, maliciously slanders others, or seriously disrupts courtroom order is excluded from this protection. In addition, Art. 306 of the <i>Criminal Law</i> stipulates that, during the criminal process, defense counsel or litigation representatives who destroy or fabricate evidence, help parties to destroy or fabricate evidence, or take other actions that impair the judicial process shall be held criminally responsible. The aforementioned stipulations are intended to ensure lawyers' practice rights, and, at the same time, guard against and</p>

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	<p>办案件的侦查机关以外的侦查机关办理，应当及时通知其所在的律师事务所或者所属的律师协会。这些规定符合法治要求，借鉴了世界上许多国家的相关法律制度，并不是削弱律师执业独立地位。为进一步明确罪与非罪的界限，防止有关规定被滥用，2015年8月29日通过的《刑法修正案（九）》对刑法第309条规定的扰乱法庭秩序罪作了修改，将原第四项“其他严重扰乱法庭秩序的行为”明确为“有毁坏法庭设施，抢夺、损毁诉讼文书、证据等扰乱法庭秩序行为，情节严重的”。该修正案将于2015年11月1日正式实行。</p> <p>问题中所称的《刑事诉讼法》第39条应为1996年《刑事诉讼法》第38条，该条规定：“辩护律师和其他辩护人，不得帮助犯罪嫌疑人、被告人隐匿、毁灭、伪造证据或者串供，不得威胁、引诱证人改变证言或者作伪证以及进行其他干扰司法机关诉讼活动的行为。”“违反前款规定的，应当依法追究法律责任。”为避免实践中可能发生个别侦查机关以辩护人涉嫌伪证罪为由，随意对辩护人立案侦查和采取强制措施，侵犯辩护人合法权益，也影响原案犯罪嫌疑人、被告人辩护权行使的情况，并考虑到“威胁、引诱证人改变证言”的规定不够准确，2012年3月第十一届全国人大五次会议通过的关于修改刑事诉讼法的决定对上述规定作了修改。修改后的刑事诉讼法第42条规定：“辩护人或者其他任何人，不得帮助犯罪嫌疑人</p>	<p>discipline conduct that violates laws and regulations, and defend judicial impartiality. China’s <i>Criminal Procedure Law</i> is cautious in holding lawyers criminally liable for suspected crimes that constitute harm to the judicial system, and has especially stipulated a special procedure. According to Art. 42 of that law, where a lawyer assists a criminal suspect or a defendant in concealing, destroying, or fabricating evidence, colludes to commit perjury, threatens or induces witnesses to commit perjury, or engages in other suspected criminal actions that interfere with the procedural activities of judicial organs, an investigatory organ other than the one that handles the case represented by the defense counsel should handle the matter, and the law firm with which he/she works or the lawyers’ association to which he/she belongs should be informed promptly. These stipulations accord with the requirements of the rule of law, draw on relevant legal systems of many countries in the world, and do not undermine the independent status of lawyers’ practice. To further clarify the boundary between what is and is not a crime, and to prevent abuse of the relevant provisions, on August 29, 2015, <i>Criminal Law Amendment (9)</i> was passed which amended Art. 309, which relates to disruptions of courtroom order, and took the earlier item 4, “other conduct seriously disruptive to courtroom order” and clarified it as “damaging court facilities, forcibly taking or ruining litigation documents and evidence, etc., and other conduct that disrupts court order, where the circumstances are serious.” The Amendment will formally come into effect on November 1, 2015.</p> <p>What the question refers to as Art. 39 of the <i>Criminal Procedure Law</i> ought to refer to Art. 38 of the 1996 <i>Criminal Procedure Law</i>, which stipulates: “Defense lawyers and other defenders must not help criminal suspects or defendants to conceal, destroy, falsify evidence or collude to commit perjury, and must not threaten or induce witnesses to alter their testimony or commit perjury or engage in other actions that interfere with the procedural activities of judicial organs.” “Whoever violates this provision should be investigated for legal responsibility in accordance with the law.” In order to avoid the use of perjury by individual investigative organs as a pretext to arbitrarily investigate defense representatives and use coercive measures against them—thus violating their lawful rights and interests, and also affecting the criminal suspect or defendant in the originating case (<i>yuan’an</i>) in exercising his/her right to</p>

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	<p>人、被告人隐匿、毁灭、伪造证据或者串供，不得威胁、引诱证人作伪证以及进行其他干扰司法机关诉讼活动的行为。”“违反前款规定的，应当依法追究法律责任，辩护人涉嫌犯罪的，应当由办理辩护人所承办案件的侦查机关以外的侦查机关办理。辩护人是律师的，应当及时通知其所在的律师事务所或者所属的律师协会。”</p> <p>2015年9月20日，最高人民法院、最高人民检察院、公安部、国家安全部和司法部联合出台了《关于依法保障律师执业权利的规定》。该《规定》是在完善律师执业保障机制方面最新出台的措施，从四个方面对律师执业权利的保障进行了完善和规范：第一，完善律师执业权利的保障措施，特别是保障律师的知情权、申请权、申诉权，会见、阅卷、收集证据和发问、质证、辩护、代理等方面的执业权利。第二，完善保障律师执业权利的救济机制。对相关的司法机关如何保障律师执业权利的落实和行使，提出了明确要求。第三，完善侵犯律师执业权利的责任追究制度。相关机关对律师提出的投诉、申诉、控告，经调查核实后，要求有关机关予以纠正，对相关责任人做出严肃处理。第四，规范法律服务秩序，提出了严肃查处假冒律师执业和非法从事律师法律服务的行为。这些措施对于进一步完善律师制度、保障律师的执业权利、充分发挥律师的职能和作用具有重要意义。</p>	<p>defense—and in consideration of the lack of accuracy in the stipulation against “threatening or inducing witnesses to alter their testimony,” in March 2012, at the fifth meeting of the 11th National People’s Congress, a decision on amending the <i>Criminal Procedure Law</i> was passed to amend the aforementioned stipulation. Following this amendment, Art. 42 of the <i>Criminal Procedure Law</i> stipulates: “Defense representatives or any other persons must not assist criminal suspects or defendants to conceal, destroy, or falsify evidence or collude to commit perjury, and must not threaten or induce witnesses to commit perjury or engage in other actions that interfere with the procedural activities of judicial organs.” “For violations of the provision in the preceding paragraph, legal responsibility should be pursued; where a defense representative is suspected of having committed a crime, the matter should be handled by an investigatory organ other than the one that handles the case represented by the defense representative. Where the defense representative is a lawyer, the law firm with which he/she works or the lawyers’ association to which he/she belongs should be informed promptly.”</p> <p>On September 20, 2015, the Supreme People’s Court, the Supreme People’s Procuratorate, the Ministry of Public Security, the Ministry of State Security, and the Ministry of Justice jointly issued the <i>Provisions on Safeguarding Lawyers’ Practice Rights in Accordance with Law</i>. These provisions are the latest measures put forward for perfecting the safeguard mechanism for lawyers’ practice rights. These improve and standardize safeguards for lawyers’ practice rights in four respects: First, they improve safeguard measures for lawyers’ practice rights, especially in safeguarding lawyers’ rights to know, file applications, bring suits, meet [with clients], read files, and gather evidence, as well as practice rights such as asking questions, cross-examining witnesses, engaging in defense, and representation. Second, the <i>Provisions</i> improve relief mechanisms for safeguarding lawyers’ practice rights. The <i>Provisions</i> put forward clear requirements with respect to how judicial organs shall implement and exercise the safeguarding of lawyers’ practice rights. Third, the <i>Provisions</i> improve the accountability system for violations of lawyers’ practice the rights. Relevant organs, after investigating the veracity of the complaints, appeals, or accusations brought by lawyers, [shall] require relevant organs to make corrections and to strictly deal with the relevant persons responsible. Fourth, they standardize the orderly [provision of]</p>

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	<p>关于王全璋律师：2013年4月3日，靖江市人民法院在审理靖江市人民检察院提起公诉的被告人朱某某利用邪教组织破坏法律实施一案中，被告人朱某某的辩护人王全璋在法庭审判过程中，违反法庭秩序，情节严重，靖江法院依法决定对其拘留。2013年4月6日，靖江法院鉴于拘留已起到惩戒作用，故决定对王全璋提前解除拘留。</p> <p>关于吴良述律师：2014年5月30日，广西贺州市中级法院官方微博称，2014年5月21日，贺州市中级法院在钟山县法院开庭审理上诉人杨标安、杨常芳等七人故意毁坏财物一案时，发生律师及旁听人员起哄，致使庭审一度中断，随后恢复开庭。在20日、21日的庭审中，审判长陈益林对辩护人申请的新的6名证人传唤出庭作证，合议庭对诉讼参与人依法享有的辩护权和其他诉讼权利给予了充分保障。在21日庭审中，审判长宣布进入法庭辩论阶段时，吴良述律师高声指责法庭剥夺其辩护权利，审判长多次进行说明制止以及多次警告无效的情况下，根据刑事诉讼法第194条的规定，作出让法警将吴良述带离法庭的决定。</p>	<p>legal services, providing for the strict investigation and punishment of those who impersonate lawyers and who unlawfully engage in legal practice. These measures are very important to perfecting the lawyers system, safeguarding lawyers' practice rights, and fully giving play to the role and function of lawyers.</p> <p>With regard to lawyer Wang Quanzhang (王全璋): On April 3, 2013, at the Jingjiang City People's Court during its trial of defendant Zhu XX in a public prosecution brought by the Jingjiang City People's Procuratorate for use of evil cults to harm the implementation of the law, the defendant Zhu XX's defense lawyer Wang Quanzhang (王全璋) violated courtroom procedure. The circumstances were serious, and the Jingjiang City People's Court decided to detain him. On April 6, 2013, the Jingjiang court determined that the detention had already served its disciplinary purpose and therefore decided to end Wang Quanzhang's detention early.</p> <p>With regard to lawyer Wu Liangshu (吴良述): On May 30, 2014, the official <i>weibo</i> of the Hezhou Intermediate Court of Guangxi Province stated that on May 21, 2014, during a Hezhou Intermediate Court hearing—held in the Zhongshan County Court—of a case of intentional destruction of property involving seven appellants, including Yang Biaoan and Yang Changfang, heckling from the lawyer and observers of the trial next to the lawyer interrupted the court hearing, which resumed later. During hearings on the 20th and the 21st, the presiding judge Chen Yilin heard testimony of six new witnesses summoned to appear before the court pursuant to an application by the defense representative, and the collegiate bench full guaranteed the lawful defense rights and other litigation rights to which the participants in the litigation were entitled. During the hearing on the 21st, when the presiding judge announced the beginning of court argument period, lawyer Wu Liangshu loudly criticized the court for depriving him of his defense rights. In a situation where the presiding judge repeatedly made clear that [Wu] should cease and repeatedly warned him to no effect, the presiding judge decided, pursuant to the stipulation of Art. 194 of the <i>Criminal Procedure Law</i>, that Wu be escorted out of the courtroom by the court police.</p>

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	<p>关于张科科律师、龚祥栋律师，没有资料显示两位律师被法庭驱逐，也没有被法庭禁止参与庭审的任何信息。</p> <p>根据《律师法》第 49 条，唐吉田、刘巍因“扰乱法庭秩序、干扰诉讼活动的正常进行”于 2010 年被吊销律师执业证书。滕彪、江天勇、刘士辉、陈武权、王成、王全平等因人不在律师事务所从事律师执业等原因，其律师执业证书由其执业地的原审核颁证机关依法收回或者注销。李和平、温海波目前仍是执业律师。</p> <p>(2) 中国律师是落实依法治国基本方略、建设法治国家的一支重要力量。中国政府一直高度重视律师的这一作用，不断加强和完善律师制度。2007 年对已颁布实施 11 年的《律师法》加以修订（通过的修订案于 2008 年 6 月 1 日正式实施），一是进一步明确律师的职业使命，规定律师应当维护当事人的合法权益，维护法律的正确实施，维护社会公平和正义。二是充实律师执业权利和独立性保障内容，包括：明确规定律师依法执业受法律保护，任何组织和个人不得侵害律师的合法权益，律师在执业活动的人身权利不受侵犯；增加了保障律师依法行使会见权、阅卷权和调查取证权的规定；增加了律师参与法庭诉讼活动中的言论责任豁免权和律师参与诉讼活动中因涉嫌犯罪被采取强制措施时的权利保障条款；三是进一步完善律师执业的行为规范、行业自律和必要的行政管理监督措施。为落实修订后的《律师法》的相关内容，司法部于 2008 年修订《律师执业管理办法》，在规范律师执业许可，保障律师依法执业和明确司法行政机关的管理职责等方面作出具体规定。上述措施从中国建设法治国家、完善律师制度的实际需要出发，同时借鉴了其他国家的通行做法，旨在为律师执业提供有力的保障，对违法违规行为予以防范和惩戒。将其中一些必要的、国际上通行的管理措施视之为“对</p>	<p>With regard to lawyers Zhang Keke (张科科) and Gong Xiangdong (龚祥栋), there are no records showing that these two lawyers were expelled from the court, and also no information that they have been forbidden from appearing in court.</p> <p>Pursuant to Art. 49 of the <i>Lawyers Law</i>, Tang Jitian (唐吉田) and Liu Wei (刘巍) had their lawyers' licenses revoked in 2010 for “disrupting the order of the court, and interfering with the normal course of proceedings.” Teng Biao (滕彪), Jiang Tianyong (江天勇), Liu Shihui (刘士辉), Chen Wuquan (陈武权), Wang Cheng (王成), Wang Quanping (王全平), et al., have had their lawyers' licenses revoked or canceled in accordance with the law by their former local authorities for license inspection and issuance for reasons such as not engaging in the practice of law at a law firm, etc. Li Heping (李和平) and Wen Haibo (温海波) are currently still practicing lawyers.</p> <p>(2) Chinese lawyers are an important force in implementing the basic strategy of ruling the country by law and in the construction of a rule-of-law state. The Chinese government has always attached great importance to this role of lawyers, continuously strengthening and improving the system for lawyers. In 2007, the <i>Lawyers Law</i>, promulgated 11 years prior, was amended (with adopted amendments taking effect on June 1, 2008) to: One, further clarify the professional mission for lawyers, stipulating that lawyers should defend the lawful rights and interests of the parties involved, defend the correct implementation of the law, and defend social equity and justice. Two, enhance safeguards for lawyers' practice rights and independence, including: clearly stipulating that lawyers carrying out their work in accordance with the law have the protection of the law, that no organization or individual may infringe upon the lawful rights and interests of a lawyer, and that lawyers engaged in professional activities shall not have their personal rights infringed upon; adding provisions to safeguard lawyers' rights to meet with clients, read files, and collect evidence in accordance with the law; adding provisions to safeguard lawyers' right to immunity from liability for speech made during their participation in courtroom litigation activity and their rights when being subjected to coercive measures on suspicion of committing a crime during litigation activity. Three, further improve the</p>

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	<p>律师权的限制或剥夺”是不正确的。</p> <p>要补充说明的是，在当前中国全面推进依法治国的进程中，完善律师制度是其中的一项重要方面，相关主管部门正在积极研究出台具体措施，进一步加强和完善对律师执业的权利保障、服务和管理。中国律师在促进法治、维护当事人合法权益和社会公平正义方面必将发挥更大作用。</p> <p>(3) 中国《律师法》第3条规定，律师执业受法律保护，任何组织和个人不得侵害律师的合法权益。第37条规定，律师在执业活动中的人身权利不受侵犯。中国一向鼓励、支持律师依法履行职责，依法执业，不允许对律师正常执业进行所谓“报复”。</p>	<p>necessary administrative supervision measures to standardize lawyers' code of professional conduct and industry self-regulation. In order to implement relevant content in the revised <i>Lawyers Law</i>, in 2008, the Ministry of Justice amended the <i>Measures on the Management of Lawyers</i>, and issued specific provisions standardizing the professional licensing of lawyers, safeguarding lawyers' lawful practice, and clarifying the management and other responsibilities of judicial administrative organs. The measures described above are based on the practical needs of China's construction of a rule-of-law country and perfecting a lawyers system, at the same time drawing upon common approaches taken by other countries, aimed at providing effective safeguards for legal practitioners and preventing and punishing conduct that violates laws and regulations. It is incorrect to view some necessary, internationally accepted management measures as "restrictions and deprivations of the rights of lawyers."</p> <p>It needs to be added that, in the course of China's current comprehensive push to ruling the country by law, perfecting the lawyers system is an important aspect, and relevant responsible departments are now actively researching specific measures to be issued, to further strengthen and improve safeguards for lawyers' practice rights, services, and management. China's lawyers will inevitably play a bigger role in the promotion of rule of law, and in defending parties' lawful rights and interests and social equity and justice.</p> <p>(3) Art. 3 of China's <i>Lawyers Law</i> stipulates that lawyers in professional practice are protected by law, and that no organization or individual may violate the lawful rights and interests of lawyers. Art. 37 stipulates that the personal rights of lawyers engaged in professional activities are not to be violated. China has always encouraged and supported lawyers in performing their duties in accordance with the law and engaging in professional practice in accordance with law, and does not permit what is called "retaliation" against lawyers who are engaged in normal professional practice.</p>

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	<p>经了解，该问题涉及人员信息如下：</p> <p>滕彪，男，42岁，北京人，原中国政法大学法学院讲师，2014年9月赴美国哈佛大学任访问学者。经了解，公安机关未对滕彪采取强制措施，不存在所谓其遭受“酷刑”情况。</p> <p>余文生及王永航并未受到虐待。</p> <p>2014年3月22日，黑龙江建三江农垦公安局依法对利用邪教活动扰乱社会秩序的张俊杰处以行政拘留5日，对江天勇、王成、唐吉田处以行政拘留15日，并处罚款1000元。江天勇、王成的律师执业证书由其执业地的原审核颁证机关依法收回、注销。唐吉田因“扰乱法庭秩序、干扰诉讼活动的正常进行”被吊销律师执业证书。张俊杰目前仍是执业律师。以上人员被羁押期间不存在所谓遭到“殴打和酷刑”的情况。</p>	<p>According to our understanding, the information regarding the persons of concern is as follows:</p> <p>Teng Biao (滕彪), male, aged 42, Beijing native, former law school lecturer at China University of Political Science. He traveled to the United States in September 2014 as a visiting scholar at Harvard University. According to our understanding, public security organs did not take coercive measures against Teng Biao, and the so-called “torture” which he suffered did not occur.</p> <p>Yu Wensheng (余文生) and Wang Yonghang (王永航) have not been maltreated.</p> <p>On March 22, 2014, Heilongjiang’s Jiansanjiang Agribusiness Reclamation Public Security Bureau decided to administratively detain Zhang Junjie (张俊杰) for five days, and administratively detain Jiang Tianyong (江天勇), Wang Cheng (王成), and Tang Jitian (唐吉田) for 15 days, as well as fine them RMB 1,000. Jiang Tianyong and Wang Cheng’s (王成) lawyers’ licenses were revoked and canceled by their local authority for license inspection and issuance. Tang Jitian’s lawyer’s license was suspended for “disrupting the order of the court, and interfering with the normal course of proceedings.” Zhang Junjie is at present still a practicing lawyer. It is not the case that the aforementioned persons were “beaten and tortured” while in detention.</p>
5	<p>根据2010年全国人大常委会修订的《保守国家秘密法》规定，国家秘密是指关系国家安全和利益，依照法定程序确定，在一定时间内只限一定范围的人员知悉的事项。涉及国家安全和利益的事项，泄露后可能损害国家在政治、经济、国防、外交等领域的安全和利益的，依法确定为国家秘密。2014年国务院公布的《保守国家秘密法实施条例》明确规定，机关、单位不得将依法应当公开的事项确定为国家秘密。涉及酷刑的信息，不属于《保守国家秘密法》规定的国家秘密的范围。</p>	<p>Pursuant to stipulations of the <i>Law on Guarding State Secrets</i> as revised in 2010 by the National People’s Congress Standing Committee, state secrets are matters relating to national security and the interests of the state that are, as determined through legal procedures, known to a specific scope of persons for a specific period of time. Matters relating to state security or the interests of the state that, if disclosed, may harm the security and interests of the state in political, economic, defense, or diplomatic spheres, etc., are determined, in accordance with the law, to be state secrets. The <i>Implementing Regulations for the Law on Guarding State Secrets</i>, promulgated by the State Council in 2014, clearly stipulate</p>

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	<p>根据《保守国家秘密法》，中国有关机关按照法定程序对某一事项是否属于国家秘密加以确认。对是否属于国家秘密或者属于何种密级不明确或者有争议的，由国家保密行政管理部门或者省、自治区、直辖市保密行政管理部门确定。此外，保守国家秘密法实施条例还规定了定密纠错制度，机关、单位发现本机关、本单位或者上级机关、单位发现下级机关、单位，在国家秘密的确定、变更和解除方面存在不当的，应当及时纠正。</p> <p>另外，中国政府重视信息公开，采取切实措施确保公民对国家和社会生活的知情权。根据《国务院信息公开条例》的规定，公民、法人或者其他组织认为行政机关在政府信息公开工作中的具体行政行为侵犯其合法权益的，可以依法申请行政复议或者提起行政诉讼。</p> <p>根据《刑事诉讼法》相关规定，危害国家安全犯罪、恐怖活动犯罪、特别重大贿赂犯罪案件，在侦查期间辩护律师会见在押犯罪嫌疑人，应当经侦查机关许可。根据《公安机关办理刑事案件程序规定》有关规定，对辩护律师提出会见申请的，除有碍侦查或者可能泄露国家秘密的情形外，应当作出许可的决定。对于不许可会见的，有碍侦查或者可能泄露国家秘密的情形消失后，公安机关应当</p>	<p>that organs and units must not classify as state secrets matters that should, in accordance with the law, be made public. Information relating to torture does not fall within the scope of state secrets stipulated by the <i>Law on Guarding State Secrets</i>.</p> <p>Pursuant to the <i>Law on Guarding State Secrets</i>, China's relevant organs confirm, through legal procedures, whether a matter is or is not a state secret. Where there is a dispute as to whether, or it is unclear whether, [a matter] is a state secret or what level secret that matter is, [that matter] will be determined by the National Administrative and Management Department for Guarding Secrets or the provincial, autonomous regional, or centrally-administered municipal Administrative and Management Departments for Guarding Secrets. In addition, the <i>Implementing Regulations for the Law on Guarding State Secrets</i> also provide an error correction system for the determination of state secrets, whereby organs and units which learn that their own organs or units have, or a superior organ or unit which learns that a subordinate organ or unit has, improperly determined, altered, or removed a state secret, should promptly correct it.</p> <p>In addition, the Chinese government attaches importance to open government information, and has adopted practical measures to ensure citizens' rights to know with respect to the state and life in their society. Pursuant to the provisions of the <i>State Council Open Government Information Regulations</i>, citizens, legal persons, or other organizations who believe that their lawful rights and interests have been infringed upon in the course of specific administrative actions by an administrative organ in carrying out its open government information work, may, in accordance with the law, apply for administrative review or may commence administrative litigation.</p> <p>Pursuant to relevant provisions of the <i>Criminal Procedure Law</i>, defense lawyers wishing to meet with criminal suspects during the investigation period for cases involving crimes of "endangering state security," "terrorist activities," or especially serious "bribery," should first obtain permission from the investigating organ. According to the relevant provisions of the <i>Procedural Regulations on the Handling of Criminal Cases by Public Security Organs</i> [Revised in 2012], where a defense</p>

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	<p>许可会见。</p> <p>被拘禁人有权就涉及的事项是否属于国家秘密提出异议，由国家保密工作部门或者省级人民政府保密工作部门进行鉴定。</p> <p>根据《保守国家秘密法》，机关、单位负责人及其指定的人员为定密责任人，负责本机关、本单位的国家秘密确定、变更和解除工作。机关、单位确定、变更和解除本机关、本单位的国家秘密，应当由承办人提出具体意见，经定密责任人审核批准。机关、单位应当在国家秘密产生的同时，由承办人依据有关保密事项范围拟定密级、保密期限和知悉范围，报定密责任人审核批准，并采取相应保密措施。</p> <p>根据《保守国家秘密法》和《保守国家秘密法实施条例》，国家秘密的密级分为绝密、机密、秘密三级。绝密级国家秘密是最重要的国家秘密，泄露会使国家安全和利益遭受特别严重的损害；机密级国家秘密是重要的国家秘密，泄露会使国家安全和利益遭受严重的损害；秘密级国家秘密是一般的国家秘密，泄露会使国家安全和利</p>	<p>lawyer submits a request for a client meeting, other than in circumstances where it might hinder the investigation or might result in leaking state secrets, a decision granting permission should be issued. Where permission to meet with a client is not granted, once the circumstances that would hinder the investigation or might leak state secrets have disappeared, the public security organ should permit a client meeting.</p> <p>A detainee has the right to put forward an objection to whether or not the matters involving him/her are state secrets, and the matters shall be evaluated by the National Department for Guarding Secrets or the provincial level departments for guarding secrets.</p> <p>Pursuant to the <i>Law on Guarding State Secrets</i>, the responsible persons for an organ or unit and personnel they designate as persons responsible for the designation of secrets are responsible for their organ or unit's work of determining, altering, or removing secrets designation. Organs and units, in determining and altering the secrets designation, and removing such designation from their organ or unit's secrets, should have an assigned person [<i>chengbanren</i>, 承办人, a person responsible for work but without decision-making authority] issue specific opinions to be after examined and approved by the persons responsible for the designation of secrets. Organs and units should, when designating secrets, have the assigned persons [承办人], according to the scope of relevant secrets protection matters, formulate the secrecy level, the duration of the secrecy, and the scope of persons who may know [of the secrets], and report it to the persons responsible for designation of secrets for their examination and approval, and should adopt relevant secrecy protection measures.</p> <p>Pursuant to the <i>Law on Guarding State Secrets and Implementing Regulations for the Law on Guarding State Secrets</i>, state secrets shall be divided into top secret, highly secret and secret. Top secret-level state secrets are the most important state secrets, the disclosure of which will cause particularly grave harm to the security and interests of the state;</p>

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	<p>益遭受损害。</p> <p>中央国家机关、省级机关以及设区的市、自治州级机关可以根据保密工作需要或者有关机关、单位的申请，在国家保密行政管理部门规定的定密权限、授权范围内作出定密授权。定密授权应当以书面形式作出。授权机关应当对、单位履行定密授权的情况进行监督。</p>	<p>highly secret-level state secrets are important state secrets, the disclosure of which would cause grave harm to the security and interests of the state; secret-level state secrets are ordinary state secrets, the disclosure of which will harm the security and interests of the state.</p> <p>Central state organs, provincial level organs, and the organs of a city divided into districts or an autonomous prefecture may, according to the needs of secrets protection work or upon the application of relevant organs or units—and within the scope of their authority to determine secrets and their authority to delegate as stipulated by the National Administrative and Management Department for Guarding Secrets—delegate authority to determine secrets. Delegation of authority for the determination of secrets should be issued in written form. The delegating organs should undertake supervision with respect to the authorized organ or unit in implementing its authority to determine state secrets.</p>
6	<p>中国一贯高度重视对妇女、儿童权益的保障。除专门制定了《妇女权益保障法》、《未成年人保护法》等法律以外，在刑法、治安管理处罚法等法律中，对侵害妇女、儿童权益的违法犯罪行为，规定了严厉的处罚，包括：</p> <p>(1) 拐卖。中国制定了《妇女权益保障法》、《未成年人保护法》、《收养法》、《母婴保健法》、《劳动法》、《就业促进法》、《教育法》、《预防未成年人犯罪法》等一系列法律法规，依法惩治拐卖犯罪，切实维护受害人合法权益。刑法第 240 条（拐卖妇女、儿童罪）、第 241 条（收买被拐卖的妇女、儿童罪）、第 244 条（强迫劳动罪、雇佣童工从事危重劳动罪）、第 262 条（拐骗儿童罪、组织残疾人、儿童乞讨罪、组织未成年人进行违反治安管理活动罪）、第 358 条（组织卖淫罪、强迫卖淫罪、协助组织卖淫罪）以及第 234 条（组织出卖人体器官罪），基本涵盖了各类贩运人口行为。2011 年 2 月全国人大常委会通过的《刑法修正案</p>	<p>China has consistently attached great importance to safeguarding women and children’s rights and interests. In addition to the specially formulated <i>Law on the Protection of Rights and Interests of Women</i> and the <i>Law on the Protection of Minors</i>, other laws, such as the <i>Criminal Law</i>, the <i>Public Security Administration Punishments Law</i>, etc., stipulate strict punishments for unlawful criminal conduct infringing upon the rights and interests of women and children, including:</p> <p>(1) Trafficking. China has enacted the <i>Law on the Protection of the Rights and Interests of Women</i>, <i>Law on the Protection of Minors</i>, the <i>Adoption Law</i>, <i>Maternal and Infant Health Law</i>, <i>Labor Law</i>, <i>Employment Promotion Law</i>, <i>Education Law</i>, and <i>Prevention of Juvenile Crime Law</i>, etc., as a series of laws and regulations which punish, in accordance with the law, the crime of “trafficking” and conscientiously defend the lawful rights and interests of victims. In the <i>Criminal Law</i>, Art. 240 (relating to the crimes of abducting or trafficking women or children), Art. 241 (relating to the crimes of buying abducted women or children), Art. 244 (relating to the crimes of forced labor and employing children to do hazardous heavy work), Art. 262 (relating to the crimes of abducting minors, of organizing persons with disabilities or minors to beg, of</p>

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	<p>(八) 《刑法修正案(九)》专门对强迫劳动罪、协助组织卖淫罪和组织出卖人体器官罪进行修改或增设, 将招募、运送和其他协助行为明确规定为犯罪, 并确定相应的法定刑, 完善对有关犯罪打击惩处的法律规定。2015年8月29日, 第十二届全国人大常委会第十六次会议审议通过的《刑法修正案(九)》取消了对买方可以不追究刑事责任的规定, 更有利于遏制买卖妇女儿童行为的发生。</p> <p>家庭暴力。《婚姻法》、《妇女权益保障法》、《残疾人保障法》、《未成年人保护法》、《老年人权益保障法》和《精神卫生法》中, 都作了禁止家庭暴力的规定。2014年12月, 最高人民法院、最高人民检察院、公安部、司法部联合发布了《关于依法处理监护人侵害未成年人权益行为若干问题的意见》, 对针对未成年人的家庭暴力行为做出了处理规定。2015年3月, 最高人民法院、最高人民检察院、公安部、司法部联合发布了《关于依法办理家庭暴力犯罪案件的意见》(法发〔2015〕4号), 对依法办理家庭暴力犯罪案件提出了指导意见。制定反家暴法已经列入第十二届全国人大常委会立法规划。2015年8月27日举行的12届全国人大常委会第16次会议审议了《反家庭暴力法》草案。目前, 全国大多数省份公安机关都建立了“110”反家暴报警中心, 在基层派出所、社区警务室挂牌成立维权投诉站或反家暴报警点。许多基层人民法院成立了妇女维权合议庭、反家暴合议庭等。最高人民法院扩大人身安全保护裁定试点工作, 启动涉及家庭暴力的刑事司法改革工作。民政部门依托地方的救助中心和社区建立家庭暴力庇护所或救助站, 为受暴妇女提供临时救助场所。司法行政部门建立受暴妇女法律援助和司法调解制度, 在法律援助中心专门设立妇女法律援助站。卫生部门</p>	<p>organizing minors to engage in activities that violate law and order), Art. 358 (relating to the crimes of organizing or forcing prostitution, or assisting in the organizing or forcing of prostitution), and Art. 234 (the crimes of organizing the sale of human organs) basically cover all forms of human trafficking. In February 2011, the National People’s Congress passed the <i>Criminal Law Amendment (8)</i>, specifically amending or adding the crimes of forced labor, assisting in organizing prostitution, and organizing the sale of human organs, clearly criminalizing conduct such as enlisting, transporting, or providing other forms of assistance, as well as setting corresponding legally defined penalties, and perfecting legal provisions to strike at and punish relevant crimes. On August 29, 2015, at its 16th meeting, the 12th National People’s Congress Standing Committee deliberated on and passed the <i>Criminal Law Amendment (9)</i>, which removed provisions that had permitted buyers to avoid legal responsibility, making the restriction of trafficking women and children more effective.</p> <p>Domestic violence. The <i>Marriage Law</i>, the <i>Law on the Protection of the Rights and Interests of Women</i>, <i>Law on the Protection of Persons with Disabilities</i>, the <i>Law on the Protection of Minors</i>, the <i>Law on the Protection of the Rights and Interests of the Elderly</i> and the <i>Mental Health Law</i> all contain provisions prohibiting domestic violence. In December 2014, the Supreme People’s Court, the Supreme People’s Procuratorate, the Ministry of Public Security, and the Ministry of Justice jointly issued the <i>Opinions on Lawfully Handling Several Issues on Guardian’s Infringement upon the Rights and Interests of Minors</i>, which provided regulations for handling domestic violence against minors. In March 2015, the Supreme People’s Court, the Supreme People’s Procuratorate, the Ministry of Public Security, and the Ministry of Justice jointly issued the <i>Opinion on Handling Criminal Cases of Domestic Violence in Accordance With Law</i> (Law [2015] No. 4), which provides guiding opinion on handling criminal domestic violence cases in accordance with the law. The enacting of an anti-domestic violence law has already been put into the legislative plan for the 12th National People’s Congress Standing Committee. At the 16th meeting of the 12th National People’s Congress Standing Committee, held on August 27, 2015, the draft <i>Anti-Domestic Violence Law</i> was considered. At present, public security organs in most provinces of China have established “110”</p>

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	<p>试点建立家暴受害人筛查制度。在试点医院，医生为受害者记录的病历能够作为法庭证据。妇联等社会组织积极与政府职能部门合作，参与反家庭暴力工作，并直接向妇女提供维权服务。</p> <p>性骚扰。2015年8月29日，第十二届全国人大常委会第十六次会议审议通过的《刑法修正案（九）》将《刑法》第237条修改为“以暴力、胁迫或者其他方法强制威胁他人或侮辱妇女的，处五年以下有期徒刑或拘役”。“聚众或者在公共场所当众犯前款罪的，或者有其他恶劣情节的，处五年以上有期徒刑。”治安管理处罚法第44条规定，猥亵他人的，或者在公共场所故意裸露身体，情节恶劣的，处五日以上十日以下拘留；猥亵智力残疾人、精神病人、不满十四周岁的人或者有其他严重情节的，处十日以上十五日以下拘留。对于实施性骚扰的行为，可以依法给予治安管理处罚或者追究刑事责任。妇女权益保障法规定，禁止对妇女实施性骚扰，受害妇女有权向单位和有关机关投诉。对妇女实施性骚扰，构成违反治安管理行为的，受害人可以提请公安机关对违法行为人依法给予行政处罚，也可以依法向人民法院提起民事诉讼。</p>	<p>anti-domestic violence police reporting centers, setting up rights defense complaint centers or anti-domestic violence police reporting points at police substations (<i>paichusuo</i>) and community policing offices. Many grassroots people’s courts have set up women’s rights defense and anti-domestic violence collegiate benches. The Supreme People’s Court has expanded pilot work for court ruling on personal safety protection and has launched criminal justice reform work involving domestic violence. Civil affairs departments have enlisted local assistance centers and communities to establish domestic violence shelters or assistance stations to provide temporary places of assistance to women who have suffered domestic violence. Judicial administrative departments have established legal aid and judicial mediation systems for women who have suffered domestic violence, and have specifically set up women’s legal aid stations at legal aid centers. Health departments have established trial screening systems for victims of domestic violence. In trial hospitals, doctor’s records of victims’ medical history may be used as evidence in court. Women’s federations and other social organizations have been actively cooperating with government departments in that role, participating in anti-domestic violence work, and directly providing rights defense services to women.</p> <p>Sexual harassment. On August 29, 2015, <i>Criminal Law Amendment (9)</i> was deliberated upon and passed at the 16th meeting of the 12th National People’s Congress Standing Committee, in which Art. 237 was amended to read: “Those using violence, coercion or other methods to forcibly threaten others or insult women are subjected to imprisonment of up to five years or short-term detention.” “Those assembling crowds to commit the crimes in the preceding paragraph, or doing so in a public place in front of crowds, or having other vile circumstances are subjected to more than five years’ imprisonment.” Art. 44 of the <i>Public Security Administration Punishments Law</i> provides that anyone who indecently assaults any person or deliberately exposes his/her body at a public place shall be detained for not less than five days but not more than ten days if the circumstances are vile. Anyone who indecently assaults a person with disabilities, mentally ill patient, or minor under the age of 14, or who commits any other severe violations shall be detained for not less than ten days but not more than 15 days. For sexual harassment, a [perpetrator] may either be given public security administrative punishment or be</p>

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	<p>校内对女童的性侵。2013年10月，最高人民法院、最高人民检察院、公安部、司法部联合下发了《关于依法惩治性侵害未成年人犯罪的意见》，在《刑法》、《刑事诉讼法》和《未成年人保护法》等法律和司法解释的基础上，对办理性侵害未成年人犯罪案件提出了依法从严惩治等细化要求，进一步明确了办案程序和法律适用问题，强化对被性侵未成年被害人的保护。该意见规定了“对于性侵害未成年人犯罪，应当依法从严惩治”、“办理性侵害未成年人犯罪案件，应当充分考虑未成年人身心发育尚未成熟、易受伤害等特点予以特殊、优先保护”、“对未成年害人采取在其住所或者让其心理上感到安全的场所进行，并通知其法定代理人到场”、“对未成年被害人以一次询问为原则，尽可能避免反复询问”等内容。</p> <p>抛弃女婴。刑法第261条规定了遗弃罪。</p> <p>其他虐待和凌辱行为。如刑法第236条规定了奸淫幼女犯罪，第260条规定了虐待罪。2015年8月29日，第十二届全国人大常委会第十六次会议审议通过的《刑法修正案（九）》完善虐待罪告诉才处理</p>	<p>investigated for criminal responsibility in accordance with the law. The <i>Law on the Protection of the Rights and Interests of Women</i> stipulates that sexual harassment against women is prohibited and that women who are victims have the right to file complaints with their units and the relevant organs. Where a woman is sexually harassed, and that action constitutes a violation of public security administration, the victim may request that public security organs administratively punish the perpetrator in accordance with the law; she may also bring a civil case in the people’s court.</p> <p>Sexual assault against girls in schools. In October 2013, the Supreme People’s Court, the Supreme People’s Procuratorate, the Ministry of Public Security, and the Ministry of Justice jointly issued the <i>Opinion on Punishing Sexual Violations of Minors in Accordance with Law</i>. On the basis of the <i>Criminal Law</i>, the <i>Criminal Procedure Law</i>, the <i>Law on the Protection of Minors</i>, and other laws and judicial interpretations, [the <i>Opinion</i>] provided such detailed requirements as severe punishment in accordance with the law when handling cases of sexual assault of minors, and further clarified the case handling procedures and the applicable legal issues, strengthening the protection of minors who are victims of sexual assault. The <i>Opinion</i> stipulates that “crimes of sexual violations against minors should be severely punished in accordance with the law,” “the handling of cases of sexual violations against minors should take into full consideration the minor victim’s physical and psychological immaturity, vulnerability, and other special characteristics, and implement the special priority protections principle,” “choosing to proceed at the minor victim’s home or other locations that minor victim feel safe in, and notifying the minor victim’s legal representative to be present,” and “adhering to the principle of asking minor victims a question only one time, to best avoid repetitious questioning,” etc.</p> <p>Abandonment of female infants. Art. 261 of the <i>Criminal Law</i> sets forth the crime of “abandonment.”</p> <p>Other maltreatment and insulting behavior. For example, Art. 236 of the <i>Criminal Law</i> stipulates the crime of raping a young girl, and Art. 260 stipulates the crime of maltreatment. On August 29, 2015, at the 16th meeting of the 12th National People’s Congress Standing Committee, the</p>

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	<p>的规定，将《刑法》第 260（3）款修改为“第一款罪，告诉的才处理，但被害人没有能力告诉，或者因为受到强制、威吓无法告诉的除外”，强化对虐待被害人的保护力度。</p> <p>根据刑法的规定，实施上述行为的同时又实施其他违法行为构成犯罪的，还可根据其具体行为，分别依照刑法有关故意杀人罪、故意伤害罪、非法拘禁罪等犯罪规定追究刑事责任。</p> <p>（2）2008 年至 2013 年全国检察机关起诉拐卖妇女、儿童犯罪嫌疑人 20118 人，分别为：2008 年 2511 人，2009 年 3776 人，2010 年 4422 人，2011 年 3315 人，2012 年 3699 人，2013 年 2395 人。2008 年至 2013 年全国检察机关起诉收买被拐卖的妇女、儿童犯罪嫌疑人 1231 人，分别为：2008 年 125 人，2009 年 241 人，2010 年 297 人，2011 年 177 人，2012 年 189 人，2013 年 202 人。</p> <p style="text-align: center;">报告期间定罪数据如下：</p> <table border="1" data-bbox="233 1011 1066 1438"> <thead> <tr> <th>年份</th> <th>罪名</th> <th>一审结案</th> <th>罪犯人数</th> </tr> </thead> <tbody> <tr> <td>2009</td> <td>拐卖妇女、儿童罪</td> <td>1636</td> <td>2413</td> </tr> <tr> <td>2009</td> <td>收买被拐卖的妇女、儿童罪</td> <td>75</td> <td>106</td> </tr> <tr> <td>2010</td> <td>拐卖妇女、儿童罪</td> <td>1919</td> <td>3679</td> </tr> <tr> <td>2010</td> <td>收买被拐卖的妇女、儿童罪</td> <td>71</td> <td>138</td> </tr> <tr> <td>2011</td> <td>拐卖妇女、儿童罪</td> <td>1773</td> <td>3043</td> </tr> <tr> <td>2011</td> <td>收买被拐卖的妇女、儿童罪</td> <td>81</td> <td>125</td> </tr> <tr> <td>2012</td> <td>拐卖妇女、儿童罪</td> <td>1918</td> <td>2830</td> </tr> <tr> <td>2012</td> <td>收买被拐卖的妇女、儿童罪</td> <td>65</td> <td>103</td> </tr> <tr> <td>2013</td> <td>拐卖妇女、儿童罪</td> <td>1131</td> <td>2018</td> </tr> <tr> <td>2013</td> <td>收买被拐卖的妇女、儿童罪</td> <td>51</td> <td>97</td> </tr> <tr> <td>2014</td> <td>拐卖妇女、儿童罪</td> <td>978</td> <td>1585</td> </tr> </tbody> </table>	年份	罪名	一审结案	罪犯人数	2009	拐卖妇女、儿童罪	1636	2413	2009	收买被拐卖的妇女、儿童罪	75	106	2010	拐卖妇女、儿童罪	1919	3679	2010	收买被拐卖的妇女、儿童罪	71	138	2011	拐卖妇女、儿童罪	1773	3043	2011	收买被拐卖的妇女、儿童罪	81	125	2012	拐卖妇女、儿童罪	1918	2830	2012	收买被拐卖的妇女、儿童罪	65	103	2013	拐卖妇女、儿童罪	1131	2018	2013	收买被拐卖的妇女、儿童罪	51	97	2014	拐卖妇女、儿童罪	978	1585	<p><i>Criminal Law Amendment (9)</i> was deliberated upon and passed, which improved the provision on handling crimes of maltreatment only when a complaint is brought, and amended Art. 260, para. 3 to read: “Crimes in para. 1 are handled only upon complaint, except where the victim has no capacity to complain or cannot complain because they are under coercion or threat,” strengthening the degree of protection given to victims of maltreatment.</p> <p>Pursuant to the provisions of the <i>Criminal Law</i>, where aforementioned acts are simultaneously committed with other unlawful acts that also constitute crimes, criminal responsibility may be pursued separately, based on the specific conduct, and in accordance with the <i>Criminal Law</i> provisions regarding crimes such as murder, “intentional infliction of bodily harm,” and “unlawful imprisonment.”</p> <p>(2) From 2008 to 2013, China’s procuratorial organs prosecuted 20,118 criminal suspects for trafficking women and children; figures by year are: 2,511 in 2008; 3,776 in 2009; 4,422 in 2010; 3,315 in 2011; 3,699 in 2012; and 2,395 in 2013. From 2008 to 2013, China’s procuratorial organs prosecuted 1,231 criminal suspects for purchasing trafficked women and children; figures by year are: 125 in 2008; 241 in 2009; 297 in 2010; 177 in 2011; 189 in 2012; and 202 in 2013.</p> <p style="text-align: center;">Conviction Data for the Reporting Period</p> <table border="1" data-bbox="1113 1027 1984 1438"> <thead> <tr> <th>Year</th> <th>Crime</th> <th>Cases concluded at first instance</th> <th>No. of criminal offenders</th> </tr> </thead> <tbody> <tr> <td rowspan="2">2009</td> <td>Trafficking in women or children</td> <td>1,636</td> <td>2,413</td> </tr> <tr> <td>Buying trafficked women or children</td> <td>75</td> <td>106</td> </tr> <tr> <td rowspan="2">2010</td> <td>Trafficking in women or children</td> <td>1,919</td> <td>3,679</td> </tr> <tr> <td>Buying trafficked women or children</td> <td>71</td> <td>138</td> </tr> <tr> <td rowspan="2">2011</td> <td>Trafficking in women or children</td> <td>1,773</td> <td>3,043</td> </tr> <tr> <td>Buying trafficked women or children</td> <td>81</td> <td>125</td> </tr> <tr> <td rowspan="2">2012</td> <td>Trafficking in women or children</td> <td>1,918</td> <td>2,830</td> </tr> <tr> <td>Buying trafficked women or children</td> <td>65</td> <td>103</td> </tr> <tr> <td>2013</td> <td>Trafficking in women or children</td> <td>1,131</td> <td>2,018</td> </tr> </tbody> </table>	Year	Crime	Cases concluded at first instance	No. of criminal offenders	2009	Trafficking in women or children	1,636	2,413	Buying trafficked women or children	75	106	2010	Trafficking in women or children	1,919	3,679	Buying trafficked women or children	71	138	2011	Trafficking in women or children	1,773	3,043	Buying trafficked women or children	81	125	2012	Trafficking in women or children	1,918	2,830	Buying trafficked women or children	65	103	2013	Trafficking in women or children	1,131	2,018
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	2014	收买被拐卖的妇女、儿童罪	53	170		Buying trafficked women or children	51	97
	2015年 1-6月	拐卖妇女、儿童罪	368	687	2014	Trafficking in women or children	978	1,585
	2015年 1-6月	收买被拐卖的妇女、儿童罪	16	71	Jan-June 2015	Buying trafficked women or children	53	170
<p>(3) 2013年10月，最高人民检察院联合最高人民法院、公安部和司法部发布的《关于依法惩治性侵害未成年人犯罪的意见》规定，由熟悉未成年人身心特点的人员办理案件、对未成年人相关信息及案件细节的保密要求、各部门联合做好未成年被害人的心理安抚、疏导工作等。对于性侵未成年人的监护人或者其他具有监护资格的人员，民政部门等有关单位和组织向人民法院提出申请，要求撤销监护人资格，另行指定监护人的，人民法院依法予以支持。《关于依法办理家庭暴力犯罪案件的意见》规定，办理家庭暴力犯罪案件，应当首先保护被害人的安全。通过对被害人进行紧急救治、临时安置，以及对施暴人采取刑事强制措施、判处刑罚、宣告禁止令等措施，制止家庭暴力并防止再次发生，消除家庭暴力的现实侵害和潜在危险。对与案件有关的个人隐私，予以保密。根据法律规定和案件情况，通过代为告诉、法律援助等措施，加大对未成年人、老年人、残疾人、孕妇、哺乳期妇女、重病患者的司法保护力度，切实保障他们的合法权益。</p>	<p>(3) In October 2013, the Supreme People’s Procuratorate, together with the Supreme People’s Court, the Ministry of Public Security, and the Ministry of Justice in issuing the <i>Opinion on Punishing Sexual Violations of Minors in Accordance with Law</i>, which stipulated: that [such] cases are to be handled by personnel familiar with the psychological and physical characteristics of minors, the requirements of confidentiality regarding relevant information and case details in respect of minors, and that every department should work together to provide psychological comfort and counseling to victims who are minors, etc. With regard to guardians or other persons who qualify as guardians who sexually assault minors, relevant units and organizations such as the civil affairs departments, etc., [shall] apply to people’s courts, requesting the person be disqualified as a guardian, and that another person be appointed guardian; and people’s courts shall grant such requests in accordance with the law. The <i>Opinion on Handling Criminal Cases of Domestic Violence in Accordance with Law</i> stipulates that [those] handling criminal cases of domestic violence should first protect the safety of victims. Curb domestic violence and prevent its recurrence, and eliminate the real harms and latent dangers of domestic violence by means of emergency treatment for victims, temporary placements, criminal coercive measures against the perpetrator, sentencing punishments, prohibitory injunctions, and other measures. Treat case-relevant individual privacy [matters] as confidential. Expand the strength of judicial protection for minors, the elderly, persons with disabilities, pregnant women, nursing mothers, and seriously ill patients, and conscientiously safeguard their lawful rights and interests based on legal provisions and the circumstances of the cases, and through representation for complaints, legal aid, and other measures. [Translator’s note: The preceding three sentences in the source text are in the imperative mood.]</p>	Trafficking in women or children	368	687				
		Buying trafficked women or children	16	71				

LOI para	Chinese original	English translation
	<p>2014 最高人民法院发布了《关于加强未成年人刑事检察工作的通知》，要求办理性侵害未成年人犯罪案件应注意方式和技巧，依法保护未成年人的名誉权、隐私权等合法权益，避免造成二次伤害；要求加强与司法、行政、民政、教育、卫生等相关部门及未成年人保护组织的联系和协作，共同做好未成年被害人的身体健康、心理疏导、法律援助、司法救助等工作，保证各项特殊保护政策和制度在检察机关得到贯彻落实，更好地保护涉案未成年被害人的合法权益。</p>	<p>In 2014, the Supreme People’s Procuratorate issued the <i>Notice on Further Strengthening Procuratorate Work in Juvenile Criminal Cases</i>, which requires that in handling sexual abuse cases involving minors, attention should be paid to methods and techniques, to protect the reputation, privacy, and other lawful rights and interests of minors in accordance with the law and to avoid causing repeated harm; and requires strengthened organizational contact and cooperation among the judicial, administrative, civil affairs, education, health, and other relevant departments and organizations involved in the protection of minors, to work together on such areas as the physical health and psychological counseling of, and legal assistance and judicial assistance for, minors, and to ensure that procuratorial organs are implementing various special protection policies and systems in order to better protect the lawful rights and interests of juvenile victims involved in cases.</p>
7	<p>(1) 《宪法》规定，对于因为政治原因要求政治避难的外国人，中国可以给予受庇护的权利。2013 年 7 月 1 日起实施的《出境入境管理法》规定，申请难民地位的外国人，在甄别期间，可凭临时身份证明在中国境内停留；被认定为难民地位的人，可凭难民身份证件在中国境内停留居留。目前，有关难民甄别和管理规定正在研究制定当中。</p> <p>《引渡法》第 8 条规定“被请求引渡人在请求国曾经遭受或者可能遭受酷刑或者其他残忍、不人道或者有辱人格的待遇或者处罚”，属应当拒绝引渡的理由，第 23 条规定：“高级人民法院审查引渡案件，应当听取被请求引渡人的陈述及其委托的中国律师的意见”。第 25 条规定，被请求引渡人对高级人民法院作出符合引渡条件的裁定不服的，被请求引渡人及其委托的中国律师可以向最高人民法院提出意见，要求复核。第 26 条规定：最高人民法院根据本法和引渡条约的规定，复核高级人民法院的裁定，并相应作出核准、裁定撤销、发回重审或者直接变更的裁定。在上述程序全部完成前，不会执行引渡。</p>	<p>(1) The <i>Constitution</i> stipulates that China may grant the right to receive asylum to foreigners who request political asylum for political reasons. The <i>Exit and Entry Administration Law</i>, which came into force on July 1, 2013, provides that foreigners applying for refugee status may, during the screening process, remain in China with a temporary identity document; foreigners who have been granted refugee status may stay or reside in China based upon a refugee identity document. [DOC] Currently, related refugee screening and management regulations are in the research and drafting stage.</p> <p>Art. 8 of the <i>Extradition Law</i> provides that the request for extradition should be rejected if: “the person sought has been or will probably be subjected to torture or other cruel, inhuman or humiliating treatment or punishment in the Requesting State”; Art. 23 stipulates: “The Higher People’s Court in reviewing extradition cases, should hear the pleadings of the person sought to be extradited and the opinions of the Chinese lawyers engaged by the person.” Art. 25 stipulates: Where the person sought to be extradited is dissatisfied with a decision made by the Higher People’s Court that meets the conditions for extradition, he/she and his/her Chinese lawyers may appeal to the Supreme People’s Court requesting review [of that decision]. Art. 26 stipulates: The Supreme People’s Court shall review the decision made by the Higher People’s Court according to the provisions of the <i>Extradition Law</i> and the</p>

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	<p>(2) 《出境入境管理法》规定，外国人及其他境外人员对依照该法规定对其实施的遣送出境措施不服的，可以依法申请行政复议，该行政复议决定为最终决定。根据《行政复议法》的规定，行政复议期间具体行政行为不停止执行；但是，有下列情形之一的，可以停止执行：（一）被申请人认为需要停止执行的；（二）行政复议机关认为需要停止执行的；（三）申请人申请停止执行，行政复议机关认为其要求合理，决定停止执行的；（四）法律规定停止执行的。</p> <p>(3) 中国的法律援助可适用于被引渡人员和寻求庇护人员。</p>	<p>provisions of the extradition treaties, and affirm the original decision, revoke the original decision, return the case for re-trial, or modify the decision directly. Extradition shall not be carried out prior to completion of the procedure described above. [DOC]</p> <p>(2) The <i>Exit and Entry Administration Law</i> stipulates that foreigners and other persons from outside the territory of China who are dissatisfied with the measures deporting them out of China imposed on them in accordance with this law may apply for administrative reconsideration in accordance with the law, and the administrative reconsideration decision shall be final. Pursuant to the provisions of the <i>Administrative Reconsideration Law</i>, specific administrative actions shall not be suspended during the period of administrative reconsideration; however, they may be suspended under any one of the following circumstances: (a) The respondent [in the deportation process] deems it necessary to suspend implementation [of the deportation decision]; (b) the administrative reconsideration organ deems it necessary to suspend implementation; (c) the [asylum] applicant applies for suspension of the action, and the administrative reconsideration organ deems the request reasonable and decides to suspend the action; and (d) the law stipulates that the [actions] be suspended. [DOC]</p> <p>(3) China's legal aid is applicable to persons subject to extradition and asylum seekers.</p>
8	<p>1) 关于登记在案的庇护请求数量。截至 2015 年 8 月 31 日，在华难民人数为 173 人，寻求庇护者为 588 人。</p> <p>(2) 对于寻求庇护者及联合国难民署驻华代表处认定的难民，根据《关于难民地位的公约》中“不推回原则”，中国政府允许其在代表处发放的难民证明或寻求庇护者证明的有效期内在华停留。具体人数见上述。</p> <p>(3) 暂不掌握相关情况。</p>	<p>(1) With regard to the number of recorded requests for asylum. As of August 31, 2015, the number of refugees in China is 173 people, with 588 asylum-seekers.</p> <p>(2) With regard to asylum seekers and refugees determined by the United Nations High Commissioner for Refugees Regional Office in Beijing pursuant to the “non-refoulement principle” of the <i>UN Convention Relating to the Status of Refugees</i>, the Chinese government permits persons who have proof of refugee status or as asylum seekers issued by the Regional Office to stay in China for the effective period of time [specified in the documents]. For specific numbers see above.</p> <p>(3) The relevant information for this question is not yet available.</p>

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	<p>(4) 近年来被引渡的人数以及他们被引渡的目的国： 2011 年向韩国引渡涉嫌诈骗罪的韩籍公民朴柱铎。 2009 年向日本引渡涉嫌杀人罪的日籍公民藤江少雄。 2010 年向俄罗斯引渡涉嫌贩卖人口罪的俄籍公民索罗维耶娃。 2011 年向英国引渡涉嫌持有儿童色情照片罪的英籍公民 Price。</p> <p>(5) 目前法院没有基于在目的地国有遭受酷刑风险而对驱逐或引渡决定提起上诉的案件。</p>	<p>(4) The number of extradited persons and their extradition destinations in recent years: In 2011, South Korean citizen Piao Zhuduo [transliteration of the Chinese characters provided in the source text: 朴柱铎], suspected of “fraud,” was extradited to South Korea. In 2009, Japanese citizen Teng Jiang Shao Xiong [transliteration of the Chinese characters provided in the source text: 藤江少雄], suspected of “homicide,” was extradited to Japan. In 2010, Russian citizen Suo Luo Wei Ye Wa [transliteration of the Chinese characters provided in the source text: 索罗维耶娃], suspected of “human trafficking,” was extradited to Russia. In 2011, British citizen Price, suspected of “possession of child pornography,” was extradited to the United Kingdom.</p> <p>(5) At present, there are no deportation or extradition appeals before the courts brought on the basis that applicants face risk of torture in their countries of destination.</p>
9	<p>2014 年 7 月，中国公安机关根据朝方通报，查获了 13 名朝鲜非法入境人员。经审查后，中方依据中朝两国协议，将上述人员移交朝方处理。</p> <p>自上世纪 90 年代以来，受朝鲜国内经济发展缓慢、粮食紧缺等因素影响，一些朝鲜人非法越境来华，对中方边境地区社会治安秩序造成危害。这些越境人员并不符合《关于难民地位的公约》及议定书规定的难民条件，也没有确凿证据表明存在适用《公约》第 3 条的情形。公安机关出入境管理部门始终以国际法、国内法和人道主义原则谨慎、妥善处置非法入境朝鲜人问题，尤其对非法入境的朝鲜妇女和未成年子女以及无人陪伴的未成年人，最大限度保障其合法权益。</p>	<p>In July 2014, China’s public security organs, on the basis of notifications from the Democratic People’s Republic of Korea, investigated and captured 13 individuals from the Democratic People’s Republic of Korea who have unlawfully entered Chinese territory. Upon examination, the Chinese side handed the aforementioned persons over to the Democratic People’s Republic of Korea, on the basis of a bilateral agreement between the two countries.</p> <p>Since the 1990s, influenced by factors such as the slow development of domestic economy and food shortages in the Democratic People’s Republic of Korea, some citizens have unlawfully entered China’s territory, causing harm to law and order in regional communities along China’s borders. These illegal border crossers do not meet the refugee requirements set out in the <i>UN Convention and Protocol Relating to the Status of Refugees</i>, and there is no conclusive evidence that they fall within the circumstances set forth in Art. 3 of the <i>Convention</i>. The exit and entry departments of public security organs have always carefully and properly handled [cases] of illegal immigrants from the Democratic People’s Republic of Korea, especially women, children, and unaccompanied minors, in accordance with international law, domestic</p>

LOI para	Chinese original	English translation
		law, and humanitarian principles, protecting their legitimate rights and interests to the maximum extent.
10	<p>被依法决定拘留审查的外国人被拘押在拘留所内。拘留所基础设施建设严格遵循《拘留所条例》以及《拘留所建设标准》有关要求，拘留所设有拘留区以及行政办公区等功能区域，在拘留区设有拘室、教室、医务室、文体活动室、会见室、询问室、物品保管室、食堂以及室外活动场所等等，各个功能用房配备完善的设施装备，依法保障被拘留人的人身安全和合法权益，满足被拘留人文体活动等要求。</p> <p>拘留所建立有卫生防疫制度，患病被拘留人能够获得及时和免费的治疗和服务。拘留所依法保障被拘留人合法权益，被拘留人能够获得及时和免费的法律援助。拘留所严格按照有关部门依法决定的拘留审查期限执行拘留。</p> <p>《出境入境管理法》规定，因涉嫌违反出境入境管理规定被拘留审查的外国人，拘留审查的期限不得超过三十日；案情复杂的，经批准可以延长至六十日。对国籍、身份不明的外国人，拘留审查期限自查清其国籍、身份之日起计算。目前，中国暂未统计被羁押人员的平均羁押期限数据。</p> <p>根据《出境入境管理法》第 61 条第 2 款和第 3 款相关规定，对“怀孕或者哺乳自己不满一周岁婴儿的”和“未满 16 周岁或者已满 70 周岁的”外国人不适用拘留审查，可以限制其活动范围。对于被拘留审查</p>	<p>[With regard to] foreign persons detained in detention centers (<i>juliushuo</i>) for examination in accordance with the law. The construction of detention center facilities strictly follows relevant requirements of the <i>Regulation on Detention Facilities</i> and the <i>Standards for Construction of Detention Centers</i>. Detention centers have functional areas such as detention areas and administrative work areas. In detention areas there are detention rooms, classrooms, infirmaries, recreation and sports activity rooms, meeting rooms, inquiry rooms, property storage rooms, canteens, and outdoor activity areas, etc. All rooms for functional use are fitted with improved facilities, safeguarding the personal safety and lawful rights and interests of detainees in accordance with the law, and satisfying the needs of detainees such as in engaging in recreation and sports activities.</p> <p>Detention centers have established epidemic prevention and health systems. Ill detainees may obtain prompt and free treatment and services. Detention centers protect the lawful rights and interests of detainees in accordance with the law. Detainees may obtain prompt and free legal aid. Detention centers carry out detentions strictly according to the detention and examination time limits determined by relevant departments in accordance with the law.</p> <p>The <i>Exit and Entry Administration Law</i> stipulates that foreigners detained for examination on suspicion of violating exit and entry management regulations may not be detained for investigation for a period exceeding 30 days; where case circumstances are complex, this period may be extended, after approval, to 60 days. With respect to foreigners whose nationality or identity is unclear, the period of detention for examination is calculated from the date on which his/her nationality and identity are known. At present, China does not yet have statistics on the average length of detention for detainees.</p> <p>Art. 61 (2) and (3) of the <i>Exit and Entry Administration Law</i> stipulate that foreigners “who are pregnant or who are breastfeeding infants under age one” and “who are under age 16 years or who are age 70 or older” may not be detained for examination, but may be restricted in the scope of</p>

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	<p>的外籍人员带有未成年儿童的，考虑儿童情况从人道主义和保护儿童身心健康出发，可采取限制外籍人员活动范围或将儿童送民政部门照管等方式依法保障其合法权益。</p>	<p>their activities. With respect to foreign nationals detained for examination who have minor children, taking into consideration the children’s situation based on humanitarian principles and the protection of children’s health, measures such as restricting the scope of activities of the foreign nationals or sending the child to civil affairs departments, etc., may be used to safeguard [their] lawful rights and interests.</p>
ARTICLE S 5 & 7		
11	<p>关于《公约》第 5 条第 1 款第 2 项。《刑法》第 7 条规定：“中华人民共和国公民在中华人民共和国领域外犯本法规定之罪的，适用本法，但是按本法规定的最高刑为三年以下有期徒刑的，可以不予追究。”“中华人民共和国国家工作人员和军人在中华人民共和国领域外犯本法规定之罪的，适用本法。”</p> <p>关于《公约》第 5 条第 1 款第 3 项。《刑法》第 8 条规定：“外国人在中华人民共和国领域外对中华人民共和国国家或者公民犯罪，而按本法规定的最低刑为三年以上有期徒刑的，可以适用本法，但是按照犯罪地的法律不受处罚的除外。”</p> <p>关于《公约》第 5 条第 2 款。《刑法》第 9 条规定：“对于中华人民共和国缔结或者参加的国际条约所规定的罪行，中华人民共和国在所承担条约义务的范围内行使刑事管辖权的，适用本法。”</p> <p>目前没有这方面与酷刑相关的案例。</p>	<p>With regard to Art. 5, para. 1(2) of the <i>Convention</i>. Art. 7 of the <i>Criminal Law</i> stipulates: “This law is applicable to the citizens of the People’s Republic of China who commit any of the crimes specified in this law outside the territory of the People’s Republic of China. However this law will not take action against those crimes committed [outside the territory of the People’s Republic of China] if the maximum punishment of fixed-term imprisonment is less than three years under this law.” “This law also applies to state personnel and military servicemen who commit any of the crimes set forth in this law outside the territory of the People’s Republic of China.”</p> <p>With regard to Art. 5, para. 1(3) of the <i>Convention</i>. Art. 8 of the <i>Criminal Law</i> stipulates: “This law may be applicable to a foreigner who commits a crime outside the territory of the People’s Republic of China, against the state of the People’s Republic of China, or against its citizens, if the law prescribes a minimum punishment of fixed term imprisonment of no less than three years for such crimes. However an exception shall be given if that crime is not punishable according to the law of the place where it was committed.”</p> <p>With regard to Art. 5 para. 2 of the <i>Convention</i>. Art. 9 of the <i>Criminal Law</i> stipulates: “This law applies to crimes stipulated by the international treaties or conventions to which the People’s Republic of China is a party or signatory country. This law applies within the criminal jurisdiction exercised by the People’s Republic of China within the scope of its treaty obligations.”</p> <p>At present there are no cases related to torture in this aspect.</p>
12	<p>目前暂无相关案件。</p>	<p>There are no relevant cases at present.</p>

LOI para	Chinese original	English translation
ARTICLES 10		
13	<p>(1) 针对执法人员的培训。根据 2014 年新修订的《公安机关人民警察训练条令》的规定，各级公安机关普遍在入警、晋升、专业和发展训练中，把法律法规知识和执法技能培训作为重要内容之一，有针对性地开设包括禁止酷刑和人权教育在内的法治教育课程。在培训内容方面，以相关法律法规为重点，结合国际公约，经常性地对公安民警开展法律知识、专业知识和执法技能培训，切实增强民警法治意识、程序意识、证据意识和人权意识，从源头上减少和杜绝酷刑等问题的发生。</p> <p>关于对负责羁押人员（看守所）的培训。公安部设有培训基地，每年对全国公安监管部门人员进行培训。内容包括国际人权公约、相关法律要求、业务规范等。例如，2015 年 1 月，公安部对全国省级公安监管总队长开展了为期一周的培训。2015 年 4 月，公安部依托广州大学人权研究院承办了全国公安监管系统人权知识培训班，重点培训了《禁止酷刑和其他残忍、不人道或有辱人格的待遇或处罚公约》、《囚犯待遇最低限度标准规则》、《囚犯待遇基本原则》、《人权与监狱》（监狱工作人员国际人权标准袖珍手册）等内容。公安部先后与澳大利亚、瑞士、加拿大等国以及联合国人权高专办进行合作与交流，采取了召开研讨会、组织互访等形式加强对公安监管人员反酷刑道德、业务培训。各省级公安监管部门负责对所辖看守所的管理人员进行培训，地市以上公安监管业务指导部门依托看守所建立监管民警业务培训基地，有计划地对所辖监管民警进行脱产集中培训。每个看守所都要根据民警队伍的状况和上一年度工作存在的问题制定和落实民警教育的年度计划，并根据上级业务指导部门在检查工作时发现的问题进行针对性的专题教育。目前，全国公安机关看守所工作人员均接受过看守所执法管理业务工作包括反酷刑的培训。</p>	<p>(1) With regard to the training of law enforcement personnel. Pursuant to the provisions of the <i>Regulations on the Training of People's Policemen in Public Security Organs</i>, newly revised in 2014, in training generally given upon entry into the force, as well as for promotion, specialization, and development at all levels of public security organs, knowledge of laws and regulations and technical training in law enforcement are among the primary contents, and there are targeted offering of legal education courses with contents that include prohibition of torture and human rights education. In terms of training contents, emphasis is placed on relevant laws and regulations, and on connecting them with international conventions; training on legal knowledge, professional knowledge, and law enforcement skills is frequently carried out for public security police, so as to conscientiously increase the police's awareness of the rule of law, procedure, evidence, and human rights, and reduce and put an end to instances of torture and other problems at their source.</p> <p>With regard to training of persons responsible for detainees (detention centers). The Ministry of Public Security has established training bases, and every year it conducts training of public security supervision department personnel from all around the country. Contents include international human rights treaties, related legal requirements, professional standards, etc. For example, in January 2015, the Ministry of Public Security launched a week-long training for team leaders of public security supervision [departments] at the provincial level nationwide. In April 2015, the Ministry of Public Security entrusted the Guangzhou University Human Rights Institute to conduct human rights knowledge training classes for the public security supervision system nationwide, with a focus on training on the <i>Convention against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, The Standard Minimum Rules For The Treatment Of Prisoners, The Basic Principles for the Treatment of Prisoners, Human Rights and Prisons—A Pocket Book of International Human Rights Standards for Prison Officials</i>, etc. The Ministry of Public Security has undertaken cooperation and exchanges with Australia, Switzerland, Canada, and other countries, as well as the United Nations Office of the High Commissioner for Human Rights; it has also used the convening of conferences, the organizing of exchanges/visits and other forms to strengthen ethical and professional</p>

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	<p>关于羁押场所（监狱）工作人员的培训。对监狱警察实行了岗前教育培训和在职教育培训，对新录用的监狱警察在上岗前，集中进行法律、执法知识、监狱规章等方面的专业教育培训，并定期对在岗的监狱警察进行教育培训。以《宪法》、《刑法》、《刑事诉讼法》、《监狱法》等有关法律、法规以及各种刑罚执行程序规定为重点，结合《禁止酷刑及其他残忍、不人道或有辱人格的待遇或处罚公约》，经常性地开展法制教育，加强专业知识教育和执法技能培训，树立警察依法保障罪犯权利的执法理念，提高警察执法能力，增强警察的法治意识、程序意识和人权意识。依法保障罪犯权利、禁止刑讯逼供、体罚虐待罪犯是培训中的一项重点内容。目前，所有监狱警察均须接受培训。</p> <p>关于反对暴力侵害妇女、家庭暴力和拐卖人口方面的培训。公安部</p>	<p>anti-torture training for public security supervision [department] personnel. All provincial level public security supervision departments are responsible for training the management personnel at the detention centers under their jurisdiction; public security supervision professional guidance departments at the prefecture level and above rely upon detention centers to establish bases for supervisory police training, programmatically providing concentrated off-the-job training for supervisory police under their jurisdiction. Every detention center must develop and implement an annual police education plan according to the situation of its police corps and the problems that arose in the course of work in the prior year, as well as provide thematically-targeted education based on the problems identified by superior level guiding departments in the course of their inspection work. At present, detention center personnel of public security organs nationwide have all received training in detention center law enforcement and management work, including anti-torture training.</p> <p>With regard to training of personnel at places of detention (prisons). Prison police are provided with educational training both before work commencement and on the job; newly recruited prison police before work commencement are given professional educational training concentrating on law, law enforcement knowledge, and prison rules, etc.; and educational training are provided at fixed intervals to prison police on the job and at their post. With a focus on relevant laws and other regulations such as the <i>Constitution</i>, the <i>Criminal Law</i>, the <i>Criminal Procedure Law</i>, and the <i>Prison Law</i>, etc., as well as all forms of regulations regarding criminal punishment procedures, combined with the <i>Convention Against Torture</i>, legal system education is frequently conducted, in order to strengthen education in professional knowledge and training in law enforcement techniques, instill police with law enforcement theories that safeguard the rights of criminals in accordance with the law, raise the capacity of the police to enforce the law, increase the police's consciousness of the rule of law, procedures, and human rights. A focal point of training content is the safeguarding of the rights of criminals in accordance with the law, the prohibition extracting confessions under torture, and on corporal punishment and maltreatment of criminals. Currently, all prison police are required to undergo training.</p> <p>With regard to training on combating violence against women, domestic</p>

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	<p>每年举办两次打拐反拐工作培训班，对各省级公安机关打拐工作负责人、国务院反拐部际联席会议成员单位联络员进行培训。各地公安机关也按照公安部的要求，分批次对全国打拐基层民警进行业务培训。公安部刑侦局打拐办还积极参与国际会议和培训，积极推动打拐国际合作，与其他国家交流反拐先进经验。在湖南宁乡、甘肃靖远和四川仪陇三个地方试点开展“促进反家庭暴力立法，推广多部门合作模式”项目，对警察、民政和家庭暴力庇护机构工作人员、妇联干部、社区工作人员和法律工作者进行培训，共计培训 1000 余人次。全国妇联为培训提供了技术支持和业务指导，开发反家暴工作手册作为培训基础教材，培训前后的评估问卷结果显示，参训人员反家暴意识和能力得到提高。</p> <p>(2) 中国法院和检察院系统一直重视加强对法官、检察官的法治和保护人权方面的教育培训。例如，2012 至 2014 年，最高人民法院举办多期培训班，培训超过 10000 人次刑事法官，内容包括新修正的《刑事诉讼法》中规定的“尊重与保障人权”原则和非法证据排除等人权保护规则等，占培训人数的 23.1%，提高了法官对“尊重与保障人权”重要性的认识和刑事审判业务能力。全国检察机关组织检察人员深入学习新修正的《刑事诉讼法》和《人民检察院刑事诉讼规则（试行）》，教育引导检察人员树立惩治犯罪与保障人权并重的司法理念，依法收集证据，规范办案行为，严禁刑讯逼供。2012 至今，共有各级检察人员 24039 人参加过该领域的正规化检察业务培训，受训比例为 9.4%；共有 23.3 万人接受过相关领域的电视电话网</p>	<p>violence, and human trafficking. Every year the Ministry of Public Security holds two training conferences on anti-trafficking work, carrying out training for persons responsible for work on combating trafficking at all provincial level public security organs, and liaison personnel from member units of the State Council’s anti-trafficking departmental joint conference. Public security organs in all parts of the country also, in accordance with the requirements of the Ministry of Public Security, conduct professional training in groups for police (<i>minjing</i>) engaged in grassroots anti-trafficking work nationwide. The Criminal Investigation Bureau’s Anti Trafficking Office within the Ministry of Public Security also actively participates in international conferences and trainings, actively promoting international cooperation on anti-trafficking work, and exchanging advanced anti- trafficking experiences with other countries. At three places—Ningxiang in Hunan, Jingyuan in Gansu, and Yilong in Sichuan—pilots programs to “promote anti-domestic violence legislation and popularize a model of multi-departmental cooperation” are being carried out, in which training totaling more than 1,000 person-times has been conducted for the police, staff members of civil administrations and domestic violence shelters, women’s federation cadres, community workers, and legal practitioners. The All China Women’s Federation provides technical support and professional guidance for trainings, developing anti-domestic violence work manuals as a basic teaching resource for trainings. As pre- and post-training evaluation questionnaires indicate, training participants’ knowledge and capacity regarding anti-domestic violence has been increased.</p> <p>(2) Chinese courts and procuratorial system have always attached importance to strengthening the education and training of judges and procuratorial officials in rule of law and protection of human rights. For example, from 2012 to 2014, the Supreme People’s Court held many training courses, training criminal judges totaling more than 10,000 person-times, with contents including provisions of the newly amended <i>Criminal Procedure Law</i> that protect human rights such as the principle of “respecting and safeguarding human rights” and the exclusion of unlawful evidence, etc., accounting for 23.1 percent of the number of persons trained, and increasing judges’ awareness of the importance of “respecting and safeguarding human rights” and their professional capacity to try criminal cases. Procuratorial organs nationwide have</p>

LOI para	Chinese original	English translation
	<p>络培训， 受训比例约为 91%。</p> <p>3) 结合工作实际， 中国公安机关开展了经常性、 多层次、 多种形式的监管业务工作培训， 这些培训包括针对监所医务人员及相关人员反酷刑的培训。 近年来， 公安部会同国家卫生部门， 联合出台《关于切实加强和改进公安监管场所医疗卫生工作的通知》、 《关于印发〈看守所医疗机构设置基本标准〉的通知》和《关于印发〈公安监管场所医疗卫生专业化建设工作方案〉的通知》， 在不断加强公安监管场所医疗机构和医务力量的建设的同时， 通过集中培训、 印发执法细则和工作手册等形式不断加强对医务人员的相关业务培训， 不断加强符合国际标准的业务指导。 公安部与红十字国际委员会东亚地区代表处先后在深圳、 上海、 天津、 北京、 银川等地联合举办监测与改善公安监管场所卫生状况研讨会， 促进了监所建立健全监所疾病预防和救治工作机制， 有利于转变监管医疗工作理念， 为进一步促进监所生活卫生工作不断走向规范化和科学化发挥积极作用。 目前， 看守所医务人员共 1 万余名， 均接受过专业医疗及反酷刑的培训。</p>	<p>organized in-depth study of the newly amended <i>Criminal Procedure Law</i> and the <i>People’s Procuratorate Rules of Criminal Procedure (Trial)</i> for procuratorial personnel, educating and guiding them in establishing the judicial concept of putting equal emphasis on punishing crimes and protecting human rights, collecting evidence in accordance with the law, standardizing conduct in handling cases, and strictly forbidding extracting a confession under torture. From 2012 to now, a total of 24,039 procuratorial staff at all levels have attended this area of standardized procuratorial professional training, accounting for 9.4 percent [of the total procuratorial staff]; a total of 233,000 procuratorial staff at various levels have received video, telephone, and online training in related fields, accounting for approximately 91 percent [of the total procuratorial staff].</p> <p>(3) Integrating actual working situations, China’s public security organs have developed frequent, multi-level, multi-formatted training in professional supervision work, and these trainings include anti-torture training targeting prison and detention center medical and related personnel. In recent years, the Ministry of Public Security, in conjunction with the Ministry of Health, have issued the <i>Notice on Strengthening and Improving Medical and Health Provision in Places Supervised and Managed by Public Security</i>, the <i>Notice on the Issuance of the “Basic Standards for the Infrastructure of Detention Center Medical Treatment,”</i> and the <i>Notice on the Issuance of the “Work Plan for Building the Professionalization of Medical Treatment and Health Care in Places Supervised and Managed by Public Security.”</i> And, at the same time as continuously strengthening the construction of medical treatment facilities and capability at places supervised by public security, there is continuous strengthening of related professional training for medical staff through methods such as concentrated training, issuing detailed rules for law enforcement and working manuals, etc., as well as continuously strengthening professional guidance in accordance with international standards. The Ministry of Public Security and the International Committee of the Red Cross East Asia Office have held joint seminars in Shenzhen, Shanghai, Tianjin, Beijing, Yinchuan, and other places, on monitoring and improving the health situation in places supervised by public security, promoting the establishment in prisons of a sound mechanism for prison disease prevention and treatment work, which have been beneficial in transforming concepts of correctional medical</p>

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	<p>(4) 全国公安机关各级出入境管理人员均须接受关于不推回义务以及辨识人口贩运或性侵受害者的培训。</p>	<p>treatment work, and had a positive effect on further advancing the continuous trend towards standardization and making more scientific the daily health work in correctional facilities. At present, a total of more than 10,000 detention center medical personnel have received specialized medical treatment and anti-torture training.</p> <p>(4) Throughout China, entry and exit management personnel at public security organs at all levels must all undergo training regarding the non-refoulement obligation and the identification of trafficked persons and victims of sexual assault.</p>
14	<p>为检测培训效果，近年来，公安部在全国公安机关坚持推行执法资格等级考试制度，规定未取得基本级执法资格的民警不得办案，派出所长、刑警队长等县级、地（市）级公安机关执法勤务类机构主要负责人必须取得中级执法资格。在这项全警考试中，公安部始终将禁止刑讯逼供、暴力取证、虐待被监管人员等作为考试的重要内容，以此提升和保障民警人权意识和规范执法理念的提升。另外，公安机关还加大了对禁止酷刑的执法监督力度，强化责任追究，并将禁止酷刑作为公安机关执法质量考评的一项重要内容，在日常执法考评和检查活动中，严格进行考核，及时发现问题并予以纠正。</p> <p>检察机关建立了教育培训质量评估制度。在培训班结束前，组织学员对培训项目、课程设置、师资水平、教学管理等进行综合评估和满意度测评，全面了解和掌握学员参加培训的的实际效果，并根据反馈情况改进培训组织管理工作，优化培训方案设计，切实提高培训</p>	<p>To assess the effectiveness of training, in recent years, the Ministry of Public Security, in public security organs nationwide, has upheld the implementation of the law enforcement qualification grading examination system, which stipulates that police officers who have not obtained the basic level of law enforcement qualifications must not handle cases. Personnel in main positions of law enforcement responsibility in public security organs at county and prefectural (city) levels such as heads of local police substations and criminal police chiefs, as well as their administrative counterparts, must obtain the intermediate law enforcement qualifications. In this national police examination, the Ministry of Public Security ensures that, throughout, the topics of the prohibition of extracting a confession under torture, obtaining evidence by violence, and maltreatment of persons in custody make up an important part of the examination content, in order to promote and ensure police officers' human rights awareness and enhance law enforcement standards. Furthermore, public security organs have increased the strength of law enforcement supervision to prohibit torture and strengthen accountability, and have included torture prohibition as an important part of public security organs' law enforcement quality evaluations. In daily law enforcement examinations and during inspection activities, assessments are strictly carried out to promptly identify problems and correct them.</p> <p>The procuratorial organs have established an education and training quality evaluation system. Before completing the training course, students are organized to complete a comprehensive assessment and satisfaction survey on the training course, curriculum, level of teachers' qualifications, and pedagogical management, in order [for the</p>

LOI para	Chinese original	English translation
	<p>水平和培训效益。</p> <p>执法机关和司法机关欢迎并认真听取社会团体提出的意见和建议，接受社会监督。</p>	<p>procuratorial organs] to fully understand and grasp the actual effectiveness of students' participation in training and, according to feedback, improve the organization and management of training, optimize the training program design, and conscientiously improve the level of training and training effectiveness.</p> <p>Law enforcement organs and the judiciary welcome and seriously listen to social organizations' ideas and recommendations, and accept public supervision.</p>
ARTICLE 11		
15	<p>依据 2010 年以来最高人民检察院、公安部、民政部分别或联合颁布的一系列规定，检察机关对所有在押期间的死亡事件都应进行独立和公正地调查，查明在押人员死亡的原因和责任。如果发现在上述案件中存在酷刑、虐待或者渎职的行为，将依法依规追究有关人员的责任。</p> <p>在押人员死亡时，其家属将得到充分的信息和救济，包括：在押人员死亡后，看守所应当立即通知死亡在押人员的近亲属。检察院、公安机关、监狱对死亡事件的调查结束后，应当将调查结论书面通知死亡在押人员的近亲属。死亡在押人员的近亲属对公安机关、监狱的调查结论有异议的，可以向检察院提出，检察院可以进行重新调查。中国《监狱法》第 55 条规定，罪犯在服刑期间死亡的，监狱应当立即通知罪犯家属和检察院、法院。罪犯因病死亡的，由监狱作出医疗鉴定。检察院对监狱的医疗鉴定有疑义的，可以重新对死亡原因作出鉴定。罪犯家属有疑义的，可以向检察院提出。中国《看守所条例》第 27 条规定，在押人员在羁押期间死亡的，应当立即报告检察院和办案机关，由法医或者医生作出死亡原因的鉴定，并通知死者家属。</p>	<p>Pursuant to a series of regulations issued separately or jointly by the Supreme People's Procuratorate, the Ministry of Public Security, and the Ministry of Civil Affairs since 2010, procuratorial organs should independently and impartially investigate instances of death in custody, to determine the cause of and responsibility for the detainee's death. If, in the aforementioned cases, acts of torture, maltreatment, or dereliction of duty are discovered, then [the procuratorial organs] will pursue legal responsibility of the relevant personnel in accordance with the law and disciplinary rules.</p> <p>Where detainees die [in detention], their families shall receive sufficient information and relief, including: after a detainee dies, the detention center should immediately notify the close relatives of the deceased. Procuratorates, public security organs, and prisons should, upon the conclusion of an investigation into a death, notify the close relatives of the deceased of the conclusions of the investigation in writing. Where the close relatives of a person who has died in custody object to the conclusions of the investigation by the public security organs or prisons, they may submit it to the procuratorate, and the procuratorate may then undertake a new investigation. Art. 55 of China's <i>Prison Law</i> stipulates that where prisoners die while serving a prison sentence, the prison should immediately notify the prisoner's family, the procuratorate, and the court. Where a prisoner dies of illness, the prison shall issue a medical appraisal. Where the procuratorate has doubts about the prison's medical appraisal, it may issue a new appraisal as to the cause of death. Where the family of the prisoner has doubts, they may submit them to the procuratorate. Art. 27 of China's <i>Detention Center Regulations</i> stipulates that the death of a detainee in detention should be immediately reported to the procuratorate</p>

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	<p>检察院组织进行尸检的，应当通知死亡在押人员的近亲属到场，并邀请与案件无关的人员或者死者近亲属聘请的律师到场见证。检察院委托其他具有司法鉴定资质的机构进行尸检的，应当征求死亡在押人员的近亲属的意见；死亡在押人员的近亲属提出另行委托具有司法鉴定资质的机构进行尸检的，检察院应当允许。</p> <p>林立峰，2009年6月25日，因涉嫌持刀劫持人质被送往广东省吴川市第二看守所羁押。6月26日12时50分左右，看守所发现林立峰心跳和呼吸异常，立即将其送往医院抢救。6月26日13时45分，林立峰因抢救无效死亡。经调查，林立峰系心源性猝死。</p> <p>于维平，2009年9月18日，因涉嫌涉嫌故意伤害罪被批准逮捕，羁押于乳山市看守所。11月13日清晨6时许，在监室内被发现死亡。司法部上海司法鉴定中心尸检鉴定结论为：死者系因针类尖锐物体反复刺戳胸部，导致心脏破裂、心包腔出血死亡。经调查，于维平系自杀。</p> <p>王会侠，2009年12月11日，因涉嫌收赃被拘传，后改为采取监视居住措施。12月12日，王在上厕所途中晕倒，送医院抢救无效死亡。法医鉴定结果为原发性心肌猝死。经调查，检察院认为不存在</p>	<p>and the organ handling the case, and an appraisal of the cause of death shall be issued by the forensic investigator or a doctor, and notification shall be made to the families of the deceased.</p> <p>Where the procuratorate organizes for an autopsy, it should notify the close relatives of the deceased detainee to be present [during the autopsy], and invite individuals unrelated to the case or lawyers engaged by the relatives of the deceased to witness [the autopsy]. Where the procuratorate appoints another institution that has been verified by judicial authorities as having full forensic evaluation capacity to conduct the autopsy, it should seek the input of the close relatives of the deceased detainee; and where the close relatives of the deceased detainee suggest an alternative institution that has been verified by judicial authorities as having full forensic evaluation capacity to conduct the autopsy, the procuratorate should permit this.</p> <p>Lin Lifeng (林立峰), on June 25, 2009, on suspicion of using a knife to take a hostage, was transferred to the No. 2 Detention Center in Wuchuan City, Guangdong Province, for custody. At around 12:50 on June 26, the detention center discovered irregularities in Lin Lifeng's heartbeat and breathing, and immediately rushed Lin to the hospital to be rescued. At 13:45 on June 26, Lin Lifeng died when emergency rescue attempts were unsuccessful. After investigation, Lin Lifeng's sudden death was [determined to be] due to cardiovascular reasons.</p> <p>Yu Weiping (于维平), on September 18, 2009, on suspicion of "intentional infliction of bodily harm," was formally arrested and detained in Rushan City Detention Center. On November 13, at around 6:00, Yu was found dead in a detention cell. An autopsy conducted by the Ministry of Justice's Shanghai Forensic Center concluded: the deceased died of repeated puncturing of the chest area with sharp needle-like objects, causing rupturing of the heart and bleeding in the pericardial cavity. After investigation, Yu Weiping was found to have committed suicide.</p> <p>Wang Huixia (王会侠), on December 11, 2009, was summoned for questioning and detention on suspicion of accepting stolen goods; after that, residential surveillance measures were imposed. On December 12,</p>

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	<p>刑讯逼供行为。</p> <p>陈绪金，2010年1月13日，因涉嫌盗窃犯罪被批准逮捕，羁押于修水县看守所。2月16日5时20分左右，陈绪金在监室内晕倒，看守所迅速将其送往医院，经抢救无效死亡。经法医鉴定，陈绪金系因在肺、肾功能不全基础上发生的心、肺等多器官系统功能衰竭死亡。</p> <p>李旺阳，2001年因犯危害国家安全罪被判有期徒刑10年，2011年5月出狱后，因病在邵阳市大祥区医院接受住院治疗。2012年6月6日晨，李被发现在该医院病房死亡。经调查确认李旺阳系自杀死亡。7月11日，邵阳市公安局向李旺阳家属通报了法医鉴定意见和调查结果，家属表示接受。</p> <p>曹顺利，2013年9月，因涉嫌寻衅滋事被公安机关立案侦查，2014年3月14日曹因肺结核、重症肺炎引发的多脏器功能衰竭抢救无效在医院死亡。在羁押和患病期间，曹得到及时治疗，其聘请律师、家属探视等相关合法权利均依法得到保障。</p>	<p>Wang collapsed on the way to the toilet, and was sent to the hospital for emergency rescue but died when rescue efforts were unsuccessful. Forensic evaluations concluded that Wang died of a sudden myocardial infarction. After investigation, the procuratorate believes that there was no conduct amounting to extracting a confession under torture.</p> <p>Chen Xujin (陈绪金), on January 13, 2010, on suspicion of the crime of “theft,” was formally arrested and detained in Xiushui County Detention Center. At around 5:20 on February 16, Chen collapsed in a detention cell. The detention center quickly took Chen to the hospital, where Chen died when emergency rescue treatment was unsuccessful. A forensic evaluation determined Chen Xujin’s cause of death was failure of multiple organ functions, including those of the heart and lungs, stemming from pulmonary and renal dysfunction.</p> <p>Li Wangyang (李旺阳), in 2001, was sentenced to ten years in prison for the crime of “endangering state security”; following his release in May 2011, he received inpatient treatment for an illness at Shaoyang City’s Daxiang District Hospital. In the morning of June 6, 2012, Lee was found dead in his hospital ward. Following an investigation, it was confirmed that Li had committed suicide. On July 11, the Shaoyang Municipal Public Security Bureau informed the family of Li of the forensic evaluation opinion and the findings of the investigation, which the family accepted.</p> <p>Cao Shunli (曹顺利), in September 2013, was investigated by the public security organs on suspicion of “picking quarrels and provoking troubles”; on March 14, 2014, Cao died in a hospital as a result of acute organ failure caused by tuberculosis and pneumonia, after emergency rescue efforts were unsuccessful. In custody and during the course of her illness, all of Cao’s relevant lawful rights and interests were ensured in accordance with the law, including timely medical treatment, retaining a lawyer, and visits from family</p>
16	<p>近年来，公安部会同国家卫生计生委及其他主管部门，联合出台多部文件，不断加强公安监管场所医疗机构和医务力量的建设。特别是2014年公安部会同国家卫生计生委联合印发《公安监管场所医疗</p>	<p>In recent years, the Ministry of Public Security, in conjunction with the National Health and Family Planning Commission and other authorities, has issued multiple documents to continuously strengthen the construction</p>

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	<p>卫生专业化建设工作方案》，力争到 2016 年底在全国公安监管场所全部实现“公安监管部门负责监管安全、卫生部门负责医疗卫生”的专业化运作模式。</p> <p>最高人民检察院、公安部、司法部、国家卫生计生委联合印发的《监管场所艾滋病防治管理办法》等文件规定，对符合抗病毒治疗条件的艾滋病病毒感染者，监管场所医疗机构或承担监管场所医疗职责的医疗机构应当在本人知情同意的基础上，与其签订治疗协议，开展抗病毒治疗。同时，检察机关依法对看守所的活动是否合法实行监督，保证吸毒者、艾滋病病毒携带者有病能得到治疗，获得基本的医疗服务权利。</p> <p>对于《看守所条例》第 26 条病情“严重”的界定，主要参照 2014 年 10 月发布的《暂予监外执行规定》附件中的“保外就医严重疾病范围”执行，主要指久治不愈、严重影响身心健康的疾病，包括严重传染病、呼吸系统、心血管、消化系统、神经系统、血液系统的严重疾病等。</p>	<p>of medical treatment facilities and capacity of places supervised and managed by public security [detention, correctional, custody and education, and rehabilitation facilities managed by public security organs]. In particular, in 2014, the Ministry of Public Security, in conjunction with the National Health and Family Planning Commission, issued the <i>Work Plan for Building the Professionalization of Medical Treatment and Health Care in Places Supervised and Managed by Public Security</i>, to strive, by the end of 2016, to complete the nationwide implementation of the professionalized operating model where “public security supervisory departments are responsible for supervising safety, and the health departments are responsible for medical treatment and health care” in places supervised and managed by public security nationwide.</p> <p>The Supreme People’s Procuratorate, the Ministry of Public Security, the Ministry of Justice, and the National Health and Family Planning Commission jointly issued the <i>Management Methods for AIDs Prevention and Treatment in Places of Supervision and Management</i> and other documents, which stipulated that for HIV carriers who meet the conditions for antiretroviral treatment, medical treatment facilities in supervised and managed places, or medical facilities under contract to provide medical treatment services for supervised and managed places, should provide antiretroviral treatment on the basis of informed consent, and with signed treatment agreements. At the same time, procuratorial organs, in accordance with the law, exercise supervision of whether or not detention center activities are legally implemented, and guarantee treatment for drug users and HIV carriers who are ill, and their rights to obtain basic medical treatment services.</p> <p>With regard to the definition of “serious” illnesses in Art. 26 of the <i>Detention Center Regulations</i>, it chiefly refers to [the conditions listed in] “The Scope of Serious Illness for Medical Parole,” annex to the <i>Regulations on Temporary Serving of Sentence Outside Prison</i> issued in October 2014. The annex mainly points to chronic illnesses that seriously affect physical and mental health, including such serious illnesses as serious infectious diseases, and those of the respiratory, cardiovascular,</p>

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	<p>中国没有发现有关机关以剥夺在押人员及时和充分的医护权利作为报复手段的问题。根据中国《宪法》和法律规定，中华人民共和国公民在法律面前人人平等，公民的合法权利受到法律的平等保护。犯罪嫌疑人和罪犯依法享有及时治疗的权利，看守所和监狱都配备必要的医疗器械和常用药品，建立在押人员健康档案，记录在押人员健康状况，确保患病人员能够得到及时治疗。同时，中国的监狱普遍推行狱务公开制度，接受罪犯和家属的监督。</p> <p>相关个案情况如下：</p> <p>陈西，2011年因犯煽动颠覆国家政权罪被判处有期徒刑10年，目前在贵州省兴义监狱服刑改造，健康状况良好。</p> <p>谢福林，2010年因涉嫌盗窃电力资源被判处有期徒刑6年，2015年7月22日已刑满释放。</p> <p>朱虞夫，2012年因煽动颠覆国家政权罪，被判处有期徒刑7年。朱患有高血压、胆囊炎，长期服药。目前朱病情稳定，不具备保外就医法定条件。</p> <p>浦志强，2015年被以涉嫌煽动民族仇恨罪、寻衅滋事罪依法提起公诉，该案正在审理之中。</p>	<p>digestive, nervous, and blood systems, etc.</p> <p>China has not found any problems of relevant departments depriving detainees of their right to timely and adequate medical treatment as a form of retaliation. Pursuant to the provisions of China's <i>Constitution</i> and law, all citizens of the People's Republic of China are equal before the law, and citizens' lawful rights and interests are equally protected by law. Criminal suspects and criminals are entitled, by law, to the right to timely medical treatment; detention centers and prisons are all outfitted with the necessary medical equipment and commonly-used drugs; they establish health records of persons in custody, record their health conditions, and ensure that sick people can get timely treatment. At the same time, China's prisons generally operate as an open system with regard to prison affairs and accept supervision from prisoners and their families.</p> <p>Related individual cases are as follows:</p> <p>Chen Xi (陈西) was found guilty in 2011 of "inciting subversion of state power" and sentenced to ten years of imprisonment. He is currently in Xingyi Prison, Guizhou Province, serving his sentence and undergoing reform. He is in good health.</p> <p>Xie Fulin (谢福林) was sentenced in 2010 to six years of imprisonment for alleged "theft of power resources." He was released from prison on July 22, 2015.</p> <p>Zhu Yufu (朱虞夫) was found guilty in 2012 of "inciting subversion of state power," and was sentenced to seven years of imprisonment. Zhu suffers from hypertension and inflammation of the gall bladder and is taking medications on a long-term basis. Zhu is currently in a stable condition and does not have the statutory conditions for medical parole.</p> <p>Pu Zhiqiang (浦志强) was lawfully prosecuted in 2015 on suspicion of "inciting ethnic hatred" and "picking quarrels and provoking troubles." His case is being tried.</p>

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	<p>高智晟已于 2014 年 8 月刑满释放。</p> <p>贡布旦增，因犯分裂国家罪被判处有期徒刑 3 年 6 个月，刑期至 2018 年 8 月 2 日止。目前其病情稳定，不具备保外就医的法定条件。</p> <p>对于上述人员，包括公安机关在内的司法机关均依法保障其医疗权，并确保其健康状况不受非法损害。</p>	<p>Gao Zhisheng (高智晟) was released in August 2014 after serving his full prison term.</p> <p>Gonpo Tsezin (贡布旦增), was found guilty of “separatism” and sentenced to three years and six months of imprisonment ending on August 2, 2018. Currently his health situation is stable, and he does not have the statutory conditions for medical parole.</p> <p>All judicial organs, including public security organs, ensure the aforementioned persons’ right to medical treatment in accordance with the law and guarantee that their health condition is not unlawfully harmed.</p>
17	<p>根据中国国务院《关于卖淫嫖娼人员收容教育办法》的规定，收容教育所的设立，由省、自治区、直辖市或者自治州、设区的市的公安机关根据收容教育工作的需要提出方案，报同级人民政府批准。</p> <p>收容教育所管理制度主要有：国务院《关于卖淫嫖娼人员收容教育办法》、公安部《收容教育所管理办法》、《收容教育所等级评定办法》等。根据上述文件规定，收容教育所应当进行法律和道德教育；严禁打骂、体罚或者以其他方式侮辱被收容教育人员；应当允许被收容教育人员的家属探访。</p> <p>收容教育所羁押条件应当符合《收容教育所建设标准》要求，收容室通风、采光、防暑、防寒、防潮，人均使用面积不得少于 3 平方米。收容教育所设置卫生所或者医务室并建立卫生防疫制度。保障</p>	<p>Pursuant to the provisions of State Council’s <i>Measures for the Custody and Education of Prostitutes and Clients of Prostitutes</i>, for the establishment of custody and education centers, public security organs of provinces, autonomous regions, municipal cities directly under the central government or autonomous prefectures or cities divided into districts, shall, according to the needs of custody and education work, issue a plan, to be reported to the people’s government at the corresponding level for approval.</p> <p>The management system for custody and education centers chiefly comprises the State Council’s <i>Measures for the Custody and Education of Prostitutes and Clients of Prostitutes</i>, and the Ministry of Public Security’s <i>Management Measures for Custody and Education Centers</i> and the <i>Measures for the Evaluation of the Grade of Custody and Education Centers</i>, etc. According to the provisions of the aforementioned documents, custody and education centers should conduct education in the law and ethics; they are strictly prohibited from beating and scolding, physically punishing, or using other means to humiliate persons undergoing custody and education; and should permit family visits for persons undergoing custody and education.</p> <p>The conditions for detention in custody and education centers should accord with the requirements of the <i>Standards for Constructing Custody and Education Centers</i>; custody rooms shall be ventilated, lit, and heat-</p>

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	<p>收容教育区清洁卫生，定期消毒，环境绿化、美化。</p> <p>被收容教育人员对收容教育决定不服的，可依法申请行政复议或者向人民法院提起行政诉讼，收容教育所应当及时将材料转交有关部门。</p> <p>中国的强制隔离戒毒所是根据《禁毒法》和《戒毒条例》等法律法规规定的条件和程序设立的，是公安机关依法通过行政强制措施为戒毒人员提供科学规范的戒毒治疗、心理治疗、身体康复训练和卫生、道德、法制教育，开展职业技能培训的场所。</p> <p>关于不服强制隔离戒毒决定的救济程序，根据《禁毒法》第 40 条规定，被决定人对公安机关作出的强制隔离戒毒决定不服，可以依法申请行政复议或者提起行政诉讼。戒毒人员提出检举、揭发、控告，以及提起行政复议或者行政诉讼的，强制隔离戒毒所应当登记后及时将有关材料转送有关部门处理。</p> <p>根据《禁毒法》第 43 条规定，根据戒毒的需要，强制隔离戒毒所可以组织戒毒人员参加必要的生产劳动，对戒毒人员进行执业技能培训，组织戒毒人员参加生产劳动的，应当支付劳动报酬。《司法行</p>	<p>cold-, and damp-proof, and there shall be a minimum of three square meters per person in the room. Custody and education centers shall install health centers or medical treatment rooms and establish health and epidemic prevention systems. [They shall] ensure that custody and education areas are clean and hygienic, and sterilized at fixed intervals, and that the environment is made green and beautiful.</p> <p>Persons undergoing custody and education who are dissatisfied with their custody and education decisions may apply for administrative reconsideration in accordance with the law, or pursue administrative litigation in a people's court; custody and education centers should promptly transfer materials to relevant departments.</p> <p>China's compulsory isolation drug treatment centers are established according to the requirements and procedures stipulated in the <i>Anti-Drug Law</i>, the <i>Regulations on Drug Rehabilitation</i>, and other laws and regulations. Public security organs, by means of administrative compulsory measures in accordance with the law, provide for drug users scientific and standardized drug treatment, psychotherapy, physical rehabilitation drills, and health, moral, and legal education, as well as places for vocational skills training.</p> <p>With respect to relief procedures for those who are dissatisfied with a decision ordering compulsory isolation drug treatment, Art. 40 of the <i>Anti-Drug Law</i> stipulates that where the person affected by the decision is dissatisfied with a decision by the public security organs ordering compulsory isolation drug treatment, he/she may apply for administrative reconsideration or pursue administrative litigation. Where the person undergoing drug treatment makes a report, an exposé, or an accusation, and files for administrative reconsideration or administrative litigation, the compulsory isolation drug treatment center should, after registering it, promptly transfer the relevant materials to the relevant departments for handling.</p> <p>Pursuant to Art. 43 of the <i>Anti-Drug Law</i>, compulsory isolation drug treatment centers may, based on the needs of the drug treatment, organize persons undergoing drug treatment to attend necessary productive labor,</p>

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	<p>政机关强制隔离戒毒工作规定》对戒毒人员从事生产劳动作出明确规定，切实保障戒毒人员各项权益。一是对劳动时间作出严格限制，规定戒毒人员劳动时间每周不超过 5 天，每天不超过 6 小时，法定节假日不得安排戒毒人员参加生产劳动。二是对确保劳动安全，加强劳动保护提出要求。三是对支付劳动报酬作出明确规定。</p> <p>关于确保《公安机关强制隔离戒毒所管理办法》（《办法》）得到尊重和落实的举措包括：一是将《办法》有关内容和要求予以细化，并纳入强制隔离戒毒所等级评定工作。二是开展强制隔离戒毒所向社会开放活动，接受社会监督，听取社会各界意见，积极改进工作。三是制定《强制隔离戒毒所执法细则》，明确强制隔离戒毒所执法岗位职责、岗位规范和工作要求，对收戒、管理、教育、康复、医疗等内容予以细化。四是每年举办多期强制隔离戒毒所工作培训班，对从事此项工作的领导、民警进行业务培训。五是严格责任追究，发现违反《办法》的行为，依法追究有关人员责任。</p> <p>根据《反间谍法》和《刑事诉讼法》规定，国家安全机关办理间谍</p>	<p>and may undertake professional skills training of persons undergoing drug treatment. When organizing persons undergoing drug treatment to participate in productive labor, [the treatment centers] should remunerate them. The <i>Measures for the Administration of Compulsory Isolated Drug Rehabilitation Centers of Judicial Administrative Organs</i> provide clear stipulations for the engagement in productive labor by persons undergoing drug treatment, conscientiously safeguarding the various rights and interests of persons undergoing drug treatment. One, strict limitations on working hours, with working hours for persons undergoing drug treatment not exceeding five days per week and six hours per day, and that persons undergoing drug treatment not be scheduled to participate in productive labor on statutory public holidays. Two, ensuring labor safety, putting forward requirements to strengthen labor protection. Three, clear provisions for remunerations.</p> <p>Measures to ensure the respect for and implementation of the <i>Measures for the Management of Compulsory Isolation Drug Treatment Centers of Public Security Organs (Measures)</i> include: One, provide specificity for the relevant contents and requirements of the <i>Measures</i> and incorporate them into the work of grading evaluations of compulsory isolation drug treatment centers. Two, organize activities to open compulsory isolation drug treatment centers to society, accepting supervision from society, listening to and taking into consideration the views of various sectors of society, and actively improving the work [of the centers]. Three, formulate the <i>Detailed Implementing Rules for Compulsory Isolation Drug Treatment Centers</i> to make clear the responsibilities, norms, and work requirements for law enforcement positions at compulsory isolation drug treatment centers, and provide specificity with respect to intake, management, education, rehabilitation, medical treatment, and other content. Four, hold multiple compulsory isolation drug treatment center work training classes every year, undertaking professional training for the leaders and police engaged in this kind of work. Five, strictly pursue responsibility; where conduct violating the <i>Measures</i> is discovered, investigate the relevant persons for responsibility in accordance with the law.</p> <p>Pursuant to the provisions of the <i>Counterespionage Law</i> and <i>Criminal Procedure Law</i>, state security organs, when handling criminal cases of</p>

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	<p>罪等危害国家安全的刑事案件，必须依照《刑事诉讼法》的规定进行，并接受人民检察院的监督。《刑事诉讼法》第4条和第85条规定，检察机关对国家安全人员提请和实施逮捕犯罪嫌疑人依法进行法律监督，国家安全机关要求提请逮捕犯罪嫌疑人的时候，应当写出提请批准逮捕书，连同案卷材料、证据，移送人民检察院审查批准。《反间谍法》第35条规定，当事人对行政处罚决定、行政强制措施决定（包括拘留）不服的，有权提起行政复议和行政诉讼。</p> <p>“两规”措施是中国的一项法律制度和党内纪律，有明确的国家法律和党内法规依据。国家法律、党纪、政纪都不允许对被“两规”人员实行酷刑。纪检监察机关对使用“两规”措施严格管理、严格监督，确保依纪依法、安全文明。对制度执行中出现的极个别问题，将依法依纪追究相关人员责任。</p>	<p>endangering state security such as the crime of espionage, must handle such cases in accordance with the <i>Criminal Procedure Law</i> and accept the supervision of the people’s procuratorate. Art. 4 and Art. 85 of the <i>Criminal Procedure Law</i> stipulate that the procuratorial organs exercise, in accordance with the law, legal supervision over state security personnel in their requests for, and execution of, the formal arrest of criminal suspects, and that state security organs should, when requesting a formal arrest of a criminal suspect, submit a written request for approval of the arrest, and then send it, together with the case file and evidence, to the people’s procuratorate for examination and approval. Art. 35 of the <i>Counterespionage Law</i> stipulates that where the parties are dissatisfied with a decision concerning an administrative penalty or that concerning administrative compulsory measures (including detention), they have the right to seek administrative reconsideration and pursue administrative litigation.</p> <p><i>Lianggui</i> [synonymous with <i>shuanggui</i>] measures are a legal system and an internal party discipline in China, with a clear basis in national law and internal party regulations. National laws, party discipline, and governmental discipline all do not permit the use of torture against people who are subjected to <i>lianggui</i>. The disciplinary inspection and supervision organs strictly manage and strictly supervise the use of <i>lianggui</i> measures, ensuring compliance with [party] discipline and the law, and safety and civilization. Where extreme, individual problems occur in the enforcement of the system, responsibility of relevant personnel will be pursued in accordance with the law and [party] discipline.</p>
18	<p>中国法律禁止非法拘留行为，严厉打击和取缔个人私设羁押场所，并追究相关人员刑事责任。2012年6月北京市昌平区法院判决了一起私设羁押场所案件，涉案的9人被以非法经营罪和非法拘禁罪追究刑事责任。</p> <p>北京市“接济服务中心”包括北京市接济管理服务中心、北京市马家楼接济服务中心，其职能是接待部分来京上访人员，提供上访人员</p>	<p>Chinese law strictly prohibits unlawful detention, takes severe measures against it, and prohibits individuals from establishing private places of detention, as well as pursues criminal responsibility of relevant persons. In June 2012, the Changping District Court of Beijing Municipality decided a case involving a privately established place of detention; the nine people involved in the case were held criminally liable for the crimes of “unlawful business operation” and “unlawful imprisonment.”</p> <p>Beijing City’s Aid Services Center comprises the Beijing City Aid Management Services Center and the Beijing Majialou Aid Services Center; its role is to receive some of the petitioners who come to Beijing,</p>

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	食、宿、医等接济、安置相关服务。	and provide petitioners with aid such as food, shelter, medical services, and settlement services.
19	<p>中国看守所设置有单独关押监室。单独关押是一种管理方式，不是惩罚措施。看守所根据被羁押人现实表现、案件性质、身体健康状况以及心理和精神健康状况等方面情况，对其进行安全风险评估，将其分为重大安全风险和一般安全风险，重大安全风险根据其风险因素又分为一、二、三级。看守所对一级重大风险在押人员实行单独关押管理。在适用中，主管部门采取的措施包括：一是严格限定使用对象。一级重大安全风险人员为有迹象表明可能自伤、自残、行凶、脱逃，或者已经实施上述行为的；精神、行为异常，疑似精神病需要鉴定的；恃强凌弱、寻衅滋事，经常欺压他人，打架斗殴，或者不服从管理，严重扰乱监管秩序等行为的被羁押人员。二是严格审批程序。单独关押措施由管教民警填写审批表，经看守所所长批准后实施。医生应当对其进行身体健康检查，对不适宜单独关押的应当提出书面建议，取消单独关押。三是严格管理。在押人员在单独关押期间。管教民警每日谈话，了解情况。加强医疗工作，医生每日上、下午各巡诊一次，了解其身体健康状况，每隔 24 小时对被单独关押人员进行一次身体健康检查，确认其是否继续适用单独关押。四是依法保证单独关押人员的正常饮食、休息、室外活动等。</p> <p>根据《公安机关强制隔离戒毒所管理办法》，强制隔离戒毒所对毒</p>	<p>China's detention centers are equipped with solitary confinement cells. Solitary confinement is a management method; it is not a punitive measure. A detention center will conduct a safety risk assessment of a detainee based on his/her actual behavior, the nature of the case, the [detainee's] physical health and also mental health, etc., and will classify the detainee as either a major safety risk or an ordinary safety risk. Major safety risk is further classified into class 1, 2, or 3, based on the nature of the risk. Detention centers put class 1 major safety risk detainees in solitary confinement. Where applicable, the measures taken by the competent authorities include: One, strict limitation on the targets of its use. Class 1 persons posing a major safety risk are detainees who show signs that indicate the possibility of self-harm, self-mutilation, committing a violent act, or escape, or have already committed the aforementioned acts; [display] abnormal psychological state or actions, or are suspected of having a mental illness that needs to be evaluated; as well as prey on the weak, pick quarrels and provoke troubles, often bully others, engage in fights, or do not accept management, or seriously disturb correctional procedures etc. Two, strict examination and approval procedures. Solitary confinement measures are applied for by disciplinary police through filling out a [request for] approval form, and may be implemented upon approval by the chief of the detention center. Doctors should conduct physical health checks [of persons in solitary confinement] and should issue written recommendations to discontinue solitary confinement where it is unsuitable. Three, strict management. During the period of detention in solitary confinement, disciplinary police shall speak [with the detainee] daily, to inquire about the situation. To strengthen medical treatment work, doctors shall do morning and afternoon rounds daily, inquiring about the health situation of [those in solitary confinement], conduct physical health checkups at 24 hour intervals of each person in solitary confinement, to confirm whether it is suitable to continue solitary confinement. Four, guaranteeing, in accordance with the law, that persons in solitary confinement have normal meals, rest, and outdoor activities.</p> <p>Pursuant to the <i>Measures for the Management of Public Security Organs' Compulsory Isolation Drug Treatment Centers</i>, compulsory isolation drug</p>

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	<p>瘾发作或者出现精神障碍可能发生自伤、自残或者实施其他危险行为的戒毒人员，可以按照卫生行政部门制定的医疗规范采取保护性约束措施。对被采取保护性约束措施的戒毒人员，民警和医护人员应当密切观察，可能发生自伤、自残或者实施其他危险行为的情形解除后及时解除保护性约束措施。同时，该办法还规定可以对存在以下情形的戒毒人员实施禁闭措施，包括违反戒毒人员行为规范、不遵守强制隔离戒毒所纪律，经教育不改正的；私藏或者吸食、注射毒品，隐匿违禁物品的；欺侮、殴打、虐待其他戒毒人员，占用他人财物等侵犯他人权利的；交流吸毒信息、传授犯罪方法或者教唆他人违法犯罪的；预谋或者实施自杀、脱逃、行凶的。</p> <p>看守所实行单独关押措施后，应当立即书面报告人民检察院驻所检察室。驻所检察室认为使用单独关押不当，提出纠正意见的，看守所应当立即纠正，并将纠正情况通报驻所检察室。被单独关押的在押人员可以约见驻所检察官进行申诉。</p> <p>看守所依法使用符合国家标准的讯问椅，没有所谓的“老虎凳”等非制式讯问椅。</p>	<p>treatment centers may adopt protective restraining measures, in accordance with the standards for medical treatment set by health administration departments, for persons undergoing drug treatment with drug episodes or mental disorders who may engage in self-harm, self-mutilation, or other harmful acts. Police and medical staff should closely observe those persons undergoing drug treatment who are subjected to protective restraining measures, and remove the protective measures promptly once the potential situation of self-harm, self-mutilation, or other harmful acts no longer exist. At the same time, the <i>Measures</i> also stipulate the following circumstances in which confinement measures may be imposed on persons undergoing drug treatment. They include: where persons undergoing drug treatment violate rules, or do not obey discipline in compulsory isolation drug treatment centers, or who are not reformed through education; where they secretly store or smoke, inject drugs, or conceal contraband items; where they infringe the rights of others by bullying, beating, or maltreating other persons undergoing drug treatment, or appropriating other people's property, etc.; where they exchange information about drug use, or impart criminal techniques to others or abet others to commit crimes; where they plan or carry out suicide, escape, and violence acts.</p> <p>After a detention center implements solitary confinement measures, it should immediately report in writing to the office of the people's procuratorate stationed within the center. Where the procuratorate office stationed within the center believes that solitary confinement is improper, and issues an opinion for correction, the detention center should immediately make a correction and communicate the correction situation to the procuratorate office stationed within the center. Persons detained in solitary confinement may make an appointment with the procuratorial staff stationed within a detention center to make an appeal.</p> <p>The lawful use of interrogation chairs in detention centers is in accordance with national standards. There are no such so-called "tiger chairs" or other non-standard interrogation chairs.</p>
20	<p>中国目前尚没有设立《巴黎原则》意义上的国家人权机构，但许多部门承担着类似的职责，例如全国人大常委会和各级政府部门均设</p>	<p>At present, China has not yet established a national human rights institution in the sense of that [described] in the <i>Paris Principles</i>. However, many departments assume responsibilities of this nature. For</p>

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	<p>有信访办公室，接受、调查和处理各种申诉。人民检察院是专门的法律监督机关，依法对羁押场所进行监督，保障在押人员的合法权利。中国政府还制定与实施《国家人权行动计划》，专门设立国家人权行动计划联席会议机制，负责国家人权行动计划的实施、监督和评估。联席会议的牵头单位为国务院新闻办公室和外交部，成员包括全国人大常委会法制工作机构、最高人民法院、最高人民检察院等 50 多个部门。</p> <p>中国目前共有监狱 686 所，其中女子监狱 31 所，未成年犯管教所 29 所。近几年来，中国监狱进一步加大开放力度，每年监狱都邀请人大代表、政协委员到监狱考察，定期对罪犯家属和社会公众开放。除监狱外，中国每个看守所都会聘请特邀监督员，特邀监督员二人以上可以在任何时间巡查看守所；定期邀请人大代表、政协委员视察，听取意见和建议。2009 年以来，公安部在全国推行看守所对社会开放，要求看守所通过召开律师座谈会、邀请新闻媒体采访、接待各界人士参观等多种方式，将看守所执法和管理置于公众监督之下，充分听取各方意见，改进工作。看守所每月设立一个工作日作为对社会开放日，并在媒体予以公告。也在网上接受单位预约，根据实际情况予以安排。看守所当地的机关团体、企事业单位和个人，以及在押人员家属，持有效证件或团体介绍信，通过向看守所预约登记，经过看守所审查并办理相应手续后，可以在开放日到看守所进行参观。目前，暂未以社区组织为单位统计相关数据。</p>	<p>instance, the National People’s Congress Standing Committee and government departments at all levels all have established Letters and Visits Offices, which receive, investigate, and handle all kinds of petitions. People’s procuratorates are special legal supervisory organs, which supervise places of detention in accordance with the law, and safeguarding the lawful rights and interests of detainees. The Chinese government has also formulated and implemented a <i>National Human Rights Action Plan of China</i>, especially establishing a national human rights action plan joint conference mechanism which is responsible for the implementation, monitoring, and evaluation of the national human rights action plan. The lead units of the joint conference are the State Council Information Office and the Ministry of Foreign Affairs, and members include more than 50 departments, such as legal work institutions under the National People’s Congress Standing Committee, the Supreme People’s Court, the Supreme People’s Procuratorate.</p> <p>China currently has 686 prisons, among which there are 31 women’s prisons and 29 juvenile correctional facilities. In recent years, China has further increased the openness of prisons. Every year, prisons invite deputies of the people’s congresses and members of people’s political consultative conferences for inspection, and are opened to the families of offenders and the public at fixed intervals. Aside from prisons, each detention center in China engages a special inspector, and any group of two or more special inspectors may inspect a detention center at any time; [each detention center] also invites deputies to people’s congresses and members of people’s political consultative conferences for inspection at fixed intervals, and listen to their opinions and suggestions. Since 2009, the Ministry of Public Security has been promoting greater openness of detention centers nationwide to society, asking detention centers—through diverse methods such as convening conferences with lawyers, inviting the media to conduct interviews, and receiving visits from persons of all walks of life—to place law enforcement and management of detention centers under the supervision of the public, fully listen to the views of all parties, and improve their work. Detention centers have established a community open day each month, and make an announcement about this through the media. [Detention centers] also accept online reservations by units, and make arrangements according to the actual situation. Local organs, groups, businesses and public</p>

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	<p>经统计，2008年至今年5月份，全国检察机关共组织了14070次人大代表对羁押场所的随机考察。其中，2008年1498次，2009年1618次，2010年1743次，2011年1729次，2012年1792次，2013年1981次，2014年2342次，2015年1至5月份1367次。</p>	<p>institutions, and individuals, as well as the families of detainees, with valid IDs or a letter of introduction for their group, and through registering an appointment with a detention center, may visit the detention center on open day once the detention center has reviewed [the visit request] and handled the relevant formalities. At present, there are no relevant data tabulated by community organization.</p> <p>According to statistics, from 2008 to May of this year, procuratorial organs nationally organized 14,070 random inspections of places of detention by deputies to people's congresses. Of these inspections, 1,498 occurred in 2008, 1,618 in 2009, 1,743 in 2010, 1,729 in 2011, 1,792 in 2012, 1,981 in 2013, 2,342 in 2014, and 1,367 in 2015 through May.</p>
21	<p>根据《人民检察院组织法》、《监狱法》和《看守所条例》等法律法规规定，对看守所、监狱羁押的妇女有专门的保护措施，包括：</p> <p>（1）看守所应当配备女工作人员管理女性在押人员，监狱女犯由女性人民警察直接管理。看守所收押犯罪嫌疑人时，对女性犯罪嫌疑人的人身检查，由女工作人员进行。监狱收监罪犯时检查身体，女犯由女性人民警察检查。押解女性在押人员出所时，应当有女工作人员负责途中的生活管理。（2）中国专门建设和改造了女子看守所和女性在押人员监区，对男性和女性在押人员，成年和未成年在押人员，实行分别羁押。监狱对成年男犯、女犯实行分开关押和管理。对女性在押人员坚持依法、文明管理，注重权利保护，如针对女性心理、生理特点，设置心理咨询室，由心理咨询师对其进行心理辅导，在女性生理期给予特殊生活照顾，组织女性在押人员开展文体活动等。（3）检察机关对看守所、监狱关押和管理女性在押人员的活动实行监督。对于体罚虐待女性在押人员构成犯罪的看守所、监狱的监管人员，依法立案侦查，追究其刑事责任。目前，国家禁毒委正根据中国全国妇联等方面的建议研究制定《毒品犯罪特殊群体打击处理办法》，关注和保护怀孕、哺乳期妇女等毒品犯罪特殊人群在羁押场所的基本人权。</p>	<p>Pursuant to the stipulations of rules and regulations such as the <i>People's Procuratorate Organization Law</i>, the <i>Prison Law</i> and the <i>Detention Center Regulations</i>, etc., special protective measures for women held in detention centers and prisons include: (1) Detention centers should be equipped with female staff for managing detained women, women convicts in prison should be directly managed by female people's police. When detention centers take a criminal suspect into detention, physical examinations of female criminal suspects should be conducted by female staff members. When prisons receive convicts and conduct physical examinations, female convicts are to be examined by female people's police. When a female detainee or prisoner is escorted out [of the detention center or prison], there should be a female staff member who is responsible for managing her life <i>en route</i>. (2) China has specially constructed and reformed women's detention centers and prison areas for females in custody, implementing separate detention for male and female, adult and minor detainees. Prisons house and manage adult male and female inmates separately. For females in custody, management in accordance with the law and civilization is maintained, with particular attention paid to the protection of rights and interests, such as focusing on female psychological and physiological characteristics. Psychological consultation offices are established, where psychological counselors provide psychological counseling, give special life care during menstruation periods, and organize literary and sporting activities for women in detention, etc. (3) Procuratorial organs undertake supervision of the custody and management of female detainees in detention centers and</p>

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		<p>prisons. A case file will be opened for investigation of criminal responsibility for correctional staff at detention centers and prisons who engage in the corporal punishment and maltreatment of female detainees that constitute a crime. Currently, the National Narcotics Control Commission is formulating the <i>Methods for Striking at and Handling Special Groups of Drug Criminals</i> based on the recommendations and research of the All-China Women’s Federation and others, which will pay attention to and protect the basic human rights of special drug crime populations in places of detention such as pregnant and breastfeeding women.</p>
ARTICLES 12 & 13		
22	<p>据统计，2008年至2015年上半年，通过检察机关12309举报平台反映的刑讯逼供和体罚、虐待被监管人的案件数量分别是1321件和17件。2008年至2015年上半年，全国检察机关起诉刑讯逼供和虐待被监管人犯罪嫌疑人分别是396人和268人。分别为：</p> <p>2008年起诉刑讯逼供犯罪嫌疑人92人和虐待被监管人犯罪嫌疑人42人，2009年起诉刑讯逼供犯罪嫌疑人60人和虐待被监管人犯罪嫌疑人36人，2010年起诉刑讯逼供犯罪嫌疑人81人和虐待被监管人犯罪嫌疑人37人，2011年起诉刑讯逼供犯罪嫌疑人55人和虐待被监管人犯罪嫌疑人28人，2012年起诉刑讯逼供犯罪嫌疑人48人和虐待被监管人犯罪嫌疑人33人，2013年起诉刑讯逼供犯罪嫌疑人37人和虐待被监管人犯罪嫌疑人44人，2014年起诉刑讯逼供犯罪嫌疑人20人和虐待被监管人犯罪嫌疑人43人，2015年1至6月起诉刑讯逼供犯罪嫌疑人3人和虐待被监管人犯罪嫌疑人5人。</p>	<p>According to statistics, from 2008 to the first half of 2015, the numbers of cases of extracting a confession under torture from, and corporal punishment or maltreatment of, detainees reported via the procuratorate’s “12309” complaint hotline were 1,321 and 17 respectively. From 2008 to the first half of 2015, the numbers of suspects indicted for extracting a confession under torture and maltreatment of detainees were 396 and 268 respectively. The figures for each year are as follows:</p> <p>In 2008, the number of suspects indicted for extracting a confession under torture is 92; the number of suspects indicted for maltreatment of detainees is 42. In 2009, number of suspects indicted for extracting a confession under torture is 60; the number of suspects indicted for maltreatment of detainees is 36. In 2010, number of suspects indicted for extracting a confession under torture is 81; the number of suspects indicted for maltreatment of detainees is 37. In 2011, the number of suspects indicted for extracting a confession under torture is 55; the number of suspects indicted for maltreatment of detainees is 28. In 2012, the number of suspects indicted for extracting a confession under torture is 48; the number of suspects indicted for maltreatment of detainees is 33. In 2013, the number of suspects indicted for extracting a confession under torture is 37; the number of suspects indicted for maltreatment of detainees is 44. In 2014, the number of suspects indicted for extracting a confession under torture is 20; the number of suspects indicted for maltreatment of detainees is 43. From January to June 2015, the number of suspects indicted for extracting a confession under torture is 3; the number of suspects indicted for maltreatment of detainees is 5.</p>

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	<p>具体定罪情况如下：</p> <table border="1" data-bbox="289 277 993 662"> <thead> <tr> <th>日期</th> <th>因刑讯逼供 被判处有期徒刑</th> <th>因暴力取证 被判处有期徒刑</th> <th>因虐待被监管人 被判处有期徒刑</th> </tr> </thead> <tbody> <tr> <td>2009年</td> <td>60</td> <td>2</td> <td>26</td> </tr> <tr> <td>2010年</td> <td>60</td> <td>2</td> <td>34</td> </tr> <tr> <td>2011年</td> <td>36</td> <td>1</td> <td>26</td> </tr> <tr> <td>2012年</td> <td>49</td> <td>0</td> <td>22</td> </tr> <tr> <td>2013年</td> <td>32</td> <td>0</td> <td>32</td> </tr> <tr> <td>2014年</td> <td>31</td> <td>2</td> <td>36</td> </tr> <tr> <td>2015年 1-6月11</td> <td>0</td> <td>0</td> <td>19</td> </tr> </tbody> </table> <p>在羁押场所内因体检发现可能存在酷刑的情况，可以向公安机关督察部门、人民检察院派驻看守所的部门报告。有关部门将依法进行调查，对于查证属实的，将依法追究有关人员的责任。</p>	日期	因刑讯逼供 被判处有期徒刑	因暴力取证 被判处有期徒刑	因虐待被监管人 被判处有期徒刑	2009年	60	2	26	2010年	60	2	34	2011年	36	1	26	2012年	49	0	22	2013年	32	0	32	2014年	31	2	36	2015年 1-6月11	0	0	19	<p>Details on convictions are as follows:</p> <table border="1" data-bbox="1115 272 1969 760"> <thead> <tr> <th>Date</th> <th>No. of persons convicted of extracting a confession under torture</th> <th>No. of persons convicted of obtaining evidence by violence</th> <th>No. of persons convicted of maltreatment of detainees</th> </tr> </thead> <tbody> <tr> <td>2009</td> <td>60</td> <td>2</td> <td>26</td> </tr> <tr> <td>2010</td> <td>60</td> <td>2</td> <td>34</td> </tr> <tr> <td>2011</td> <td>36</td> <td>1</td> <td>26</td> </tr> <tr> <td>2012</td> <td>49</td> <td>0</td> <td>22</td> </tr> <tr> <td>2013</td> <td>32</td> <td>0</td> <td>32</td> </tr> <tr> <td>2014</td> <td>31</td> <td>2</td> <td>36</td> </tr> <tr> <td>2015 Jan-June</td> <td>11</td> <td>0</td> <td>19</td> </tr> </tbody> </table> <p>In cases of possible torture discovered in physical exams in detention locations, reports can be filed with the supervision departments of public security organs or people’s procuratorate departments stationed within detention centers. The relevant departments will carry out an investigation in accordance with the law; when cases are proved to be true, responsibility of the persons involved will be pursued in accordance with the law.</p>	Date	No. of persons convicted of extracting a confession under torture	No. of persons convicted of obtaining evidence by violence	No. of persons convicted of maltreatment of detainees	2009	60	2	26	2010	60	2	34	2011	36	1	26	2012	49	0	22	2013	32	0	32	2014	31	2	36	2015 Jan-June	11	0	19
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23	<p>对这一问题，中国政府已于 2009 年对委员会结论性意见和建议所作评论（CAT/C/CHN/CO/4/Add.2）中表明了立场。中方希委员会严守自身职责，避免将审议工作政治化。</p>	<p>On this issue, the Chinese government has already responded in its commentary on the <i>Committee’s Concluding Observations and Recommendations</i> in 2009 expressing its standpoint (CAT/C/CHN/CO/4/Add.2). China hopes the Committee strictly maintains its own duties, avoiding politicization of review work.</p>																																																																
24	<p>中国《人体器官移植条例》对器官移植有严格的规定，人体器官捐赠必须取得捐赠者本人的书面同意。所谓“中国摘取‘法轮功’练习者器官”完全是“法轮功”杜撰的谣言。相反，正是“法轮功”编造歪理邪说，实施精神控制，导致大量痴迷者自残、自杀。</p>	<p>China’s <i>Regulations on Human Organ Transplantation</i> have strict provisions for organ transplantation, requiring written consents from the donors for human organ donations. The so-called “harvesting of organs of Falun Gong practitioners” is a rumor entirely fabricated by Falun Gong. On the contrary, it is precisely these preposterous and evil tales fabricated</p>																																																																

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	<p>中国政府始终认为，绝大多数“法轮功”练习者都是受李洪志及“法轮功”歪理邪说的欺骗而误入歧途的，他们也是受害者。中国政府依法取缔“法轮功”邪教组织，打击处理极少数进行违法犯罪活动的“法轮功”顽固分子，以维护中国的社会公共利益，保护全体中国人民包括“法轮功”受害者的权利。</p>	<p>by Falun Gong that are exerting mind control on [Falun Gong practitioners] and causing a large number of fanatical followers to commit self-mutilations and suicide.</p> <p>The Chinese government has always believed that the vast majority of Falun Gong practitioners are all being deceived and led astray by the preposterous and evil tales of Li Hongzhi and Falun Gong, and that [these practitioners] too are victims. The Chinese government has lawfully banned Falun Gong as an evil cult organization and cracked down on an extreme small number of obstinate Falun Gong elements who engaged in unlawful, criminal activities, in order to defend the public interest of Chinese society and protect the rights and interests of the entire Chinese people, including the victims of Falun Gong.</p>
25	<p>2009年7月5日在乌鲁木齐发生的打砸抢烧事件是由“暴力恐怖势力、民族分裂势力和宗教极端势力”在境外煽动境内实施的严重暴力犯罪事件，其险恶用心是妄图破坏国家统一、社会稳定和民族团结。2009年10月12日及以后，乌鲁木齐市中级人民法院依法公开开庭审理数起涉及“7·5”事件的重大犯罪案件。在诉讼过程中，司法机关依法办案，保障各被告人合法权益，包括确保其依法行使法律规定的各项诉讼权利。不存在所谓“酷刑”现象。法庭使用被告人的本民族语言文字进行了诉讼，也提供同声传译，以保证其他诉讼参与人进行诉讼，方便旁听群众及时了解案情和庭审进程。新疆自治区和乌鲁木齐市部分人大代表、政协委员，各族各界群众，媒体记者及被害人亲属、被告人亲属旁听了开庭审理。</p> <p>伊力哈木·土赫提犯有分裂国家罪。中国司法机关严格依照中国法律对伊案进行审理并作出判决。案件审理过程中，伊及其辩护人各项</p>	<p>The vandalism-looting-arson incident of July 5, 2009 in Urumqi was a serious violent criminal incident that was incited from outside China and perpetrated inside China by “violent terrorist forces, ethnic separatists, and religious extremists,” whose sinister motive was a futile attempt to undermine national unity, social stability, and ethnic unity. Since October 12, 2009, the Urumqi City Intermediate People’s Court has held public trials of many major criminal cases involving the “7/5” Incident. During the proceedings, judicial organs handled the cases in accordance with the law, safeguarding the lawful rights and interests of defendants, including ensuring the lawful exercise of their various litigation rights stipulated by law. The phenomenon of so-called torture did not exist. The court conducted the proceedings in the defendants’ own ethnic spoken and written language, and also provided simultaneous interpretation, to ensure that other litigation participants could participate in the proceedings and to facilitate trial observers’ understanding of the details of the cases and trial procedures in a timely manner. Some deputies to the people’s congresses and members of the people’s political consultative conferences of the Xinjiang Uyghur Autonomous Region and Urumqi city, the masses from all ethnicities and walks of life, media reporters, as well as relatives of the victims and defendants attended the trials in open court.</p> <p>Ilham Tohti (伊力哈木·土赫提) is guilty of the crime of “separatism.” China’s judicial organs tried and ruled on his case in strict accordance</p>

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	<p>权利均依法得到了充分保障。伊本人现在身体健康，正在监狱中服刑，其家人可以依照有关规定申请探视。关于伊力哈木·土赫提被捕入狱后遭受酷刑的指控没有事实依据。</p>	<p>with Chinese law. During the trial, the rights and interests of Ilham Tohti and his defense counsel were fully ensured in accordance with the law. Ilham Tohti is currently in good health and in prison serving his sentence, and his family may apply to visit him in accordance with relevant provisions. There is no factual basis for the allegation that Ilham Tohti has suffered torture since his arrest and after he entered prison.</p>
26	<p>中国政府认真践行《开罗人发大会宣言》，计划生育措施以宣传倡导和避孕为主。因避孕失败导致非意愿妊娠者，医生给予医学指导，尊重夫妇或者个人做出的选择。对于要求终止妊娠者，计划生育和医疗服务机构为受术者提供安全的服务，保证妇女的身心健康。在中国，实施人工流产手术，必须征得受术者本人的同意，不得强迫手术，更不得实施非法拘禁行为，对违反法律规定的国家机关工作人员，依法追究责任人。</p> <p>《中华人民共和国人口与计划生育法》第 39 条规定，国家机关工作人员在计划生育工作中，有下列行为之一，构成犯罪的，依法追究刑事责任；尚不构成犯罪的，依法给予行政处分；有违法所得的，没收违法所得。地方人口与计划生育条例也对行政行为中的违法现象规定了处罚措施。</p> <p>2012 年 6 月，陕西省对安康市镇坪县发生的大月份引产事件进行责任追究，分管副县长等 7 人受到党纪和行政处分。山东临沂计生办采取强制措施执行计划生育政策一案发生后，国家卫生计生委立即派员赶赴当地开展调查。当地政府及时采取措施，对 6 名相关责任</p>	<p>The Chinese government conscientiously implements the Cairo Declaration on Population and Development, with information dissemination and advocacy and contraception as the key family planning measures. Where contraception failures lead to unwanted pregnancies, doctors provide medical guidance, respecting the individual choices of the couple. For those who request termination of pregnancies, family planning and medical services agencies provide safe services for those undergoing procedures, ensuring the physical and psychological health of the women. In China, [those] carrying out an abortion procedure must seek the consent of the person undergoing the procedure herself, and must not forcibly conduct the procedure, let alone unlawfully detain the person. Personnel of state organs who violate provisions of laws will be investigated for responsibility in accordance with the law.</p> <p>Art. 39 of the <i>Population and Family Planning Law of the People's Republic of China</i> stipulates that criminal responsibility shall be pursued of personnel of state organs who engage in one of the following acts and when the act constitutes a crime; if the act does not yet constitute a crime, the [actor] shall be punished administratively in accordance with the law; and where there are unlawful gains, they shall be confiscated. Local population and family planning regulations also stipulate punitive measures for unlawful conduct occurring in administrative actions.</p> <p>[Note: The source text does not provide a list of the acts as mentioned in the preceding paragraph.]</p> <p>In June 2012, Shaanxi Province undertook an investigation into the responsibility for an event involving labor induction [a form of abortion] during weeks 24–28 of pregnancy [the first weeks of a fetus' viability] in Zhenping County of Ankang City, resulting in the administrative punishment and Party discipline of seven persons, including the vice</p>

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	<p>人给予撤职、警告等处分，要求各级各部门引以为戒，举一反三做好各项工作，提升依法行政水平。</p>	<p>county commissioner. After a case involving the use of coercive measures to carry out family planning policies occurred in the Linyi Family Planning Office in Shandong Province, the National Health and Family Planning Committee immediately dispatched staff who rushed to the site to begin an investigation. The local government promptly took measures, punishing six relevant responsible persons by sacking them or giving them a warning, etc., requiring all departments at all levels to take this case as a warning, using it as an example to all to do their work properly, and raising the level of administration in accordance with the law.</p>
27	<p>中国公民不会因与官方政策有分歧而被拘留，相关指控并不属实。任何被拘留者在押期间均享有法律保障和人道待遇。以下是目前我们查询到的有关人员的情况：</p> <p>卓什确，于 2003 年 11 月至 2004 年 6 月间非法出入境，进行分裂活动，得到间谍组织达赖集团“安全部”的支持，其行为构成偷越国（边）境罪和间谍罪，被处以有期徒刑十年零六个月。卓什确的各项合法权利均得到充分保障。</p> <p>丹增德勒，俗名阿安扎西，因犯有爆炸罪、煽动分裂国家罪被判处死缓，后减为无期徒刑，因心源性猝死经医院抢救无效，于今年 7 月 12 日死亡。阿安扎西服刑期间，其合法权利依法得到保障。阿安扎西死因明确，对其病情的救治及时、得当。</p> <p>《中华人民共和国示威游行法》对中国公民在境内举行集会、游行、示威活动有明确规定。对于个别违法犯罪案件，当地司法机关依法处理，所谓“随意逮捕、拘禁相关人员”、“不加区分地开火导致</p>	<p>Chinese citizens will not be detained because they disagree with official policies, and related accusations are untrue. Any detainees are entitled to legal safeguards and humane treatment while in custody. The following are the statuses of persons we have made inquiries about at the present time:</p> <p>Dolma Kyab (卓什确) unlawfully exited and entered the territory [of China] from November 2003 to June 2004, conducting separatist activities, getting support from the security department of the espionage organization, the Dalai Lama clique. His activities constituted the crime of “stealing across national borders” and the crime of “espionage,” and he was sentenced to a fixed term imprisonment of ten years and six months. Dolma Kyab’s various lawful rights and interests have all been fully ensured.</p> <p>Tenzin Delek (丹增德勒) was found guilty of the crimes of “causing an explosion” and “inciting national separatism,” and was sentenced to death, which sentence was later commuted to life imprisonment. He died suddenly on July 12 of this year, from a heart ailment which hospital emergency rescue efforts were unsuccessful in treating. During Delek’s imprisonment, his lawful rights and interests were ensured in accordance with the law. Delek’s cause of death was clear, the treatment of his condition was timely and appropriate.</p> <p>The <i>Law of the People’s Republic of China on Assemblies, Processions and Demonstrations</i> clearly stipulates [the conduct of] activities in assemblies, processions, and demonstrations by Chinese citizens within</p>

LOI para	Chinese original	English translation
	死亡”、“镇压游行示威过程中过度使用武力”、“有关被拘留人员遭受酷刑”等言论属歪曲事实。	the territory [of China]. As for individual criminal cases, local judicial organs handle them in accordance with the law; so-called “arbitrary arrest and detention of relevant persons,” “opening fire indiscriminately resulting in death,” “excessive use of force in the course of suppressing marches and demonstrations,” “relevant detainees being subjected to torture,” and other remarks are distortions of the facts.
28	<p>(1) 中国《宪法》明确规定人民检察院是国家的法律监督机关，依照法律规定独立行使检察权，不受行政机关、社会团体和个人的干涉。检察机关虽然同时拥有公诉权和刑事执行监督权，但分属不同的部门行使，能够保障各自职权行使的独立性和公正性。中国《刑事诉讼法》、《人民检察院组织法》和《监狱法》具体规定了检察机关对监所活动实行监督。这些规定都为保证检察机关独立性提供了明确法律依据。同时，检察机关通过对监狱、看守所实行巡视检察、派驻检察、巡回检察等监督制度和机制，可以保证检察人员的独立性。</p> <p>政法委员会在反酷刑方面的职责主要是通过协调各司法机关工作、督促依法履职、创造公正司法环境，带头依法办事，保障宪法法律正确统一实施。政法委支持政法机关依照宪法法律独立负责、协调一致开展工作，不参与直接调查，更不对案件的证据采信、事实认定、司法裁判提出具体意见。</p>	<p>(1) China’s <i>Constitution</i> clearly stipulates that people’s procuratorates are the state’s organs for legal supervision, which independently exercise their procuratorial power in accordance with provisions of the law, without interference from administrative organs, social organizations (<i>shehui tuanti</i>), or individuals. Although procuratorial organs simultaneously exercise powers of public prosecution and supervision over criminal law enforcement, these powers are divided among different departments in their exercise, which division can ensure the independence and impartiality of the exercise of each authority. China’s <i>Criminal Procedure Law, Organization Law of the People’s Procuratorate, and Prison Law</i> concretely stipulate the procuratorial organs’ supervision of the activities of prisons and detention centers. These stipulations all provide a clear legal basis for guaranteeing the independence of procuratorial organs. At the same time, procuratorial organs can ensure the independence of procuratorial personnel by means of supervisory systems such as conducting inspection tours of prisons and detention centers, stationing procuratorates at prisons and detention centers, or touring procuratorates, etc. Procuratorial personnel may inspect detention locations without prior notice.</p> <p>In terms of combatting torture, the primary responsibilities of the [Party’s] Political and Legislative Affairs Committee are to lead the handling of matters in accordance with the law, and safeguard the correct and integrated implementation of the <i>Constitution</i> and laws by means of: coordinating the work of judicial organs, supervising and urging the performance of duties in accordance with the law, and creating an environment for the impartial administration of justice. The [Party’s] Political and Legislative Affairs Committee supports politico-legal organs in their independent responsibility for and coordination of unified work performance in accordance with the <i>Constitution</i> and laws; [it] does not participate in direct investigations; and, further still, it does not put</p>

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	<p>公安纪委监察部门依纪依法独立行使职权，开展调查工作。在有证据表明公安民警实施酷刑或虐待行为时，公安机关纪检监察部门有权依纪依法介入，开展调查。对于涉嫌职务犯罪的，依法移交检察机关追究刑事责任；对于尚不构成犯罪的，按照党纪和行政规定给予处分。</p> <p>(2) 2005年以来，公安机关纪检监察部门和检察机关反渎职侵权部门建立联席会议制度，加强信息共享、查办案件等方面协作配合，双方每年召开一至两次会议，通报相关工作情况特别是公安民警职务犯罪案件情况。</p> <p>(3) 人民检察院派驻看守所、监狱的检察机关建立了检察官信箱、在押人员约见检察官、检察官与在押人员谈话等工作机制和制度，检察官可以随时接受在押人员的控告、举报，也可以主动找在押人员谈话，了解是否存在在押人员受到酷刑、虐待或者打击报复等违法情形，如发现违法情况，依法予以纠正。</p> <p>(4) 依据有关监察法律纪律规定，检察机关监察机构在调查检察人</p>	<p>forward specific opinions on the admission of evidence, determination of facts, or judicial decisions.</p> <p>Public security discipline inspection and supervision departments independently exercise authority in accordance with disciplinary rules and the law, and may initiate investigation work. When the evidence clearly shows that public security police have engaged in torture or maltreatment, the public security organ's discipline inspection and supervision departments have the authority to get involved in accordance with disciplinary rules and the law, and may commence an investigation. A suspected crime of abuse of office shall be handed over, in accordance with the law, to procuratorial organs for investigation of criminal responsibility; and where [the suspected action] does not yet constitute a crime, [the matter] shall be handled according to Party disciplinary and administrative rules.</p> <p>(2) Since 2005, discipline inspection and supervision departments of public security organs and the anti-malfeasance and rights infringement departments of procuratorial organs have established a joint conference system, to strengthen work coordination in areas such as information sharing and case investigation and handling, etc., with both sides convening one to two meetings annually and notifying one another of the status of their work, and especially with respect to criminal cases of official misconduct by public security police.</p> <p>(3) Procuratorial institutions of the people's procuratorates that are stationed within detention centers and prisons have established working mechanisms and systems such as mailboxes for prosecutors, appointments for detainees with procurators, and conversations between procurators and detainees. Procurators may at any time receive allegations and reports from detainees, and may also on their own initiative speak with detainees, to understand whether detainees have suffered unlawful circumstances such as torture, maltreatment, or reprisal attacks. And if such violations of the law are discovered, corrections shall be made in accordance with the law.</p> <p>(4) Pursuant to relevant supervision laws and disciplinary regulations,</p>

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	<p>员涉及酷刑和虐待行为的案件时，可以根据实际情况和需要建议暂停被调查人执行职务。对查证属实的案件，在追究被调查人纪律责任的同时，如果认为被调查人不适合继续从事检察工作，可以建议组织人事部门对被调查人调整工作岗位或调离检察机关。被调查人如构成刑讯逼供罪、暴力取证罪等犯罪，依法追究其刑事责任。具体数据参见对第 22 题的答复。</p>	<p>where supervisory organs of procuratorial organs are investigating cases of procuratorial personnel’s involvement in torture and maltreatment, they may, according to the actual situation and needs, suggest suspension of the persons being investigated from performing their work. With respect to cases verified through an investigation, at the same time as pursuing disciplinary responsibility for persons under investigation, if it is believed that it is unsuitable for the persons under investigation to continue procuratorial work, they may suggest that the departments responsible for personnel organization adjust the work posts of the persons under investigation or transfer them out of the procuratorial organs. Where the persons under investigation have committed crimes such as “extracting a confession under torture” or “obtaining evidence by violence,” etc., criminal responsibility shall be pursued in accordance with the law. For concrete statistics, consult the response to question 22.</p>
ARTICLE 14		
29	<p>(1) 关于家庭暴力案件受害者，由相关专家对受害者提供心理疏导。在被拐妇女儿童回归服务方面，关心和帮助返乡被拐妇女儿童解决难题，耐心做好亲属、邻居的思想工作，消除歧视，为其争取平等的经济、社会待遇，使她们重树生活信念。</p> <p>(2) 根据《中华人民共和国国家赔偿法》第 17 条第 4 项、第 5 项规定，“涉酷刑问题的国家赔偿案件种类”包括：1、刑讯逼供造成公民身体伤害的国家赔偿；2、刑讯逼供造成公民死亡的国家赔偿；3、殴打、虐待等行为或者唆使、放纵他人以殴打、虐待等行为造成公民身体伤害的国家赔偿；4、殴打、虐待等行为或者唆使、放纵他人以殴打、虐待等行为造成公民死亡的国家赔偿；5、违法使用武器、警械造成公民身体伤害的国家赔偿；6、违法使用武器、警械造成公民死亡的国家赔偿。</p>	<p>(1) With regard to victims in domestic violence cases, relevant experts provide them with psychological counseling. In terms of reintegration services for trafficked women and children, care and assistance [are provided] to trafficked women and children returning to their hometowns to solve difficulties, patiently engage with family and neighbors on ideological work, eliminate discrimination, strive for their equal economic and social treatment for them, and facilitate rebuilding their faith in living.</p> <p>(2) Pursuant to Art. 17, paras. 4 and 5 of the <i>State Compensation Law of the People’s Republic of China</i>, the types of “state compensation cases involving torture issues” include: (a) state compensation for bodily injuries to citizens caused by extracting confessions under torture; (b) state compensation for deaths of citizens caused by the extracting confessions under torture; (c) state compensation for bodily injuries to citizens caused by acts such as beating or maltreatment of citizens, or instigating or permitting others to beat or maltreat citizens; (d) state compensation for deaths of citizens caused by acts such as beating or maltreatment, or instigating or permitting others to beat or maltreat citizens; (e) state compensation for bodily injuries to citizens caused by illegal use of weapons or police apparatus; and (f) state compensation for deaths of citizens caused by illegal use of weapons or police apparatus.</p>

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	<p>根据《国家赔偿法》规定，国家赔偿的主要方式是支付赔偿金，也包括为受害人消除影响、恢复名誉、赔礼道歉以及支付相应的精神损害抚慰金。</p> <p>(3) 一经收到酷刑指控，中国主管机关立即开展调查，对受害人及家属进行问询，必要的身体检查和心理咨询治疗等，对查实确有酷刑的，对施害人依法追究刑事责任，对受害人给予赔偿，包括支付赔偿金、为受害人消除影响、恢复名誉、赔礼道歉以及支付相应的精神损害抚慰金等。</p> <p>根据《法律援助条例》第 11 条规定，公诉案件的被害人及其近亲属，因经济困难没有委托诉讼代理人的，可以申请法律援助。对于酷刑或虐待受害者符合法律援助经济困难标准的，可以申请获得无偿法律援助。</p>	<p>Pursuant to <i>State Compensation Law</i> provisions, the principal method of state compensation is the payment of compensation money, but [compensation] also includes, eliminating the impact on the victims, restoring their reputation, a formal apology, as well as payment of related consolation money for psychological harm.</p> <p>(3) Upon receiving allegations of torture, Chinese authorities immediately commence investigations, interview victims and their families, provide necessary physical examinations and psychological consultations and treatment, etc.; where it is verified that there is torture, the perpetrator is investigated for legal responsibility in accordance with the law, and compensation is made to the victim, including payment of compensation money, eliminating the impact on the victims, restoring their reputation, a formal apology, as well as payment of related consolation money for psychological harm.</p> <p>Pursuant to Art. 11 of the <i>Legal Aid Regulations</i>, victims and close relatives in public prosecution cases who do not have legal representation due to economic hardship may apply for legal aid. Victims of torture or maltreatment who meet legal aid economic hardship standards may apply for <i>pro bono</i> legal aid.</p>
30	<p>2013 年 1 月至 2015 年 6 月，各级法院共审结国家赔偿案 6311 件，赔偿金额为 25187.11 万元。法院受理的因刑讯逼供致人伤害、死亡的刑事赔偿案件数量较少，据统计，2009 年至 2015 年 6 月共 12 件。需要说明的是，法院受理的是不服公安机关、检察机关赔偿决定的案件，实践中多数案件已由公安机关、检察机关妥善处理，无需再向法院提起。此类案件均由检察机关公诉至法院，法院都会在刑事诉讼法规定的期限内审理完结，不存在所谓的因不作为导致超出时效的情况。</p>	<p>From January 2013 to June 2015, courts at every level together concluded a total of 6,311 state compensation cases; the total amount of compensation awarded was RMB 251,871,100. The number of cases accepted by courts in which criminal compensation was sought for death or injury resulting from extracting confessions under torture was comparatively small, and statistics show that there were 12 such cases from 2009 to June 2015. It should be noted that those cases accepted by the courts are cases in which [the complainants] did not accept the compensation decisions of the public security organs and/or the procuratorial organs, and that in practice the majority of cases have already been properly handled by public security and/or procuratorial organs such that they do not need to be brought before the courts. These kinds of [criminal] cases [of acts of extracting confessions under torture] are all brought as public prosecutions by procuratorate organs to the courts, and the courts would try them all to completion within the time period stipulated by the <i>Criminal Procedure Law</i>; there are no situations</p>

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	<p>公安机关在执法办案过程中发生涉案人员非正常死亡案件，均第一时间由检察机关介入调查，涉嫌刑讯逼供犯罪的，由检察机关对民警立案查处。对于符合国家赔偿条件的，依法启动国家赔偿程序，给予及时合理的赔偿。</p> <p>部分案例情况如下：</p> <p>【申伟峰案】经审理查明，2000年5月7日，新密市公安局苟堂镇派出所所在办理一起刑事案件时，该所副所长牛浩义对申伟峰刑讯逼供致其右耳受伤。河南高院2013年12月11日作出赔偿决定书，由新密市公安局支付申伟峰残疾赔偿金190372元。</p> <p>【李铁英案】扶沟县公安局赔偿李铁英被羁押51天的赔偿金9299.85元，精神损害抚慰金2000元。（本案精神损害抚慰金既包括刑讯逼供，也包括违法刑事拘留。）</p> <p>【呼格吉勒图案】内蒙古高级法院向呼格吉勒图的父亲李三仁、母亲尚爱云支付死亡赔偿金、丧葬费1047580元，限制人身自由赔偿金12041.40元、精神损害赔偿金100万元，共计：205.962140万元。</p> <p>【张辉案】浙江省高级人民法院支付赔偿张辉侵犯人身自由权赔偿</p>	<p>where the handling of cases exceeded the effective time limit due to so-called [official] inaction.</p> <p>During the process of handling cases, whenever public security organs discover a case of unnatural death of a person involved in the case, procuratorial organs always immediately investigate; and where there is suspicion that the crime of “extracting a confession under torture” has occurred, the procuratorial organ [will] file a case for investigation against the police. Where conditions for state compensation are met, and where state compensation procedures are initiated in accordance with the law, timely and reasonable compensation will be given.</p> <p>The circumstances of some of these cases are as follows:</p> <p>The Case of Shen Weifeng (申伟峰). Through examination in a trial, it was shown that on May 7, 2000, Niu Haoyi, the deputy chief of the Xinmi City Public Security Bureau’s Goutang Town police substation, in the course of handling a criminal case, injured the right ear of Shen Weifeng by extracting a confession under torture. On December 11, 2013, the Henan [Provincial] High Court issued a written decision on compensation, ordering the Xinmi City Public Security Bureau to pay Shen Weifeng a disability compensation of RMB190,372.</p> <p>The Case of Li Tieying (李铁英). The Fugou County Public Security Bureau paid Li Tieying RMB 9,299.85 in compensation for her 51-day detention, and RMB 2,000 in compensation for psychological harm. (In this case, the compensation for psychological harm included for both extracting a confession under torture and unlawful criminal detention.)</p> <p>The case of Huugjilit (呼格吉勒图). The Inner Mongolia High Court awarded Huugjilit’s father Li Sanren and his mother Shang Aiyun RMB 1,047,580 in compensation for Huugjilit’s death and funeral expenses, RMB 12,041.40 in compensation for deprivation of Huugjilit’s personal freedom, and RMB 1,000,000 in compensation for psychological harm, totaling RMB 2,059,621.40 in compensation.</p> <p>The case of Zhang Hui (张辉). Zhejiang Provincial Higher People’s Court</p>

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	<p>金 65.57306 万元、精神损害抚慰金 45 万元，共计 110.57306 万元。</p> <p>【张高平案】浙江省高级人民法院支付赔偿张高平侵犯人身自由权赔偿金 65.57306 万元、精神损害抚慰金 45 万元，共计 110.57306 万元。</p> <p>【田伟冬案】赔偿请求人田伟冬被羁押 17 年之久，致其精神损害严重后果，赔偿义务机关综合考虑相关因素，同意以限制人身自由赔偿金的 70% 左右确定精神损害抚慰金，决定支付精神损害抚慰金 75 万元，共计 182.40415 万元。</p>	<p>awarded RMB 655,730.6 in compensation to Zhang Hui for deprivation of personal freedom, and RMB 450,000 in compensation for psychological harm, totaling RMB 1,105,730.6 in compensation.</p> <p>The case of Zhang Gaoping (张高平). Zhejiang Provincial Higher People’s Court awarded Zhang Gaoping RMB 655,730.60 in compensation for deprivation of personal freedom, and RMB 450,000 in compensation for psychological harm, totaling RMB 1,105,730.6 in compensation.</p> <p>The case of Tian Weidong (田伟冬). State compensation claimant Tian Weidong had been imprisoned for 17 years, which resulted in grave psychological harm [to him]. The organ responsible for compensation, after considering all factors, agreed to set the amount for psychological consolation at approximately 70 percent of that for deprivation of his personal freedom, and decided to pay him RMB 750,000 in compensation for psychological harm, making a total of RMB 1,824,041.5 in compensation.</p>
ARTICLE 15		
31	<p>涉及适用《刑事诉讼法》54 条的部分代表性案例如下：</p> <p>【王志高案】被告人王志高，2013 年因涉嫌贩卖毒品罪被逮捕。</p> <p>庭审期间，王志高提出 2013 年 3 月 13 日的供述系被办案人员殴打后作出；2013 年 3 月 14 日的供述系根据办案人员的提示作出；2013 年 3 月 28 日的供述系办案人员伪造，请求排除上述供述。</p> <p>法院认为，因王志高于 2013 年 3 月 12 日、3 月 14 日和 3 月 28 日所作的有罪供述在取证程序上存在多处疑点，均不予采信，除上述供述外，指控王志高实施该两次贩卖毒品行为的证据仅有证人熊康飞的证言，未能达到证据确实、充分的证明标准，故对相关贩卖毒品指控依法不予认定。</p>	<p>Some representative cases involving the use of Art. 54 of the <i>Criminal Procedure Law</i> are as follows:</p> <p>The case of Wang Zhigao (王志高). Defendant Wang Zhigao was arrested in 2013 on suspicion of “drug trafficking.” During the trial, Wang stated that his confession of March 13, 2013 was made after he was beaten by investigators, his March 14, 2013 confession was made on the cues from the personnel handling the case, and his March 28, 2013 confession was forged by investigators; [he] requested the exclusion of these confessions.</p> <p>The court found that because the guilty confessions of Wang Zhigao of March 12, March 14, and March 28, 2013 raised multiple doubts regarding the process of obtaining evidence, they were inadmissible. In addition to the referenced confessions, the testimony provided by the only witness, Xiong Kangfei, accusing Wang Zhigao of “drug trafficking” on two occasions, failed to meet the reliability and sufficiency standards for</p>

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	<p>【唐启华案】被告人唐启华，2012年因涉嫌犯抢劫罪被逮捕。庭审期间，被告提出自己在侦查机关所作供述系刑讯逼供所得，自己不构成强制猥亵妇女罪”。</p> <p>法院认为，被告人入所体检表上载明其大腿有皮外伤，而公安机关提供的无刑讯逼供的情况说明无其他证据佐证，因此不能单独作为证明取证过程合法的依据，故不能排除是否存在非法收集被告人供述的合理怀疑，对于被告人在侦查机关的供述应予以排除。</p> <p>【陆武案】被告人陆武，2013年因涉嫌犯运输毒品罪被逮捕。庭审期间，被告人陆武辩称其在公安机关的有罪供述系被刑讯逼供后作出的，其行为不构成运输毒品罪。</p> <p>法院认为，有多份证据证明被告人陆武有眼睛青紫，面部肿胀的情形，而公诉机关未能提供同步录音录像等更有力的客观证据。根据现有的证据及线索，不能排除公安机关存在以非法方法收集证据情形，因此对被告人陆武在审判前的所有供述都应予以排除。</p> <p>【向发芝案】被告人向发芝，2013年因涉嫌犯行贿罪被逮捕。庭审期间，被告人辩称其在侦查阶段所作的供述是虚假的，系侦查人员刑讯逼供、疲劳审讯、指供诱供形成。</p>	<p>evidence, and therefore the related “drug trafficking” charges were not recognized.</p> <p>The case of Tang Qihua (唐启华). Defendant Tang Qihua was arrested in 2012 on suspicion of “robbery.” During the trial, the defendant stated his confession during investigations was extracted under torture and he did not commit the crime of “indecent assault of a woman.”</p> <p>The court found that the defendant’s physical examination form in custody clearly stated that he had a skin wound on the thigh; however, the public security organ provided no explanation or other corroborating evidence to rule out extracting a confession under torture. Because of this, [the confession] alone cannot be the sole basis of proving a lawful evidentiary process, and, therefore, it is not possible to rule out reasonable doubt over whether or not the defendant’s confession was obtained unlawfully. Thus, [the court found that] the defendant’s confession obtained by investigating organs should be excluded.</p> <p>The case of Lu Wu (陆武). Defendant Lu Wu was arrested in 2013 on suspicion of “drug trafficking.” During the trial, Lu argued that his confession of guilt to the public security organ was extracted under torture, and his action did not constitute the crime of “drug trafficking.”</p> <p>The court found multiple pieces of evidence proving that defendant Lu Wu had bruising around the eyes and facial swellings, and the procuratorial organ failed to provide contemporaneously recorded video as more forceful objective evidence. Based on the existing evidence and clues, [the court found that] the public security organ’s use of unlawful means to obtain evidence could not be ruled out. For this reason, [the court ruled that] all of Lu Wu’s confessions prior to the trial should be excluded.</p> <p>The case of Xiang Fazhi (向发芝). Defendant Xiang Fazhi was arrested in 2013 on suspicion of “bribery.” During the trial, the defendant argued that the confession he made during the investigation stage was false, that it was extracted from him under torture and grueling questioning by investigators, and was shaped by their instruction and trickery.</p>

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	<p>法院认为，由于检察机关没有提供充分的证据证实向发芝庭前供述的合法性，该证据不能作为定案的依据。</p> <p>【廖兵案】被告人廖兵，2011年因涉嫌故意杀人罪被逮捕。庭审期间，被告人辩称其有罪供述系通过刑讯逼供获得，不能作为定案依据，应予以排除。</p> <p>法院认为，现有证据无法排除通过刑讯逼供获取廖兵有罪供述的合理怀疑，依法应予以排除，不能将其作为定案的依据。</p> <p>《刑事诉讼法》第53条明确规定不轻信口供，不单凭口供定罪和处以刑罚。这也是中国司法实践的一贯做法。</p> <p>《刑事诉讼法》相关规定确保了被告人提出的排除通过刑讯逼供所取得的证据的请求会得到迅速和认真的审查。该法第55条、第57条分别规定，人民检察院接到报案、控告、举报或者发现侦查人员以非法方法收集证据的，应当进行调查核实。在对证据收集的合法性进行法庭调查的过程中，人民检察院应当对证据收集的合法性加以证明。这是中国关于非法证据排除的法律规定，也是司法实践的一贯做法。具体案例见上文。</p> <p>《刑事诉讼法》第192条规定，“公诉人、当事人和辩护人、诉讼代理人可以申请法庭通知有专门知识的人出庭，就鉴定人作出的鉴定意见提出意见”。医学专家属于“有专门知识的人”，可以出庭作证。</p>	<p>The court found that since the procuratorial organs did not provide sufficient evidence to prove the legality of Xiang Fazhi’s confession prior to trial, this evidence could not be used as a basis for the deciding the case.</p> <p>The case of Liao Bing’s (廖兵). Defendant Liao Bing was arrested in 2011 on suspicion of “murder.” During the trial, the defendant argued that his confession of guilt was extracted from him under torture, and could not be used as a basis for deciding the case and should be excluded.</p> <p>The court found that the existing evidence could not rule out the reasonable doubt that Liao Bing’s confession of guilt was extracted under torture, and ruled that it should be excluded in accordance with the law and could not be used as basis for deciding the case.</p> <p>Art. 53 of the <i>Criminal Procedure Law</i> clearly stipulates that oral confessions should not be given great credence, and that [a person] may not be convicted and sentenced on the basis of an oral confession alone. This is a consistent judicial practice in China.</p> <p>The <i>Criminal Procedure Law</i> and related regulations ensure that defendants who submit an application for the exclusion of confession extracted under torture will receive a prompt and careful hearing. Arts. 55 and 57 of the <i>Law</i> separately stipulate that people’s procuratorates, upon receiving case reports, accusations, or exposés, or which discover that investigating personnel have used unlawful methods to obtain evidence, should undertake an investigation to learn the truth. Where a court is engaged in the process of investigating the lawfulness of the collection of the evidence, the people’s procuratorates should submit evidence as to the lawfulness of the collection of the evidence. These are China’s legal provisions regarding the exclusion of unlawful evidence, and are also its consistent judicial practice. For specific cases see the text above.</p> <p>Art. 192 of the <i>Criminal Procedure Law</i> stipulates, “The public prosecutor, parties to the case and their defense counsels, and litigation representatives may apply to the court to summon persons with specific</p>

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	<p>关于医学专家证人出庭作证的具体案件，在上述所列个案中，医生的鉴定意见是认定刑讯逼供的重要证据。</p>	<p>expertise to appear in court, to provide opinions on the opinions of an evaluation expert.” Medical experts are “persons with specific expertise,” and may appear in court to give evidence. With respect to specific cases where medical expert witnesses have testified in court, among the aforementioned list of cases, doctors’ evaluation opinions were the principal evidence for a finding that extracting a confession under torture had occurred.</p>
32	<p>关于刑讯逼供数量以及调查结果，请参见问题 22 的答复。</p> <p>关于讯问录音录像工作情况。在全国范围内，公安机关均要求在办案区安装了覆盖全区域的电子监控设备，并联网到监控中心，将民警的执法行为置于“电子眼”的监控之下。按照上述要求，目前绝大多数地区完成了办案区改造。在办案区内执法活动，一律要有视频监控并记录，坚决杜绝执法安全事故发生。2014 年，公安部印发了《公安机关讯问犯罪嫌疑人录音录像工作规定》，在《刑事诉讼法》规定的基础上，进一步细化了应当讯问录音录像的案件范围，明确每一次讯问应当全程不间断进行，并规定了严格的监督管理和责任追究制度，以确保讯问活动规范合法。</p> <p>根据《人民检察院刑事诉讼规则》第 201 条规定，人民检察院立案侦查职务犯罪案件，在每次讯问犯罪嫌疑人时，应当对讯问过程实行全程录音、录像，并在讯问笔录中注明。2014 年最高人民检察院印发《人民检察院讯问职务犯罪嫌疑人实行全程同步录音录像的规定》，进一步完善全程同步录音录像制度，特别是明确办案人</p>	<p>With respect to the numbers of instances of extracting a confession under torture and of investigation outcomes, please consult the response to question 22.</p> <p>With regard to the state of audio-visual recording work for interrogations. Throughout China, all public security organs are required to install, in all areas where cases are handled, electronic surveillance equipment that connected to a monitoring center, thus putting the police’s law enforcement activities directly under the gaze of an “electronic eye.” According to the above requirements, at present the vast majority of regions have completed renovation of the case handling area. When carrying out law enforcement activities within the case handling area, it is uniformly required that there be video surveillance and records, to firmly put an end to incidents concerning safety during law enforcement. In 2014, the Ministry of Public Security issued the <i>Regulations for Audio Visual Recording Work for Public Security Organs in Interrogating Criminal Suspects</i>. Based upon the foundation of the provisions in the <i>Criminal Procedure Law</i>, [the <i>Regulations</i>] further detail the scope of cases in which audio visual recording of interrogations should occur, clarify that throughout the entire process of every interrogation, [recording] should be continuous, and stipulate a strict management and responsibility system for supervision, in order to ensure that interrogation activities meet lawful standards.</p> <p>Pursuant to the provisions of Art. 201 of the <i>People’s Procuratorate Criminal Procedural Regulation</i>, a people’s procuratorate in commencing a case investigating crimes of abuse of public office, should make a comprehensive audio and visual record during each interrogation of a criminal suspect and shall clearly indicate this in the [interrogation] transcript. In 2014, the Supreme People’s Procuratorate issued the</p>

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	<p>员实施选择性录音录像、为规避监督而故意关闭录音录像系统等行为应承担的相应责任，确保同步录音录像制度得到全面落实。</p> <p>关于沉默权。中国的刑事诉讼法相关规定与沉默权的精神是一致的。《刑事诉讼法》第 49 条规定了被告人有罪的举证责任由人民检察院承担，第 50 条规定了严禁刑讯逼供和不得强迫任何人证实自己有罪，第 53 条规定了不得单凭口供定罪。</p>	<p><i>People's Procuratorates Regulations Concerning Contemporaneous Audio-Visual Recording of the Entire Interrogation Process of Persons Suspected of Committing Crimes of Abuse of Public Office</i>, further advancing a system of contemporaneous audio-visual recording of the whole process, especially clarifying that personnel handling a case shall bear corresponding responsibility for conduct such as making selective audio-visual recording, and for shutting off audio-visual recording in order to evade supervision, ensuring the comprehensive implementation of a system of contemporaneous audio-visual recording.</p> <p>With regard to the right to remain silent, the relevant provisions of China's <i>Criminal Procedure Law</i> are consistent with the spirit of the right to remain silent. Art. 49 of the <i>Criminal Procedure Law</i> stipulates that the burden of proving the guilt of the defendant lies with the procuratorate; Art. 50 strictly prohibits extracting a confession under torture and that no persons may be forced to self-incriminate; and Art. 53 stipulates that conviction may not be based solely on an oral confession.</p>
33	<p>据了解，在杨春林案审理过程中，被告人杨春林在庭审和上诉时均没有提出其受过刑讯逼供，其辩护人在庭审中也没有提出杨春林受到刑讯逼供。</p> <p>对于刘萍案，庭审中被告人提出，2013 年 4 月 28 日有人将其头打出血，要求排除非法证据，辩护人也对此发问。法庭就此问题审查是否启动非法证据排除程序，要求公诉人作出说明。公诉人表示，4 月 28 日入监体检报告未发现被告人头部有伤或有血，且此后的笔录被告人均未反映挨打。审判长在听取了被告人的陈述、辩护人及公诉人的意见后，认为公诉人有入监体检表等证据，而被告人提供的线索或材料笼统、不具体，经审查，不启动非法证据排除程序。</p>	<p>It is our understanding that during the proceedings of Yang Chunlin's (杨春林) case, the defendant Yang Chunlin did not mention at the trial or on appeal that he had been subjected to extracting a confession under torture. His defense representative also did not mention that Yang had been subjected to extracting a confession under torture.</p> <p>As for the case of Liu Ping (刘萍), during the court proceedings, the defendant stated that, on April 28, 2013, she had been beaten on the head which caused bleeding, and demanded the exclusion of illegal evidence. The defense representative also raised this issue. The court then had to examine whether to apply the exclusion of illegal evidence procedure concerning this issue, and demanded an explanation from the prosecutor. The prosecutor stated that the physical checkup report of April 28 [when the defendant was taken into custody] did not show indications of injuries on the defendant or bleeding on her head, and the subsequent written notes on the defendant did not show her being beaten either. The presiding judge, having heard the defendant's statement and the arguments of the defense representative and the prosecutor, found that the prosecutor had [presented] the detention center's physical examination report and other evidence, whereas the clues and materials [presented by]</p>

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		the defendant were general and not specific. After examination, [the court] decided not to initiate the procedure for the exclusion of illegal evidence.
ARTICLE 16		
34	<p>中国公民的合法权利受到法律保障。中国不存在政府对公民的恐吓及报复行为。同时，对于颠覆国家政权、煽动颠覆国家政权，以及严重扰乱社会公共秩序的犯罪分子，公安机关将依照刑法、刑事诉讼法予以追究刑事责任。</p> <p>刘晓波因犯煽动颠覆国家政权罪，被北京市第一中级人民法院判处有期徒刑 11 年，剥夺政治权利 2 年。刘晓波现在服刑期间，有关部门依法安排刘的家人探视，保障其各项合法权利。刘晓波之妻刘霞没有被软禁以及采取任何法律强制措施。</p> <p>王德邦，现住广西桂林，公安机关严格依法保障其合法权利，不存在其遭受所谓“酷刑、骚扰、威胁和恐吓”等情况。</p> <p>张祖桦，现住北京，公安机关严格依法保障其合法权利，不存在其遭受所谓“酷刑、骚扰、威胁和恐吓”等情况。</p> <p>徐义顺，河北保定人，公安机关严格依法保障其合法权利，不存在其遭受所谓“酷刑、骚扰、威胁和恐吓”等情况。</p>	<p>The lawful rights and interests of Chinese citizens are safeguarded by law. Government acts of intimidation and reprisals against citizens do not exist in China. At the same time, for criminal elements that subvert state power, incite subversion of state power, and seriously disrupt public order in society, public security organs will investigate them and hold them criminally responsible in accordance with the <i>Criminal Law</i> and the <i>Criminal Procedure Law</i>.</p> <p>Liu Xiaobo (刘晓波) was found guilty of “inciting subversion of state power,” and sentenced by the Beijing No.1 Intermediate People’s Court to imprisonment for 11 years and deprivation of political rights for two years. Liu is now serving his sentence, and the relevant departments, in accordance with the law, arrange for Liu’s family to visit him, safeguarding his various lawful rights and interests. Liu Xiaobo’s wife, Liu Xia (刘霞), is not under house arrest and no legal coercive measures have been taken [against her].</p> <p>Wang Debang (王德邦) now lives in Guilin, Guangxi Province. Public security organs strictly safeguard his lawful rights and interests in accordance with the law; there is no situation of so-called “torture, harassment, threats, and intimidation,” etc.</p> <p>Zhang Zuhua (张祖桦) now lives in Beijing. Public security organs strictly safeguard his lawful rights and interests in accordance with the law; there is no situation of so-called “torture, harassment, threats, and intimidation,” etc.</p> <p>Xu Yishun (徐义顺) is from Baoding, Hebei Province. Public security organs strictly safeguard his lawful rights and interests in accordance with the law; there is no situation of so-called “torture, harassment, threats, and intimidation,” etc.</p>

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	<p>刘沙沙，河南南阳人，公安机关严格依法保障其合法权利，不存在其遭受所谓“酷刑、骚扰、威胁和恐吓”等情况。</p> <p>陈光诚，2006年因犯故意毁坏财物罪和聚众扰乱交通秩序罪，被依法判处有期徒刑4年3个月，2010年9月刑满释放。2012年5月19日，陈出境赴美留学，陈的妻子和子女一同前往。</p> <p>群众通过信访形式提出个人诉求，是《宪法》和法律赋予公民的权利，依法受到保护。非法限制信访人人身自由的行为，是法律所不允许的。对此类问题，发现一起，查处一起。</p> <p>中国政府在房屋征收拆迁过程中，注重规范强制执行程序、确保公平补偿、维护拆迁（或征收）当事人的合法权益并提供法律保障。对于在征收拆迁过程中发生的矛盾纠纷，当事人可以依据《拆迁条例》、《征收条例》等相关法律法规政策规定进行处理。</p>	<p>Liu Shasha (刘沙沙) is from Nanyang, Henan Province. Public security organs strictly safeguard her lawful rights and interests in accordance with the law; there is no situation of so-called “torture, harassment, threats, and intimidation,” etc.</p> <p>Chen Guangcheng (陈光诚) was found guilty in 2006 of “intentional destruction of property” and “gathering people to disturb traffic order,” sentenced to imprisonment for four years and three months, and released from prison in September 2010 after serving the full term. On May 19, 2012, Chen left China to study in the United States. Chen’s wife and children left with him.</p> <p>The masses putting forward their individual appeals by means of petition is a right conferred to citizens by the <i>Constitution</i> and the law, and receives protection in accordance with the law. Unlawfully restricting the personal freedom of petitioners is prohibited by law. On this kind of problems, whenever they are discovered, they are investigated and dealt with.</p> <p>In the Chinese government’s process of requisition and demolition of houses, attention is paid to standardizing the enforcement of compulsory procedures, ensuring fair compensation, defending the lawful rights and interests of parties involved in the demolition (or requisition), and providing them with legal safeguards. As for conflicts and disputes that occur during the requisition and demolition process, the parties involved may handle the matters in accordance with the relevant laws and regulations, such as the <i>Demolition Regulations</i> and the <i>Requisition Regulations</i>, as well as policy provisions, etc.</p>
35	<p>中国精神病医院接收患者，严格按照《精神卫生法》依患者的病情状况做决定（另参见第38题答复），与患者身份无关。</p> <p>《精神卫生法》第53条规定：“精神障碍患者违反治安管理处罚法或者触犯刑法的，依照有关法律的规定处理”。中国《刑法》、《刑事诉讼法》明确规定，对触犯刑法的精神病人，经法定程序鉴定，</p>	<p>China’s psychiatric hospitals, in admitting patients, make their decisions strictly according to the <i>Mental Health Law</i> and based on the state of the patient’s illness (also refer to the response to question 38), which process has nothing to do with the patient’s identity.</p> <p>As stipulated in Art. 53 of the <i>Mental Health Law</i>, “Those persons with a mental disorder who are in violation of the <i>Public Security Administration Punishments Law</i> or the <i>Criminal Law</i> will be dealt with in accordance</p>

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	<p>如果有刑事责任能力，由人民法院依法处以相应的刑罚；对于经法定程序鉴定依法不负刑事责任的精神病人，由人民法院决定是否强制医疗（2012年修正的《刑事诉讼法》专门增加了“依法不负刑事责任的精神病人的强制医疗程序”），只有在实施暴力行为，危害公共安全或者严重危害公民人身安全，社会危害性已经达到犯罪程度，有继续危害社会可能的，才可能被决定强制医疗。在强制医疗执行过程中，通过诊断评估，被强制医疗人员经治疗后病情好转、不具有人身危险性的，强制医疗所和被强制医疗人员及其亲属都可以向人民法院提出解除强制医疗的意见。人民检察院对强制医疗工作进行监督。</p>	<p>with the provisions of the relevant laws.” The <i>Criminal Law</i> and <i>Criminal Procedure Law</i> of China clearly state that when a mentally ill person is in violation of the <i>Criminal Law</i> and is verified through legal procedures to have criminal liability, corresponding punishment will be imposed by the people’s court in accordance with the law; for a mentally ill person who is verified through legal procedures to be excluded from criminal liability under the law, the people’s court will decide whether he/she is subject to compulsory medical treatment. (The 2012 amendments to the <i>Criminal Procedure Law</i> specially added a provision about “compulsory medical treatment procedure for a mentally ill person who is excluded from criminal liability under the law.”) Only when a mentally ill person commits an act of violence, endangers public security, seriously endangers citizens’ personal safety, or is harmful to the society to the point of criminality and may continue to endanger the society can that person be ordered to receive compulsory medical treatment. In the course of compulsory medical treatment, if diagnostic assessments find improvement in the person’s illness after the treatment and that he/she does not pose risks to personal safety, the compulsory medical treatment facility, the person subjected to compulsory medical treatment, as well as his/her family may submit recommendation to remove compulsory medical treatment to the people’s court. The people’s procuratorate supervises the work of compulsory medical treatment.</p>
36	<p>(1) 中国公民法律面前一律平等，受到法律的同等保护，无论针对谁，只要涉嫌实施刑讯逼供、暴力取证或虐待被监管人等犯罪行为，中国检察机关一律严格按照法定程序处理，这是司法实践的一贯做法。</p> <p>(2) 中国法律禁止民族歧视。《宪法》和《民族区域自治法》明确规定禁止对任何民族的歧视和压迫，禁止破坏民族团结和制造民族分裂的行为。《治安管理处罚法》、《刑法》对民族歧视的行为规定了相关处罚措施。另外，《广告法》、《商标法》、《邮政法》、《就业促进法》等多部法律，也都明确规定了禁止民族歧视的相关内容。</p>	<p>(1) All Chinese citizens are equal before the law and equally protected by the law. Regardless of whom their target is, those suspected of committing criminal acts such as “extracting a confession under torture,” “obtaining evidence by violence,” or “maltreatment of persons in custody” are all strictly dealt with by China’s procuratorial organs in accordance with legal procedures. This is a consistent judicial practice.</p> <p>(2) Chinese law prohibits ethnic discrimination. The <i>Constitution</i> and the <i>Law on Regional Ethnic Autonomy</i> clearly prohibit discrimination against and oppression of any ethnic group, as well as any act that undermines the unity and instigates the division of ethnic groups. The <i>Public Security Administration Punishments Law</i> and the <i>Criminal Law</i> stipulate relevant punishment measures for acts of ethnic discrimination. In addition, many laws, including the <i>Advertising Law</i>, the <i>Trademark Law</i>, the <i>Postal Law</i>, and the <i>Employment Promotion Law</i> all include relevant contents that</p>

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	<p>(3) 公安部高度重视提升公安队伍特别是少数民族地区公安民警的执法素质。自 2013 年起，公安部依托公安大学、刑警学院为藏族在职民警举办专业培训班，每年为藏区公安机关培训基层骨干 100 人、警务实战教官 50 人，并协调部属院校和部分东部地区省属公安院校扩大藏族学生招生规模。同时，积极与公务员主管部门沟通协商，研究制定藏族学生单独招录优惠政策，最大限度地保障其毕业后进入公安机关工作。</p> <p>最高人民法院《2015-2019 年全国法院教育培训规划》将“基本解决民族地区双语法官短缺问题”作为总体目标之一，并就加强西部地区和民族地区双语法官培养培训作出具体部署，如组织讲师团定期赴西部地区巡回授课、举办少数民族地区法官专题培训班、组织发达地区法院对西部和少数民族地区法院进行培训支援等。最高人民法院于 2009、2011、2013 年三次组织讲师团赴西部地区开展巡回授课，累计培训西部法院干警 20.6 万余人次。每年组织举办少数民族法官培训班、藏区法官培训班、新疆、西藏和青海等省区的法院法官培训班等。2015 年 4 月，最高人民法院与国家民委联合印发《关于进一步加强和改进民族地区民汉双语法官培养及培训工作的意见》，部署开展双语法官“千人计划”，即到 2015 年培养双语法官 1500 名。最高人民法院从 2013 年开始设立“双语法官培训专项经费”，每年拨款 200 万元，用于开展少数民族地区双语法官培训工作，2013 和 2014 年共培训双语法官 742 人。最高人民法院先后批准在西藏拉萨、青海西宁、甘肃舟曲、内蒙古呼和浩特等地设立了藏汉、蒙汉等双语法官培训基地，2017 年前将组织相关地区法院继续</p>	<p>clearly stipulate the prohibition of ethnic discrimination.</p> <p>(3) The Ministry of Public Security attaches great importance to enhancing the law enforcement quality of public security forces, especially that of public security policemen in ethnic minority regions. Since 2013, the Ministry of Public Security has entrusted the People’s Public Security University and the Criminal Police College with the task of holding professional training classes for active-duty public security policemen of Tibetan ethnicity, which classes annually train 100 basic-level corpsmen (<i>ji ceng gu gan</i>) and 50 police combat drillmasters (<i>jingwu shizhan jiaoguan</i>) for public security organs in Tibetan regions. The Ministry has also coordinated the efforts of Ministry-affiliated colleges and of some public security colleges in provinces and regions in eastern China to expand their recruitment of Tibetan students. At the same time, in order to maximally guarantee Tibetan graduates’ entry into work at public security organs, the Ministry has actively maintained communication and consultation with administrative authorities of civil servants to study and formulate preferential policies that apply exclusively to the recruitment of Tibetan students.</p> <p>The Supreme People’s Court’s <i>2015-2019 National Court Education and Training Plan</i> states as one of its overall objectives: “Fundamentally solve the shortage of bilingual judges in ethnic regions.” It also makes specific arrangements to strengthen the nurturing and training of bilingual judges in regions in western China and ethnic regions, such as organizing groups of lecturers to go on teaching tours at fixed intervals in western regions, holding thematic training classes for judges in ethnic minority regions, and organizing people’s courts in developed regions to support the training efforts of the courts in the western and ethnic minority regions. In 2009, 2011, and 2013, the Supreme People’s Court organized three lecturers’ groups to go on teaching tours in western China, which tours provided training to law enforcement officers in the courts (<i>fayuan ganjing</i>) in western China, totaling more 206,000 person-times. Every year [the Supreme People’s Court] organizes and holds training classes for judges of ethnic minorities, judges in Tibetan regions, as well as provincial court judges in Xinjiang, Tibet, and Qinghai, etc. In April 2015, the Supreme People’s Court and the State Ethnic Affairs Commission jointly issued the <i>Recommendations on Further</i></p>

LOI para	Chinese original	English translation
	<p>建立维汉、哈汉、朝汉等双语法官培训基地。</p> <p>最高人民检察院高度重视解决少数民族地区基层检察院法律人才短缺问题，采取了包括改进招录方法在内的一系列行之有效的具体措施。一是实施加快培养选拔少数民族检察人员。2008年开始，定向为西部及其他经济欠发达地区基层检察院培养实战能力强的应用型法律人才，并扩大面向少数民族基层检察院的“双语班”培养规模。二是放宽司法考试报名学历条件。国家司法考试实行放宽报名条件、放宽地区降分录取和西藏单独划线以及少数民族地区统一考试、在职人员单独考试和统一考试、分别录取等试点政策，业务岗位法律职业资格人员总数都有明显增加。三是在包括少数民族区域的部分地方放宽担任检察官学历条件。考虑到中国经济文化发展的不平衡，根据《检察官法》关于适用法律专业本科学历条件“确有困难的地方，经最高人民检察院审核确定，在一定期限内，可以将担任检察官的学历条件放宽为高等院校法律专业专科毕业”的规定，最高检曾会同最高法院下发了《关于在部分地方放宽担任法官检察官学历条件的通知》。2012年，最高检下发通知，继续在部分地方放宽担任检察官的学历条件，规定担任检察官的学历条件可以放宽为高等院校法律专业专科毕业，包括各省、自治区、直辖市所辖的自治县、自治旗，各自治区所辖县、旗，各自治州所辖县基层人民检察院；西藏自治区人民检察院分院和市人民检察院，县级市、市辖区基层人民检察院。此政策实施3年来，</p>	<p><i>Strengthening and Improving the Nurturing and Training Efforts of Bilingual Judges in Ethnic Regions</i>, which included arrangements for launching the “1,000-People Plan,” a plan to nurture 1,500 bilingual judges by 2015. In 2013, the Supreme People’s Court set up the “Special Funds for Training Bilingual Judges” and earmarked RMB 2 million annually to develop training of bilingual judges in ethnic minority regions. A total of 742 bilingual judges were trained in 2013 and 2014. The Supreme People’s Court also approved the establishment of bilingual judge training bases in Lhasa in Tibet, Xining in Qinghai, Zhouqu in Gansu, and Hohhot in Inner Mongolia for the language pairs of Tibetan-Mandarin Chinese, Mongolian-Mandarin Chinese, etc. By 2017, courts in relevant regions will have organized bilingual training bases in language pairs such as Uyghur-Mandarin Chinese, Kazakh-Mandarin Chinese, and Korean-Mandarin Chinese.</p> <p>The Supreme People’s Procuratorate attaches great importance to solving the shortage of legal talents in grassroots-level procuratorates in ethnic minority regions, and has taken a series of specific and effective measures, including improving the recruiting methods. The first measure is accelerating the nurturing and selecting of procuratorial staff of ethnic minorities. Starting from 2008, efforts have been focused on nurturing action-oriented legal talents with strong combat capability for grassroots-level procuratorates in the western part [of China] and other underdeveloped regions. The scope of “bilingual class” nurturing targeted ethnic minorities in grassroots-level procuratorates has also expanded. The second measure is the relaxation of educational qualifications for the [national] judicial examination. Due to pilot policies such as relaxation of educational qualifications for the national judicial examination, lowering the test score threshold for admissions in selected regions, setting special test score threshold for Tibet, holding unified exams in ethnic minority regions, holding separate exams for employed personnel, and holding unified exams while conducting separate recruitments—the total number of professional positions filled by people with legal professional qualifications has seen notable increase. The third measure is the relaxation of educational qualifications for the prosecutor’s position in select places including ethnic minority regions. Taking into account the imbalance of China’s economic and cultural development, the Supreme People’s Procuratorate and the Supreme People’s Court jointly issued the</p>

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	<p>收到较好效果。</p> <p>截至 2014 年底，全国监狱系统警察总数 31 万余人，少数民族警察 2.4 万余人，全部接受教育培训。</p>	<p><i>Notice Regarding the Relaxation of Educational Qualifications for Judges and Prosecutors in Select Regions</i>, pursuant to the provision in the <i>Public Prosecutors Law</i> that, with regard to requiring an undergraduate law degree [for a prosecutor’s position], “in regions where the qualifications are indeed hard to meet, upon the examination and approval by the People’s Supreme Procuratorate, the educational qualifications for the prosecutor’s position can be relaxed, for a specified period of time, to an associate law degree.” In 2012, the Supreme People’s Procuratorate issued a notice to continue efforts to relax the educational qualifications for the prosecutor’s position in selected locales, stipulating that the educational qualifications for the prosecutor’s position in grassroots-level procuratorates can be relaxed to an associate law degree, including in all provinces, autonomous regions, autonomous counties and banners under the jurisdiction of provincial-level cities, counties and banners under the jurisdiction of autonomous regions, and counties under the jurisdiction of autonomous prefectures; and in branches of the people’s procuratorate of the Tibet Autonomous Region and the region’s municipal-level people’s procuratorates, as well as grassroots-level people’s procuratorates in county-level cities and municipal districts. The enforcement of this policy for the past three years has yielded relatively good results.</p> <p>As of the end of 2014, a total of more than 310,000 policemen serve in prison systems nationwide. Policemen of ethnic minorities number 24,000, and they have all received educational training.</p>
37	<p>中国法院始终坚持严格控制和慎重适用死刑，严把死刑案件事实关、证据关和法律关，确保死刑只适用于极少数罪行极其严重的犯罪分子。人民法院审判案件，除法律另有规定的以外，一律公开进行。因此，死刑案件的审理和判决都是公开的。中国将判处死刑、死刑缓期两年执行、无期徒刑以及五年以上有期徒刑的数据合并统计，不提供专门死刑数据。</p>	<p>Chinese courts have always insisted on strictly controlling and cautiously applying the death penalty, and strictly examining death penalty cases by the criteria of factualness, sufficiency of evidence, and lawfulness, to ensure that the death penalty be only applied to an extremely small number of criminal offenses and serious criminal elements. Trials of cases at people’s courts, unless otherwise stipulated by law, are all open to the public. Therefore, the trial and sentencing of death penalty cases are all open. China provides aggregated data on death sentences, death sentences with two-year suspension, life sentences, and sentences of more than five years of imprisonment, and does not provide specialized data on death sentences.</p>

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	<p>关于对死刑犯使用戒具。《看守所条例》第 17 条规定，对已判处死刑、尚未执行的，必须加戴戒具。为死刑犯加戴戒具，是为了防止死刑犯实施暴力、脱逃、自杀和破坏监管秩序行为的一种临时性、预防性措施，不属于残忍、不人道或有辱人格的待遇或处罚。关于死刑犯单独关押。中国法律未规定对被判处死刑的在押人员单独关押。关于死刑犯接受探视。根据有关规定，死刑罪犯有权会见其近亲属，家属要求会见的，人民法院都准许并安排。律师在死刑复核期间可以会见死刑罪犯。</p> <p>依法开展人体器官捐献利用工作，有利于挽救危重病人生命，符合医学伦理和人道主义精神。无论普通公民抑或被依法判处死刑的人，如其真诚、主动地提出自愿捐献尸体器官，这种意愿都应得到尊重。作为世界卫生组织成员国，中国政府一贯遵守世界卫生组织 1991 年人类器官移植指导原则开展人体器官移植工作，2007 年，颁布了《人体器官移植条例》和《人体器官移植技术临床应用管理暂行规定》，重申：人体器官不得买卖，器官捐献遵循自愿、无偿原则；医疗机构用于移植的人体器官必须经捐赠者书面同意，捐赠者有权在人体器官移植前拒绝捐赠器官；医疗机构开展人体器官移植必须具有相应的资质，确保医疗质量和医疗安全，需符合伦理原则。</p>	<p>With regard to the use of restraints on persons sentenced to death, Art. 17 of the <i>Detention Center Regulations</i> stipulates that restraints must be used on persons who have been sentenced to death but not yet executed. The use of restraints on persons sentenced to death is a temporary, preventive measure aimed at preventing persons sentenced to death from committing violence, fleeing, taking their own life, or disrupting the order of prisoner management. It does not count as cruel, inhumane, or degrading treatment or punishment. With regard to the solitary confinement of persons sentenced to death, Chinese laws have not stipulated solitary confinement for persons in custody who have been sentenced to death. With regard to persons sentenced to death receiving visits, pursuant to relevant provisions, persons sentenced to death have the right to receive visits by close family members. People's courts all approve family members' requests to visit and arrange for the visits. Lawyers may visit persons sentenced to death during the period of the review of the death sentence.</p> <p>Lawful human organ donation and utilization are beneficial to saving the lives of critically ill patients and in line with medical ethics and the humanitarian spirit. As long as the wishes to donate organs of deceased bodies—whether they come from ordinary citizens or persons lawfully sentenced to death—are sincere and are made on the initiative of the volunteer, they should be respected. As a member state of the World Health Organization, the Chinese government, when carrying out human organ transplantation, has always complied with the 1991 World Health Organization guiding principles for human organ transplantation. In 2007, China promulgated the <i>Regulations on Human Organ Transplantation</i> and the <i>Interim Provisions on Clinical Application and Management of Human Organ Transplantation</i>, in which China reiterated the following: human organs cannot be bought or sold, and the donation of human organs shall be made under the principle of voluntariness and no compensation; medical institutions engaged in human organs transplantation must receive written consent from the donor, and donor has the right to refuse the organ donation prior to the transplantation; medical institutions carrying out human organ transplantation must possess corresponding qualifications, ensure the quality and safety of the medical procedures, and abide by ethical principles.</p>
38	《精神卫生法》规定，精神障碍的住院治疗实行自愿原则，对实施	The <i>Mental Health Law</i> stipulates that inpatient treatment of mental

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	<p>非自愿住院治疗作出了严格限制，明确了实施的条件；对再次诊断和鉴定、及时评估和定期检查的要求和保障当事人获得法律咨询和救济的权利也有明确规定。</p> <p>根据该法第 30 条的规定，只有诊断结论、病情评估表明就诊者为严重精神障碍患者并有下列情形之一的，才能对其实施非自愿住院治疗：一是已经发生伤害自身的行为，或者有伤害自身的危险的；二是已经发生危害他人安全的行为，或者有危害他人安全的危险的。</p> <p>根据该法第 50 条的规定，卫生行政部门应当对医疗机构实施住院治疗的程序是否符合法律规定等事项进行定期检查。进行检查时，应当听取患者及其监护人的意见；发现违法行为的，应当立即制止或者责令改正，并依法作出处理。</p> <p>该法第 46 条规定，医疗机构及医务人员应当尊重住院患者通讯和会见探访者等权利。这里的“通讯和会见”包括法律咨询。</p> <p>为保障当事人司法救济权利，该法第 82 条明确规定，患者或者其监护人、近亲属认为行政机关、医疗机构等侵害患者合法权益的，可以依法提起诉讼。</p>	<p>disorders be conducted under the principle of voluntariness; it strictly limits involuntary hospitalization and imposes clear conditions for the practice; it also clearly stipulates requirements for re-diagnosis and assessment, timely evaluation, and examinations at fixed intervals, as well as safeguarding the patient’s rights and interests in receiving legal consultation and relief.</p> <p>Pursuant to Art. 30 of the <i>Law</i>, only when diagnostic conclusion and illness assessment indicate that the patient has severe mental disorders and meets one of the following conditions can he/she be hospitalized involuntarily: one, the patient has committed, or poses risks of committing, acts of self-endangerment; two, the patient has committed, or poses risks of committing, acts of endangering other people’s safety.</p> <p>Pursuant to Art. 50 of the <i>Law</i>, health administrative departments should conduct inspections of medical institutions at fixed intervals, regarding matters such as whether their hospitalization procedures are in compliance with the law. During the inspection, [the health administrative departments] should listen to and take into account the opinions of the patients and their guardians; if a violation is discovered, they should immediately stop the practice or order corrections, and deal with the matter in accordance with the law.</p> <p>Art. 46 of the <i>Law</i> stipulates that medical institutions and medical personnel should respect the hospitalized patient’s rights to communicate and meet with visitors. “Communication and meeting” include legal consultations.</p> <p>To safeguard the patient’s rights to judicial relief, Art. 82 of the <i>Law</i> clearly stipulates that a patient, his/her guardian, or a close relative, who believes that the administrative authority and/or the medical institution, etc., have violated the patient’s lawful rights and interests, may bring a law suit in accordance with the law.</p>
OTHER ISSUES		
39	就公约第 21 条和 22 条发表声明属任择性规定，对公约作出保留的权利也属于缔约国主权。中国政府认真履行公约义务，尊重委员会	Under Arts. 21 and 22 of the <i>Convention</i> , making declarations is an optional provision, and the right to make reservations to the <i>Convention</i> is

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	<p>提出的建议，同时也要充分考虑中国国情。中国将继续对此问题进行认真研究。</p>	<p>also a part of the sovereignty of state parties. The Chinese government conscientiously implements its obligations under the <i>Convention</i> and respects the Committee's recommendations, and, at the same time, gives full consideration to China's national condition. At present, China will continue to carefully study this issue.</p>