

IMPLEMENTATION OF THE CONVENTION ON THE RIGHTS OF THE CHILD IN THE PEOPLE'S REPUBLIC OF CHINA

A PARALLEL NGO REPORT BY HUMAN RIGHTS IN CHINA

JULY 2005

*Submitted to the Committee on the Rights of the Child in advance of its review of
the Second Periodic Report of the People's Republic of China on
Implementation of the Convention on the Rights of the Child*



HRIC HEAD OFFICE 350 Fifth Avenue, Suite 3311, New York, NY 10118
TEL (212) 239-4495 | FAX (212) 239-2561 | hrichtina@hrichina.org

HRIC BRANCH OFFICE GPO P.O. Box 1778, Hong Kong
TEL (852) 2710-8021 | FAX (852) 2710-8027 | hrichtk@hrichina.org

CONTENTS

PAGES PARAGRAPHS

ii		Executive Summary
vi		Recommendations
1	1 – 10	Introduction HIGHLIGHT: State Secrets: Overview of Legislation
4		Progress under Specific Articles of the Convention
4	11 – 16	General Measures of Implementation: Children in the Law HIGHLIGHT: Children in PRC Law HIGHLIGHT: Inconsistent Definitions
6	17 – 20	General Principles: Non-Discrimination and Equal Development HIGHLIGHT: Widening Economic & Social Gaps
7	21 – 27	Civil Rights and Freedoms: Children's Voices and Participation HIGHLIGHT: Demographics of Internet Use & State Control HIGHLIGHT: Digital Divide
10	28 – 30	Basic Health and Welfare: Family Planning Policies and the Sex Ratio
11	31 – 39	Education, Leisure, and Cultural Activities: Access for Vulnerable Groups HIGHLIGHT: Unequal Allocation of Resources and Burdens HIGHLIGHT: Teaching Without Pay HIGHLIGHT: Discriminatory <i>Hukou</i> System HIGHLIGHT: Lower Educational Attainment Levels for Girls HIGHLIGHT: Preferential Policies on the Books
15	40 – 59	Special Protection Measures: Protection of Children in Exceptionally Difficult Conditions
15	41 – 49	Juvenile Justice HIGHLIGHT: Juvenile Delinquency Key Facts HIGHLIGHT: Extrajudicial Measures HIGHLIGHT: International Standards HIGHLIGHT: Correctional Work Study (Reform) Schools HIGHLIGHT: The System of Custody and Education
20	50 – 53	Child Trafficking and Sex Exploitation HIGHLIGHT: China Human Trafficking Key Facts
21	54 – 59	HIV/AIDS Orphans HIGHLIGHT: HIV/AIDS Orphans Key Facts
23	60	Conclusion
45		List of Cited Sources

EXECUTIVE SUMMARY

Overview

The People's Republic of China (PRC or "State Party") ratified the Convention on the Rights of the Child (the Convention) in 1992, yet serious concerns remain over what rights have been implemented and how they have been implemented. Over the past two decades, China has undergone rapid macroeconomic growth; yet largely due to national government policy choices, the benefits of that growth have been concentrated in the urban coastal regions. The rights of China's most vulnerable populations—rural inhabitants, migrants, women and ethnic minorities—have begun to backslide, with a disproportionate impact on children and their access to basic services such as health, education and housing.

Human Rights in China (HRIC) submits this report to facilitate the Committee on the Rights of the Child's (the Committee) examination of the PRC's second periodic report. HRIC's report highlights those areas of concern that affect China's most vulnerable children. Although the PRC has pointed to its developing country constraints as an obstacle for implementation, the Committee on Economic, Social and Cultural Rights (CESCR) recently concluded that there are no significant factors affecting the PRC's capacity to effectively implement its human rights obligations. Further, certain CRC obligations came into immediate effect in 1992, including the obligation to implement the rights of the child without discrimination. Yet, as HRIC's report makes clear, thirteen years later, the quality of children's rights in China often remains contingent on geographic location, ethnicity, sex, or *hukou* status.

HRIC's report emphasizes three major points. First, despite promulgation in the PRC of legislation and programs that fall under the Convention's scope of concern, the government's policy choices have had a negative impact on the rights of children in China, and that impact has been disproportionately shouldered by the population's most vulnerable groups. In fact, even where available information shows that rural inhabitants, for example, have lower availability, accessibility, acceptability and adaptability of education, the national government continues to give preference to coastal urban development in the allocation of resources.

Second, measures in the PRC to protect children in exceptionally difficult conditions—children within the juvenile justice system, AIDS orphans, and sexually exploited and trafficked children—are particularly inadequate in both formulation and implementation.

- *Children in the juvenile justice system:* Laws and procedures relating to juvenile justice are unclear and do not meet international standards on preventing exploitation; in the execution of those procedures, children's rights are violated;
- *AIDS orphans:* The growing number of AIDS orphans in poor rural areas often have little access to basic services because of the narrow definition for those children that the PRC uses, and because of insufficient allocation of resources to those children;
- *Sexually exploited and trafficked children:* Inadequate national attention has been paid to the large number of trafficked children throughout China, resulting in defective reporting and collection of data.

Finally, the centrality of children's voices and opinions is an integral part of the Convention's principles and implementation framework. In this report, HRIC highlights the areas in which this substantive right under the Convention is most seriously under-

mined. In the context of education, the media, and legal proceedings, children's voices are often silenced or undermined. In addition to the constraints on freedom of expression posed by the legal, social and technical architecture of information control in China, children in vulnerable groups are also disproportionately impacted by the digital divide and additional regulations restricting access for children on the Internet.

The PRC's second periodic report details formal legislation and policy promulgated, and introduces social initiatives undertaken. The report is weak in four critical respects:

- *Assessment of progress:* Systematic assessments of the implementation of the laws, policies and initiatives promulgated are lacking;
- *Statistical methodology:* Statistical information is inadequate, and despite repeated requests from this Committee and other international bodies, it is not disaggregated by region, gender, age, ethnic minority, migrant or other status;
- *Control of information:* The state secrets legal and regulatory framework that controls the collection and dissemination of information—including statistics on child labor, nationwide figures on number of abortions and other areas affecting the rights of the child—undermines the PRC's capacity to structure effective policy and program responses; and
- *Clarity of law and implementation:* There are inconsistent definitions of "minor" in various laws and little or no rules and regulations that clarify procedures in a number of substantive areas.

The identification of some benchmarking and standard-setting in the PRC report is a useful start, looking towards the next periodic report. However targets need to be based on international standards, supported by adequately staffed and resourced monitoring mechanisms, and assessed on the basis of disaggregated data. The key issues highlighted in HRIC's report are summarized below, followed by a series of recommendations aimed at encouraging a more comprehensive and effective implementation of the Convention.

General Measures of Implementation: Children in the law

With only two laws that specifically address the protection of children's rights, and other provisions relating to children scattered through PRC legislation, there is no comprehensive legal framework to implement the rights of the child. Because of this, "the child" is inconsistently defined in different areas of law. On the face of the laws in place, it is unclear whether the Convention can be invoked or whether other remedies are available should violations occur, undermining its effective implementation.

General Principles: Non-discrimination and equal development

The PRC violates the fundamental provision on non-discrimination in its policy choices that have, since "open and reform" in 1978, aimed to develop and modernize urban coastal regions, leading to serious and growing poverty gaps between the urban and rural areas. Although some programs such as the "Go West" campaign have reportedly invested a great deal of capital in the interior, information available suggests that programs funded have primarily been hard infrastructure such as rail and roadways, linking provinces to Beijing. Inadequate and retreating investment in education and healthcare contributes to the

growing poverty gaps, and levies a disproportionate burden of financing those services on local governments that pass the cost onto poor rural residents, with significant ramifications for children's development.

Civil Rights and Freedoms: Children's voices and participation

The interconnected rights to information and to expression are crucial to the full development of the child. Although some recent programs have been promulgated that seek to highlight some children's voices, several factors suppress or distort them. These include broad official constraints on information and expression, the impact of propaganda and ideological control, and the inability of a wide range of children to access gateways to information—including the Internet, affordable schools, and other publications.

Basic Health and Welfare: Family planning policies and the sex ratio

The so-called "one-child policy" has been credited with keeping down the country's population. However, the combined impact of cultural preference for boys in rural parts of China, the PRC's lack of a functioning social security system, and the non-registration of unwanted girls, has resulted in a sex ratio imbalance. Incidents of sex-selective abortion and female infanticide remain widespread in certain areas, and unregistered, unwanted girls are left without access to social benefits. While some policies have been promulgated to combat these trends, the male-centered justifications for these policies often in fact perpetuate societal prejudices against women.

Education, Leisure, and Cultural Activities: Access for vulnerable groups

Children from different vulnerable groups—ethnic minorities, girl children, migrants and rural inhabitants—all face particular difficulty in accessing the right to education. Due in large part to a 1994 policy shift that decentralized the funding of compulsory education, the quality of education has been polarized along economic lines, affecting China's most vulnerable children:

- *Rural children:* Because they receive insufficient funds from the national government, local governments pass the burden of financing to families through fees and other extra-budgetary expenses. The result is that children in wealthy urban areas are more likely than those in poor rural areas to achieve basic primary education;
- *Migrant children:* Rural children that move with their families to cities lack the requisite *hukou* status to access city schools, leaving them with few options to access schools that allow them to advance to higher grades;
- *Ethnic minority children:* Due to poor implementation of law and lack of supervision, ethnic minority children continue to face discrimination in their schools despite legislative directives to allow them instruction in their own language;
- *Girl children:* The pervasive problem of discrimination against girls means that throughout the population, girls have unequal access to schools and remain a high proportion of the country's illiterate.

Special protection measures: Protection of children in exceptionally difficult conditions

Three subgroups of vulnerable children in China present an additional set of challenges and require the implementation of special protection measures: children in the juvenile justice system, AIDS orphans, and sexually exploited and trafficked children. These children have been failed by the legal system and the communities of which they are a part, or exploited by the market as commodities. For example, the PRC's conviction rate of 99.9 percent of *children in the criminal justice system* already raises serious concerns over adequate due process and fairness. There is an increased chance of abuse outside the formal legal process, however, where little to no judicial oversight is involved in sending children into the systems of Work (Study) Reform Schools or Custody and Education. There is serious concern with regard to the sheer number of *children trafficked* in China annually, but due to the lack of data and no disaggregation of statistics where provided, adequate review cannot be carried out. Finally, due to pervasive social discrimination, and lack of allocation of resources and treatment facilities for children, the growing population of *AIDS orphans* is one of the most serious areas of concern in China.

Recommendations

Following the Executive Summary, HRIC offers a set of categorized and concise recommendations aimed at improving both the reporting process and the implementation of the Convention. The recommendations seek to address those areas of concern highlighted in this parallel report, and offer suggestions on how to advance the development of benchmarks to assess ongoing compliance as a means to improve program assessment and implementation.

RECOMMENDATIONS

I. Implementation of Obligations

(A) Legislative Reform

1. **Definition of the child:** A clear and consistent definition of the child must be formulated in compliance with international standards to clarify standards, procedures and protective mechanisms relevant in numerous areas of law, including in the field of juvenile justice.
2. **Categorization of AIDS orphans:** The categorization of AIDS orphans should be revised to include children who have lost one parent, so as to ensure a broad rather than restrictive application of special protective measures for children in exceptionally difficult conditions.
3. **Reform of the hukou system:** In light of announced intentions by the PRC government to reform the household registration (*hukou*) system, a clear plan must be set forth with the following:
 - An established timeframe in which to achieve measured goals, and a method of assessment for these goals;
 - A monitoring mechanism to identify and address any new abuses resulting from the existing and limited pilot reforms;
 - A mechanism to assess how to expand and adapt the existing pilot programs for national implementation.
4. **Review of juvenile justice procedures:** A comprehensive review of administrative procedures for juvenile delinquents must be undertaken in order to ensure compliance with the Convention and other international standards that are currently lacking, including the right to judicial oversight and the right to appeal.
5. **Review of the state secrets framework:** Review of the state secrets legal and regulatory framework must be undertaken to ensure that policymakers do not make decisions in a vacuum of adequate and reliable information with regard to children's rights. In compliance with international standards on the right to information, freedom of expression and freedom of association, at a minimum the following must be done:
 - Revise laws and regulations to provide a clear and specific definition of what constitutes a state secret;
 - Define what "consequences" can result in the retroactive classification of information as a state secret or identify factors that determine how the classification is made and what constitutes "harm" to the State;
 - Establish a system that will ensure transparency in the process of classification and review, which also makes classification subject to judicial review;
 - Any steps taken towards passing a law on the right to information should include greater transparency in the drafting process.

(B) Fiscal/Budgetary Policies

1. **Education funding:** Measures must be taken to address the lack of funding at the local government level that directly impacts the ability of poor rural children to access education. These measures should include:
 - National increase in investment in education as a percentage of the GDP, which should aim to meet the minimum of 6 percent suggested by UNESCO;
 - Allocation of a greater proportion of the education-funding budget to the national government, to ensure that localities do not bear a disproportionate burden that is passed on to poor families.
2. **Healthcare funding:** Measures must be taken to address the lack of funding at the local government level that directly impacts the ability of poor rural children to access healthcare. These measures should include:
 - Increasing investment in healthcare as a percentage of the GDP, which should aim to meet the 5 percent recommended by the World Health Organization;
 - Establishment of a specific budget and plan to house and care for the growing number of AIDS orphans and child HIV/AIDS sufferers.
3. **Overall budgetary review:** National fiscal plans must be reviewed and assessed for human rights impact, to ensure that national policies and expenditures are promulgated in such a way that they correlate with the obligations to respect, protect, promote and fulfill the rights under the Convention.

(C) Training and Capacity Building

1. **Human Rights Education:** Human rights education should be included in school curricula, that includes education on the rights protected by the Convention. Education should aim to advance the respect of all children in Chinese society, including girls, AIDS orphans and HIV-positive children, migrants and ethnic minority children. All such education should be made available in ethnic minority languages.
2. **Professional training:** Professionals that deal with particular groups of children must be trained to ensure that they are aware of relevant needs and international human rights standards. With respect to cultural differences between professionals and groups of children, training should include a cultural sensitivity component. Training programs should be monitored and assessed on the basis of human rights standards. Professional groups that deal with the following groups of children should undergo such training:
 - Juvenile offenders;
 - HIV/AIDS orphans and sufferers;
 - Trafficked and sexually exploited children.

II. Monitoring and Assessment

(A) Standards and Benchmarks

1. **Targets and Benchmarks:** Targets and benchmarks in the PRC report must be strengthened by linking them to international standards, including substantive human rights found in international treaties including the Convention, and international efforts such as the Millennium Development Goals (MDGs). Relevant MDG targets include:
 - Halve, between 1990 and 2015, the proportion of people who suffer from hunger;
 - Ensure that, by 2015, children everywhere, boys and girls alike, will be able to complete a full course of primary schooling;
 - Reduce by two-thirds, between 1990 and 2015, the under-five mortality rate.
2. **Substantive indicators:** Substantive indicators already developed by international organizations must be utilized by the State Party to strengthen the assessment process. Useful indicators, the data of which to be disaggregated, include:
 - Prevalence of underweight children under five years of age;
 - Number of children orphaned by HIV/AIDS;
 - Proportion of births attended by skilled health professionals;
 - Population with sustainable access to affordable essential drugs.
3. **Standard of child poverty:** A clearly defined standard of child poverty must be established to allow adequate and effective assessment of progress. The aspects of severe deprivation as they affect children determined by UNICEF which should be included in such a definition are: health, shelter, education and information.

(B) CRC Reporting Process

1. **Data collection:** The PRC data collection process must be revised to include:
 - Disaggregated data by region (province, rural versus urban areas, and ethnic minority areas) and demography (vulnerable populations, age group and gender);
 - Timeframes that allow for meaningful comparisons from one reporting period to the next and help to ground targets and benchmarks.
2. **Enhanced transparency:** In addition to including more substantive and disaggregated data, the report must be made more transparent by giving more detail with regards to the consultation process with civil society, by including:
 - A list of all civil society groups and organizations consulted;
 - An explanation of what the consultation included: scope, time, process, and difficulties and obstacles encountered.

3. ***Government expenditure and tax policies:*** Trends and statistics on government expenditure and tax policies must be collected, disaggregated and analyzed, particularly with regard to the fiscal capacity of local and provincial governments who provide public services such as health care and education. Analysis should be undertaken as to whether allocated funds are enough to assure basic human rights standards:

- Availability, accessibility, acceptability and adaptability of education;
- Availability, accessibility, acceptability and quality of health;
- Availability, habitability and cultural adequacy of housing for groups of children including AIDS orphans.

(C) Independent Review

1. ***National Institutions:*** As recommended by this Committee in 1996, the PRC should establish an independent institution for children's rights which can play a role in carrying out effective assessments. This institution should be established in accordance with the Paris Principles, which emphasize that all necessary guarantees to ensure the pluralist representation of society must be taken, including through the presence of NGOs.

2. ***Domestic monitoring mechanisms:*** Adequately resourced and staffed monitoring mechanisms that are reviewed on an on-going and periodic basis should be established to oversee programs that seek to advance the rights of children. Monitoring should include:

- Periodic assessments of programs to ascertain whether they are moving towards their goals and meeting established targets;
- A human rights impact assessment within the programs' constituency to ensure no new abuses have occurred, including a review of any complaints received;
- Civil society surveys to ascertain whether community needs are met.

3. International experts must be granted access to records and programs for review of compliance with international standards. Relevant international experts include:

- Representatives from the UN Office of the High Commissioner for Human Rights;
- The Special Representative of the Secretary-General on the situation of human rights defenders;
- UN Special Rapporteurs, including those with the following thematic mandates:
 - The sale of children, child prostitution and child pornography;
 - The independence of judges and lawyers;
 - The right to freedom of opinion and expression;
 - The right to freedom of religion or belief.

INTRODUCTION

1 Despite its rapid economic growth over the past two decades, as measured by macro-economic indicators, China's reported economic benefits have not been distributed equally, and economic reforms have in some cases exacerbated existing social problems. While indicators such as the GDP continue to rise,¹ the Gini coefficient, which measures wealth disparity, has risen just as rapidly.² Although the PRC states in its second periodic report to the Committee that it has pursued economic development to "safeguard children's rights to life and survival,"³ children, vulnerable groups in particular—migrants, girls, rural poor, and ethnic minorities—have failed to benefit from that development and have been disproportionately and negatively impacted.

2 Children in China number 345 million, or approximately 23 percent, of the total population of 1.3 billion, with an estimated 162.7 million girl children,⁴ 6.43 million migrant children,⁵ 162 million children living in rural areas,⁶ and approximately 22 million ethnic minority children.⁷ The number of children in vulnerable groups taken as a whole thus constitutes the vast majority of China's children. Not only have these vulnerable child populations failed to benefit from China's economic development, but the PRC's implementation of children's rights for these vulnerable groups has also arguably begun to backslide. The increasing gaps between China's urban and rural population, its Han and ethnic minority population, and its settled and the migrant population, suggest that different groups of children have varying access and quality of access to the rights guaranteed under the Convention, resulting in unequal access to rights fundamentally important to the holistic development of the child, including education, healthcare, social services and religious and cultural freedoms.

3 In order to implement its obligation of non-discrimination, in addition to taking the best interest of the child as the key consideration in all actions concerning children,⁸ the PRC should adopt more effective measures to implement these obligations. While legislative and program plans are important steps, they are not exhaustive of the obligations of a State Party to the Convention, which include obligations of both conduct and result. State Parties are obligated to take *all* appropriate measures, not merely those limited to promulgation of policy and legislation.⁹

4 The PRC's second periodic report covers the years 1996–2001. The report details formal policy and social initiatives undertaken, as well as legislation promulgated since the Committee issued its concluding observations and comments in 1996. The report is also supplemented by the first report on the implementation of the Optional Protocol to the Convention on the Sale of Children, Child Prostitution and Child Pornography ("Optional Protocol"), covering the period 2003–2005. This report takes a similar approach, and despite its length of over 65 pages, focuses almost exclusively on the promulgation of formal legislation and policies.

5 In addition to its focus on formal initiatives and law, the second periodic report and the report under the Optional Protocol—much like reports submitted by the PRC to other treaty bodies¹⁰—is not supported by systematic assessments of implementation efforts and in-depth discussion of obstacles encountered. The identification of targets and goals in the PRC report is useful but these must be based upon *international standards and supported by monitoring mechanisms and disaggregated data*. Broader targets and benchmarks must also be supported by existing and available substantive indicators, such as

STATE SECRETS: OVERVIEW OF LEGISLATION

DEFINITION	SCOPE	APPLICATION
“Matters that affect the security and interests of the state” ²⁰	Legal framework: <ul style="list-style-type: none"> ■ Law on the Protection of State Secrets (1988)²² ■ Implementation Measures (1989)²³ Regulations on the Specific Scope of State Secrets and other Secret Matters 	Scope is broad and vague; includes some catch-all clauses
Three hierarchical classifications: ²¹ <ul style="list-style-type: none"> ■ Top Secret ■ Highly Secret ■ Secret 		No current corresponding right to information ²⁵
Information can be retroactively classified based on “consequences”	Matters cover a comprehensive range of areas: ²⁴ <ul style="list-style-type: none"> ■ Labor ■ Ethnic minorities ■ Religion ■ Health ■ Judiciary 	State secrets include: <ul style="list-style-type: none"> ■ Undisclosed information and statistical data on the handling of child labor cases nationwide (Highly Secret)²⁶ ■ Family planning officials’ statistics on the numbers of abortions [local level] (Secret)²⁷
Classification not challengeable		

those developed by international organizations including the United Nations Development Programme,¹¹ the World Health Organization,¹² and the World Bank.¹³ The use of these benchmarks and substantive indicators in the reporting process would not only strengthen reports submitted to treaty bodies such as the Committee, but should also be part of the PRC’s existing efforts in achieving the MDGs.¹⁴ Many of the targets and indicators used in reporting on the MDGs¹⁵ are the same indicators that should be used for reporting under this Convention, including prevalence of underweight children under five years of age, proportion of pupils starting grade one who reach grade five, and HIV prevalence among 15–24 year old pregnant women.

6 The failure to present *disaggregated statistical data* by region and vulnerable groups of children makes it difficult for the Committee to properly evaluate the PRC’s compliance with its obligations. Aggregated national data masks underlying differences and inequalities between and within regions and provinces, and does not allow meaningful analysis of progress or lack thereof within a particular substantive rights area or segment of the child-population.¹⁶ Furthermore, the lack of disaggregated data prevents an adequate assessment of whether policies are implemented without discrimination,¹⁷ or whether vulnerable and disadvantaged groups are benefiting from reforms and intervention programs such as those cited in the PRC report.¹⁸ We note that these deficiencies reflected in China’s second report were acknowledged by the Committee in its review of the initial PRC Report in 1996.¹⁹

7 In addition to the lack of disaggregated data, the *state secrets legal and regulatory framework*²⁸ also impedes and undermines the government’s ability to effectively design and execute effective policy interventions and laws that need to be based upon accurate, reliable and complete information and analyses.²⁹ The government’s pervasive control and regulation of information through a comprehensive legal framework, along with social, police, and technological surveillance and censorship tools, also contributes to a climate of self-censorship and fear. In the context of formulating policies to strengthen the rights of children, the implications of inadequately informed policymaking are particularly serious,

weakening the Convention's emphasis that policy choices must be made acting in the best interest of the child,³⁰ and threatening the implementation of the rights under the Convention for China's most vulnerable children: migrant children, ethnic minority children, rural children and girl children.

8 In its initial report under the Optional Protocol, the PRC acknowledges three major obstacles to implementation, reflecting the government's perspective with respect to its obligations for both implementation and reporting on international human rights treaties.³¹ First, the PRC highlights its developing country status as the reason for the gap between rural and urban areas. A second obstacle outlined is the difficulties created by the recent opening of policy toward visitors and investments, which has led foreigners to conduct illegal business in China and to commit crimes, adversely affecting the healthy development of Chinese children. Lastly, the rapid development of the Internet is faulted for contributing to increased criminal activity, by facilitating crimes such as the distribution of child pornography.³² However, as the Committee indicated with its selection of concerns in the List of Issues, uneven development, disaggregated data, and discrimination are problems that require immediate attention, irrespective of obstacles such as those indicated above.³³

9 Certainly, in light of China's size, population, and historical and cultural challenges, the effective implementation of international human rights obligations is a complex and difficult process. However, as emphasized by the CESCR in their May 2005 concluding observations, "there are no significant factors and difficulties impeding [China's] capacity to effectively implement"³⁴ the rights contained in that Covenant. Further, the Committee has emphasized that "[w]hatever their economic circumstances, States are required to undertake all possible measures towards the realization of the rights of the child, paying special attention to the most disadvantaged groups."³⁵ The PRC therefore needs to demonstrate the necessary political will to implement its human rights obligations under the Convention without discrimination. In addition to perpetuating the cycle of social exclusion, poverty, and human suffering, neglect of the most vulnerable children in China also undermines the stability and sustainability of China's future development, with consequences for the eradication of global poverty.

10 HRIC aims to highlight key issues of concern related to the China's most vulnerable children: children's voices and identity, juvenile justice, trafficking in and exploitation of children, the plight of AIDS orphans, and access to education. HRIC's report includes a set of recommendations that aims to contribute to advancing the development of concrete steps to monitor and inform legislative and other measures, and provides benchmarks for assessing ongoing compliance.

PROGRESS UNDER SPECIFIC ARTICLES OF THE CONVENTION

GENERAL MEASURES OF IMPLEMENTATION: CHILDREN IN THE LAW

11 **Obligations:** Article 4 of the Convention states that States Parties have an *affirmative obligation* to undertake all appropriate measures for the implementation of the rights in the Convention.³⁶ The Committee provides guidance to States Parties, and also incorporates the guidance of other treaty bodies by adopting their general comments where other international human rights laws contain provisions similar to Article 4.³⁷ Implementation does not equate to simple promulgation of legislation relating to substantive rights in the Convention, but also dictates that legislation and related administrative guidance undergo ongoing and comprehensive reviews,³⁸ and “should be regarded as justiciable.”³⁹ *Justiciability* requires that both the civil and political, and the economic, social and cultural rights and principles in the Convention can be directly invoked before courts.⁴⁰ Furthermore, there must be *effective remedies* that are available and enforceable for violations of rights.⁴¹ Children must themselves be able to access legal proceedings and seek redress when necessary to advocate on their own behalf,⁴² and be provided with any required assistance. Finally, a State Party’s obligations are not discharged by legislative promulgation and implementation alone, but include *other measures*, that are obligations both of conduct and result.⁴³

CHILDREN IN PRC LAW

LAW ON THE PROTECTION OF MINORS (1992)⁴⁴

- Aims to protect the physical and mental health of minors;
- Outlines functions and responsibilities of individuals and institutions charged with the development and education of minors, including: family, schools, society and legal organs;
- Emphasizes the protection of minors from contact with criminal or harmful influences.⁴⁵

LAW ON THE PREVENTION OF JUVENILE DELINQUENCY (1999)⁴⁶

- Aims to guarantee the physical and mental wellbeing of juveniles;
- Lists obligations that government agencies and branches have to prevent “unhealthy juvenile behavior,”⁴⁷ such as skipping school, fighting and stealing;⁴⁸
- Lists measures that government agencies and branches have undertaken to prevent juvenile delinquency and to reform the juvenile corrections system;
- Outlines various levels of administrative and criminal penalties that administrative and judicial branches may impose on juveniles found to have violated the law or to have committed crimes.⁴⁹

12 **Lack of Comprehensive Legal Framework:** Despite the promulgation of several provisions and regulations,⁵⁰ the PRC lacks a comprehensive legal framework that recognizes, protects, and fulfills the rights of children. The framework falls short of the Convention in four specific ways. First, whereas the Convention envisions a legal regime in which children are rights-bearers,⁵¹ in the two main pieces of legislation on minors, children remain objects to whom duties are owed but who do not themselves hold rights.⁵² Second, provisions that protect children in a variety of substantive areas are scattered through numerous laws and do not provide a comprehensive or coherent framework of protection.⁵³ Third, the PRC has not defined “child” uniformly within its legal framework.⁵⁴ Finally, it is unclear whether the Convention can be directly invoked or whether appropriate remedies are available to redress violations of rights under it.⁵⁵

13 **Scattered Provisions:** The other listed laws have provisions relating to children that appear to be inserted sporadically and do not provide a comprehensive or coherent framework for addressing the protection of children’s rights as enshrined in the Convention.⁵⁶ It is unclear whether the Convention can be directly invoked or that appropriate remedies are available to redress violations. The PRC reports that a systematic regulatory framework is in place for the protection of children’s rights, and that legal

structures and social safeguards have been effectively implemented.⁵⁷ The problem with existing laws, and the scattered placement of child protection provisions, however, is evidence of incomplete implementation of the Convention.

14 *Children as Objects not Rights-Bearers in PRC Law:* In its report, the PRC listed a total of 16 pieces of legislation that it passed to represent its efforts in introducing the Convention into its domestic order. None accord children the protection of specific rights affirmed in the Convention. In reviewing the PRC's first periodic report in 1996, the Committee recommended that the Chinese authorities increase opportunities for children to be heard, and to not treat them as "recipient[s] of protection."⁵⁸ Children continue to be treated as objects of protection in the PRC's legal framework, rather than as individuals with inalienable rights to freedom of expression, religion, assembly or association and other fundamental human rights. For example, the Law on the Prevention of Juvenile Delinquency promotes cooperation between parents and school authorities to place minors with behavioral problems in closed correctional work-study schools, without requiring the participation of the minors involved.⁵⁹ As discussed in subsequent sections of this report, these laws are not in compliance with international standards, particularly those that provide for presumption of innocence, due process of law, and judicial review of decisions that impact one's personal liberty.

INCONSISTENT DEFINITIONS

AGE	CIVIL LAW ⁶³		CRIMINAL LAW	ADMINISTRATIVE PROCESS	
Under 10	No legal capacity or legal standing, and must be represented by their legal guardians or representatives		No legal responsibility ⁶⁴	Can be placed in Reeducation-Through-Labor (RTL) when the government deems it necessary ⁶⁵	
10	Limited legal capacity: may conduct civil and legal affairs commensurate with their age and maturity, and must otherwise be represented by legal guardians or representatives	AGE: UNDER 13			
11					
12					
13					
14					
15	If self-supporting, considered emancipated with full capacity to conduct civil and legal affairs	Full criminal responsibility, ⁶⁷ but entitled to a lighter sentence ⁶⁸			Legally responsible for eight crimes: murder, intentional infliction of serious bodily harm, or causing death, rape, robbery, drug trafficking, arson, bombing, or poisoning ⁶⁶
16					
17					
18	AGE: 16–18	AGE: 10–18	AGE: 14–17	AGE: 10–18	

15 *Inconsistent Definitions of the Child:* The Convention defines a child as “every human being below the age of eighteen years,” unless applicable law of the States Parties define majority differently under their legal system.⁶⁰ The PRC employs different definitions in the criminal and civil law and has other standards within its administrative law. Further, collection of population statistics by the government is not undertaken using the definitions in either the civil or criminal law. Population statistics separate the population into just two groups: those under and those over 15 years of age.⁶¹ Similarly, data on juvenile delinquency often groups everyone under the age of 25 into one juvenile category.⁶² The lack of consistency in legal standards and in data collection makes it difficult to assess conditions for children and devise adequate programs to further the implementation of the Convention.

16 *Justiciability:* On their face, it is unclear whether the two laws that deal directly with minors, the Law on the Protection of Minors and the Law on the Prevention of Juvenile Delinquency, allow for the direct invocation of the Covenant, or whether appropriate remedies are available to redress violations of rights under it.⁶⁹ The Administrative Litigation Law, adopted on April 4, 1989, allows citizens to sue officials for abuse of authority or malfeasance. However, as of 2002, of the total 913,091 cases accepted by the court, less than 20 percent of the cases were found in favor of the plaintiff.⁷⁰ In addition, there is a shortage of legal aid for indigent clients who need representation. As a result, petitioning the central government, a centuries-old practice, often remains the last resort for ordinary people who have exhausted their local legal options. While it remains an important outlet for complaint,⁷¹ the central government has grown increasingly impatient towards petitioners.⁷²

GENERAL PRINCIPLES: NON-DISCRIMINATION AND EQUAL DEVELOPMENT

17 *Obligations:* There are four general principles in the Convention: non-discrimination, including gender-sensitivity; upholding the best interests of the child; the right to life, survival and development; and respect for the views of the child.⁷³ The Committee suggests that States Parties develop a “children’s rights perspective” throughout all government branches. That is, the implementation of the human rights of children must not simply be a charitable process, bestowing favors on children,⁷⁴ but must imbue government policy. Furthermore, while the Convention acknowledges the needs of and constraints on developing countries, some obligations are of immediate effect. First, regardless of countries’ states of economic development, States Parties are under a positive obligation to take deliberate steps towards realizing the rights enshrined in the Convention. Second, States Parties must take those steps and implement those rights without discrimination.

18 *Discriminatory Policy Choices:* Despite the economic growth of the last decade, the PRC’s policy choices since “open and reform” in 1978⁷⁹ have focused on developing the urban economy, even by extracting resources from the countryside to benefit urban areas.⁸⁰ Despite *de jure* non-discrimination, the increasing polarization of wealth suggests that government policies have not led to non-discriminatory enjoyment of modernization and growth in the economy.

19 Vulnerable Populations Backsliding: While uneven growth is widespread,⁸¹ statistics suggest that vulnerable populations have not only failed to benefit, but have also begun experiencing worsening conditions. China's poor remain concentrated in the rural areas, despite more than two decades of poverty reduction initiatives. Income data suggests that between 1996 and 2000, urban residents' incomes increased at almost twice the rate as that of rural residents,⁸² and that in 2004, an urban resident's per capita income was 3.21 times higher than the typical rural dweller.⁸³ Children living in the interior rural region are 2.5 times more likely to be poor than children living in coastal rural regions,⁸⁴ and rural and ethnic minority children have unequal access to basic services.⁸⁵

20 Poverty's Negative Impact on Child Development: Family poverty has a significant impact on the well-being of children, leading to deprivation of the capabilities necessary for survival and development.⁸⁶ The PRC's lack of a uniform and usable definition of child poverty⁸⁷ impedes any attempts, such as collection, research and analysis of data, to address the problem. The PRC does not provide statistics on child poverty, but estimates place the number of children living in absolute poverty at 4.2 million, and 8.7 million living in disadvantaged conditions.⁸⁸ The deprivation of children's rights, such as that to health and education, is a primary contributor to child poverty, which impacts a child's ability to develop fully.

WIDENING ECONOMIC & SOCIAL GAPS

- Overall inequality in disposable income increases
 - Gini index rose from 28.8 to 41.6, 1981–1999⁷⁵
 - Annual increase in the index of 2.71, 1999–2001, with notable lag in rural regions;⁷⁶
- Income disparity in PRC is worse than that of both India and Indonesia, at 34.3 and 32.5 respectively;⁷⁷
- Overall economic growth has been “uneven, with widening regional income inequalities and the emergence of vulnerable urban groups,” according to the World Bank.⁷⁸

CIVIL RIGHTS AND FREEDOMS: CHILDREN'S VOICES AND PARTICIPATION

21 Obligations: The Convention aims to enable children to reach their fullest potential. As such, it requires that States Parties undertake not only to protect children from abuse, but also to facilitate the participation of children, allowing them to have a voice and to take active roles in their communities. Fulfilling participatory rights, including the right to freedom of expression and association, requires a comprehensive strategy that addresses the different spaces that children occupy, including their homes, schools, detention and custodial facilities, and society at large.

22 Lack of Space for Children in the Media: An independent civil society is critical to enabling space for children's voices and participation, as it promotes respect for freedom of expression, association and the right to information. Mass media and media education play a significant role in advancing this environment, but there is an acknowledged lack of children's voices and opinions in Chinese media, particularly in underdeveloped, rural regions.⁹⁷ According to Bu Wei, Associate Professor and Director of the Media and Youth Development Research Center of the Journalism Research Institute under the Chinese Academy of Social Sciences, few articles in major news media cover the subject of children,⁹⁸ even on Children's Day.⁹⁹ In a 2001 report, UNESCO concluded that there was little to no formal curriculum or clear aims for media education, and that the PRC had little foundation or long-term planning in place for establishing concepts and principles for a media education curriculum.¹⁰⁰

23 Constraints on Children's Expression: The PRC's ongoing crackdowns on peaceful and legitimate expression—through petitions to the authorities, in the news media, or on the Internet—suggests that any expression outside of prescribed limits or that is critical of the authorities and of official policies will be repressed. While some pronouncements on respecting children's rights to free expression have been made,¹⁰¹ these statements must be built upon and their substance realized to ensure that the voices of all children are heard.

24 Censorship and Access: The PRC argues that limits on Internet access for young people are necessary because of potential corrupting influences.¹¹² However, this official reason is suspect when evaluated with actual censorship patterns. A recent study by the Open Net Initiative found that less than ten percent of the search results for terms such as "sex," "pornography," and "nude" were blocked, but more than 60 percent of Chinese-language sites with information on opposition political parties were blocked.¹¹³ The politicized use of censorship and blocking of websites to control information must be examined and monitored, especially in light of emerging information about patterns of use.

DEMOGRAPHICS OF INTERNET USE AND STATE CONTROL

- From June 1998 to June 2005, number of Internet users has grown from 1.17 million to 103 million;⁸⁹
- Increasingly sophisticated systems of control: legal regulations, social and policy controls, censorship and surveillance technology;⁹⁰
- 15.8 percent of China's estimated 103 million Internet users under 18 years old, as of July 2005;⁹¹
- Internet cafes said to be corrupting influences on minors; new limitations introduced;⁹²
- Since November 15, 2002,⁹³ minors under 16 banned from Internet cafés;⁹⁴
- Internet cafes are banned from operating within 220 yards of schools;⁹⁵
- 33.2 percent of all Internet users, approximately 34.2 million children and young adults, are students, representing the largest category of Internet users.⁹⁶ The number of Internet users that are students has increased steadily, adding 6.4 million users in the last twelve months.

25 The Need to Promote Access: In addition to hosting online forums, China Children's Press and Publication Group (CCPPG) publishes over 1,500 kinds of children's books and audio-visual productions annually. Their five newspapers, with a circulation of two million readers, and their periodical publications, with a circulation of over two million, reach a wide audience in the under-18 age group. The Web site launched with UNICEF¹¹⁴ now has approximately 120,000 registered users, and beginning in 1994, UNICEF and CCPPG also began a summer camp that aimed to create friendships between urban and rural children.¹¹⁵ Although these efforts are cited as examples of forums in which children can express themselves,¹¹⁶ the content of these publications must be examined for accuracy and perspective, to ascertain whether children's voices themselves are promoted and whether those voices are from all segments of the child population.

26 No or Limited Access for Vulnerable Groups:

In addition to general limits on access, children in vulnerable groups do not enjoy equal access to the Internet, or other mediums of information or communication such as payment-based subscriptions to periodicals offered by the CCPPG. According to Zeng Jianqiu, Director of the Information Technology Economy Research Center of Beijing University of Posts and Telecommunications, young people dominate the newly emerging netizens in China.¹¹⁷ Internet cafés represent their most practical access point to the Internet,¹¹⁸ yet the majority of these netizens are educated males who reside in the urban or coastal developed areas and log onto the Internet from home computers, schools, or workplaces.¹¹⁹ The various laws and regulations in the PRC governing Internet café use for minors are unclear and have set different standards.¹²⁰ Generally, however, minors are prohibited from using Internet cafés,¹²¹ and operators can be fined if they violate that prohibition or fail to post signs barring entry by those under 18 years of age.¹²² These regulations and crackdowns on Internet cafés have a disproportionate impact on vulnerable children who do not have the resources to own a computer or have other access.

27 Supporting Voices: In the academic arena, there have been some efforts to encourage and support children's voices. For example, as a means of encouraging rural children to exercise their right to media participation and to increase media attention focused on them, a program was implemented encouraging university students to interview rural children, and to share their opinions on various issues with their urban peers and adults.¹²³ Others have also criticized the government's decision to keep children away from

DIGITAL DIVIDE

ACCESS FOR CHILDREN

- 15.8 percent of the 103 million Internet users¹⁰² are under 18.¹⁰³

REGIONAL DISPARITIES

- The six most underdeveloped provinces comprise less than one percent of its Internet population;¹⁰⁴
- Most Internet users are found in affluent coastal regions, including Beijing, Shanghai, Tianjin and Guangdong;¹⁰⁵
- 80 percent of Internet users outside large urban areas can access the Internet only through cafés.¹⁰⁶

ACCESS FOR FEMALES

- Approximately 41.61 million females online, equaling 40.4 percent of all Internet users;¹⁰⁷
- June 1998–present: female Internet users increased by 41.5 million;¹⁰⁸
- 6.6 percent of female population in China uses the Internet, as compared to 9.2 percent of the male population;¹⁰⁹
- Number of female Internet users increasing at a faster rate than male users;¹¹⁰
- Two thirds of all CCPPG online forum participants are girls.¹¹¹

the Internet cafés because of their potential as an educational tool.¹²⁴ These efforts to support children's voices and participation must be encouraged by the government and not undermined by official policies and suppression.

BASIC HEALTH AND WELFARE: FAMILY PLANNING POLICIES AND THE SEX RATIO

28 ***Imbalanced Birth Ratio:*** PRC leaders credit the so-called “one-child policy” for preventing the addition of 300 million people to China's population of 1.3 billion.¹²⁵ Yet the policy has also led to a serious sex ratio imbalance among the younger generation due to a residual cultural preference for boys in rural China, and the PRC's lack of a functioning social security system: the national ratio during the early 1980s of 108.5 boys to 100 girls grew progressively to 111:100 in 1990 and 116:100 in 2000, and is expected to reach 120:100 by 2004, according to a report by the Chinese Academy of Social Sciences.¹²⁶ Although the sex ratio is imbalanced nationally, urban areas generally have a closer to normal ratio. Rural areas, however, such as Hainan and Guangdong provinces, have recorded birth ratios at 130:100.¹²⁷

29 ***Potential Social Problems:*** As early as 1993, it was argued in China that the use of sex-selective abortions could lead to an unbalanced population sex structure and resulting social problems.¹²⁸ The number of single adult males has increased, especially in poor rural areas, where the proportion of single males rose from 14 to 19 percent of 40 year-olds during the 1990s.¹²⁹ While the connection is not confirmed, it is widely speculated that the increasing difficulty for men in finding a mate has led to a rise in trafficking in women.

30 ***Hidden Girls:*** It is possible that the gender ratio imbalance is not as stark as that indicated in official statistics. Experts estimate that at least two-thirds of the girls nominally missing from the 2000 census have been removed from the population through abortion or other means;¹³⁰ the remaining one-third, however, simply remain unregistered and therefore hidden from official statistics.¹³¹ These “hidden girls” are thereby deprived of access to education, healthcare, social services and other benefits. Responsible family planning policies are the duty of the government, but by failing to ensure and promote the equal respect and concern for women and girls, the PRC contravenes its obligation of non-discrimination.¹³² Authorities have begun to attempt to shift public opinion, particularly in rural areas where the problem is more widespread.¹³³ These programs, however, such as the “Girl Care Project,”¹³⁴ have been framed in terms of the future needs of men rather than in terms of promoting respect for girls and women.

EDUCATION, LEISURE, AND CULTURAL ACTIVITIES: ACCESS FOR VULNERABLE GROUPS

31 **Obligations:** The right to education encompasses four key elements: availability, accessibility, acceptability and adaptability. States Parties must guarantee that the right to education will be exercised without discrimination of any kind and are obliged to take deliberate, concrete and targeted steps. Primary education must be made compulsory and available to all, free of charge.¹⁴⁰ Secondary education, though not compulsory, must be made available on the same basis to all.¹⁴¹ The Committee has also stated that children must have access to information about their rights, which should be incorporated into the school curriculum.¹⁴²

32 **Law and Statistics:** Government statistics¹⁴³ for 2004 show that 93.6 percent of Chinese children are receiving nine years of compulsory education and 98.95 percent are enrolled in primary schools.¹⁴⁴ As noted by the UN Special Rapporteur in her 2003 country mission report, however, these statistics are collected at the beginning of the year and reflect enrollment rather than actual attendance.¹⁴⁵ The right and duty to receive education is enshrined in the PRC Constitution¹⁴⁶ and has been affirmed in various pieces of legislation.¹⁴⁷ In practice, however, access to education is often the determinant of location of birth and subsequent household registration. As a result, migrant, ethnic minority, rural, and girl children often face more difficulties in pursuing educational opportunities than urban, settled, Han children.

33 **Weak Political Will to Finance Education:** As of 2003, 372 poverty-stricken counties in Western China have yet to provide free basic education to children in their localities.¹⁴⁸ In 2005, the Committee on Economic, Social and Cultural Rights noted that the PRC's failure to implement the right to education was not caused by limitation of resources,¹⁴⁹ and noted concern over "continued irregularities" in provision of education to vulnerable groups.¹⁵⁰ Annual government appropriation in education was 2.2 percent of

UNEQUAL ALLOCATION OF RESOURCES & BURDENS

FINANCIAL BURDEN SHIFT TO LOCAL LEVEL FOR EDUCATION

- 1994 policy change by State Council: township governments became responsible for implementing compulsory education;
- Local governments provide 87 percent of the public expenditure;¹³⁵
- Shortfall made up through "extra-budgetary resources," from tuition, book fees, and other fees.¹³⁶

POLARIZATION OF WEALTH

- In 2000, per-student expenditures of the top-spending provinces were 10.6 times more than the lower-spending provinces in primary schools, and 6.6 times higher in junior secondary schools;¹³⁷
- Lack of money at local level leads to unreasonable level of taxation of the rural population, mandated by the central government;¹³⁸
- Rural areas received 23 percent of national funds in 2002; up to 77 percent of the education budget went to cities.¹³⁹

EDUCATIONAL DISCRIMINATION RESULTING FROM *HUKOU* SYSTEM

HUKOU DEFINED

Residency permit identifying person as resident; entitles the bearer to local government services. Local governments obligated to provide services only to registered individuals.

ONGOING PROBLEMS

Despite official announcements regarding reforms, the *hukou* system continues to prevent migrants from equal access benefits

IMPACT ON MIGRANTS

- Migrants are registered in rural home counties and cannot receive services from cities where they relocate;
- In many districts, migrants must possess at least three types of permits (temporary residence permit, employment permit and identification cards) for school enrollment;¹⁷¹
- Few can obtain all required permits, and even fewer can afford the "temporary schooling fees," which amount to thousands of *yuan*;¹⁷²
- The Provisional Measures encourage discrimination by legitimizing high fees created by localities to dissuade migrants from settling in their area.¹⁷³

the annual GDP in 2001/02, which is more than two percentage points below the global average of 4.4 percent,¹⁵¹ placing a disproportionate burden on local governments—suggesting low political will on the part of the national government.¹⁵²

34 Rural Children and Lags in School Attainment: Access to education is uneven across China, with poor rural areas lagging behind. A survey conducted by the Research into Equity Issues in Chinese Higher Education shows that rural residents are three times more likely than urban residents to have only basic primary education.¹⁵³ Slightly more than 40 percent of rural residents have only a junior middle school education, and that education attainment gap increases significantly in higher levels of education.¹⁵⁴ This is despite the fact that rural students make up more than half of those sitting for the national college entrance examinations.¹⁵⁵ Dropout rates in rural schools, however, continue to increase,¹⁵⁶ meaning that that fewer rural children will acquire the skills necessary to break the cycle of poverty and develop the capabilities that allow them full participation in their communities.¹⁵⁷

35 High Fees in Rural Areas: School fees and related costs are significant obstacles to school attendance by rural children.¹⁵⁸ Sixty-four percent of respondents to a recent survey indicate that among 40 provided social issues, exorbitant school fees are their top concern.¹⁵⁹ High fees in poor rural areas

make education unavailable and inaccessible for many of the children living there. In some areas, along the southwestern border, parents began in 1996 to send their children to schools in border towns in Burma, Laos and Vietnam.¹⁶⁰ Privately-run Burmese schools cost less than half what parents must pay in Chinese schools; in Vietnam, schools are free for the first three grades in primary schools, and from fourth grade and beyond, the government pays for all living expenses.¹⁶¹ These countries are all considerably poorer than China.¹⁶² In March 2005, Premier Wen Jiabao announced a plan to eliminate fees for 14 million students in the

TEACHING WITHOUT PAY

- In 2004 alone, teachers were owed a total of one billion *yuan*, in addition to an accumulated 16 billion *yuan* in unpaid back wages;¹⁶⁴
- Wages owed to rural teachers accounted for the majority of the unpaid wages;
- By the end of 2003, rural teachers were owed 15.4 billion *yuan*.¹⁶⁵

country's poorest counties and to extend this policy until 2007.¹⁶³ The plan is a good start, but must be monitored and promulgated so as to eliminate education lags between sectors of children.

36 No Access for Migrant Children: The emergence of the migrant population in China has created two stark phenomena: fractured rural families¹⁶⁶ and invisible households living in abject poverty in China's urban areas. Children who move with their parents to urban areas are sometimes forced to forgo educational opportunities because of the restrictions of the *hukou* system.¹⁶⁷ By the end of 2003, there were an estimated 114 million migrant workers and 6.43 million migrant children under age 14 in the urban areas of China.¹⁶⁸ States parties have an immediate obligation to monitor and improve the situation for vulnerable groups,¹⁶⁹ and to provide low-cost targeted programs to alleviate the conditions for the most vulnerable, which include migrant children. However, migrant children have few good choices in education: they can (1) attend under-funded and low-quality schools set up by migrants; (2) "borrow" placement at local schools where they are considered "temporary students;" (3) attend private or boarding schools that are unaffordable to most migrant workers; (4) stay in home villages to attend rural schools; or (5) not attend school at all.¹⁷⁰

37 Societal Discrimination against Migrants: Migrant children who enroll in state-run schools suffer from institutionalized discrimination: as "temporary students," they are often ineligible to have grades recorded and therefore cannot advance to junior high or high school.¹⁷⁴ Private schools run by migrants are generally unlicensed and unregistered, but despite the poor quality of education, migrant parents are eager to send their children to these privately-run schools as they are preferable to no education at all.¹⁷⁵ These schools are sometimes transitory, facing threats such as Olympics-related construction.¹⁷⁶ "Graduates" from these schools, however, are also unable to advance to upper level schools.¹⁷⁷ As a result, almost one in ten migrant children do not receive any education, 6.85 percent have never been to school and another 2.45 percent are dropouts.¹⁷⁸ Pervasive ostracism, ridicule and discrimination have also hindered the educational progress of migrant children,¹⁷⁹ and is perpetuated by the discriminatory *hukou* system and state policy.

LOWER EDUCATIONAL ATTAINMENT LEVELS FOR GIRLS

UNEQUAL ACCESS FOR GIRLS AND BOYS

- Many girls have no access to basic education, particularly in rural areas in western China.¹⁸¹
- 70 percent (or 1.4 million) of the over two million children who drop out of school each year are girls.¹⁸²
- Girls have a lower rate of enrollment than boys, which decreases as the education level increases;¹⁸³
- More than half of rural women have less than a junior high education, compared to approximately one-third for men;¹⁸⁴
- 42.3 percent of rural women have completed at least junior high, compared to 63 percent for men;¹⁸⁵
- In 2000, the proportion of female students in high schools exceeded 40 percent for the first time.¹⁸⁶

PREFERENTIAL POLICIES ON THE BOOKS

FIVE-POINT OFFICIAL POLICY FOR ETHNIC MINORITY CHILDREN'S EDUCATION

- Schools may waive or lower tuition and other fees for minority students who have special hardships;
- Minority young people with work experience or who have excelled should have priority in admission into colleges and universities;
- Preparatory classes at colleges and universities should be available to minorities, and students who successfully complete the one-year preparatory program and who have "a good political outlook" should be admitted to colleges or universities;
- Threshold admission scores may be lowered for minority students; and
- Central government subsidies should be provided for the development of vocational education for minorities.¹⁸⁰

38 ***Disproportionately High Female Illiteracy:*** In 2002, female literacy stood at 86.5 percent, compared to 95.1 percent for males;¹⁸⁷ girls may also account for 80 percent of the new illiterates.¹⁸⁸ Overall, 70 percent of China's illiterate population is female.¹⁸⁹ The Committee on the Elimination of all Discrimination Against Women (CEDAW) has expressed concern over this issue, and has recommended that the government adopt a specific time-frame, with budgetary and resource allocation, for the achievement of universal literacy and primary education. In addition, CEDAW has recommended that the PRC introduce special measures and incentives to ensure girls access to primary and secondary education and eliminate gender-stereotypes in school curricula.¹⁹⁰ Recent government efforts to correct the inequality in girls' access to education are an important step: the Spring Buds Program, run by the All-China Women's Federation (ACWF), covers 30 provinces, autonomous regions and cities,¹⁹¹ and aims to help girls in disadvantaged areas resume their studies by providing assistance in the amount of 400 million *yuan* to 1.15 million girls. However, girls' access to education remains limited by the cultural preference for boys, and is reinforced by the skewed sex ratio, the restrictive *hukou* system, rural poverty, and unaffordable school-related fees. These systemic barriers can be corrected only by deliberate, concrete steps yet to be adopted by the PRC.

39 ***Discrimination against Ethnic Minority Children:*** China has an affirmative obligation to respect the right of the children to preserve their identity.¹⁹² The enjoyment and practice of one's own culture, religion and language must be respected.¹⁹³ The PRC's national laws dictate that (1) regional autonomy should be implemented in areas with high concentrations of ethnic minorities;¹⁹⁴ (2) autonomous agencies must prioritize the interests of the state as a whole, while safeguarding and developing the equality and unity of minorities;¹⁹⁵ and (3) autonomous agencies have authority to determine education plans, infrastructure, curriculum, and the language of instruction in accordance with the central government's policies.¹⁹⁶ Although the relevant laws give linguistic rights for speakers of minority languages in China, implementation has been weak. In schools that have mostly minority students and that have resources and textbooks in minority languages, those languages are the language of instruction. However, Mandarin Chinese and standardized Chinese characters are promoted. The PRC language policy is best viewed as having both overt and covert dimensions, openly professing support for ethnic minorities cultures while simultaneously and covertly pushing for assimilation and monolingualism.¹⁹⁷

SPECIAL PROTECTION MEASURES: PROTECTION OF CHILDREN IN EXCEPTIONALLY DIFFICULT CONDITIONS

40 **Overview:** In addressing special protection measures, this submission focuses on three specific issues, given their principal importance in the arena of children's issues in China: juvenile justice, sex exploitation, and HIV/AIDS orphans.

JUVENILE JUSTICE

41 **Obligations:** Article 40 of the Convention confers rights to minors that enter the criminal justice system: they have the right to be treated with dignity¹⁹⁸ and the right to due process of law, including the presumption of innocence, legal assistance, a speedy and fair trial, and privacy throughout the proceeding.¹⁹⁹ Further, juveniles that are deprived of their liberty must not "for any reason related to their status" be denied their human rights.²⁰⁰ The Convention also requires that States Parties have specific laws and procedures to handle juvenile criminal matters, to establish a minimum age for criminal liability, and to establish safeguards for children's rights in dispositions outside of the regular penal process.²⁰¹ The PRC's extrajudicial administrative procedure measures, must therefore also comply with the norms set out in the Convention, the United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules),²⁰² the United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines),²⁰³ the United Nations Rules for the Protection of Juveniles Deprived of their Liberty²⁰⁴ and the Guidelines for Action on Children in the Criminal Justice System,²⁰⁵ which apply to children held in any setting, public or private, by order of any judicial, administrative or other public authority.²⁰⁶ Furthermore, State Parties are encouraged to provide in their periodic reports comprehensive information, data and indicators on the implementation of Convention, and on the application of other UN standards in the juvenile justice system.²⁰⁷ While the PRC's second periodic report states its adherence to the Beijing Rules,²⁰⁸ it does not reference other UN norms or standards relating to juvenile justice,²⁰⁹ nor does it cite any factors or difficulties affecting the degree of fulfillment of its Convention obligations, as the Guidelines for Action dictates.²¹⁰

JUVENILE DELINQUENCY KEY FACTS

FOUR CHARACTERISTICS OF JUVENILE DELINQUENCY IN CHINA

- Increasing violence;
- Group action;
- Younger age involvement; and
- More female involvement.²¹⁴

STATISTICAL INFORMATION

- In 1979: 78 percent (15,000 persons) of all criminal offenders were under 25;²¹⁵
- The percentage decreased in 2003 to 31 percent, but absolute numbers increased to 231,715;²¹⁶
- From 1990–2002: the percentage of under 18 minors among convicted criminal defendants ranged from a low of 5.8 percent in 1997 to a high of 7.9 percent in 2001;²¹⁷
- From 1990–2004: the number of minors convicted of criminal activities increased from 42,033²¹⁸ to 70,086;²¹⁹
- In large cities, juvenile delinquency tends to be higher than the national average. In Shanghai, the rate of juvenile delinquency in the 1990s remained between 10 to 14 percent of the criminal offenses in the city.²²⁰ In Chongqing, the percentage of minors in overall convicted criminal population ranges from a high of 21 percent in 1991 to a low of 15 percent in 2000.²²¹

TYPE OF CRIMES

- Property crimes account for about three-quarters of the crimes committed by minors.²²²

42 Varying Definitions of the Child: China's criminal system groups minors into three categories. However, these demarcations have no bearing on the imposition of extra-judicial correctional measures. The lack of consistency in age group definition makes it difficult to assess, monitor and devise relevant policies and programs. For example, China has, since the mid-1970s, experienced a rising tide of juvenile delinquency.²¹¹ However, because statistics on juvenile delinquency do not differentiate between those under 25, alarming rates are often recorded.²¹² Where available, however, age-disaggregated data indicates that the percentage of crimes committed by minors has remained within the range of 6 to 8 percent of all crimes, although the absolute number of minors convicted has shown a steady increase over the same periods of rising overall crime rates.²¹³

43 High Conviction Rate: China's Criminal Law and Criminal Procedural Law (CPL) includes several rights under the Convention: presumption of innocence until judged guilty;²²³ appointment of counsel for unrepresented minors;²²⁴ and imposition of lighter sentence on minors.²²⁵ However, where minors are prosecuted for violating the law, the PRC has an exceptionally high conviction rate of 99.9 percent.²²⁶ Although proceedings involving minors are completely closed to the public for younger defendants²²⁷ and generally closed to the public for older minors,²²⁸ all verdicts are announced in public court,²²⁹ a practice in clear contravention of the Convention.²³⁰

44 Children's Voices: The judicial system must be reformed to more adequately highlight children's voices in their own proceedings. Since the first juvenile collegiate panel was established in a Shanghai court in 1984, the PRC has established 2,400 such courts throughout the country with specific sections devoted to hearing criminal cases with child defendants. In recent years, these court sessions have adopted a comprehensive review approach in examining juvenile cases by collaborating with experts in child psychology and sociology to conduct a comprehensive study of the child defendants' backgrounds to ensure that the punishment serves reformatory goals.²³¹ In 2002, the Supreme People's Court launched a pilot scheme to establish juvenile courts in several major cities solely devoted to hearing juvenile delinquency matters.²³² The movement to adopt special juvenile courts is a step forward, but a system that includes criminal, civil and administrative cases will ensure that children's voices are heard and that their best interests be served.

EXTRAJUDICIAL MEASURES

COMMUNITY-BASED TREATMENT (ZONGHE ZHILI)²³³

- Community supervision and measures carried out at grassroots levels
- Three types, with varying degrees of court involvement:
 - (1) Community correctional measure (*shequ jiaozheng*);²³⁴
 - (2) Community education assistance (*bangjiao xiaozu*);²³⁵
 - (3) Post-release community supervision.²³⁶

CORRECTION THROUGH EDUCATION MEASURES

- Includes confinement without judicial process; public security body has discretion of when to impose
- Appeals limited to petition for review within the same agency
- Two processes: (1) Correctional Work study school (*gongdu xuexiao*);²³⁷ (2) Custody and reeducation program (*shouyong jiaoyang*).²³⁸

INTERNATIONAL JUVENILE JUSTICE STANDARDS

INTERNATIONAL STANDARD	ISSUES AND CONCERNS
Respect for views of the child: a “child-oriented juvenile justice system.” ²⁴⁰ Child accessible.	See section in this report: “Civil Rights and Freedoms: Children’s Voices and Participation”.
Comprehensive child-centered juvenile justice process separate from adult process. ²⁴¹	Juvenile tribunals deal only with criminal cases. Civil cases involving minors, such as education rights and child support, are still handled in the adult courts, which do not protect children’s special interests. ²⁴²
Independent monitoring body to report on custodial facilities, adherence to UN norms in juvenile justice. ²⁴³	China does not have an independent monitoring system.
Placement of children in closed institutions must comply with Article 37(b) and as a matter of last resort, shortest time possible. ²⁴⁴	Juvenile detention homes that are separate from those of adults are in short supply. ²⁴⁵
Juvenile detention facilities separate from adults. ²⁴⁶	RTL: housing children and adults together.
Basic procedural safeguards: ²⁴⁷ <ul style="list-style-type: none"> ▪ Presumption of innocence; ▪ Right to be notified of the charges; ▪ Right to remain silent; ▪ Right to counsel; ▪ Right to the presence of a parent or guardian; ▪ Right to confront and cross-examine witnesses; ▪ Right to appeal to a higher authority shall be guaranteed at all stages of proceedings. 	In non-penal correctional measures such as work study reform school and Custody and Education, the minor does not have legal representation, opportunity for legal defense, or appeal. ²⁴⁸

45 ***Extrajudicial Measures are Avenues for Abuse:*** While there is already concern within the formal criminal system that children’s voices are not adequately represented, the potential for abuse increases outside that system in the administrative procedures. Although administrative procedures fall outside the formal judicial process, they still involve a deprivation of liberty and must therefore meet the standards set forth in international legal provisions including the Beijing Rules, the Riyadh Guidelines, and the Guidelines for Action on Children in the Criminal Justice System. These norms require that the system “uphold the rights and safety and promote the physical and mental well-being of juveniles,” and that imprisonment be a last resort.²³⁹ Furthermore, each individual deprived of liberty must be given an opportunity to contest *before a court* the lawfulness of the detention. In all respects, the best interests of the child must be taken as the guiding principle. The PRC’s three levels of correctional measures of reform—ranging from a loose system of community-based supervision to conventional penal measures, each with varied degrees of restriction on minors’ personal liberty—fall short of these international standards: they are imposed without judicial oversight, there is very limited process of review, and there is no legal clarity of process.

46 “Work Study” as Child Labor: The ostensible goal of labor activities for juvenile offenders is to reform the attitude of the students through work, to develop job and vocational skills to build a foundation for the working world when they graduate from school.²⁵⁸ However, this model of work study schools has also become the basis for a form of school-run factories under the program of “diligent work and economical study” (*qingong jianxue*),²⁵⁹ which makes it legitimate to exploit the availability of child labor in order to make extra money to finance school operations; the curriculum of the schools consists of at least 24 class hours per week, and labor activities for not less than 12 hours a week.²⁶⁰ Not only is this a violation of the child labor provision of the Convention,²⁶¹ but it also contravenes the ILO Convention No. 182 on child labor to which the PRC is a state party, as pointed out by the CESCR in May of 2005.²⁶² Some of these school-run factories have focused more on using labor for income than providing education, and have often become the sites of unsafe work conditions, sometimes resulting in fatalities.²⁶³ Because children are not allowed to leave the schools, make phone calls, receive visits, or return home without prior approval (which can be withheld based on arbitrary point deduction)²⁶⁴ correctional work study schools are de facto detainment facilities.²⁶⁵ That children are detained without due process of law, through decisions of administrative bureaus and local ministries of education with no due process of review, is a serious contravention of the Convention.

CORRECTIONAL WORK STUDY SCHOOLS (GONGDE XUEXIAO)

Designed for 12–17 year olds who have committed minor public order offenses, but were not prosecuted under the juvenile court system.²⁵³

MISSION

- Considered part of the nine-year compulsory education;²⁴⁹
- Mission: “to save the children from delinquency and to develop their talents”;
- Curriculum is supposed to be comprehensive.²⁵⁰

HISTORY

- July 1955: First work-study reform school founded; based on Soviet model that provided education to vagrant children;²⁵¹
- 1968–August 1978: System suspended during the Cultural Revolution and beyond;
- 2003: 82 schools dispersed in most major cities across the country;²⁵² the number has dwindled over the years.

ADMINISTERED BY THE MINISTRY OF EDUCATION; NOT PART OF THE PENAL SYSTEM²⁵⁴

- Children enrolled for 2–3 years;²⁵⁵
- Has the joint approval of the local and county-level education ministries and the public security bureau;²⁵⁶
- The National People's Congress has spelled out general principles; no pertinent regulations exist to govern procedures under which minors are consigned to these schools.²⁵⁷

47 ***Custody and Education as Reform Through Labor for Children:*** In most cases, children are sent to custody and reeducation programs by the public security bureaus, without legal protections. Once sent there, minors in RTL camps are prohibited from contacting family members unless they obtain rarely granted, explicit permission. The only avenue of appeal is to the Public Security Bureau, the same agency that made the initial decision of confinement.²⁸² The minor can file a complaint under the Law on Administrative Review, but will remain confined pending the outcome of the complaint.²⁸³ The lack of procedural and substantive protections violates the Convention as well as numerous international guidelines and standards.²⁸⁴

48 ***Youth Confined with the Adult Population:*** The PRC Criminal Law explicitly states that minors should be kept separate from the adult population in any kind of confinement;²⁸⁵ however, due to a shortage of appropriate facilities for minors, most have reportedly been housed with adults since the administration of custody and reeducation has been transferred to RTL facilities.²⁸⁶ The confinement of minors with adults suggests that the goals of reform and prevention of future delinquency will not be met. Moreover, supervisors in RTL facilities have not been trained to deal specifically with a population of minors who should have additional protections, while the facilities lack the capacity to provide education and protection.²⁸⁷

THE SYSTEM OF CUSTODY AND EDUCATION (SHOURONG JIAOYANG)

- Purpose is to “educate, reform and rescue;”²⁶⁶
- Term of custody and education is 1–3 years.²⁶⁷

ESTABLISHED BY ARTICLE 17 OF THE 1979 CRIMINAL CODE

- Implementation outlined in a PSB-issued regulation, February 23, 1982;²⁶⁸
- Specified that minors in the system must complete the program in juvenile reformatory.²⁶⁹

ADMINISTERED BY THE MINISTRY OF JUSTICE²⁷⁰

- In 1996, the placement of the custody and education program was transferred from juvenile reformatory to the administration of RTL.²⁷¹

USED TO INCARCERATE MINORS AGED 16 AND UNDER²⁷²

- Offenders under 16 can be remanded to their parents’ custody for discipline, but can also be sent into Custody and Education;²⁷³
- Originally designed for minors 14–16, but the PSB interprets the term “not yet 16” to include minors not yet 14 who have committed offenses but are exempt from prosecution because of age.²⁷⁴

LACK OF DUE PROCESS; LEGAL AMBIGUITY

- No judicial body-involvement;²⁷⁵
- The Law on the Protection of Minors states it is a non-criminal penalty,²⁷⁶ but it is included in the Law on the Prevention of Juvenile Delinquency and the Criminal Law;²⁷⁷
- No explicit regulations governing what “illegal” actions can lead to confinement, who has the authority to make the decision, and how length of incarceration is determined;²⁷⁸
- Vagueness of “if necessary” language leads to arbitrary determination;²⁷⁹
- No clarity as to what triggers this system versus criminal penalties;²⁸⁰
- Conflicts with existing legal scheme.²⁸¹

49 Lack of Information and Protection: The PRC report contains no information about custody and education which is routinely imposed on minors. The data available on only a few custody and education facilities indicates that at least 3,895 minors²⁸⁸ were held in four of these facilities as of May 2000, and while youth should be afforded additional protections, custody and education is in essence RTL for children. The protections guaranteed in Chinese law are neither sufficient nor implemented. As noted by the Working Group on Arbitrary Detention, that the PRC classifies RTL and custody and education as an administrative deprivation of liberty as opposed to judicial deprivation of liberty does not affect the PRC's obligation to ensure judicial control over it.²⁸⁹ "[T]he result of removing them from the criminal system is ultimately that they are stripped of the guarantees surrounding criminal procedure."²⁹⁰

CHILD TRAFFICKING AND SEX EXPLOITATION

50 Obligations: States have an affirmative obligation to combat the "illicit transfer and non-return of children abroad,"²⁹¹ and must take all appropriate measures "to prevent the abduction of, the sale of or traffic in children for any purpose of any form."²⁹² The obligation covers both cross-border and domestic trafficking of children. States also have an affirmative obligation to protect children from all forms of sexual exploitation and sexual abuse.²⁹³ These issues of human trafficking and sexual exploitation are often intertwined in China, as discussed below.

51 China and the Sex Trade: Women and children, often deceived by promises of better lives, are trafficked into China from Malaysia, Burma, North Korea, Nepal, Russia, Vietnam and Mongolia to fuel the sex industry.²⁹⁴ Conversely, Chinese women are also given false promises of employment and then trafficked to Australia, Burma, Canada, Malaysia, Japan, Taiwan, the Philippines, the Middle East, Europe and the United States for commercial sexual exploitation.²⁹⁵ While there are many reasons for the surge of human trafficking in China, the one-child policy is generally considered a major catalyst, despite denial from Chinese officials. Yu Qing, a professor at the Sociology Management Institute of Guangxi University in Nanning, told a foreign journalist that "family planning limits encourage selling off girls,"²⁹⁶ ostensibly so that after selling the girl, parents can try again for a boy. Boys have also become a natural target for child abduction: in early October 2004, 53 baby boys were rescued in eastern Fujian Province. These babies were believed to have been purchased at prices ranging from 2,000 *yuan* to 4,000 *yuan* and were to be sold at 15,000 *yuan* to 18,000 *yuan*.²⁹⁷

52 Lack of Data: There is a general lack of data that reflects the extent and character of human trafficking in China. The Ministry of Public Security has refused to disclose how many females were reported abducted on the national level, revealing only the number rescued. The figures released so far do not seem

CHINA HUMAN TRAFFICKING KEY FACTS

- China is a source, transit, and destination country for international human trafficking in women and children;
- The one-child policy is seen as a major catalyst for human trafficking;
- Domestic trafficking in children and women taken from the poor rural regions to more affluent areas;²⁹⁸
- 2001–2003: 20,360 cases investigated; 43,215 women and children were rescued; 22,018 traffickers arrested.

to tally with the experiences of parents whose children have been abducted. For example, in May 2004 the Yunnan provincial government announced that 571 children were abducted there between 2001 and 2003, but also stated that police had managed to locate 537 children and return them to their parents.²⁹⁹ Parents, however, gave a different accounting, stating that out of 182 children abducted from the capital Kunming in the last three years, only four had been found.³⁰⁰

53 Defective Reporting: In the PRC report that covers five years, there is fewer than two pages of information on legislation and implementation of law addressing the issue of child trafficking. The report indicates that public security personnel have processed a total of 21,000 cases of abduction of women and children, and have rescued about 5,000 children.³⁰¹ It provides no data on age, gender, geographical location, nationality or ethnicity, nor does it provide any analysis of the causes of these abductions. The PRC's efforts in entering into an agreement with neighboring countries to combat trafficking is a positive step;³⁰² relevant laws have also been amended to make the trafficking and abduction of children a crime. However, the Standing Committee of the NPC became aware of the growing incidence of trafficking of children and women as early as 1984, but took another 13 years to make the amendments,³⁰³ and another three years to finalize implementation.³⁰⁴ In addition, merely enumerating programs and policies is not adequate for a comprehensive review: law enforcement organs must also be able to invest resources to combat trafficking,³⁰⁵ and more detail in data and information, program content and assessment must be made available.

HIV/AIDS ORPHANS

54 Obligations: States Parties to the Convention must make special provision to care for children affected by HIV/AIDS, whether as carriers of the disease or orphaned as a result of the disease. Where children are temporarily or permanently deprived of their family environment, States must provide special protection and assistance.³⁰⁶ In its general comment, the Committee directs that States provide "legal, economic and social protections for children affected by AIDS to ensure their access to education, inheritance, shelter, health and social services."³⁰⁷ States must also provide assistance for children to remain within existing family structures. Whenever this is not possible, states should provide "family-type alternative care (e.g. foster care)."³⁰⁸

55 Correlation Between HIV/AIDS and Poverty: In the early 1990s, poverty drove many of China's rural poor to sell blood to support their families. Unscrupulous blood-selling practices and ignorance about HIV/AIDS lead to its spread, with the highest incidence in Henan Province.³⁰⁹ Because of the lack of public information and awareness about HIV/AIDS, blood donors infected with the HIV virus in the early to mid-1990s transmitted it

HIV/AIDS ORPHANS KEY FACTS

- 100,000 children orphaned by AIDS by 2004; 2,000 children infected³¹⁹
- AIDS orphans and infected children are primarily in Henan, Yunnan, Hubei, Anhui, and Xinjiang;
- Centre for Disease Control and Prevention prediction: 138,000–260,000 AIDS orphans by the end of 2010;³²⁰
- Unofficial estimates show that there are nearly one million children suffering from direct and indirect impact of AIDS in China.³²¹

through sexual contact with their partners and through breast feeding to their children.³¹⁰ By the time the central government had passed the 1998 Blood Donation Law banning blood selling practices, it was already too late:³¹¹ many who had sold their blood were already dying of AIDS, with no access to antiretroviral treatment, or money to pay for medical care.³¹² At the end of 2003, the Chinese government estimated that there were over 840,000 HIV cases,³¹³ though this figure is widely thought to be underreported.³¹⁴ The joint assessment conducted by the State Council and UN Theme Group estimated that nearly a quarter of HIV/AIDS cases were the result of blood donation.³¹⁵ Individual efforts to educate on HIV/AIDS have led to persecution.³¹⁶

56 *AIDS Orphans Narrowly Defined:* Despite the large number of children affected by HIV/AIDS, the Ministry of Civil Affairs defines AIDS orphans as only those children who have lost both parents.³¹⁷ Under this definition, children who lose one parent to AIDS but live with the remaining parent who is HIV-positive or suffering from AIDS and have no ability to support the family are excluded from government programs designed to provide for AIDS orphans.³¹⁸ This narrow definition is contrary to the expansive obligation envisioned by the Committee, which would protect access to home, education, parental guidance and protection.

57 *Poor Implementation of Policy:* In March 2004, the State Council set out a national policy to tackle the AIDS epidemic centering on an approach of “prevention first, integration of prevention and treatment, and comprehensive prevention and control.”³²² Of the 11 initiatives, only one directly addresses AIDS orphans.³²³ This initiative was later developed into the “Four Frees and One Care Policy,”³²⁴ which was aimed at guaranteeing (1) free ARV drugs to rural or poor AIDS patients; (2) free Voluntary Counseling and Testing (VCT); (3) free drugs to HIV-infected pregnant women to prevent mother-to-child transmission, and HIV testing of newborn babies; and (4) free schooling for children orphaned by AIDS.³²⁵ The “Programme of Happiness,” for example, was launched in several villages in Henan Province in August 2003 to aid 93 children who had lost one or both parents to AIDS to support their continued education.³²⁶ The implementation of the initiative varies widely among regions. More than 80 percent of the AIDS orphans in China come from poor families; one out of five of them have had to drop out of school due to poverty.³²⁷

58 *Difficulties in Obtaining Treatment:* Children infected with HIV/AIDS have little access to medical care. In Henan, the province with the highest concentration of HIV/AIDS patients, pediatricians are reportedly unable to provide young patients the children’s formula ARVs, using instead manually-divided portions of the adult medication.³²⁸ ARVs must be distributed precisely, however, and children who receive varying doses of the medication from day to day may build up drug resistance. Many doctors simply refuse to treat children because they lack the ability to give accurate doses for them. Some doctors and AIDS activists believe the pharmacies found the market for children’s drugs too small, and were therefore reluctant to develop children’s formulations.³²⁹

59 *Abuses Suffered in Foster Care:* Doctors and activists note that children affected by HIV/AIDS in China are vulnerable to abuse by guardians or in foster homes, where some children are reportedly taken in purely for financial gain. There have been reports of teenage boys forced into work, and girls coerced into marriage or tricked into working in the sex industry.³³⁰ The government runs approximately twenty “Sunshine Houses” that

provide accommodation or education to AIDS orphans in Henan, as long as both parents are deceased. These facilities are small and under-funded, and using even the narrowest definition of AIDS orphans, can accommodate only a fraction of the children in need: for every one to four children housed, dozens in the village remained shut out.³³¹ Despite the shortage of appropriate residential and education facilities for HIV/AIDS-affected children, authorities crack down on voluntary efforts to provide care for these children by private groups or persons. In July of 2004, the authorities closed down the Dongzhen School in Shangqiu city, Henan, set up by non-governmental activists for AIDS orphans. The school's founder, Li Dan, was also reportedly detained and physically abused.³³²

CONCLUSION

60 Despite legislative reforms, programs and initiatives detailed in the PRC report, children remain an under-protected population in the PRC, and their rights remain largely out of reach. The emphasis of national policy continues to be on economic development concentrated in urban areas. Some programs such as the "Go West" campaign have begun to develop provinces in the interior. This development, however, has reportedly primarily focused on hard infrastructure such as rail and roadways linking provinces to Beijing. Education and healthcare programs, however, have been neglected, leaving programs to support children there under-funded and of low quality. The pervasive lack of disaggregated data throughout the report means that the Committee will not be able to perform a comprehensive review of the PRC's efforts in implementing the Convention. More data, disaggregated by geographic region, ethnic minority, gender and migrant or settled status, must be made available, and programs must be regularly assessed and reviewed for efficacy. However, as is evidenced throughout this report, the national government must also exercise political will to ensure that programs directed at protecting the most vulnerable populations be implemented. Only with determination will the rights of China's most vulnerable children, including AIDS orphans, migrants and the rural poor, move towards greater implementation.

ENDNOTES

INTRODUCTION

¹ “China’s GDP grows 9.5% in first half,” *Xinhua News Agency*, July 20, 2005, http://news.xinhuanet.com/english/2005-07/20/content_3243732.htm.

² Martin Ravallion and Chen Shaohua, *China’s (uneven) progress against poverty*, World Bank Policy Research Working Paper 3408, Washington: World Bank, 2004.

³ People’s Republic of China, *Second Periodic Report on Implementation of the Convention on the Rights of the Child (1996–2001) (CRC/C/83/Add.9)*, submitted to the Committee of the Rights to Child, May 2005, <http://www.ohchr.org/english/bodies/crc/crcs40.htm>.

⁴ PRC Second Periodic Report, para.5.

⁵ The exact number of migrants and migrant children is unknown. Other estimates place the number of migrants at 100–160 million. “Migrant Children’s Education Issue attracted attention from CPPCC delegates and NPC representatives,” *East Day*, March 9, 2005.

⁶ Official data on children living in rural areas are not available. This estimate is calculated under the assumption that the share of children living in urban and rural areas is equivalent to that for the national average, i.e. 58 percent for rural and 42 percent for urban. Yet, this estimate is likely to be underestimated because children in rural areas tend to be outnumber those in urban for many reasons. This estimate aims to providing some reference data on the general picture of children population in China. Rural and urban population data are taken from China Statistical Yearbook 2004. See National Bureau of Statistics, *China Statistical Yearbook 2004* (Beijing: National Bureau of Statistics, 2004).

⁷ Given lack of official statistics available, this estimate is calculated under the assumption that children’s (i.e. 0–14 age group) share in total ethnic minority population is equivalent to that for the national average, i.e. 21% of total population in 2004. This estimate is likely to be underestimated since ethnic minority groups are allowed to have two children. In some cases, ethnic minority households have more than two children. Population data of ethnic minority is based on 2000 census figures. See “Population of ethnic minority group,” *China Ethnic Minority Newspaper*, <http://www.mzb.com.cn/wenhua/zhongguo/renkou.htm>; also Zhang Tianming, “Studies of ethnic minority population in China,” *51lw.com (wu you lun wen wang)*, <http://www.51lw.com/article/sociology/682.htm>.

⁸ United Nations Office of High Commissioner for Human Rights, *Convention on the Rights of the Child*, adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of November 20, 1989. Art. 3.

⁹ *Convention of Rights of the Child*, Art. 4.

¹⁰ See E.g. People’s Republic of China, *First Periodic Report of the International Covenant on Economic, Social and Cultural Rights in the People’s Republic of China*, submitted to the Committee on Economic, Social and Cultural Rights. The PRC has signed or ratified the following international human rights treaties: International Covenant on Economic, Social and Cultural Rights (ICESCR), signed in 1997, ratified in March 2001; International Covenant on Civil and Political Rights (ICCPR), signed in 1998; International Convention on the Elimination of All Forms of Racial Discrimination (ICERD), acceded December 1981; Convention on the Elimination of All Forms of Discrimination against Women (CEDAW) signed July 1980, ratified November 1980; Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), signed December 1986, ratified October 1988; Convention on the Rights of the Child (CRC), signed August 1990, ratified March 1992. In May 2005, the PRC was reviewed for the first time by the Committee on Economic, Social and Cultural Rights (CESCR), whose concluding observations noted primary areas of concern such as the need for inclusion of civil society, the importance of disaggregated statistical data for measuring health and education developments, and reform of its discriminatory household registration system.

¹¹ The UNDP reports the Human Development Indicators in the Human Development Report on an annual basis. Apart from general Gender-Related Development Index (GDI) and Human Development Index (HDI), it also reports on social and economic indicators such as life expectancy, infant mortality, and poverty headcount. See UNDP, *Human Development Report 2004: Cultural Liberty in Today’s Diverse World*. (New York: UNDP, 2005).

¹² WHO reports health-related indicators in their annual publication World Health Report. See *World Health Organization, World Health Report 2004: Changing History* (Geneva: WHO, 2004).

¹³ The World Bank reports broad-based World Development Indicators in the annual World Development Report. See also, World Bank, *World Development Reports 2005: A Better Investment Climate for Everyone* (Washington DC: The World Bank, 2005).

¹⁴ The Millennium Development Goals (MDGs) are set forth in the UN-sponsored UN Millennium Development Project. A global report with a set of development indicators, adapted from key UNDP's Human Development Indicators, is published annually. UNDP country offices also produce country report to monitor national progress in meeting the MDGs. See UNDP, *China, Millennium Development Goals: China's Progress, an assessment by the UN Country Team in China* (Beijing: UNDP, 2004).

¹⁵ See UN Millennium Indicators Database, April 27, 2005, at http://unstats.un.org/unsd/mi/mi_goals.asp.

¹⁶ The lack of crucial data set despite a well developed system of statistical work makes it difficult to assess the overall efficacy of China's education program, as pointed out by UNESCO in its 2000 report. See UNESCO, *Education for All: The Year 2000 Assessment, Final Country Report of China, 2000*, <http://www2.unesco.org/wef/countryreports/china/>.

¹⁷ In ensuring a non-discriminatory approach in implementing their obligations under the CRC, states need to collect data that are "disaggregated to enable discrimination or potential discrimination to be identified." The Committee notes that it is essential not only for states to establish systems for data collection, they must also ensure evaluation of the collected data to "assess progress in implementation, to identify problems and to inform all policy development for children." Part of the evaluation requires the development of indicators related to all rights guaranteed by the Convention. The Committee cautions that "equal access to rights does not mean identical treatment." Committee on the Rights of the Child, *General Comment No. 5 (General Measures of Implementation of the Convention on the Rights of the Child)* CRC/GC/2003/5, at the 34th Session (September 19–October 3, 2003) of the CRC, para.12, 48.

¹⁸ For example, the report cites the China Action Plan for the Control and Prevention of AIDS, but provides no information on any benefits that children receive directly. Another example is the child nutrition program in which the authorities promote the drinking of soy milk among primary and secondary school students. The report again provides no data as to who benefits from this program, or whether poor rural children receive support for accessing nutritious meals at all. Similarly, on reporting the increase in gross national GDP and increase in living space, the report provides no usable information to assess whether the children in rural poor areas or ethnic minority regions enjoyed an improvement of living standard. A mere increase in living space measured in square meters is no improvement to one's living standard if the space remains inadequate in other respects. On the important issue of education, the authorities provide mostly aggregate national enrollment. While admitting that compulsory education has yet to reach the poor rural areas where 15 percent of the population lives, the report provides no information or data on the extent of the deficiencies to allow for assessment and evaluation of the progress of implementing this part of the Convention. PRC Second Periodic Report, paras. 209–210, 211, 220, 230–251.

¹⁹ Committee on the Rights of the Child, *Concluding Observations of the Committee on the Rights of the Child: China*, CRC/C/15/Add.56, June 7, 1996, para. 2.

HIGHLIGHT: STATE SECRETS

²⁰ Law on the Protection of State Secrets of the People's Republic of China [中华人民共和国保守国家秘密法], art. 2, adopted Sept. 5, 1988, in effect May 1, 1989.

²¹ For an overview of the state secrets legislation, see Human Rights in China, "Labor and state secrets," *China Rights Forum*, No. 3 (2004), pp. 23–33.

²² *Law on the Protection of State Secrets*.

²³ Implementation Measures of the Law on the Protection of State Secrets [保守国家秘密法实施办法], adopted May 25, 1990, in effect May 25, 1990.

²⁴ The regulations on the specific scope of state secrets and other secret matters [国家秘密及其密级具体范围的规定] are enacted in a comprehensive range of substantive areas of law. See, e.g., Ministry of Labor and State Secrets Regulations [劳动和社会保障部规定], Art. 3.1.1, classifying “undisclosed information and statistical data on the handling of child labor cases nationwide” as a state secret.

²⁵ Some reform efforts underway include the drafting of a “right to information” law, some local declassification and experiments, and draft revisions of the criminal procedural law.

²⁶ Ministry of Labor and State Secrets Regulations [劳动和社会保障部规定], Art. 3.1.1.

²⁷ All-China Women's Federation Regulations [中华人民共和国妇女联合会规定], Article 3.2.2.

²⁸ *Law on the Protection of State Secrets*, art. 2, 8(7).

²⁹ See, e.g., Ministry of Labor and Social Security, National State Secrets Bureau, *Notice on the publication of the regulations on the scope and classification of state secrets in the labor and social security affairs* [劳动和社会保障部、国家保密局, 关于印发<劳动和社会保障工作中国家秘密及其密级具体范围的规定>的通知] 尚未公布的全国童工案件查处情况及统计数据], March 2000, (classifying undisclosed national information and statistical data on the handling of child labor cases in article 3.1.1 of the regulations); National Family Planning Committee, National State Secrets Bureau, *Regulations Concerning the Scope and Classification of State Secret Information on Family Planning*, [计划生育工作中国家秘密及其密级具体范围的规定], May 1995.

³⁰ United Nations Office of High Commissioner for Human Rights, *Convention of Rights of the Child*, adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989, Art. 3.

³¹ People's Republic of China, *Report on Implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2003–2005)*, July 2005; see also United Nations Office of the High Commissioner for Human Rights, *Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*, entry into force January 18 2002, <http://www.ohchr.org/english/law/crc-sale.htm>.

³² People's Republic of China, *Report on Implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography (2003–2005)*, July 2005.

³³ Committee on the Rights of the Child, *List of issues to be taken up in connection with the consideration of the second periodic report of China*, June 15, 2005, CRC/C/Q/CHN/2.

³⁴ CESCR, *Concluding Observation of the Committee on Economic, Social and Cultural Rights: People's Republic of China (Including Hong Kong and Macau)*, E/C.12/a/Add.107, (May 13, 2005), para. 11.

³⁵ Committee on the Rights of the Child, *General Comment No. 5 (General Measures of Implementation of the Convention on the Rights of the Child)*, CRC/GC/2003/5, (Sept. 19–Oct. 3, 2003), para. 7, 8.

GENERAL MEASURES OF IMPLEMENTATION: CHILDREN IN THE LAW

³⁶ *Convention of Rights of the Child*, Art. 4.

³⁷ CRC, *General Comment No. 5*, para. 5.

³⁸ *Ibid.*, para. 18–19.

³⁹ *Ibid.*, para. 6.

⁴⁰ *Ibid.* 5, para. 20.

⁴¹ *Ibid.*, para. 24.

⁴² *Ibid.*, para. 24.

⁴³ *Ibid.*, para. 28–36.

HIGHLIGHT: CHILDREN IN PRC LAW

⁴⁴ Law on the Protection of Minors of the People's Republic of China [中華人民共和國未成年人保護法], adopted Sept. 4, 1991, in effect Jan. 1, 1992.

⁴⁵ See for example articles 10, 16, 25, 26, 27 and 28 of the *Law on the Protection of Minors*.

⁴⁶ See generally the Law on Prevention of Juvenile Delinquency of the People's Republic of China [中華人民共和國預防未成年人犯罪法], adopted June 28, 1999, in effect Nov. 1, 1999.

⁴⁷ *Law on Prevention of Juvenile Delinquency*, ch. 3.

⁴⁸ *Law on Prevention of Juvenile Delinquency*, art. 14.

⁴⁹ *Law on Prevention of Juvenile Delinquency*, arts. 34–39, 44–48.

⁵⁰ People's Republic of China, Second Periodic Report on implementation of the Convention on the Rights of the Child (1996–2001) (CRC/C/83/Add.9), submitted to the Committee of the Rights to Child, May 2005, para. 6 and the list of laws and regulations in appendix 3 of the report.

⁵¹ This is affirmed in the preamble to the Convention on the Rights of the Child, which recognizes that “the inherent dignity and of the equal and inalienable rights of all members of the human family is the foundation of freedom, justice and peace in the world.” Convention on the Rights of the Child, Preamble.

⁵² See generally the *Law on the Protection of Minors*.

⁵³ Examples of the laws include:

- Marriage Law of the People's Republic of China [中華人民共和國婚姻法], adopted Sept. 10, 1980, and revised April 28, 2001, arts. 21–24, 36–40);
- Adoption Law of the People's Republic of China [中華人民共和國收養法], adopted Dec. 1991, and revised Nov. 1998, arts. 11, 26, 31;
- Criminal Law of the People's Republic of China [中華人民共和國刑法], adopted July 1, 1979, and revised March 14, 1997, arts. 17, 39, 49, 74–77 (on criminal liability, the death penalty and prison for minors);
- Criminal Procedure Law of the People's Republic of China [中華人民共和國刑事訴訟法], adopted July 1, 1979, and revised March 17, 1996, arts. 14, 45, 51–56, 152, 163 (on presence of legal counsel, requirement of closed trial for minors, public announcement of verdicts, protecting privacy of minors and on pre-arraignment conditions);
- Principles of Civil Law of the People's Republic of China [中華人民共和國民法通則] adopted April 12, 1986, in effect Jan. 1, 1987, arts. 11 and 16 (defining legal capacity for minors, and naming parents as de facto legal guardians);
- Labor Law of the People's Republic of China, [中華人民共和國勞動法] adopted July 1994, in effect Jan. 1, 1995, art. 58;
- Regulations Prohibiting the Employment of Child Labor [禁止使用童工規定] adopted Sept. 2002, in effect Dec. 1, 2002.

⁵⁴ *Law on the Protection of Minors*, art. 2; *Principles of Civil Law*, art. 11 (stating that anyone older than 18 years of age is considered an adult with full capacity to conduct civil affairs).

⁵⁵ See e.g. *Law on the Protection of Minors*, ch. 6 (laying out legal liability for any individual or entity harming the legal rights of minors without making reference to the Convention or detailing remedies available to minors); *Law on Prevention of Juvenile Delinquency*, ch. 7 (laying out penalties for individuals and entities charged with protecting minors from delinquency, making no reference to the Convention and providing no explicit remedies to minors for violations of rights).

⁵⁶ See laws listed supra, note 53.

⁵⁷ People's Republic of China, *Second Periodic Report on implementation of the Convention on the Rights of the Child (1996–2001)*, CRC/C/83/Add.9., submitted to the Committee of the Rights to Child, May 2005, para. 6.

⁵⁸ Committee on the Rights of the Child, *Concluding Observations of the Committee on the Rights of the Child: China*, CRC/C/15/Add.56, June 7, 1996, para. 33.

⁵⁹ See e.g. *Law on Prevention of Juvenile Delinquency*, arts. 10, 13–16, 35–36; *Law on the Protection of Minors*, art. 18.

⁶⁰ Convention of Rights of the Child, art. 1.

⁶¹ See e.g. National Bureau of Statistics, *Economic Indicators of the General Population of the People's Republic of China*, 2004, http://www.stats.gov.cn/tjgb/ndtjgb/qgndtjgb/t20050228_402231854.htm, part 11, Table 11.

⁶² See e.g., *Yearbook on Chinese Juvenile Delinquency Studies*, vol. 2, Part 4 (Beijing, 2001), pp. 145–314.

HIGHLIGHT: INCONSISTENT DEFINITIONS

⁶³ *Law on the Protection of Minors*, art. 2; Principles of Civil Law, art. 11.

⁶⁴ *Criminal Law*, art. 17(2).

⁶⁵ Public Security Bureau, *Notice Regarding the Question Concerning the Custody and Education of Minors who are Below Age 14* [公安部, 关于不满十四岁的少年犯罪人员收容教养问题的通知], April 26, 1993.

⁶⁶ *Criminal Law*, art. 17(2).

⁶⁷ *Criminal Law*, art. 17(1).

⁶⁸ *Criminal Law*, art. 17(3).

⁶⁹ See e.g. *Law on the Protection of Minors*, art. 12 (stating that the People's Court can remove minors from parents if they fail to protect minors or harm their rights). The law outlines the duties of parents, school authorities and other entities that owe duty to minors, and does not accord any right to minors themselves. Similarly, the *Law on the Prevention of Juvenile Delinquency* focuses on duties that others have to prevent minors from delinquent behavior; adults in a position to prevent minors from becoming delinquent may be punished for failing to fulfill that duty. *Law on Prevention of Juvenile Delinquency*, arts. 49–56.

⁷⁰ Songnian Ying, "The Revision of the Administrative Procedure Law Unavoidable," 2002, mimeo in Chinese, <http://www.procedurallaw.com.cn/article.html?id=2541>.

⁷¹ In 2004, the Supreme People's Court handled nearly 150,000; petition cases at local courts stood at 4.22 million. "Increasing Number of Petitions Reported in 2004," *Xinhua News Agency*, March 9, 2005.

⁷² During the Tenth NPC, hundreds of thousands of people sought to petition the government; not only were their grievances not addressed, many were also harassed, beaten, detained and fined by the Public Security Bureau. The use of these measures to clamp down on petitioners raises questions regarding violations and abuses, and undercuts the petition system as an effective means of redress.

GENERAL PRINCIPLES: NON-DISCRIMINATION AND EQUAL DEVELOPMENT

⁷³ CRC, *General Comment No. 5*, arts. 4, 42 and 44, para.6, para. 12; United Nations Office of the High Commissioner for Human Rights, *Guidelines for Action on Children in the Criminal Justice System*, recommended by Economic and Social Council resolution 1997/30 of 21 July 1997, <http://www.ohchr.org/english/law/system.htm>.

⁷⁴ CRC, *General Comment No. 5*, para. 11,12.

HIGHLIGHT: WIDENING ECONOMIC AND SOCIAL GAPS

⁷⁵ World Bank, *China: An Evaluation of World Bank Assistance*, (Washington, D.C.: World Bank Operations Evaluations Department, 2004), Annex R, Table R-8. With cost of living adjustment, the Gini coefficient that denotes income disparity is 27.98 in 1981 and 36.37 in 1999; Ravallion and Chen, 46, Table 10.

⁷⁶ Ravallion and Chen, 46, Table 11. Further, “[i]nvestigators indicate the income distribution gap between the 10 per cent richest and poorest families was more than eight fold in 2004 . . . adding that the Gini index which measures the degree of income inequality was approaching 0.47, higher than the international alert line of 0.4.” Jiang Xuezhou, “Steps to Narrow Rich-Poor Gap Needed,” *China Daily*, March 11, 2005, at http://www.chinadaily.com.cn/english/doc/2005-03/11/content_423789.htm.

⁷⁷ United Nations Development Programme, *Human Development Report 2004: Cultural Liberty in Today's Diverse World*, (New York: UNDP, 2004), Table 14, 190.

⁷⁸ World Bank, *China Brief: Economic Achievements and Current Challenges*, (Washington, DC: 2005), 1.

⁷⁹ The speech made by Deng Xiaoping at the Third Plenary Session of the 11th CPC Central Committee held in December 1978 launched the “Open and Reform” policy. See Dazhong Wang, “The turning point of Deng Xiaoping and the Third Plenary Session of 11th CPC Central Committee,” May 5, 2005.

⁸⁰ Ravallion and Chen, p. 23–25, Table 15 at 48.

⁸¹ World Bank, *China Brief*, 1.

⁸² CESCR, *Implementation of the International Covenant on Economic, Social and Cultural Rights*, March 4, 2004, Addendum, 135–136, Tables 6 & 7.

⁸³ In 2004, the average farmer’s per capita income was 2,936 yuan (US \$353.7), while urban residents’ per capital income was 9,422 yuan (US \$1,135). From 1996 to 2003, per capita annual income for urban households increased 75 percent from 4839.9 yuan to 8472.2 yuan. Rural households saw just a 36 percent increase during the same period, from 1926.1 yuan to 2622.2 yuan. National Bureau of Statistics of China, *China Statistical Yearbook 2004*, (Beijing: China Statistics Press, 2004), 357. Note that the average rural per capital income still places a vast portion of the rural population below the international poverty level of one (U.S.) dollar a day. “Closing Farm-Urban Income Gap ‘Top’ Goal,” *Xinhua News Agency*, February 1, 2005. See also China State Council Information Office, *China’s Progress in Human Rights in 2004*, April 13, 2005.

⁸⁴ National Bureau of Statistics of China, *Statistics Report on Economic and Social Development in PRC 2004*, (Beijing: NBSC, 2005), http://www.stats.gov.cn/tjgb/ndtjgb/qgndtjgb/t20050228_402231854.htm.

⁸⁵ See Human Rights in China, *Implementation of the International Covenant on Economic, Social and Cultural Rights in the People’s Republic of China: A Parallel NGO Report by Human Rights in China*, submitted to the Committee on Economic, Social and Cultural Rights, April 14, 2005, para. 10–17.

⁸⁶ There is a causal correlation between poverty and child morbidity and mortality. UNICEF, *The State of World Children 2005*, (Geneva: UNICEF, 2005).

⁸⁷ Given the lack of an agreed definition and measurement of child poverty, UNICEF has proposed a working definition of children in poverty: “Children living in poverty experience deprivation of the material, spiritual and emotional resources needed to survive, develop and thrive, leaving them unable to enjoy their rights, achieve their full potential or participate as full and equal members of society.” UNICEF, *World Children 2005*, 18.

⁸⁸ Childhood Poverty Research and Policy Centre, *Country Overviews—China*, <http://www.childhoodpoverty.org/index.php?action=country>.

CIVIL RIGHTS AND FREEDOMS: CHILDREN'S VOICES AND PARTICIPATION

HIGHLIGHT: DEMOGRAPHICS OF INTERNET USE AND STATE CONTROL

⁸⁹ China Internet Network Information Center, *16th Statistical Survey Report on the Internet Development in China*, July 2005, 50.

⁹⁰ Sharon Hom, Amy Tai, and Gabriel Nichols, "The Rise of the Internet and Advancing Human Rights," *China Rights Forum*, No.3 (2004).

⁹¹ China Internet Network Information Center, *16th Statistical Survey Report on the Internet Development in China*, July 2005, 11.

⁹² "China Closes 1,600 Internet Cafes," *Xinhua News Agency*, October 31, 2004.

⁹³ "Underage Internet Surfers Banned from Cyber Cafes," *Xinhua News Agency*, October 14, 2002.

⁹⁴ The Open Net Initiative, *Internet Filtering in China in 2004–2005: A Country Study*, April 14, 2005.

⁹⁵ "China's Internet Cafes require heed," *Business Weekly*, May 18, 2004.

⁹⁶ China Internet Network Information Center, *16th Statistical Survey Report on the Internet Development in China*, July 2005, 60.

⁹⁷ "May I Have Your Attention Please," *China Daily*, June 7, 2001.

⁹⁸ "Seen But Not Heard," *China Daily*, April 22, 2005.

⁹⁹ "May I Have Your Attention Please," June 7, 2001.

¹⁰⁰ UNESCO, *Youth Media Education Survey 2001*, November 2001, 31.

¹⁰¹ On Children's Day in 2005, for example, the *China Daily* noted children's rights to free expression and opinion must be respected and protected. "Let's Hear Children Speak Their Own Minds," *China Daily*, June 1, 2005.

HIGHLIGHT: DIGITAL DIVIDE

¹⁰² China Internet Network Information Center, *15th Statistical Survey Report on the Internet Development in China*, January 2005, 6.

¹⁰³ *Ibid.*, 11.

¹⁰⁴ China Internet Network Information Centre, *Overcoming China's Digital Divide*, July 2003.

¹⁰⁵ *15th Statistical Survey Report on the Internet Development in China*, 5.

¹⁰⁶ "No losers as China grows," *China Daily*, March 20, 2004, as cited in UNICEF, *World's Children 2005*, December 9, 2004.

¹⁰⁷ China Internet Network Information Center, *16th Statistical Survey Report on the Internet Development in China*, July 2005, 50.

¹⁰⁸ *Ibid.*, 50.

¹⁰⁹ *Ibid.*, 49.

¹¹⁰ *Ibid.*, 49.

¹¹¹ Analysis of a website developed by UNICEF China in partnership with China Children's Press and Publication Group (CCPPG), <http://www.ccpg.com.cn/a/ccpg>.

¹¹² "China Closes 1,600 Internet Cafes," *Xinhua News Agency*, October 31, 2004.

¹¹³ The Open Net Initiative, *Internet Filtering in China in 2004–2005: A Country Study*, April 14, 2005.

¹¹⁴ CCPPG, <http://www.ccpg.com.cn/a/ccpg>.

¹¹⁵ "Hand-in-Hand: Fostering Equality," *China Daily*, August 26, 2004.

¹¹⁶ People's Republic of China, *Second Periodic Report on implementation of the Convention on the Rights of the Child (1996–2001)* (CRC/C/83/Add.9), submitted to the Committee of the Rights to Child, May 2005, <http://www.ohchr.org/english/bodies/crc/crcs40.htm>, para. 67–68.

¹¹⁷ "China's Internet Cafes require heed," *China Business Weekly*, May 18, 2004.

¹¹⁸ *Ibid.*

¹¹⁹ *Ibid.*

¹²⁰ For example, the Ministry of Public Security oversees spot security and Internet security of Internet cafes; the State Administration for Industry and Commerce issues business licenses and offers registration; the Ministry of Culture supervises the information on the computers in Internet cafes, and; the Ministry of Information Industry and State Administration of Radio, Film, and Television also have some supervisory powers. "China's Internet Cafes require heed," *China Business Weekly*, May 18, 2004.

¹²¹ State Council, *Measures for the administration of Internet Access Service Business Establishment* [互联网上网服务营业场所管理条例], Nov. 15, 2002, Art. 21.

¹²² Ministry of Culture, *State Administration for Industry and Commerce, Public Security Bureau, Notice on Additional Measures in Overseeing Internet Café Operations* [文化部、国家工商行政管理总局、公安部等关于进一步深化网吧管理工作的通知], May 26, 2005, Section 3.

¹²³ Bu Wei and Zheng Xinrong, Professor and Deputy Director of the Education Department at Beijing Normal University, were the program's directors. "May I Have Your Attention Please," *China Daily*, June 7, 2001.

¹²⁴ "I disagree with the decision of keeping children away from Internet cafés, because going to these places is a part of life in the information era," said Huang Hui, Director of the Center of Internet studies at the Shanghai Academy of Social Sciences. "Strict Regulations for Internet Cafes," *Eastday*, October 16, 2002.

BASIC HEALTH AND WELFARE: FAMILY PLANNING POLICIES AND THE SEX RATIO

¹²⁵ "China Grapples with Legacy of Its 'Missing Girls,'" *China Daily*, September 15, 2004.

¹²⁶ "China Grapples with Legacy of Its 'Missing Girls,'" *China Daily*, September 15, 2004.

¹²⁷ The 2000 census revealed that there were 20 percent more males than females in the under-5 age group. It also showed about 12.77 million fewer girls under the age of nine than a natural sex ratio would generate. "Care for Girls' gaining momentum," *People's Daily*, July 9, 2004.

¹²⁸ "The loss of female births due to illegal prenatal sex determination and sex-selective abortions will affect the true sex ratio at birth and at young ages, creating an unbalanced population sex structure in the future and resulting in potentially serious social problems," argued Peking University's chief demographer in 1993. "China Grapples with Legacy of Its 'Missing Girls,'" *China Daily*, September 15, 2004.

¹²⁹ Wang Feng, "Can China Afford to Continue its One-Child Policy?," *Asia Pacific Issues: an analysis from the East-West Center* No. 77, (Hawaii: East West Center), p.6.

¹³⁰ "China Reports Underpopulation of Women," *Voice of America*, July 16, 2004.

¹³¹ Yong Cai and William Lavelly, "China's Missing Girls: Numerical Estimates and Effects on Population Growth," *China Review*, Vol. 3, No. 2, Fall 2003, pp.13–29.

¹³² "States parties shall respect and ensure the rights set forth in the present Convention to each child within their jurisdiction without discrimination of any kind, irrespective of the child's or his or her parent's or legal guardian's race, colour, sex, language, religion, political or other opinion, national, ethnic or social origin, property, disability, birth or other status." United Nations Office of High Commissioner for Human Rights, *Convention of Rights of the Child*, adopted and opened for signature, ratification and accession by General Assembly resolution 44/25 of 20 November 1989, Article 2.

¹³³ "China Grapples with Legacy of Its 'Missing Girls,'" *China Daily*, September 15, 2004.

¹³⁴ The program aims to end pre-birth sex selection, condemn the drowning and abandoning of baby girls, and reward and assist families that plan to give birth to baby girls. "China Grapples with Legacy of Its 'Missing Girls,'" *China Daily*, September 15, 2004.

EDUCATION, LEISURE, AND CULTURAL ACTIVITIES: ACCESS FOR VULNERABLE GROUPS

HIGHLIGHT: UNEQUAL ALLOCATION OF RESOURCES AND BURDENS

¹³⁵ Tomasevski, Katarina, "Report of the Special Rapporteur submitted pursuant to Commission on Human Rights Resolution" Commission of Human Rights, Fifty-ninth session, December 2002, para. 10.

¹³⁶ Mun C. Tsang, "Education and National Development in China since 1949: Oscillating Policies and Enduring Dilemmas," *China Review*, (HK: Chinese University Press, 2000).

¹³⁷ "China's Education System: Reading between the Lines," *China Rights Forum*, No. 1 (2004), 47, 48.

¹³⁸ To implement the 1994 policy, the central government gave local governments the autonomy to determine tax rates under the new Budget Law, resulting in an "China's Education System: Reading between the Lines," *China Rights Forum*, No. 1 (2004), 47, 48.

¹³⁹ "Education Void Expands Wealth Gap," *China Daily*, March 10, 2005.

¹⁴⁰ CESCR, *General Comment No. 13 (The right to education)*, E/C.12/1999/10, adopted on Aug. 12, 1999, Art. 13, para. 8–9 (21st Sess. 1999); United Nations Office of the High Commissioner for Human Rights, *International Covenant on Economic, Social and Cultural Rights*, adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of December 16, 1966, entry into force January 3, 1976, Art. 14.

¹⁴¹ CESCR, *General Comment No. 13*, Art. 13, para. 13.

¹⁴² See Committee on the Rights of the Child, *General Comment No. 5 (General Measures of Implementation of the Convention on the Rights of the Child)* CRC/GC/2003/5, at the 34th Session (September 19–October 3, 2003) of the CRC, arts. 4, 42 and 44, para.6, para. 68.

¹⁴³ The PRC report indicates a 98 percent overall school enrollment for school-aged children. PRC Second Periodic Report, para. 231. This statistic is both misleading, as noted by the UN Special Rapporteur, Katarina Tomasevski in her 2003 report, it also masks the regional differences in both enrollment rate and education attainment rate. In fact, the PRC's published census data lacks any information that would allow a longitudinal analysis of children's school attainment. China's data cite to enrollment, that is, the number of pupils show up

on the first day of school, but it does not reflect the attendance rate, that is how many of these children continue to attend school through the end of the school year. Tomasevski, Katarina, "Addendum to Report Submitted by the Special Rapporteur," Mission to China, Economic and Social Council, E/CN.4/2004/45/Add.1 (Nov. 21. 2003); and Tomasevski, Katarina, "Report of the Special Rapporteur submitted pursuant to Commission on Human Rights Resolution" Commission of Human Rights, Fifty-ninth session, December 2002, para.11.

¹⁴⁴ "China Sees Progress in Education," *China Daily*, March 2, 2005.

¹⁴⁵ Report Submitted by the Special Rapporteur, Katarina Tomasevski, Addendum, Mission to China, Economic and Social Council, E/CN.4/2004/45/Add.1 (Nov. 21. 2003).

¹⁴⁶ Article 46 of the PRC Constitution states that citizens of the People's Republic of China have the "right and duty" to receive education. Constitution of the People's Republic of China [中华人民共和国宪法], adopted and in effect Dec. 4, 1982, and amended April 12, 1988, March 29, 1993, April 15, 1999.

¹⁴⁷ Municipalities have also promulgated legislation addressing the right to education. According to the 1986 Compulsory Education Law, each child has the right and duty to undergo nine years of compulsory education, including six years of primary education and three years of junior secondary education. The 1986 law aimed to provide all children with nine years of compulsory education by the year 2000. This deadline was extended by ten more years to 2010 under the 1996 Development Plan. "Shutting Out the Poorest: Discrimination against Migrant Children in City Schools," *China Rights Forum No. 2*, (2002); Christine Wong, *Providing Education in China*, May 13–15, 2002, presentation "Workshop on Decentralization and Intergovernmental Fiscal Reform," (The World Bank, Washington, DC), <http://www1.worldbank.org/publicsector/decentralization/decourse/WongA.pdf>

¹⁴⁸ Ministry of Health, *Country Report on Child Development in China (2003–2004)*, (Beijing: Ministry of Health, 2005), <http://www.china.org.cn/english/2005/May/130426.htm>.

¹⁴⁹ CESCR, *Concluding Observation of the Committee on Economic, Social and Cultural Rights: People's Republic of China (Including Hong Kong and Macau)*, E/C.12/a/Add.107, (May 13, 2005), para. 11.

¹⁵⁰ *Ibid.*, para. 37.

¹⁵¹ World Bank, *2004 World Development Indicators*, (Washington, D.C.: Development Data Center, 2004), p. 68.

¹⁵² The recent legalization of private education has created education choices for those with means. In 2004, 1.77 million students attended 78,500 schools and another 1.4 million students studied at private universities and colleges. However, this freedom of choice remains unavailable to the vast majority of China's school age population. "China Sees Progress in Education," *China Daily*, March 2, 2005.

¹⁵³ 51.5 percent of rural residents and 16.3 percent of urban residents have only achieved an elementary education. "Serious Gap in Higher Education Opportunities," *China Daily*, February 14, 2005.

¹⁵⁴ Urban residents are 3.5 times more likely than rural residents to have attained senior high school, 281.55 times more likely to have a college degree, and 323 times more likely to have graduate level college education. "Serious Gap in Higher Education Opportunities," *China Daily*, February 14, 2005.

¹⁵⁵ "More Rural than Urban Test Takers," *Xinhua News Agency*, June 8, 2004.

¹⁵⁶ A survey conducted by the Central Committee of China Association for Promoting Democracy shows that nearly 40 percent of rural junior high students drop out of school; about half of the dropouts stayed home to farm. "China Experiences Rising School Dropout Rate," *China Daily*, March 4, 2005.

¹⁵⁷ CRC, *General Comment No. 13*, para. 1 (21st Sess. 1999).

¹⁵⁸ See Human Rights Watch, "China: Right to Education; The Rights of Children Affected by AIDS," Submitted to the Committee on the Rights of the Child, June 2005, pp.2–7.

¹⁵⁹ Jiang Xin, "Who Educate China's Future Generation? Who Rescue China's Future? [江迅, 誰教育中國? 誰搶救中國未來?]" *Yazhou Zhoukan*, March 27, 2005, p. 24, 25.

¹⁶⁰ Guo, Zongxian, "The Sad Spectacle of Yunnan's Youngest Foreign Students," *Yazhou Zhoukan*, March 27, 2005, 30.

¹⁶¹ *Ibid.*, 30, 32–34.

¹⁶² Vietnam ranks 112 in the UNDP 2004 Human Development Index, with a per capita GDP of US \$2300 in 2002; Laos ranks 135 in UNDP's 2004 human development index, with a per capita GDP of US \$1720; Burma (Myanmar) ranks 132 in UNDP's 2004 human development index with a per capita GDP of US \$1027. In comparison, China ranks 94 in UNDP's 2004 human development index, with a per capita GDP of US\$4580, more than twice the GDP of Vietnam and Laos, and almost 4.5 times that of Burma. Human Development Report, 2004.

¹⁶³ Jim Yardley, "China Plans to Cut School Fees for Its Poorest Rural Students," *New York Times*, March 13, 2005.

HIGHLIGHT: TEACHING WITHOUT PAY

¹⁶⁴ Jiang Xin, 24, 28–29.

¹⁶⁵ In the rural area near Hohhot, Inner Mongolia, the local government have not paid teachers on a timely basis since July 2002. The situation has deteriorated since. Thirty teachers who have more than a decade of teaching experience have now not been paid for 16 months. Jiang Xin, 24, 27.

¹⁶⁶ Parents who choose to visit their rural family regularly are penalized with hefty fines that amount to weeks of wages. The demands of paying school tuitions, footing medical bills, buying needed fertilizer, paying debts and other incidentals have forced many migrants forgo visiting their rural families. Yardley, December 21, 2004.

¹⁶⁷ For an overview, see Human Rights in China, *Institutionalized Exclusion: The Tenuous Legal Status of Internal Migrants in China's Major Cities*, (HRIC: November 6, 2002), 7; Hein Mallee, "China's Household Registration System under Reform," *Development and Change* 26, No. 1, (1995).

¹⁶⁸ The exact number of migrants and migrant children is unknown. Other estimates place the number of migrants at 100–160 million. "Migrant Children's Education Issue attracted attention from CPPCC delegates and NPC representatives," *China EastDay*, March 9, 2005.

¹⁶⁹ "Effective monitoring of the situation with respect to housing is another obligation of immediate effect. . . . [the revised general guidelines] emphasize the need to 'provide detailed information about those groups within ... society that are vulnerable and disadvantaged with regard to housing.'" CESCR, *General Comment 4*, (*The Right to the Highest Attainable Standard of Health*), para. 13, E/C.12/2000/4 (22nd Sess., 2000).

¹⁷⁰ "Migrant Children's Education Issue attracted attention from CPPCC delegates and NPC representatives," *China EastDay*, March 9, 2005.

HIGHLIGHT: EDUCATIONAL DISCRIMINATION RESULTING FROM HUKOU SYSTEM

¹⁷¹ "Shutting Out the Poorest...", *China Rights Forum*, 11; Provisional Regulations on the School Attendance of Migrant Children (流动儿童少年就学暂行办法), Promulgated and adopted on March 2, 1998.

¹⁷² Tomasevski Report, para. 27. The state-run schools usually charge three types of fees: a 480 yuan per semester temporary student fee, a 1000 yuan school-choosing fee, and a required donation of 1,000 to 30,000 yuan. The fees required to enter the most basic schools in China's urban centers are at least 7,500 yuans. For example, book fees for migrant children in Zhaoqing Railroad Junior School run from 618 yuan to 868 yuan per semester in the 2003–2004 academic year, which is generally more than twice charged of local students. "Shutting Out the Poorest...", 4, 8.

¹⁷³ In contrast, private schools run by migrants charge substantially lower fees. Tuition for these schools runs from between 80 yuan to 1,000 yuan. "Shutting Out the Poorest...", 4, 8.

¹⁷⁴ *Ibid.*, 4, 9.

¹⁷⁵ "Migrant Children's Education Issue . . .," March 9, 2005.

¹⁷⁶ Structural development and expansion for the 2008 Olympic Games has threatened migrant children's access to available and adequate education. Urban construction for the Olympics in Beijing and in large cities around the country is taking place in the outskirts of cities, often the location of major migrant enclaves. Olympic-related construction threatens to dismantle these informal migrant enclaves overnight, including the private schools set up for the migrant children. "Shutting Out the Poorest....," 4, 12.

¹⁷⁷ *Ibid.*, 2, 4, 8.

¹⁷⁸ "Some Ten Percent Migrant Children Drop out of School," *People's Daily*, November 6, 2004.

¹⁷⁹ "UNICEF China representative Christian Voumrad said migrant people 'face prejudice and marginalization where they live and work. The same applies to the millions of children who accompany their migrating parents for they face problems and constraints in obtaining equal access to basic services such as education and health care as well as participating in social life in their new communities.'" "Some Ten Percent Migrant Children....," November 6, 2004.

HIGHLIGHT: PREFERENTIAL POLICIES ON THE BOOKS

¹⁸⁰ Legal Standards and Autonomy Options for Minorities in China: The Tibetan Case, (Cambridge: Belfer Center For Science and International Affairs), pp.20–21, http://bcsia.ksg.harvard.edu/BCSIA_content/documents/TibetanMonograph.pdf. See further details at International Campaign for Tibet, *Violations of the Convention on the Rights of the Child in Tibetan Autonomous Areas of China*, submitted to the Committee on the Rights of the Child, 2005.

HIGHLIGHT: LOWER EDUCATIONAL ATTAINMENT LEVELS FOR GIRLS

¹⁸¹ "PRC official says birthrate disparity 'serious' threat to well-off society," *China Daily*, July 8, 2004, quoted in Congressional-Executive Commission on China, Annual Report, 2004, (Washington, DC: GPO), 56.

¹⁸² "China's Education System: Reading between the Lines," *China Rights Forum*, (No.1), 2004, 48.

¹⁸³ According to the figures available at the website of the All-China Women's Federation, the proportion of female students in school in 2000 is as follows: 41 percent at college and university level; 46.2 percent at ordinary middle school level; 47.2 percent at vocational middle school level; and 47.6 percent at primary education. All-China Women's Federation Web site, <http://www.women.org.cn/english/english/fact/mulu.htm>.

¹⁸⁴ "Fewer women attain higher education level?" All-China Women's Federation Press Release, March 9, 2005.

¹⁸⁵ *Ibid.*

¹⁸⁶ PRC Second Periodic Report.

¹⁸⁷ Human Development Report 2004, p. 218.

¹⁸⁸ UNESCO, The EFA Assessment: Country Reports: China, Table 3.2 (UNESCO, 2000), <http://www2.unesco.org/wef/countryreports/china/contents.html>.

¹⁸⁹ See also Tomasevski Report, p. 12, which notes that female illiteracy increased in the 1990s from 68 percent to 71 percent.

¹⁹⁰ Committee on the Elimination of Discrimination Against Women, *Report of the Committee on the Elimination of Discrimination Against Women*, A/54/38 (part 1), 20th Session (4 May 1999), pp. 32–33.

¹⁹¹ PRC Second Periodic Report, p. 96.

¹⁹² *Convention on the Rights of the Child*, Article 8(1).

¹⁹³ *Convention on the Rights of the Child*, Article 30.

¹⁹⁴ Law on Regional National Autonomy of the People's Republic of China [中华人民共和国民族区域自治法], adopted May 31, 1984, in effect Oct. 1, 1984, and amended Feb. 28, 2001. The law directs the implementation of regional autonomy in regions with high concentration of ethnic minorities. This includes the establishment of People's Congresses and People's governments at regional, prefectural, and county levels. PRC Autonomy Law, ch.2, arts. 12–18.

¹⁹⁵ *Law on Regional National Autonomy*, arts. 5, 7, 9.

¹⁹⁶ Education Law of the People's Republic of China [中华人民共和国教育法], adopted March 18, 1995, in effect Sept. 1, 1995, art. 2; Compulsory Education Law of the People's Republic of China [中华人民共和国义务教育法], adopted April 12, 1986, in effect July 1, 1986, art. 6(2); Implementing Regulations of Compulsory Education Law of the People's Republic of China, art. 25 (1992), People's Republic of China Autonomy Law, art. 36, 37.

¹⁹⁷ Michael Dillon, "Uyghur language and culture under threat in Xinjiang," *The Central Asia-Caucasus Analyst*, August 14, 2002; "China orders end to instruction in Uyghur at top Xinjiang University," AFP, May 28, 2002.

SPECIAL PROTECTION MEASURES: JUVENILE JUSTICE

¹⁹⁸ *Convention on the Rights of the Child*, Article 40(1).

¹⁹⁹ *Convention on the Rights of the Child*, Article 40(2)(b).

²⁰⁰ UN Rules for the Protection of Juveniles Deprived of their Liberty, para. 13.

²⁰¹ *Convention on the Rights of the Child*, Article 40(3).

²⁰² United Nations Office of the High Commissioner for Human Rights, *United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules)*, adopted by General Assembly resolution 40/33 of November 29, 1985, <http://www.ohchr.org/english/law/beijingrules.htm>.

²⁰³ United Nations Office of the High Commissioner for Human Rights, *United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines)*, adopted and proclaimed by General Assembly resolution 45/112 of December 14, 1990, <http://www.ohchr.org/english/law/juvenile.htm>.

²⁰⁴ United Nations Office of the High Commissioner for Human Rights, *United Nations Rules for the Protection of Juveniles Deprived of their Liberty*, adopted by General Assembly resolution 45/113 of 14 December 1990, http://www.ohchr.org/english/law/res45_113.htm.

²⁰⁵ United Nations Office of the High Commissioner for Human Rights, *Guidelines for Action on Children in the Criminal Justice System*, Recommended by Economic and Social Council resolution 1997/30 of July 21, 1997, <http://www.ohchr.org/english/law/system.htm>.

²⁰⁶ *Guidelines for Action*, Art. 19.

²⁰⁷ *Guidelines for Action*, Art. 31.

²⁰⁸ PRC Second Periodic Report, para.285.

²⁰⁹ The PRC's second periodic report does make one other reference to the *Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment*, stating China's full compliance with that Convention and citing its submission of the third periodic report to that Committee.

²¹⁰ *Guidelines for Action*, Art. 30.

²¹¹ Some experts have attributed the phenomenon to the havoc created by the Cultural Revolution (1966–76), and its aftermath. See e.g. Shuhua Hong, "The Trend of juvenile delinquency in China and reasoning," *Juvenile Delinquency and Counter-Measures*, 2000, pp.37–51.

²¹² See e.g. *Yearbook on Chinese Juvenile Delinquency Studies*, Part 4 (Beijing, 2001), pp. 145–314.

²¹³ The number of minors sentenced for committing crimes increased from 40020 in 1996 to 58870 in 2003. See e.g. China Law Yearbook 1996, 1997, 1998, 1999, 2000, 2001, 2002, 2003, 2004 (China, Press of Law Yearbook). However, as pointed out by at least one scholar, official statistics can both overestimate and underestimate the extent of criminal offenses committed by minors. The crime figures often have to comply with the party line to serve government ideology and act as a means of social control, rather than provided as neutral statistics. Dennis S.W. Wong, "Changes in Juvenile Justice in China," *Youth and Society* (June 2001).

HIGHLIGHT: JUVENILE DELINQUENCY KEY FACTS

²¹⁴ See generally, Shuhua Hong, "Major categories of juvenile delinquency," *Juvenile Delinquency and Counter-measures*, 2000, 63–96; Lihua Tung, "Criminal Law in the Science of Law," *The Science of Child Law* (2001), 289–294.

²¹⁵ Yao Lan, "Exacting justice for minors," *Shanghai Star*, September 6, 2001.

²¹⁶ *Law Year Book 2004*, Part 12, p. 1054, Table 4.

²¹⁷ Changjun Sun and Liang Zhou, "An Analysis of Chinese Juvenile Delinquency Data," *A Study on Crime and Reform*, Vol. 9, 10 (2004).

²¹⁸ *Ibid.*

²¹⁹ Wind Gu, "Juvenile Justice System to Improve," *China.org.cn*, March 18, 2005.

²²⁰ Yao Lan, "Exacting justice for minors," *Shanghai Star*, September 6, 2001.

²²¹ *Yearbook on Chinese Juvenile Delinquency Studies*, Vol. 2, pt. 4 (2001).

²²² See generally, Hong, "Major categories of juvenile delinquency"; Tung, "Criminal Law in the Science of Law," 289–294.

²²³ *Criminal Law*, Article 12.

²²⁴ *Criminal Procedure Law*, Art. 34; Supreme People's Court Regulation on Trying Juvenile Cases [最高人民法院关于审理未成年刑事案件的若干规定], art. 15 (2001).

²²⁵ *Criminal Law*, art. 17(3).

²²⁶ Research Office of the Supreme People's Court, *Prevention of Juvenile Delinquency through fully Exercising the Authority Vested in the Judicial Branch*, *Yearbook on Chinese Juvenile Delinquency*, Vol. 2, 130, 134 (2001).

²²⁷ *Law on the Protection of Minors*, Article 42(1); *Criminal Procedure Law*, Article 152(1); *Supreme People's Court Regulations on Trying Juvenile Cases*, April 4, 2001, Art. 11(1).

²²⁸ *Law on the Protection of Minors*, Article 42(2); *Criminal Procedure Law*, Article 152(2); *Supreme People's Court Regulations on Trying Juvenile Cases*, April 4, 2001, Art. 11.

²²⁹ *Criminal Procedure Law*, Article 163 (1996).

²³⁰ *Convention on the Rights of the Child*, Article 40(2)(b)(vii).

²³¹ Tung, 380. See also, PRC Second Periodic Report, para.294(b).

²³² Yu Tian, "Reform in Court in 2005: 8 Major Measures in Judicial Reform," Mar. 10, 2005, <http://www.chinacourt.org>.

HIGHLIGHT: EXTRAJUDICIAL MEASURES

²³³ *Law on the Prevention of Juvenile Delinquency of the People's Republic of China*, Article 3 (1999).

²³⁴ The Community Correctional Measure (*shequ jiaozheng*) is a penal measure synonymous to imprisonment. It takes place under the direction of specialized national organ in collaboration with volunteer entities in the community to provide correctional measures to criminal defendants while they await verdict, decision or confirmation of judgment. It covers five categories of individuals (those under supervision order; receive suspended sentence; whose sentence is suspended because of bad health, due to pregnancy, or who have other infirmities; has been paroled; is ordered deprivation of political right and ordered to serve sentence in community). Notice from Supreme People's Court, Supreme People Procuratorate, Public Security Bureau, Ministry of Justice regarding the trial implementation of community correctional measures [最高人民法院、最高人民检察院、公安部、司法部关于发展社区矫正试点工作的通知], July 10, 2003. Juveniles who have committed minor offenses and are deemed to be beyond the control of their parents are the main target group under this measure. Supreme People's Court, Supreme People's Procuratorate, Public Security Bureau, Ministry of Justice, Notice on Expanding Trial Spots for Community Correctional Measures [全国人民代表大会常务委员会关于加强社会治安综合治理的决定], July 10, 2003.

²³⁵ Community education assistance (*bangjiao xiaozu*), is a measure that targets juveniles who have committed minor offenses that are not sufficiently serious to warrant full blown criminal prosecution, but whose parents are believed to be unable to discipline them. It first emerged in the 1984 notice issued by the Department of Justice. Education assistance is one main measure for educating and reforming minors who are borderline delinquent. The Department of Justice instructs the local government to coordinate with other players to ensure that minors who have minor infractions will receive the correctional education until their behavior is reformed. Ministry of Justice, Suggestions on Strengthening Community-level Mediation Work and Promotion of Comprehensive Community Treatment, Sept. 28, 1984, part 3 [司法部关于加强人民调解工作积极推进社会治安综合治理的意见].

Under this measure, the minors "have to study or work in the community under the supervision or schools, work units and the police." Juveniles are ordered to receive community education assistance by judges because of the non-serious nature of the offense or because the minors demonstrate remorse for their actions. Dennis S.W. Wong, "Changes in Juvenile Justice in China," *Youth & Society* (June 2001), 492, 499; Lihua Tung, "Correctional Measures for Juvenile Delinquents," *The Science of Child Law* (2001), p.271.

²³⁶ Post-release community supervision is instituted for young people who are released from juvenile reformatory or other forms of reform institutions. These minors are then placed under supervision in work units or other neighborhood groups. Dennis S.W. Wong, "Changes in Juvenile Justice in China," *Youth & Society* (June 2001), 492, 499; Central Committee for Social Order Comprehensive Treatment, Public Security Bureau, Ministry of Justice, Ministry of Labor, State Administration of Industry and Commerce, Opinion on Strengthening the Placement and Educational Assistance for Individuals Released from Incarceration or Labor Camps [中央社会治安综合治理委员会、公安部、司法部、劳动部、民政部、国家工商行政管理局关于进一步加强对刑满释放、解除劳教人员安置和帮教工作的意见], Feb. 14, 1994.

²³⁷ General Office of the State Council, Notice on Suggestions to Improve Correctional Work Study School [国务院办公厅转发国家教育委员会、公安部、共青团中央关于办好工读学校的几点意见的通知], Para. 5, June 17, 1987.

²³⁸ Public Security Bureau, Methods on Managing Custody and Education Facilities, April 24, 2000, art. 3.

²³⁹ *United Nations Rules for the Protection of Juveniles*, art. 1.

HIGHLIGHT: INTERNATIONAL STANDARDS

²⁴⁰ Guidelines for Action on Children in the Criminal Justice System, Recommended by Economic and Social Council resolution 1997/30 of 21 July 1997.

²⁴¹ United Nations Guidelines for the Prevention of Juvenile Delinquency (The Riyadh Guidelines), Adopted and proclaimed by General Assembly resolution 45/112 of 14 December 1990, para.3; Guidelines for Action on Children in the Criminal Justice System, Recommended by Economic and Social Council resolution 1997/30 of 21 July 1997, para.14(a).

²⁴² Yao Lan, September 6, 2001.

²⁴³ Guidelines for Action on Children in the Criminal Justice System, Recommended by Economic and Social Council resolution 1997/30 of 21 July 1997, para.21–22.

²⁴⁴ *Guidelines for Action*, Art.18; *The Riyadh Guidelines*, Art.13.1–13.5, 17.3.

²⁴⁵ Yao Lan, September 6, 2001.

²⁴⁶ *The Beijing Rules*, Art.27.3.

²⁴⁷ *Ibid.*, Art..7.1.

²⁴⁸ Guirong Zhang and Fu Li, *Some Thoughts on Legislating on the Custody and Education System, Study on Crime and Reformation*, Vol. 1(2004), 44, 45–47.

HIGHLIGHT: CORRECTIONAL WORK STUDY (REFORM) SCHOOLS

²⁴⁹ Xiang Guo, “The Role of Correctional work study school in the Prevention of Juvenile Delinquency,” *Yearbook on Chinese Juvenile Delinquency Studies*, Vol. 2(2001), p.961; *Implementing Regulations of Compulsory Education Law*, Art.6.

²⁵⁰ General Office of the State Council, Notice on Suggestions to Improve Correctional work study school [国务院办公厅转发国家教育委员会、公安部、共青团中央关于办好工读学校的几点意见的通知], Sec. 3, June 17, 1987.

²⁵¹ “Banished to the Corner of the Education System: Concern for the Future of Correctional work study school, Part 1,” *People’s Daily*, July 15, 2002.

²⁵² PRC Ministry of Education, “Basic Statistics of Correctional Work-Study Schools,” (2003), <http://www.moe.gov.cn/edoas/website18/info14284.htm>. The China report indicates that there are only 76 nationwide. PRC Second Periodic Report, para. 301.

²⁵³ *Notice on Suggestions to Improve Correctional work study school*, sec. 5.

²⁵⁴ See generally, PRC Second Periodic Report, para. 289, 301–303.

²⁵⁵ *Notice on Suggestions to Improve Correctional work study school*.

²⁵⁶ *Notice on Suggestions to Improve Correctional work study school*, sec. 5; Dennis S.W. Wong, “Changes in Juvenile Justice in China,” *Youth & Society*, 492, 499 (June 2001).

²⁵⁷ *Law on the Prevention of Juvenile Delinquency*, Article 36.

²⁵⁸ *Notice on Suggestions to Improve Correctional work study school*, sec. 4; Tung, Lihua, p. 275.

²⁵⁹ *Notice on Suggestions to Improve Correctional work study school*, sec. 4(3).

²⁶⁰ *Notice on Suggestions to Improve Correctional work study school*, sec. 4.

²⁶¹ *Convention on the Rights of the Child*, Article 32.

²⁶² CESCR, *Concluding Observations of the Committee on Economic, Social and Cultural Rights: People's Republic of China (including Hong Kong and Macao)*, E/C.12/1/Add.107, para.23 (May 13, 2005).

²⁶³ HRIC & China Labor Bulletin, "Labor and State Secrets," *China Rights Forum*, No.3 (2004) p.23.

²⁶⁴ Prior to 1986, gongdu xuexiao (Correctional Work Study Schools) functioned as juvenile detention centers, operated by the Public Security Bureau and the Ministry of Education, since then, they serve as the continuation of regular schooling to fulfill the mission of compulsory education. These schools are enclosed compounds and operate in the mode of military boot camps: they are secured by heavy metal gate where students are not free to leave. The students are not allowed to make phone calls, receive guests, or exchange their background with classmates; they are allowed to read only censored newspapers, and live and study under surveillance. The intent is to isolate the students from negative influences, and to instill new values in them. There is a daily class called behavioral evaluation, which is a self-evaluation, peer-evaluation and teacher-evaluation scheme to access the behavior of the students. The points of the behavior evaluation class determine whether a student may be allowed to go home that weekend. Students can lose points for not properly performing daily chores. Exclusive Investigation by Zhengzhou Evening News on the Reasons behind the difficulties facing Gongdu Xuexiao in student recruitment [鄭州晚報獨家調查 工讀學校招生窘境背後], Nov. 15, 2004, <http://www.sina.com.cn>; "The Future of Gongdu Xuexiao and the problem students [工讀學校和問題學生的出路]," *Nanfang Weekly*, February 27, 2003; "As Gongdu Xuexiao gradually close, tens of thousands problem youth traverse on the verge of delinquency [工讀學校陸續停辦，萬餘問題青少年游走犯罪邊緣]," (February 27, 2003); "A repeat investigation on the allegation that several Shenyang students forced assignment to gongdu xuexiao [沈陽某校學生被強送“工讀”事件再調查]," *Huashang Morning News*, January 6, 2004, <http://www.xsj21.com/news/1073356352.html>.

²⁶⁵ *The Beijing Rules*, Art. 11(b).

HIGHLIGHT: THE SYSTEM OF CUSTODY AND EDUCATION

²⁶⁶ Public Security Bureau, *Methods on Managing Custody and Education Facilities*, Art. 3 (April 24, 2000).

²⁶⁷ Public Security Bureau, *Regulations Concerning the Scope of Custody and Detention within the Juvenile Reformatory* [关于少年犯管教所收押、收容范围的通知], Feb. 23, 1982. See also, Fukang Dai, "Study on the juvenile custody and education issue," [对犯罪少年收容教养问题的调查研究] *Study on Youth Delinquency*, Vol. 4, p. 52 (2004).

²⁶⁸ *Regulations Concerning the Scope of Custody and Detention within the Juvenile Reformatory*.

²⁶⁹ *Regulation Concerning the Scope of Custody and Detention within the Juvenile Reformatory*.

²⁷⁰ Fukang Dai, *Study on the juvenile custody and education issue*.

²⁷¹ Ministry of Justice, *Notice Regarding the Transfer of Juveniles from State Custody and Education Facilities to Re-education through Labor Facilities* [关于将政府收容教养的犯罪少年移至劳动教养场所的通知], Jan. 1996.

²⁷² The custody and education system was written into law in 1979. Article 14(4) of the Criminal Code stated that an offender who were under age 16 and was therefore not prosecuted under the criminal law, would be remanded to be disciplined by his parents, and if necessary, would be placed under the government's custody and education program. *Criminal Law*, art. 14(4), 17(4).

²⁷³ Article 17(4) of the Criminal Code states that if an offender is not yet 16 years of age, the [court] may remand the minors to their parents or legal guardians for discipline. But when and if it is necessary, the minor can also be placed under the custody and education system run by the government. This arrangement is affirmed under Articles 38 and 39 of Law on the Prevention of Juvenile Delinquency and also Article 39 of the Law on the Protection of Minors.

²⁷⁴ Public Security Bureau, *Notice Regarding the Question Concerning the Custody and Education of Minors who are Below Age 14* [公安部, 关于不满十四岁的少年犯罪人员收容教养问题的通知], April 26, 1993.

²⁷⁵ Lihua Tung, pp. 279–280. See also Dai, 55–56, 58.

²⁷⁶ *Law on the Protection of Minors*, Article 39.

²⁷⁷ *Law on the Prevention of Juvenile Delinquency*, Articles 38–39; Criminal Law, art. 17(4).

²⁷⁸ Dai, 55–60.

²⁷⁹ *Ibid.*, p.58.

²⁸⁰ *Ibid.*, p.59.

²⁸¹ *Ibid.*, p.60.

²⁸² Law on Administrative Review of the People's Republic of China [中华人民共和国行政复议法], adopted April 1999, in effect October 1, 1999, Art. 2, 6(1).

²⁸³ Supreme People's Court "Response to the Question of whether cases involving Custody and Education of Minors fall within matters covered by the Law on Administrative Review," [关于“少年收容教养”是否属于行政诉讼受案范围的答复], in effect 1998; Law on Administrative Review of the People's Republic of China [中华人民共和国行政复议法], Art. 21. See also Public Security Bureau, "Methods of Managing Custody and Re-education Facilities," [收容教育所管理办法] April 24, 2000, para. 51,52. The only way for a person in custody and education to leave the facilities is when he/she complete the term. The regulation does not suggest that one is entitled to be released pending a complaint filed pursuant to the Administrative Procedure Act.

²⁸⁴ *Convention on the Rights of the Child*, Art. 9(1), 37(b), 37(c), and 40; *U.N. Rules for the Protection of Juveniles*, rules 2, 11(b), 14 and 15; *The Beijing Rules*, Rule 17.1.

²⁸⁵ *Prison Law of the People's Republic of China* [中华人民共和国监狱法], in effect December 29, 1994, Art. 39.

²⁸⁶ Guirong Zhang, et al, "Exploration on the Models of Managing Youth in Custody and Education Programs," *Research on Crime and Rehabilitation*, No. 9(2001), p. 18.

²⁸⁷ *Ibid.*, pp. 18–19.

²⁸⁸ 93 in Shanghai, 321 in Guangzhou, 3344 in Guangdong Province facility, and 137 in Shandong. Zhang, Guirong, et al, "Exploration on the Models of Managing Youth in Custody and Education Programs," *Research on Crime and Rehabilitation*, No. 9, p. 18, 20 (2001).

²⁸⁹ Commission on Human Rights, Working Group on Arbitrary Detention, Civil and Political rights, Including the Question of Torture and Detention, Report of the Working group on Arbitrary Detention, Addendum, Mission to China, E/CN.4/2005/6/Add.4, (Advanced Edited Version, December 29, 2004) para. 54.

²⁹⁰ *Ibid.*, para. 55.

SPECIAL PROTECTION MEASURES: CHILD TRAFFICKING AND SEX EXPLOITATION

²⁹¹ *Convention on the Rights of the Child*, Art. 11.

²⁹² *Ibid.*, Art. 35.

²⁹³ *Ibid.*, Art. 34.

²⁹⁴ U.S. Department of State, *Victims of Trafficking and Violence Protection Act of 2000: Trafficking in Persons Report*, June 14, 2004, <http://www.state.gov/g/tip/rls/tiprpt/2004/>.

²⁹⁰ U.S. Trafficking in Persons Report 2004.

²⁹⁰ “Bias for boys leads to sale of baby girls in China,” *New York Times*, 20 July 2003.

²⁹⁷ “110 Arrested for Baby Trafficking,” *China Daily*, October 8, 2004.

HIGHLIGHT: CHINA HUMAN TRAFFICKING KEY FACTS

²⁹⁸ U.S. Trafficking in Persons Report 2004.

²⁹⁹ “Official Abduction Figures Don’t Add Up,” *South China Morning Post*, June 9, 2004.

³⁰⁰ *Ibid.*

³⁰¹ This averages 1,000 children recovered every year and 4,000 cases processed. PRC Second Periodic Report, para. 379.

³⁰² “Six Asian nations act to stop human trafficking,” *Reuters*, March 31, 2005

³⁰³ PRC Second Periodic Report, para. 375. See Criminal Law of the People’s Republic of China, Articles 240, 241, 242 (1997).

³⁰⁴ Second Periodic Report of the People’s Republic of China on Implementation of the Convention on the Rights of the Child (1996–2000), para. 376. See e.g. Ministry of Public Security notice 3/2000 on applying laws and policies against the abduction and trafficking of women and children; Joint circular by Supreme People’s Procuratorate, Supreme People’s Court, the Ministry of Public Security, the Ministry of civil Affairs, the Ministry of Justice and All Chinese Women Federation notice 3/2000, on problems in combating the abduction and trafficking of women and children; Supreme People’s Procuratorate notice 3/2000. Circular on the Involvement of Supreme People’s Procuratorate in the campaign to combat abduction and trafficking.

³⁰⁵ Unofficial figure estimates that only 25 percent of child abduction cases has been taken on by the Kunming Public Security Bureau. Parents of abducted children have lost hope with the police and have started support network in different cities across China. 200 names of missing children are collected by a group in Kunming. Its founder, Li Qifang, criticized that “time and time again, the [police] have told us they’re investigating. After two years with no information or leads at all, how can we believe them?” See Yong Cao and Hui Ma, “The crackdown of child trafficking gangs in Yunnan [雲南：艱難反擊販童黑幫],” *Southern Weekend*, January 1, 2005; Louisa Lim, “On the trail of a trafficked child,” *BBC*, December 16, 2004.

SPECIAL PROTECTION MEASURES: HIV/AIDS ORPHANS

³⁰⁶ *Convention on the Rights of the Child*, Art. 20.

³⁰⁷ CRC, *General Comment 3* (HIV/AIDS and the Rights of the Child), para. 31.

³⁰⁸ CRC, *General Comment 3*, para.34.

³⁰⁹ In the village of Wenlou in the Henan County of Shanghai, where blood donation was a major source of income, an estimated 65 percent of its villagers had been infected with HIV. In the nearby Donghu Village, the infection rate was estimated at 80 percent. Villagers began to die of AIDS in the late 1990s as a result of disastrous blood collection practices. See "HIV/AIDS Epidemic in Rural China," *World Socialist Web Site*, http://www.wsws.org/articles/2001/aug2001/aids-a06_prn.shtml; Adam Brookes, "Bad Blood Spreads AIDS in China," *BBC*, May, 30, 2001.

³¹⁰ "Few Chinese Well-Informed About AIDS Survey," *Xinhua News Agency*, August 10, 2004.

³¹¹ See generally Human Rights in China, "Compassionate Determination: One Women's Struggle to Help the Victims of Henan's HIV Epidemic," April 22, 2001, <http://www.hrichina.org>.

³¹² See Brookes, May 30, 2001.

³¹³ State Council AIDS Working Committee Office and UN Theme Group on HIV/AIDS in China, *A Joint Assessment of HIV/AIDS Prevention, Treatment and Care in China* (December 1, 2004), p.1. "HIV/AIDS proposals announced for 2005," *China Daily*, March 19, 2005.

³¹⁴ Hu Jia, "A Tale of Two Crisis: SARS vs. AIDS," *China Rights Forum*, No. 3, (2003), 57, 58–59.

³¹⁵ The estimated proportion of HIV/AIDS cases is 24.1 percent, with another 0.6 percent a result from receiving blood or blood products. Another 0.5 percent was result from mother-to-child transmission, a portion of which could be related to blood donor mothers who transmit the HIV virus through breast feeding. *2004 Joint HIV/AIDS Assessment*, Figure 5, at 4.

³¹⁶ See Albert Chen, "The Limits of Official Tolerance: The Case of Aizhixing," *China Rights Forum*, No.3, (2003), 51; "Chinese AIDS Campaigner Faces Defamation Trial in Central Henan," *Agence France Presse*, September 15, 2003; Hu Jia, 57, 59.

³¹⁷ Jane Cai, "AIDS orphans face little sunshine," *South China Morning Post*, January 5, 2005

³¹⁸ This definition is contestable as many believe that a broader concept should be adopted as AIDS orphans should be defined as children affected by AIDS, whether or not their parents have died of AIDS. Thus, children infected with AIDS or their parents (either one of them) infected with the virus should be put under the HIV-affected-children category. "Definition of Aids Orphans" in Database, *CareYouth.com*, <http://www.careyouth.com/guerx/dangan/a.htm>.

HIGHLIGHT: HIV/AIDS ORPHANS KEY FACTS

³¹⁹ Clinton Foundation, "China Fast Facts" in Country, <http://www.clintonfoundation.org/country.php?c=China>.

³²⁰ "China hotels, schools turn away AIDS orphans," *Radio Free Asia*, August 12, 2004.

³²¹ "China's AIDS-infected children [我国近百万儿童受到艾滋病影响]," *CHAIN China HIV/AIDS Information Network*, June 23, 2005.

³²² *Joint Assessment of HIV/AIDS Prevention*, p. 9–14.

³²³ Notice on Strengthening Assistance to Poor People Living with HIV/AIDS (PLWHA), Families of PLWHA and Orphans [民政部关于加强对生活困难的艾滋病患者、患者家属及患者遗孤救助工作的通知], issued May 15, 2004, at <http://www.mca.gov.cn/artical/content/200451810502/20041230124451.html>.

³²⁴ However, the policy excludes children who still have one surviving parent, or whose remaining parent is afflicted with HIV/AIDS, or who will soon be orphaned and left unattended as their parents are dying of full-blown AIDS. Schools do not uniformly implement the government's free tuition policy. "Who can redeem the plight of HIV/AIDS orphans [誰來拯救艾滋病孤兒的心靈]," *Beijing Youth Journal* via *People's Daily*, January 31, 2005.

³²⁵ *Joint Assessment of HIV/AIDS Prevention*, p.9.

³²⁶ The villages covered were Wenlou, Shifo, and Liuzhuang in Shangcai County. The project was initiated by the China Population Welfare Foundation with financial help from the Ford Foundation. "Help coming in for AIDS orphans," *China Daily*, June 9, 2004.

³²⁷ David Fang, "Appeal exposes plight of AIDS orphans," *South China Morning Post*, December 1, 2004

³²⁸ Josephine Ma, "Children dying for lack of AIDS drug cocktails," *South China Morning Post*, January 12, 2005

³²⁹ *Ibid.*

³³⁰ "The way to a life for AIDS orphans," *China Today*, April 2, 2004.

³³¹ Jane Cai, "AIDS orphans face little sunshine," *South China Morning Post*, January 5, 2005.

³³² "China hotels, schools turn away AIDS orphans," *Radio Free Asia*, August 12, 2004.

LIST OF CITED SOURCES

INTERNATIONAL LAW

Committee on Economic, Social and Cultural Rights, *General Comment 4 (The Right to the Highest Attainable Standard of Health)*, 13, E/C.12/2000/4.

Committee on Economic, Social and Cultural Rights, *General Comment No. 1 (The right to education)*, E/C.12/1999/10, adopted on August 12, 1999.

Committee on Economic, Social and Cultural Rights, “*Concluding Observation of the Committee on Economic, Social and Cultural Rights: People’s Republic of China (Including Hong Kong and Macau)*,” E/C.12/a/Add.107, May 13, 2005.

Committee on Economic, Social and Cultural Rights, “*Implementation of the International Covenant on Economic, Social and Cultural Rights*,” March 4, 2004.

Commission on Human Rights, Working Group on Arbitrary Detention, *Civil and Political rights including the Question of Torture and Detention, Report of the Working group on Arbitrary Detention, Addendum, Mission to China*, E/CN.4/2005/6/Add.4, (Advanced Edited Version), December 29, 2004.

Committee on the Elimination of Discrimination Against Women, *Report of the Committee on the Elimination of Discrimination Against Women*, 20th Session, May 4, 1999 A/54/38 (part 1), 32-33.

Committee on the Rights of the Child, *General Comment No. 5 (General Measures of Implementation of the Convention on the Rights of the Child)* CRC/GC/2003/5, October 3, 2003.

Committee on the Rights of the Child, *Concluding Observations of the Committee on the Rights of the Child: China*, CRC/C/15/Add.56, June 7, 1996.

United Nations Office of High Commissioner for Human Rights, *Convention of Rights of the Child*, adopted and opened for signature, ratification and accession by General Assembly resolution 44/25, November 20, 1989.

United Nations Office of the High Commissioner for Human Rights, *Guidelines for Action on Children in the Criminal Justice System*, recommended by Economic and Social Council resolution 1997/30, July 21, 1997.

United Nations Office of the High Commissioner for Human Rights, *United Nations Guidelines for the Prevention of Juvenile Delinquency* (The Riyadh Guidelines), adopted and proclaimed by General Assembly resolution 45/112, December 14, 1990.

United Nations Office of the High Commissioner for Human Rights, *International Covenant on Economic, Social and Cultural Rights*, adopted and opened for signature, ratification and accession by General Assembly resolution 2200A (XXI) of December 16, 1966, effective January 3, 1976.

United Nations, *Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography*, effective January 18, 2002.

United Nations, *United Nations Rules for the Protection of Juveniles Deprived of their Liberty*, adopted by General Assembly resolution 45/113, December 14, 1990.

United Nations, *Rules for the Protection of Juveniles Deprived of their Liberty*, General Assembly res 45/113, annex, 45 U.N. GAOR Supp. (No. 49A) at 205, U.N. Doc. A/45/49 (1990).

United Nations, *Standard Minimum Rules for the Administration of Juvenile Justice* ("Beijing Rules"), General Assembly res. 40/33, annex, 40 U.N. GAOR Supp. (No. 53) at 207, U.N. Doc. A/40/53 (1985).

DOMESTIC LAW

Adoption Law of the People's Republic of China [中华人民共和国收养法], adopted Dec. 1991, and revised Nov. 1998, arts. 11, 26, 31.

All-China Women's Federation Regulations [中华人民共和国妇女联合会规定], Article 3.2.2.

Constitution of the People's Republic of China [中华人民共和国宪法], adopted and in effect Dec. 4, 1982, and amended April 12, 1988, March 29, 1993, April 15, 1999.

Compulsory Education Law of the People's Republic of China [中华人民共和国义务教育法], adopted April 12, 1986, in effect July 1, 1986.

Criminal Law of the People's Republic of China [中華人民共和國刑法], adopted July 1, 1979, and revised March 14, 1997.

Criminal Procedure Law of the People's Republic of China [中華人民共和國刑事訴訟法], adopted July 1, 1979, and revised March 17, 1996.

Criminal Procedure Law, Art. 34; *Supreme People's Court Regulation on Trying Juvenile Cases* [最高人民法院关于审理未成年刑事案件的若干规定], art. 15 (2001).

"Decision by the Central Committee of the Chinese Communist Party and State Council on Strengthening Comprehensive Social Order Treatment [中共中央、国务院关于加强社会治安综合治理的决定]," February 19, 1991.

"Decision by the Standing Committee of the National People's Congress on Strengthening Comprehensive Social Order Treatment, [全国人民代表大会常务委员会关于加强社会治安综合治理的决定]," March 2, 1991.

Education Law of the People's Republic of China [中华人民共和国教育法], adopted March 18, 1995, in effect Sept. 1, 1995.

General Office of the State Council, "Notice on Suggestions to Improve Work Study Reform School [国务院办公厅转发国家教育委员会、公安部、共青团中央关于办好工读学校的几点意见的通知]," June 17, 1987.

Implementing Regulations of Compulsory Education Law [中华人民共和国义务教育法实施细则],” approved by the State Council on February 29, 1992, effective March 14, 1992.

Labor Law of the People's Republic of China, [中华人民共和国劳动法], adopted July 1994, in effect January 1, 1995.

Law on the Protection of State Secrets of the People's Republic of China [中华人民共和国保守国家秘密法], art. 2, adopted Sept. 5, 1988, in effect May 1, 1989.

Implementation Measures of the Law on the Protection of State Secrets [保守国家秘密法实施办法], adopted May 25, 1990, in effect May 25, 1990.

Law on Regional National Autonomy of the People's Republic of China [中华人民共和国民族区域自治法], adopted May 31, 1984, in effect Oct. 1, 1984, and amended Feb. 28, 2001.

Law on Administrative Review of the People's Republic of China [中华人民共和国行政复议法], adopted at the 9th session of the 9th Congress of the Standing Committee of the National People's Congress (April 1999), effective October 1, 1999.

Law on Maternal and Infant Health Care of the People's Republic of China [中華人民共和國母嬰保健法], adopted on October 27, 1994 at the 10th Session of the 8th National People's Congress, in effect on June 1, 1995.

Law on Prevention of Juvenile Delinquency of the People's Republic of China [中華人民共和國預防未成年人犯罪法], adopted June 28, 1999, in effect Nov. 1, 1999.

Law on the Protection of Minors of the People's Republic of China [中華人民共和國未成年人保护法], adopted Sept. 4, 1991, in effect Jan. 1, 1992.

Marriage Law of the People's Republic of China [中華人民共和國婚姻法], adopted Sept. 10, 1980, and revised April 28, 2001, arts. 21–24, 36–40).

Ministry of Civil Affairs of the People's Republic of China, “Notice on Strengthening Assistance to Poor People Living with HIV/AIDS (PLWHA), Families of PLWHA and Orphans (民政部关于加强对生活困难的艾滋病患者、患者家属及患者遗孤救助工作的通知),” May 15, 2004, <http://www.mca.gov.cn/artical/content/200451810502/20041230124451.html>.

Ministry of Culture, State Administration for Industry and Commerce, Public Security Bureau, “Notice on Additional Measures in Overseeing Internet Café Operations [文化部、国家工商行政管理总局、公安部等关于进一步深化网吧管理工作的通知],” May 26, 2005.

Ministry of Justice, “Notice Regarding the Transfer of Juveniles from State Custody and Education Facilities to Re-education through Labor Facilities [关于将政府收容教养的犯罪少年移至劳动教养场所的通知],” Jan. 1996.

Ministry of Justice, *Suggestions on Strengthening Community-level Mediation Work and Promotion of Comprehensive Community Treatment*, [司法部关于加强人民调解工作积极推进社会治安综合治理的意见] Sept. 28, 1984.

Ministry of Labor and Social Security, National State Secrets Bureau, Notice on the publication of the regulations on the scope and classification of state secrets in the labor and social security affairs [劳动和社会保障部、国家保密局, 关于印发<劳动和社会保障工作中国家秘密及其密级具体范围的规定>的通知] 尚未公布的全国童工案件查处情况及统计数据], March 2000.

Ministry of Public Security, "Notice of the Ministry of Public Security on the application of laws and policies in combating the abduction and trafficking of women and children [公安部关于印发<公安部关于打击拐卖妇女儿童犯罪适用法律和政策有关问题的意见>的通知.]," March, 2000.

National Family Planning Committee, National State Secrets Bureau, *Regulations Concerning the Scope and Classification of State Secret Information on Family Planning*, [计划生育工作中国家秘密及其密级具体范围的规定], May 1995.

Principles of Civil Law of the People's Republic of China [中华人民共和国民法通则] adopted April 12, 1986, in effect Jan. 1, 1987.

Prison Law of the People's Republic of China [中华人民共和国监狱法], in effect December 29, 1994.

"Provisional Regulations on the School Attendance of Migrant Children [流动儿童少年就学暂行办法]," issued and promulgated by the State Council and the Public Security Bureau on March 2, 1998.

Public Security Bureau, "Methods of Managing Custody and Re-education Facilities," [收容教育所管理办法] April 24, 2000.

Public Security Bureau, Notice Regarding the Question Concerning the Custody and Education of Minors who are Below Age 14 [公安部, 关于不满十四岁的少年犯罪人员收容教养问题的通知], April 26, 1993.

Public Security Bureau, "Regulation Concerning the Scope of Custody and Detention within the Juvenile Reformatory [关于少年犯管教所收押、收容范围的通知]," Feb. 23, 1982.

Regulations Prohibiting the Employment of Child Labor [禁止使用童工规定], adopted Sept. 2002, in effect Dec. 1, 2002.

Central Committee for Social Order Comprehensive Treatment, Public Security Bureau, Ministry of Justice, Ministry of Labor, State Administration of Industry and Commerce, *Opinion on Strengthening the Placement and Educational Assistance for Individuals Released from Incarceration or Labor Camps* [中央社会治安综合治理委员会、公安部、司法部、劳动部、民政部、国家工商行政管理局关于进一步加强对刑满释放、解除劳教人员安置和帮教工作的意见], Feb. 14, 1994.

State Council, *Measures for the administration of Internet Access Service Business Establishment* [互联网上网服务营业场所管理条例], Nov. 15, 2002.

Supreme People's Procuratorate, "Notice on Implementing the Decision of the Central Committee of the Chinese Communist Party, State Council and National People's Congress regarding the strengthening of Comprehensive Social Order Treatment, [最高人民法院关于贯彻落实中共中央、国务院及全国人大常委会《关于加强社会治安综合治理的决定》的通知]," (March 8, 1991).

Supreme People's Court "Response to the Question of whether cases involving Custody and Education of Minors fall within matters covered by the Administrative Procedure Act," [关于“少年收容教养”是否属于行政诉讼受案范围的答复]," (1998).

Supreme People's Court, Supreme People's Procuratorate, Public Security Bureau, Ministry of Justice, "Notice on Expanding Trial Spots for Community Correctional Measures [全国人民代表大会常务委员会关于加强社会治安综合治理的决定]," July 10, 2003.

Supreme People's Court, Supreme People Procuratorate, Public Security Bureau, Ministry of Justice, "Notice from regarding the trial implementation of community correctional measures [最高人民法院、最高人民检察院、公安部、司法部关于发展社区矫正试点工作的通知]," July 10, 2003.

Supreme People's Court, "Regulation on Trying Juvenile Cases, [最高人民法院关于审理未成年刑事案件的若干规定]," (2001).

OTHER REFERENCES

"A repeat investigation on the allegation that several Shenyang students forced assignment to gungdu xuexiao [沈陽某校學生被強送“工讀”事件再調查]," *Huashang Morning News*, January 6, 2004, <http://www.xsj21.com/news/1073356352.html>.

"As Gongdu Xuexiao gradually close, tens of thousands problem youth traverse on the verge of delinquency [工讀學校陸續停辦，萬餘問題青少年游走犯罪邊緣]," February 27, 2003.

"Banished to the Corner of the Education System: Concern for the Future of Work Study Reform School," Part 1, *People's Daily*, July 15, 2002, <http://www.people.com.cn/GB/kejiao/41/20020715/776198.html>.

Bovington, Gardner, *Autonomy in Xinjiang: Han Nationalist Imperatives and Uyghur Discontent*, (Washington, DC: East-West Center Washington), 2004, <http://www.eastwestcenter.org/stored/pdfs/PS011.pdf>.

Bradbury, Bruce, *Child poverty: A review*, Policy Research Paper No.20 (Canberra: Commonwealth Department of Family and Community Services, 2003), <http://www.sprc.unsw.edu.au/nonsprc/ChildPovertyReview.pdf>.

Cai, Yong and Lavelly, William, "China's Missing Girls: Numerical Estimates and Effects on Population Growth" in *China Review*, Vol. 3, No. 2, Fall 2003, p.13-29.

Cao, Yong and Ma, Hui, "The crackdown of child trafficking gangs in Yunnan [雲南：艱難反擊販童黑幫]," *Southern Weekend*, January 1, 2005.

"Care for Girls' gaining momentum," *People's Daily*, July 9, 2004, http://english.people.com.cn/200407/09/eng20040709_149028.html.

Chen, Shaohua and Wang, Yan, *China's Growth and Poverty Reduction: Recent Trends Between 1990 and 1999*, World Bank Policy Research Working Paper, No. 2651, July 18, 2001, <http://ssrn.com/abstract=285259>.

Chi, Bingnang [迟, 滨光], "Analysis of Beijing Youth Delinquency Data," *Yearbook on Chinese Juvenile Delinquency Studies* [北京青少年违法犯罪情况的调查分析, 中国青少年犯罪研究年鉴], Vol. 2(2001).

Childhood Poverty Research and Policy Centre, *Country Overviews – China*, <http://www.childhoodpoverty.org/index.php?action=country>.

"China Closes 1,600 Internet Cafes," *Xinhua News Agency*, October 31, 2004, http://news.xinhuanet.com/english/2004-10/31/content_2160822.htm.

"China Experiences Rising School Dropout Rate," *China Daily*, March 4, 2005, <http://www.chinadaily.com.cn>.

"China's GDP grows 9.5% in first half," *Xinhua News Agency*, July 20, 2005, http://news.xinhuanet.com/english/2005-07/20/content_3243732.htm.

"China Grapples with Legacy of Its 'Missing Girls,'" *China Daily*, September 15, 2004, http://www.chinadaily.com.cn/english/doc/2004-09/15/content_374629.html.

"China Imposes Chinese Language on Uyghur Schools," *Radio Free Asia*, 16 March 2004.

China Internet Network Information Centre, *Overcoming China's Digital Divide*, July 2003.

China Internet Network Information Center, *15th Statistical Survey Report on the Internet Development in China*, January 2005.

China Internet Network Information Center, *16th Statistical Survey Report on the Internet Development in China*, July 2005.

"China's Internet Cafes require heed," *Business Weekly*, May 18, 2004, http://www.chinadaily.com.cn/chinagate/doc/2004-05/18/content_331645.htm.

China Law Society, *China Law Yearbook 2004*[中國法律年鑑], (Beijing: China Law Yearbook Press), 2004.

"China orders end to instruction in Uyghur at top Xinjiang University," *AFP*, 28 May 2002.

"China Reports Underpopulation of Women," *Voice of America*, July 16, 2004, <http://author.voanews.com/english/Archive/a-2004-07-16-24-1.cfm>.

"China Sees Progress in Education," *China Daily*, March 2, 2005,
http://www.chinadaily.com.cn/english/doc/2005-03/02/content_420781.htm.

"Chinese Pay More for Medical Services in Recent Years," *People's Daily*, January 16, 2005.

China State Council Information Office, *China's Progress in Human Rights in 2004*, April 13, 2005.

City of Guangzhou Juvenile Delinquency Study Committee [广州市青少年犯罪研究会], "Analysis of Guangzhou Juvenile Delinquency Problem," *Yearbook on Chinese Juvenile Delinquency Studies* [广州市青少年犯罪问题调查分析, 中国青少年犯罪研究年鉴], vol.2, (n.d.).

"Closing Farm-urban Income Gap 'Top' Goal," *Xinhua News Agency*, February 1, 2005,
http://news.xinhuanet.com/english/2005-02/01/content_2533283.htm.

Dai, Fukang, [戴, 福康] "Study on the juvenile custody and education issue, [对犯罪少年收容教养问题的调查研究]" *Study on Youth Delinquency*, Vol. 4, (2004).
 Dillon, Micheal, "Uyghur language and culture under threat in Xinjiang," *The Central Asia-Caucasus Analyst*, 14 August, 2002.

Dwyer, Arianne M., *The Xinjiang Conflict: Uyghur Identity, Language Policy, and Political Discourse*, (Washington, DC: East-West Center Washington), 2005

"Education Void Expands Wealth Gap," *China Daily*, March 10, 2005.

"Exacting justice for minors," *Shanghai Star*, September 6, 2001.

"Exclusive Investigation by Zhengzhou Evening News on the Reasons behind the difficulties facing Gongdu Xuexiao in student recruitment, <鄭州晚報獨家調查 工讀學校招生窘境的背後>," *Sina*, Nov. 15, 2004

"Fewer women attain higher education level?" All-China Women's Federation Press Release, March 9, 2005.

Gordon, David, et al., *Child Poverty in the Developing World*, UNICEF (New York: UNICEF, 2003).

Guo, Xiang [郭, 翔], "The Role of Work Study Reform School in the Prevention of Juvenile Delinquency [工读学校与青少年犯罪预防]," *Yearbook on Chinese Juvenile Delinquency Studies*, Section 5, p.961, 2001.

Guo, Zongxian [郭, 宗宪], "The Sad Spectacle of Yunnan's Youngest Foreign Students [雲南小留學生奇觀的悲歌]," *Yazhou Zhoukan*, March 27, 2005, pp30-34.

"Hand-in-Hand: Fostering Equality," *China Daily*, August 26, 2004.

Hansen, Mette Halskov, *Lessons in Being Chinese: Minority Education and Ethnic Identity in Southwest China*, Seattle: University of Washington Press, 1999.

- Hom, Sharon, Amy Tai and Gabriel Nichols, "The Rise of the Internet and Advancing Human Rights," *China Rights Forum*, No.3 (2004), p.37.
- Hong, Shuhua, [康, 树华], "Major categories of juvenile delinquency," *Juvenile Delinquency and Counter-measures* [青少年犯罪与治理], 2000, pp.63-96.
- Hong, Shuhua [康, 树华], "The Trend of juvenile delinquency in China and reasoning," *Juvenile Delinquency and Counter-measures* [青少年犯罪与治理], 2000, pp.37-51.
- Human Rights in China, "China's Education System: Reading between the Lines," *China Rights Forum*, No.1 (2004), p. 48.
- Human Rights in China, *Implementation of the International Covenant on Economic, Social and Cultural Rights in the People's Republic of China: A Parallel NGO Report by Human Rights in China*, submitted to the Committee on Economic, Social and Cultural Rights, April 14, 2005.
- Human Rights in China, "Labor and state secrets," *China Rights Forum*, No. 3 (2004), pp. 23-33.
- Human Rights in China, "Shutting Out the Poorest: Discrimination against Migrant Children in City Schools," *China Rights Forum*, No. 2, (2002), pp. 4-11.
- "Increasing Number of Petitions Reported in 2004," *Xinhua News Agency*, March 9, 2005, http://news.xinhuanewsnet.com/english/2005-03/09/content_2671719.htm.
- Jiang, Xin, "Who Educate China's Future Generation? Who Rescue China's Future? [江迅, 誰教育中國 ? 誰搶救中國未來 ?]," *Yazhou Zhoukan*, March 27, 2005, pp. 24-29.
- Jiang, Xuezhou, "Steps to Narrow Rich-poor Gap Needed," *China Daily*, March 11, 2005, http://www.chinadaily.com.cn/english/doc/2005-03/11/content_423789.htm.
- Kahn, Joseph and Yardley, Jim "Amid China's Boom, No Helping Hand for Young Qingming," *New York Times*, August 1, 2004.
- Li, Purong and Shi, Mingdeng, [李, 璞?, 司, 明灯,] "Analysis of Henan Juvenile Delinquency," *Yearbook on Chinese Juvenile Delinquency Studies*, [河南省青少年犯罪调查分析, 中国青少年犯罪研究年鉴], vol. 2.
- Lim, Louisa, "On the trail of a trafficked child," *BBC*, December 16, 2004
- Lu, Aiguo, and Wei, Zhong, "Child poverty and well-being in China in the era of economic reforms and external openness," in Giovanni Andrea, Cornia (ed.), *Harnessing globalisation for children: A report to UNICEF*, (Florence: UNICEF Innocenti Research Centre, 2001), <http://www.unicef-icdc.org/research/ESP/globalization/chapter7.pdf>.
- Marcus, Rachel, *Economic Policies – how can they contribute to child well-being?*, CHIP Policy Briefing No.3 (London: Childhood Poverty Research and Policy Centre, 2004), <http://www.childhoodpoverty.org/index.php?action=documentfeed/doctype=pdf/id=101/>.

"Migrant Children's Education Issue attracted attention from CPPCC delegates and NPC representatives," *China EastDay*, March 9, 2005.

Moneyhon, Matthew, "Controlling Xinjiang: Autonomy on China's New Frontier." *Asia-Pacific Law & Policy Journal*, 2002, Vol. 3, Issue 1, pp.120-52.

"More Rural than Urban Test Takers," *Xinhua News Agency*, June 8, 2004, <http://www.china.org.cn>.

Mure, Dickie, "China's Wen Spells out Action to Beat Inequality," *Financial Times*, March 8, 2005.

National Bureau of Statistics (NBSC), *Economic Indicators of the General Population of the People's Republic of China*, 2004, (Beijing: China Statistics Press, 2004).

National Bureau of Statistics of China (NBSC), *China Statistical Yearbook 2004*, Beijing: China Statistics Press, 2004.

National Bureau of Statistics, *Economic Indicators of the General Population of the People's Republic of China*, year 2004, http://www.stats.gov.cn/tjgb/ndtjgb/qgndtjgb/t20050228_402231854.htm.

National Bureau of Statistics of China (NBSC), *Poverty Monitoring Report of Rural China*, 2003, Beijing: China Statistics Press, 2003.

National Bureau of Statistics of China (NBSC), *Statistics Report on Economic and Social Development in PRC 2004*, (Beijing, China Statistics Press, 2005), http://www.stats.gov.cn/tjgb/ndtjgb/qgndtjgb/t20050228_402231854.htm.

"Official Abduction Figures Don't Add Up," *South China Morning Post*, June 9, 2004.

"One thousand children deprived of schooling in two villages of Xinjiang. The County government declares: their household registration is not from here, we don't have to administer them," *China Youth Daily*, June 21, 2005.

People's Republic of China, *Second Periodic Report on implementation of the Convention on the Rights of the Child* (1996 – 2001) (CRC/C/83/Add.9), submitted to the Committee of the Rights to Child, May 2005.

People's Republic of China, *Report on Implementation of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography* (2003-2005), July 2005.

People's Republic of China Ministry of Health, *Country Report on Child Development in China* (2003-2004), Beijing: Ministry of Health, 2005.

"Population of ethnic minority group," *China Ethnic Minority Newspaper*, (n.d.), <http://www.mzb.com.cn/wenhua/zhongguo/renkou.htm>.

"PRC official says birthrate disparity 'serious' threat to well-off society," *China Daily*, July 8, 2004, *China Daily*, quoted in Congressional-Executive Commission on China, *Annual Report*, 2004, (Washington, DC: GPO).

"Public Health System Needs Overhaul," *China Daily*, April 2, 2005, <http://www.chinadaily.com.cn>.

Ravallion, Martin and Chen, Shaohua, *China's (Uneven) Progress Against Poverty*, *World Bank Policy Research Working Paper*, No. 3408, September 2004.

Research office of the Supreme People's Court, "Prevention of Juvenile Delinquency through fully Exercising the Authority Vested in the Judicial Branch," *Yearbook on Chinese Juvenile Delinquency*, Vol. 2, p.130, 134 (2001).

People's Republic of China, *Second Periodic Report on implementation of the Convention on the Rights of the Child* (1996 – 2001) (CRC/C/83/Add.9), submitted to the Committee of the Rights to Child, May 2005.

"Serious Gap in Higher Education Opportunities," *China Daily*, February 14, 2005.

Shi, An, "The Tickle that Plaques China's Equal Educational Opportunity," *Nanfang Daily*, March 10, 2005.

"Six Asian nations act to stop human trafficking," *Reuters*, March 31, 2005.

"Some Ten Percent Migrant Children Drop out of School," *People's Daily*, November 6, 2004.

Sorensen, Theodore C. and David L. Phillips, *Legal Standards and Autonomy Options for Minorities in China: The Tibetan Case*, Cambridge, Mass.: Belfer Center for Science and International Affairs, Harvard University, September 2004.

Stein, Justin J., "Taking the Deliberative Turn in China: International Law, Minority Rights, and the Case of Xinjiang," *Journal of Public and International Affairs*, 2003, Issue 14, pp. 1–25.

"Strict Regulations for Internet Cafes," *China Eastday*, October 16, 2002.

Sun, Changjun, Zhou, Liang [孙, 昌军、周, 亮], "An Analysis of Chinese Juvenile Delinquency Data [我国未成年人犯罪率的统计分析]," *A Study on Crime and Reform [犯罪与改造研究]*, Vol. 9(2004), 10.

"The Future of Gongdu Xuexiao and the problem students, <工讀學校和問題學生的出路>" *Nanfang Weekly*, February 27, 2003.

The Open Net Initiative, *Internet Filtering in China in 2004-2005: A Country Study*, April 14, 2005.

Tomasevski, Katarina, "Report of the Special Rapporteur submitted pursuant to Commission on Human Rights Resolution" Commission of Human Rights, Fifty-ninth session, December 2002.

- Tomasevski, Katarina, "Addendum to Report Submitted by the Special Rapporteur" Mission to China, Economic and Social Council, E/CN.4/2004/45/Add.1 (Nov. 21, 2003).
- Tournadre, Nicolas, "The Dynamics of Tibetan-Chinese Bilingualism. The Current Situation and Future Prospects," *China Perspectives*, Issue 45, January-February 2003.
- Tsang, Mun C., "Education and National Development in China since 1949: Oscillating Policies and Enduring Dilemmas," *China Review*, (HK: Chinese University Press, 2000).
- Tung, Lihua, "Correctional Measures for Juvenile Delinquents," *The Science of Child Law*, p.271 (Beijing 2001).
- "Underage Internet Surfers Banned from Cyber Cafes," *Xinhua News Agency*, October 14, 2002.
- United Nations Development Programme, *China, Millennium Development Goals: China's Progress, an assessment by the UN Country Team in China*, (Beijing: UNDP, 2004).
- United Nations Development Programme, *Human Development Report 2004: Cultural Liberty in Today's Diverse World*, (New York: UNDP, 2004).
- UNESCO, *Education for All: The Year 2000 Assessment, Final Country Report of China*, (Beijing: UNESCO China), 2000,
<http://www2.unesco.org/wef/countryreports/china/contents.html>.
- UNESCO, "The EFA Assessment: Country Reports: China," (UNESCO, 2000),
<http://www2.unesco.org/wef/countryreports/china/contents.html>.
- UNESCO, *Youth Media Education Survey 2001*. November 2001, 31,
http://portal.unesco.org/ci/en/file_download.php/bda80c4d208abeb94bc3b02d3da23023Survey+Report++by+Kate+Domaille.rtf.
- UNICEF, *At a glance: China*, http://www.unicef.org/infobycountry/china_statistics.html.
- UNICEF, *The State of World Children 2005*, (Geneva: UNICEF, 2005).
- U.S. Department of State, *Trafficking in Persons Report 2004*, June 2004,
<http://www.state.gov/g/tip/rls/tiprpt/2004/>.
- Wang, Feng, "Can China Afford to Continue its One-Child Policy?" in *Asia Pacific Issues: An Analysis from the East-West Center*, No. 77, (Hawaii: East West Center),
<http://www.eastwestcenter.org/stored/pdfs/api077.pdf>.
- Wang, Irene, "Only Half of Nation Able to See Doctors," *South China Morning Post*, January 11, 2005, <http://china.scmp.com/chimain/ZZZ32OBHJ3E.html>.
- Wang, Liang, [王良], "Analysis of Characteristics and Causes of Shanghai Juvenile Delinquency," *Yearbook on Chinese Juvenile Delinquency Studies*, [上海市青少年违法犯罪的特点与原因分析, 中国青少年犯罪研究年鉴], Vol. 2, (n.d.).

“Why the Increase Instead of Decrease of Poverty Population?” *People's Daily*, July 21, 2004, http://english.people.com.cn/200407/21/eng20040721_150336.html.

Wang, Dazhong “The turning point of Deng Xiaoping and the Third Plenary Session of 11th CPC Central Committee,” May 5, 2005, http://www.dzwww.com/xinwen/shandong/sdszst/dengxiaoping/lilun/zhengzhi/t20040804_365447.htm.

Wind, Gu, “Juvenile Justice System to Improve,” *China.org.cn*, March 18, 2005, <http://www.china.org.cn/english/2005/Mar/123262.html>.

Wong, Christine, *Providing Education in China*, Presentation at the “Workshop on Decentralization and Intergovernmental Fiscal Reform,” (The World Bank, Washington, DC), May 13-15, 2002, <http://www1.worldbank.org/publicsector/decentralization/decourse/WongA.pdf>.

Wong, Dennis S.W., “Changes in Juvenile Justice in China,” *Youth & Society*, 492, 499 (June 2001).

World Bank, *2004 World Development Indicators*, (Washington, D.C.: Development Data Center, 2004).

World Bank, *World Development Reports 2005: A Better Investment Climate for Everyone*, (Washington DC: The World Bank, 2005).

World Bank, *China at a Glance*, September 21, 2004, http://www.worldbank.org/cgi-bin/sendoff.cgi?page=/data/countrydata/aag/chn_aag.pdf.

World Bank, *China Brief: Economic Achievement and Current Challenges*, (Washington, DC: 2005), March 2005, http://www.worldbank.org.cn/English/Overview/overview_brief.htm#L1_0.

World Bank, *China: An Evaluation of World Bank Assistance*, (Washington, D.C.: World Bank Operations Evaluations Department, 2004).

World Health Organization, *World Health Organization Assesses the World's Health Systems*, Press Release (WHO/44, June 21, 2000), <http://www.who.int/inf-pr-2000/en/pr2000-44.html>.

World Health Organization, *Status Report on Macroeconomics and Health: China*, (Geneva: WHO, 2004), http://www.who.int/entity/macrohealth/action/en/rep04_china.pdf.

World Health Organization, *The World Health Report 2000 - Health Systems: Improving Performance*, (Geneva: WHO, 2000).

World Health Organization, *World Health Report 2004: Changing History* (Geneva: WHO, 2004).

World Health Organization, *The World Health Report 2005: Make Every Mother and Child Count*, (Geneva: WHO, 2005).

Yao, Lan, "Exacting justice for minors," *Shanghai Star*, September 6, 2001, <http://app1.chinadaily.com.cn/star/2001/0906/fo4-1.html>.

Yardley, Jim, "China Plans to Cut School Fees for Its Poorest Rural Students," *New York Times*, March 13, 2005.

Yearbook on Chinese Juvenile Delinquency Studies, vol. 2, Part 4 (Beijing, 2001).

Ying, Songnian "The Revision of the Administrative Procedure Law Unavoidable," 2002, mimeo, <http://www.procedurallaw.com.cn/article.html?id=2541>.

Yu, Xingzhong, *From State Leadership to State Responsibility—Comments on the New PRC Law on Regional Autonomy of Ethnic Minorities*, Working paper, The Chinese University of Hong Kong, 2004.

Zhang, Guirong, et al, "Exploration on the Models of Managing Youth in Custody and Education Programs," *Research on Crime and Rehabilitation*, No. 9, p. 18 (2001).

Zhang, Tianming, "Studies of ethnic minority population in China," *51w.com (wu you lun wen wang)*, November 18, 2003.

