

WHEN IN CHINA: ENCOUNTERS WITH HUMAN RIGHTS



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September 2006
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ISBN 90 6463 1670

The human rights information and the recommendations presented included in this briefing reflect the mission, working rules and reports of Amnesty International.

Information on various issues that are not directly part of the organization's mission has been included so as to provide a background.

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1 ON THIS BRIEFING



- **Human rights violations are often hidden from the foreigner's view**
- **Human rights auditing has many pitfalls**
- **When dealing with China one is always confronted with human rights violations**

China is a country with many restrictions on fundamental freedoms and with human rights violations. They will not always be obvious for the accidental traveller, the tourist, the businessman, the sportswoman. This briefing will guide those who visit China, or do business with that country, to see beyond first appearances.

Amnesty International welcomes the intense spotlight that the Olympic Games will cast on China in the years until 2008¹. Severe abuses of fundamental human rights are a daily occurrence in China. If this spotlight can curtail or even end these abuses, then the Olympic Charter, with its commitment to the 'preservation of human dignity' might be relevant in China by 2008. In 2004, Francois Carrard, executive director of the International Olympic Committee (IOC) said he was 'taking the bet' that human rights would improve. Jacques Rogge, President of the IOC said: 'We are convinced that the Olympic Games will improve the human rights record in China'. And Wang Wei, Secretary General of the Beijing Organising Committee said: 'We are confident that the Games coming to China not only promotes our economy, but also

enhances human rights.' But since Beijing was awarded the games in 2001, there has been negligible improvement in China's human rights record.

Some effects of the restrictions on fundamental freedoms in China can be seen right away. The visitor will note that there is no access to keywords such as 'democracy', 'human rights', 'Amnesty International' or 'Taiwan' at the internet café around the corner of the hotel. International newspapers and magazines cannot be bought at kiosks. English-language broadcasts of the Chinese media will never report critical views regarding the government. International broadcasts, such as those of the BBC or Voice of America, are frequently jammed. Other restrictions become visible at closer contact. When getting into contact with Chinese partners, it may soon be noticeable that some topics are off-limits. When intending to visit a particular place, such as the factory that is a supplier for one's firm, one may be confronted with bureaucratic obstacles and unexplainable delays. When walking the streets, one may occasionally witness the harsh arrest of a passer-by by

officials who are not always in uniform. But many restrictions, and human rights violations, are difficult to see even if one is an experienced China-hand. There is no access to prison facilities or labour camps. 'Public executions' are hidden from the view of foreigners. The visitor will see no obvious signs of forced labour. And even someone who reads Chinese fluently will not be able to trace the ordeal of dissidents and labour activists in the local newspapers.

The obstacles in 'visibility' of human rights violations and abuses in China is illustrated in two documentary films.

- *A Decent Factory* (2004)² documents the question whether the Nokia Corporation is worried about the working conditions of thousands of young Chinese women employed by their suppliers to manufacture parts of cell phones. It portrays the cultural divide (Chinese workers, British managers, Finnish executives) and the gender divide (women workers and investigators, male managers and executives). The filmmakers however did not speak with workers outside the conditions set by the supplier's management.
- *China Blue* (2005)³ takes a look behind the closed factory gates of a jeans factory in Southern China and gives the anonymous workers a face. Young Jasmine is one of 130 million Chinese farmer's children who exchanged their rural life for a job in a factory: the world's largest migration wave. Jasmine

earns \$ 0,06 an hour, often works seven days a week, and does not get any extra money for overtime. She shares a room with twelve other girls, and the food she is dished up every day is automatically deducted from her meagre wages. We see a factory owner, a former police chief, talking scornfully about his labourers. We see employees instructed to lie about working conditions during inspections. When on strike, the workers express their fear of being beaten. The shooting of *China Blue* was interrupted several times by the Chinese authorities, the crew was arrested and interrogated, and tapes were confiscated.

The latter film in particular illustrates a crucial point in the human rights environment of China: wherever and whenever one deals with Chinese partners, whether local or national, state or private, human rights violations always affect those contacts. Issues such as torture, capital punishment, arbitrary detention and censorship may not be immediately noticeable. But it is censorship, for example, that undermines all opportunities for fair assessment of labour conditions and claims made by workers. Violations of international labour standards entail gruesome work conditions in many factories that serve international buyers. Torture and capital punishment, violations that have often fallen on workers, induce an overall fear for the authorities. Arbitrary detention imbues a constant threat that any form of protest may

be considered an infringement on public order and be punished with long terms of detention without a court procedure. And so on.

Amnesty International takes no position on the question whether one should visit, invest in or make business deals with China. In general, the organization does not ask for or support boycotts of business, sports, culture or other events in China or other countries. The organization's mission is to report on human rights violations, to lobby for the protection of fundamental rights, and to mobilize as many people as possible for campaigns that benefit the observance of human rights. One element of a human-rights based approach of the Chinese situation is through auditing the firms, factories and institutions that are in contact with foreign business and visitors. Chapter 17 presents some examples of auditing firms and organizations, plus comments made on their work (these examples are just illustrations, they are not Amnesty's recommendations).

2 AN ECONOMY IN TRANSITION



What companies should do in China

- Companies should include human rights provisions in their business principles, as through reference to the Universal Declaration of Human Rights and the United Nations *Norms on Responsibilities for Transnational Corporations and Other Business Enterprises with Regard to Human Rights*:⁴, which include that:
 - Companies shall ensure equality of opportunity and treatment (UN Norms art.2).
 - Companies shall not engage in or benefit from torture or other violations of humanitarian law and human rights (UN Norms art.3). Security arrangements for companies shall observe international human rights norms (UN Norms art. 4).
 - Companies shall not use forced or compulsory labour (UN Norms art.5).
 - Companies shall respect the rights of children to be protected from economic exploitation (UN Norms art. 6).
 - Companies shall provide a safe and healthy working environment (UN Norms art.7).
 - Companies shall provide workers with remuneration that ensures an adequate standard of living for them and their families. (UN Norms art.8).
 - Companies shall ensure freedom of association and collective bargaining by protecting workers' right to establish and to join organizations of their own choosing (UN Norms art.9).
- Companies should have their activities monitored in independent audits, so as to guarantee that no human rights and labour rights are being violated within the company and at its suppliers
- Companies should press for freedom of information and should refrain from supplying the government with internet and other technology to be used for censorship
- Companies should ensure that when operating in situations of state-imposed house evictions, residents are duly compensated
- Companies should guarantee that their operations do not contribute to human rights violations, including in the Xinjiang Uighur Autonomous Region (XUAR), the Tibet Autonomous Region and other areas with large ethnic minorities.

- **China's population is often harshly affected by the economic transition**
- **Gaps between social and economic groups are growing**
- **Labour protests and social unrest are increasing**

China is in transition, from a centrally planned economy toward a market based economy. State-owned enterprises (SOEs) remain the dominant factor in many sectors. But the Chinese government takes steps to restructure major SOEs, and privatize small and medium SOEs.

Factors that increase the options of employees and citizens now include: rising urban living standards; a growing middle class; greater independence for entrepreneurs; the reform of the public sector, more opportunities for foreign-invested enterprises, and gradual political reforms that allow a level of democracy at the local level.

Between 1995 and 2004, the number of companies under state control has halved from 300,000 to 150,000, firing 59 million people or 42.5 percent of those employed in SOEs. During the same period employment in the emerging private enterprises increased by only 16 million. Thus the number of urban and township workers in formal employment is falling every year by millions of people. Thus overall quality of jobs has fallen, since the largest growth has been in informal

employment and self-employment.⁵

Income inequality within urban areas has increased by half from 1990 to 2001 – giving China an income disparity much worse than countries like India and Indonesia.⁶ Its rapid increase is exceptional in the world at large. While GDP per capita in the countryside is estimated to be US\$ 350 a year, it is US\$ 4,500 in Shanghai. The richest 10 percent of the population are almost twenty times richer than the poorest 10 percent. Rural incomes are but a third of those in the cities. In 35 poor and rural areas of China surveyed for a World Bank project, four out of ten children aged 7 to 15 had received no schooling whatsoever. The rate of poverty reduction has fallen since the mid-1990s. Official estimates are that 30 million persons live in poverty; the World Bank has estimated the number whose income does not exceed one dollar per day to be 100 to 150 million persons.⁷

Serious obstacles to better living conditions remain, or are exacerbated by current policies. In recent years, between 100 and 150 million persons voluntarily left rural areas to search for better jobs and living conditions in

3 RESTRICTIONS ON THE FREEDOM OF SPEECH AND USE OF INTERNET



cities, where they were often denied access to government-provided economic and social benefits, including education and health care. (Some local governments occasionally allow migrants access to some benefits.) Urban unemployment is widely believed to be much higher than the officially estimated 4 percent; the actual figure may be as high as 20 percent. Trade openness in China has had a negligible effect on total poverty. The World Bank expects poverty to be influenced negatively by WTO membership: about three-quarters of rural households (and one in ten of urban households) are predicted to lose real income in the period 2001-07.⁸

China is often considered a successful model of implementation of market reforms due to paced implementation of liberalization and privatization. That image has been put in doubt by China experts such as Sharon Hom⁹: Just ask the more than 'floating population' of hundreds of millions of migrants pouring to the cities from the countryside, the 700 million rural inhabitants without access to primary healthcare, the 160 million people still living in absolute poverty [...] Social unrest is fueled by popular discontent with pervasive corruption and land grabs, massive forced relocations and inadequate compensation, the collapse of social safety networks (basic healthcare and primary education), poor labour conditions and unpaid wages. Even the official Chinese media has recognized that without adequate responses, the level of

social unrest, now at designated at a 'yellow' level, will reach 'red' – that is, dangerous to social stability – by 2010 if not addressed effectively.

- **There are manifold restrictions on freedom of speech**
- **Virtually all means of communication are censored**
- **Some international internet providers have signed a 'pledge' to censor information**

There are severe restrictions on the freedom of speech in China. Foreign business should be aware that also in everyday contacts, officials, managers, journalists, employees and anyone else may face punishment for venturing opinions or providing information, even if such opinions and information are completely within the confines of international law.

Activists are harassed in various ways:

- In January 2006, human rights lawyer Gao Zhisheng was driving in Beijing when a car travelling in front of him stopped suddenly, and he narrowly avoided colliding with it. According to Gao Zhisheng, the car in front had its licence plates covered with newspaper. As Gao Zhisheng got out of his car, the car started moving towards him, forcing him to jump out of its path in order to save himself from being run over. A military vehicle had been following behind his car, also with covered licence plates, leading Gao Zhisheng to believe that the incident was instigated by the authorities.¹⁰

- Human rights activist Yang Maodong was released from detention in Fuyou police station in Beijing in February 2006 and was handed over to police officers from his home city of Guangzhou. Since his return home, police have kept him under 'residential surveillance'. Around 20 police officers were said to be standing guard outside his house. When he left his house to buy necessities, 11 officers followed him.¹¹

Thousands of people annually are arbitrarily detained for peacefully exercising their rights to freedom of expression, association or religion. Some are sentenced to long prison terms after unfair trials under national security legislation. Hundreds of people remain in prison serving sentences for violating the Law Against Counterrevolutionary Activity, a law that has already been repealed. Many of these persons were imprisoned for the non-violent expression of their political views. Among them are political dissidents, such as members of the banned China Democratic Party (CDP), human rights defenders, and anti-corruption and environmental campaigners. The authorities have stated that acts

previously prosecuted as counterrevolutionary crimes continue to be considered crimes under China's anti-subversion laws.

Some 310,000 people were administratively detained without charge or trial in 're-education through labour' camps in early 2001, the last official figure available. The figure was thought to be substantially higher as a result of the government's crack-down on the Falun Gong and the 'strike hard' campaign against crime.¹² Among those subjected to administrative detention is an unknown number of individuals sent to a camp for the expression of their opinion.

Broadly-defined 'state secrets' offences are used to prosecute journalists and reporters. There are many restrictions on the reception of foreign newspapers and other media, and on e-mail and internet communication. Authorities routinely monitor telephone conversations, facsimile transmissions, electronic mail and internet communications of foreign visitors, businessmen, diplomats and journalists, as well as dissidents, activists and others. The security services also monitor and enter the residences and offices of foreigners to gain access to computers, telephones and fax machines. In October 2004, the state also banned all reporting on rural land seizures by the government. All major hotels had an internal security presence and hotel guestrooms were sometimes bugged and searched for sensitive or proprietary materials.¹³

At the end of 2005, China Internet Network Information Centre¹⁴ reported that more than half of the country's 111 million Internet users had broadband access to the Internet: up 50 percent from the previous year. The sophisticated system of internet censorship the Chinese authorities have developed inhibits full freedom of expression and information that the internet promises. This includes such programs as the 'Golden Shield', through which the Chinese government has intensified its technical capacity to monitor the internet and to conduct surveillance of the activities of individual internet users. During 2005, officials ordered an extended effort to eliminate 'illegal' publications and shut down university Internet message boards. They mandated ideological training for non-government journalists and blocked access to sites of stories they did not want to circulate within or outside China.¹⁵ Authorities have also upgraded filtering of internet content, closed unregistered websites and required that chat room users register their real names. Websites and emails using the terms 'human rights,' 'democracy,' 'Tiananmen', 'Tibet,' 'Taiwan' and many other keywords are regularly blocked.¹⁶

In 2004, it was reported that at one popular Beijing Internet cafe with 320 computers, eight employees served as Internet monitors, while 10 other staff members walked around the room to check if customers were

accessing 'illegal' websites. Patrons caught entering such sites were given warnings.¹⁷ The country's Internet control system reportedly employed between 30 thousand and 50 thousand persons and was allegedly the largest in the world. In practice, local owners are often lax in enforcing such rules. Yet by 2006, Amnesty International had records of more than 50 people who had been detained or imprisoned after accessing or circulating politically sensitive information on the Internet.

- Kong Youping, a leading member of the Chinese Democratic Party and former union activist in Liaoning province, was sentenced to 15 years' imprisonment in September 2004 for 'subversion'. He had been detained in late 2003 after posting articles on the Internet attacking official corruption and urging a reassessment of the 1989 pro-democracy movement.¹⁸
- Internet essayist Zhang Lin was detained in January 2005 and convicted in July on charges of endangering national security. The evidence consisted of excerpts from 192 articles he posted online, including the words to a rock music song. He began a hunger strike in September.
- A senior executive of Yahoo Inc. confirmed in September 2005 that his company gave Chinese authorities information used earlier in 2005 to convict poet and journalist Shi Tao to ten years imprisonment for 'leaking state secrets'.

Amnesty stated that Yahoo's conduct in this case had the corporation to the risk of being complicit in the violation of Mr. Shi's rights. Amnesty called upon Yahoo! to use its influence to secure Mr. Shi's release and ensure that its parent corporation and subsidiaries uphold human rights responsibilities for companies as outlined by the UN Norms for Business.¹⁹

In 2005 the Chinese government restarted its policy of blocking access to the internet-encyclopaedia Wikipedia. In February 2006 a group of former senior Communist party officials in China criticized the internet censorship, stating that strict censorship may 'sow the seeds of disaster' for China's political transition. A government spokesman responded that its rules are 'fully in line' with the rest of the world and that 'no one had been arrested just for writing online content'. In February 2006 Google made significant concession against China's 'Great Firewall', in exchange for equipment installation on the soil of China, by blocking websites which the Chinese Government illegalized. In May 2006 Chinese internet users encountered difficulties when connecting to Hotmail.²⁰

Speaking from the World Economic Forum in Davos, Amnesty International's Secretary General Irene Khan said in early 2006:

While acknowledging that Google has taken a number of steps to ensure access of Chinese users to the Internet, Amnesty

International is nonetheless dismayed at the growing global trend in the IT industry [...] Whether succumbing to demands from Chinese officials or anticipating government concerns, companies that impose restrictions that infringe on human rights are being extremely short-sighted. The agreements the industry enters into with the Chinese government, whether tacit or written, go against the IT industry's claim that it promotes the right to freedom of information of all people, at all times, everywhere.²¹

Internet companies claim that they are forced to co-operate with Chinese laws. In fact, those laws that do require monitoring and filtering of content are vague in their language and offer little guidance on how and what information is to be censored. Significantly, none of the companies has been willing or able to specify precisely which laws and legal processes it has been obliged to follow. Internet companies claim that access to censored information is better than no information at all. But the Internet has had an established presence in China for over a decade, which means that the world's major Internet companies can no longer be considered to be helping bring the Internet to China. Instead, they are attempting to gain an increasing share of the market. Internet companies claim that the Internet in China would be censored regardless of their input. But information technology hardware

and software companies have contributed to the increasing sophistication of the Chinese government's Internet filtering system. And by co-operating with the government's censorship polices, these companies give greater legitimacy to them than if the companies were to challenge them.²²

The Chinese government has issued a 'Public Pledge on Self Discipline for China's Internet Industry'.²³ More than 300 companies signed the pledge, including the popular Sina.com and Sohu.com, Beijing and Shanghai universities and foreign-based Yahoo!'s China division. Those who signed the pledge agree not to spread information that 'breaks laws or spreads superstition or obscenity.' They also promised to refrain from 'producing, posting, or disseminating pernicious information that may jeopardize state security and disrupt social stability.' The China Internet Association adopted a 'self-regulatory pledge' for search engine services in 2004 that was viewed by many as even more strict than the government's self discipline pledge.

In 2004, the government began censoring text messages distributed by mobile telephone. All text messaging service providers were required to install filtering equipment to monitor and delete messages deemed offensive by authorities. In late 2005, the government ordered that all mobile phone users (then 377 million) should register with the authorities.²⁴

In its report *Undermining Freedom of Expression in China* (July 2006), Amnesty International calls on Yahoo!, Microsoft, Google and other Internet companies operating in China to:

1. Publicly commit to freedom of expression provision and lobby for the release of all cyber-dissidents and journalists imprisoned for legitimate exercise of their freedom of expression.
2. Make public what words and phrases are filtered and how these words are selected.
3. Make public all agreements between the company and the Chinese government with implications for censorship.
4. Exhaust all judicial remedies and appeals in China and internationally before complying with state directives with human rights implications.
5. Develop a policy that states the company's support for the Universal Declaration of Human Rights and complies with the UN Norms for Business.
6. Clarify how human rights considerations are taken into account in the processes and procedures that the company undertakes.
7. Lobby for legislative and social reform in line with international human rights standards, as through adopting business practices that encourage China to observe human rights
8. Participate in a multi-stakeholder process to develop a set of guidelines relating to the Internet and human rights issues.

4 RESTRICTIONS ON THE FREEDOM OF RELIGION



- **Only religious groups approved by the government can function openly**
- **Unofficial Catholic and Protestant groups are repressed**
- **There is particular repression of the Falun Gong**

Since a nationwide ‘anti-superstition’ campaign was initiated in 1998, members of Christian groups were arrested and sentenced to long prison terms. ‘Unauthorized’ temples continued to be demolished and adherents of charismatic or unorthodox religious and millenarian groups were arrested. 1994 State Council regulations require all places of worship to register with government religious affairs bureaus and to come under the supervision of official ‘patriotic’ religious organizations. The government officially permits only those Christian churches affiliated with either the Catholic Patriotic Association or the (Protestant) Three-Self Patriotic Movement to operate openly.²⁵

Leaders of unauthorized groups were sometimes the targets of harassment, interrogation, detention, and physical abuse. Police closed scores of ‘underground’ mosques, temples, seminaries, Catholic churches, and Protestant ‘house churches,’ including many with significant memberships, properties, financial resources, and networks. Authorities particularly targeted unofficial religious groups in locations where there were rapidly growing numbers of

unregistered churches or in places of long-seated conflict between official and unofficial churches, such as with Catholics in Baoding, Hebei Province or with evangelical underground Protestant groups as in Henan Province and elsewhere.

- In Hebei Province, where approximately half of the country’s Catholics live, the authorities have punished many underground priests and believers who refused to join the official Chinese Church. Bishop An Shuxin, Bishop Zhang Weizhu, Father Cui Xing, and Father Wang Quanjun remain detained in Hebei Province. Bishop An was last seen four years ago. There is no new information about underground Bishop Su Zhimin, who has been unaccounted for since his reported detention in 1997.²⁶

Other so-called ‘heretical organizations’ and unofficial religious groups are also targeted. There are reports of arrests and detentions of members of unofficial Protestant ‘house churches’:

- Zhang Shengqi, Xu Yonghai and Liu Fenggang, three independent Protestant activists, were sentenced to one, two and three years in prison respectively by the Hangzhou Intermediate People’s Court for ‘leaking state secrets’ in August 2004. The charges related to passing information abroad about crackdowns on Protestants and the closure of unofficial churches in the area.²⁷
- In November 2005 Pastor Cai Zhuohua, a prominent Beijing house church leader, was sentenced to three years in jail on charges relating to ‘illegal business practices’. His wife Xiao Yunfei was sentenced to two years. Her brother Xiao Gaowen was given an 18 month sentence. Cai was arrested in September 2004. Authorities were shocked to find more than 200,000 pieces of printed Christian literature including Bibles in a storage room managed by Cai. Even though Pastor Cai had a business registered with the Chinese government, the business did not have a license to print religious material.²⁸

The government estimates that there may be as many as 2.1 million adherents of Falun Gong; Falun Gong claims over 100 million followers. They face detention, unfair trials, torture and imprisonment. Many have been assigned without trial to re-education through labour and some were detained in psychiatric hospitals. During the 2003 SARS epidemic, the

government launched new accusations that Falun Gong practitioners were disrupting SARS-prevention efforts. Authorities detained hundreds of Falun Gong adherents on such charges. Falun Gong adherents have been sentenced to psychiatric hospitals for expressing their political or religious beliefs. Some were reportedly forced to undergo electric shock treatments or forced to take psychotropic drugs. Falun Gong groups based abroad estimate that as many as 2,000 practitioners have died as a result of official persecution.²⁹

5 RESTRICTIONS ON THE MEDIA AND PRINT



- **Official economic and other information may be unreliable**
- **Foreign newspapers and magazines are not freely available**
- **Foreign radio and television broadcasts are often jammed by the authorities**

Many economic and other data that in Western countries are considered open public information are being shielded in China. Disclosing such information is a violation of state security laws and may be punished with years of imprisonment. Numerous newspapers tested the limits of the possible and some came under attack.³⁰

In recent years some foreign business representatives, journalists and researchers have been arrested, sometimes for disclosing 'state secrets'. The government has also arrested and convicted Chinese nationals who attempted to collect information for foreign companies and news media. One effect of the restrictions on information is that data and statistics provided by Chinese authorities may be highly unreliable.

- In September 2004, New York Times research assistant and author Zhao Yan was arrested on charges of passing state secrets to foreigners, apparently for his work uncovering leadership changes in the Communist Party.³¹ In August 2006, the 'state secrets' charge was dropped but he was sentenced to three years jail for 'fraud'.

- In May 2006, freelance writer Yang Tianshui was sentenced to 12 years in prison on subversion charges, after being accused of posting articles on foreign websites, receiving money from abroad and helping a would-be opposition party.

In May 1999 the authorities ordered the dismantlement of all satellite receivers unless the government granted specific permission. Hotels, tourist sites and compounds for foreigners were among those to be allowed to have receivers. In practice, local authorities are often lax in enforcing restrictions on satellite receivers.

The government controls print broadcast and electronic media. All media employees are under explicit orders to follow Party directives and 'guide public opinion' as directed by political authorities. Formal and informal guidelines require journalists to avoid coverage of many politically sensitive topics. The Central Propaganda Department lists areas that are off-limits to media. There are some privately funded print publications but no privately owned television or radio

stations. Only very few internet portals are allowed in private hands. Censors rely mostly on self-censorship and, in a few cases, post-publication sanctions. Only government-approved publishing houses can legally print books. No newspaper, periodical, book, audio, video or electronic publication may be printed or distributed without the authorities' approval of both the printer and distributor. The authorities jam, with varying degrees of success, Chinese-, Uighur-, and Tibetan-language broadcasts of the Voice of America, Radio Free Asia and the BBC. In July 2005 the State Administration for Radio, Film and Television banned cooperation between domestic broadcasting companies and foreign broadcasters in producing news content.³²

6 RESTRICTIONS ON THE FREEDOM OF MOVEMENT



- **Chinese nationals nor foreigners can move freely within the country**
- **Some 100 to 150 million people are 'floating', without residence permits**
- **Companies often employ migrant people in sub-standard conditions**

Neither Chinese nationals nor foreigners, including business representatives, are allowed complete freedom of movement within the country and may be fined or arrested for trespassing. For foreigners whose business did not raise political sensitivities, the government introduced a long-term residence permit in 2004.

There remains a 'floating population' of between 100 and 150 million economic migrants who lacked official residence status in cities. Without official residence status, it is difficult or impossible to gain full access to social services, including education. Migrant workers are generally limited to types of work considered least desirable by local residents and they have little recourse when subject to abuse by employers and officials. Because of China's household registration system, migrant workers are required to apply for temporary residence permits, plus a work permit. It is very common for factories to demand that workers pay a 'deposit'. This places the workers in a very vulnerable position vis-à-vis the employers, who can treat them like bonded labourers.

The people who constitute the 'floating population' are frequently harassed or subjected to extortion by officials. The *hukou* system of national household registration underwent further liberalization in recent years, in order to respond to economic demands for a more mobile labour force. Nonetheless, many persons cannot officially change their residence or workplace within the country. Government and work unit permission are often required before moving from city to city. It is particularly difficult for peasants from rural areas to obtain household registration in some economically more developed urban areas.³³

In June 2003, the administrative detention system of custody and repatriation applied to migrants was abolished and replaced by a network of aid shelters for migrants. Prior to sensitive anniversaries, authorities in urban areas rounded up and detained some 'undesirables,' including the homeless, the unemployed, migrant workers, those without proper residence or work permits, petty criminals, prostitutes, and the mentally ill or disabled.

Dissidents reported that the authorities restricted their freedom of movement during politically sensitive periods and visits by foreign dignitaries, including on some occasions removing suspected dissidents from Beijing.³⁴ The Chinese government permits legal emigration and foreign travel for most citizens. Passports are increasingly easy to obtain in most places, although those whom the government deemed to be threats, including religious leaders, political dissidents, and some ethnic minority members, have difficulty obtaining passports. Members of underground churches sometimes were refused passports and other travel documents.³⁵



- **Torture is widespread in prisons, police cells and labour camps**
- **The government sanctions torture, but many cases go with impunity**
- **The UN torture rapporteur noted ‘a palpable level of fear’**

Chinese individuals can be arrested for a wide variety of offences, including workers’ representation or the observance of ‘cults’, and be sent to work camps without intervention of a judge. Individuals, including workers employed by foreign companies, can be arrested for a large array of misdemeanours and be sent to ‘re-education through labour’ camps without trial, for up to three years. Individuals who for minor misdemeanours, such as being drunk or not being able to present an identification card, have often been detained in investigation centres or similar bureaus where they have run a considerable risk to be subjected to ill-treatment by police and guards.

According to official figures, there are more than 700 prisons with a population of over 1.5 million inmates. In addition some 30 jails for juveniles housed approximately 22 thousand juvenile offenders. The country also operated hundreds of administrative detention centres, which were run by security ministries and administered separately from the formal court system. The 340 re-education-through-labour facilities have a total capacity of about 300 thousand persons. In addition the population

of special administrative detention facilities for drug offenders and prostitutes grew rapidly following a campaign to crack down on drugs and prostitution. In 2004 these facilities held more than 350 thousand offenders, nearly three times as many as in 2002. The re-education-through-labour system allows non-judicial panels of police and local authorities, the Labour Re-education Committees, to sentence persons to up to three years in work camps and similar facilities. The committees have authority to extend the sentence for an additional year. In May 2006, Amnesty International noted that a new Public Order Administration Punishment Law stipulated that prison punishment must be established by national law and not by ‘regulation’. The organization remained concerned that the law failed to meet fair trial standards.³⁶

According to foreign researchers, the country had 20 *ankang* institutions (high-security psychiatric hospitals for the criminally insane) administered by the Ministry of Public Security. Some dissidents, persistent petitioners, and others were housed with mentally ill patients in these institutions.

Patients in these hospitals were reportedly given medicine against their will and forcibly subjected to electric shock treatment.³⁷

Conditions in penal institutions for both political prisoners and common criminals generally are harsh and frequently degrading. Prisoners and detainees often are kept in overcrowded conditions with poor sanitation. Food often is inadequate and of poor quality, and many detainees rely on supplemental food and medicines provided by relatives. Political prisoners often are kept segregated from each other and placed with common criminals, who sometimes beat political prisoners at the instigation of guards.³⁸

Torture in China was studied by the UN Special Rapporteur, Manfred Nowak, who was allowed to visit the country for the first time in November 2005.

The methods of torture alleged include, among others: beatings; use of electric shock batons; cigarette burns; hooding/blindfolding; guard-instructed or permitted beatings by fellow prisoners; use of handcuffs or ankle fetters for extended periods (including in solitary confinement or secure holding areas), submersion in pits of water or sewage; exposure to conditions of extreme heat or cold, being forced to maintain uncomfortable positions, such as sitting, squatting, lying down, or standing for long periods of time, sometimes with

objects held under arms; deprivation of sleep, food or water; prolonged solitary confinement; denial of medical treatment and medication; hard labour; and suspension from overhead fixtures from handcuffs. In several cases, the techniques employed have been given particular terminologies, such as the “tiger bench”, where one is forced to sit motionless on a tiny stool a few centimetres off the ground; “reversing an airplane”, where one is forced to bend over while holding legs straight, feet close together and arms lifted high; or “exhausting an eagle”, where one is forced to stand on a tall stool and subjected to beatings until exhaustion.³⁹

The Rapporteur said his team was under frequent surveillance during a two-week trip that included Tibet and the northwestern Muslim-majority region of Xinjiang, the first visit granted his office in a decade. He stated that he felt

compelled to point out that some Government authorities, particularly the Ministries of State Security and Public Security, attempted at various times throughout the visit to obstruct or restrict his attempts at fact-finding.[...] Prison officials imposed their own working hours as limits for interviews which curtailed the number of facilities that could be visited and the number of detainees interviewed.[...] In his interviews with



detainees, the Special Rapporteur observed a palpable level of fear and self-censorship, which he had not experienced in the course of his previous missions.

Zhao Xin, director of a Beijing-based human rights organization, was instructed by the Public Security Bureau to leave Beijing during visits to China by the UN Special Rapporteur on Torture. On 17 November 2005 he was severely beaten by seven men. Amnesty believes that this attack was an attempt to stop him carrying out his human rights work.⁴⁰

- **China executes more people than all other countries combined**
- **People are also executed for economic crimes**
- **The government says it will improve guarantees in capital criminal cases**

China's continued use of the death penalty negates the 'preservation of human dignity' that Beijing as the Olympic host city has committed to uphold. This undermining of the spirit which the Olympic Games seek to promote is sadly illustrated by the government's decision to put out to open tender, under the banner 'New Beijing, New Olympics: The Opportunity for China and the World', an execution chamber where those sentenced to death by the Beijing High People's Court would be killed by lethal injection.⁴¹

Again according to statistics available in 2006, China executes more persons than all other countries of the world combined.⁴² There are over 60 capital offences, including non-violent financial crimes such as counterfeiting currency, embezzlement, and corruption. The Vice-President of the Guangdong High People's Court announced in February 2006 that the penalty for bag-snatching had been increased to a minimum prison sentence of three years, and can now include the death penalty. Executions were often carried out on the date of conviction. The number of death sentences is a state secret. In March 2004, a

National People's Congress deputy asserted that nearly 10,000 cases per year 'result in immediate execution.' The statement sparked calls for reform, including eliminating the death penalty for economic and other non-violent crimes. Nonetheless, approximately 10 percent of executions were for economic crimes, especially corruption.⁴³

Amnesty International estimated that at least 1,770 people were executed and 3,900 people were sentenced to death in 2005, although the true figures were believed to be much higher. Several miscarriages of justice in death penalty cases published in the Chinese press in the first half of the year caused considerable public disquiet and increased momentum towards reform. In September 2005, a senior Supreme Court official announced that the Court was establishing three branch courts to review death sentences. Previously this had been delegated to lower courts, reducing safeguards against unfair proceedings. Officials anticipated that the reform would lead to a 30 per cent reduction in executions.⁴⁴

In an effort to improve cost-efficiency,

9 THE PITFALLS OF THE LEGAL SYSTEM

politically



provincial authorities have introduced mobile execution vans. The windowless execution chamber at the back contains a metal bed on which the prisoner is strapped down. Once the needle is attached by the doctor, a police officer presses a button and an automatic syringe inserts the lethal drug into the prisoner's vein. The execution can be watched on a video monitor next to the driver's seat and can be recorded if required.⁴⁵

In December 2005, the UN Special Rapporteur on Torture expressed concern about the circumstances surrounding the death penalty, including the situation of prisoners on death row. At the Beijing Municipality Detention Centre he noted that these prisoners were handcuffed and shackled with leg-irons weighing approximately 3 kg, 24 hours per day and in all circumstances (i.e. including during meals, visits to the toilet, etc). Prison officials indicated that the average length of appeal was two months. The Special Rapporteur also expressed concern at the high number of crimes for which the death penalty can be applied. He encouraged the Government to both narrow its scope and to be more transparent towards family members and the public at large regarding its use; including by making statistics on the death penalty public information.⁴⁶

The use of lethal injection facilitates the extraction of organs from executed prisoners. At an transplants conference

in July 2005, the Vice-Minister of Health reportedly acknowledged that the majority of organs used for transplant in China come from executed prisoners. This may account for 99% of transplanted organs. Chinese transplantation websites aimed at foreign clients openly admit that organs come from 'people that are executed in China'. The government in July 2006 banned the buying and selling of organs and stressed that organs may only be removed with the written consent of the donor. Amnesty International considers that those faced with imminent execution are not in a position to provide such consent.

- **The Public Security Bureau can arrest and convict, without a trial**
- **The judiciary is not independent and cannot guarantee fair trial**
- **'Informal' justice fosters widespread corruption**

In March 2004, China amended its constitution to include a promise to ensure human rights. Although the constitution is not directly enforceable in China, the amendment signals a growing acknowledgement of human rights.

The Ministry of Justice supervises the administration of justice, the management of penal institutions and the work of lawyers. The Ministry of Public Security is responsible for arrests, detentions and investigations of suspects prior to trial and for maintaining public order. The Public Security Bureau is the civilian police. It can also send persons to 're-education through labour' (a system of work camps) or effect other administrative punishment meted out without a formal trial. Of civil disputes, some 90 percent is dealt with through local mediation commissions. There are an estimated 800,000 such mediation courts in the country.⁴⁷

Despite efforts to strengthen the rule of law in China, the legal system itself remains a major source of rights violations. Many laws are vaguely worded, inviting

motivated application by prosecutors and judges. The judiciary lacks independence. Party and government officials routinely intervene at every level of the judicial system in favour of friends and allies. Trial procedures favour the prosecution. The criminal justice system relies heavily on confessions for evidence, creating pressures on the police to extort confessions through beatings and torture.

In many areas Chinese law and legal practice does not conform to international laws and norms. This is most conspicuous in human rights affairs, but also affects commerce and trade. Moreover, there is a big gap between theory and practice, as many issues are dealt with in an 'informal' way, which may involve bribes or other forms of corruption. Local authorities claim for themselves considerable powers to interpret and implement the law as they see fit. In many cases the authorities have shown a blatant disregard for the Criminal Procedure Law, revised in 1996 to provide for greater access to legal representation, notification of relatives and public trial. Chinese experts estimated that more than 70 percent of commercial cases in

lower courts were decided according to the wishes of local officials rather than the law.⁴⁸

There is no presumption of innocence. Judges and prosecutors typically use an inquisitorial style of questioning the defendant, who is often the only witness. The law affords no right to remain silent, no protection against double jeopardy and no law governing the type of evidence that may be introduced. Most criminal trials consist of the prosecutor reading statements of witnesses who neither the defendant nor his lawyer can question. Defence attorneys have no authority to compel witnesses to testify or to mandate discovery. More than 98 percent of defendants whose cases were closed in 2004 were sentenced to criminal punishment; less than 0.5 percent of all defendants were found not guilty. In early 2006, Human Rights Watch reported:

Although improvements in some areas, particularly in commercial law, are noticeable, judicial processes are still compromised by political interference, reliance on coerced confessions, legal procedures weighted in favour of the state, closed trials, and administrative sentencing. Convictions on charges of 'subversion' and of 'leaking state secrets' continue to result from vaguely-worded state security and state secrets laws. Plans to revise China's Criminal Procedure Law proceeded slowly in 2005. Long-discussed proposals to add a

judicial component to re-education-through-labour-regulations appear to have stalled.⁴⁹

The June 1989 military massacre of unarmed protestors in and around Beijing's Tiananmen Square remains an open sore in China. The Chinese leadership has shown no willingness to change its verdict that those who joined the 1989 peaceful protests aimed at bringing democracy to China took part in a 'counterrevolutionary' rebellion. It has refused calls for an independent investigation of events surrounding the massacre and it has refused to publicly hold anyone accountable for ordering the army to fire on unarmed, peaceful demonstrators. In fact, no official statistics on civilian deaths or injuries are available. The few individuals who continue to try to collect such information have been met with arrests and threats. Family members of victims are refused permission to publicly mourn.⁵⁰

Lack of adequate legal guarantees also affects China's exports. A prime example is that of arms exports. Over the last 20 years China has supplied a range of military, security and police equipment to countries with a record of gross human rights violations, including long-range missile and nuclear technology to Iran, North Korea and Pakistan, and small arms used for violations in Sudan, Nepal and South Africa. China does not publish information about transfers abroad of military,

security and police equipment.

Provisions for the licensing of exports fail to impose requirements that recipient states must respect human rights and international humanitarian law. In this manner, foreign suppliers to China's arms industry can also become implicated in human rights violations.⁵¹

10 LABOUR CONDITIONS AND WORKERS' PROTEST



- Norms for working hours, pay rates and hygiene are very often violated
- There is no freedom to establish independent labour unions
- Labour protests have become much more frequent in recent years

China has not ratified many ILO Conventions including:

- No. 87 - Freedom of Association and Protection of the Right to Organize Convention, 1948
- No. 98 - Right to Organize and Collective Bargaining Convention, 1949
- No. 29 - Forced Labour Convention, 1930
- No. 105 - Abolition of Forced Labour Convention, 1957

The current work injury insurance system covers only 37 million of the country's 200 million industrial workers. Every work unit must designate a health and safety officer, and the International Labour Organization (ILO) has established a training program for these officials. Nonetheless, there is a high rate of industrial accidents, with most of the accidents occurring in the mining sector. Many former employees of state-owned enterprises lost their pensions when their companies were privatized or went bankrupt. Millions of citizens who have left the countryside to seek work in cities face serious problems. Without official residence permits, these migrant workers lack access to basic

services and are vulnerable to police abuse. There are more than 5 million child workers (under the age of 16) in export-serving industries in China.⁵²

Often, workers are deprived of their right to rest because of long enforced overtime. The 1996 Labour Law stipulates a maximum of 36 hours' monthly overtime, but this standard is often violated. Employers ignore minimum wage requirements and fail to implement required health and safety measures. Severe restrictions on toilet time, talk and eating during work, routes where one is able to work, etc. are very common. In some factories workers are not allowed to have a serious relationship with a co-worker, get married or be pregnant. Penalties range from physical punishment, such as beating, to wage deductions or dismissals.⁵³

Workers are limited in their capacity to seek redress by the government's ban on independent trade unions. The only union permitted is the government-controlled All China Federation of Trade Unions (ACFTU). Freedom of association is a right recognized in China's constitution, but Chinese workers

are prevented from forming and joining labour unions of their choice.⁵⁴

According to official figures, sixteen million enterprises are 'toxic' and over two hundred million workers suffer from 115 occupational diseases. Officials insist however that the ACFTU sufficiently ensures workers' rights, in spite of unsafe and unhealthy working conditions, unpaid wages, pensions lost when state-owned enterprises go bankrupt or are privatized, and forced and uncompensated overtime. Workers repeatedly take to the streets. Some have gone to prison.

- Li Xintao, formerly a worker at the Huamei Garment Company in Shandong province, was sentenced to a five-year term in May 2005 for 'disturbing public order and government institutions'. He had tried to collect wages owed by a bankrupt state-owned enterprise.⁵⁵

Under the *xinfang* (petitioning) system, citizens dissatisfied with decisions by local officials or courts may write letters of complaint or appear in person at petition bureaus, and they may appeal to petition offices in regional capitals and even in Beijing. Repression of petitioners has increased as the number of petitions has grown. It was estimated ten million petitions were filed in 2004. Aggrieved parties have learned that public pressure forces officials to pay attention to issues such as corruption, forced evictions, and police abuse. Petitions are

rarely effective. Local officials send 'retrievers' (plain-clothes security officers) who attack and intimidate petitioners and force them to return to their home province. Police raze the shantytowns where petitioners live in Beijing, round up petitioners, and hand them over to the retrievers.⁵⁶

The rural labour force, consisting of approximately 540 million persons, has no union or similar organization. Few of the 130 million rural residents working in township and village enterprises are unionized. Of the 100 to 150 million rural migrants who work in the cities, the ACFTU claimed that a total of 14 million had joined the union. However, most migrants working in low-value-added jobs in the manufacturing and service sectors are not represented.

The government maintains that the country does not have a widespread child labour problem and that the majority of children who work do so to supplement family income. But families alleged that child labour was widely employed, for example, at the Lihua Textile Factory in Shijiazhuang, Hebei Province, where five teenage girls died of asphyxiation in the factory dormitories, according to a lawsuit filed in March 2005. NGOs alleged that the employer, fearful of being punished for hiring child workers, placed two of the girls in coffins while they were still alive.⁵⁷

During regular times, which in China is in slow seasons when no extra overtime hours are needed, the factory's workers have a working week of 60 hours. Extra overtime can amount to 80 or 100 hours per month. And when there is an additional job request by a factory client, workers sometimes have to work during their lunch time or start work earlier than the standard 7 am and finish after 10 pm, in order to complete the work. Regular production workers' wages consist of a monthly basic wage, which is 450 yuan (about US\$ 55), plus a piece rate. The workers, however, do not know how the piece rate is calculated and do not receive any information on the composition of their wage. A representative wage slip from September 2004, where the worker had had 51 overtime hours during normal work days and 24 hours during his rest days, stated the following: basic wage 450 yuan, total wage 785 yuan, deductions for food and dormitory 196 yuan. Thus, after finishing the fixed production quota and working 76 overtime hours in that particular month, the worker received 589 yuan (US\$ 73). His wages in October were similar: US\$ 74 paid for a month with a total of 78 overtime hours worked.⁵⁸

A survey conducted in 2003 by the official Chinese news agency revealed that 72.5 percent of migrant workers in these cities had had their wages withheld, with only 16.3 percent saying that they regularly received their wages on time. The Hong

Kong-based *Apple Daily* also reported that a tidal wave of arrears was building up. The paper cited a dispute in the Hebei province where migrant workers had been recruited to build government premises, but the contractor had failed to pay wages before the Chinese New Year. Many employers regard holding back wages as a form of shop floor discipline: 'Keeping wages in arrears for three to six months in an attempt to halt high staff turnover is common at the low end of the manufacturing industry. By leaving a factory without the required management permission, workers risk losing owed wages as well as personal files and the security deposit that most migrants are required to pay.'⁵⁹

Many regions have witnessed massive labour protests. The government-controlled trade federation ACFTU reported 300,000 complaints in 2005. Protests against the political system or national leaders were prohibited. At times, police used excessive force against demonstrators. Demonstrations with political or social themes were often broken up quickly and violently. The vast majority of demonstrations concerns economic and social issues such as land, housing, health, and welfare. Land disputes, industrial disputes, and anti-government protests are the main causes of civil disturbances. According to official statistics, more than 2.3 million people took part in petitions, marches and sit-ins in urban areas

in 2003 while over 8 million participated in demonstrations in rural areas. Government-run *Outlook* magazine reported that over 58,000 'mass incidents' took place during 2003, more than 6 times the number reported 10 years earlier. Examples: in May 2003, after trials lacking basic procedural safeguards, Liaoning province labour activists Yao Fuxin and Xiao Yunliang were given seven and four-year sentences respectively. Family members reported that both men were seriously ill.⁶⁰ In October 2004, after flawed trials, five workers were sentenced to terms of between two and three-and-a-half years for destroying company property at a shoe factory in Guangdong during a massive protest.⁶¹ A crackdown carried out by local police on 7 October 2005 against protesting workers from the Chongqing Steel Plant resulted in the death of two women protestors, 24 workers being injured, and the detention of three of the workers' leaders.⁶²

Land protests involving thousands of residents occur regularly. In April 2005 thousands of villagers in a Zhejiang Province village battled with security thugs in demonstrations over polluting factories. In October, ten thousand workers in Chongqing took to the streets to protest corruption surrounding the bankruptcy of a local steel plant. In December police shot and killed at least three protesters in Dongzhou village, Guangdong Province, the first known shooting of public protesters by security forces since

1989. Villagers claimed that as many as 20 villagers were shot and killed by paramilitary riot police, with approximately 40 others missing. Dongzhou was reportedly been sealed off, with roadblocks set up to keep journalists out. The Dongzhou killings took place after a large crowd gathered to protest the arrest of villagers involved in the power plant negotiations.⁶³



- **Labour is enforced by unpaid overtime, withholding of wages and other means**
- **Prisons and labour camps use forced labour on a large scale**
- **Some products of forced labour have been supplied to exporters**

Companies should guarantee that in their enterprises and with suppliers no measures are practiced that constitute or amount to forced labour, such as the confiscation of identity papers, forced unpaid overtime, obligatory deposits or the withholding of wages.

Many institutions of the 're-education (or reform) through labour' system include factories which use forced prison labour, but which publicly advertise themselves as normal companies. Some of these have also produced for exports or have been suppliers to foreign companies. Foreign companies should monitor closely whether such forced labour institutions are part of their supply chain and should demand access of independent monitors to all suppliers under suspicion.

Recently, the UN Human Rights Committee urged China to abolish forced labour as a corrective measure. In China, labour activists, especially those who attempt to establish independent workers' organisations are repressed and arrested. Some are sentenced to labour camps called 'reform through

labour', or *laogai*, after criminal trials in which their rights as defendants are systematically ignored. Others are sent to 'rehabilitation through labour' or *laojiao*, formerly translated by the authorities as 're-education through labour', a form of administrative detention officially not exceeding three years and imposed by public security authorities without trial or the right of appeal. In practice, these periods of forced labour can be extended at the authorities' will.

- In April 2004, Mao Hengfeng was sent for 18 months to a 're-education through labour' facility in Shanghai, after having petitioned the authorities for many years over her right to work, a coerced abortion in 1990 and other basic rights. A mother of twins, she was dismissed from her job in 1988 because she became pregnant for a second time with a third child, in contravention of China's family planning regulations. In detention, she has been subjected to torture and ill-treatment. In October 2004, she was suspended from a ceiling and severely beaten. She has been held in solitary confinement and strapped down to her bed for hours on end. Sources close to her have also reported that she has been force-fed.⁶⁴

When producing in China, or exporting from China, companies may be confronted with forced prison labour. Prison camps are often concealed behind a façade of commercial factories, masked by a company name. Moreover most camps have two names: a public name (mostly an enterprise name), and an internal administrative name. In these prison camps the circumstances and conditions of work are known to be extremely exploitative. While prisoners are forced to work in a wide range of business sectors, the bulk of it is caught up in the supply of small manufacturing goods and components but also raw materials. 'Goods made in the *laogai* have become a part of China's domestic economy, and to an extent *laogai*-made goods are also filtering into foreign markets.'⁶⁵

In June 1995, Harry Wu, an American citizen born in China, was arrested when he tried to enter China from Kazakhstan. He intended to research the system of 're-education through labour'. Wu himself had been detained for seventeen years in that system, before getting permission to leave for the United States. In his book *Laogai* he published many details on the organization and production of the camps. Wu maintains that many named products are exported. The camp system is harsh; prisoners are being punished by application of electric shocks and other means. Harry Wu's Laogai Research Foundation is a US-based non-profit organisation dedicated to collecting information about China's system of forced-

labour camps. Their website⁶⁶ provides the most up to date information available on the *laogai* in every region of China. According to this site an estimated 8 million individuals are confined in the *Laogai*. The *Laogai* handbook contains information on more than 1,200 camps.⁶⁷

In May 2006 two European Parliament members called for an EU-wide ban on products produced in Chinese labour camps. The ILO has well-documented information on forced labour. Human rights risk assessment is provided by various organizations, including the Human Rights Compliance Assessment of the Danish Institute of Human Rights.⁶⁸ Other organizations are mentioned in Chapter 17.

12 FORCED EVICTIONS



- **The Olympic Games have prompted many forced evictions**
- **Those evicted often have no legal recourse to compensation or restitution**
- **Some who protested forced eviction were sentenced to long prison terms**

Amnesty International has received numerous reports of violent evictions by property developers, often backed by local officials or police. While there have been some cases of property developers being prosecuted for their involvement in violent evictions – where people are physically dragged from their homes – the number of arrests and prosecutions is disproportionately small compared to the scale of the problem reported throughout China. Furthermore, reports of government officials being disciplined or prosecuted for their involvement in illegally requisitioning land are extremely rare.⁶⁹

In 2006, Human Rights Watch reported:

With courts offering little protection, urban and rural residents have banded together to protest collusion between developers and local officials who forcibly evict them from their urban homes or, without offering adequate compensation, sell off the land they have been farming. Residents rarely win, in part because land is not individually owned and in part because local judges owe their jobs to local government and Party leaders.

A 2003 constitutional amendment that protects 'lawful private property' has not brought redress. Protest organizers face intimidation and violence. The city of Shanghai forcibly relocated 55,000 families in 2004. With building for the 2010 World Expo already underway, the 2005 tally is expected to be even higher. In March 2005, Chinese officials announced plans to move 500,000 families to the outskirts of Beijing in order to protect the environment. In September 2005, they announced that twelve 'shabby' villages near 2008 Olympic sites would be demolished.⁷⁰

Protests, some of which included thousands of participants, concerning land, housing, and forced evictions are widespread. The jailing of former Shanghai housing lawyer Zheng Enchong in October 2003, after his advocacy for hundreds of Shanghai residents displaced in a controversial urban redevelopment project, prompted demonstrations by his supporters in March. Later that year, Beijing and Tianjin-based housing petitioners and victims of forced eviction policies were detained to prevent them from holding a

planned 10,000-person rally. In late 2005, Zheng Enchong was seriously beaten while in detention.⁷¹

The rights of freedom of expression and association of workers' representatives continued to be severely curtailed and independent trade unions remained illegal. In the context of economic restructuring, large numbers of people were denied adequate reparations for forcible eviction and land requisition. Beijing was often the focus for such protests due in part to house demolitions during the city's preparations for the Olympics in 2008. People also travelled to Beijing from other parts of the country to petition the central authorities after failing to obtain redress at the local level. Tens of thousands of petitioners were reportedly detained by Beijing police during security operations in advance of official meetings 2004 and 2005. A 2004 Human Rights Watch report⁷² discussed how local authorities and developers are forcibly evicting hundreds of thousands of residents in order to build new developments. With little legal recourse, those evicted have taken to the streets in protest, only to meet severe police repression, detention, and imprisonment. Legal experts and some government-controlled news media have openly criticized the government's failure to protect housing rights. The government has responded with some policy and constitutional reforms, but widespread corruption and a weak judicial system obstruct implementation.

- Ye Guozhu was detained on suspicion of 'disturbing social order' in August after applying for permission to hold a mass protest against forced evictions in Beijing. He was sentenced to four years in prison in December 2004. Ye Guozhu and his family had been forcibly evicted from their home in Beijing to make way for construction reportedly related to the 2008 Olympics.⁷³ Forced evictions continue in Beijing. In July 2006, ten families were refusing to leave a building located next to the new site of China Central Television (which will broadcast the Olympics in 2008) claiming that offers of compensation are inadequate. Slogans read: 'don't cheat and bully people' and 'illegal demolition'. Protesters said that 'the Olympics are good for China, but should not be used as an excuse to drive people from their homes'.



- **Labour conditions in mines, factories etc. often entail serious health risks**
- **China may have the world's highest growth-rates of HIV infections**
- **Information on AIDS and other epidemics is often censored**

Investigators and activists, including foreigners, have been arrested for attempts to collect or publicize data on environmental risks and damages. Protests against projects which endanger the environment or which entail displacement of local communities without adequate compensation have been harshly repressed.

Censorship makes it very difficult to come to reliable assessments of environmental hazards or health concerns, including epidemics. The official figure of 840,000 people infected with the HIV virus may grossly underestimate the real situation. In December 2005, the United Nations AIDS organization predicted there could be 10 million people infected in 2010.⁷⁴ Doctors and researchers who publish on the AIDS epidemic have been harassed.

- Li Dan, an AIDS activist, was detained by police in Henan province in August 2004 in an apparent attempt to prevent him from protesting against the government's handling of the AIDS epidemic. He was released one day later but then beaten up by two unknown assailants. Li Dan had founded a school for AIDS orphans

in the province where up to one million people are believed to have become HIV-positive after selling their blood plasma to unsanitary, state-sanctioned blood collection stations. The school had been closed down by the local authorities in July.⁷⁵

Poor working conditions exist in many industries and types of enterprises in China. China's Labour Law states that every worker should not work more than eight hours a day and that the average working week should not exceed 44 hours. However, management is allowed to extend working hours by a maximum of three hours per day in 'special circumstances' as long as the workforce and trade union has been 'consulted'. There are serious concerns that health and safety provisions of the Labour Law are not implemented or enforced in practice. Workers often have to perform a large amount of overtime to meet the monthly minimum wage. Many factories operate harsh systems of rules, enforced through heavy fines. A 2005 CAFOD (Catholic Association for Overseas Development) investigation into working conditions in the Guangdong electronics sector reported that:

workers were receiving illegally low salaries and had to do enormous amounts of overtime in order to earn the legal monthly minimum wage. A survey by the Guangdong Department of Labour and Social Security found that 85% of internal migrant workers in the province have to work for 10-14 hours every day and almost half of them have no day off. It also found that most internal migrants were not paid overtime. Such practices violate China's own Labour Law.⁷⁶

In spite of new policies, official figures report that over 6,000 people lost their lives in coal mining accidents in 2005. Chinese mines are considered to be among the most dangerous in the world.⁷⁷

During the early decades of the People's Republic of China, healthcare was funded and provided by the state, which maintained it was available to all without charge. However, economic restructuring since the 1980s has led to the privatization of health-care. According to a survey conducted by China's Ministry of Health and published in January 2005, nearly 49 per cent of Chinese people cannot afford to see doctors when they fall ill and 29.6 per cent are not hospitalised whenever necessary. In addition, 80 per cent of medical institutions are based in cities, with only 20 per cent in rural areas. The survey blamed these problems on 'lack of medical resources, imbalance in distribution

of resources, low coverage of the medical insurance system, fast rise of medical costs and inadequate government input'. According to official statistics, 45 per cent of the urban population and 80 per cent of the rural population have no form of medical insurance.⁷⁸

Another ongoing concern is that of official response on environmental disasters. Ethical Corporation reported on such cases in December 2005:

The chemical explosion in Jilin that has polluted Harbin's water supply is an environmental disaster of monumental scale. However, it also illustrates something else - just how China may cope with an epidemic of avian influenza (bird flu) if it takes hold of China's 14 billion strong poultry flock. It seems that the Jilin blast was down to operational errors showing how real these fears are and how disastrous their consequences can be. The blast has dumped toxic chemicals into a river that is the source of drinking water for millions of people in north-eastern China and on into Russia. What struck most of us here in China was not the scale of the blast but that once again - after SARS, numerous coal mine disasters and more recently over bird flu local officials covered up the details and the domestic media was restricted in what it could report.⁷⁹

14 AUTONOMOUS AND OTHER LARGE-MINORITY AREAS



A major health risk is widespread prostitution. It is estimated that there are 1.7 to 5 million commercial sex workers in the country. Unsafe working conditions are rampant among the saunas, massage parlours, clubs and hostess bars in cities. Research indicated that up to 80 percent of prostitutes in some areas had hepatitis.⁸⁰

- **Tibet, Xinjiang and other 'minorities' areas have below-average economic conditions**
- **Unfoundedly, some prominent minority activists have been labelled 'terrorists'**
- **Violations will particularly affect foreign companies in the 'Go West' policy**

In particular the provinces and 'autonomous regions' of the West, including Tibet, Xinjiang and Qinghai, house major ethnic 'minority' populations (who often are or were a majority in these areas). The Chinese government has an official policy of protection and promotion of these populations, but has fiercely suppressed calls for autonomy and independence. Foreign companies will increasingly be confronted with such human rights violations when they take up opportunities within China's 'Go West policy'.

In the Tibet Autonomous Region, human rights violations afflict Tibetan Buddhists and nationalists. Arbitrary arrests, unfair trials and torture in detention are common. The 'patriotic education campaign' strives to restrict the religious freedom which had been extended to the population at large in recent years. In the Xinjiang Uighur Autonomous Region, gross violations of human rights include arbitrary and summary executions, torture, arbitrary detention and unfair political trials. Particularly targeted are Uighurs. Thousands of political prisoners are believed to be held in the region. After September 11, 2001, campaigns against 'terrorists' have intensified.⁸¹

There was much publicity for the case of Rebiya Kadeer, released from prison on medical parole in March 2005.⁸² On the same day, the US announced it would not seek to sponsor a resolution on China at the ongoing UN Human Rights Commission. Rebiya Kadeer, a prominent Uighur businesswoman from Xinjiang, was detained, tried and imprisoned for eight years in 2000 on charges of 'leaking state secrets', having sent newspaper clippings to her husband in the USA. Rebiya Kadeer's success in business was recognised and celebrated by the Chinese authorities, earning her a position as an official representative to the UN Fourth World Conference on Women in Beijing in 1995. She later became a member of an official advisory body to the National People's Congress, but was barred from re-election in 1998 for failing to condemn her husband's 'separatist' activities in the USA. She was detained in August 1999 while on her way to meet a US Congressional Research delegation in China at the time, and was alleged to be in possession of a list of 10 people 'suspected of having a connection with national separatist activities'. Rebiya Kadeer's release came around a year and a half before she was



due to complete her sentence. She went to the United States where to receive medical treatment. Her family members, friends and business partners in China continue to be harassed. After her release, she was attacked for involvement in 'terrorist acts' and China asked foreign governments to not allow her entry or arrest her.⁸³

- **Corruption is widespread and a root cause of many human rights violations**
- **Most corruption goes with impunity, some prominent people were harshly punished**
- **Taking or giving bribes in China may be a crime in the domestic laws of foreigners**

Journalists and others who have documented or protested corruption have become victims of harassment and arbitrary detention.⁸⁴ The domestic laws of many countries, as well as codes of conduct of many multinational companies, proscribe giving or accepting bribes. The Chinese government has in recent years stepped up its efforts to curtail corruption, through official warnings and punishments. Yet China's National Audit Office determined that approximately US\$ 400 million from the central government's 2004 budget was misused or embezzled, nearly triple the amount reported in 2003. In 2004 economists estimated that the cost of corruption might exceed 14 percent of gross domestic product.⁸⁵ The suppression of corruption has occasionally entailed human rights violations. People have been executed for such offences as embezzlement, tax fraud and corruption.

According to surveys by such non-governmental organizations as Transparency International, experts and businesspeople perceive China as a 'lower-middle corrupt country'. Chinese officials acknowledge that corruption is on the increase, with a rising

number of offenders, growing amounts of involved, and criminal means 'diversifying and intellectualising'. Between 1995 and 2000, corruption caused an estimated economic loss equivalent to at least 17 per cent of China's GDP. Bribes entail risks of involvement in political dealings and military interests.

According to the international trade union federation ICFTU, the fast restructuring and quasi-privatisation in China has been accompanied by large scale corruption, which has been a central reason for many workers' opposition to it. Bosses and corrupt local government officials have been able to ignore many of the regulations that were supposed to govern the process of restructuring, with widespread, semi-criminal pillage of state assets as the result.

Often, corruption has taken the following form: top managers would deliberately run down the operations of a state company over a period of two to five years. The company would then be declared bankrupt. Employees were sacked via various means and the assets sold off at giveaway prices. The company would then re-emerge in private hands,



employing workers on mediocre contracts that reduced the overall wage bills. Due to a lack of transparency, workers' resistance to the process would usually start at the comparatively late stage of asset-stripping. Resistance would come in the form of major street demonstrations. In most cases, however, and due to restrictions on the organisation of labour, resistance would come too late and workers would find themselves struggling to get welfare payments and to obtain their wage arrears.⁸⁶

To sum up, the negative effects of corruption on human rights in China include:

- Those who report on corruption run a risk of being persecuted.
- Those suspected of or convicted for corruption run a risk of being punished in cruel manners, including the death penalty.
- Corruption may easily undermine workers' rights, such as the right to work, equal access, fair income, job protection and protection from health and safety hazards.
- Corruption undermines the rule of law in judicial proceedings as well as in government policies and measures.
- Corruption threatens the right to an adequate standard of living, as families may have to spend a considerable part of their income on bribes and other irregular monetary contributions.⁸⁷

- **Chinese 'non-governmental organizations' are generally government-controlled**
- **International NGOs are generally not allowed access for research**
- **Chinese state media may abuse foreign visits for propaganda use**

The government-established China Society for Human Rights is a 'nongovernmental' organization whose mandate is to defend the government's human rights record. The government maintains that each country's economic, social, cultural and historical conditions influence its approach to human rights.

Independent organizations, including trade unions, are prohibited or severely restricted. Leaders and representatives of such organizations are arrested on a large scale. Independent domestic NGOs are not allowed to monitor openly or to comment on human rights conditions. It is difficult to establish an NGO; most existing NGOs are quasi-governmental and are closely controlled by government agencies. Foreign NGOs are generally not allowed into the country; neither Amnesty International nor Human Rights Watch has ever got permission to undertake independent research in China. Talks with the International Committee of the Red Cross (ICRC) on an agreement for ICRC access to prisons finally resulted in a ICRC station in Beijing from July 2005.

The European Union maintains a human rights dialogue with China, which is criticized by many human rights organizations.⁸⁸ During a July 2005 seminar on freedom of expression, security officials interrogated and threatened a member of the EU delegation. After intervention by representatives of foreign governments, the individual was permitted to leave the country.⁸⁹ Government officials claimed security officials acted properly in interrogating the NGO representative. Representatives of other international human rights organizations reported that authorities denied their visa requests or restricted the length of visas issued to them.

Amnesty International's Secretary General Irene Khan was representing her organization in China when addressing the United Nations Global Compact Summit in Hong Kong, 1 December 2005. She direct her words in particular to Chinese companies and multinational companies operating in China when pointing to 'good pragmatic reasons for companies to respect human rights'.

These include:

- *Risk management*: 'An environment

17 AUDITING ORGANIZATIONS AND AUDITING RESULTS: EXAMPLES

in which human rights are regularly and seriously abused is a risk factor for companies. Operating in conflict zones, under regimes with a weak rule of law, where human rights are regularly violated, where corruption is rife, endangers the safety of employees and company assets as well as project viability.'

- *Consumer boycotts*: 'This risk is not theoretical - as you know, NGOs have successfully campaigned and led boycotts against companies that failed human rights or environmental or ethical standards.'
- *Legal liability*: 'The increased threat of litigation has also affected the way companies look at human rights.'
- *Staff recruitment and retention*: 'CEOs from multinationals have told us that the best and brightest candidates they recruit on campuses are as keen to learn about their companies' corporate social responsibility policies as about remuneration and career path.'⁹⁰

Foreign companies should be aware that the strongly state-dominated character of the Chinese economy may entail unwarranted profiling of business explorations and negotiations for political purposes. One businessman who got permission for a private visit to Tibet saw his picture in a Chinese newspaper with the line: 'Foreign investors interested in Tibet.' Some business

people have experienced that they are taken on tours to venues of which they knew very little, where they were received with much pomp and circumstance, and photographed. Sometimes they later detected media accounts of their 'friendly visit' being presented as a sign of their 'enthusiasm' for a particular project.

The following examples of auditing organizations and auditing results are taken and quoted from websites as indicated. The selection is only illustrative and does not imply any judgment of Amnesty International on the qualities of the organizations and reports.

Examples of organizations and companies involved in auditing and assessment

- *The Danish Institute for Human Rights*
'The Danish Institute for Human Rights monitored [in 2005] human rights and business in China at three levels. First, the rights were investigated for areas of conflict between the prevailing national laws and international human rights law. Second, the prevailing social and cultural practices were analysed to identify any inherent human rights violations frequently perpetrated at the societal level. Third, each right was assigned an overall company risk rating, based on the ratings in the formal law and practice categories and the proximity to company operations. The results of the

assessment produced the categorisation of 12 human rights as high-risk areas and 8 human rights as medium risk areas for companies operating in China. Due to the severity of human rights violations in China no rights were categorised a low risk areas.'

[Source: www.humanrights.dk]

- *ERM*
'ERM has more than 10 years experience in China working with companies to audit and establish their Environment, Health and Safety systems. Key client decisions include:
 - *Which laws are to be audited*. 'Labour' means different things to different clients, and often to different people in the same company. Typical China labour law audits include the 1994 Labour Law, and related laws on collective bargaining, minimum wages, insurance and welfare administration, child and forced labour, trade unions, female employees and juvenile employees (aged above 16). It is customary practice to provide a generic assessment of EHS issues, but full due diligence against EHS obligations is

conducted by means of a specific EHS Audit and formal Environmental Site Assessments.

- *Agree the scale of the audit.* The scale of sampling determines the degree of confidence.
- *Agree the scale of interviewing.* The number of interviews with employees, supervisors and managers provides additional, subjective quality to the audit. This is particularly valuable for developing improvements. '

[Source: www.erm.com]

— *Ethical Trading Initiative*

'The Ethical Trading Initiative is a ground-breaking initiative which brings together a wide range of organisations from all parts of society. We encourage companies to adopt the ETI Base Code and implement it in their supply chains. We aim to influence corporate behaviour in this regard by:

- Getting new companies to join ETI. To become a member, the company must make a public commitment to adopt the ETI Base Code and to implement it in their supply chain. We have increased our corporate membership from 12 companies in 1998, to 37 at the end of 2004.
- Requiring all corporate members to submit annual progress reports on their code implementation activities. These reports show that significant code implementation activity has taken

place, and that members' suppliers are making concrete improvements to labour practices.

- Evoking, where necessary, our procedure for disengaging poor performers. For companies who are not meeting membership requirements, we meet with senior representatives of the company to agree an improvement plan and a deadline for implementing it. Companies who fail to implement such an improvement plan may ultimately be asked to leave ETI.'

[Source: www.ethicaltrade.org]

— *Fair Wear Foundation*

'Fair Wear Foundation aims to promote humane labour conditions in the garment industry. The Fair Wear Foundation works with the Code of Labour Practices for the Garment Industry. Member companies endorse this code. In doing so, they commit themselves to auditing labour conditions in their factories against the provisions of the code and to implementing improvements, where necessary. The code contains eight internationally respected labour standards; these need to be implemented in the factories step-by-step. Fair Wear Foundation verifies that companies correctly implement the Code. To be able to do so, FWF uses four methods:

- Complaints procedure for employees
- 'External' factory audits

- Contacts with local organisations
- Audit of the management system of the member '

[Source: www.fairwear.nl]

— *SA8000*

'SA8000 certification's main goal is to help companies maintain just and decent working conditions throughout the supply chain. Certification enables companies to guarantee commitment to working conditions that meet minimum standards based on ILO conventions. The certification system is universally applicable, regardless of geographic location, industry sector or company size. Developed in the mid-1990s, SA8000 is comprised of a set of labour standards, a management standard for labour standard implementation, a certification procedure including training and audits, the certificate, and an accreditation system for auditors. A US-based organisation, Social Accountability International (SAI), is responsible for accrediting auditors, while certificates are issued to factories or workplace units, not companies. At the start of 2005, there were 572 certified facilities worldwide, of which 79 were in China.'

[Source: *IIAS Newsletter* 36 (2005), 'SA8000: International supply chains and labour standards in China', by Gemma Crijns and Frans Paul van der Putten]

Examples of auditing results

- *China Labor Watch report on Zhuhai*
'In June, 2005, China Labor Watch released a report on factory conditions at Kingmaker Zhuhai in Zhuhai, China, where Skecher's USA, Clarks UK and other shoes are manufactured. Footwear retailers Clarks and Skechers have been asked to address labour rights violations at a Taiwanese-owned footwear supplier in Guangdong in China which systematically hides its violations in ways that make corporate codes of conduct useless. The Brussels-based International Textile, Garment and Leather Workers' Federation has asked the retailers how they plan to address these issues, given allegations that the company coaches workers on how to speak to compliance teams or monitoring staff who visit the facility, and threatens to fire workers who speak out. Says ITGLWF General Secretary Neil Kearney: "A recent China Labor Watch investigation revealed appalling conditions at the Kingmaker Zhuhai factory. The company employs some 7,000 workers, most of whom are internal migrants, who are treated little better than slaves. Violations at the plant include excessive hours of work, abuses of laws on overtime pay, harassment and intimidation, intrusive body searches, lack of maternity protection, the failure to grant leave and holidays, and appalling

health and safety conditions. Workers are sometimes required to work up to 18 hours a day, but overtime is paid at regular rates. Workers are not allowed to punch their time card when working on Saturdays. Monetary fines are imposed for a variety of 'offenses'. For instance, being absent for a single day results in the loss of three days' wages. Workers wanting to quit the job must give the factory 15 days' notice and are not allowed to quit without the permission of management. Permission is often denied, leaving workers no choice but to lose one month's pay when they want to move on. Workers complain of a lack of security in the dormitories, where workers sleep ten to a room, with only one toilet for one hundred workers. Work-related injuries are not uncommon in the factory. Fumes present a major problem, sometimes causing workers to faint. Management provides no compensation to workers who are injured or become ill."

[Source: 'Footwear companies respond to CLW report on labor conditions at Kingmaker Zhuhai Factory', at www.chinalaborwatch.org]

- *Ethical Trading Initiative on Shenzhen sweatshop factories*
'Wristbands made to raise awareness of the Make Poverty History campaign have been produced in Chinese factories which violated ethical standards, it emerged today. The fashionable white wristbands,

worn by celebrities and politicians including Tony Blair, were made for a coalition of charities as the symbol of their worldwide 2005 campaign to end extreme poverty.

Oxfam, Christian Aid and Cafod are amongst those charities selling the wristbands, made in rubber and fabric, at £1 each. Audit reports on two Chinese factories producing the bands have shown standards fell below the Ethical Trading Initiative. Tat Shing Rubber Manufacturing Company, in Shenzhen, near Hong Kong, was accused of "forced labour" by taking financial deposits, poor health and safety provision, long hours, unpaid overtime and no right to freedom of association, in the April 2005 audit. An audit report on Fuzhou Xing Chun Trade Company, in Fujian province, included workers being paid below the local minimum hourly wage of 2.39 yuan (16p), down to 1.39 yuan (9p) in some cases, overtime work not being paid properly and with hours beyond the legal limit, no paid annual leave, no guarantee of a day off per week, and workers being deducted for disciplinary reasons.

[Source: Lesley Richardson, 'Corpwatch on Charity Wristbands Made in Sweatshop Factories', *The Scotsman*, May 29th, 2005]

- *ICO report on Nokia factories and suppliers*
'We were not allowed to go into any of

the companies, except one, to interview employees or managers. As a result, we were not able to make our own observations about the employees' working and living conditions. Working hours in the area's [South China] factories are very long. According to a study carried out by Qinghua University, the average daily working hours of rural migrants in Guangdong amount to 9.7 hours. A total of 20% of migrants worked more than 12 hours daily, and 5.8% up to 24 hours without a break. In recent years, the media has reported about numerous cases of people dying from overwork. Of the workers interviewed, 43.4% felt "exhausted" after work and 12.3% felt "very exhausted".

One interviewee recounted that customers had inspected the factory nearly every month since 2001. Before the inspections, managers made the employees clean their workspace. In addition, the workers were convened and told how they should answer the customer's questions. The employees were warned not to give "wrong" answers because the customer might then cancel orders. The customers seldom asked the employees anything, and when they did, the workers did not dare to say anything critical. The customers did not stay at the factories for very long, and after the inspections, things stayed the same. Some workers spoke openly to the

customers, but any changes remained minimal. The clients seldom asked workers for their opinion and usually believed the opinions presented by managers. The employees did not really understand the purpose of the clients' inspections and did not know how to communicate their opinions to the clients.

None of the interviewed employees knew about trade unions or other voluntary employee organisations. There are no free or independent trade unions in companies operating in China, and employees cannot freely establish employee associations. Employees are not encouraged to make use of their rights to establish associations and to engage in collective bargaining. After the strike at the Salcomp factory in July 2004, the local police arrested some employees, and some were dismissed. Many workers spend almost all of their waking hours working in a factory, some up to three weeks without a break before getting a single day off. Their income can nevertheless remain below that of the UN's absolute poverty line (\$1 per day). Or if that line is crossed, they do not escape poverty, whose limit is \$2 per day. And this despite spending all their time working, eating, and living in the factory and its environs.'

[Source: 'Day and Night at the Factory: Working conditions of temporary workers of

Nokia and its suppliers in southern China', . Institute of Contemporary Observation (ICO), Shenzhen, China, March 2005, at <http://fi.oneworld.net>

— *Press for Change & Global Exchange on Nike*

'More than 4,000 workers who churn out athletic bags in a huge Nike contract factory here breathe ventilated air. They wear earplugs when pounding rivets. They use bathrooms with running water. And they read their rights on wall-mounted bulletins. Gone are the acrid fumes, the scant protective gear and the foul restrooms evident during past years in plants making Nike products. Workers flocking from poor villages to booming, smog-choked southeast China express eagerness for their jobs here, belying the image of sweatshop exploitation that has plagued the Beaverton-based company for years. Yet the Golden Prene factory, which makes about 25,000 bags a day and generates \$80 million in annual revenues, is hardly a carefree place. Assembly workers toil long hours at repetitive jobs. Many of them endure separation from families. Their wages are higher than incomes back on the farm, but meagre by US standards at an average of \$5 a day, including overtime. Workers' modest dreams reveal difficult lives.

Jeff Ballinger, director of Press for

Change, a tiny but vocal activist organization in Toronto, says Nike executives should empower workers instead of imposing conveniently crafted initiatives. "They're skating by with some corporate social-responsibility template that's been hammered out by expensive consultants," Ballinger says. Long-time critics acknowledge progress made by Nike managers, adding that it occurred only due to public pressure. "What they've eliminated is super exploitation, and now they're just down to plain exploitation," says Medea Benjamin, founding director of Global Exchange, a San Francisco human rights organization. Nike does not release audit scores for individual plants.

Ballinger and Benjamin grant that consumer outrage has waned. Factory manager Charles Shang, a former Taiwanese army major who served in a military boot-making plant, says the decision to begin making Nike goods about seven years ago forced changes. Before then, he says, employees worked from 7:30 a.m. until 11 p.m. with two one-hour breaks -- every day of the month. In those days, about 30 percent of the workers failed to return after Chinese New Year holidays. But now, Shang says, annual turnover is under 10 percent. Nike accounts for between 55 percent and 65 percent of the plant's production.'

[Source: Richard Read, *The Oregonian*, June

27th, 2005, at <http://corpwatch.org/article.php?id=12463>]

— *SA8000 in Guangdong province*

'The stumble in China of the SA8000, a factory conditions standard designed and overseen by New York-based labour rights group Social Accountability International (SAI), highlights enforcement problems and consumer indifference. Investigators from the United States-based National Labour Committee who visited Taiwan-owned Lizhan Footwear Factory in southern China's Guangdong province, a company that had enrolled in the SAI scheme, last year found dormitory rooms packed with up to 28 people and work shifts that normally ran to 12 hours. When workers in the factory's polishing section went on strike over long hours and low wages, the NLC investigators heard, they were all fired. Workers had also been coached to lie to SA8000 inspectors. SAI hastily removed Lizhan, a major contractor for Boston-based sports shoemaker New Balance, from its list of approved factories. But rather than pressure Lizhan to clean up its act, New Balance has since shifted its production in Guangdong to a new uncertified factory right next door called Likai Footwear, according to company officials. It is owned by the same Taiwan investor that owns Lizhan.

In many ways, the enforcement problems

of SA8000 reflect the toughness of the standard, the Review says. It limits work time to 48 hours of regular shifts and 12 hours of overtime per week. Wages must be sufficient to meet basic needs. Workers must have a say in setting factory rules. Meeting and staying on the list of approved factories means submitting to half-yearly inspections, while outside groups can file complaints about a certified factory's performance.'

[Source: *Far Eastern Economic Review*, Hong Kong, May 2, 2001, 'Stumble of factory standard in China highlights enforcement difficulties and consumer indifference']

— *ICFTU on the 'Chinese miracle'*

'Cheap, plastic toys, the kind found in stores, fast food restaurants, day-care centres, cereal boxes and homes, almost all come from China. The Chinese toy industry, the largest in the world, generates billions of dollars in export profits and employs millions of people in thousands of factories. China Labour Watch, a labour rights group, released a report in September 2005 that shows a set of newly adopted corporate "codes of conduct" have not changed the situation for China's toy workers. Abusive conditions persist, undermining workers' standard of living and hindering the development of the rule of law in China. Among the report's findings are work schedules that surpass the legal

18 AMNESTY INTERNATIONAL'S COMMITMENT TO BUSINESS AND HUMAN RIGHTS

limit by almost 100%, pay rates as low as 59 percent of the local minimum wage, unsanitary cafeterias, dorm rooms housing 22 people each, and a basic disrespect for Chinese law. Out of the eleven sites investigated, only one abided by the work time and pay regulations set out in the China Labour Law. Corporations often try to avoid responsibility for such gross infractions by pointing out that factories serve several different clients at the same time. One factory manufactures for four clients: McDonald's, KFC, Hasbro and Mattel. If laws are broken, each corporation claims that though it would like to ensure compliance, it cannot control the work orders of the other corporations. Thus, the corporations' new codes of conduct, which stipulate that local laws should be abided to, are only in effect when a factory has no other clients than the corporation in question. This, however, never happens, and the big multinationals can wash their hands of any responsibility by claiming they have no control over others' work. About 37.2 percent of the foreign-invested factories were shown to have hazardous conditions with 34.7 percent of workers employed in these plants in danger of developing occupational illnesses. Once again, it is the workers who work the most, are paid the least and have the weakest insurance that are most vulnerable at work. Thus,

there is a clear correlation between being economically exploited and being at risk of losing a limb. And contrary to widespread common belief, no evidence suggests that work injuries are less frequent in the factories that are foreign owned or produce for exports. Moreover, the so far limited regulatory efforts to avoid accidents give little hope for better times as they are easy to manipulate. Inspection systems are generally not effective. The factories are usually notified in advance, and they often prepare by cleaning up, creating fake time sheets and briefing workers on what to say.'

[Source: ICFTU (2005). *Whose Miracle? How China's workers are paying the price for its economic boom.* at <http://www.workersvoiceatwto.org/www/pdf/WhoseMiracleChinaReport.pdf>]

The work for human rights in company approaches has a long history within Amnesty International, starting in the mid-1970s. From the mid-1990s, the network of 'business and human rights groups' comprised Amnesty International sections in the Netherlands, US, UK, France, Germany, Denmark, Sweden, Nigeria, Japan and other countries.

Amnesty International strives to gain commitment of companies, via direct and indirect approaches, to observe and promote the full range of human rights. Amnesty International has been assisting many multinational and other companies in undertaking these tasks.

The business community's responsibility is set forth in several systems of standards. Companies are held to observe not only the laws of a particular country, but also the principles of international law. Human rights are among the most widely accepted norms of international law. As is stated in the Preamble of the Universal Declaration of Human Rights (1948), human rights are 'a common standard of achievement for all peoples and all nations, to the end that

every individual and *every organ of society* [emphasis added] ... shall strive ... to secure their universal and effective recognition and observance...' This is resonated in the two United Nations (UN) human rights conventions of 1966, which by now have been ratified by three quarters of all the world's states. These conventions comprise some one hundred specific human rights. They include the rights to life, to freedom from torture and to freedom of expression, and the rights to work, education, housing, participation in cultural life, privacy, etcetera.

In the mid-1970s, two important international statements of principles were drafted especially for the business community. The Organization of Economic Cooperation and Development (OECD) issued principles on 'International Investment and Multinational Enterprises' (1976, revised in 1991). The guidelines concern areas such as publication of information, taxes, employment and environmental protection. The ILO 'Tripartite Declaration of Principles Concerning Multinational Enterprises and Social Policy' (1977; repeatedly amended and revised) concerns areas such as employment, working

conditions and training. In 1997 a proposal was submitted to upgrade this declaration to an ILO convention. Many initiatives followed, including that of the UN Global Compact. The most recent international norm setting is the 'Norms on the Responsibility of Transnational Corporations and Other Business Enterprises with Regard to Human Rights'⁹¹. It was developed by David Weissbrodt, chairperson of the UN Subcommission on the Promotion and Protection of Human Rights. The Draft Guidelines, adopted by the Subcommission in 2003, contain provisions on some forty areas of concern to the business community. Recently, Amnesty International has emphasized that the Internet is the subject of concerted efforts by governments to restrict freedoms. There are legitimate cases, for example preventing access to child pornography. Yet some governments require the assistance of Internet companies to fulfil repressive functions. A company thus runs the risk of being complicit through provision of equipment, technology or services. While such abuse of ICT has been documented in many countries, it is China that has generated the most public and political concern. That is because the apparatus of Internet repression is considered to be more advanced in China than in any other country, and because of the willingness of Internet companies to cooperate, in their quest to develop a lucrative market.

Organizations

Amnesty International: www.amnesty.org
 Business and Human Rights, A Resource Website: www.business-humanrights.org
 Catholic Association for Overseas Development: www.cafod.org
 China Labour Bulletin: www.china-labour.org.hk
 China Labour Watch: www.chinalaborwatch.org
 Corpwatch: www.corpwatch.org
 Dutch Ministry of Foreign Affairs: www.minbuza.nl
 Human Rights in China: www.hrichina.org
 Human Rights Watch: www.hrw.org
 International Labour Organization: www.ilo.org
 Laogai Research Fund: www.laogai.org
 Transparency International, Corruption Perceptions Index: www.transparency.org
 United Nations High Commissioner for Human Rights: www.unhchr.ch
 United States State Department, Annual Country Reports on Human Rights: www.state.gov
 World Bank: www.worldbank.org

Examples of tools for assessment, auditing and monitoring

Danish Institute for Human Rights: www.humanrights.dk
 Ethical Trading Foundation: www.ethicaltrade.org
 Fairwear Foundation: www.fairwear.nl
 Global Compact: www.unglobalcompact.org
 Institute of Contemporary Observation: www.ico-china.org
 SA8000: www.sa-intl.org
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Documentary films

China Blue. Director Micha X. Peled. Teddy Bear Films, USA, 2005.

A Decent Factory. Director Thomas Balmes. Icarus Films, Finland, 2004.

- Olympic Games

Amnesty International welcomes the intense spotlight that will be focused on China in the years until 2008. Severe abuses of fundamental human rights are a daily occurrence in China. If this spotlight can curtail or even end these abuses, then the Olympic Charter, with its commitment for the 'preservation of human dignity' might be relevant in China by 2008.

- A labyrinth of repression

To suppress civil and political rights, the Chinese government uses a wide array of repressive measures. They include: trials of dissidents; administrative detention for many alleged crimes including cases of expression of opinion and belief; torture of detainees; the death penalty for at least 68 identified crimes; censorship of mass media and internet; restrictions on academic freedom; violent suppression of armed and non-armed opposition groups in the 'outer' autonomous regions; restricted access for foreign visitors, monitors and Chinese nationals living abroad.

- Internet and other censorship
China has the most extensive internet

internet. There are many restrictions on the reception of foreign media and e-mail. Authorities routinely monitor telephone conversations, facsimile transmissions, electronic mail and internet communications of foreign visitors, businessmen, diplomats and journalists, as well as dissidents, activists and others. Dozens of people have been arrested for disclosing 'state secrets' on the internet.

- Administrative detention: a world record

More than 250,000, and possibly over 300,000 people in China are being detained in labour camps on vaguely defined charges having never seen a lawyer, never been to a court, and with no form of judicial supervision. Amnesty International is calling for 're-education through labour' to be abolished immediately.

- Torture and death penalty
Torture is endemic in China, and people are highly likely to suffer torture or other cruel, inhuman or degrading treatment

at some point of their passage through the criminal justice system. China continues to execute more people each year than the rest of the world combined. According to reports, at least 1,770 people were executed in 2005.

A senior legislator has stated that China executes 'nearly 10,000' people annually. Some economic crimes are punishable by death.

- Failing legal practice

In many areas Chinese law and legal practice does not conform to international laws and norms. This is most conspicuous in human rights affairs, but also affects commerce and trade. Moreover, there is a big gap between theory and practice, as many issues are dealt with in an 'informal' way and may involve bribes or other forms of corruption.

- No independent trade unions

The government has not approved the establishment of any independent unions. Activists who attempt to organize independent labour action are detained, imprisoned or subjected to 're-education through labour'.

- Labour conditions and labour unrest

It is very common that there exist severe restrictions on toilet time, talk and eating during work, places where one is able to work and other matters. Penalties range from physical punishment, such as beating, to wage deductions or dismissals. Millions of

workers are unemployed as a result of the failure of companies in the state sector. Tens of thousands of demonstrations have taken place in the last few years.

- Forced labour

Many institutions of the 're-education (or reform) through labour' system include factories that use forced prison labour, but which publicly advertise themselves as normal companies. Some of these have also produced for exports or have been suppliers to foreign companies.

- Health hazards

China witnesses a tremendous growth of pollution. Investigators and activists, including foreigners, have been arrested for attempts to collect or publicize data on environmental risks and damages. China has a high record of industrial accidents; annually, there are thousands of coal mines accidents. As of early 2006, it was officially acknowledged that over 840,000 people were HIV infected. The actual number may be much higher. In December 2005, the World Health Organizations warned that there may be 10 million HIV-infected people in China in 2010.

- Repression in autonomous regions

In the autonomous regions of Xinjiang and Tibet, and to a lesser extent in Inner Mongolia, religious freedom is severely restricted and people suspected of nationalist activities or

sympathies are subjected to particularly harsh repression. Thousands of people have been detained without trial.

- Corruption

Corruption causes estimated economic loss equivalent to 14 per cent or more of China's GDP. Journalists and other independent monitors who have documented or protested corruption have become victims of harassment and arbitrary detention. Corruption entails human rights violations including cruel punishment of perpetrators, undermining of the rule of law and threats to the right to adequate standards of living.

- Restrictions on foreign scrutiny

Foreign NGOs are generally not allowed into the country. Neither Amnesty International nor Human Rights Watch has ever got permission to undertake independent research in China. Some UN human rights rapporteurs have been allowed to visit China only after long delays and with many obstacles in their monitoring.

- ¹ Amnesty International, ASA 17/044/2004
- ² Director: Thomas Balmes, Finland, 2004.
- ³ Director: Micha Peled, US, 2005. Information provided at the International Documentary Film Festival, Amsterdam, December 2005 (www.idfa.nl). The film was awarded the Amnesty DOEN Human Rights Film Award at that festival..
- ⁴ E/CN.4/Sub.2/2003/12/Rev.2
- ⁵ George Gilboy, 'The Myth Behind China's Miracle', *Foreign Affairs*, July/August 2004.
- ⁶ Measured in the Gini coefficient, it rose from 0.21 to 0.32, and to 0.36 in rural areas.
- ⁷ *The Economist: China Country Profile 2006*, at www.economist.com/countries/China/; *World Bank: Country Brief China*, at web.worldbank.org.
- ⁸ See the World Bank's Quarterly Update on China, at <http://siteresources.worldbank.org/ICFTU>. 2005. *Whose Miracle ? How China's workers are paying the price for its economic boom*. <http://www.workersvoiceatwto.org/www/pdf/WhoseMiracleChinaReport.pdf>
- ⁹ *China Rights Forum*, No.3, 2005.
- ¹⁰ Amnesty International, ASA 17/001/2006.
- ¹¹ Amnesty International, ASA 17/009/2006.
- ¹² *Amnesty International Report 2003: China*.
- ¹³ *Amnesty International Report 2006: China*.
- ¹⁴ This is a China-based organization, accessible at www.cnnic.net.cn/en/.
- ¹⁵ or recent updates, see for instance www.bbc.co.uk.
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