

## **“We Could Disappear At Any Time” Retaliation and Abuses Against Chinese Petitioners**

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## I. Summary

*Two people died already in the past year—we don't dare say how, but they were both petitioners....We can be arrested at any time, and we can disappear at any time.*

Ai, a petitioner in Beijing

China's petitioning system is a unique cultural and legal tradition with deep historical roots. Although it has taken different forms over the centuries, it dates to the beginnings of the Chinese empire. Early Confucian texts refer to commoners submitting memorials to the emperor about their complaints. In China's last imperial dynasty, the Qing (1644-1911), petitioners traveled to Beijing and sometimes waited outside the gates of the emperor's palace on their knees, or tried to intercept imperial processions, to present their appeals.<sup>1</sup>

Today, their descendants stage sit-ins in front of Zhongnanhai, the Beijing compound where China's leaders live and work, and try to push their petitions into their limousines. Thousands of others throng Beijing's streets in front of national petitions offices, holding up signs that describe their cases. Their numbers swell during major political conventions. These petitioners, many of them rural people with minimal education or resources, often come to Beijing fleeing local violence and seeking the venue of last resort.

This report is the first in-depth look at what happens to petitioners who attempt to find redress for grievances within China's petitioning system. Research was carried out in China. The stories of abuse we heard—and which we report in the words of petitioners themselves—were chilling, and confirm anecdotal accounts previously published. These abuses call for urgent measures to protect petitioners from systematic violence and ill-treatment.

The words most commonly translated as “petition” are *xinfang* (信访), literally “letters and visits,” or *shangfang* (上访), “visiting higher [authorities].” Under the petitioning system, citizens unsatisfied with the decisions handed down by local officials or local courts may write letters of complaint or appear in person at special petition bureaus throughout the country. If petitioners are unsatisfied with the response to a petition they have the right

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<sup>1</sup> Jonathan K. Ocko, “I'll take it all the way to Beijing: Capital appeals in the Qing,” *Journal of Asian Studies*, vol. 47.2 (May 1988), p. 294.

to continue up the chain of petition bureaus all the way from the village level to the township, county, provincial, and national levels.

It is estimated that a staggering ten million petitions were filed in 2004.<sup>2</sup> According to the People's Daily, "An official survey revealed that 40 percent of these complaints are about police, courts and prosecutors' offices, 33 percent about government, 13 percent about corruption and 11 percent about injustice."<sup>3</sup> Other specific subjects often named in petitions include environmental problems, workplace complaints, and forced evictions.

Most petitions are filed at the local level, but frustration with the lack of action has led to a dramatic increase in the number of appeals to Beijing and in the number of cases filed directly with national instead of local petitions offices. According to official statistics, in the first quarter of 2005, the number of petition cases submitted in writing to the State Council Petitions Bureau in Beijing increased 99.4 percent, and the number of visitors to the bureau increased 94.9 percent, compared to letters and visits during the same period in 2004.<sup>4</sup> In 2003, the State Bureau of Letters and Visits received 14 percent more petitions than in 2002.<sup>5</sup>

In principle, petitioning is encouraged by the government and Party. The right to petition is guaranteed under Chinese law and by the constitution<sup>6</sup>, reflecting the historical role that petitioning has played in Chinese governance. With few other channels to raise grievances, and without a free press or the right to freedom of association or assembly, the petitioning system acts as a necessary pressure release valve for a government and Party that, in a political system lacking accountability to its own citizens, often finds itself out of touch with ground realities or the views of ordinary people. The petitioning system can therefore be an asset, bringing problem areas, such as

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<sup>2</sup> Josephine Ma, "Petition reforms a bid to ease social tensions," *South China Morning Post*, November 17, 2004. Many petitioners submit complaints to multiple offices at multiple levels of the system, so numbers of individual cases are likely fewer; however, many petitioners also submit complaints on behalf of large groups.

<sup>3</sup> People's Daily, January 6, 2005, at [http://english.people.com.cn/200501/06/eng20050106\\_169769.html](http://english.people.com.cn/200501/06/eng20050106_169769.html).

<sup>4</sup> Josephine Ma, "Petitioners losing faith, report warns," *South China Morning Post*, November 19, 2004.

<sup>5</sup> Yu Jianrong, "Xinfang Zhidu Pipan (Critique of the Petition System)" December 5, 2004 [online], <http://www.yannan.cn/data/detail.php?id=4842> (retrieved July 10, 2005).

<sup>6</sup> Article 41 of the constitution states, "Citizens of the People's Republic of China have the right to criticize and make suggestions to any state organ or functionary. Citizens have the right to make to relevant state organs complaints and charges against, or exposures of, violation of the law or dereliction of duty by any state organ or functionary; but fabrication or distortion of facts with the intention of libel or frame-up is prohibited. In case of complaints, charges or exposures made by citizens, the state organ concerned must deal with them in a responsible manner after ascertaining the facts. No one may suppress such complaints, charges and exposures, or retaliate against the citizens making them. Citizens who have suffered losses through infringement of their civil rights by any state organ or functionary have the right to compensation in accordance with the law."

corruption, to the attention of senior officials before they create mass dissatisfaction with the political system.

Yet the government and Party display a highly contradictory and inconsistent attitude towards petitioners. While in some cases national authorities encourage local authorities to resolve a petitioner's problems, if for no other reason than to prevent petitioners from clogging Beijing's streets, such success carries its own risks, as the very officials ordered to "resolve" these cases may be the same people who committed the original abuses.

In reality, success for petitioners is quite rare. A 2004 study by a Chinese professor, Yu Jianrong of the Chinese Academy of Social Sciences, found that of the two thousand petitioners surveyed, only three had their problems resolved.<sup>7</sup> Only two out of a thousand petitioners who take their cases to national-level petitioning offices ever receive a written response.<sup>8</sup> Problems occur at all levels of the petitioning system—village, township, county, provincial, and national. In a one-party state, such an exceedingly low rate of success or response has political implications, raising questions about whether the system is intended to redress grievances or simply create the appearance that it is possible to challenge officialdom.

However, the worst aspect of the system is the retaliation that many petitioners experience. Petitioners are often beaten, intimidated, and even kidnapped for airing their grievances. Professor Yu's report states that over 50 percent of respondents reported that they had been beaten by state actors or agents.<sup>9</sup> The report noted:

It is publicly known that some local governments use violence to stop petitioners from making their case to central government departments. The retaliation by some local governments against the petitioners is appalling and outrageous.<sup>10</sup>

Indeed, petitioners told Human Rights Watch that while they wait for their petitions to be addressed, many are ambushed by groups of plainclothes security officers on the street, beaten, kidnapped, and taken back to their home provinces, where some are imprisoned and even tortured. A few petitioners who spoke to Human Rights Watch

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<sup>7</sup> Irene Wang, "Petition offices told to act faster," *South China Morning Post*, January 18, 2005.

<sup>8</sup> Ma, "Petition reforms a bid to ease social tensions," *South China Morning Post*.

<sup>9</sup> Jianrong, "Xinfang Zhidu Pipan (Critique of the Petition System)."

<sup>10</sup> *Ibid.* See also Ma, "Petition reforms a bid to ease social tensions," *South China Morning Post*.

had lost the use of limbs due to torture in detention (but said that they intended to continue petitioning nonetheless). The perpetrators of these abuses are usually state actors or agents. They are rarely disciplined; Human Rights Watch knows of no successful prosecutions.

Our research found that much of the violence and abuse against petitioners in Beijing emanates from efforts by local officials to stop local residents from going to Beijing to petition. To accomplish this, local officials often send shadowy “retrievers” (*jiefang rennyuan*)—plain-clothes security officers—who attack and intimidate petitioners to deter them from pursuing their claims and force them to return to their home province. Beijing police, in turn, play their part: to quell the threat of rising discontent, they raze the shantytowns where petitioners live in Beijing, round up petitioners by the thousands, and turn many of them over to the retrievers, turning a blind eye to the retaliatory violence.

This is especially likely to take place during major political meetings, a time when petitioners flood Beijing in an attempt to seek help from powerful senior officials, and a time when the city is under greater pressure to put forward a positive public image. For example, during the “Two Meetings” (*liang hui*) in 2005, the spring meetings of China’s National People’s Congress and the Chinese People’s Political Consultative Congress, Beijing police issued statements that stability was a priority and that local governments should see to it that petitioning problems were resolved at the local level and that petitioning in Beijing was kept to a minimum.<sup>11</sup> Subsequently, Beijing police rounded up several thousand petitioners, detaining them in the basement of a gymnasium.<sup>12</sup> Such practices raise concerns that similar “sweeps” may take place in the run-up to the 2008 Beijing Olympics.

Once handed over to the retrievers, petitioners are forcibly returned to their home provinces. As many petitioners go to Beijing because of complaints of official or police violence, sending them back to the provinces often exposes them to grave dangers. While most petitioners are released in their hometowns and simply board the next bus back to Beijing, some are imprisoned without charges, or are sentenced to reeducation

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<sup>11</sup> “Zhonggong lianghui qi, Beijing yanqi shangfang shensu qingyuan (During Central government Two Meetings period, Beijing severely forbids petitioning and appealing),” *Dajiyuan*, March 20, 2005 [online], <http://www.dajiyuan.com/gb/4/3/10/n482497.htm> (retrieved July 26, 2005); “Lianghui zai ji, Beijing jiaqiang xinfang cuoshi” (As Two Meetings near, Beijing strengthens petitioning measures), *BBCChinese.com*, February 26, 2005 [online], [http://news.bbc.co.uk/chinese/simp/low/newsid\\_4300000/newsid\\_4300800/4300879.stm](http://news.bbc.co.uk/chinese/simp/low/newsid_4300000/newsid_4300800/4300879.stm) (retrieved July 26, 2005).

<sup>12</sup> “Beijing police herd petitioners into camp-style detention,” *Radio Free Asia*, September 10, 2004 [online], [http://www.rfa.org/english/news/politics/2004/09/10/china\\_petitioners/](http://www.rfa.org/english/news/politics/2004/09/10/china_petitioners/) (retrieved 28 November, 2005).

through labor camps. In prison and in the reeducation camps, some petitioners say they have been tortured. Falungong practitioners appear to be singled out for frequent arrest and harsh treatment.

Local authorities, who face criticism from superiors if too many petitioners go to Beijing, often see petitioners as a serious threat. Petitioners draw negative attention to the home province. Worse, petitioners are a threat to the financial wellbeing of local officials, as their pay includes incentives tied to indicators of social stability, such as the number of petitions received at national government offices. Large numbers of petitions results in cadres receiving lower annual or quarterly bonuses, or no bonuses at all, giving these officials a direct financial incentive to keep petitioners away from Beijing.

Despite severe retaliation, or perhaps because of it, many petitioners are tenacious in pursuit of their claims, pursuing their cases through every available channel for many years. Some spend years, even decades, in Beijing. A few families have become petitioning dynasties, passing the torch from one generation to the next. Some spend their life savings in the petitioning system, sinking deeper into poverty until they become homeless. Abuses tend to accumulate quickly on those persistent enough to challenge the state.

“Farmers might not have any education or understand anything about the legal system,” says a Chinese lawyer familiar with many cases:

They just know this: they can petition....The petitioning system shows a deep concern with fairness in Chinese society, a deep-rooted belief in Chinese culture that if you speak reasonably, you will get a good result.<sup>13</sup>

Petitioners' problems are often compounded by official prejudice and discrimination. They are commonly seen as “country bumpkins,” uneducated peasants who don't have access to mainstream mechanisms of dispute resolution. While the exact impact these attitudes have on the outcomes of petitions is difficult to measure, these prejudices are so widespread and pervasive that they must be considered in any assessment of the petitioning process.

The lack of effective remedies elsewhere in the Chinese justice system has driven large numbers of rural and impoverished urban residents to Beijing to seek redress. Those

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<sup>13</sup> Human Rights Watch interview with Zhou, lawyer, Beijing, 2005.

interviewed for this report were among the minority who were not discouraged by violence, inaction, or retaliation and continued to pursue their cases. Beatings and threats lead many others to drop their cases and return home. Many more people likely decide against complaining in the first place because of the lack of an independent judiciary, the lack of confidentiality, and the high risk of retaliation, which combine to create a climate of fear.

For some who fled their home provinces to avoid retaliation by local officials or police, it is impossible to return, and China's restrictive household registration laws mean that many petitioners cannot move to new towns to start again. Instead, they live in a permanent limbo, waiting for a reply from the state that will enable them to return home and pick up their lives again. Thousands of petitioners live in a "petitioners' village" near Beijing's South Station, surviving on scraps picked up on the street. Their numbers include some children. In winter, some die of exposure.

In response to the growing numbers of petitioners, Chinese activists have begun to organize mass protests in Beijing and to try to establish nongovernmental organizations (NGOs) to assist them. In January, Zhou Zhanshun, the head of China's main petitions office, the State Bureau of Letters and Visits, admitted that "civic protests were on the rise" and expressed "concerns that angry citizens were increasingly organized across regions and industries" and that demonstrations were growing in size.<sup>14</sup> The response has been harsh. An appendix to this report lists sixteen activists who have been imprisoned or who have disappeared as a result of their advocacy for petitioners. Several have been imprisoned after filing applications for permits to hold legal demonstrations. NGOs report harassment.

Senior Chinese officials are aware of the problems with the petitioning system. There have been some attempts to address them, if only to head off rising public discontent with China's unresponsive political system. After Professor Yu's findings were made public, foreign and Chinese news sources began publishing articles detailing the system's shortcomings and the abysmal conditions in the petitioners' village.<sup>15</sup> The *People's Daily*

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<sup>14</sup>"New Petitioning Rules in Pipeline," *China Daily*, January 15, 2004 [online], [http://www.chinadaily.com.cn/en/doc/2004-01/14/content\\_298950.htm](http://www.chinadaily.com.cn/en/doc/2004-01/14/content_298950.htm) (retrieved November 28, 2005).

<sup>15</sup>For example: "Top Legislators Heed Concerns of Common Folks", *Xinhuanet*, March 12, 2004 [online], [http://news.xinhuanet.com/english/2004-03/11/content\\_1360958.htm](http://news.xinhuanet.com/english/2004-03/11/content_1360958.htm) (retrieved November 26, 2005) on the website of the Supreme People's Court of the People's Republic of China (<http://en.chinacourt.org/>); "Chinese Courts Report Increasing Number of Petitions in 2004", *People's Daily*, March 9, 2005 [online], [http://english.people.com.cn/200503/09/eng20050309\\_176148.html](http://english.people.com.cn/200503/09/eng20050309_176148.html) (retrieved November 24, 2005); "Right to appeal guaranteed", *People's Daily*, March 14, 2004 [online], [http://english.people.com.cn/200401/15/eng20040115\\_132654.shtml](http://english.people.com.cn/200401/15/eng20040115_132654.shtml) (retrieved November 24, 2005);



admitted that some “high-profile areas where the central organs of power” are located often “receive hundreds of petitioners each day.”<sup>16</sup> Soon after, officials of the Legislative Affairs Office of the State Council and the State Bureau for Letters and Calls “acknowledged that problems exist in the current work of handling petitions, such as inadequate channels, lack of supervision, and [irresponsible] officials.”<sup>17</sup> The Anhui Province Public Security Chief, Cui Yadong, commented:

I felt ashamed when the petitioners [thanked] me, because most of their problems could have been solved earlier if our police staff had paid enough attention.<sup>18</sup>

In response to this flurry of criticism, the government issued new regulations that went into effect on May 1, 2005. These have been promoted around the country and internationally as strengthening the petitioning system and providing new protections for the rights of petitioners. They include a few new provisions, such as requiring that a petitioner first exhaust options at the local petitioning bureau before appealing to the next level of government authority, but they fail to address the dilemma that petitioners face in having to appeal for relief to the very government organs responsible for the initial violation.

As part of a national campaign launched after the implementation of the May 2005 regulations, Chinese Minister of Public Security Zhou Yongkang ordered local police to address complaints by petitioners. A month after the campaign was launched, the ministry reported that 71.7 percent of complaints had been resolved.<sup>19</sup> This is not a credible assertion. It is either intentionally misleading, using an ambiguous term such as “resolved”—which doesn’t mean that valid claims were accepted—or simply a piece of official propaganda.

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“国内首份信访报告获高层重视” (The First Domestic Report on Petitioning Receives High Level Attention), *Nanfang Zhoumo*, November 4, 2004 [online], <http://www.nanfangdaily.com.cn/zm/20041104/xw/szxw1/200411040012.asp> (retrieved November 24, 2005).

<sup>16</sup> “New Petitioning Rules in Pipeline,” *China Daily*.

<sup>17</sup> China to better protect petitioners’ rights, *People’s Daily Online*, January 18, 2005 [online], [http://english.people.com.cn/200501/18/eng20050118\\_170922.html](http://english.people.com.cn/200501/18/eng20050118_170922.html) (retrieved November 28, 2005).

<sup>18</sup> “All 3,000 police chiefs to hold face-to-face meetings with petitioners”, *People’s Daily Online*, May 19, 2005 [online], [http://english.people.com.cn/200505/19/eng20050519\\_185707.html](http://english.people.com.cn/200505/19/eng20050519_185707.html) (retrieved November 28, 2005).

<sup>19</sup> “Police heads ordered to well handle petitioners,” *People’s Daily*, July 23, 2005 [online], [http://english1.peopledaily.com.cn/200507/23/print20050723\\_197811.html](http://english1.peopledaily.com.cn/200507/23/print20050723_197811.html) (retrieved July 23, 2005).

In any case, the problems of retaliation documented in this report are unlikely to be addressed in a meaningful way by this campaign; in practice, they may actually be exacerbated by additional pressure on local officials and police to “resolve” complaints against them. In August 2005, the State Bureau for Letters and Visits warned against “unreasonable demands” by petitioners, an indication that the state remains at least as concerned with maintaining control over the number of petitioners and, hence, social order, as with ensuring fairness and justice for petitioners.<sup>20</sup>

Reports from petitioners and their advocates indicate that in the weeks before the May 1 regulations went into effect, police launched a crackdown on petitioners aimed at driving them out of Beijing. Those interviewed by Human Rights Watch after May 1 also said that the retrievers, while retreating across the street from Beijing petitions offices, continued to lie in wait for petitioners. Petitioners say that Beijing police are not implementing provisions of the regulations aimed at ending violence against petitioners and putting retrievers out of business. Police often ignore emergency (“110”) calls by petitioners. Instead, they often appear determined to chase petitioners out of Beijing. In doing so, they often send petitioners back to the very same officials who, were the source of the original complaints. Thus the reforms, combined with the crackdown on petitioners who do make it to Beijing, have given the system a nightmarish circularity in which the state response to petitioners also gives rise to more abuses about which to petition.

The new regulations also fail to address crucial systemic problems, such as the generally acknowledged fact that, even in the tiny minority of cases in which petitioners receive an official letter in response, these letters have no actual power to compel action.

The system clearly needs substantial reform. The imperial appeals system, reestablished by the Chinese Communist Party in the 1950s, has been codified in national, provincial and metropolitan regulations. It has since ballooned into a massive bureaucratic system that encompasses petitions offices for a number of government agencies at every level of the country. While the system has grown, it has not kept pace with the demand. Jurisdictional lines are unclear, so that many petitioners pursue the same case in multiple complaint procedures at once.

Like all states, China is obligated to provide routes to redress for abuses of human rights. Under international law, all persons have the right to a remedy when their basic rights

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<sup>20</sup> Vivien Cui, “Beijing warns against abusing petitioning system to disrupt social order,” *South China Morning Post*, August 1, 2005.

are violated. Article 2(3) of the International Covenant on Civil and Political Rights (ICCPR), which China has signed but has not ratified, states that states party to the covenant undertake:

- a) To ensure that any person whose rights or freedoms as herein recognized are violated shall have an effective remedy, notwithstanding that the violation has been committed by persons acting in an official capacity;
- b) To ensure that any person claiming such a remedy shall have his right thereto determined by competent judicial, administrative or legislative authorities, or by any other competent authority provided for by the legal system of the State, and to develop the possibilities of judicial remedy;
- c) To ensure that the competent authorities shall enforce such remedies when granted.<sup>21</sup>

However, these obligations are not being met. As a modern system of redress, the petitioning system has failed in part because it does not have the necessary elements of independence, impartiality, competence, transparency, professionalism, and non-discrimination to make it function fairly. At present there are no publicly established criteria upon which decisions are made, no system of publishing decisions with legally sound explanations, and no independent bodies to review the decisions of civil servants. In short, fairness is not built into the system.

There are also severe structural problems. The relationship with the administrative law system and the court system is confused and, indeed, circular. Petitions may be made to the courts against adverse executive branch decisions; they may also be made to the executive branch against adverse court decisions (thereby vitiating the principle of independence of the judiciary). It is not even clear what decisions the system can make, and whether the decisions by petitions offices are final or binding.

There is a raging debate in China about whether to keep or abolish the system. Abolitionists argue that the system is inherently arbitrary and at odds with the protection of human rights and the rule of law. Others suggest it should be overhauled but remain in place, as petitioning offers average Chinese perhaps the only legally condoned avenue to raise what, in many cases, are essentially political grievances. Those who support the current system should realize that the longer that abuse and lack of fairness remain the salient characteristics of the system, the more likely it will be that abolitionists will ultimately win the argument.

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<sup>21</sup> Article 2(3), International Covenant on Civil and Political Rights (ICCPR), (1976).

## **Recommendations**

The Chinese government and the CCP should act immediately to end the violence, kidnapping, and intimidation of petitioners. The place to start is to put retrievers out of business. The May 1, 2005 regulations have been ineffective in limiting abuses by retrievers, as can be seen in photos taken by Human Rights Watch (on page 44 of this report) of retrievers waiting across the street from petitioning offices in Beijing after May 1, waiting to pounce on petitioners. Chinese authorities know who the retrievers are; most are state employees, such as police officers, or are commissioned by state officials.

The government and Party must send instructions to all local authorities that the practice of sending retrievers to Beijing is prohibited and make it clear that individuals who persist in hiring retrievers will also be held accountable under the criminal law. The criminal law prohibits the violence, kidnapping, and threats used by retrievers. The police and prosecutors should apply this law in a public and highly visible way to send the message that this practice will not be tolerated in a country that claims to be moving towards the rule of law. The government must investigate the use of police and other agents of the state who beat, threaten, and kidnap petitioners and take appropriate criminal and disciplinary measures against those who carry out these abuses and the officials who order them or turn a blind eye to these methods.

The Chinese government also must insist the Beijing police officers protect the public—including petitioners—from violence and kidnapping that occurs literally in their sight. Instead of responding to protect petitioners, police often look the other way when local thugs come up from the provinces. Police officers should have the confidence that acting to protect members of the public, even when intervening against retrievers employed by powerful government or Party officials, will not lead to retaliation against them within the police service. Instead, they should be trained to understand that the failure to intervene is a dereliction of duty that will lead to sanctions.

The Chinese government should act immediately to release from all forms of detention all petitioners detained in retaliation for exercising their legal right to petition. It should release all petitioner activists imprisoned detained for protesting and for applying for permits to hold legal demonstrations.

The Chinese government should also change the current incentive system for officials working in the petitioning system. One reason why retrievers are so prevalent and so zealous is the current incentive system that rewards officials for keeping the number of petitions down. The system should be turned on its head, with incentives based on the fair and expeditious resolution of legitimate complaints as a sign of a willingness to

accept the need for an appeals process and a more open political system. Further, national authorities should make it clear to local officials that the presence of retrievers in Beijing is evidence of an undesirable and inadequate response to appeals and will negatively affect the responsible officials.

Corruption also has to be addressed—not just the corruption that often leads to a petition being filed in the first place, but the corruption within administrative and judicial structures that often makes it impossible for petitioners with legitimate complaints to gain redress.

The May 1 regulations have not made the petitioning system fair, impartial, and effective. It is unclear if the weaknesses in the regulations represent a technical failure that can be addressed through expert advice or if ambiguity was deliberately written into the new regulations. In either case, a decision to redraft the regulations or to create new legislation should entail a more open process that allows for public input and comment and incorporates more perspectives, including those of petitioners.

Petitions offices in Beijing are chaotic. For the system to be functional, it is important to increase the number and quality of staff in petitioning offices. Even well-intentioned staff are often overwhelmed by the amount of work they have to process, as a single petition can run up to a hundred pages or more, handwritten by lay-people with the issues often jumbled up without context.

The government should also attempt to make legal aid available to those who cannot afford a lawyer. The many legal aid initiatives around China, often funded by international donors, should take into account the acute needs of petitioners for help in presenting their claims in the petitioning system, in the administrative law system, or in courts.

China should also change current rules and allow petitioners in Beijing to work while in Beijing. The government should offer social services to allow petitioners basic human dignity and the necessities of survival while they pursue their claims.

To increase the public's faith in having their grievances resolved fairly, the government needs to strengthen its administrative law mechanisms and the court system, particularly at the provincial and local level. In this way meritorious claims could be resolved through administrative law or judicial processes. For some petitioners, at least, this will save time and money and bring finality to their cases. But for these reforms to be

meaningful, the administrative law system and the courts must develop some core values—independence, impartiality, competence, transparency, professionalism, and non-discrimination—to make them function fairly and effectively.

While other countries with courts and administrative law systems that operate consistent with international standards can offer valuable technical assistance, no serious progress will be possible without fundamental reform. The creation of an independent judiciary, which involves separating the state from the Party, is a political decision that has to be taken at the highest levels of the government and Party. Local and national governance structures have to be radically changed to allow for popular participation and public accountability. Perhaps most important for petitioners, China has to establish systems to provide for genuine grass-roots accountability to communities and citizens. Unfortunately, there are no signs yet that the Chinese leadership is ready to accept the need for such basic reforms.

China and some of the more optimistic members of the international community have hailed China's stated commitment to protecting human rights and creating the rule of law as a sign of the country's development and modernization. But implementation is the real test. An end to abuses against petitioners should be seen inside China and by the international community as an indicator of the seriousness of China's commitment.

## **II. Research Methods**

Human Rights Watch conducted field research for this report in Beijing for two weeks in 2005. Human Rights Watch researchers conducted interviews with thirty-four petitioners as well as with six lawyers, activists and journalists who have expertise on the petitioners issue.

Of the thirty-four petitioners who spoke to Human Rights Watch, twenty-four were men and ten were women. Most came from China's north and central provinces: fifteen were from Beijing and the vicinity, five were from Shanxi, four were from Shandong, three from Henan, two each from Heilongjiang and Liaoning, and one each from Anhui, Jilin, and Ningxia. Excepting one Manchurian and one Hui, all other interviewees were majority Hans. While Beijing reportedly has a large number of ethnic minority petitioners, many were reluctant to be interviewed for security reasons.

Interviews were conducted in settings that were as private as possible. All interviews were conducted in Mandarin. In addition, Human Rights Watch collected information

from Chinese and English-language news accounts, scholarly journals, and archives in China, the United States, and the Internet.

In 2004, a volunteer collected statements, court documents and other supporting materials relating to the cases of an additional fifteen petitioners, and donated these case files to Human Rights Watch.

The scope of this study is necessarily limited by the information accessible to Human Rights Watch given the research constraints in China. China remains closed to official research by international human rights organizations. Over the years, Human Rights Watch has received numerous reports of the detention and interrogation of Chinese activists and scholars because of their contact with international human rights groups. As this report documents, Chinese activists working with petitioners also believe that they are closely monitored, and some have been interrogated or jailed for their work.

Because of these concerns, Human Rights Watch took a number of precautions while conducting field research. Researchers did not request interviews with government officials on the petitioning issue while in China, but did write to China's representatives in Washington, D.C. to request an interview.

Unless otherwise noted, we have used pseudonyms for Chinese citizens throughout. In most cases, petitioners requested that Human Rights Watch omit names and alter characteristics of interviewees. None of the petitioners interviewed appear in any of the photographs used in this report. Human Rights Watch looks forward to the day when it is safe for Chinese citizens to speak and meet openly with international human rights groups.

Human Rights Watch takes no position on the underlying merits of the petitions described in this report. The focus of this report is on what happens to petitioners after they file a petition.

### III. The Petitioning System

*All of China isn't corrupt, because if it were it would be total chaos. But all you need is for half of the people to be corrupt.*

Yuan, a rural petitioner, Beijing 2005

The modern petitioning system is the product of a long history. For centuries under China's imperial systems, commoners had the right to report official misconduct or to appeal judicial or administrative decisions to higher levels of government.<sup>22</sup>

Petitioning is an indigenous cultural and legal tradition that has long buttressed a rigid hierarchy. In many respects, it is an expression of the Confucian philosophy that was the basis of Chinese feudalism: petitioning is premised on appeals by commoners to the better nature of their rulers, a plea for the protection of one's superiors. Superiors are not required to intercede, but may choose to do so, depending on their degree of benevolence.

Early Confucian texts refer to commoners submitting memorials with their complaints to the emperor. Later, during the Ming (1368-1644) and Qing (1644-1911) dynasties, Chinese citizens were able to present written appeals to imperial censors relating to official misdeeds or incorrect legal decisions by local magistrates. Petitioners who received no redress or who were dissatisfied would go continuously up the chain of command, some eventually traveling to the imperial capital. Once there, an appellant could:

[B]ang the "grievance drum" outside the offices of the censorate and the capital gendarmerie (*bujun tongling yamen*), both of which were authorized to accept capital appeals....To...reach the emperor directly by either kneeling before the palace gate...was not impossible but was

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<sup>22</sup> For more on petitioning and related subjects, see, for example, Carl F. Minzner, "Xinfang: An Alternative to the Formal Chinese Legal System," *Stanford Journal of International Law*, vol. 42:1 (2006), (publication pending); See also Liao Yiwu, *Zhongguo shangfang cun* ("Shantytown for Supplicants: Reports on China's Victims of Injustices"), (Hong Kong: Mirror Books, 2005); as well as Chen Guidi and Chun Tao, *An Investigation of China's Peasantry (Zhongguo Nongmin Diaocha)* [People's Culture Press (Renmin Wenxue Chubanshe), 2004]; See also Kevin O'Brien, "The Politics of Lodging Complaints in Rural China," *China Quarterly* (1995), <http://www.polisci.berkeley.edu/faculty/bio/permanent/Obrien,k/CQ1995.pdf>, as well as O'Brien's work on popular protest, of which petitioning is a part, at <http://www.polisci.berkeley.edu/faculty/bio/permanent/Obrien,k/>.



illegal...[but] the hope was not farfetched since emperors seem to have been sympathetically predisposed to capital appeals.<sup>23</sup>

In the waning days of the Qing empire, problems became increasingly apparent in the imperial appeals system: the number of appellants increased rapidly, “swamping the ability of imperial institutions to handle” the complaints.<sup>24</sup> Local officials and warlords began to struggle with petitioners in the attempt to cover up local problems.<sup>25</sup>

Party leaders reestablished the petitioning system in the early 1950s, using the petitioning system as a source of information that assisted the Party in consolidating political control.<sup>26</sup> In the 1980s, the petitioning system gradually expanded to establish specific complaint offices within the government, courts, procuratorates, and people’s congresses.

### ***The Petitioning System in Theory and Practice***

In essence, the petitioning system functions as a general complaints system for complaints about any government misdeed, ranging from minor bureaucratic infractions to official corruption and police torture. Petitioners submit statements describing their complaints, and petitions offices are supposed to review the complaints, investigate the cases, and issue a letter about the matter. In some cases, a petitions office may transfer the case to a different government agency.

In theory, the petitioning system establishes a mechanism for independent review of local government. In practice, the petitioning system is overwhelmed by the quantity of complaints, while officials often have a disincentive to process complaints about their misdeeds or those of their colleagues.

Petitions offices range in size depending on the region and available resources; they can be a separate office inside a government bureau or Communist Party office, or merely a

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<sup>23</sup> Jonathan K. Ocko, “I’ll take it all the way to Beijing: Capital appeals in the Qing,” *Journal of Asian Studies*, vol. 47.2 (May 1988), p. 294.

<sup>24</sup> Carl F. Minzner, “Xinfang: An Alternative to the Formal Chinese Legal System,” *Stanford Journal of International Law*, vol. 42:1 (2006), (publication pending).

<sup>25</sup> Congressional-Executive Commission on China, “Annual Report 2004 of the One Hundred Eighth Congress, Second Session”, October 5, 2004 [online], <http://www.cecc.gov/pages/annualRpt/annualRpt04/CECCannRpt2004.pdf?PHPSESSID=f49fba7c86f9f560f81e7fe5c31ceb1> (retrieved November 24, 2005), p 72.

<sup>26</sup> Laura Luehrmann, “Facing Citizen Complaints in China, 1951-1996,” *Asian Survey*, vol. 43:5 (October 2003), p. 849.

desk within a local office.<sup>27</sup> Today, every level of people's government at and above the county level is required to create a petitions department of some kind. All government departments at or above the county level or at the town or township level are required to assign a work unit or individual to be responsible for all petitions.<sup>28</sup> Provincial regulations "often require the creation of a [petition department] at every local people's congress, court, and procuratorate at the county level and above."<sup>29</sup> In practice, for a variety of reasons, petitions may drag on for many years without resolution.

According to the latest set of national regulations, petitions offices must review a complaint brought in writing or in person within fifteen days, and either issue some suggestions on the case, or refer it to be handled by the relevant government agency.<sup>30</sup> If the matter is handled by that agency, the agency concerned must also issue a decision within fifteen days.<sup>31</sup> The department that handles the matter must investigate the case, and may choose to hold a hearing.<sup>32</sup> After investigating, the agency should issue some kind of written notice or letter.<sup>33</sup> According to the current regulations, the case should be handled within sixty days of the time when it is submitted to the petitions bureau; agencies may extend this time limit for complex cases up to thirty more days.<sup>34</sup>

As a system of redress, the petitioning system has generally failed. The growing numbers of petitioners and petitions are too many for the system to handle. Most petitioners—and for that matter, many officials—are never entirely sure at which level of government a petitioner should file her or his complaint, nor is it clear exactly what kinds of petitions should be handled by which departments. As this report documents, some petitions are transferred repeatedly from bureau to bureau. Should a bureau decide it has the power to handle a certain petition, the existing regulations make it unclear what exactly any one official or department has the power to do, aside from reprimanding other petition officials for mishandling petitions. Moreover, in a relic of the imperial legal system, few decisions are ever final.<sup>35</sup> As a result, many petitioners from around the country become

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<sup>27</sup> Article 6, Regulations on Letters and Visits, 2005 [*Xinfang tiaoli*]. Official English translation. State Council Order No. 431. Adopted January 5, 2005, effective May 1, 2005. Beijing: China Legal Publishing House, 2005)

<sup>28</sup> *Ibid.*

<sup>29</sup> Minzner, "Xinfang: An Alternative to the Formal Chinese Legal System," *Stanford Journal of International Law*, (publication pending).

<sup>30</sup> Article 21(1), Regulations on Letters and Visits, 2005 [*Xinfang tiaoli*].

<sup>31</sup> *Ibid.*, Article 21(4).

<sup>32</sup> *Ibid.*, Article 31.

<sup>33</sup> *Ibid.*, Article 26.

<sup>34</sup> *Ibid.*, Article 33.

<sup>35</sup> Minzner, "Xinfang: An Alternative to the Formal Chinese Legal System," *Stanford Journal of International Law*, (publication pending); Nanping Liu, "A Vulnerable Justice: Finality of Civil Judgments in China," *Journal of Asian Law*, vol. 13 (1999), p. 35-98.

frustrated with their provincial and local petitioning systems and eventually take their complaints to Beijing.

Once in Beijing, many petitioners travel from bureau to bureau, trying their luck at each. One website lists over fifty petitioning offices at various ministries and government organs in Beijing alone.<sup>36</sup> According to the Chinese Academy for Social Sciences survey, petitioners interviewed had visited an average of six different bureaus in Beijing, while some have been to as many as eighteen. These included the National Bureau of Letters and Visits, the State Council, the Supreme Court, the Communist Party Central Disciplinary Commission, the Public Security Bureau, the Supreme People's Procuratorate, the National Bureau of Land Resources, the Agriculture Bureau, and the Civil Administration Bureau.<sup>37</sup>

Each petitioning bureau is required to have a "reception place" and petitioners are allowed to present complaints only at these designated sites.<sup>38</sup> Facilities differ. The petitions office of the State Bureau of Letters and Visits is a small, often dirty room with neither chairs nor tables. Petitioners are required to line up in front of a small reception window to air their grievances and present their petitions and materials while standing.<sup>39</sup> The Beijing Municipal Government Office of Letters and Visits has a slightly nicer room with chairs where petitioners may sit while waiting for their turn at the window.<sup>40</sup>

These offices are always crowded, and often petitioners gather outside the buildings, carrying placards or wearing white shirts on which are painted narratives detailing their case. Some petitioners who come from other provinces bring children and elder relatives to stand in line with them. Many petitioners carry around not only copies of their written statements, but also bundles of evidence. These can include a typed or handwritten statement summarizing the case, often accompanied by sheaves of evidence: court decisions, past correspondence with officials, photographs, and testimony by witnesses. Others have recounted their stories to so many different officials that all relevant dates and facts have long been memorized.

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<sup>36</sup> Contact information for the Central Government and Beijing City Xinfang Bureaus retrieved on November 9, 2004 from <http://www1.cei.gov.cn/serve/doccopy/wnjgml/b/ba/010/bad/bad001/htm>, as quoted in Minzner's "Xinfang: An Alternative to the Formal Chinese Legal System," *Stanford Journal of International Law*, (publication pending).

<sup>37</sup> Jianrong, "Xinfang Zhidu Pipan (Critique of the Petition System)."

<sup>38</sup> Article 18, Regulations on Letters and Visits, 2005 [*Xinfang tiaoli*].

<sup>39</sup> Human Rights Watch interview with Bai, Beijing, 2005.

<sup>40</sup> *Ibid.*

## **Lack of Effective Remedies**

While China's government continues to be a hierarchical one, and provincial authorities must answer to their superiors, on matters that are not considered a governmental or Party priority, national-level authorities often have little direct control over low-level officials at the county, township and village level. A letter from a national office to a local official does not compel a response, and some local officials simply choose to disregard them.

Perhaps because it can take many years of petitioning in Beijing to obtain one, some petitioners who receive a written response view them with high regard, even though the letters themselves are ineffectual, notes a lawyer who has assisted many petitioners:

One of my clients was an intellectual whose son got into a conflict, was taken to the police station, and came out dead. The police said that nothing had happened and that he had died of natural causes. His father took a stack of photographs of him, and you could see all over his body were stab wounds and bruises...

The father appealed and appealed, and he lost one suit after another as he went up the system—even the [provincial] supreme court. Finally, he started petitioning...[and eventually], he got a statement from the [national] petitioning office saying, 'Please will the [provincial] court investigate this case.'

It was a treasure to him, he kept it carefully and he showed it off to everyone. But of course, there was no power to implement it.<sup>41</sup>

Most official responses from petitions offices are similar: they are usually just form letters from to local authorities, requesting that they “investigate” or “take care of” the individual case locally. However, petitioners say that these letters rarely carry much weight with the officials who receive them.

Of the forty-nine petitioners who were interviewed in person or whose cases were documented by Human Rights Watch, eight had received a letter from a national office directing local officials to take care of their cases.<sup>42</sup> Only one of those had been able to

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<sup>41</sup> Human Rights Watch interview with Zhou, Beijing, 2005.

<sup>42</sup> Human Rights Watch interviews with Qi, Mao, Ming, Kang, Qing, and Ou, Beijing, 2005; documents gathered from Yuan and Tang, Beijing 2004.

resolve his case as a result of the letter, and then only after he and a group of his neighbors physically threatened the local official with violence if he did not resolve the case.<sup>43</sup> One petitioner described the response he got from a local official in Shanxi:

I gave them the letter, and the official laughed at me and threw it right into the garbage. I said, 'How can you throw that in the garbage?' He said, 'What does this have to do with us? We don't care.'<sup>44</sup>

Another said that when he presented his letter from the national petitions office to the head of the provincial police bureau, the response was equally dismissive:

The letter said, 'Only the provincial Public Security office can handle this case. It is a case of retaliation. Please take it over.' The province sent the letter to the city. After over twenty days, I got a letter and I went to the city police.

[The police officer] said to me, 'We've handled this matter plenty already. We've seen a lot of these letters. They're all just wasted paper, no use.' He said, 'You can go wherever you want, take the case up with anyone you want. Go to the U.N. if you want!... Eventually, we'll come and arrest you.'<sup>45</sup>

In an effort to get local officials to respect the orders of the national offices, some petitioners who have had their letters scoffed at continue to return to Beijing to petition for many years. A Human Rights Watch researcher congratulated Mao on receiving a letter from the national Supreme People's Court. He responded angrily:

I have over twenty of those letters! I have over twenty letters from the Supreme People's Court, and they all say the same thing...I asked the head of the Court petitions office, 'What use are your letters?...'He said to me directly, 'They're no use.' So now they have stopped giving me letters.<sup>46</sup>

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<sup>43</sup> Human Rights Watch interview with Cai, Beijing, 2005.

<sup>44</sup> Human Rights Watch interview with Cai, Beijing, 2005.

<sup>45</sup> Human Rights Watch interview with Ming, Beijing, 2005.

<sup>46</sup> Human Rights Watch interview with Mao, Beijing, 2005.

## ***Why do Petitioners Persist?***

For non-Chinese observers, perhaps the most puzzling feature of China's petitioning system is the fact that so many people participate in it at all, especially those who spend much of their lives pursuing hopeless appeals in the face of serious risks. The reasons for this persistence vary, and can include a range of cultural, psychological, and pragmatic factors.

A small number of petitioners almost certainly suffer from grave psychological illnesses; a petitions office official in Beijing told one reporter that he estimated 3 percent of petitioners were "psychologically chaotic."<sup>47</sup> For others, economic motivations drive them on: these petitioners believe that a decision in their favor will lead to a sizeable cash settlement that will compensate them for their effort.<sup>48</sup>

But a much larger proportion of petitioners appear to be simply driven by the desire to obtain justice and vindicate their human dignity, and may well spend years of their lives trapped in the petitioning system in the belief that a decision in their favor will justify the time spent in the effort. This is not unique to China: individuals pursuing apparently lost causes are a not uncommon feature of any court system. Some such cases are described in Charles Dickens' novel *Bleak House*, which depicts Victorian-era plaintiffs driven into poverty and madness over decades spent pursuing their hopeless lawsuits. Contemporary parallels exist in many countries: a U.S. reporter writing about long-term appellants for alimony in New York City observes, "In their seemingly endless court battles, litigants on both sides often become overwhelmed, depressed, or if they are going to become at all successful, obsessed."<sup>49</sup>

Lawsuits against government or the ruling party filed in an independent court system, however, have a chance of winning. But the odds are stacked against petitioners, no matter how persistent they may be. How do petitioners become obsessed? There are numerous cultural factors that can help to explain this process. Many long-term petitioners who spoke to Human Rights Watch were rural people who turned to petitioning because they had few or no other options. Notes one Chinese lawyer, "Farmers might not have any education or understand anything about the legal system. They just know this: they can petition."<sup>50</sup>

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<sup>47</sup> Hu Feng and Jiang Shu, "Xinfa<sup>ng</sup> gongpeng [The pinnacle of petitioning]," *Oriental Outlook*, December 11, 2003, pp. 30-35; p. 31.

<sup>48</sup> Human Rights Watch interviews with Qing, Pei, Beijing, 2005.

<sup>49</sup> Leslie Eaton, "Coping: Up the courthouse steps, and still climbing," *New York Times*, August 14, 2005, Section 14, page 1.

<sup>50</sup> Human Rights Watch interview with Zhou, Chinese lawyer, Beijing, 2005.

Many petitioners who continue over the long term also have a deep-rooted faith in the Communist Party, and believe that a rational explanation of their case will receive a fair hearing, if they can only find an official highly-placed enough to be truly objective about their personal situations. Some of these petitioners described themselves as engaging in a test of their own faith in the Chinese Communist party.

But while these rural petitioners may see themselves as Communists, their beliefs about the benevolence of officials in fact hews more closely to China's Confucian traditions. Confucianism emphasizes the obligation of higher-status people to behave with benevolence toward powerless, lower-status people. Thus many rural petitioners will thrust their case portfolios at any Beijing passerby who appears higher-placed than themselves in the class hierarchy, whether that person is a Chinese official, a journalist, or a foreign visitor.

Status and reputation or "face" are also important motivations for farmers from the Confucian-influenced countryside. Some petitioners may have spent so much of their own and their families' savings that to return home without success would be an intolerable humiliation, more painful even than a life spent living from scraps in Beijing.

However, along with the many and debatable cultural reasons for petitioning, there is also a more clear-cut one that is documented by this report: a few petitioners told Human Rights Watch they could not give up and return home because they believed they would face retaliation there. There literally is nowhere else for these petitioners to go: China's restrictive *hukou* or household registration system makes it nearly impossible for most Chinese families to move to a new town, stay with relatives and find new jobs, and start their lives over.<sup>51</sup> In some cases, the petitioners' village in Beijing has become a de facto internal refugee camp for villagers fleeing official violence.<sup>52</sup>

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<sup>51</sup> Recent limited reforms of the household registration system (*hukou*) have eliminated certain classifications of laborers. These changes will apply largely to migrant workers, and are unlikely to affect the majority of petitioners.

<sup>52</sup> Jianrong, "Xinfang Zhidu Pipan (Critique of the Petition System).

### **Petitioning and Activism**

The answers to Professor Yu's survey were revealing. Only 5.8 percent responded that they would give up petitioning. Over 91 percent responded that they would never give up even if they saw no results. The survey also shows that experienced petitioners often become organizers: 85.5 percent responded that they would begin "publicizing (*xuanchuan*) government policies and laws to move/inspire (*fadong*) the masses to protect their own rights," 68.2 percent responded that they would set up an organization to legally protect the rights of farmers (*chengli zuzhi, yifa weihu nonngmin de befa quanyi*), and 70.2 percent responded that they would "organize the masses to open a dialogue and speak directly to the government" (*zhijie zhaohu zhengfu duihua, tanpan*). The survey also pointed out that many petitioners are willing to go beyond organizing: 53.6 percent responded that they would "do something to scare the cadres a little" and 87.3 percent responded that they were in a life or death struggle with corrupt cadres—translated literally, the expression used was that the "net will rip or the fish will die" [鱼死网破].

### **Recent Reforms**

In response to the study by Professor Yu of the Chinese Academy of Social Sciences detailing problems with the petitioning system and subsequent press coverage, in May 2004 the government opened a high-level discussion of problems in the petitioning system.<sup>53</sup> In January 2005, the State Council passed a revised version of the national *Regulations on Letters and Visits*, which came into effect in May 2005.

Shortly thereafter, the government launched a national campaign to address police abuse, and reported by the end of May that police bureaus had heard over 47,000 petitions on the subject and had already "solved completely" 7,695 of these.<sup>54</sup> There was no definition of the term "solved completely" and whether this meant the problem had been solved to the petitioners' satisfaction or that the case file had simply been closed. By late July, public security bureaus had received 140,000 petitions, and reported that 104,439 of them had been "successfully solved."<sup>55</sup> Again, there was no definition of the term "successfully resolved."

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<sup>53</sup> "Quanguo xinfang gongzuo zuotanhui zai jing zhaokai, wang gang, hua jianmin jianghua (National Letters and Visits Work Discussion Session Opens in Beijing)", *Xinhua News Agency*, May 13, 2004 [online], [http://news.xinhuanet.com/newscenter/2004/05/14/content\\_1468295.htm](http://news.xinhuanet.com/newscenter/2004/05/14/content_1468295.htm) (retrieved November 26, 2005).

<sup>54</sup> "Chinese police heard 47,711 petitioners in 11 days", *People's Daily Online*, May 31, 2005 [online], [http://english.peopledaily.com.cn/200505/31/print20050531\\_187771.html](http://english.peopledaily.com.cn/200505/31/print20050531_187771.html) (retrieved November 24, 2005).

<sup>55</sup> "Police heads ordered to well handle petitioners", *People's Daily Online*, July 23, 2005 [online], [http://english1.peopledaily.com.cn/200507/23/print20050723\\_197811.html](http://english1.peopledaily.com.cn/200507/23/print20050723_197811.html) (retrieved November 24, 2005).



## **May 1, 2005 Regulations**

In January 2005, the State Council promulgated a revised edition of the original *Regulations on Letters and Visits*.<sup>56</sup> The new regulations came into effect on May 1, 2005, and superseded the 1995 regulations.<sup>57</sup> They state that they are “formulated for the purposes of enhancing relations between the people’s governments at all levels and the people, protecting the lawful rights and interests of letter-writers and visitors, and maintaining a good order in letter-writing and visiting.”<sup>58</sup>

Much of the language in the May 2005 regulations concerns the duties of petition officials in transferring petitions to the correct department, receiving petitions from other departments and explaining to petitioners that they ought to present their petitions to the appropriate department. The regulations include more specific time limits on the processing of petitions.

They also include more specific rules on the behavior of petitioners. To stop them from jumping around the system, petitioners are allowed to write letters or visit petitioning bureaus only at the relevant level or the next higher level.<sup>59</sup> Petitioners are also allowed just two appeals to higher bodies, after which their petitions are no longer to be accepted if the ensuing petitions are based on “the same facts and reasons.”<sup>60</sup> State organs are instructed to reject petitions which have been accepted or are currently being handled by other, lower level organs.<sup>61</sup> As in the 1995 regulations, the 2005 revision states that petitions that are being or will be “handled according to law through litigation, arbitration, administrative reconsideration or other statutory means” ought to be transferred to the relevant organs, but it is not clear what the “relevant” organ is.<sup>62</sup>

To address weaknesses in the system, the revised regulations state that one can receive administrative sanctions for “shifting responsibility onto another organ, taking a perfunctory attitude or delaying handling” of petitions.<sup>63</sup> However, the 1995 regulations

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<sup>56</sup> Regulations on Letters and Visits, 2005 [*Xinfang tiaoli*]. Official English translation. State Council Order No. 431. Adopted January 5, 2005, effective May 1, 2005. Beijing: China Legal Publishing House, 2005)

<sup>57</sup> Regulations on Handling Complaints, 1995 [*Xinfang tiaoli*]. State Council Decree No. 185. Promulgated on October 30, 1995, [online] [http://www.tjutcm.edu.cn/html/dangzheng/jijian/Article\\_Show.asp?ArticleID=662](http://www.tjutcm.edu.cn/html/dangzheng/jijian/Article_Show.asp?ArticleID=662) (retrieved November 24, 2005).

<sup>58</sup> Article 1, Regulations on Letters and Visits, 2005 [*Xinfang tiaoli*].

<sup>59</sup> *Ibid.*, Article 16.

<sup>60</sup> *Ibid.*, Articles 34 and 35.

<sup>61</sup> *Ibid.*, Article 16.

<sup>62</sup> *Ibid.*, Article 14.

<sup>63</sup> *Ibid.*, Article 43(1).

used almost exactly the same language and the practice nevertheless persisted, making it unclear why petitioners should expect a different outcome under the new regulations.<sup>64</sup>

While both the 1995 and the 2005 regulations state that “no organization or individual” may retaliate against petitioners, the new regulations are somewhat stricter. The 1995 version, while prohibiting the “suppression” or “persecution” of petitioners, did not specify what if any actions could be taken against those who broke the regulation.<sup>65</sup> The newer regulations state:

Whoever retaliates against a letter-writer or visitor, thus constituting a crime, should be investigated for criminal liability according to the regulation; if the act is not severe enough to constitute a crime, he should be given an administrative or disciplinary sanction according to the regulation.<sup>66</sup>

The 2005 regulations also include possible sanctions or punishment against officials who overstep or abuse power, do nothing, refuse to execute decisions,<sup>67</sup> refuse to accept petitions “which fall within the scope of [the office’s] statutory functions and powers, fail to inform petitioners of the status of their inquiry within given time limits,<sup>68</sup> fail to support the request which is based on clear facts and conform to relevant laws, regulations, rules and other provisions, or are rude in their style of work.<sup>69</sup>

At the same time, the new regulations add several articles restricting activism by petitioners. Petitioners “shall not harm the interests of the State, society or the collective, infringe upon the lawful rights of other citizens” or “stay and make trouble at the reception place for letters and visits.”<sup>70</sup> Furthermore, the 2005 regulations state in two separate articles that petitioners may not engage in illegal assembly.<sup>71</sup> It is also now explicitly illegal to “incite, collude with, coerce or entice with money or things of value

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<sup>64</sup> Regulations on Handling Complaints, 1995 [*Xinfang tiaoli*].

<sup>65</sup> *Ibid.*

<sup>66</sup> Article 46, Regulations on Letters and Visits, 2005 [*Xinfang tiaoli*]. Interestingly, petitioners who do an especially outstanding job of petitioning and thereby make “contributions to the national economic and social development, to the improvement of the work of State organs and the protection of public interests” can receive an award. (Article 8, Regulations on Letters and Visits, 2005 [*Xinfang tiaoli*].

<sup>67</sup> Articles 40(1), 40(2), and 40(3), Regulations on Letters and Visits, 2005 [*Xinfang tiaoli*].

<sup>68</sup> *Ibid.*, Articles 42(2) and 42(3).

<sup>69</sup> *Ibid.*, Articles 43 and 44.

<sup>70</sup> *Ibid.*, Article 20.

<sup>71</sup> *Ibid.*, Articles 20 and 47.

others to write letters or make visits.”<sup>72</sup> While the regulations allow collective complaints, it is unclear whether this provision is an attempt to undermine this right or to create a trap door for unpopular group complainants. It should be clarified.

Another problem with the regulations is that they do not state that their purpose is to ensure the impartial treatment of cases and petitioners. This is particularly important in a system in which there is often little separation between the ruling party and the government. The regulations do not address conflicts of interest inherent in the Chinese administrative system and fail to clarify which body is responsible for enforcing decisions.

National regulations often differ slightly from provincial and local petition regulations. For example, the *Beijing Municipal Regulations on Letters and Visits* states that those who “continue without reason” to petition should be prevented from “pestering” the office,<sup>73</sup> though it is unclear which steps should be taken to do so. Although group petitioning is recognized, if a group of petitioners refuses to elect five representatives as required by the regulation and continues to petition en masse, the petitions office may call the work unit to which the petitioners belong and request that they come to take the petitioners back. This provides a legal justification for the “retrievers.”<sup>74</sup>

### ***Case Study: “I’ll stop petitioning when I die”***

Mr. Jiang, a short but muscular Shanxi farmer, enters the room on crutches, moving slowly, his left leg hanging limp. His petite and round-faced wife assists with his crutches as he sits down. They shyly wait to speak, sitting a bit back from the group. After another petitioner describes a reeducation through labor camp, Mr. Jiang interjects, “We also went to reeducation through labor—both of us.”

Mr. and Mrs. Jiang’s saga began when they alleged that officials in their village stole 540,000 RMB [U.S.\$66,000] through graft. Mr. Jiang told Human Rights Watch what happened next:

At 8:00 p.m. on the evening of December 30, the electric and phone lines in my house were cut. The village deputy [Communist] Party

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<sup>72</sup> Ibid., Article 20.

<sup>73</sup> Article 24, *Beijing Municipal Regulations on Letters and Visits*. Promulgated on September 8, 1994, [online] [http://www.gjxfj.gov.cn/2005-01/13/content\\_3560795.htm](http://www.gjxfj.gov.cn/2005-01/13/content_3560795.htm) (retrieved November 24, 2005).

<sup>74</sup> Article 25, *Beijing Municipal Regulations on Letters and Visits*.

secretary brought the [thugs] on his motorcycle to my house. The vice secretary was just waiting outside on the motorcycle until the men beat me to a pulp to take him home. He [the vice secretary] gave the men 10,000 yuan [U.S.\$1,200] to beat me to death. The village deputy secretary paid him to kill me. They organized it that day over lunch.

[The thugs] came into my home and hit me in the leg with a metal pipe, about this thick [16 cm]. The first blow they struck broke my leg. They tried to hit me [in the head] again and missed, but they hit me on the shoulder. Then he thought I was dead, but I wasn't dead. I grabbed his legs, he fell over and my wife jumped on top of him. So they ran away.

"I was protecting him," said Mrs. Jiang, smiling.

As a result of the attack, Mr. Jiang lost the use of his left leg. He filed complaints against ten men, including the deputy secretary. Four men were charged and convicted for conspiracy and for the assault, but their sentences were not carried out:

It was a phony sentence. They gave me the paper and everything, but it was all fake. There was a trial, and I saw them take [the village Party deputy secretary] away. But they just sent the village Party secretary and the deputy secretary to another village. They have the same jobs. They're still in power!

The Jiangs made their first trip to Beijing in 1998. In January 2003, Mr. Jiang was seized by Shanxi police, who took him forcibly back to Shanxi. They handcuffed him for thirty-one hours straight while they were bringing him back, and held him for twenty days in a detention center before sentencing him to two years in a reeducation through labor camp. Asked if inmates got Sundays off to rest, Mr. Jiang exclaims:

*Sunday?* What Sunday?! There are no Sundays in labor camp! Don't even ask – they made you work every day. Sometimes we had to work through the night if there was a lot of work.

While her husband was in the labor camp, Mrs. Jiang continued to petition on his behalf in Beijing, raising concerns about his detention as well as about the original assassination attempt. Shanxi police seized her in Beijing in August 2003 and took her back to Shanxi,

where she was sentenced to a year in a women's reeducation through labor camp. She explains:

They came to Beijing just to find me. They took me to the police lock-up for fourteen days. Then I went to the reeducation through labor camp. I cooked and made beds for the other women. I was only twenty kilometers away from my husband, but I wasn't allowed to see him.

They hit women in there. They'd hit us and wait for us to recover, and just hit us again.

When I got out, I couldn't come back to Beijing because my husband was sick [after his time in detention]. But as soon as he got out of the hospital, I came back to Beijing.

Mr. and Mrs. Jiang have eight children: two are grown up, and the others range in age from six to sixteen. On their first trips to petition in Beijing, they brought their children along. Then local authorities took custody of the children, and now keep them in the village, charging Mr. and Mrs. Jiang fees to pay for a caretaker. Mr. Jiang says:

They're keeping our kids, they're controlling them. We're allowed to see them, but we can't take them away.

The authorities still want to reeducate me. They say, 'if you do this again, if you complain again, we'll reeducate you again.' But how can I not complain? I'll stop petitioning when I die, but I'm not dead yet.<sup>75</sup>

#### **IV. Abuses against Petitioners at the Local Level**

The petitioners interviewed for this report told Human Rights Watch of long and arduous journeys in which they sought redress for abuses by local officials. Many of their five, ten or fifteen-year journeys on the petitioning path that led them to Beijing began when they decided to take a stand against some village or township official.

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<sup>75</sup> Human Rights Watch interview with Mr. and Mrs. Jiang, Beijing, 2005.

Facing down threats of violence and retaliation, these petitioners said, they took their appeals to police, the courts, and other government bureaus, but failed to obtain results. Pursuing their appeals up the hierarchy, some spent all their own and their extended families' savings, and suffered beatings and detentions by police and thugs hired by local officials who aimed to deter them. Each abuse was cause for a new petition; for a few, the original injustice was gradually buried in the series of abuses that followed it. "We have no hope, we are in despair, but we will continue to petition," said the mother of a young man who died in police custody.<sup>76</sup>

This report focuses largely on what happens to petitioners after they arrive in Beijing. But much more petitioning actually happens at the provincial level, and can lead to a series of violations of due process and retaliatory attacks that drives petitioners to take their complaints to the national capital. This section surveys some of the incidents that start them on their long journeys.

The growing numbers of petitioners in Beijing are an indicator of problems with the lack of official accountability at the local level in China. In the landmark 2004 survey by the Chinese Academy of Social Sciences (CASS) in 2004, CASS surveyed 632 petitioners and reported that 84.5 percent of those interviewed began by petitioning about cadre corruption; 69.6 percent about village governments using excessive force to exact fees and taxes; 67.5 percent about election fraud resulting in the infringement of people's democratic rights; 73.2 percent about land appropriation by the government; and 56.2 percent about the beating or arrest of petitioner activists by the government (multiple reasons for writing petitions were allowed).<sup>77</sup>

All the petitioners we interviewed had attempted to pursue their cases at the local and provincial levels, either through complaints procedures or through the court systems. They reported that their cases were mishandled, refused by the courts, or that if decisions were made in their favor, they were not enforced. Ultimately, all said they believed they had no other recourse but to take their complaints to Beijing.

The cases documented by Human Rights Watch fell into the following categories:

- Police abuse and official violence, including threats, beatings, or murders coordinated by local officials;

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<sup>76</sup> Human Rights Watch interview with Mrs. Du, petitioner, Beijing, 2005.

<sup>77</sup> Jianrong, "Xinfang Zhidu Pipan (Critique of the Petition System)."

- Official corruption, including fraudulent investment schemes, embezzlement, graft, and illegal taxation;
- Urban forced evictions and rural forced resettlement by officials in league with developers;
- Failure of the courts and other dispute resolution mechanisms; and
- Retaliation and reprisals by local officials.

### ***Police Abuse and Other Official Violence***

Most of the petitioners who spoke with Human Rights Watch reported abuses by the local police, including torture and beatings.<sup>78</sup> In some cases these abuses were the reason the original petition was filed. For example, a Heilongjiang petitioner reported that police tortured him to force him to sign a confession.<sup>79</sup> An ethnic Hui man from Ningxia said that after he was detained in Xinjiang, police incited other detainees to beat him.<sup>80</sup> Two unrelated couples from Shandong both began petitioning after the death of their sons in police custody.<sup>81</sup>

The belief that local police covered up crimes against them impelled a number of petitioners.<sup>82</sup> For instance, a Shandong couple believe that police covered up the cause of their son's death and did away with his body.<sup>83</sup>

Some of the longest petitioning sagas begin with acts of violence that villagers alleged were orchestrated by officials in an attempt to silence them. In three cases, petitioners interviewed by Human Rights Watch alleged murders or attempted murders coordinated by village officials.<sup>84</sup>

Ming, a petitioner from Shanxi who lives in the Beijing petitioners' village with his eleven-year-old son, said that when he raised public concerns about attempts by the

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<sup>78</sup> Case materials collected from Er, Shan, Zhu, Jie, Gong, Feng, Wen, Mr. and Mrs. Lee, and Mr. and Mrs. Du, Beijing, 2004.

<sup>79</sup> Human Rights Watch interview with Feng, Beijing, 2005.

<sup>80</sup> Human Rights Watch interview with Gong, Beijing, 2005.

<sup>81</sup> Human Rights Watch interviews with Mr. and Mrs. Gao and with Mr. and Mrs. Du, Beijing, 2005.

<sup>82</sup> Human Rights Watch interviews with Ren, Hu, Jiang, and Ou, Beijing, 2005; materials submitted by Xu, Yang, Ao, and Mo, Beijing, 2004.

<sup>83</sup> Human Rights Watch interview with Mr. and Mrs. Du, Beijing, 2005.

<sup>84</sup> Human Rights Watch interviews with Mao, Ming, and Mr. and Mrs. Jiang, Beijing, 2005.

Party secretary of his village to take on multiple conflicting government positions, the Party secretary ordered him killed:

At 7:00 p.m. on January 31, 2002, five or six people went to my house. They brought an iron hammer. They came in and said nothing. They weren't from our village, I'd never seen them before, they were thugs.

First they hit my wife and my younger brother's wife in the head with an iron hammer. They were coming for me, but they didn't know who they were dealing with. My brother hit [one attacker] over the head with a chair, and then when the chair broke he beat him to death with the chair leg....

The kids were crying, they were terrified. This boy here was especially frightened, he was clinging to the door and crying.<sup>85</sup>

Zhang said that despite years of complaints, local police refused to investigate the case.

Similarly, Mao, a Henan man, told us that his petition began in 1999 after the village Party deputy secretary had his father murdered. Mao's father had been petitioning for nineteen years over a land claim. According to Mao:

They killed him with a hoe, they hit him in the back of the head. They also hit my mother and my sister. My sister fought back, and killed the attacker. So she was sentenced to five years in prison. This was all arranged by the village deputy Party secretary. I thought this was not fair treatment for my sister, so I've been petitioning for many years.<sup>86</sup>

Mao said that as a result of his petitioning activities, he had also experienced multiple detentions and beatings.

In recent years, senior Chinese officials have acknowledged that police misconduct is a widespread problem, and in some areas police have been fired en masse for persistent reports of torture or corruption. In January 2004, official media announced that nearly 35,000 police had been fired: nearly 11,000 for "sub-standard work," and 34,000 others

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<sup>85</sup> Human Rights Watch interview with Ming, Beijing, 2005.

<sup>86</sup> Human Rights Watch interview with Mao, Beijing, 2005.



for lack of proper credentials.<sup>87</sup> In May 2004, the Ministry of Public Security announced a year-long plan to reopen all reported cases of abuse. The investigation was to be conducted by the Supreme People's Procuratorate in Beijing and was to include five types of crimes, including dereliction of duty causing great loss of people's lives and assets, illegal investigation and detention, evidence collection through violent means, inquisition by torture and abuse of prisoners. These initiatives have successfully made the issue of ending police abuse one of national prominence, but they fall short of the systemic reforms needed to end police abuse.

## **Corruption**

Thirty of the forty-nine petitioners whose cases were collected for this report began by petitioning about some form of official corruption.<sup>88</sup>

The allegations of corruption cases documented by Human Rights Watch ranged from fraud by government-run businesses, as in the case of a former bank manager who claims the bank misappropriated funds and charged him with the crime;<sup>89</sup> to cases where petitioners allege that police were bribed to not investigate crimes against their relatives.

Some cases, such as those of victims of alleged fraudulent government investment schemes, have become mass petitions involving hundreds of petitioners. For instance, in one case, 1,500 investors, many of them senior citizens, signed letters saying that they bought plots in a Beijing cemetery that was never constructed.<sup>90</sup> Approximately one thousand investors are petitioning in the case of a futures firm partly owned by Li Xiaoyong, son of former premier Li Peng. The company collapsed in 1998. Investors allege that Li Xiaoyong absconded with the funds, and that government officials executed a Taiwanese owner of the firm, while covering up the role of the premier's son.<sup>91</sup>

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<sup>87</sup> "China dismisses over 30,000 unqualified policemen in clean-up campaign," Xinhua News Agency, January 7, 2004.

<sup>88</sup> Human Rights Watch interviews with Qing, Feng, Kang, Ren, Ming, Qi, Mao, Ai, Bao, Cai, Hua, Jiang, Ou, Pei, as well as a delegation of twelve petitioners from a village near Beijing, Beijing, 2005; also case materials collected from Tang, Bai, Chen, and Dai, Beijing 2004.

<sup>89</sup> Human Rights Watch interview with Li, petitioner, Beijing, 2005. Documents from his case on file at Human Rights Watch.

<sup>90</sup> Dossier of documents on file at Human Rights Watch include a registry of names of victims, written statements, brochures and advertisements for the cemetery, certificates and receipts for the purchase of plots, etc.

<sup>91</sup> "Angry Chinese protestors call on Li Peng to pay back their money," Agence France Presse, January 16, 2002; Human Rights Watch interview with Ai and Bao, petitioners, Beijing, 2005; Human Rights Watch interview with Zhou, lawyer, Beijing, 2005.

A Liaoning man told Human Rights Watch that after his mother was injured in a traffic accident, the responsible driver bribed police to alter photographic evidence.<sup>92</sup> A Henan woman reported that police took bribes to free the men who gang-raped her.<sup>93</sup>

In other cases, farmers from Henan and Hebei have petitioned to the national level about their infection with HIV through state-run blood collection centers, demanding government assistance.<sup>94</sup> One activist reported that in 2004 he had accompanied petitioners infected with HIV through state-run blood collection centers to file complaints more than twenty times.<sup>95</sup>

### ***Forced Eviction and Resettlement***

Evictions in urban areas, often undertaken by force and with minimal compensation, have become a problem that affects tens of thousands of residents in Chinese cities.<sup>96</sup> Many farmers have also been forcibly resettled because of land seizures by officials working with developers, or to make way for large-scale infrastructure projects such as the Three Gorges Dam.<sup>97</sup> Some of the largest and most visible protests by petitioners in Beijing have related to forced eviction cases.

Pei, from Liaoning, said that after her family lost a lawsuit to prevent their eviction from their home, over fifty people showed up in the middle of the night with a bulldozer and knocked down the house, injuring her mother and brother who were asleep inside:

They gave us no warning at all! They just came in and did it and chased us out. All our things were demolished inside the house....My mother

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<sup>92</sup> Human Rights Watch interview with Hu, Beijing, 2005.

<sup>93</sup> Human Rights Watch interview with Qi, Beijing, 2005.

<sup>94</sup> Human Rights Watch interview with Zhou, Beijing, 2005; Human Rights Watch e-mail correspondence with Song, AIDS activist, Beijing, 2005. For more on the blood scandal in Henan and elsewhere in China, see Human Rights Watch, "Locked Doors: The Human Rights of People Living with HIV/AIDS in China", *A Human Rights Watch Report*, vol. 15, no. 7(C), August 2003, available at <http://www.hrw.org/reports/2003/china0803/>.

<sup>95</sup> Human Rights Watch e-mail communication with Song, 2005.

<sup>96</sup> For more on forced evictions, see Human Rights Watch, "Demolished: Forced Evictions and The Tenants' Rights Movement In China", *A Human Rights Watch Report*, vol. 16, no. 4(C), March 2004, available at <http://hrw.org/reports/2004/china0304/>.

<sup>97</sup> For more on forced resettlement for the Three Gorges Dam, see Human Rights Watch / Asia, "The Three Gorges Dam in China: Forced resettlement, suppression of dissent, and labor rights concerns", *A Human Rights Watch Report*, vol. 7, no. 2, February 1995, available at <http://hrw.org/summaries/s.china952.html>.

had a weak heart, and when it happened she had a heart attack. My brother was hit in the nose and passed out.<sup>98</sup>

In the past three years, there have been growing conflicts between petitioners from Shanghai who were forcibly evicted from their homes and local authorities, with police arresting petitioners as they were about to get on the train to Beijing on several occasions.<sup>99</sup>

Many petitions begin when farmland is seized by developers working with local officials. These conflicts can also escalate into violent confrontations.<sup>100</sup> Human Rights Watch met with two delegations of farmers from a town on the periphery of Beijing. The farmers, who said they represented all the residents in their village, claim that county officials illegally seized their lands and created what they said was a false contract for the lease of the lands.<sup>101</sup>

### ***Failure of the Courts and Other Dispute Resolution Mechanisms***

While in recent years there has been a great deal of discussion and even excitement in some quarters about the development of the Chinese legal system and the rule of law, the court system still does not function for the poor and less powerful members of Chinese society. The fact that the courts usually do not offer an avenue for justice—and are widely seen as a futile avenue for complaints against officials by the Chinese public—are a major reason for the proliferation of petitions. In a functional legal system, many of these cases would be directed to and resolved by the court system.

The systematic lack of fair trials in China has led to a widespread lack of faith in the court system. Some petitioners said they did not even attempt to take their cases to court

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<sup>98</sup> Human Rights Watch interview with Pei, Beijing, 2005. For more on the problem of forced evictions in urban China, see Human Rights Watch, "Demolished: Forced Evictions and The Tenants' Rights Movement In China", *A Human Rights Watch Report*, vol. 16, no. 4(C), March 2004, available at <http://hrw.org/reports/2004/china0304/>.

<sup>99</sup> "Retaliatory detentions of Shanghai petitioners," *Human Rights in China*, July 19, 2005 [online], <http://www.hrichina.org/public/contents/press?revision%5fid=23671&item%5fid=23669> (retrieved November 25, 2005); "Petitioners protest attempted prosecution," *Human Rights in China*, June 28, 2005 [online], <http://www.hrichina.org/public/contents/press?revision%5fid=23294&item%5fid=23260> (retrieved November 25, 2005); "Petitioners assaulted as police discourage Beijing influx," *Human Rights in China*, June 27, 2005 [online], <http://www.hrichina.org/public/contents/press?revision%5fid=23228&item%5fid=23227> (retrieved November 25, 2005); see also Human Rights Watch, "Demolished: Forced Evictions and The Tenants' Rights Movement In China", *A Human Rights Watch Report*, vol. 16, no. 4(C), March 2004, available at <http://hrw.org/reports/2004/china0304/>.

<sup>100</sup> Human Rights Watch interview with Feng, Mao, Beijing, 2005; materials submitted by Dai, Beijing, 2004.

<sup>101</sup> Human Rights Watch interviews with twelve farmers, Beijing, 2005.

because they did not believe they would get a fair hearing. As one petitioner put it, “There’s no reason in the courts, they are not reasonable there.”<sup>102</sup>

There are three straightforward reasons why so many people choose to file petitions:

- petitions are free to file;
- there is no need for specialized legal knowledge, as anyone can write a petition, while some legal knowledge is necessary to draft a complaint to be filed with the local court; and
- petitioning gives, at least at first blush, the impression of being more time efficient.

Before coming to Beijing, all the petitioners interviewed by Human Rights Watch said they had attempted to get redress for their injuries through the local government by filing complaints with the local police bureau or by filing suit in local, county or provincial courts. All those interviewed reported frustration and disappointment with these mechanisms, which they described as flawed due to corruption and political interference by officials acting on behalf of colleagues in the Communist Party. The lack of independent mechanisms that can provide redress at the local level drives many to take their cases to Beijing. As one farmer said:

If you have money, you can put a stop to [abuse by officials], but there is no government procedure that will deal with it.<sup>103</sup>

Several petitioners reported that courts refused to accept cases that were “too sensitive.”<sup>104</sup> A farmer from a town in Beijing municipality whose land was seized by officials said:

The local court won’t accept the case. I also went to the [municipal] Land Management Bureau because they’re in charge of this, and they said that they can sue people, but that they will not. [They said that] the local government has to take care of it, and we can’t reach them with our lawsuits.<sup>105</sup>

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<sup>102</sup> Human Rights Watch interview with Cai, Beijing, 2005.

<sup>103</sup> Human Rights Watch interview with Yu, Beijing, 2005.

<sup>104</sup> Human Rights Watch interviews with Hua, Yuan, Pei, Bao and Ai, Beijing, 2005.

<sup>105</sup> Human Rights Watch interview with Yu, Beijing, 2005.

Another petitioner said:

I looked for a lawyer, but some of them were afraid to take on the case...In China, lawyers have no power, they're useless. Some of them have good relations with the government, and others are afraid—you open their mouth to them, and they run away.<sup>106</sup>

For other petitioners who came from impoverished rural regions, the cost of hiring a lawyer was prohibitive.<sup>107</sup> While the Chinese government has established a nascent legal aid program, the Ministry of Justice acknowledges that the demand for legal aid currently far exceeds what existing legal aid centers can provide.<sup>108</sup>

Despite these obstacles, some petitioners said that they had succeeded in filing suits, but that they were not satisfied with the way the courts decided their cases and believed there were political reasons for this.<sup>109</sup> For instance, one petitioner said she believed that the court decided against her—she had sued to stop authorities from forcibly evicting her from her home—as a result of pressure by Party officials with connections to real estate developers.<sup>110</sup>

Others believe their trials were flawed. Mr. and Mrs. Du, who sued in Shandong courts over their son's death in police custody, said that police had made no record of their son's death, and as his corpse had been destroyed by police, the family could present no evidence other than photographs of his battered corpse. As a result, the court dismissed the suit. Mrs. Du said:

We are Chinese people, we should be able to resolve this through our own Chinese court system, and we shouldn't have to go to [human rights groups] outside our own country. But do you call this law? What

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<sup>106</sup> Human Rights Watch interview with Hua, Beijing, 2005.

<sup>107</sup> Human Rights Watch interview with Cai, Beijing, 2005.

<sup>108</sup> According to China's Ministry of Justice, "It is estimated that more 700,000 cases need legal aid every year in our country, but actually less than one fourth have got aid. The other [difficulty] is the severe shortage of legal aid fund. Legal aid fund appropriated by the state for each person is less than 6 cents each year, which is far below the average level of the developing countries." Ministry of Justice of the People's Republic of China, "Survey on Chinese Legal Aid System" [online], <http://www.legalinfo.gov.cn/english/LegalAid/LegalAid1.htm> (retrieved July 23, 2005).

<sup>109</sup> Human Rights Watch interviews with Hua, Pei, and Ren, Beijing, 2005.

<sup>110</sup> Human Rights Watch interview with Pei, Beijing, 2005.

kind of legal system is this? I don't care about money, no amount of compensation will bring back our son's life....I want justice.<sup>111</sup>

Each petitioner interviewed by Human Rights Watch who had obtained a favorable court decision reported that the decision was not enforced.<sup>112</sup> Said one, "I sued all the way up, the decisions were all in my favor, and the bank acknowledged their fault...[but] none of the decisions were enforced."<sup>113</sup>

Many petitioners expressed frustration with a court system that is subject to interference at every level by Party officials. As Chinese activist Li Jian summed up to a reporter:

The judiciary is tied up with the interests of local governments....This has two effects. One is that you're not going to get a fair hearing. The other is that the judiciary will not act. Most of the petitioners you meet in Beijing are there because they tried to take their cases through the local courts but met with failure.<sup>114</sup>

Chinese government agencies offer other complaint mechanisms, including petitions offices at the local, county and provincial levels of government agencies. In many cases, complaint mechanisms are formalized. In rural regions, complaints may also be filed informally by visiting an official's office and asking him to look into the case.

Several petitioners said that when they tried to report violence by local officials or the local police, the police, and procuratorates flatly refused to look into the cases. For instance, one petitioner reported that the procuratorate in Beijing, which is tasked with handling complaints of police abuse, refused to accept her complaint that Beijing police used excessive force during her arrest at a demonstration in Tiananmen Square.<sup>115</sup>

The most common complaint was that local government agencies took down complaints of official abuse and never acted on them. Said one longtime petitioner who reported that his family had been attacked by a thug hired by local officials:

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<sup>111</sup> Human Rights Watch interview with Mrs. Du, Beijing, 2005.

<sup>112</sup> Human Rights Watch interviews with Qi, Jiang and Qing, Beijing, 2005.

<sup>113</sup> Human Rights Watch interview with Qing, Beijing, 2005.

<sup>114</sup> "China charges petitioner who tried to march on Tiananmen Square," *Radio Free Asia*, June 24, 2005 [online], [http://www.rfa.org/english/news/social/2005/06/24/china\\_charge/](http://www.rfa.org/english/news/social/2005/06/24/china_charge/) (retrieved July 22, 2005).

<sup>115</sup> Human Rights Watch interview with Ai, Beijing, 2005.

We went to the city police, the city government, and the county police, everyone. I did it for two years and no one cared. Nothing happened.<sup>116</sup>

In other cases, petitioners said that one government office or official would pass the responsibility on to another one (*zhuānbān*, or “transfer it to be managed”) indefinitely.<sup>117</sup> Yu, a petitioner, said that he ultimately decided that it was hopeless to try to get one official in his town to hold another accountable:

The county mayor, the deputy mayor of the township, and the mayor of the township are all friends. That’s how [this corrupt local official] is protected. He has good connections with all of them, and there’s nothing we can do.<sup>118</sup>

National and local petitioning regulations commonly require petitions cases to be handled at the local level.<sup>119</sup> But when the local government office is staffed by only a handful of officials, this is unlikely to lead to results. In fact, some petitioners said, the agencies with which they filed their petitions or complaints actually referred the complaint back to the official who had committed the original abuse, asking him to investigate himself. Yu, one of a group of villagers who had filed numerous complaints about an illegal land seizure by local officials and who had had this experience, told Human Rights Watch:

We have a saying, *guanguan xiangbu*—officials take care of each other....If you complain, they will arrest you, or they will just send the case back down [to the abusive official].<sup>120</sup>

### ***Retaliation and Reprisals for Local Complaints***

Those who complain about local abuses to other government authorities may not only be disappointed by the mishandling of the case. They then also face the risk of abuse

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<sup>116</sup> Human Rights Watch interview with Ming, Beijing, 2005.

<sup>117</sup> Human Rights Watch interviews with Yu, Jiang, Ming, Beijing, 2005.

<sup>118</sup> Human Rights Watch interview with Yu, Beijing, 2005.

<sup>119</sup> Minzner, “Xinfang: An Alternative to the Formal Chinese Legal System,” *Stanford Journal of International Law*, (publication pending).

<sup>120</sup> Human Rights Watch interview with Yu, Beijing, 2005.

and retaliation, including threats and beatings by police and officials who wish to silence the complainant.

A group of farmers from a village under the jurisdiction of Beijing municipality is typical in this regard. The group became embroiled in a series of complaints and retaliatory abuses that began when local officials sold their land without their consent in order to develop a fishery. Several villagers said that after one of the farmers sued to stop officials seizing her land, she disappeared:

She went home at night, and ten minutes later, her husband followed her and she was gone. There was a big rainstorm that night, and she vanished. The police took her husband away on suspicion, but they let him go....They have looked for her everywhere, and her husband is still suing, but there is nothing he can do, because there is no proof that anything happened to her.<sup>121</sup>

After further conflicts with the official who sold their land, the villagers occupied the land and blocked off the road. In return, they said, town officials hired a gang of armed thugs to frighten them off:

They were not people from our village, they were from outside, we didn't recognize them. They brought big sticks, over one meter long each, each person had a stick....We [the villagers] called the police, and the police came, and the villagers ran away [as the police and thugs were working together]. We had tents with blankets and beds, and they tore down the tents and destroyed all the stuff that was inside them.<sup>122</sup>

The villagers attempted to complain to local police, but said that police refused to follow up on the incident. The villagers then signed an open letter to higher-ranking government officials describing the incident. This in turn led to further retaliation:

We gave [the letter] to someone in the government, and he was supposed to preserve confidentiality....But he photocopied it and gave it to [the local official who was the target of the original lawsuit]. So on May 18, [one of the farmers] went to talk to the deputy mayor of the

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<sup>121</sup> Human Rights Watch interview with Wang, Beijing, 2005.

<sup>122</sup> Human Rights Watch interview with Yu, Beijing, 2005.



town. He admitted that photocopies had been made, but then he beat her up. She went to the hospital, we have proof. She was beaten on the shoulder, lower back and hips, and on the head.<sup>123</sup>

Commented another farmer from the town in Beijing's suburbs:

Don't forget that this man is a Communist Party official, and he is not permitted to beat people....So we petitioned to the Beijing municipal Public Security Bureau and the Beijing municipal government.<sup>124</sup>

However, another farmer from the same town said that raising the complaint to the level of the municipal government did not lead to a resolution either:

They just sent it back and said that the local government should handle it....They said that the place where this happens is the place where it should be dealt with.<sup>125</sup>

A farmer from a neighboring village reported a similar case. Land was sold off without compensation, he said, and when villagers complained to higher authorities, they were threatened by thugs; police refused to register their complaint as well.<sup>126</sup>

In other cases, petitioners told Human Rights Watch that they had been beaten by police in order to dissuade them from complaining about police abuse. Ou, a petitioner who said that her brother died in police custody, had this account:

The doctors...saw that he had bruising on the arms and around the neck. They asked the police to keep the body, but they didn't. It disappeared. The police wouldn't report the case of my brother's death. They must have buried it, it couldn't have disappeared.

My mother went to the Public Security Bureau to complain about it and they twisted and broke her arm and beat her. She was fifty-six at the

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<sup>123</sup> Human Rights Watch interview with Rong, Beijing, 2005.

<sup>124</sup> Human Rights Watch interview with Wang, Beijing, 2005.

<sup>125</sup> Human Rights Watch interview with Yu, Beijing, 2005.

<sup>126</sup> Human Rights Watch interview with Ya, Beijing, 2005.

time...She went to the county hospital, which said that her arm was fine. They didn't dare to admit her. So she had to go to the local clinic where she lied about what had happened to her. She told them that she fell over. Then they fixed it. She is still in so much pain.<sup>127</sup>

Other officials threatened other forms of retaliation. Pei, who sued to try to stop the forced eviction of her family, said:

I sued to the local court and to the county court. They decided against me, so I appealed to the district court. They threw out my appeal. My brother lived at the government work unit, and they threatened me: 'If you don't stop appealing, we'll fire your brother.'<sup>128</sup>

The May 1, 2005 regulations explicitly ban retaliation against petitioners. Article 3 of the *Regulations on Letters and Visits* states that, "No organization or individual may retaliate against letter-writers or visitors."<sup>129</sup> Article 46 of the same regulations stipulates:

Whoever retaliates against a letter-writer or visitor, thus constituting a crime, shall be investigated for criminal liability according to law; if the act is not serious enough to constitute a crime, he shall be given an administrative or disciplinary sanction according to law.<sup>130</sup>

The Chinese constitution also guarantees citizens the right to "criticize and make suggestions to any state organ or functionary," and stipulates that:

No one may suppress such complaints, charges and exposures, or retaliate against the citizens making them. Citizens who have suffered losses through infringement of their civil rights by any state organ or functionary have the right to compensation in accordance with the law.<sup>131</sup>

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<sup>127</sup> Human Rights Watch interview with Ou, Beijing, 2005.

<sup>128</sup> Human Rights Watch interview with Pei, Beijing, 2005. A "work unit" or *danwei* is a government compound comprising the offices of a certain department and apartments for staff who work in that office.

<sup>129</sup> Article 3, Regulations on Letters and Visits, 2005 [*Xinfang tiaoli*].

<sup>130</sup> *Ibid.*, Article 46.

<sup>131</sup> Article 41, "Constitution of the People's Republic of China (Adopted on December 4, 1982)", China.org.cn, [online] <http://www.china.org.cn/english/features/89012.htm> (retrieved November 25, 2005).

However, from the accounts of those interviewed, it is clear that retaliation is a serious problem and that many Chinese citizens fear retaliation if they dare to report or protest against abuse. It is equally clear that the Chinese state has done little to protect its citizens from retaliation.

Because retaliation has a devastating impact on the individuals, their families, and the broader community, if an official receives credible information that any other official may have behaved in an abusive manner, it is imperative that the state arrange for a thorough investigation by an independent qualified person or office, protect the alleged victim and potential witnesses during the course of the investigation, and, if it is determined that abuse has occurred, punish the official or police officer appropriately.

## **V. Abuses Against Petitioners in Beijing**

The lack of the right to redress, the endemic problems of corruption and conflicts of interest in local governments, and the real threat of retaliation against complainants drive many petitioners to take their cases to Beijing. Once they reach Beijing—usually at great effort and expense—petitioners often face serious abuses.

In response to the lack of redress, growing numbers of petitioners have mounted protests in Beijing. Petitioners prominent in Beijing protests have been imprisoned, sometimes simply for applying for protest permits. Many other petitioners live in a petitioners' village in Beijing, a squalid shantytown where they lack access to basic medical care and education for their children.

While the regulations adopted on May 1, 2005 specifically prohibit retaliation, petitioners report that security personnel have continued to attack and detain them since that date. Provincial authorities send security officers to Beijing to seize petitioners often by force, or to frighten them away from exercising their legal right to petition. Petitioners report that Beijing police ignore these violent assaults. In some cases they actually turn petitioners over to provincial security officers to be arrested.

Once detained, many petitioners are simply taken back to their home province and released. However, some are detained without trial in local prisons or in reeducation through labor camps. Some petitioners who are taken home also face the risk of violent retaliation there.

This kind of retaliation against petitioners is widespread and systematic, and is conducted with the awareness and even the passive participation of Beijing security personnel. The problem is also well-documented in China: According to the CASS survey in 2004, over 50 percent of petitioners had been beaten by an official, over 40 percent had family members who had been beaten by officials, over 53 percent had been beaten by thugs hired by officials, and over 50 percent had been detained or imprisoned. Nineteen percent had been sentenced to reeducation through labor.<sup>132</sup>

While the new regulations aim to end retaliation, the system of provincial responsibility for petitioners in Beijing encourages retaliation. Despite the new regulations, there have been no reports of efforts by Beijing authorities to investigate retaliation against petitioners when it happens in Beijing, or to hold provincial authorities accountable for retaliation. Rather, petitioners told Human Rights Watch that Beijing police refused to answer calls to the police emergency line by petitioners or to intervene when they saw provincial security officers beating or detaining petitioners.

China's government, while increasingly decentralized, is still a unitary and hierarchical system. Decisions about provincial resources are largely made in Beijing, and directives or statements issued by central government or Party authorities still, at least formally, have the force of law. Provincial Party secretaries, who wield power comparable to or greater than that of provincial governors, are appointed and dismissed on the orders of authorities in Beijing.

In an effort to press local officials to resolve cases at the local level, provincial and national authorities have passed stringent rules that mete out punishments to officials from regions where there are many petitioners. Authorities from regions with large numbers of petitioners who travel to Beijing face official criticism and suspension. Some provinces impose disciplinary measures on officials who govern regions from which there are any petitioners at all.<sup>133</sup> During especially sensitive periods, such as major holidays or national political conferences (the 2008 Olympics will be one of these), Beijing police issue circulars ordering provincial and local authorities to handle all petitioning matters in order to ensure that there are no petitioners from their regions in Beijing.<sup>134</sup> This system creates an incentive for provincial authorities to threaten and

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<sup>132</sup> Jianrong, "Xinfang Zhidu Pipan (Critique of the Petition System)."

<sup>133</sup> Minzner, "Xinfang: An Alternative to the Formal Chinese Legal System," *Stanford Journal of International Law*, (publication pending).

<sup>134</sup> "Zhonggong lianghui qi, Beijing yanqi shangfang shensu qingyuan [During Central government Two Meetings period, Beijing severely forbids petitioning and appealing]," *Dajiyuan*, March 20, 2005 [online], <http://www.dajiyuan.com/gb/4/3/10/n482497.htm> (retrieved July 26, 2005); "Lianghui zai ji, Beijing jiaqiang xinfang cuoshi [As Two Meetings near, Beijing strengthens petitioning measures], *BBCChinese.com*, February

detain petitioners in order to preserve both the reputations of their provinces and their own individual careers.

Because national authorities have so much power over the careers of provincial authorities, provincial and local officials often detain, beat, and intimidate petitioners in order to protect themselves from criticism by their superiors.

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26, 2005, [http://news.bbc.co.uk/chinese/simp/low/newsid\\_4300000/newsid\\_4300800/4300879.stm](http://news.bbc.co.uk/chinese/simp/low/newsid_4300000/newsid_4300800/4300879.stm) (retrieved July 26, 2005).

## A. The “Retrievers”

Petitioners told Human Rights Watch that provincial and local authorities send “retrievers” [*jiefang rennyuan*] to Beijing to either discourage people from their province from petitioning, or to detain them and bring them back.<sup>135</sup> In many cases, arrests are conducted with the assistance of Beijing police. These arrests are often carried out with violence. After they are taken back to the home province, many petitioners are arbitrarily detained without trial in facilities where they face the risk of torture and the certainty of lengthy sentences of forced labor.

Most petitioners who spoke to Human Rights Watch said that while a few retrievers who detained them wore police uniforms, the majority wore street clothes and did not identify themselves, perhaps in order to avoid jurisdictional conflicts with Beijing police or to prevent petitioners filing complaints about police abuse. Many Chinese police bureaus hire untrained civilians to assist in police work.<sup>136</sup> Activists familiar with the issue, however, said that most retrievers were probably police officers in plain clothes.<sup>137</sup> One petitioner told Human Rights Watch:

Both times that I got beaten up it was by people wearing street clothes. I recognized them [as police officers] both times, [and I asked them], ‘Why are you taking me?’ They said, ‘To stop you petitioning. We’ll resolve your problem.’<sup>138</sup>

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<sup>135</sup> Zhao Ling, “Guonei shoufen xinfang baogao zhuang gaochen zhongshe [First domestic report on petitioning earns high-level attention], *Nanfang zhoumo*, November 4, 2004; Jim Yardley, “Chinese appeal to Beijing to resolve local complaints,” *New York Times*, March 8, 2004, p. A3; “The wages of China’s underdogs: More abuse of official power,” *Radio Free Asia*, December 8, 2004 [online], [http://www.rfa.org/english/news/social/2004/12/08/china\\_petitioners/](http://www.rfa.org/english/news/social/2004/12/08/china_petitioners/) (retrieved April 18, 2005); Jehangir S. Pocha, “In struggle to be heard, rural Chinese pack Beijing,” *Boston Globe*, March 15, 2005 [online], [http://www.boston.com/news/world/asia/articles/2005/03/15/in\\_struggle\\_to\\_be\\_heard\\_rural\\_chinese\\_pack\\_beijing?mode=PF](http://www.boston.com/news/world/asia/articles/2005/03/15/in_struggle_to_be_heard_rural_chinese_pack_beijing?mode=PF) (retrieved November 24, 2005).

<sup>136</sup> Murray Scot Tanner, “Torture in China: Calls for reform within China’s law enforcement system,” Prepared Statement to Accompany Testimony before the Congressional-Executive Commission on China (CECC), July 26, 2002 [online], <http://www.cecc.gov/pages/roundtables/072602/tanner.php> (retrieved July 23, 2005).

<sup>137</sup> Human Rights Watch interviews with Wu, Cai, Beijing, 2005; Murray Scot Tanner also notes that local Communist Party leaders sometimes “us[e] the police as a private army” as stated in “Torture in China: Calls for Reform from within China’s Law Enforcement System,” Prepared Statement to Accompany Testimony before the CECC, July 26, 2002.

<sup>138</sup> Human Rights Watch interview with Hua, Beijing, 2005.

Some petitioners said that their provinces' retrievers worked out of either guesthouses or the Beijing offices of provincial governments, and were rotated through Beijing for a month at a time.<sup>139</sup>

In some cases, retrievers approached petitioners quietly, promising petitioners that if they left quietly, the retrievers would help in resolving their cases at the local level.<sup>140</sup> In other cases, they offered bribes or other incentives.<sup>141</sup> A Liaoning petitioner said he was offered a bribe to stop petitioning:

The director of the Legal Committee came to talk to me. He said, 'About this matter of yours, we'll give you 50,000 RMB [U.S.\$6,120].'

I said, 'What money is this, where does it come from?'

He said, 'It's from the Public Security Bureau.'

I said, 'Can I take this as an acknowledgement that they were in the wrong?'

He said, 'We'll just give you the money, and then you can stop petitioning.'

I said, 'I won't take your money. You need to admit you were wrong.'<sup>142</sup>

However, petitioners say they are more often beaten than bribed.

Petitioners report that retrievers not only use violence and excessive force in the process of detaining them, but that they also lie in wait and use violence and threats to frighten petitioners away from even approaching government offices. Retrievers wait on the steps in front of government offices where petitioners submit their complaints, such as the National Office of Letters and Visits, the State Council, the Supreme Court, and others. Petitioners said that retrievers listened for the accents of their home provinces to identify them, or approached petitioners to ask which province they were from. On one

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<sup>139</sup> Human Rights Watch interview with Hua, Cai, Mr. and Mrs. Lee, Beijing, 2005.

<sup>140</sup> Human Rights Watch interviews with Qi and Ming, Beijing, 2005.

<sup>141</sup> Human Rights Watch interview with Ming, Beijing, 2005.

<sup>142</sup> Human Rights Watch interview with Hua, Beijing, 2005.

occasion, a couple who attempted to petition said they were intercepted by retrievers from their province who promised to help translate from their local dialect into Mandarin; instead, the retrievers detained and beat them.<sup>143</sup>

More commonly, petitioners reported that retrievers asked which province they were from and then simply began to beat them.<sup>144</sup> Several petitioners reported being ambushed by gangs of retrievers from their province outside of government offices. Mr. and Mrs. Lee, a rural couple in their sixties, reported a typical instance. As they walked down the street toward the State Council petitions office,

Thirty to forty people surrounded us and asked us where we were from. Before we even opened our mouths, they started to hit us. Over twenty people began hitting my husband. They stomped his body here [indicating left ribs]....They knocked me down, too. Every time I'd try to get up, they'd kick me back down. This happened three or four times. It was raining, and my poncho was soaked with water.<sup>145</sup>

Beatings are said to be especially common in the run-up to or during major political conferences. Hua, a Liaoning petitioner, said:

Many people have been beaten. Once I saw a guy being beaten by four people, and he was trying to crawl away....This was right before the Two Meetings. They were all wearing street clothes, or uniforms that they had pulled off the IDs and markers on their epaulets.<sup>146</sup>

In unusual instances, retrievers actually beat petitioners inside national government offices, while security guards look on. Hua recalled:

I was at the central Office of Letters and Visits, and I went up to the Liaoning window. Strangely, I noticed that all the petitioners were standing around and were afraid to go up to the window...so I went up, and they shut the window. Three people were standing there and they saw my materials.

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<sup>143</sup> Human Rights Watch interview with Mr. and Mrs. Lee, Beijing, 2005.

<sup>144</sup> Human Rights Watch interview with Qing, Beijing, 2005; Human Rights Watch interview with Cai, Beijing, 2005.

<sup>145</sup> Human Rights Watch interview with Mrs. Lee, Beijing, 2005.

<sup>146</sup> Human Rights Watch interview with Hua, Beijing, 2005.



One of the three people asked me where I was from. I said, ‘Where are *you* from? Who are *you*?’ If you want information from me, you should give it first, right? The person dressed in plain clothes said, ‘I’m a policeman.’ Then these three people started hitting me. They hit me on the head, the body, the legs, they used their hands to hit me. There was no confidentiality in that office.<sup>147</sup>

Another petitioner reported being beaten and threatened in Beijing by thugs sent from his home province, Heilongjiang:

I and another person were staying in the basement of the Chaoyang hospital. In the middle of the night on June 2, 2004, five people burst into the room where we were staying and attacked us. We were beaten. They stole our belongings, including 350 RMB [U.S.\$43], and told us, ‘We’re going to kill you—stop petitioning.’<sup>148</sup>

Often, petitioners say, retrievers use force to get petitioners into cars and drive them back to the home province. Some said they were simply driven back to the home province, or given bus tickets to return.<sup>149</sup> Many immediately return to Beijing to continue petitioning, as one petitioner explained:

I’ve been arrested twice since I got to Beijing....Each time, they held me for fifteen days and then sent me back to Ningxia....Each time, I just come back to Beijing—what else can I do?<sup>150</sup>

The use of excessive force in the process of arrest violates Chinese law. Article 22 of China’s police law prohibits the inflicting of “bodily punishment” by police.<sup>151</sup> International standards are more specific: the U.N. Code of Conduct for Law Enforcement Officials stipulates that “law enforcement officials may use force only when strictly necessary and to the extent required for the performance of their duty.”<sup>152</sup>

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<sup>147</sup> Human Rights Watch interview with Pei, Beijing, 2005.

<sup>148</sup> Human Rights Watch interview with Feng, Beijing, 2005

<sup>149</sup> Human Rights Watch interviews with Hua, Pei, Ou, Mao, and Ren, Beijing, 2005.

<sup>150</sup> Human Rights Watch interview with Gong, Beijing, 2005.

<sup>151</sup> Article 22(4), People’s Republic of China Police Law (*Jingcha fa*). Promulgated on February 28, 1995, [online] <http://www.xsjy.com/flk/jcf.htm> (retrieved November 24, 2005).

<sup>152</sup> United Nations, “Code of Conduct for law Enforcement Officials”, December 17, 1979 [online], [http://www.unhcr.ch/html/menu3/b/h\\_comp42.htm](http://www.unhcr.ch/html/menu3/b/h_comp42.htm) (retrieved November 25, 2005), arts 3(a) and 3(b).

The beatings and abuse described by petitioners fail both Chinese and international standards, and also constitute torture or cruel, inhuman, or degrading treatment under international law, including the International Covenant on Civil and Political Rights, to which China is a signatory, and the U.N. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, to which China is a party.<sup>153</sup>

For some, the cycle of retaliation and petitioning has continued for so long that they have begun to fear for their lives. A Henan petitioner said:

They've sent me back to Henan more than ten times, but I keep coming back. This problem has never been resolved, and I don't dare to meet with the local government anymore. I almost never even leave the petitioners' village, I only came out to meet with you. I can't do anything anymore.<sup>154</sup>

### ***The Impact of the May 1 Regulations***

In the weeks leading up to May 1, 2005, police cracked down on petitioners, detaining hundreds in Beijing and Shanghai.<sup>155</sup> After promulgating new regulations on May 1, the Ministry of Public Security issued public statements calling on police to resolve petitioners' cases at the local level and reported that many had done so. Petitioners interviewed for this report, however, said that the new regulations did not improve their situation and reports indicate that crackdowns against petitioners in Beijing and Shanghai have continued.

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According to the Code of Conduct, law enforcement officers should use force only when "reasonably necessary" under the circumstances, and the use of force should be proportional to the objective.

<sup>153</sup> Article 7 of the ICCPR prohibits torture. Article 1 of the Convention Against Torture (CAT) defines torture as: any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as...intimidating or coercing him...when such pain or suffering is inflicted by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. Article 16(1) of the CAT states that: Each State Party shall undertake to prevent in any territory under its jurisdiction other acts of cruel, inhuman or degrading treatment or punishment which do not amount to torture as defined in article I, when such acts are committed by or at the instigation of or with the consent or acquiescence of a public official or other person acting in an official capacity. In particular, the obligations contained in articles 10, 11, 12 and 13 shall apply with the substitution for references to torture of references to other forms of cruel, inhuman or degrading treatment or punishment.

<sup>154</sup> Human Rights Watch interview with Mao, Beijing, 2005.

<sup>155</sup> "Petitioners detained in advance of new law," *Human Rights in China*, April 28, 2005 [online], <http://www.hrichina.org/public/contents/press?revision%5fid=22118&item%5fid=22116> (retrieved November 25, 2005).

For example, during the Human Rights Watch research trip to Beijing, which took place after the regulations had gone into effect, police rounded up a group of over three hundred petitioners gathered in front of the Communist Party Discipline Committee and took them to the Majia building. According to one of the detainees, police sorted detainees by province. They told the detained petitioners that retrievers from their provinces would come to pick them up, but instead released them after twenty-four hours.<sup>156</sup>

Petitioners reported that retrievers did not leave Beijing after May 1. Instead, they simply found new perches across the street from the gates to government offices. As Cai, a petitioner, said:

There are actually more retrievers now than there used to be. They used to all stand at the gates. But there's a big street, and alleys off to the side. They just moved across the street and stand on the sides.<sup>157</sup>

Another petitioner confirmed this:

Since May 1...[the retrievers] are not near the gates, they park farther away, scattered all over the place. Mostly they are on Yongdingmen [Road] opposite from the two [main] petitions offices.... They try to trick people now. They say, 'Come back home, we'll sort it all out.' But how can they sort it out? We are complaining about them, they are the source of the problem. How can they resolve it?<sup>158</sup>

The photograph, taken after May 1, 2005, shows retrievers sitting across the street from lines of petitioners waiting to enter government offices.

Petitioners who spoke to Human Rights Watch generally expressed skepticism with the new regulations. Mrs. Lee commented, "The new law...has no effect on the retrievers at all. It has nothing to do with them."<sup>159</sup>

### ***Case Study: "They did all this to keep me from petitioning"***

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<sup>156</sup> Human Rights Watch e-mail and telephone communications with Yu, Beijing, 2005.

<sup>157</sup> Human Rights Watch interview with Cai, Beijing, 2005.

<sup>158</sup> Human Rights Watch interview with Hua, Beijing, 2005.

<sup>159</sup> Human Rights Watch interview with Mrs. Lee, Beijing, 2005.

Ms. Kang, a rural woman from Jilin province, walks with crutches because she lost the use of her feet beaten by police. She is forty-eight years old, and her long hair, streaked with grey, is pulled back in a ponytail. She is soft-spoken, with a gentle smile.

A friend explains that her case began when her husband, injured in a state-run factory, was unable to collect promised workers' compensation. Alleging official corruption in management of the factory, Ms. Kang began to petition, and eventually took her complaint to Beijing. In 2002 she was seized there and taken back to Jilin:

[In Jilin], I spent sixteen days in the detention house. They shackled me to a chair by my hands and feet. I couldn't move at all. Everything was swollen, my hands, my feet. Everything became numb. They beat me and I couldn't take it. It was so hard. After sixteen days, I was sentenced to reeducation through labor for one year. It was the first month of the lunar new year [roughly, February 2002]...

I was beaten in there four times because I wouldn't eat. I'm a vegetarian so I don't eat meat...

After I left, I continued to complain. I went home and my daughter was with the police. I had to write and then they let her go.

I went back to Beijing and complained again...I was trying to block [Premier] Zhu Rongji's car and give him my petition. The policemen grabbed me....At the station they wrestled me down and put my arms behind my back. I screamed, 'Help me! Help me!' but no one cared. Everyone there is paid off...

They sent me back to labor camp for three years....When I woke up I was in the Liaoyuan women's reeducation through labor camp. My clothes had been cut off with a knife, and they had cut my hair.

[In labor camp], they wouldn't give you time to do anything...I slept on the fourth floor and worked on the third floor....We had to go up the stairs and down the hall and then back downstairs to get to the dining hall to eat. But they would only give us twenty-five minutes, and if you were late they would beat you. My legs didn't work anymore, and so I

had to crawl and drag myself all the way up and all the way back down again.

I am a vegetarian and I don't eat meat, so I went on hunger strike. On the tenth day of the hunger strike, they said they were afraid I would die. They sent me to the hospital....In the hospital, they put me in a room and covered all the windows so I didn't know where I was. I couldn't see anything....They strapped me to a bare bed frame for two to three days. They put shackles on my hands and feet. I would lose consciousness and wake up and look at my hands and feet, and they were so big and red....The bed was too small, and it was metal, so it was up against the top of my head. I couldn't take it.

If you moved, the feeding tube would move and you would start to throw up. It was very painful....My throat got swollen to the point where they couldn't insert the feeding tube. They eventually did insert it, though, at which point it cut me and I started vomiting. They did all of this to keep me from petitioning....

There was this boy there, barely graduated from the police academy, and he wanted me to die. I asked him to give me the newspaper he was reading. He just said, 'Do you know where you are? You are here to be punished.'

Eventually, Ms. Kang's health deteriorated to the point where her family was notified that she likely was going to die. When they came to visit her, "they didn't recognize me." Her eldest daughter then wrote letters to government officials that led to her release after six months of her three-year sentence.

Her family was charged for the cost of her hospital stay.

Ms. Kang has two daughters. One is in college, and the other is ten years old. Officials put the younger daughter into state custody for a period, but have since released her to the care of her father. Ms. Kang does not weep when she describes her experiences in prison, but when she talks about her family she becomes upset:

My daughter is ten years old and she doesn't laugh anymore....I talked to my oldest daughter on the phone recently, and she said, 'Ma, you

have to be careful....they're looking for you in Beijing, and they still want to grab you. If they get you again, they'll kill you.' She tells me not to go home, because they'll grab me as soon as I get there.

Families should be together for the holidays. You know, in China, the Lunar New Year is an important holiday, but these past four years, we haven't been able to eat the holiday meal together even once.

I live in hiding now – even [the friend who brought me here] doesn't know where I live. Last week, I almost got arrested by the Jilin police after the Beijing police told them where I lived.

Will I continue to petition? I have to continue. I can't not continue.<sup>160</sup>

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<sup>160</sup> Human Rights Watch interview with Kang, Beijing, 2005.

## **B. Arbitrary Detention of Petitioners Without Trial**

Petitioners report that often they are detained without formal charges or trials. Some are formally charged and tried for “disturbing public order.”<sup>161</sup> Many end up in China’s notorious reeducation through labor (*laodong jiaoyang* or *laojiao*) system. There have been reports that local government officials sentence some petitioners to psychiatric institutions.<sup>162</sup>

Chinese law gives police broad latitude—without judicial authority or review—to detain suspects for lengthy periods. Ren, a sixty-one year old farmer from Henan, described her detention without charges:

They took me to the detention center and I asked them what I had done. The officers said, ‘You’ve broken no law. You’ve done nothing illegal. This is to stop you from petitioning.’ I said, ‘I won’t go!’ So they dragged me, they twisted and pulled my left arm and forced me into the detention center.<sup>163</sup>

Mr. and Mrs. Du from Shandong, who are petitioning about their son’s death in police custody, reported that they were each sent back twice to Shandong to be detained. Once, they were both detained without charges; on another occasion, Mr. Du was charged with insulting a police officer when he told the officer, “You are being unreasonable.”<sup>164</sup>

Another petitioner reported that after she complained to the police that her husband and two neighbors gang-raped her, she was charged with making false accusations [*wugao*] and sentenced to a year in prison.<sup>165</sup> A Henan petitioner observed that there were a number of people petitioning in Beijing from her county, and added, “There are still seventy or eighty people in that [local] detention center [where I was detained], and they are all there for petitioning.”<sup>166</sup>

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<sup>161</sup> “Fujian officials take revenge for complaints against them,” *Radio Free Asia*, September 11, 2004 [online], [http://www.rfa.org/english/news/politics/2004/09/11/fujian\\_corruption/](http://www.rfa.org/english/news/politics/2004/09/11/fujian_corruption/) (retrieved July 26, 2005).

<sup>162</sup> “Endless road to justice,” *China Information Center*, April 18, 2005 [online], <http://cicus.org/news/newsdetail.php?id=4441> (retrieved July 26, 2005); “*Shanfang nu shouru zifen weisui* [Female petitioner suffers abuse, fails in suicide attempt], *Nanjing shibao*, January 28, 2005 [online], <http://news.sina.com.cn/s/2005-01-28/01594968598s.shtml> (retrieved July 26, 2005); Human Rights Watch interview with Wu, Beijing, 2005.

<sup>163</sup> Human Rights Watch interview with Ren, Beijing, 2005.

<sup>164</sup> Human Rights Watch interview with Mr. and Mrs. Du, Beijing, 2005.

<sup>165</sup> Human Rights Watch interview with Qi, Beijing, 2005.

<sup>166</sup> Human Rights Watch interview with Ren, Beijing, 2005.

Local detention facilities range from very basic jails in the local police station, to larger detention facilities. In a few provinces, authorities have established facilities specifically for detention of petitioners:

I've been detained many times. The shortest was for eight days, the longest was a month and a half. I was just held, [usually] there were no charges. But [in 2004] I was sent to the 'petitioners' custody and repatriation center' in Harbin. There were about two or three hundred people detained there....I was detained for creating a social disturbance....I was beaten several times....There was no one in that detention center who had not been hit.<sup>167</sup>

Chinese officials often engage in preventive detentions, placing activists around the country under formal or informal house arrest in advance of major holidays or meetings in Beijing.<sup>168</sup> A petitioner who had pursued his case in Beijing for many years said that he was placed under house arrest for a month around October 1, China's National Day, a time when many petitioners descend on Beijing to pursue appeals. He said:

I was kept in my house for one month. The police came to my house and from September 17 to October 17 they kept me there...Go to work? Of course I couldn't go to work! I couldn't go anywhere. I could go out to the market to buy food, but they came with you. They even went to the bathroom with you. I am not kidding.<sup>169</sup>

### ***Reeducation Through Labor***

Sentences of reeducation through labor (RTL)—made by police with no judicial recourse—are often used to punish petitioners for their activities.<sup>170</sup> According to the Ministry of Public Security, reeducation through labor is an administrative method of reform used to change offenders to people who obey and respect the law through

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<sup>167</sup> Human Rights Watch interview with Qing, Beijing, 2005.

<sup>168</sup> "Petitioner roundup as NPC meets," *Human Rights in China*, March 11, 2005 [online], <http://www.hrichina.org/public/contents/press?revision%5fid=20891&item%5fid=20890> (retrieved November 25, 2005).

<sup>169</sup> Human Rights Watch interview with Ming, Beijing, 2005.

<sup>170</sup> "Shanghai petitioner Wang Mingqing detained," *Human Rights in China*, February 23, 2005 [online], <http://www.hrichina.org/public/contents/press?revision%5fid=20519&item%5fid=20518> (retrieved November 25, 2005).



compulsory labor. It was established in 1957 as part of the government's campaign to reform citizens who commit minor offenses through "education."<sup>171</sup>

However, the recipient of a reeducation through labor sentence has no right to a hearing, counsel, or any kind of judicial review. Sentences are often meted out by local police bureaus.

Conditions in reeducation through labor camps are harsh and the work load heavy. Prisoners work in mines or brick factories or do heavy agricultural labor.<sup>172</sup> Liu Renwen estimates that there are over 310 institutions for reeducation through labor in China, and over 310,000 people detained in reeducation through labor camps.<sup>173</sup>

Under the current system, people can be detained up to three years, which can be extended by another year based on the prison authorities' judgment. In practice, some people can be detained longer. Said one petitioner:

I was sentenced to reeducation through labor. When my case went up to a more senior county official [for review], he said, 'Lock him up until he dies.'<sup>174</sup>

He spent ten months in RTL, then his family negotiated his release.

Petitioners who had been in RTL camps told Human Rights Watch that beatings were common, especially while inmates were working. Ms. Kang, a petitioner from Jilin province, said:

We worked eighteen hours a day making children's toys to export to Japan. If you worked too slowly, you were hit and insulted.<sup>175</sup>

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<sup>171</sup> Liu Renwen, "Reform of China's Reeducation through Labor System," *Criminal Policy*, (New York: Publishing House of Chinese People's Public Security University, 2004), excerpt from Ch. 7 published by The Brookings Institution, January 25, 2005 [online], <http://www.brook.edu/fp/cnaps/events/20050125.pdf> (retrieved July 20, 2005).

<sup>172</sup> "Reeducation through Labor in China," *A Human Rights Watch Campaign Document*, [online], <http://www.hrw.org/campaigns/china-98/laojiao.htm> (retrieved July 20, 2005).

<sup>173</sup> Renwen, "*Reform of China's reeducation through labor system*" excerpt from Ch. 7, published by the Brookings Institution, p. 3.

<sup>174</sup> Human Rights Watch interview with Cai, Beijing, 2005.

<sup>175</sup> Human Rights Watch interview with Kang, petitioner, Beijing, 2005.

Mr. Jiang, a petitioner from Shanxi, was forced to labor binding books:

We had to bind the books one page at a time and get each page just right. If you did it wrong, they would hit you across the back or shoulders with a cattle prod.<sup>176</sup>

Two petitioners reported that they were force-fed after they went on hunger strikes to protest conditions.<sup>177</sup> One reported being shackled for minor infractions, such as wearing socks in cold weather or using hot water to shower.<sup>178</sup>

Several petitioners reported that the longest sentences and worst treatment were meted out to members of the banned meditation group, Falungong, many of whom also petition in Beijing.<sup>179</sup> Kang reported that of the roughly one thousand detainees in her labor camp in Jilin, most were Falungong practitioners.<sup>180</sup> The government's campaign against the group has been so thorough that even long-time Chinese activists are afraid to say the group's name aloud. One Beijing petitioner said:

Petitioners are usually locked up directly. But the worst is [she whispers] Falungong. They have terrible treatment, not like the others. There was one sixty-nine year old lady [in prison with me] who had lost her right hand in a farming accident, and she was sentenced to two and a half years—for what? For trying to push a letter through a gate.<sup>181</sup>

RTL camps suffer from overcrowding, with inadequate food, water, and no heat in winter. Ms. Kang described the conditions:

There were eight people to a cell sleeping in bunk beds. Was it clean? Of course! We were being reeducated! They made us clean the floor on our knees.

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<sup>176</sup> Human Rights Watch interview with Mr. Jiang, Beijing, 2005.

<sup>177</sup> Human Rights Watch interview with Kang and Qi, Beijing, 2005.

<sup>178</sup> Human Rights Watch interview with Qi, Beijing, 2005.

<sup>179</sup> For more information on the Chinese government's campaign against Falungong, see Human Rights Watch, "Dangerous Meditation: China's Campaign Against Falungong", *A Human Rights Watch Report*, February 2002, available at <http://hrw.org/reports/2002/china/>.

<sup>180</sup> Human Rights Watch interview with Kang, Beijing, 2005.

<sup>181</sup> Human Rights Watch interview with Ai, Beijing, 2005.

Lights in the cells were left on twenty-four hours a day. We were paid two *mao* a day, six *yuan* [\$U.S. .75] a month. Prices in the camps were inflated; a ground mat that would have cost seven *mao* outside was priced three *yuan* in the camp. If your family visited, you had to buy a meal that cost fifty *yuan*. But you knew you weren't paying for the food, you're buying time with your family.

In the camps, people used the toilet in threes. On some days, the labor was so intense that you weren't allowed to leave to go to the toilet. In very busy times, we would only get three hours of sleep.<sup>182</sup>

The ICCPR guarantees all persons the right to a fair trial and to a presumption of innocence until proven guilty.<sup>183</sup> Article 9(4) provides that “Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that the court may decide without delay on the lawfulness of his detention...”<sup>184</sup> The U.N. Body of Principles for the Protection of All Persons Under Any Form of Detention also requires that persons “not be kept in detention without being given effective opportunity to be heard promptly by a judicial or other authority. A detained person shall have the right to defend himself or to be assisted by counsel as prescribed by law.”<sup>185</sup> The reeducation through labor system violates these and other provisions of international law. It removes the presumption of innocence, involves no judicial officer, provides for no public trial, and makes no provision for defense against the charges.

The ICCPR also prohibits forced labor. Article 8 states that “no one shall be required to perform forced or compulsory labor.”<sup>186</sup> While article 8 permits convicted criminals to be required to work as part of their punishment,<sup>187</sup> detainees in reeducation through labor camps have not been convicted of a crime in a court of law and should therefore be excluded from this provision. Moreover, international standards on the treatment of detainees demand that work undertaken be to their benefit. According to the U.N. Basic Principles for the Treatment of Prisoners:

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<sup>182</sup> Human Rights Watch interview with Kang.

<sup>183</sup> Article 14, ICCPR.

<sup>184</sup> *Ibid.*, Article 9(4).

<sup>185</sup> U.N. Body of the Principles for the Protection of All Persons Under Any Form of Detention or Imprisonment, U.N. General Assembly Resolution 43/173 (1988), Principle 11.1, available at [http://www.unhchr.ch/html/menu3/b/h\\_comp36.htm](http://www.unhchr.ch/html/menu3/b/h_comp36.htm).

<sup>186</sup> Article 8(3)(a), ICCPR.

<sup>187</sup> *Ibid.*, Article 8(3).

Conditions shall be created enabling prisoners to undertake meaningful remunerated employment which will facilitate their reintegration into the country's labor market and permit them to contribute to their own financial support and that of their families.<sup>188</sup>

China is a member of the International Labor Organization (ILO) and has ratified twenty of the 100 active ILO conventions on labor standards. In June 2002 China's only legally-recognized trade union, the All-China Federation of Trade Unions, was elected to the Governing Body of the ILO.<sup>189</sup>

In 1998 the International Labor Conference approved a Declaration on Fundamental Principles and Rights at Work. Article 2 of the Declaration states that all members, even if they have not ratified the conventions in question, have an obligation as ILO members to realize fundamental rights in the conventions including the elimination of all forms of forced or compulsory labor.<sup>190</sup> ILO Convention 29 defines forced labor as "all work or service which is exacted from any person under the menace of any penalty and for which the said person has not offered himself voluntarily." Certain categories of persons are exempted from the ban on forced labor, but detainees, as opposed to persons convicted and sentenced by a court, are not among them. Regardless, even for those exempted from the ban on forced labor, according to article 12 of Convention 29, there is a sixty day limit per twelve months for compulsory labor.<sup>191</sup>

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<sup>188</sup> U.N. Basic Principles for the Treatment of Prisoners, U.N. General Assembly Resolution 45/111 (1990), Article 8, available at [http://www.unhchr.ch/html/menu3/b/h\\_comp35.htm](http://www.unhchr.ch/html/menu3/b/h_comp35.htm).

<sup>189</sup> International Labor Organization (ILO), Governing Body 284th Session, June 2002, available at <http://www.ilo.org/public/english/standards/relm/gb/docs/gb284/index.htm>.

<sup>190</sup> ILO Declaration on Fundamental Principles and Rights at Work (1998), Article 2, available at [http://www.ilo.org/dyn/declaris/DECLARATIONWEB.static\\_jump?var\\_language=EN&var\\_pagename=DECLARATIONTEXT](http://www.ilo.org/dyn/declaris/DECLARATIONWEB.static_jump?var_language=EN&var_pagename=DECLARATIONTEXT).

All Members, even if they have not ratified the Conventions in question, have an obligation arising from the very fact of membership in the Organization to respect, to promote and to realize, in good faith and in accordance with the Constitution, the principles concerning the fundamental rights which are the subject of those Conventions, namely:

- (a) freedom of association and the effective recognition of the right to collective bargaining;
- (b) the elimination of all forms of forced or compulsory labor;
- (c) the effective abolition of child labor; and
- (d) the elimination of discrimination in respect of employment and occupation.

<sup>191</sup> ILO Convention 29 (Forced Labor Convention), Article 12, available at: <http://www.ilo.org/ilolex/english/convdisp1.htm>.

### **C. The Role of Beijing Police**

Because the Chinese government believes that the growing flood of petitioners in Beijing poses a significant social order problem for the city, Beijing police and government security guards have shown increasing interest in having removed petitioners from the city. Petitioners report that Beijing security officers have often not interceded when they are attacked by retrievers, and that they ignore calls for help from petitioners.

As crowds of petitioners can rise to five or six hundred in front of a government petitions office on any given day, petitioners are often rounded up en masse by Beijing police. They are then taken to a detention facility in Beijing known as the Majia building, where they are detained for a short period until they are either released without charges, or turned over to retrievers. Explained one petitioner:

It used to be that people could go to petition, present their statements, wait in line, get numbers, and wait to be called up. Now they take down your name and identity number and what province you're from, and drag you to the Majia building on South Number Four Ring Road. They can detain you there for a year, six months, a year and a half. Sometimes they call up police from your province to come and get you.<sup>192</sup>

Some petitioners reported being severely beaten by provincial retrievers while they were in detention in Beijing. A Henan petitioner told Human Rights Watch that Henan police seized him and took him to the Majia building, where they broke his fingers, leaving them permanently damaged.<sup>193</sup>

A woman from Jilin province who is partially disabled and walks with crutches said:

I was trying to block [Premier] Zhu Rongji's car to give him my petition and the policemen grabbed me....I said, "The Communist Party has a constitution that protects my rights!" There were five or six men. At the station, they wrestled me down and put my arms behind my back. I

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<sup>192</sup> Human Rights Watch interview with Qing, Beijing, 2005.

<sup>193</sup> Human Rights Watch interview with Mao, Beijing, 2005.

screamed, 'Help me! Help me!' but no one cared. Everyone there is paid off.<sup>194</sup>

Petitioners also say that Beijing police and government security guards also stand by passively as retrievers beat and threaten them, ignoring their calls for help.<sup>195</sup> Mr. and Mrs. Gao, the Shandong couple who were beaten on the street in front of the State Council petitions office, told Human Rights Watch what happened after the beating:

I had hurt my leg and I dragged myself to the State Council because I couldn't walk. My husband's face was covered in blood, my umbrella was broken, and he could not even stand up straight because he had broken one of his ribs. I called out for help to the security guard who was [at the guard post] right inside the gate. He told us to go away.

I said, 'How can I go away? I can't even walk—my leg is broken!' I asked him to call 110 [the police emergency number] but he didn't. As soon as we got close to the State Council, the retrievers ran off. I told the guard, 'You are the highest State Council, you cannot refuse to help me! I was yelling so loud that the whole street could hear me. The security guard said, 'Stop yelling!'...We got to the hospital.'<sup>196</sup>

In other cases, petitioners reported to Human Rights Watch that they called 110, the police emergency number, to report that they were being attacked. But once police knew the callers were petitioners, they refused to intercede. Said one petitioner:

I was beaten up at the Communist Party Central Discipline Committee [office]. I called 110 and said, 'I'm being beaten and taken to Liaoning, I'm in the procuratorate's car.'

It was three people...and they were all wearing street clothes...These guys said, 'You're still complaining!' They looked in my bag and pulled out [my documents] and said, 'Who will look at those?' They forced me into the car. I said to them, 'You're violating my human rights, this is against the law.' They said, 'What law, what are you talking about?'

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<sup>194</sup> Human Rights Watch interview with Kang, Beijing, 2005.

<sup>195</sup> Jehangir S. Pocha, "In struggle to be heard, rural Chinese pack Beijing," *Boston Globe*, March 15, 2005.

<sup>196</sup> Human Rights Watch interview with Mrs. Lee, Beijing, 2005.

The police I called finally came, but they couldn't see me, and they called me back on my cell phone to ask where I was. I said, 'I'm in the car!' I started struggling with the door handle, and the [retrievers] were trying to stop me opening the door. I rolled down the window and started shouting.

The police looked right at me! They said on the phone, 'No, we don't see you anywhere,' and left. They said on the phone, 'You're a petitioner, right?' They saw me and they walked away.<sup>197</sup>

According to one Beijing activist, a lawyer working with petitioners has recently filed a lawsuit with the city charging that police routinely ignore 110 calls from petitioners.<sup>198</sup>

Beijing police have also reportedly used excessive force in the process of detaining petitioners who are Beijing residents. Bao, a longtime petitioner, reported mistreatment of a petitioner in front of the Beijing City People's Congress building:

This old lady, it was her first time petitioning, and the cops pulled her and yelled at her, and when she went home her head was bleeding. She called me and said she had no money to go to the hospital and get it taken care of. We felt terrible, because we had no money for her. I said to her, 'You have to see the doctor, one way or the other.' The next day she and I went [to the hospital] together. We gathered 2,000 RMB [about U.S.\$255]. I got really angry.

So the day after, I went and told [other petitioners] about it, and I said, 'This is terrible mistreatment of the old hundred names [common people].'

Another petitioner reported that she was slapped during an interrogation by a district police chief in Beijing, and when she opened the door of the room to call for help, the station chief came in and also began to beat her.<sup>199</sup>

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<sup>197</sup> Human Rights Watch interview with Hua, petitioner, Beijing, 2005.

<sup>198</sup> Human Rights Watch interview with Cai, Beijing, 2005.

<sup>199</sup> Human Rights Watch interview with Qi, Beijing, 2005.

***Case Study: "I'm going to tell the national leaders what happened to me"***

The petite, soft-spoken thirty-nine-year-old woman from Henan has just arrived in Beijing, and she shows signs on her face and clothes of having slept on the streets the past few nights. "I have to sell newspapers on the side of the road," she explains. "My feet are swollen and hurt all day." She carries a cloth knapsack with her clothes and belongings. She is deferential, speaks quickly and smiles apologetically when she becomes confused or is interrupted by others.

I was married by force [to a man I had known for one week] in 2000. I tried to leave my husband and he wouldn't let me. The day after, two people came home with him. They ripped my clothes off and raped me. It was my husband and two of our neighbors.

I complained, and the police detained him for a few days. Then they let him go...I think he paid a bribe. I left him over four years ago, and he still lives there.

After I started petitioning, the police detained me instead. I was in Beijing, and the retrievers came and talked me into going back. When I went back with them, they put me in jail. They said it was a detention pending investigation...I was detained this way on two occasions for several months, each time.

The third time was in July 2004. I was at the National Office of Letters and Visits...and [the retrievers] came and talked me into going back. They took me to the guesthouse [where they were staying]. They said if I went back, they would take care of my problem locally. But when we got [to Henan], they dragged me into the county jail. For making 'false accusations' against my husband, I was sentenced to one year in prison.

She gives Human Rights Watch a few documents: her statement, neatly handwritten by someone else, with her red thumbprint on it in place of a signature; a letter from a lawyer at a university legal clinic in Beijing supporting her claim; and a court sentencing document stating that because she was married to one of her attackers, the gang rape was not a real rape, and thus she is convicted of making "false accusations" [*wugao*] against her husband, and sentenced to a year in prison.



She goes on to describe conditions in the local prison, where ten women shared a cell:

They shackled my hands and feet. The first time it was because the weather was cold, and we had to go outside [to work], so I put on socks. They yelled at me and put me in shackles.

The second time, it was because I used hot water to shower. No one else showered with hot water. They shackled me for twelve days.

The third time, it was because I was washing clothes all day and I was tired, so I rested for a while. They shackled me for two days.

The fourth time it was 6:30 in the morning, and the sky was light, and people were singing because they couldn't sleep. They were Falungong people singing, and I sang along with them. I'm not Falungong, but I joined in the song. [The guards] asked me if I had started them singing, I said that I hadn't, I just joined in. So they chained my hands and feet, like this [demonstrates]. Four men held me down to shackle me. I was shackled for seven days.

The fifth time I went two days without food, so they chained my hands and feet, because I went on hunger strike.

They made me sign a confession. They forced me to sign. They said if I didn't sign, I couldn't leave.

I am a victim. My family doesn't understand me. I'm alone. I'm not even divorced, so no one cares [that my husband organized a gang rape].

In May, I got out of that jail. I just got to Beijing two days ago. I came on my own. They wouldn't give me my backpack back at the jail. My keys, some money, my ID card, my phone, my umbrella, a lot of things were all in there, and they wouldn't give it back to me. So I came back here to petition....I'm going to tell the national leaders what happened to me.<sup>200</sup>

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<sup>200</sup> Ibid..

#### **D. Violations of the Right to Freedom of Assembly**

As the number of petitioners in Beijing has grown, petitioners from different provinces have begun to compare their experiences. Some have organized mass protests about their treatment.

China's constitution, as well as international law, guarantees the right to freedom of assembly. However, in practice the right to freedom of assembly is severely limited in China, with applications to assemble arbitrarily denied and protests routinely broken up by force. This, too, has been the experience of many petitioners and activists working with petitions.

In the wake of the June 4, 1989, massacre of protesters in and around Tiananmen Square, China passed a "Law on Assemblies, Marches and Demonstrations" (*Jihui youxing shiwei fa*) that sets out a detailed permit procedure for anyone wishing to hold a public protest of any kind.<sup>201</sup> The law stipulates that protest organizers should file an application within five days of the proposed demonstration describing the "purpose, methods, chants, slogans, numbers of people, numbers of automobiles, types and numbers of sound systems, start time, location (including start and finish locations), and names, occupations and addresses of contact people and people in charge."<sup>202</sup> According to the law, police are required to respond with approval or refusal within two days.<sup>203</sup>

The May 1 regulations prohibit petitioners from engaging in illegal assembly in front of government offices, but provide no more clarity than the Law on Assemblies about just what constitutes an illegal assembly. An official publication advising potential petitioners about their responsibilities under the new regulations strongly advises against spontaneous protests and points out that the basic rights of Chinese citizens to organize lawful protests are protected by the Law on Assemblies, Marches, and Demonstrations.<sup>204</sup>

Petitioners and activists who have attempted to apply for permission to demonstrate report that their requests are routinely refused or go unanswered. Protests in cities other

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<sup>201</sup> *Zhonghua renmin gongheguo jihui youxing shiwei fa* [People's Republic of China Law on Assemblies, Marches and Protests], ratified by the tenth meeting of the executive committee of the Seventh National People's Congress, October 31, 1989; in Cao Kangfeng, Wang Xuejun, eds., *Xinfang tiaoli fudao duben* [Regulations on Letters and Visits Tutorial Reader], (Beijing, Zhongguo fazhi chubanshe, 2005); 412-418.

<sup>202</sup> Article 8, People's Republic of China Law on Assemblies, Marches and Protests.

<sup>203</sup> *Ibid.*, Article 9.

<sup>204</sup> Cao Kangfeng, Wang Xuejun, eds., *Xinfang tiaoli fudao duben* [Regulations on Letters and Visits Tutorial Reader], (Beijing, Zhongguo fazhi chubanshe, 2005); p. 342.

than those in which the organizers are formally registered as residents are prohibited, making it illegal for people from outside of Beijing to organize protests in the national capital.<sup>205</sup>

In practice, however, police do not often prohibit protests. According to government figures, in 2004 there were approximately 74,000 demonstrations around the country.<sup>206</sup> Given the plethora of social problems in a quickly evolving society, the government and Party appear to feel the need to allow public protests as a pressure release valve for public grievances. The problems for petitioners and others who take to the streets to protest is that a charge of illegal assembly can always be laid on individuals or groups particularly disliked by local officials, making it unclear what is permissible and what is not.

### ***Jailing of Individuals for Applying for Permission to Protest***

In several cases, police have simply arrested people for applying for a protest permit. The Beijing police have even retaliated against some activists just for filing applications to protest. Says one activist working with petitioners:

There have been many applications for protests....They never get a formal response, but they sometimes get arrested [on other charges] as a result of their applications for protest permits.<sup>207</sup>

Ye Guozhu is one of the most prominent activists jailed for attempting to apply for a protest permit. The Ye family is becoming a petitioning dynasty. Ye's brother, Ye Guoqiang, attempted to commit suicide by jumping into the Jinshui river near Tiananmen Square to protest his family's forcible eviction from their Beijing home to make way for Olympics-related construction. Ye Guoqiang was arrested and sentenced to two years for disturbing social order for attempting suicide in public as a form of protest.<sup>208</sup> His family was left homeless by the eviction. After this, Ye Guoqiang's brother, Ye Guozhu, became a prominent petitioner on forced evictions cases in Beijing.

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<sup>205</sup> Article 33, People's Republic of China Law on Assemblies, Marches and Protests.

<sup>206</sup> Howard French, "Land of 74,000 Protests (but Little Is Ever Fixed)," *New York Times*, August 24, 2005.

<sup>207</sup> Human Rights Watch interview with Wu, Beijing, 2005.

<sup>208</sup> "Two sentenced to jail terms for causing disturbances on Tiananmen Square," *People's Daily*, November 23, 2003; [http://english.people.com.cn/200311/28/eng20031128\\_129256.shtml](http://english.people.com.cn/200311/28/eng20031128_129256.shtml), retrieved July 26, 2005.

In August 2004, Ye Guozhu joined with Tianjin-based activist Zheng Mingfang, lawyer Ni Yulan, and others to apply for permission to hold a 10,000-person march in September. Police detained Ye Guozhu three days later.

An activist who attempted to attend Ye Guozhu's trial reported that he was kept at home by state security agents. He reported what he later heard about the trial:

Aside from me, another guy was put under house arrest. Over one hundred people went to the court door and all wanted to go in and hear the trial, but the court [staff] wanted each person to register their name and address. All of them registered. Then the court called the local police station of each person's home to come and get them, so over a hundred cop cars came to get them. Other people watching said, 'What is going on at the court?' They sent everyone home.

In court, there should be sixteen seats for family and friends, but the court only gave them two, so Ye Guozhu's son couldn't get in. The people charging Ye said that he had been sleeping in front of a hotel, but the guy was homeless [because of his forced eviction], he had nowhere else to live. They said he wore clothes with writing on them about demolition and eviction, but wearing clothes is not illegal. They wouldn't let [Ye Guozhu] speak at his trial.

Ye has a lawyer who told me that Ye had scars on his wrists. [The prison staff] tried to shave his head,<sup>209</sup> but he resisted saying that he hadn't committed any crime. So they hung him up by his wrists to force him [to let them shave his head].<sup>210</sup>

In December 2004, a Beijing court sentenced Ye Guozhu to four years in prison.<sup>211</sup> In July, Zheng Mingfang was also arrested and sentenced to two years' imprisonment in Tianjin on charges of conducting "illegal business."<sup>212</sup>

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<sup>209</sup> Head-shaving marks a person as a convict.

<sup>210</sup> Human Rights Watch interview with Song, 2004.

<sup>211</sup> "China continues crackdown on public intellectuals and activists," Congressional Executive Commission on China, January 7, 2005; <http://www.cecc.gov/pages/virtualAcad/index.phpd?showsingl=5002>; retrieved July 26, 2005.

<sup>212</sup> "China jails Tianjin petitioner, arrests nineteen protesters," Radio Free Asia, July 21, 2005.

Human Rights Watch has learned of two other cases of persons who appear to have been arrested for filing an application for a protest permit. Li Xiaocheng, a petitioner from Xinjiang, disappeared in August 2004 after filing an application for a mass protest in Tiananmen Square by petitioners. A colleague told Human Rights Watch that Li was approached by police who posed as journalists and instead detained him.<sup>213</sup> In June 2005, Li was formally charged with inciting an illegal protest.<sup>214</sup> Zhao Xin applied for a permit to hold a memorial march for former Chinese premier Zhao Ziyang in winter 2005. When he went to the police bureau to pick up his permit, Zhao was detained for two months.<sup>215</sup>

In early May 2005, a group of activists working with petitioners applied for a permit to hold an anti-Japan demonstration. Earlier protests against Japan in April 2005 were believed to be state-sanctioned.<sup>216</sup> The group reportedly aimed to establish their constitutional right to protest. According to an activist familiar with the case, the Beijing government responded with an official statement that there never had been official protests against Japan. He also said those who applied for the permit were harassed by police.<sup>217</sup>

### ***Protests by Petitioners***

As the result of grievances over the lack of response to petitions and limitations on freedom of assembly, activists working with petitioners say that spontaneous protests in front of petitions offices, foreign embassies, and United Nations buildings have become increasingly common. Police have responded with mass detentions, arrests, and beatings. Petitioners have also reported beatings by security guards responding to spontaneous protests in front of government offices where petitioners gather and wait to file their complaints.

In recent years, the numbers of mass protests by petitioners has grown, though many of the larger protests still go unreported in mainland media.<sup>218</sup> Frustrated petitioners have

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<sup>213</sup> Human Rights Watch interview with Wu, Beijing, 2005.

<sup>214</sup> "China charges petitioner who applied to march on Tiananmen Square," Radio Free Asia, June 24, 2005.

<sup>215</sup> Human Rights Watch e-mail correspondence with Liang, Chinese activist, 2005; Masha Loftus, "CCP pulling the pin from the nationalism hand-grenade," *Epoch Times*, April 20, 2005.

<sup>216</sup> Howard French, "Chinese government permits rare protests against Japan," *New York Times*, April 17, 2005.

<sup>217</sup> Human Rights Watch interview with Wu, Beijing, 2005.

<sup>218</sup> "Chinese petitioners protest in Beijing," Radio Free Asia, July 21, 2004; "*Shangqian ming jiefangjun tuiwujunren zai Beijing shiwei qingyuan* [Over one thousand retired PLA soldiers protest and present petitions in Beijing]," Radio Free Asia, April 13, 2005; "Peasant advocates hospitalized in clash with officials," Human Rights in China press release, May 3, 2005.

sometimes picked up en masse and taken their protests across town, to other government offices such as Zhongnanhai, the central government compound. Other protests have targeted foreign embassies and the U.N.<sup>219</sup> One participant in a protest at the German embassy in November 2004 recalled:

[Local police in Shanxi] said to me, 'You go wherever you want, take the case up with whomever you want, it's fine.' The city said that they'd gotten orders from many levels before [from national authorities] and they were all just wasted paper. They said, 'You want to go to the U.N., fine! Go complain wherever you want...' They said I could go anywhere, so we [petitioners] said, fine....So we went to the German embassy....There were over thirty [protesters] there, each with his own problem...As soon as the police saw us, they took us away.<sup>220</sup>

Another petitioner recalled a spontaneous protest at the central government compound, Zhongnanhai in April 2003:

The protest was all peaceful, there were over one hundred [petitioners] in front of the Zhongnanhai main gate. We weren't causing any problems. But after they detained me, I was charged with troublemaking and disturbing the work of government offices, and sentenced to two years....After I appealed, they [altered the sentence] to nine months, and I had already been detained nine months. They did it this way so that they wouldn't have to pay compensation [for false conviction].<sup>221</sup>

Ou told Human Rights Watch that she and her mother had participated in protests in front of the U.N. offices in Beijing:

There were many, many people there, but no one came out to talk to us. They handcuffed [my mother], but they didn't arrest her, and there was no arrest warrant. They detained her for five days.<sup>222</sup>

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<sup>219</sup> "Petitioners dragged from gates as China's leaders hold social justice meeting," Radio Free Asia, February 23, 2005; "*Shangfang shangdao Mei shiguan* [Petitioners go to American embassy]," Boxun, July 15, 2005; <http://www.peacehall.com/news/gb/china/2005/07/200507150115.shtml>, accessed July 19, 2005.

<sup>220</sup> Human Rights Watch interview with Yang, Beijing, 2005.

<sup>221</sup> Human Rights Watch interview with Mao, Beijing, 2005.

<sup>222</sup> Human Rights Watch interview with Ou, Beijing, 2005.

In 2003, one group of petitioners protested in front of a government-owned company in Beijing. A petitioner reported that she was beaten and kicked by police in the process of detention:

Fifty to sixty people took part, and all of us were seized by police...They all grabbed us and pulled us onto the bus. I said 'What are you doing?' and I resisted. Then it started. Over ten police used their feet to kick us. I fell down, and they pulled my hands and dragged me head first...I got scraped all over and my left side was bleeding. They got me in the car and had my hands behind my back, and they struck my head on the floor many times....

They took us to a school [courtyard]. It was very hot. They pulled us in and I...lay on the ground, which was burning hot, and I got confused and passed out...The police officer took me to the hospital and told the doctor that I had been faking being unconscious, and that I was rolling around on the ground and had injured myself in that way....

But the Beijing court said that it didn't happen and they wouldn't issue a decision. They won't take the case. They say there is no proof and they wouldn't even hear the witnesses.<sup>223</sup>

In 2003, Sun Shuping applied for a permit for a protest of ten thousand in Beijing. The permit was refused. After Sun and Wu Daming went with a group of petitioners to Tiananmen Square to protest without the permit, they were arrested.<sup>224</sup>

Some groups of petitioners have also attempted mass suicide in public spots in Beijing, a traditional form of protest in China.<sup>225</sup>

Many more spontaneous protests erupt in front of offices where hundreds, sometimes thousands, of petitioners wait in line and vie to be heard by petition office staff. In other cities, such as Shenzhen, mass protests by petitioners in front of government offices

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<sup>223</sup> Human Rights Watch interview with Ai, Beijing, 2005.

<sup>224</sup> Loftus, "CCP pulling the pin from the nationalism hand-grenade," *Epoch Times*; Human Rights Watch interview with Wu, Beijing, 2005.

<sup>225</sup> "Beijing suicide protesters spoke for thousands," Radio Free Asia, July 14, 2004, <http://www.rfa.org/english/news/social/2004/07/14/141010/>, retrieved July 26, 2005.

have disrupted traffic and led to new injunctions against them by local government.<sup>226</sup> Says one Beijing activist familiar with the situation of petitioners:

These kinds of protests happen daily, if you can call it a protest. The petitioners try to create dramatic scenes to get attention. There's often some sort of protest going on. When [staff] people refuse to talk to them, they yell, they get angry.<sup>227</sup>

Police and security guards often respond with force to these protests, beating protesters and arresting them.<sup>228</sup> Says another petitioner:

We all bang on the windows to get attention to submit the petitions, and the guards will just strike out and punch you in the face.<sup>229</sup>

Petitioners report that one petitioner from Gansu, Wang Yuanshi, may have been beaten to death inside the petitions office of the Supreme Court in November 2004, after petitioners began banging on the window to get attention of staff inside. One witness recalled:

Wang Yuanshi got beaten right in front of the court [petitions office]. They beat him to death....It was the afternoon when he and [another petitioner] went in. They were screaming and we heard them. Then one of [the petitioners] came out and told us they were being beaten by the court security guards. The next morning before it was even light out, we saw his body on the doorstep....There were forty people at the doorway, they all saw it too.<sup>230</sup>

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<sup>226</sup> Chow Chung-yan, "Restrictions on petitions near government offices," *South China Morning Post*, July 24, 2004.

<sup>227</sup> Human Rights Watch interview with Wu, Beijing, 2005.

<sup>228</sup> Philip P. Pan, "Cabbies can't find China's road to justice," *Washington Post*, November 15, 2004.

<sup>229</sup> Human Rights Watch interview with Ming, Beijing, 2005.

<sup>230</sup> Human Rights Watch interview with Cai, Beijing, 2005. A second petitioner said he had witnessed Wang being dragged into the building, heard him shouting for help from inside the building, and saw his body lying on the steps of the building the following day. Human Rights Watch interview with Yang, Beijing, 2005. Human Rights Watch contacted another petitioner who said he could confirm this account, but was unable to interview him due to concerns for his safety.



Petitioners also mentioned that at least one other vocal petitioner has disappeared while petitioning in front of the Supreme Court petitions office.<sup>231</sup>

Other petitioners commented that loss of life was a serious risk for them. As Ai said:

Two people died already in the past year—we don't dare to say how, but they were both petitioners. People tell us to pay 1000 percent attention to our safety. We can be arrested at any time, and we can disappear at any time.<sup>232</sup>

On some occasions, protests have erupted when petitioners refuse to go peacefully with retrievers. One petitioner recalled that:

One time, before the Two Meetings, I saw police trying to take someone away from the Petitioners' village. I went up to the police car and said, 'This is not right. He has the right to petition. If he doesn't want to go with you, he doesn't have to.' I asked the petitioner, 'Do you want to go with them?' And the petitioner said, 'I don't want to go.' So I told the retrievers to leave. Three other people started to approach in a menacing way, so the retrievers backed down.

I often say to the petitioners, 'If they take me today, tomorrow it will be your turn.' But many of them don't think this way...They still have this hope.<sup>233</sup>

### ***E. Restrictions on and Harassment of Activists***

As the petitioning problem has grown, a network of petitioner defenders and activists has begun to take shape. Some Chinese lawyers and rights activists help petitioners with their cases, advising them on how to file cases and helping them to access social services.

While this kind of assistance is generally permitted, the authorities have refused to allow some activists to register NGOs that would work exclusively on petitioners' issues. Ye Mingjun, the son of Ye Guozhu, for example, attempted to register a new NGO to work

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<sup>231</sup> Human Rights Watch interview with Cai, Wu, Beijing, 2005.

<sup>232</sup> Human Rights Watch interview with Ai, Beijing, 2005.

<sup>233</sup> Human Rights Watch interview with Hua, Beijing, 2005.

with petitioners in Beijing in April 2005, and was refused registration.<sup>234</sup> Registered NGOs also report that their staff members have been questioned and their computers seized and searched. Lawyers who work with petitioners in Beijing and Shanghai are reported to be under close police surveillance.<sup>235</sup>

Some petitioner activists have been jailed or detained for lengthy periods without formal charges. In November 2004, Li Guozhu, a farmers' rights advocate, was detained after investigating deadly ethnic clashes in Henan province.<sup>236</sup> Before his detention, Li said he had documented 2,670 individual detentions of petitioners around the country that took place between June and July 2004.<sup>237</sup> Human Rights Watch has collected information on the cases of sixteen advocates working with petitioners who have been detained or have "disappeared" while doing their work (see Appendix A).

A few university legal aid centers and independent nongovernmental organizations are able to work with petitioners. However, even these have faced harassment and report that they believe they are under close police surveillance. In April, Adam Briscoe, a U.S. student on an internship with the Empowerment and Rights Institute, a Chinese NGO that provides legal advice and humanitarian aid to petitioners, was detained and interrogated. He was released after paying a fine of 500 RMB [about U.S.\$60] for not carrying his passport.<sup>238</sup> Briscoe told Human Rights Watch:

The police came into the office while I was the only one in there. They took me to the station and questioned me for six hours. They alternately had English and Chinese-speaking cops coming in to question me, and they just kept asking me the same questions in both languages. I just kept saying things like, 'I love China, I love Beijing'... They brought in a big stack of papers in Chinese to sign, and I refused to sign them. Then they brought in an English-speaking cop who wrote out a confession that said I should have been carrying my passport. They fined me five hundred *kuai*... They also searched my home and computer.<sup>239</sup>

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<sup>234</sup> Human Rights Watch interview with Cai, Beijing, 2005.

<sup>235</sup> Human Rights Watch interview with Cai, Wu, and Andy [pseudonym], an American journalist, Beijing, 2005.

<sup>236</sup> "China: Crackdown on Activists Widening," Human Rights Watch, December 23, 2004, [online] <http://hrw.org/english/docs/2004/12/23/china9930.htm>.

<sup>237</sup> "Beijing suicide protesters spoke for thousands," Radio Free Asia, July 14, 2004; <http://www.rfa.org/english/news/social/2004/07/14/141010/>, retrieved July 26, 2005.

<sup>238</sup> "U.S. rights worker in China detained and interrogated," Agence France-Presse, April 13, 2005.

<sup>239</sup> Human Rights Watch interview with Adam Briscoe [real name], Beijing, 2005.

This was only the first of a series of incidents by the government aimed at forcing the organization to stop its work. Prior to a visit in August 2005 to Beijing by the U.N. High Commissioner for Human Rights, Louise Arbour, the organization's offices were raided once again.<sup>240</sup> The director, Hou Wenzhuo, was placed under house arrest in an apparent attempt to prevent her from speaking to Arbour. Her apartment was surrounded by police and she was told she could not leave. She told a reporter at the time, "I haven't been out yet. I need to get some rest, and make preparations in case they detain me when I try to go out. I have to prepare for this."<sup>241</sup> In October 2005, she was evicted from her apartment. "They told me this evening, absolutely this evening by 6:00 p.m., if I don't get out by that time they're going to do everything to get me out," she told a journalist.<sup>242</sup>

In November 2004, eight police officers and a village mayor raided Sanchun Dadi [Spring on the Land], an independent Beijing NGO working with petitioners and other rural activists. They detained Li Guozhu, a volunteer working with the NGO. Witnesses told Li's family of his arrest, but as of the time of writing police had not yet issued a formal notification of arrest or of his whereabouts. Some friends suspect that his detention was related to Li's visit to a region of Henan where there had been an ethnic riot and martial law.<sup>243</sup> This abduction by officials without acknowledgment of custody would amount to a "disappearance" under international law.<sup>244</sup>

In another case a photographer, Sun Xiaodi, a petitioner and activist working on the problem of nuclear contamination of rivers in Gansu, "disappeared" on April 27, 2005. Sun had also documented police abuses of petitioners. His family has not been notified of his arrest.<sup>245</sup> His daughter, Sun Haiyan, issued an "Open Appeal" for his return:

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<sup>240</sup> "Chinese Activist Evicted From Flat by Security Forces," AP, October 1, 2005.  
<http://www.taipetimes.com/News/world/archives/2005/10/01/2003273993> (retrieved November 7, 2005).

<sup>241</sup> "Chinese Police Beat Up AIDS Activist During U.N. Rights Visit," RFA, August 31, 2005.  
[http://www.rfa.org/english/news./2005/08/31/china rights](http://www.rfa.org/english/news./2005/08/31/china%20rights), (retrieved November 7, 2005).

<sup>242</sup> "Chinese Activists Evicted From Flat," Associated Press, October 1, 2005.

<sup>243</sup> Human Rights Watch interview with Wu, 2004.

<sup>244</sup> The newly concluded International Convention for the Protection of All Persons from Enforced Disappearance defines at Article 2 an enforced disappearance as "the arrest, detention, abduction or any other form of deprivation of liberty committed by agents of the State, or by persons or groups of persons acting with the authorization, support or acquiescence of the State, followed by a refusal to acknowledge the deprivation of liberty or by concealment of the fate or whereabouts of the disappeared person, which place such a person outside the protection of the law."  
<http://www.ohchr.org/english/issues/disappear/docs/E.CN.4.2005.WG.22.WP.1.REV.4.pdf> (retrieved November 21, 2005)

<sup>245</sup> Human Rights Watch interview with Cai, Beijing, 2005.

My father, Sun Xiaodi, was born in Shanghai in 1955, and was formerly employed at the No. 792 Uranium Mine. In 1989 he began petitioning the central government in Beijing on behalf of the 2,000-plus people who relied on the uranium mine for their living. In all of these years he never stopped. He always believed that justice would win out in the end. On April 28, 2005, my father suddenly disappeared. There has been no word of him since, and we don't know what happened to him. Some informed people have said that the police secretly detained him, but I have inquired with the Public Security Bureau many times, and they always reply that they have no news of Sun Xiaodi.

Petitioning is a basic right of all Chinese citizens, and my father did nothing wrong. My father's disappearance while exercising this right has had a heavy impact on my family. My mother's health was already poor, and my father's disappearance has delivered a great physical blow to her. She also lost her job because of my father's petitioning activities. My father is the person on whom my mother and I hang all our hopes. My greatest wish is that my father can safely return to the bosom of his family as soon as possible.

As a daughter, I love my father very much; I miss him and think of him constantly. I urgently appeal to all concerned to unconditionally release my father, and I condemn these terrorist activities. Give me back my father, and give him back his freedom.<sup>246</sup>

Sensitivities about petitioner protests are so high that even those taking photos can find themselves in harm's way. In March 2005, Michael Reynolds, a journalist with the European Pressphoto Agency, was photographing retrievers beating petitioners in front of the complaints office of the National People's Congress. He was kicked and beaten by police. Reynolds told a reporter:

I was in front of the complaints office just observing how they were manhandling and harassing petitioners....As soon as I whipped out my

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<sup>246</sup> "Activist Disappears after Reporting Nuclear Contamination", *Human Rights in China*, August 19, 2005 [online], <http://www.hrichina.org/public/contents/press?revision%5fid=24102&item%5fid=24098> (retrieved November 29, 2005).

camera, they (police) immediately encircled me and began grabbing me and my camera.<sup>247</sup>

## **F. Conditions in the Petitioners' Village**

Large numbers of petitioners now live in a shantytown near Beijing's South Station known as the Petitioners' village [*shangfang cun*]. Residents in the village estimate that there are over 10,000 people living there, but there are no official numbers.

Conditions in the petitioners' village are extremely poor, as has been documented by domestic and international journalists.<sup>248</sup> Petitioners and activists working with them reported to Human Rights Watch that the petitioners' village is closely monitored by police and by paid informers, and that visitors are usually ejected by police within minutes of arrival.<sup>249</sup> Many petitioners—farmers and other impoverished, marginalized people—start out with minimal resources to begin with, and their circumstances gradually deteriorate over the years until they end up homeless and mired in poverty. As one lawyer who has worked with many petitioners on their cases noted, “Gradually people spend everything they have and lose all dignity through ceaselessly petitioning.”<sup>250</sup> Because they are not legal residents of Beijing, petitioners are unable to access government services, including health care and school, for themselves and their families.<sup>251</sup>

Many petitioners are short-term residents in the village, coming to Beijing only for a few days to pursue their cases before they return home. Some become long-term or even permanent residents, hiding because they fear for their safety if they return home.<sup>252</sup> Mao, a petitioner from Henan, said that he, his sister, and his brother now all live in poverty in the petitioners' village. Even though they have given up petitioning, the whole

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<sup>247</sup> “US photographer beaten by Beijing police ahead of parliamentary meeting,” Agence France-Presse, March 3, 2005.

<sup>248</sup> Hu Feng and Jiang Shu, “*Xinfang gongpeng* [The pinnacle of petitioning],” *Oriental Outlook*, December 11, 2003, pp. 20-31; Hu Bo, “*Beijing shangfang cun shengtai* [Ecology of the Beijing petitioners' village],” *Oriental Outlook*, December 11, 2003, pp. 36-45; Hannah Beech, “Nothing left to lose,” *Time Asia*, March 1, 2004, <http://www.time.com/time/asia/magazine/article/0,13673,501040301-593608,00.html> accessed April 18, 2005; Yi Ban, “The view beneath the bridge,” *China Rights Forum* 1 (2004): 56-59.

<sup>249</sup> Because of the security risk to petitioners in the village if they were known to have spoken with a human rights group, Human Rights Watch researchers did not visit the village, but interviewed residents and hired a photographer to document conditions there.

<sup>250</sup> Human Rights Watch interview with Zhou, Beijing, 2005.

<sup>251</sup> *Hukou* or household registration is a system of residency permits, issued by police, that state where citizens formally reside and that constrain them to accessing state services (medical care, education) in that region.

<sup>252</sup> Human Rights Watch interviews with Kang, Mao, Beijing, 2005.

family is afraid to return to their hometown because they believe they will be killed by local authorities.<sup>253</sup>

On arriving in Beijing to pursue their cases, petitioners with some resources may stay at guesthouses near government offices, or in dormitories in the petitioners' village that charge ten RMB [approximately U.S.\$1.25] per night. These facilities may be clean, have relatively new beds, and include communal cooking areas.

As they continue to pursue their cases over the years, petitioners often spend their own and their extended families' resources, borrowing from friends and other family members. Over time, they may no longer be able to afford the nicer dormitories, and relocate to dormitories that charge three to five RMB a night, which contain simpler wooden beds and are less clean.

These rooms are often overcrowded, says an activist:

A room that's about eighty square meters will fit twenty people. I used to live there. They have bunk beds, two people in a bunk....It's a big disaster. You've never seen anyplace so messy and disgusting.<sup>254</sup>

Petitioners who are extremely impoverished, or who become impoverished over eight or ten years of petitioning, are reduced to sleeping on the streets in cardboard boxes or on beds improvised from discarded rags. Those living on the street are unable to access clean water supplies for washing or drinking.<sup>255</sup>

Such petitioners say they suffer especially in Beijing's cold winters. A petitioner named Yang told Human Rights Watch:

Last year, the winter was very hard. Where we live is very basic, we don't have any money....I've been here for eight years, and there hasn't been a single winter that has gone by where a petitioner hasn't died from the cold.<sup>256</sup>

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<sup>253</sup> Human Rights Watch interview with Mao, Beijing, 2005.

<sup>254</sup> Human Rights Watch interview with Cai, Beijing, 2005.

<sup>255</sup> Ibid; Ban, "The view beneath the bridge," p. 58-59.

<sup>256</sup> Human Rights Watch interview with Yang, Beijing, 2005.

As one woman told Human Rights Watch:

In October 2004, my husband and I came back to Beijing to petition....We two old people had no place to live. Our grandchildren were living in a tent with us, and it was cold. They got injured by the cold.<sup>257</sup>

Under China's household registration system (*hukou*), as non-residents of Beijing petitioners have the same status as other internal migrants in Chinese cities: they are the equivalent of illegal aliens, and are not able to work legally. Some petitioners told Human Rights Watch they made a living by repairing bicycles, selling newspapers, or picking through garbage to find bottles and boxes to sell for recycling.<sup>258</sup> Others said they survived by gathering and eating refuse from nearby markets, including vegetables that were left unsold at the end of the day, or cuts of neck meat that butchers sold cheaply. Mrs. Gao explained:

We scavenge for food. We go to the market and gather up the vegetables that are left over. Also, we root around for bottles and other garbage to recycle, and we make at most about five or six *yuan* [U.S. 60 cents] each day.<sup>259</sup>

As part of their regular sweeps of petitioners in advance of major meetings, Beijing police sometimes demolish the petitioners' village, leaving those who escape the mass detentions to weather the cold on the street without any shelter or supplies.<sup>260</sup> In two reported instances, officers chased residents out from under a bridge, confiscating their food and belongings.<sup>261</sup>

Access to government services in China is also based on residency. Only registered residents in a given city are permitted to send children to local schools or obtain medical care from local hospitals and government clinics. The *hukou* system has "created a rigid social hierarchy that was transmitted across generations, assigning very different

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<sup>257</sup> Human Rights Watch interview with Ren, Beijing, 2005.

<sup>258</sup> Human Rights Watch interviews with Hua, Mao, and Qi, Beijing, 2005.

<sup>259</sup> Human Rights Watch interviews with Mr. and Mrs. Lee, Beijing, 2005.

<sup>260</sup> Hannah Beech, "Nothing left to lose," *Time Asia*, March 1, 2004, <http://www.time.com/time/asia/magazine/article/0,13673,501040301-593608,00.html>, retrieved April 18, 2005.

<sup>261</sup> Ban, "The view beneath the bridge," p. 59.

entitlements to urban and rural residents.”<sup>262</sup> Because petitioners are generally migrants from other provinces, they are refused care at Beijing hospitals, and are not permitted to send their children to Beijing city schools. Others are refused at private clinics because they cannot afford to pay fees.

It is not clear how many children are living in the petitioners’ village, and how many are long-term or short-term residents. Human Rights Watch obtained a photograph taken in 2005 of several children in the village, including two school-age girls holding a sign that read, “We want to go to school.”

One petitioner, the father of an eleven-year-old in poor health, reported that before the Two Meetings, local officials came to Beijing and offered to pay for his eleven year old son’s school fees if he stopped petitioning. He said, “No one had ever been concerned about that before, but suddenly they were concerned about him.” The day after the Two Meetings ended, however, “I got not one fen. They said ‘Teach him yourself, we don’t care.’”<sup>263</sup> This petitioner summed up his situation by observing:

Do not tell me that China has human rights. We are less than dogs. No one protects us. Other people’s children go to school. Do our kids go to school? Who will give our children medicine? Immunizations?

If our kids get sick, we do the best we can. If we cure them, then they are cured. If we don’t, they die. I mean, that’s it. If my son gets sick today, he dies today.<sup>264</sup>

### ***Case Study: “We will drag this out until you’re dead”***

Mr. Ming is forty-one-years old and comes from Shanxi. A former small-town school teacher, he wears glasses and has a scholarly, serious air, speaking with a heavy Shanxi brogue. He begins his account by formally reading from a sheaf of papers that are his handwritten statements, and begins to elaborate from this as he goes along.

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<sup>262</sup> *Institutionalized Exclusion: The tenuous legal status of internal migrants in China’s major cities*, Human Rights in China, November 6, 2002; [http://www.hrichina.org/fs/downloadables/doc/HRIC\\_Full\\_Report\\_Nov\\_2002.pdf?revision\\_id=10322](http://www.hrichina.org/fs/downloadables/doc/HRIC_Full_Report_Nov_2002.pdf?revision_id=10322) (retrieved July 26, 2005); p. ii. See the Human Rights in China report for a fuller discussion of rights of and abuses against internal migrants in the context of international human rights law.

<sup>263</sup> Human Rights Watch interview with Ming, Beijing, 2005.

<sup>264</sup> Human Rights Watch interview with Yang, Beijing, 2005.



At 7:00 p.m. on January 31, 2002, five or six people went to my home. They brought an iron hammer. They came in and said nothing. They weren't from our village, I had never seen them before, they were thugs. First they hit my wife and my younger brother's wife in the head with the iron hammer. They were coming for me, but they didn't know who they were dealing with. My brother attacked another one with a chair, and when it broke, he beat one of them to death with the chair leg....The other thugs ran away. We called 110 to report the attack, and said maybe three people were dead – my brother's wife, my wife and the thug. In fact, my wife and my brother's wife were only knocked out.

The police came half an hour later and only hung around for ten minutes....The police station chief came down, and he didn't take any notes or any pictures. They just noticed that the one guy was dead. The police made no record of what happened, but the next day, the morning after the thugs left town, the police chief came to my house to look for the hammer that the thug left in my house. I said, 'How do you know about the hammer?' We hadn't told them....I said, 'We were injured, you have to give us some record of this incident....' They refused.

So we went to the city police, the city government, and the county police, everyone. I did this for two years, and no one cared. They all knew [the village secretary] had [ordered the assault]. But he was a rich man, and he bought a car for the police chief....This man was running the local mine, then he became the village chief and the Party secretary and the representative to the People's Congress. According to [Chinese law], you can't hold all those positions one after the other...I challenged his power, and because he gave them the car, they stopped handling my case. Is this why he was attacked in the first place?

In 2004, I came to Beijing [to petition].... The petitions office in Beijing sent a letter to provincial officials. The letter said... 'This is a case of retaliation, please handle it.' The province then sent a letter to the city [the same people who had already retaliated against them] ordering them to do the same.

After twenty days, I got a letter [from the province], and I took it to the city police chief. He said, 'This case? We've handled it plenty already.' He said to me, 'You go wherever you want, take the case up with

whoever you want. It's fine. It's all a waste of paper.' He said, 'You want to go to the U.N., fine. Go complain wherever you want. There will come a day when we'll pick you up and arrest you.'

Over eight months, he has gone back and forth to Beijing, petitioning and receiving letters from national authorities that instructed local authorities to resolve his case.

The second letter I got after petitioning was from the Ministry of Public Security. They wrote to the province. The province said, 'You are known to us here.' ...The province said to go to the county. So I went to the county. The county said, 'You go wherever you want. Later on, we're going to come and get you.' I waited two months there for the case to be sorted out. They told me they would sort it out. Finally I gave up, and came back to Beijing....

We used to have money, you know. We weren't doing badly. I was a math teacher in junior high school for ten years. I'm an educated person. But [the local authorities] said to me, 'We'll spend you till you're poor. You can go back and forth, back and forth, no problem...'

The director of the municipal petitions office [in my city] said, 'We'll drag it out till you're dead [*women tuosi ni*]. Once you die, the problem is solved.'

He said, 'If you sue the Communist Party, can you win?'

He shows stacks of slips of paper he has collected over the years, receipts for complaints he submitted to petitions offices in Beijing, and says, 'These are useless.'<sup>265</sup>

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<sup>265</sup> Human Rights Watch interview with Ming, Beijing, 2005.

## **Appendix: List of imprisoned and detained petitioner activists**

*The following is a selected list of confirmed cases of currently or recently imprisoned or detained petitioner activists:*

**Chen Enjuan** – male, from Shanghai, sentenced to 21 months of reeducation through labor on December 2, 2002 for “disturbing public order” after attempting to petition in Beijing.

**Li Boguang** – male, thirty-seven-year-old human rights lawyer and writer and Director of Beijing’s Qimin Research Institute, who represented farmers in lawsuits against the government, was detained in Fu’an City on December 14, 2004 for alleged unspecified criminal offenses. He was released on January 21, 2005 on bail awaiting trial.

**Li Guozhu** - male, Liaoning petitioner and former police officer working with Sanchun Dadi, an independent Beijing NGO. Li was detained in November 2004 after a police raid on the NGO.

**Li Xiaocheng** - male, applied for a permit to hold a mass protest of petitioners in Tiananmen Square in August 2004; disappeared shortly thereafter. Reportedly he was detained by police who approached him while posing as journalists. He was formally charged with inciting protest in June 2005.

**Ma Yaling** – female, sentenced to 18 months of reeducation through labor in March 2004, in Shanghai after publishing an article online titled “A True Record of Being Turned Away from the National Petitions and Letters Office and the Petitions Bureau of the National People’s Congress.” Ma had previously been sentenced to reeducation through labor in 2001 by Shanghai Municipal Public Security Bureau, where both her legs were broken by the police.

**Mao Hengfeng** – female, she has petitioned to state authorities many years over her coerced abortion, her right to work, and other basic rights. In April 2004, Shanghai police sentenced her to eighteen months in reeducation through labor. She has been reportedly subjected to torture and ill-treatment there. She was released on September 12, 2005 completion of her 18-month term. However, she defied orders to stop protesting about this and other violations of her rights, and so the security forces have

harassed and beaten both her and her husband, Wu Xuewei. Both are at risk of arbitrary detention and torture.

**Sun Shuping** – female, 32, from the Xinjiang Uygur Autonomous Region, was held in custody for holding an illegal gathering after she applied for a protest permit and was refused. Subsequently she was charged along with Wu Daming for bringing over 100 protesters on Tiananmen Square on December 12, 2003. Sun first came to Beijing to petition over family property.

**Sun Xiaodi** - male, Gansu petitioner who was active in protesting the industrial pollution of rivers near his home, disappeared in Beijing on April 27, 2005.

**Wang Qiaojuan** – female, along with Wang Mingqing and Yang Weiming, Wang Qiaojuan was detained by police in a Shanghai train station on June 24, 2005 as they were preparing to go to Beijing to protest the new national petition regulations. Wang has been formally charged with “disturbing peace in a public space.”

**Wu Daming** – male, 46, Sichuan Province, came to Beijing originally to appeal a debt dispute. He applied for permission to protest with Sun Shuping and was refused. Subsequently, Wu was also detained for organizing an illegal gathering and leading over 100 protesters onto Tiananmen Square in 2003. No additional information is available.

**Xu Yonghai** – male, 44, longtime advocate of housing rights and religious rights. Xu was detained in November 2003 and in March 2004 charged under Article 111 of the Criminal Law for “circulating state secrets.” He was sentenced to a two-year prison term in August 2004.

**Ye Guoqiang** - male, Beijing man who staged an attempted suicide protest in Tiananmen Square in October 2003, to protest his family's forced eviction from their home to make way for the Beijing Olympics. In November 2003, Ye was arrested and sentenced to two years in prison for disturbing public order.

**Ye Guozhu** - male, brother of Ye Guoqiang. Ye continued to petition on the family's forced eviction case. In August 2004 he applied for a permit to hold a march of 10,000 people. Three days later he was detained and in September charged with disturbing social order. In December 2004, Ye was sentenced to a prison term of four years.

**Zhang Shangzhong**, from Shaanxi Province, and **Zhao Fengcai**, from Inner Mongolia Autonomous Region, were detained in Beijing in December 2004 for organizing a protest by petitioners at the Diaoyutai State Guest House, the site of some major meetings.

**Zheng Mingfang** – female, was sentenced by a court in Tianjin to two years' imprisonment after she signed an application for 10,000 people to march on Tiananmen Square. The court charged her with "illegal business activities."

**Zhao Xin** applied for a permit to hold a memorial march for former Chinese premier Zhao Ziyang in January 2005. When he went to the police bureau to pick up his permit, Zhao was detained for two months.

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