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COMMISSION ON HUMAN RIGHTS  
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**QUESTION OF THE VIOLATION OF HUMAN RIGHTS AND FUNDAMENTAL  
FREEDOMS IN ANY PART OF THE WORLD**

**Written statement\* submitted by the International Federation for Human Rights (FIDH),  
a non-governmental organization with special consultative status**

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[10 February 2005]

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\* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

PEOPLE'S REPUBLIC OF CHINA

**The FIDH and its affiliate organization Human Rights in China (HRIC) express their deep concern at the continuing extensive and systematic human rights violations taking place in the People's Republic of China (PRC).**

Despite some indication that the PRC is moving towards greater respect for human rights, including the introduction in March 2004 of an article in the Constitution referring to human rights, abolition of custody and repatriation, and discussions of further legal reform, Chinese authorities continue to repress all dissenting voices and crackdown on pro-democracy activists, cyber-dissidents, journalists, workers, lawyers, underground churches, and religious practitioners such as the Falun Gong.

– **Targeting Independent Voices**[Elisabeth1]

**a Journalists and Cyber-dissidents**

In 2004, the Chinese government continued to control the flow of information through increasingly sophisticated and harsh techniques. State secrets crimes, that effectively criminalize the dissemination of all information that has not been officially vetted by the government, pose a threat to individuals that seek to highlight human rights abuses, and have been used to arrest and prosecute journalists and cyber-dissidents. Over 10,000 Internet cafés in China have closed down in the past two years,<sup>1</sup> and existing or new cafés are required to install monitoring software on individual computers.

Political activist **Ouyang Yi**, was sentenced to two years in prison in March 2004 for “incitement to overthrow state power” for posting demands for democratic reforms online.

**Kong Youping** and **Ning Xianhu**, members of the China Democracy Party (CDP), were sentenced to 15 and 12 years in prison in September 2004 for “subverting state power” after posting articles on the internet in support of the CDP.

**Huang Jinqui** was sentenced to 12 years in prison in September 2004 on charges of “subversion of state power” for a number of essays he published on the Internet.

**Zhao Yan**, a journalist employed as a research assistant for *The New York Times*, was detained in Shanghai on September 16 2004 on “suspicion of illegally providing state secrets to foreigners;” authorities suspected him as a source for a September 7 story anticipating Jiang Zemin’s resignation as head of the Central Military Commission.

**b Petitioners and Protesters**

Because economic liberalization and growth has benefited only a minority of Chinese citizens, social unrest is on the rise throughout the country. Increasing numbers of ordinary Chinese citizens petition and protest all levels of government on issues as diverse as reform, healthcare, unpaid wages, forced relocation, and increased corruption, particularly at local level. These petitioners are increasingly repressed. In early September 2004, the police arrested more than 36,000 petitioners who had come from all

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<sup>1</sup> RSF, “*Third Annual Worldwide Press Freedom Index*,” 2004

over China. The petitioners were transferred to the basement of the Shijingshan Gymnasium, where public security police forced them to return home.

The arrest and persecution of people engaged in criticism of the government violates international law and article 41 of the Chinese Constitution,<sup>2</sup> and breeds a culture of silence and fear in China.

In April 2004, **Mao Hengfeng** was sentenced to 18 months of reeducation through labor (RTL) due to relentless petitioning that attempted to secure her rights to back pay and social security. While in detention Mao has been subjected to beatings and other ill-treatment.

▪ In March 2004, **Ma Yalian** was sentenced to 18 months of RTL for criticizing the inefficiency of petitioning system that she had used after being forcibly removed during an urban redevelopment clearance in Shanghai.

### **c Lawyers**

Because China's criminal law and criminal procedural law impacts on a range of international human rights, the role of lawyers as defenders is critical, but increasingly difficult. Although the number of lawyers in China is increasing, there is a dearth of criminal defense lawyers, in part due to political and other pressure they face, particularly in state secrets and other politically sensitive cases.

**Zheng Enchong**, lawyer representing residents facing forced evictions, remains in prison in 2004. In 2004, Zheng has still not been permitted any contact with his own lawyer, and during a family visit on November 10, prison guards dragged Zheng from his visiting room when he began to discuss the evictions lawsuit.

**Guo Guoting**, Zheng Enchong's lawyer, was repeatedly warned by the authorities to stay away from the Zheng case, and his clients were harassed. In September 2004, Guo was forced to quit his practice.

### **d Ethnic and Religious Activists**

In 2004, persecution of groups such as Tibetan Buddhists, Uighur Muslims, unofficial Christians and Falun Gong practitioners continued. In August 2004 the Minister of Public Security put the Falun Gong at the top of the Chinese Communist Party's list of the six biggest threats to social stability, followed closely by other ethnic and religious groups.<sup>3</sup> In Xinjiang, the struggle against terrorism continued to be used to repress Uighur activists, including non-violent activists. Further, while the Han population in Tibet increases, cultural and religious rights of minorities continue to be violated.

In August 2004, **Liu Fenggang**, **Xu Yonghai** and **Zhang Shengqi** were all tried and sentenced to prison behind closed doors on charges of "illegally providing state secrets abroad" for their roles in producing a report on the demolition of an underground house church in Hangzhou's Xiaoshan District.

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<sup>2</sup> Article 41 guarantees the right of individuals to petition the State, and "make suggestions regarding any state organ or functionary."

<sup>3</sup> China Rights Forum, "News Update," No. 3, 2004

## II Widening Economic Gap and Violation of Economic and Social Rights

In 2004, the poverty gap continued to grow. The Chinese government admitted to the first rise in poverty since 1978;<sup>4</sup> despite a 9% economic growth rate the previous year, noting that the number of farmers living in poverty grew by 800,000. Basic needs such as housing and healthcare continue to be out of reach for the vast majority of Chinese citizens. In late 2004, disputes over forced evictions resulted in numerous protests throughout the country.

Workers increasingly engage in strikes and protests due to the lack of independent trade unions and unpaid back-pay that in 2004 was estimated at a total of \$43 billion.<sup>5</sup> Those perceived to be the leaders of labor protests are systematically detained and arrested.

The health of **Yao Fuxin** and **Xiao Yunliang**, further deteriorated in 2004. The two labor leaders were arrested sentenced to seven and four years in prison respectively in May 2003 on charges of “subverting state power” for taking a lead role in protests.

## III Continued Problems in the Criminal Law and Procedure

China executes the highest number of persons globally each year. Statistics on the death penalty are state secrets and therefore not public, making assessment difficult. The administration of the death penalty blatantly violates international human rights standards: it is used for both violent and non-violent crimes, and trials frequently fall short of fair trial requirements. Torture, too, remains widespread, notably to extract confessions. Furthermore, despite suggestions that the RTL system will be reformed, the system that fails to comport with basic requirements of due process remains of serious concern.

Inner-Mongolian prisoner of conscience **Hada** was in 1996 sentenced to a 15-year prison term under charges of “separatism” and “espionage” in connection with activities of the Southern Mongolian Democratic Alliance that advocates preservation of Mongolian culture and self-determination. In December 2004, Hada was considered to be in extremely poor health, is routinely tortured, and is in need of urgent medical attention at Chifeng Prison.

## IV Recommendations

**The FIDH and HRIC call on the Commission on Human Rights to adopt a resolution on the human rights in China, urging the Chinese authorities to demonstrate:**

### **Greater cooperation with international processes**

Ratify the ICCPR without reservation, and withdraw the reservation to art. 8.1(a) of the ICESCR;

Implement recommendations from UN treaty bodies and special mechanisms, such as those of the Committee Against Torture (2000), the Committee on the Elimination of

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<sup>4</sup> “China admits first rise in poverty since 1978.” *The Guardian*, Jonathan Watts, July 20, 2004.

<sup>5</sup> “Migrant Workers owed 360 billion yuan by employers.” *Agence France-Prese*, August 24, 2004.

Racial Discrimination (2001), the UN Working Group on Arbitrary Detention (1997 and 2004), and the Special Rapporteur on the right to Education (2003);  
Respect the rights to freedom of religion, expression, assembly and association; and  
Issue a standing invitation to all the UN special thematic procedures, including the Special Rapporteur on Torture.

**Progress on Judicial and Administrative Reform**

Immediately and unconditionally release all political prisoners;  
Reform RTL bringing it into conformity with international human rights standards; and  
Reduce the number of crimes for which the death penalty can be applied as a first step towards a moratorium.

**Willingness to reach** a peaceful solution on Tibet through dialogue with the Dalai Lama.

**Commitment to address the Tiananmen Crackdown**

Engage in a process of reassessment of the 1989 Tiananmen movement.  
Release all those still in prison for peaceful activities related to the June 4 Democracy movement, particularly those held under the non-existent crime of counter-revolutionary crime

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