

## RRT RESEARCH RESPONSE

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**Country:** China  
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Keywords: China – Land Resumption – Highways in Fujian – Insufficient Compensation – Protests – Working in Detention – Mistreatment in Detention – Bail – Alert List/Black List

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### Questions

- 1. Please advise of any reports of expropriation of farm land for the renovation of S201 and S305 highways (in later part of 2008)?**
- 2. Please advise of any reports of inadequate payment to farm owners.**
- 3. Please advise of any reports of local government retaining funds allocated to farm owners whose land had been taken.**
- 4. Are there any reports of a protest held on 23 January 2009 with 100 protestors and 10 arrests?**
- 5. Is there any evidence to suggest that a detainee would have been required to work on a construction site during his detention?**
- 6. Is there any evidence to suggest that criminals locked up with a detainee would mistreat him?**
- 7. Please advise of any evidence that bribes and/or a medical certificate would obtain a detainee's release?**
- 8. Please provide any details in relation to a black list.**

### RESPONSE

- 1. Please advise of any reports of expropriation of farm land for the renovation of S201 and S305 highways (in later part of 2008)?**

The intersection of the S201 and S305 highways in Fujian is indicated on the attached map ('Haikou, Fuzhou, Fujian, China' 2009, Google Maps website [http://maps.google.com/maps?f=q&source=s\\_q&hl=en&geocode=&q=Haikou,+Fujing,+Fujian&sll=37.0625,-95.677068&sspn=39.047881,67.587891&ie=UTF8&hq=&hnear=Haikou,+Fuzhou,+Fujian,+China&ll=25.658858,119.434519&spn=0.17392,0.264015&z=12](http://maps.google.com/maps?f=q&source=s_q&hl=en&geocode=&q=Haikou,+Fujing,+Fujian&sll=37.0625,-95.677068&sspn=39.047881,67.587891&ie=UTF8&hq=&hnear=Haikou,+Fuzhou,+Fujian,+China&ll=25.658858,119.434519&spn=0.17392,0.264015&z=12) – Accessed 21 October 2009 – Attachment 1).

No reports were found amongst the sources consulted of expropriation of farmland for the renovation of the “Y” connection between the S201 and S305 highways in Fujian during 2008.

A report dated December 2005 by the Fujian Provincial Communications Department provides information on the Fujian Rural Roads Reconstruction Project. One objective of the project is to “upgrade county highways to highways above Class III in the developed coastal areas such as Fuzhou” by 2010. Please note that Fuqing City is a “county-level city” of Fuzhou City.<sup>1</sup> The Fujian Rural Roads Project Database contains 871 projects in Fuzhou City. According to the Fujian Provincial Communications Department, “it is expected that the influence of land acquisition and house demolition is limited in this project.” The report continues:

## 1. Introduction

Fujian is situated on the southeast coast of China, facing Taiwan across the Straits, with an area of 121,400 square kilometers and a population of about 35 million. The administrative divisions of Fujian consist of 9 prefecture-level cities, 85 counties (county-level cities or districts), 1,025 townships (towns) and 15,123 administrative villages. Due to historical reasons and geographical limits, the construction of rural roads in Fujian has been comparatively slow for most of the rural roads are simply constructed mainly for the purpose of “connection”. The rural roads and those in mountainous areas in particular have the highlighted features in low technical grade, low harden rate of road surface and weak ability for disaster resistance. The imperfect traffic conditions have hampered the economic development in rural areas. Restricted by mountainous terrain and less developed traffic infrastructure, there is a substantial difference between coastal areas and inland areas in Fujian. With difficult traffic conditions, there are fewer opportunities in the less developed areas to develop their economy to a higher level, thus decreasing the opportunities to expand economic potentials and to gain access to social service. By the end of 2004, the total highway mileage of the province had amounted to 56,208 km, including 2,998 km of national highway, 5,707 km of provincial highway, 12,758 km of county highway, 28,756 km of township highway and 5,989 km of exclusive highway; including 1,043 km of expressway, 336 km of Class I highway, 6,150 km of Class II highway, 4,097 km of Class III highway, 32,968 km of Class IV highway and 11,614 km of highway below Class IV. The highways of Class IV and below Class IV had reached 80% of the total mileage. The pavement of the roads with transport service has not yet been hardened in 7,656 administrative villages among 57 townships (or towns), and there is no road connection or connection only by simply constructed road with width of roadbed of less than 4,5 meters in 2,100 administrative villages.

Fujian province has paid much attention to the rural roads construction lagging behind, holding that to speed up rural roads reconstruction is not only to meet the urgent demand for establishing perfect highway network but also to lay a foundation for solving the problem of agriculture, rural areas and peasants and quickening the construction of a well-off society in rural areas. According to *Fujian Rural Roads Development Program*, the launch of the “Project of Expanding Rural Roads Network to 5000-Km Each Year” in the later period of the “Tenth Five-Year Plan” and the **reconstruction of rural roads network of about 35,000**

<sup>1</sup> Wikipedia 2006, ‘Fuqing’, 4 October <http://en.wikipedia.org/wiki/Fuqing> – Accessed 23 October 2006 – Attachment 2: Users should be aware that **Wikipedia** is a Web-based free-content encyclopaedia which is written collaboratively by volunteers. The Research Service recommends that users of Wikipedia familiarise themselves with the regulatory practices which Wikipedia employs as a preventative measure against vandalism, bias and inaccuracy. For more information, see the recommended background reading available in the [Wikipedia Topical Information Package](#).

**km before 2010 are to connect about 7,500 administrative villages to any provincial or county arterial highways already paved to achieve the goal of building a hardened highway in every administrative village of the province.**

To achieve the above goal, besides utilizing road tolls, user charges, other budgetary provisions (Central or local government appropriated funds), domestic bank loans and publicly issued bonds, Fujian intends to solicit a loan from the World Bank by means of “sector loan” to cover for a capital deficiency. **For the rural roads project, as the roads are mostly scheduled for reconstruction, the road surface will be paved with concrete along most of the original roads, it is expected that the influence of land acquisition and house demolition is limited in this project.** However, in response to possible issues arising from land acquisition and house demolition, it is necessary to work out an overall policy framework for guiding the planning and implementation of the required resettlement measures for land acquisition. *The Overall Policy Framework for Resettlement in Fujian Highway Project III – the World Bank Loaned Rural Roads Reconstruction Project* has been drafted up according to the national and Fujian local laws and regulations and in compliance with the principles of the World Bank’s OP/BP 4.12 on Involuntary Resettlement, the purpose of which is to appropriately relocate the project affected persons (PAPs) so as to make them benefit from the project and to improve or at least restore their standards of living to the preproject level.

## **2. A Survey of the Project**

According to the plan of the Central Government to promote the construction of rural highways, Fujian drafted up *Fujian Rural Roads Development Program* in 2002 and put forward a plan that rural highways in the province would cover a total mileage of 64,788 km by 2020, which included 13,279 km of county highway mileage and 51,509 km of township highway mileage. The objectives of upgrading the technical class of highway network in stages are: by the end of 2005 to strive to upgrade 40% of rural roads in the province to county highways above Class III (some may be achieved ahead of time in coastal areas), to upgrade 70% township roads to highways of above Class IV, to achieve the connection of highways above Class IV among all townships available for highway connection and to achieve the connection of roads among all administrative villages suitable for road connection for all the rural roads in the province to basically meet the requirement of the social and economic development in the rural areas; **by 2010 to upgrade county highways to highways above Class III in the developed coastal areas such as Fuzhou, Xiamen, Quanzhou, Putian and Zhangzhou, etc., to upgrade 75% of county highways to highways above Class III in other areas and 90% of township highways to highways above Class IV in the province; by 2020 to upgrade all county highways to highways above Class III and all township highways to highways above Class IV in the province, so as to form a rural highway network with easy and quick access from all directions.**

According to the above-mentioned *Fujian Rural Roads Development Program*, Fujian has decided to carry out the “Project of Expanding Rural Roads Network to 5000-Km Each Year” in the later period of the “Tenth Five-Year Plan” and has hence created *Fujian Rural Roads Project Database* as a phased planning under a long-term framework of 2020. The project database is officially assigned and executed to have projects registered and authorized in the database. The projects listed in the database are regarded as being included in the plan; they are not necessarily submitted for approval and included in the annual plan. Once satisfying the requirements, they will soon be under construction. The establishment of the project database has formulated the direction and goal of rural highway development of the province, overcome the past limitations of management imposed by annual project plan, avoided randomness of project construction in various areas, reduced the intermediate links to project management and mobilized the initiatives of all areas to quicken the construction of rural roads in the province.

**Table 2-1: Figures in Fujian Rural Roads Project Database (1)**

No.	Prefecture Level City	Number of Project	Number of County or City	Number of Township	Number of Administrative Village	Construction Scale (km)	Total Investment (RMB Million)	Remarks
1	Fuzhou City	871	10	136	869	3,134.3	1,492.60	

(Fujian Provincial Communications Department 2005, *Fujian Highway Project III – the World Bank Loaned Fujian Rural Roads Reconstruction Project: Resettlement Policy Framework*, World Bank website, December, pp.1-3 – [Attachment 3](#)).

2. Please advise of any reports of inadequate payment to farm owners.
3. Please advise of any reports of local government retaining funds allocated to farm owners whose land had been taken.

Numerous reports of inadequate compensation to farmers whose land was expropriated and of local officials retaining compensation money were found amongst the sources consulted.

A 2006 journal article by Dr Nelson Chan of the University of Western Sydney reports that land acquisition in China “in recent years has encountered increasing resistance from farmers because of improper acquisition procedures and unfair compensation.” Chan continues:

#### **Unpaid compensation**

Under the LLA [*People's Republic of China Law of Land Administration 1986*], the government has a monopolised power to convert farmland to construction land. Conversion of rural land to construction land through compulsory land acquisition is a lucrative process and is often used by various governments as a means to raise revenue. The lion's share of land value appreciation is taken by the government in the following manner:

- a) government: 60 – 70% ;
  - b) village collective: 25 – 30%; and
  - c) dispossessed farmers: less than 10%
- (Zhou & Zhou, 2004)

Although farmers only have a small share, there is no guarantee that they will receive payment. The law requires the authority to pay the compensation amount within 3 months from the date the compensation and resettlement plan is approved clause 25, para. 4).

However, the compensation money is often illegally retained by various government departments for private use. A recent investigation by the Ministry of State Land Resources reveals that, nationally, dispossessed farmers are owed Rmb 14.7 billion (approx. US\$1.8 billion) in land acquisition compensation money. So far the government has managed to pay the farmers Rmb 8.7 billion (approx. US\$1.1 billion) (Xie, 2004). It is unsure when the outstanding amount will be paid (LLAIR, (Chan, Dr Nelson, 2006, ‘Recent Reform of China’s Rural Land Compensation Standards’, *Pacific Rim Property Research Journal*, Vol. 12, No. 1, pp.10-11 [http://www.prres.net/Papers/PRPRJ\\_No\\_1\\_2006\\_Chang.pdf](http://www.prres.net/Papers/PRPRJ_No_1_2006_Chang.pdf) – Accessed 16 October 2009 – Attachment 4).

According to a journal article dated 15 October 2007 by Zhu Keliang and Roy Prosterman of the Rural Development Institute, “Despite a series of central laws and policies, in practice, farmers who lose their land typically receive little or no compensation.” Keliang and Prosterman continue:

#### **Land Takings**

Land confiscation by governments for non-agricultural purposes through the eminent domain power (state expropriation or acquisition) is probably the most visible and contentious rural issue in modern day China. Under the current legal regime, farmers often do not receive due process, owing to insufficient compensation and a lack of procedural transparency. As a result, China's urban-biased development is heavily "financed" by farmland taken for non agricultural purposes. Further, the bulk of the compensation allowed by current laws and policies – grossly inadequate as it is – is routinely intercepted by local governments and village officials. Meanwhile, affected farmers have been prevented from voicing their opinions in a meaningful way during the land taking proceedings because they have no way of receiving proper notice. To make matters even worse, dispossessed farmers seldom have access to independent courts for an unbiased ruling and sometimes resort to violent confrontations. For these reasons, land-related issues arising from state expropriations or acquisitions have recently become the top cause of rural grievances.

According to a 17-province, 1,962-farmer/ respondent survey conducted in China in 2005 by the Seattle-based Rural Development Institute, Renmin University (Beijing), and Michigan State University, incidents of land takings have increased more than 15 times during the past 10 years and appear to be accelerating. Accordingly, farmers are facing an ever-increasing threat of losing their land and livelihoods to urbanization and non-agricultural development.

...Lastly and fully as important, compensation for farmers' lost land is often grossly inadequate. The 1998 LML sets up a specific formula to determine the amount of two primary types of compensation: one for loss of land and the other for resettlement. The law explicitly provides that the compensation for loss of land should be 6 to 10 times the average annual yield of the land, and the resettlement subsidy should be between 4 to 6 times the average annual yield. The compensation derived from this formula is far from sufficient because the formula does not consider the fair market value of the land or the full range of negative impacts on farmers. Since the formula does not take market value into account, it does not allow farmers to profit from the appreciation of land value due to development projects. The current compensation scheme allows the government to pay farmers \$5,000 to expropriate one hectare of rural land today, sell it tomorrow to developers at the full market value of \$20,000, pocket a handsome profit of \$15,000, and call it "extra-budgetary revenue." In contrast, if farmers are allowed to sell their one hectare directly to developers for commercial purposes, they will be paid the full market value of \$20,000.

The injustice doesn't stop there. Under the current law, the \$5,000 paid to expropriate the one hectare in the example above is not paid to the farmers but to the collective, which technically remains the owner of the land. The collective then decides how much will go into the hands of dispossessed farmers. Because collective villages or collective village teams are not democratically organized, the average farmer who typically knows little about his legal rights, may be at the mercy of a few village officials. As many studies reveal, land-losing farmers typically receive only 10–20 percent of a \$20,000 expropriation. That process has led to approximately two-thirds of affected farmers being dissatisfied with their compensation.

The central government seems to be aware of these grave problems but is unable to curb the nationwide phenomenon. Since 2004, the central government issued a number of harshly worded policy directives ordering local governments to behave. These new policy directives and the 2007 Property Law also establish a new compensation standard mandating that compensation for land takings must be adequate to maintain affected farmers' living standards for the long term. Nevertheless, without strong supporting institutions and accompanying reforms, the financial incentives behind these land takings are too strong for local governments to resist (Keliang, Zhu & Prosterman, Roy 2007, 'Securing Land Rights for Chinese Farmers – A Leap Forward for Stability and Growth', Center for Global Liberty

& Prosperity, Cato Institute website, 15 October, No. 3, pp.5-7  
<http://www.cato.org/pubs/dpa/DPA3.pdf> – Accessed 16 October 2009 – Attachment 5).

A selection of recent examples follows.

According to an article dated 20 October 2008 by *Reuters*, “With farmland still “collectively” owned, that system has fed abuse by officials, eager to fill local government coffers and often their own pockets. Officials have often seized rural plots to sell onto industry and housing developers, paying meagre compensation to farmers” (Buckley, Chris 2008, ‘China’s farm reforms open fresh hopes, pitfalls’, *Reuters*, 20 October <http://www.reuters.com/article/reutersEdge/idUSTRE49J2WH20081020> – Accessed 14 October 2009 – Attachment 6).

An article dated 29 October 2008 in *The Washington Post* reports that 33 acres of collective land in Xianyi, Guangdong was expropriated for a road-building project. The project brought in about \$448,000 for the village but “residents saw only about \$90,000 of that, with each of them pocketing \$29” (Fan, Maureen 2008, ‘In Southeast China, Skepticism on Land Reforms’, *The Washington Post*, 29 October <http://www.washingtonpost.com/wp-dyn/content/article/2008/10/28/AR2008102803315.html> – Accessed 14 October 2009 – Attachment 7).

An article dated 5 November 2008 in *The China Post* reports that “more than 100 rail workers carrying iron bars beat local farmers who were obstructing work on a high-speed train link in a dispute over land compensation.” Railway officials “complain of farmers seeking compensation directly from rail authorities after local officials appropriate land along rail route without compensating farmers” (‘China rail workers clash with farmers over land’ 2008, *The China Post*, 5 November <http://www.chinapost.com.tw/china/local-news/beijing/2008/11/05/181780/China-rail.htm> – Accessed 14 October 2009 – Attachment 8).

An article dated 13 May 2009 by *Radio Free Asia* reports that in 2007, approximately 160mu of farmland in Chenzhong, Zhejiang was expropriated for a development project, “allegedly without the prior consent of villagers.” The listing price for the land was \$US184,000 “but to date each villager has received only about” \$US53 (Lipes, Joshua 2009, ‘Police Crackdown in Land Dispute’, Government Publications and Press Releases, source: *Radio Free Asia*, 13 May – Attachment 9).

An article dated 4 July 2009 in *The Guardian* reports that “researchers at the Chinese Academy of Social Sciences conservatively estimate that there have been more than 40 million illegal land confiscations by local officials over the past decade.” *The Guardian* reports that local officials identify and seize the best plots of land with farmers receiving “woefully inadequate compensation.” The article continues:

It is not difficult to know why so many of China’s 700 million rural citizens resort to protests. The majority of these concern land. Studies by researchers at the Chinese Academy of Social Sciences conservatively estimate that there have been more than 40 million illegal land confiscations by local officials over the past decade. Such confiscations are rising by about 2 million new instances every year. Local officials relying on extra-legal sources of revenue strike a bargain with developers. The best plots of land are identified and seized and farmers are given woefully inadequate compensation. In addition to a heavy emphasis on urban rather than rural development, poverty in rural China has actually increased since 2000. Over the

last decade, the net household incomes of about 400 million Chinese – predominantly in rural areas – have declined even as the Chinese economy has more than doubled in size over the same period.

Given that use of a plot of land is often the only asset poor Chinese households actually have, allowing rural Chinese fair use of land, and fair compensation should they give up their lease, it is the most pressing political and economic problem in China (Lee, John 2009, ‘China’s empty land reform’, *The Guardian*, 4 July

<http://www.guardian.co.uk/commentisfree/2009/jul/04/china-land-reform> – Accessed 14 October 2009 – Attachment 10).

An article dated 22 July 2009 by *Radio Free Asia* reports that villagers in Dongba, Henan have “accused local officials of skimming off a high percentage of money received from the property developers for the land.” According to Dongba resident, Yang Huaibing, “If you think about it, the county government has received 20,000 yuan per mu, while they are only offering 12,500 yuan per mu to the villagers”. *Radio Free Asia* notes that disputes over land “have spread across China in recent years, with local people often complaining that they receive only minimal compensation when the government sells tracts to developers in lucrative property deals” (Mudie, Luisetta 2009, ‘China Farmers Protest Land Grabs’, *Radio Free Asia*, 22 July, UNHCR Refword website <http://www.unhcr.org/refworld/topic,4565c22532,46559f8d2,4a842f0918,0.html> – Accessed 14 October 2009 – Attachment 11).

An article dated 26 July 2009 by *ABC News* sourced from *The Associated Press* reports that more than 3,000 villagers in Shipu, Zhejiang “blocked a highway and clashed with police while protesting alleged official corruption in a land compensation deal”. The 800 acres stretch of land was apparently being leased by the villagers to the Changguo Saltern Company, however, the land was recently sold to be developed into a science and technology park. Chen, a resident of Shipu “said the protesters accuse local officials of arranging a deal in which villagers were paid far less than market value for their land.” An employee of the Changguo Saltern Company “said the villagers believed the land was worth three times the price the local government had set – 20,000 yuan (US\$2,900) per mu.” The article notes that protests over land seizures are common in China where “local government officials often confiscate land for infrastructure and housing projects, with little or no compensation” (‘Report: 3,000 Villagers Protest in Eastern China’ 2009, *ABC News*, source: *Associated Press*, 26 July <http://abcnews.go.com/International/wireStory?id=8175812#> – Accessed 14 October 2009 – Attachment 12).

#### **4. Are there any reports of a protest held on 23 January 2009 with 100 protestors and 10 arrests?**

No report of a protest on 23 January 2009 was found amongst the sources consulted.

The China Labour Bulletin reports that in “January 2009, the Hong Kong political magazine (*Cheng Ming*) quoted senior Party sources as saying the number of mass incidents in 2008 had shot up to 127,467” China Labour Bulletin 2009, *Protecting Workers’ Rights or Serving the Party: The way forward for China’s trade unions*, March, p.6 [http://www.china-labour.org.hk/en/files/share/File/research\\_reports/acftu\\_report.pdf](http://www.china-labour.org.hk/en/files/share/File/research_reports/acftu_report.pdf) – Accessed 3 June 2009 – Attachment 13).

Keliang and Prosterman of the Rural Development Institute report that “land-related problems are the number one cause for rural grievances and unrest in China”. Keliang and Prosterman continue:

Both Chinese and foreign observers have noted an increase in incidents of rural unrest, including violent confrontations between local governments and farmers. In the first nine months of 2006, China reported a total of 17,900 cases of “massive rural incidents” in which a total of 385,000 farmers protested against the government. Approximately 80 percent of these incidents were related to illegal land-takings. Land-related conflicts, especially arising from land takings or expropriations by governments, are now the top rural grievance in China. In January 2006, Premier Wen Jiabao admitted that the efforts to narrow the rural-urban wealth gap had fallen short and that land grabs by officials were provoking mass unrest in the countryside and could threaten national stability and economic growth (Keliang, Zhu & Prosterman, Roy 2007, ‘Securing Land Rights for Chinese Farmers – A Leap Forward for Stability and Growth’, Center for Global Liberty & Prosperity, Cato Institute website, 15 October, No. 3, p.3 <http://www.cato.org/pubs/dpa/DPA3.pdf> – Accessed 16 October 2009 – Attachment 5).

According to the Department of Foreign and Trade (DFAT), “Post noted that protests and arrests relating to land resumption in China are common but rarely reported in the state media or acknowledged by Chinese authorities” (Department of Foreign Affairs and Trade 2008, *DFAT Report 894 – China: RRT Information Request: CHN33731*, 1 October – Attachment 14).

For further information on the number of mass incidents, protests and demonstrations in China please refer to *Research Response CHN34939* dated 2 June 2009.

**5. Is there any evidence to suggest that a detainee would have been required to work on a construction site during his detention?**

According to the Laogai Research Foundation, “Prisoners are engaged in a wide array of economic endeavors, including manufacturing, farming, mining, construction”. The Laogai Research Foundation continues:

In addition to serving as an instrument of repression, the Laogai also functions as a commercial enterprise, exploiting its large supply of free labor to generate revenue for prison officials and for the Chinese Communist Party (CCP). According to the *Criminal Reform Handbook* issued by the Ministry of Justice in 1988, the Laogai “organizes criminals in labor and production, thus creating wealth for society.” Prisoners are engaged in a wide array of economic endeavors, including manufacturing, farming, mining, construction, etc. They are forced to work up to 14 hours a day, often under hazardous conditions with inadequate safety equipment, and with insufficient food, sleep, and health care. Prisoners who fail to meet quotas may face physical punishment.

...Prisons and RTLs often sign contracts with companies and factories to do their labor-intensive work (The Laogai Research Foundation 2008, *Laogai Handbook: 2007-2008*, October, pp.2 &14 <http://www.laogai.org/news2/book/handbook2008-all.pdf> – Accessed 5 March 2009 – Attachment 15).

An article dated 5 March 2007 in *LA Times* reports on the Re-education Through Labour (RTL) program in China. According to Yiu, who was detained in Liaoning province, “Inmates were forced to work 12-hour shifts doing heavy construction for private

developers...with the proceeds going into prison coffers or the pockets of police guards" (Magnier, Mark 2007, 'China thinks of closing its reeducation prisons', *LA Times*, 5 March [http://articles.latimes.com/2007/mar/05/world/fg-xreeducate5?s=o&n=o&rd=www.google.com.au&sessid=570e7a43ee1837f02a4a0033050684457e1eef0b&pg=2&pgtp=article&eagi=&page\\_type=article&exci=2007\\_03\\_05\\_world\\_fg-reeducate5](http://articles.latimes.com/2007/mar/05/world/fg-xreeducate5?s=o&n=o&rd=www.google.com.au&sessid=570e7a43ee1837f02a4a0033050684457e1eef0b&pg=2&pgtp=article&eagi=&page_type=article&exci=2007_03_05_world_fg-reeducate5) – Accessed 5 March 2009 – Attachment 16).

**6. Is there any evidence to suggest that criminals locked up with a detainee would mistreat him?**

Reports of mistreatment of detainees by other detainees including criminals were found amongst the sources consulted.

Amnesty International provides the following information sourced from their annual report published on 28 May 2009:

Despite legal reforms, torture and other ill-treatment continued in prisons, police stations, Re-education through Labour camps, and other unofficial detention facilities. Human rights defenders, petitioners, Tibetans, Uighurs, Falun Gong practitioners, Christians, and others practising their religion in officially unsanctioned ways were at particular risk of torture and other ill-treatment by the authorities and **unidentified individuals** (Amnesty International 2009, *Report 2009 – China* , 28 May – Attachment 17).

The [International Society for Human Rights](#) (ISHR) and its national branches are independent non-governmental human rights organisations (NGOs) who base their work on the Universal Declaration of Human Rights. The ISHR has approximately 30,000 members in 26 countries worldwide. The ISHR reports:

Almost every detainee in China has to, or has had to, suffer being beaten and kicked. This method of abuse, by far the most common, is often especially noticeable after release from detainment, as some victims possess extensive bruises and injuries on their bodies.

...Other detainees, with the prospect of the length or severity of their imprisonment being reduced, comply with the demands of the security guards and beat and kick the victim" ('Common methods of torture and abuse in the People's Republic of China' (undated), International Society for Human Rights website <http://www.ishr.org/?id=1047> – Accessed 14 October 2009 – Attachment 18).

Falun Gong practitioners have reported being tortured by criminals while in detention. Two recent examples from Falun Gong sources follow:

Lei Zhiyong (2009):

While in Changsha Prison, Mr. Lei began a hunger strike to protest the illegal detention. Nevertheless, officials used three criminals to force him to work eight hours a day over a two-month period.

...On June 27, 2004, leading officials in the prison, including Song Shuhong, Li Chuanhua, Wu Jianwei, and Huang Ying from the 610 Office, devised a plan to torture Mr. Lei. They started by asking a doctor to inject (an unknown) drug into Mr. Lei, then directed a group of criminals to torture him. First, the criminals humiliated him by shaving off his hair and then dressed him in the prison uniform. Then he was forced to run barefoot over the hot concrete

pavement, with a 40-pound sandbag hanging from his neck. Finally, he was taken into an office, where four people, two on each side, pulled his legs apart. This leg-splitting torture was so painful that Mr. Lei fainted.

On January 27, 2008, prison official Song Jianjun and 610 Office personnel Zhou Ningjun, Wang Yadong, Xin Jichang, Yang Wen, Xie Qingguo, and Huang Ying tried to force Mr. Lei to give up his Falun Gong practice. They directed four criminal inmates--Zhou Minfu, Xiao Wen, Xiang Jianping, and Zhou Wu--to torture Mr. Lei, promising them they would be rewarded with sentence reductions. During the first month, Mr. Lei was hung by his handcuffs outdoors and exposed to the winter wind during the day. He was not allowed to wash and had to remain handcuffed even as he slept. Then he was hung by his handcuffs on a window frame in the evenings for another week and was not allowed to lie down on his bed. He was then taken to a storage room and beaten severely with a broomstick. One inmate, Xiang Jianping, put salt water on his wounds, calling it a “disinfecting process.”

The next day, they handcuffed Mr. Lei to a handrail in a hallway. He was forced to stand on one leg, with his other leg on a chair. The criminals took turns kicking his standing leg for over three hours. In the evening he was hung by his handcuffs on the window frame as they poured cold water on his head.

The following day, Song Jianjun and other officials, including Zhou Ningjun, Xin Jichang, Yang Wen, and Huang Ying, told the other inmates to bring Mr. Lei to his office. When Mr. Lei refused to admit any guilt, all the officials and criminal inmates gave him another beating. Two criminals used hammers to strike his feet.

Another day, with his hands bound and eyes covered, two criminals--one on each side--forced him to run across a playground repeatedly. Twelve criminals took turns to continue this torture. At the end of the day, Mr. Lei’s feet were swollen and deformed ('An Outstanding Teacher in Hunan Province Arrested and Persecuted Six Times' 2009, Falun Dafa Clearwisdom.net website, 7 September  
<http://www.clearwisdom.net/emh/articles/2009/9/7/110636.html> – Accessed 14 October 2009 – Attachment 19).

Yang Gongxi, Zuo Gang & Yun Fu (2009):

By July 12, 2009, practitioner Yang Gongxi in the Sixth Division had not eaten for five days. On the morning of that day, division leader Li Weinan instigated the criminals to take Yang Gongxi to the factory area, where Yang was beaten black and blue all over his body before he was tied up. On the morning of July 13, the guards again ordered criminals to carry Yang Gongxi to the factory area for further torture.

In the last three days, Li Weinan has instigated criminals Chong Ming, Li Huiwu and others to beat practitioner Zuo Gang five times. They also tied up Zuo Gang and left him out in the scorching sun for a long period. They also beat practitioner Yun Fu, creating many bruises on his body ('The Brutality of Deputy Prison Head Li Weilong' 2009, Falun Dafa Clearwisdom.net website, 31 July  
<http://www.clearwisdom.net/emh/articles/2009/7/31/109645.html> – Accessed 21 October 2009 – Attachment 20).

**7. Please advise of any evidence that bribes and/or a medical certificate would obtain a detainee's release?**

## **Bribery**

An article dated 11 September 2004 by *The Press Trust of India* reports that investigations by the Supreme People's Procuratorate "revealed that prison guards took bribes from the prisoners as a price for their early release" ('Chinese prisons illegally released 13,961 prisoners' 2004, *The Press Trust of India*, 11 September – Attachment 21).

Questions 1 to 2 of *Research Response CHN30551* dated 29 August 2006 provides information on families negotiating the early release of prisoners by paying a bribe (RRT Research & Information 2006, *Research Response CHN30551*, 29 August – Attachment 22).

## **Medical Certificate**

An article dated 11 September 2004 by *The Press Trust of India* reports that investigations by the Supreme People's Procuratorate found that prisons in China illegally released 13,961 prisoners before the completion of their prison terms in the past four months with 3,875 prisoners illegally released on parole or received medical treatment on bail. An article dated 11 November 2004 by *The Organisation of Asia-Pacific News Agencies* reports that "China has taken disciplinary action against 27 jail wardens and sent ten to the court for mistreating prisoners, improperly handling sentence reduction, parole and release on bail for medical treatment since May this year" ('Chinese prisons illegally released 13,961 prisoners' 2004, *The Press Trust of India*, 11 September – Attachment 21; and 'China punishes prison officials for mismanagement' 2004, *Organisation of Asia-Pacific News Agencies*, 11 November – Attachment 24).

Questions 1 to 5 of *Research Response CHN34880* dated 22 May 2009 provides extensive information on bail on medical grounds (RRT Research & Information 2009, *Research Response CHN34880*, 22 May – Attachment 25).

## **8. Any details related to a black list?**

DFAT provides the following information on alert lists in advice dated 10 November 2006:

A.2. We have so far been unable to obtain comprehensive information on alert lists from China's Ministry of Public Security. We can confirm that Chinese citizens subject to arrest warrants would be on the alert lists. It is likely that people under investigation but for whom a formal arrest warrant is yet to be issued would also be on these alert lists. The alert lists are connected to Chinese identity cards as well as passports. The alert lists operate at railway stations as well as airports and border crossings. We will continue to seek information on this issue.

A.3. We are aware of several instances where Chinese authorities have denied citizens passports to prevent them from leaving the country. These have included dissidents and human rights activists and their relatives. In the cases which we are aware of, the refusal to issue the passport came after the dissident or activist had served a period of imprisonment (but this is not necessarily an essential factor in denying a passport to this group of people). We are also aware of several cases where Tibetans have been refused passports. In these cases, the Tibetans had not previously been imprisoned or otherwise convicted of any illegal activity. There would very likely be other groups of people to whom China might refuse to issue passports but it is not possible to obtain information from the Chinese authorities on this practice (DIAC Country Information Service 2006, *Country Information Report No. 06/65* –

*China: Passport and exit arrangements* *China: Passport and exit arrangements*, (sourced from DFAT advice of 8 November 2006), 10 November – Attachment 26).

DFAT also provided the following advice on the use of alert lists in August 2006:

Post can confirm that Chinese authorities check all outgoing passengers against an “alert” list. We do not know how comprehensive this list is (DIMIA Country Information Service 2006, *Country Information Report No.06/42 – China: Failed asylum seeker return decision*, (sourced from DFAT advice of 7 August 2006), 25 August – Attachment 27).

An Immigration and Refugee Board of Canada dated 2 July 2009 provides information on PSB information sharing (Immigration and Refugee Board of Canada 2009, *CHN103133.E – China: Whether the Public Security Bureau (PSB) has set up a national computer network for information sharing; nature and extent of communication between PSB offices across the country; whether a link to a police computer network is available at international airports in China (2006 – May 2009)*, 2 July [http://www2.irb-cisr.gc.ca/en/research/rir/index\\_e.htm?action=record.viewrec&gotorec=452429](http://www2.irb-cisr.gc.ca/en/research/rir/index_e.htm?action=record.viewrec&gotorec=452429) – Accessed 16 September 2009 – Attachment 28).

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Immigration and Refugee Board of Canada <http://www.irb-cisr.gc.ca/en/>

UK Home Office <http://www.homeoffice.gov.uk/>

US Department of State <http://www.state.gov/>

#### **United Nations (UN)**

UNHCR Refworld <http://www.unhcr.org/cgi-bin/texis/vtx/rsd>

#### **Non-Government Organisations**

Amnesty International <http://www.amnesty.org/>

Human Rights Watch <http://www.hrw.org/>

International Society for Human Rights <http://www.ishr.org/>

The Laogai Research Foundation <http://www.laogai.org/>

#### **International News & Politics**

ABC News <http://abcnews.go.com/>

The China Post <http://www.chinapost.com.tw/>

The Guardian <http://www.guardian.co.uk/>

LA Times <http://articles.latimes.com/>

Reuters <http://www.reuters.com/>

The Washington Post <http://www.washingtonpost.com/>

#### **Search Engines**

Google <http://www.google.com.au/>

Google Maps <http://maps.google.com/>

Wikipedia <http://www.wikipedia.org/>

## List of Attachments

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