

Preliminary Assessment of the EU-China Human Rights Dialogue

**FIDH
and
Human Rights in China**

**Submitted to the EU-China Human Rights Dialogue meeting
February 2004**

Preliminary Assessment of the EU-China Human Rights Dialogue February 2004

Table of Contents

1. Overview of the EU/China Human Rights Dialogue
 2. Benchmarks to Assess the Progress Achieved Under the Dialogue
 - (1) Ratification and implementation of the two covenants
 - Implementation of the ICESCR
 - The Right to Health
 - The Right to Housing
 - The Right to Education
 - Women
 - Migrant children
 - Ratification of the ICCPR
 - (2) Cooperation with HR mechanisms
 - (3) Death Penalty
 - Provision of statistics on use of the death penalty
 - Compliance with ECOSOC guarantees for the protection of those sentenced to death
 - (4) Reform of administrative detention, introduction of judicial supervision of procedures, respect for the right to a fair trial and the right of the defence
 - Re-education Through Labour
 - Custody and Repatriation
 - (5) Respect for fundamental rights for all prisoners, progress on access to prisoners and constructive response to individual cases raised by the EU
 - (6) Freedom of religion and belief, both public and private
 - (7) Respect for the right to organize
 - (8) Respect for cultural rights and religious freedoms in Tibet and Xinjiang
 3. Conclusion and Recommendations
- List of References

Table Index

Table 1:	Freedom of expression and association and right to information
Table 2:	Death penalty sentences and executions: 1996 – 2002
Table 3:	Number of persons detained in RTL 1993-2003
Table 4:	Number of Falungong Practitioners' Deaths related to Police Custody, Torture, and Beatings

Attachment Index

Attachment 1:	Summary of EU-China Dialogues, 1996-2003
Attachment 2:	Integrating EU- China Dialogue Benchmarks, Human Rights, and Indicators
Attachment 3:	Summary of Special UN Human Rights Mechanisms
Attachment 4:	Implementing Economic, Cultural, and Social Rights 1996-2003

Preliminary Assessment of the EU/China Human Rights Dialogue February 2004

1. Overview of the EU/China human rights dialogue

Dialogue was initiated in January 1996, but interrupted by China after ten member states tabled a resolution on the human rights situation in China at the 1997 CHR. It was resumed at the end of the same year and, since then, has been held twice a year.

Since 1997, the Council has noted several areas of progress:

- the Chinese government 's willingness to address "sensitive issues of common concern in the framework of the dialogue";
- the signing and ratification of the ICESCR and greater cooperation with UN human rights mechanisms; and
- steps taken in relationship to rule of law, legal and social reforms.

While cooperative expressions are relevant, "encouraging results," welcoming "China's developing cooperation," and "willingness to discuss sensitive issues of common concern in the framework of the dialogue" are not adequate indicators of progress in light of EU concerns and the persistence and seriousness of human rights violations and abuses in China. Even as it noted progress being made, the Council has consistently had to note their concerns with ongoing and serious human rights violations. These violations include crack-downs on peaceful political activists, restrictions on religious expression, lack of freedom of assembly, expression, and association, extensive use of the death penalty, severe measures against certain minority groups, including deprivation of religious and cultural rights, particularly in Tibet and Xinjiang, and extensive use of administrative detention and torture.

The Council conclusions are specifically referenced to underscore the fact that exactly the same concerns have been raised since the outset of the dialogue. **(See Attachment 1: Summary of Dialogue)**. Certain conclusions are harsher than others, but they mainly remain the same throughout the years, unfortunately underscoring the persistence of violations and lack of progress in the human rights situation on the ground.

Every year, in advance of the Commission on Human Rights, the Council also assesses the human rights situation in China in order to decide about the EU stance in Geneva concerning a resolution on human rights in China. In recent years, the EU Presidency expressed serious concern at the human rights situation in China in its opening statements to the annual UNCHR sessions. The Council position with respect to tabling a resolution on China has ranged from decision not to table or co-sponsor a resolution (1998, 1999), voting against a no-action motion (1998, 1999, 2001, 2002, 2003), voting in favour of a resolution if tabled (2001, 2002, 2003).

2. Benchmarks to assess the progress achieved under the dialogue

In January 2001, the Council made public the benchmarks on the basis of which the dialogue should be assessed:

1. Ratification and implementation of the two covenants
2. Cooperation with HR mechanisms (visit by the rapporteur on torture, invitation to other rapporteurs, follow-up to recommendations from conventional mechanisms and rapporteurs, implementation of the agreement with the Office of the High Commissioner for HR)
3. Compliance with ECOSOC guarantees for the protection of those sentenced to death and provision of statistics on use of the death penalty

4. Reform of administrative detention, introduction of judicial supervision of procedures, respect for the right to a fair trial and the right of the defence
5. Respect for fundamental rights of all prisoners, progress on access to prisoners and constructive response to individual cases raised by the EU
6. Freedom of religion and belief, both public and private
7. Respect for the right to organise
8. Respect for cultural rights and religious freedoms in Tibet and Xinjiang, taking account of the recommendations of the UN treaty bodies, halt “patriotic education” campaign in Tibet, access for an independent delegation to the young Panchen Lama who has been recognised by the Dalai Lama.

The FIDH and HRIC wish, however, to analyse more in-depth the evolution of the human rights situation in China since 1998, taking as a basis the benchmarks made public by the Council in January 2001. Below is our preliminary assessment of the EU/China HR dialogue based upon these benchmarks and applying various indicators of progress developed by UN and other multilateral bodies, international NGO, and other organizations. These indicators include the HDI (UNDP), Worldwide Press Freedom Index (Reporters Without Borders), Gender Related Development Index (GDI) (UNDP) and others. Because dialogue benchmarks often reference overlapping human rights obligations of states, we have prepared a chart that identifies for each EU-China dialogue benchmark corresponding human rights and relevant indicators that this preliminary assessment relies upon. **(See Attachment 2: Integrating EU- China Dialogue Benchmarks, Human Rights, and Indicators).**

(1) Ratification and implementation of the two covenants

While signing and ratifying the ICESCR and signing the ICCPR are indications of some progress, we believe that ratification of international treaties are only a first step and the key focus must be on the implementation of the obligations set forth. As part of a coherent dialogue and multilateral process, the rigorous review of States Parties country reports and the submissions of NGOs relevant to these country reports are also important monitoring and implementation steps.

Echoing its policy of bifurcating economic and political reforms, China has maintained that as a developing poor country, its first priority is to ensure the welfare of its people. However, as our assessment demonstrates, China's record also reflects serious abuses and violations in this area. While a macro assessment of China's progress in the terms of national human development, gender equality, poverty alleviation, literacy and school enrolment, health access, services, and resources suggests some progress, an examination between the urban coastal areas and the rural and interior provinces where the majority of China's people live, reveals serious intra-country inequalities and growing disparities. Our preliminary assessment identifies a few examples to illustrate the importance of examining these growing inequalities and disparities. **(See Attachment 4: Implementing Economic, Cultural, and Social Rights 1996-2003).**

In order to be useful and accurate, an assessment must also take into account the situation of millions of migrants, women, ethnic minorities and rural poor, unemployed workers, and other vulnerable groups. Our assessment is unfortunately limited by the information publicly available. **We urge the EU to request greater transparency, openness, and detailed information from the Chinese government, especially with respect to assessment of each of the dialogue benchmarks.**

Our preliminary assessment below of the implementation progress of the ICESCR focuses on a number of areas that have critical significance for hundreds of millions, if not the vast majority of China's people: the right to health, housing, and education. The limited scope of this preliminary assessment also precludes a more nuanced analysis of the extent of progress in the human rights situation in China. A year-by-year analysis with multiple factors cross-referenced would generate insights into the uneven progress and in some case, backsliding. For example, from 1996 to

2003, the various UNDP indicators suggest there have been improvements. However, if we examine the 1999 indicators, there has also been a deterioration in overall health, gender equality and net primary enrollment. **We urge the EU to pay greater attention to these trends and analyze their relationship to liberalisation policies, especially as they impact vulnerable populations.**

IMPLEMENTATION OF THE ICESCR: The ICESCR has been ratified in February 2001, but China made a declaration regarding art. 8.1 (a) to the effect that Chinese legislation takes precedence over the article which guarantees the right to form and join a trade union of one's choice. China submitted its initial report under the Covenant to the UN Committee on ESCR in June 2003. The report will be examined at the 34th session of the Committee, in 2005.

In practice, however, poverty and exclusion from the benefits of development for the vast majority of Chinese citizens has serious consequences on human rights in China; the liberalisation and the privatisation of state-owned companies has resulted in massive layoff of workers as well as social unrest. Those social protests are regularly repressed, in the different provinces of China. These social protests implicate the right to organise, another dialogue benchmark which we assess below.

The Right to Health: Although economic, cultural and social rights may be subject to progressive realization, rights such as right to health impose obligations of immediate effect. The UN Committee on economic, social and cultural rights issued general comments on the right to health,¹ in which the content of the legal obligations were clearly spelt out:

“While the Covenant provides for progressive realization and acknowledges the constraints due to the limits of available resources, it also imposes on States parties various obligations which are of immediate effect. States parties have immediate obligations in relation to the right to health, such as the guarantee that the right will be exercised without discrimination of any kind (art. 2.2) and the obligation to take steps (art. 2.1) towards the full realization of article 12. Such steps must be deliberate, concrete and targeted towards the full realization of the right to health.”²

Article 12 of the ICESCR encompasses a number of various obligations that were well outlined by the UN Special Rapporteur on the Right to Health:

“The right to health includes the right to health care - but it goes beyond health care to encompass adequate sanitation, healthy conditions at work, and access to health-related information, including on sexual and reproductive health. It includes freedoms and entitlements. It has numerous elements, including access to essential drugs. Like other human rights, it has a particular preoccupation with the disadvantaged, vulnerable, and those living in poverty. Although subject to progressive realisation, the right to health imposes some obligations of immediate effect. It demands indicators and benchmarks to monitor the progressive realisation of the right.”³

However, in China, the collapse of the healthcare infrastructure especially in the rural areas, and the government's culture and policies of secrecy and information control contribute to the serious healthcare crisis, including HIV/AIDS pandemic. Over one million people in China suffer from HIV/AIDS; if no effective intervention is made, a projected ten million will be infected by 2010, with 260,000 orphans.⁴ The SARS outbreak last year underscores the deadly impact of information and media censorship not only for China, but for its global neighbours.

¹ E/C.12/2000/14, of August 11 2000, the right to the highest attainable standard of health

² Para 30

³ UN Special Rapporteur on the Right to Health Paul Hunt on the Right to Health and Economic Policy (presented at the panel discussion "Towards Development: Human Rights and the WTO Agenda," organized by 3D Trade-Human Rights-Equitable Economy and Rights & Democracy, Cancun, Mexico, September 12, 2003) <http://www.3dthree.org/pdf_word/m193-PaulHuntRHealthWTOCancun.doc>.

⁴ UNAIDS. www.unaids.org; Human Rights Watch. 2003. *Locked Doors: The human rights of people living with HIV/AIDS in China*. <http://www.hrw.org/reports/2003/china0803/>.

Access to essential drugs: Liu Feiyue, a teacher from Suizhou city in Hubei province, has drafted and circulated in January 2004 an open letter to the Chinese government demanding that it assume responsibility for safeguarding the health and lives of the Chinese people and calling for reform of the prescription drug system. The open letter charged the pharmaceutical industry and the hospital system with colluding to inflate drug prices, stating that the Chinese people cannot afford costly drugs and that many who become ill can only “sit and wait to die.” Eight specific reforms were called for, including punishing the illegal inflation of drug prices, revising the policy that sets the ceiling price for drugs, and increasing government investment in public health. Following media work by HRIC publicizing the petition, the Chinese press began to also report the story and this has generated pressure on the Chinese government to publicly state it will be investigating.⁵ This underscores the importance of international attention and pressure.

The right to housing: The right to housing is also increasingly violated in China, with urban relocations in major cities. Protests by urban residents displaced in the government's forced relocation programs notably take place in Beijing, Shanghai and Nanjing. In Beijing, the national public complaints office said it has received more than 11600 complaints from residents regarding relocation issues in the first eight months of 2003, up 50 percent over the same period last year. Citizens demand that authorities provide fair compensation for relocation.

In response to the vast discontent stemming from its relocation programs, the Chinese government implemented token reforms in its oversight of housing development and relocation. In September 2003, the Ministry of Construction limited the number of luxury residences that could be built, promising more housing for middle and low- income budgets.

The FIDH and HRIC are also particularly concerned about the use of political charges to intimidate and suspend practicing licenses of lawyers who represent sensitive cases, including workers or individuals in forced relocation projects.

We note with serious concern the case of **Zheng Enchong**, who represented Shanghai residents in disputes with real estate developers about forced clearance and compensation in urban redevelopment programs. Zheng publicly advocated amending Article 10 of China's Constitution to clarify ownership rights relating to land and residential property until his law license was revoked by the Shanghai authorities in 2001 in an attempt to discourage Zheng from providing further counsel to displaced residents. He continued to advise residents in more than 500 cases of property disputes until his detention by the Shanghai Public Security Bureau on June 6, 2003. At the time of his detention, Zheng was advising six Shanghai families in a lawsuit against Shanghai's Jing'an District Property Development Bureau, alleging that it colluded with wealthy Hong Kong developer Zhou Zhengyi. The Shanghai People's Procuratorate charged Zheng with “illegally providing state secrets abroad” on August 15, 2003. Following a trial on August 28, the Shanghai Second Intermediate People's Court handed down a guilty judgment and sentenced Zheng to three years imprisonment and one year deprivation of political rights on October 28, 2003. An appeal was lodged by Zheng's lawyer. However his appeal was denied at a closed hearing on December 18, 2003 which only three family members and a member of the US Consulate in Shanghai were allowed to attend. Zheng's wife, Jiang Meili, submitted an open letter to Hu Jintao and Wen Jiabao on February 6, 2004, appealing for a fair trial and intervention regarding Zheng's prison treatment after Zheng told her in a prison visit that he had been in solitary confinement and abused by prison authorities.

The Right to Education: The trend of the deteriorating situation of economic and social rights for the vast majority of China's population is confirmed by the increasing discrimination in the field of the field of education, in clear breach of Articles 2(2) and 13 of the ICESCR.⁶

⁵ www.hrichina.org

⁶ See E/C.12/1999/10, General Comments on the Right to education of 8 December 1999, stating in particular that “education must be accessible to all, especially the most vulnerable groups, in law and fact, without discrimination on any of the prohibited grounds” (para. 6), and further, that “the prohibition against discrimination enshrined in article 2 (2) of

Women: Women continue to make up an overwhelming majority of illiterates, seventy percent of 180 million illiterate or semi-illiterate, and eighty percent of two million “new illiterates” each year. In rural areas, nearly three quarters of employed females are illiterate or have only had primary level education versus under thirty percent in the urban areas.

Migrant children: Estimates of the number of internal migrants in China vary between 100 and 160 million. Some of the poorest and most disadvantaged children in China’s major cities are being systematically deprived of their right to education because their migrant parents do not hold the sheaf of permits that would make their stay in the urban areas “legal.” According to available statistics, upwards of 1.8 million children are losing out on their right to education as a result of the *hukou* policy. Over the next decade, millions of children may suffer this way.

On the issue of access and affordability, in the report issued last November by the UN Special Rapporteur on the right to Education after her visit to China, she notes:

“One of China's proudest accomplishments used to be providing elementary education free of charge but, as schooling has become increasingly expensive, all those who cannot afford the cost are excluded” (para 11). The situation of migrant children is of particular concern to the Special rapporteur since “an unknown number of [them] are denied their right to education because they lack permits (...) while those migrant children who are allowed into school are required to pay a temporary schooling fee amounting to 20,000 yuan in Beijing, as the Special Rapporteur heard to her dismay. That sum is beyond the reach of most migrants” (para 27).

In part the exclusionary and discriminatory policies are part of a conscious strategy, limiting access to schooling to deter further in-migration. China’s education system discriminates against migrant pupils at best, consigns them to sub-standard education most of the time and deprives them of any schooling at all in some cases.

RATIFICATION OF THE ICCPR: The ICCPR was signed in October 1998. However, despite repeated representations by the Chinese government of intentions to ratify the ICCPR, ratification is still pending. However, we also note that many of the rights protected by the ICCPR are protected by the ICESCR, the ICERD, enshrined in the Universal Declaration of Human Rights, the UN Charter, and recognized in the WSIS Declaration of Principles (2004). These include freedom of expression, association, free press, and right to information.

Violations of the rights protected by the ICCPR and human rights and other international declarations, are widespread. These violations include extensive use of arbitrary detention, imprisonment of political and religious dissidents, torture and ill-treatment of detainees, deprivation of the rights to freedom of expression, association and assembly, widespread failure to enforce laws protecting the rights of workers and women, suppression of religious freedom and the use of physical and psychological coercion in the implementation of the population control policy.

Table 1 below summarizes some of these areas of abuse. In addition to the numbers of journalists, internet activists, and labour activists imprisoned, and people imprisoned for their religious beliefs, another useful indicator of progress is the Worldwide Press Freedom Index, and the comparative ranking of countries according to their respect for press freedom. The Worldwide Press Freedom Index developed by Reporters Without Borders is drawn up based upon interviewing journalists, researchers and legal experts to answer 50 questions about press freedom violations (such as murders, arrests of journalists, censorship, state monopolies in various fields, punishment of press law offences and regulation of the media). Some of the variables used to determine the index include: direct attacks on journalist and media; the degree of impunity by those responsible for violations; other serious threat to press freedom.

the Covenant is subject to neither progressive realization nor the availability of resources; it applies fully and immediately to all aspects of education and encompasses all internationally prohibited grounds of discrimination” (para. 31)

In 2002, the first year the ranking was introduced, of the 139 countries ranked, China ranked 138th followed by North Korea. In 2003, China ranked 161 out of 166.

Table 1: Freedom of expression and association and right to information⁷

Area of Progress	Indicator (Source)	1996	2003
Press Freedom	World Press Freedom Ranking (Reporters Sans Frontieres)	-- ⁸	Ranked 161 st /166 countries
Freedom of Expression	Journalists/Internet Activists Imprisoned (China Rights Forum, No.3, 2003)	--	69
Respect for Religious Freedoms	People imprisoned for their religious beliefs (China Rights Forum, No.4, 2003)	--	301+ ⁹
Freedom of Association	Imprisoned Labour Activists (China Rights Forum, No.1, 2003)	--	32

(2) Cooperation with HR mechanisms

Visit by the rapporteur on torture

No agreement has been reached yet on the visit of the Special Rapporteur on Torture. This is a pending issue since years. In May 1998, in the margin of the EU/China human rights dialogue, the Chinese delegates had met with the UN SR on Torture, Nigel Rodley, but it did not result in a breakthrough on such a visit.

Invitation to other rapporteurs:

The Government of China invited the Special Rapporteur on the right to education to visit the country by its letter of 14 November 2002. That letter originated from the Human Rights Dialogue between the European Union and China and was forwarded to the Special Rapporteur by the Danish EU Presidency. The SR visited China in September 2003 and has prepared her report to which the Chinese government has filed a highly critical response.

No invitation has been issued for the SR on religious intolerance.

Follow-up to recommendations from conventional mechanisms and rapporteurs

Through recent reporting, China has shown a willingness to comply with its reporting obligations under the various treaties. Yet, submitting country reports which in many cases do not identify or address problems and implementation issues, is not adequate nor effective. In addition, the vast majority of the recommendations formulated by the UN treaty bodies have not been implemented by China (see for example, CERD concluding observations of August 2001¹⁰ and CAT concluding observations of May 2000¹¹).

China has invited the UN Working Group on arbitrary detention but till now, the recommendations following its first visit in China (October 1997) have not been implemented. We note that in 2002 and 2003, the Working Group on Arbitrary Detention issued eight decisions relevant to HRIC

⁷ This preliminary assessment tracks identifies information for 1996, the year the dialogue was initiated, and 2003. However, the data indicated for those years only reflect the available data as reported in the cited sources. In some cases, the source report for that year may be citing data from other years.

⁸ While Human Rights in China (www.hrichina.org), Reporters Without Borders (www.rsf.org), the Committee to Protect Journalists (www.cpj.org), and other organizations compile ongoing lists of imprisoned journalists, Internet and labour activists, and people imprisoned for their religious beliefs, there is no readily available list of those who were imprisoned in 1996.

⁹ In addition to the documented 301 imprisoned as of the end of 2003, over 500,000 members of unauthorized Christian house churches and Falungong practitioners have been arrested, tortured, and/or sent to labour camps. (CRF No.4, 2003)

¹⁰ A/56/18, paras.231-255

¹¹ A/55/44, paras.106-145

submissions, finding all eight cases were arbitrary detentions.¹² Of the cases in which the Chinese government submitted a response, the response consisted of blanket denials and failed to provide any contrary evidence or information.

Re-education Through Labour, e.g., is still largely used in spite of the WGAD recommendation to abolish it.

In six years (1998-2003), only one visit of special rapporteur has taken place (the Special rapporteur on Education visit last September). Cooperation with UN treaty bodies is taking place, but the concluding observations are not implemented. **(See Attachment 3: Summary of Special UN Human Rights Mechanisms.)**

The FIDH and HRIC consequently consider that it is not possible to consider that genuine progress have been achieved by China in the field of cooperation with UN mechanisms.

(3) Death penalty

The extensive and politicized use of the death penalty and the lack of procedural safeguards in the PRC legal system seriously infringe upon fundamental human rights set forth in the Universal Declaration of Human Rights, ECOSOC guarantees, and the International Covenant for Civil and Political Rights (signed by the PRC and expected to be ratified).

Provision of statistics on use of the death penalty:

Table 2 below sets forth the number of death sentences and executions for the years 1997-2002 documented by Amnesty International. China regards the number of people it executes each year to be a “state secret,” so the exact number is difficult to ascertain. To our knowledge, those statistics have not yet been made available by China, even on a confidential basis in the framework of the EU/China Human rights dialogue.

According to Amnesty’s 2002 Annual Report, there has been an increase use of death penalty after launch of “strike hard” campaign where defendants are more likely to be sentenced to death for crimes that were previously punished by imprisonment. People are executed for drug offences, violent crimes, and non-violent crimes (i.e. tax fraud and pimping). Execution is by shooting or lethal injection; sometimes within hours of sentencing. As in previous years, there were several reports of miscarriages of justice resulting from confessions extracted by torture. In June 2002, at least 150 people were also executed for drug-related crimes to mark the UN-designated International Anti-Drugs Day (June 26).¹⁴

Table 2: Death penalty sentences and executions: 1996 – 2002

Year	# of people sentenced to death	# of people executed
1996	--	1,014+ ¹³
1997	6,000	3,500
1998	2,495	1,644
1999	2,088	1,263
2000	1,939	1,356
2001	4,015	2,468
2002	1,921	1,060
Total	18,458+	12,305+ (66.7%)

Source: *Amnesty International Annual Reports*

Compliance with ECOSOC guarantees for the protection of those sentenced to death

According to the UN Safeguards guaranteeing protection of the rights of those facing the death

¹² UNAD decisions rendered in 2002 and 2003 relevant to HRIC submissions: Yao Fuxin: Arbitrary according to Category II (11/25/02); Yang Jianli: Arbitrary according to Category III, art 9 (5/7/03); Xu Wenli: Arbitrary according to Category II, art. 19 (11/27/03); Liu Xianbin: Arbitrary according to Category II, art. 19 (9/4/03); Li Bifeng: Arbitrary according to Category II, art 19 (9/4/03); Liu Di: Arbitrary according to Category II and III, art 10, 19, 20 (11/28/03); Ouyang Yi: Arbitrary according to Category II, art 19 (11/28/03); and Zhao Changqing: Arbitrary according to Category II, art 19 (11/28/03).

¹³ Number of executions between April 28, 1996 – June 27, 1996. Amnesty International, “At least 1000 people executed in “strike hard” campaign against crime.” July 1996.

¹⁴ <http://web.amnesty.org/web/web/nsf/print/chn-summary-eng>

penalty¹⁵, the death penalty can only be provided for the “most serious crimes” - meaning that it should not go beyond intentional crimes with lethal or other extremely grave consequences. In China, the death penalty is available for at least 65 offenses, including minor and non-violent offenses as well as alleged state security crimes.

UN Safeguards also urge states that still maintain the death penalty to not impose it for crimes committed by persons below 18 years of age, to exclude pregnant women from capital punishment, persons suffering from any form of mental disorder, and mothers with dependent infants.¹⁶

The UN Safeguards also state: “Noting that, in some countries, the death penalty is often imposed after trials which do not conform to international standards of fairness...”

With respect of the right to a fair trial in China, the death penalty occurs most of the time after unfair or summary trials lacking any due process protections. The Ministry of Public Security passed a law banning the use of evidence extracted through torture in administrative cases, in order to “raise the standards of investigation and law enforcement.” Evidence extracted through torture, although illegal under the 1997 Criminal Procedure Law of the PRC, may still be admissible to convict people for crimes that carry the death penalty in China. The Ministry of Public Security ban on the use of evidence extracted through torture does not extend to non-administrative criminal cases, and the use of evidence extracted through torture continues to be widespread in the Chinese judicial system.

The death penalty must be carried out in such a way as to cause the least possible physical and mental suffering (para 9 of the UN Safeguards). In 2003, there were announced reforms relating to capital punishment in the PRC, including:

- The Beijing judiciary instituted a measure granting prisoners on death row the right to a family visit before execution as a “humanitarian measure.”
- Lethal injection is increasingly being used as a means of execution instead of the firing squad. The Chinese government is also touting this as a “humanitarian measure,” illustrating China’s commitment to becoming more “civilized” and “humane.”

However, these minimal reforms do not address the serious problems of lack of adequate safeguards for the rights of those facing the death penalty.

We urge the EU to continue and request more transparency from China with regard to death penalty sentences and executions and, as a first step towards abolition, to fully comply with the UN Safeguards.

(4) Reform of administrative detention, introduction of judicial supervision of procedures, respect for the right to a fair trial and the right of the defence

Re-education Through Labour is still being widely used despite the recommendations of the UN Working Group on Arbitrary Detention and the Committee Against Torture that it be abolished and the long campaign by Chinese legal scholars and human rights groups to eliminate it. According to a report by the UN Working Group on Arbitrary Detention (WGAD) following its visit in China in October 1997¹⁷, there were 230,000 persons in 280 re-education through labour centres around the country. The figure represented more than a 50 percent increase over four years.

HRIC has pointed out that the system of administrative detention is totally outside the realm of

¹⁵ Safeguards guaranteeing protection of the rights of those facing the death penalty, adopted by Economic and Social Council resolution 1984/50 of 25 May 1984.

¹⁶ See also, UN Commission on Human Rights resolution on the Question of Death penalty [E/CN.4/RES/2003/67](#)

¹⁷ E/CN.4/1998/44/Add.2

judicial supervision. Under this system, detainees are deprived of their freedom and of their right to due process, including a fair trial. We also believe that the lack of safeguards for persons in administrative detention creates conditions in which torture and ill-treatment are virtually endemic.

According to China's official figures, more than 310,000 people were held under RTL from 2001-2003, as compared to around 150,000 in the early 1990s. RTL is applied by the public security departments alone, without any judicial review, to people who have committed acts "too minor" to merit formal prosecution. Those sentenced to RTL are deprived of their rights to counsel, to a fair hearing and to have the lawfulness of their detention reviewed by a judicial authority. Although its maximum duration is three years, it can be renewed for up to one more year if the detainee is considered to have performed badly in his or her "reform." It is frequently used to detain people who have peacefully exercised their rights to freedom of thought, religion, expression and association, including *Falun Gong* practitioners, political dissidents, members of Christian religious groups, and people accused of "disturbing public order", including prostitutes.

Table 3: Number of persons detained in RTL 1993-2003

Year	# of persons in RTL camps	Source
1993	150,000	UN Working Group on Arbitrary Detention
1996	--	--
1997	230,000	UN Working Group on Arbitrary Detention
2000	200,000	HRIC (quoting official figures)
2001	310,000	<i>Yearbook of Judicial Administration in China</i>
2003	>310,000 ¹⁸	<i>Yearbook of Judicial Administration in China</i>
Total	1,200,000+	

Custody and Repatriation" (C&R). Another administrative measure was C&R which allowed for the arbitrary detention of people considered undesirable by urban authorities whose household registration is not located in the city where they are living or working. Targets included beggars, the homeless, street children, prostitutes and the mentally ill, as well as migrant workers in low status occupations. The PRC government announced C&R has been abolished in June 2003 with the stated intention to convert them into "welfare service centers." However, in light of the enormous pressures created by the collapse of a social safety network and the hundreds of millions of migrants, unemployed, and rural and urban poor, it is critical that the dismantling of the camps be monitored to avoid creation of new abuses.

(5) Respect for fundamental rights of all prisoners, progress on access to prisoners and constructive response to individual cases raised by the EU

There continues to be a trend of repression of Chinese authorities against political dissidents, cyber-activists, protesters against forced-relocation schemes, labour activists and independent religious movements. We note with concern that lawyers who represent these individuals and groups are also increasingly being targeted by the authorities.

Response to individual cases: In the past, the EU informally shared the list of individual cases with NGOs working on human rights in China in advance of the dialogue meetings. This has not been the case anymore since 2003. This reduces the chances of getting an accurate and updated list. In addition, the virtually complete blackout on reporting back regarding responses (if any) to individual cases and situations raised in the political dialogue means that there is no possibility of follow-up on such matters, thus reducing significantly the usefulness of the exercise.

¹⁸ No official figure for 2003 yet, because the figures are published incidentally in specialized literature, not in yearbooks or government statistical dispatches. The *Yearbook of Judicial Administration in China* (Beijing: Legal Publishing House) states that the TRL population "continued to rise steadily".

The FIDH and HRIC also believe that greater coordination is necessary between the EU and the UN human rights mechanisms in that regard : the EU should take on the list the individual cases raised with the Chinese authorities by the different UN mechanisms (WGAD, Special rapporteurs, etc), and share the answers received with the mechanisms concerned.

This is also an area where a closer coordination with the other countries having human rights dialogues with China would be valuable.

(6) Freedom of religion and belief, both public and private

Only religions under the control of the state are allowed. Independent religious groups, such as Christian house churches, and leaders of more influential underground religious groups are subjected to ongoing suppression, arrest, and other forms of persecution, in violation of the Chinese Constitutional right to freedom of religion. HRIC has documented at least 299 individuals imprisoned for their religious beliefs and practices²⁰.

Since July 1999, the Chinese government has banned the movement and has launched a brutal campaign against **Falun Gong practitioners**. According to the Falun Gong themselves, incomplete statistics show that within the past three years beginning on July 20, 1999, more than 840 practitioners would have been verified as being tortured to death in over 30 provinces, autonomous regions and municipalities²¹. According to Falun Dafa Clearwisdom site, within the past four years, from July 20, 1999 – December 31, 2003 more than 879 practitioners in over 30 provinces, autonomous regions and municipalities have died related to police custody, torture and beatings. However, according to the government's official internal statistics, the actual number of practitioners who died after being arrested had reached 1,600 by the end of 2001. In addition, there are at least 6,000 Falun Gong practitioners who have been illegally sentenced to prison. Over 100,000 practitioners have been sentenced to forced labour camps. Thousands of practitioners have been forcefully sent to psychiatric hospitals to be tortured with injections that are damaging to the central nervous system. Large groups of Falun Gong practitioners have been forcefully sent to local brainwashing classes, where they have been subjected to both physical and mental torture. Many more practitioners have been severely beaten and had large sums of money extorted from them by so-called "law-enforcement officials."

TABLE 4: # of Falungong practitioners' deaths related to police custody, torture and beatings

Year	# Deaths
1996	Unavailable
1999	35+ ¹⁹
2000	143
2001	241
2002	261
2003	199
Total	879+

Source: Falun Dafa Clearwisdom

(7) Respect for the right to organise

The survival of religious and quasi-religious organisations, environmental protection groups, AIDS organisations, trade associations and cultural institutes, etc. often depends on their relation with the government. Any forum, any association which is not formally approved by the government is technically illegal in China. It is first of all very difficult for NGOs to register. They have to find a 'sponsoring' department which prevent any proper political independence, they must be the only organisation in their area of work in their administrative location and they must have a minimum amount of money for their registration. Moreover, their subsequent survival then depends on the conformity of their agenda with the government's policies.

¹⁹ July 20, 1999 – December 31, 1999.

²⁰ *China Rights Forum*, Winter, 2003, <http://hrichina.org>

²¹ http://www.clearwisdom.net/emh/special_column/death_list.html

In 1998, the China Democracy Party was created. Its key members were immediately arrested, and only a small group has managed to symbolically keep the movement going by regularly issuing statements. Internet activists and religious movements are also victim of the repressive policy of the Chinese government.

All trade unions are currently under the control of the Party. Labour activists trying to establish independent labour unions are repressed. **Zhang Shanguang** has been repeatedly arrested and sentenced to lengthy prison terms for his efforts to establish an independent labour union. He was sentenced to ten-years prison in 1998.

The economic reforms China have led to massive lay off and closure of state enterprises and consequently to large scale social protests. In that regard, we are particularly concerned with the situation of **Yao Fuxin** and **Xiao Yunliang**, both arrested during the workers' demonstrations of March 2002 in Liaoning Province. We are extremely concerned about the deterioration of their health especially since their transfer to Lingyuan Prison, notorious for its brutal conditions.

(8) Respect for cultural rights and religious freedoms in Tibet and Xinjiang

The Chinese government continues to pursue a policy of ethnic dilution through the acceleration of Han Chinese settler colonization in ethnic minority areas such as Tibet and Xinjiang. While the actual numbers of Han Chinese in the autonomous regions are unclear, the official statistics regarding number of Han Chinese in both Tibet and Xinjiang are underreported because the official numbers do not include military troops of the permanent PLA garrisons or seasonal migrant workers (who are unregistered) spearheading further colonization.

This Han Chinese settler colonization policy is in part responsible for the increase in socio-economic disparities between minority ethnic groups and the new settlers. Besides, the Chinese government continues to deny such settlement dynamics even though they are amply reflected by official population statistics –an attitude that even prohibits the adoption of necessary mitigating measures. Of particular concern is the current national “Go West” campaign, which explicitly frames economic development of minority areas in terms of increased resource exploitation for the benefit of the coastal economy and accelerated settlement movements.

Taking account of the recommendations of the UN treaty bodies, we also urge the halt to the “patriotic education” campaign in Tibet, access for an independent delegation to the young Panchen Lama who has been recognised by the Dalai Lama. With respect to Xinjiang and Tibet, the colonization of areas inhabited by ethnic minorities present serious concerns regarding the respect for cultural rights and religious freedoms.

3. Conclusion and recommendations

NGOs have since the outset of the dialogue sent their recommendations to the EU on a regular basis with regard to the EU/China human rights dialogue. As early as June 1998, HRIC issued a 60 pages report on human rights dialogues with China, including a full set of specific recommendations.

The FIDH and HRIC welcome the fact that some of the NGOs recommendations have been taken on board by the EU: coordination with the UN mechanisms in advance of the sessions of the dialogue has been developed over the years; benchmarks to assess the dialogue have been made public; international NGOs have been regularly consulted in the past in the preparations of the dialogue sessions (notably from 2000 to 2002); universal standards are now clearly the base of discussion and the dialogue is conceived a tool to induce China to cooperate with the UN mechanisms. While there has been some progress in 2000 and 2001, we note that there has been a deterioration in cooperation with NGOs since then.

However, we believe that the results of the dialogue could definitely be improved and we address the following recommendations to the EU in that regard:

With regard to the human rights dialogue itself:

- Independent participation: need to include in the dialogues the people in China most concerned about human rights and to encourage dialogue domestically; China should be pressed by the EU to allow for the participation of independent social groups, scholars and lawyers. Independent international NGOs with specific relevant expertise, should participate as well, at least as observers, as suggested in the EU Guidelines on human rights dialogues , which emphasize the role of civil society in following up and assessing the dialogue.
- Strengthening the authority of UN human rights standards and mechanisms. Efforts have been made by the EU in that regard. UN thematic mechanisms are contacted in advance in order to ensure proper information of the EU delegation on the exact state of cooperation by China. However, it seems that such coordination could be even strengthened, notably by sharing information after the dialogue sessions (e.g. on information received with regard to the individual cases).
- Transparency and accountability; without transparency, assessment is impossible. Efforts should clearly be increased in that regard, especially towards the European Parliament, which has the legitimacy to monitor the EU policy vis-à-vis China.
- Coordination among the different countries engaging in human rights dialogues with China. It seems that this effort is not systematic yet, even if specific initiatives have taken place in the past in that regard.
- Dialogue as part of an integrated strategy: the Human Rights policy towards China should mainstream the other EU policies towards China, since dialogue cannot reach results without being combined with multilayer pressure. This mainstreaming is still lacking.
- The EU/China dialogue should respect the EU guidelines on human rights dialogues. In spite of the fact that they were adopted after the launch of the dialogue, the EU should make sure that the China dialogue respect those guidelines, for the sake of consistency, coherence, and in order to avoid reproaches of “double standards”.

With regard to the dialogue seminars:

- Since 2002, the dialogue seminars seem to be disconnected from the dialogue itself and the Council does not seem to be politically in charge of the seminars. This disconnection should be addressed and reversed since the seminars should be a tool to have more in-depth discussions on the issues addressed during the dialogue session.
- A report should be published after each dialogue seminar and be made available in Chinese. This would be important in order to avoid repetition and ensure follow-up between the different sessions of the seminar. It would also provide the Chinese delegation with a source that can be quoted in China.
- In order to improve knowledge of the EU experts with regard to China's issues, a pre-seminar briefing should be organised on the European side, the day before the seminar, between relevant NGOs and the European experts. Unfortunately, this has been done in the past but it does not seem to be the case anymore.

- Human Rights NGOs working on China should systematically participate in the seminars – this practice has not been systematic until now²². This would ensure continuity between the seminars, and in-depth and informed exchanges with the Chinese delegates. NGOs should also be invited to make a formal intervention in the seminar workshops.

²² Human Rights Watch participated for the first time in a dialogue Seminar of Venice in December 2003; the FIDH was invited to participate in a pre-seminar briefing for EU experts in 2000 (Fresh presidency), while it participated in a pre-seminar briefing and in the seminar in 2001 (Belgian presidency). In spite of repeated requests, FIDH participation was impossible in 2002, while it was invited to participate in the December 2003 seminar in Venice. HRIC as the China affiliate of FIDH represented FIDH at the 2000 and 2001 pre-seminar briefing and in the seminars in 2001 and 2003. Amnesty International participated in several dialogue seminars.

REFERENCES CITED

- All-China Women's Federation 2001, cited in Asian Development Bank, "The 2020 Project: Policy Support in the People's Republic of China." Manila: 2002, 257.
- Amnesty International. "Amnesty International Annual Report."
<http://web.amnesty.org/report2003/chn-summary-eng>.
- Asian Development Bank. "The 2020 Project: Policy Support in the People's Republic of China." Manila: 2002, 368.
- China Statistical Yearbook 2000* in China Development Report. China Statistical Publisher, 2002.
- Country Coordinating Mechanism. "2003 Proposal to the Global Fund" in Human Rights Watch, "Locked Doors: the Human Rights of People Living with HIV/AIDS in China." New York: August, 2003.
- Falun Dafa Clearwisdom.net. "List and Case Description of the 890 Falun Gong Practitioners Who Have Been Killed In the Persecution." February 22, 2004.
http://www.clearwisdom.net/emh/special_column/death_list.html.
- Human Rights in China. "Shutting out the Poorest: Discrimination Against the Most Disadvantaged Migrant Children in City Schools."
http://iso.hrichina.org/iso/article.adp?article_id=2432&category_id=30
- Human Rights in China. "Open Letter Demands Reform of Prescription Drug System." January 26, 2004. http://iso.hrichina.org/iso/news_item.adp?news_id=1637
- Human Rights in China. "In Custody: a list of prisoners in custody for labour-related activities." China Rights Forum No. 1, 2003.
- Human Rights in China. "In Custody: a list of prisoners in custody for journalistic activities." China Rights Forum No. 3, 2003.
- Human Rights in China. "In Custody: a list of prisoners in custody for religious activities." China Rights Forum No. 4, 2003.
- Human Rights Watch. "Locked Doors: the Human Rights of People Living with HIV/AIDS in China". New York: August, 2003. <http://www.hrw.org/reports/2003/china0803/china0903short.pdf>.
- Hunt, Paul. "Human Rights and the WTO Agenda." Panel Presentation. Cancun, Mexico, September 12, 2003. http://www.3dthree.org/pdf_word/m193-PaulHuntRHealthWTOCancun.doc
- National Intelligence Council. "The Next Wave of HIV/AIDS: Nigeria, Ethiopia, Russia, India, and China." Washington: September, 2002
http://www.cia.gov/nic/other_nextwaveHIV.html.
- Reporters Sans Frontieres. "World Press Freedom Ranking, 2003."
Tibet Statistical Yearbook. Beijing: China Statistical Publishing House.
- Tomaševski, Katarina. "China: National Development and Sub-national Finance. A Review of Provincial Expenditures." report no. 22951-CHA. April 9, 2002 in *Economic, Social and Cultural Rights: The Right to Education*. November 21, 2003.
- UNAIDS. "Geographic focus: China." n.d.

<http://www.unaids.org/en/geographical+area/by+country/china.asp>.

UNAIDS, UNICEF, WHO. "Epidemiological Fact Sheets on HIV/AIDS and Sexually Transmitted Infections, 2002 update."

UN Commission on Human Rights. Resolution on the Question of Death Penalty.
E/CN.4/RES/2003/67.

<http://www.unhchr.ch/Huridocda/Huridoca.nsf/TestFrame/cc0e2a6d48fbc470c1256d24003274d6?Opendocument>

UN Committee against Torture. Conclusions and recommendations: China. Twenty-fourth Session, May 1-19, 2000. UN Doc A/55/44, paras 106-145. 09/05/2000.

UN Committee on Economic, Social and Cultural Rights. International Covenant on Economic, Social and Cultural Rights, article 12, General Comment 14. "The right to the highest attainable standard of health." UN Doc. E/C.12/2000/4, 2000.

UN Committee on Economic, Social and Cultural Rights. International Covenant on Economic, Social and Cultural Rights, article 13, General Comment 13. "The right to education." UN Doc. E/C.12/1999/10, 1999.

UN Committee on the Elimination of Racial Discrimination. Concluding observations: China. Fifty-ninth Session, July 30-August 17, 2001. UN Doc A/56/18, paras 231-255. September 8, 2001.

UNDP. *Human Development Report 1998*. New York: Oxford University Press, 1998.

UNDP. *China National Human Development Report 2002: Making green development a choice*. Hong Kong: Oxford University Press, 2002

UNDP. *Human Development Report 2003: Millennium Development Goals: A compact among nations to end human poverty*. New York: Oxford University Press, 2003.

UN Working Group on Arbitrary Detention. Question of the Human Rights of All Persons Subjected to Any Form of Detention or Imprisonment. December 22, 1997.

Yearbook of Judicial Administration in China. Legal Publishing House. 2001, 2003.

Attachment 1: Summary of EU-China Dialogues, 1996-2003

Date	Progress Noted by Council	Ongoing Human Rights violations Noted by Council	Action Taken/Urged
Jan. 1996	<ul style="list-style-type: none"> Dialogue initiated 		-----
1997	<ul style="list-style-type: none"> Dialogue interrupted by China after ten member states tabled a resolution on the human rights situation in China at the 1997 CHR 		-----
Feb. 1998	<ul style="list-style-type: none"> Encouraging results 		<ul style="list-style-type: none"> Council agreed that neither the (EU) presidency nor member states should table or co-sponsor a CHR China resolution If the situation arose, the Council agreed that EU delegations should vote against a no-action motion.
Mar. 1999	<p>The Council “welcomed China’s developing cooperation with UN Human Rights mechanisms”, notably :</p> <ul style="list-style-type: none"> the signing of the two UN Covenants and the visit of the UN High Commissioner for Human Rights. 	<p>The Council however noted with regret that positive steps towards growing integration into the UN human rights system have not been matched by corresponding improvements in the situation on the ground” and expressed its concern at:</p> <ul style="list-style-type: none"> the December crackdown on peaceful political activists, continuation of arrests and sentencing, - the use of the death penalty, continued practice of administrative detention, restrictions on religious freedom, and lack of freedom of assembly, expression and association 	<p>The EU called on the Chinese Government :</p> <ul style="list-style-type: none"> “to redress these deficiencies, early ratify and implement the UN Covenants and to give adequate follow-up to the recommendations of the UN human rights bodies”. The Council confirmed its position concerning the EU’s approach to China in the CHR.
Mar. 2000	<p>China has demonstrated willingness to discuss a number of sensitive issues of common concern in the framework of the dialogue”.</p>	<p>The Council however regretted that the positive steps taken by China at the international level are not only marking time but also have not been matched by tangible progress in the domestic human rights situation.</p> <p><u>The EU expressed its deep concern at:</u></p> <ul style="list-style-type: none"> continuing and widespread restrictions on freedom of assembly, expression and association, harsh sentences imposed on pro-democracy activists and to take severe measures against certain minority groups, particularly in Tibet and Xinjiang. the number of arrests and harshness of sentences for Falun Gong practitioners restrictions and punishment of members of the Christian Church and other religious groups the frequent use of the death penalty and notwithstanding the recent reforms in the Chinese legal framework, the number of non-violent crimes, including those of an economic nature, still punishable with the death penalty the retention of administrative detention camps where people may be detained without appropriate legal assistance and in most cases without a fair trial. 	<p>The Council encouraged China :</p> <ul style="list-style-type: none"> to ratify the UN Covenants as soon as possible, to cooperate more closely with the CHR Special Rapporteurs and Working Groups, as well as to sign the Memorandum of Understanding with the office of the High Commissioner on Human Rights.

Date	Progress Noted	Ongoing Human Rights violations	Action Taken/Urged
Jan. 2001			<ul style="list-style-type: none"> • The Council adopted specific conclusions on the EU/China dialogue, in which it determines clearly what are the “specific areas in which the EU will be seeking progress” through the dialogue process”, which progress have been achieved since 1997, which are the remaining areas of concern. • The Council, by making public what can be considered as benchmarks allowing to assess the dialogue, “wishes to make its human rights policy towards China more transparent and to pave the way for an exchange of information on the subject with civil society (...)” • The EU will evaluate the results of the dialogue at regular intervals, to determine how far its expectations have been met”.
Mar. 2001	<ul style="list-style-type: none"> • The Council welcomed ratification by China of the ICESCR, • expressed its concern at the declaration made regarding art. 8.1 of the Covenant. • Council also welcomed “China’s stated intention to co-operate more closely with UN human rights mechanisms, namely through implementation of the MoU agreed with the UN High commissioner for HR and visits by the special rapporteurs and working groups”. 	<p>The Council reiterated its concern at :</p> <ul style="list-style-type: none"> • the lack of respect for freedom of expression, religion and association • the ongoing violations of human rights of pro-democracy activists, proponents of free trade unions and followers of other movements such as the Falun Gong • the frequent use of the death penalty • restrictions against un-official religious groups • the deprivation of religious and cultural rights in Tibet and Xinjiang. 	<p>The Council decided not to co-sponsor a resolution on HR in China at the CHR, but to vote in favour if the resolution was put to a vote.</p>
Mar. 2002	<p>The Council welcomed “certain progress in relation to :</p> <ul style="list-style-type: none"> • establishing the rule of law, • democratic principles and • human rights, including the economic and social reform process, • the steps taken towards a more open society, and • the continued efforts to develop the legal system”. <p>• Council also welcomed certain recent amendments to the trade union law.</p>	<p>The Council however expressed its concern at :</p> <ul style="list-style-type: none"> • the lack of respect for freedoms of expression, religion and association • the ongoing violations of human rights of pro-democracy activists, proponents of free trade unions and followers of the Falun Gong • the widespread use of torture • the "strike hard" campaign, which has resulted in an extremely high number of death sentences and executions, qualifying this situation as “a grave setback” • restrictions against unofficial churches and religious-groups • the deprivation of religious and cultural rights in Tibet and Xinjiang. The Council underlined that the fight against terrorism should be pursued with full respect for human rights and fundamental freedoms. 	<ul style="list-style-type: none"> • The Council urged China to ratify the ICCPR and to cooperate more closely with the UN HR mechanisms. • The EU adopted the same stance as the previous year with regard to the CHR.

Date	Progress Noted	Ongoing Human Rights violations	Action Taken/Urged
Mar. 2003	<p>The Council “welcomed certain progress in relation to :</p> <ul style="list-style-type: none"> • the establishment of the rule of law, • democratic principles, including the economic and social reform process, • opening of the society and • development of the legal system, including the submission to the NPC Standing Committee of a first-ever draft civil code and the strengthening of the legal training of judges”. 	<p>The Council expressed its concern at :</p> <ul style="list-style-type: none"> • the execution of Lobsang Dhondup (...) and Tenzin deleg Rinpoche. It considered this execution as sending a wrong signal (...) and expressed disappointment at the failure of the Chinese authorities to keep the EU informed of developments in the above-mentioned two cases, and underlined the need for the HR dialogue with China to be based on genuine demonstration of mutual confidence”. • The extensive use of the death penalty, often in violation of internationally agreed minimum standards • the continuation of the "strike-hard" campaign • the widespread use of torture and arbitrary detention • the continuing practice of "re-education through labour" • repression of the freedom of expression, religion and association in China • the ongoing violations of the human rights of pro-democracy, labour and internet activists, proponents of free trade unions and followers of underground Christian churches and the Falun Gong. 	<p>The Council urged China :</p> <ul style="list-style-type: none"> • to bring its legislation into line with the ICESCR, including its art. 8.1(a), and • to ratify the ICCPR and the Optional Protocol to the CAT. • The Council also “underlined that the fight against terrorism should be pursued with full respect for HR and fundamental freedoms and should not be used as a pretext for repression of political dissent”. • With regard to the CHR, the Council adopted the same stance as the previous years.

Attachment 2: Integrating EU- China Dialogue Benchmarks, Human Rights, and Indicators

EU Benchmarks	Area of Progress	Indicator of Progress
<p>1. Ratification and implementation of the two covenants</p>	<ul style="list-style-type: none"> • ICCPR <ul style="list-style-type: none"> ▪ right to life, to be free from torture and slavery, to liberty and security, ▪ right to freedom of movement, association, thought, religion and expression, ▪ right to equality before the law, to privacy, to equality within marriage, and to the enjoyment of culture. ▪ prohibiting all forms of discrimination • ICESCR <ul style="list-style-type: none"> ▪ right to self-determination ▪ right to gender equality ▪ right to fair wages and safe working conditions ▪ right to form or join trade unions ▪ right to social security ▪ protection of family ▪ right to adequate standard of living ▪ right to housing ▪ right to health ▪ right to education ▪ right to cultural life 	<ul style="list-style-type: none"> • Reporters Without Borders: World Press Freedom Ranking • Journalists/ Internet activists imprisoned • People imprisoned for their religious beliefs • Imprisoned labour activists • World Bank: Governance Matters III • UNDP Human Development Indicators <ul style="list-style-type: none"> ▪ HDI, GDI, GEM, HPI-1, Gini • Number of people suffering from HIV/AIDS • Access to essential drugs • Illiteracy and primary education enrolment rates (Women & Migrant Children)
<p>2. Cooperation with HR mechanisms</p>	<ul style="list-style-type: none"> • Implementation of MOU • Visits by Rapporteurs • Recommendations and Working Group visits 	<ul style="list-style-type: none"> • Individual cases responses • Follow-up and implementation of recommendations and working group visits
<p>3. Compliance with ECOSOC guarantees for the protection of those sentenced to death and provision of statistics on use of the death penalty</p>	<ul style="list-style-type: none"> • Right to a Fair Trial • Provision of Death Penalty Statistics 	<ul style="list-style-type: none"> • Number of people executed per year • Extensive use of death penalty
<p>4. Reform of administrative detention, introduction of judicial supervision of procedures, respect for the right to a fair trial and the right of the defence</p>	<ul style="list-style-type: none"> • Elimination of administrative detention • Introduction of due process protections 	<ul style="list-style-type: none"> • Implementing recommendations of UN Working Group on Arbitrary Detention • Government responses to individual Cases • Number of RTL camps • Number of persons in RTL camps
<p>5. Respect for fundamental rights of all prisoners, progress on access to prisoners and constructive response to individual cases raised by the EU</p>	<ul style="list-style-type: none"> • Introduction of due process protections • Access to prisoners • Responses to individual cases that provides specific relevant information 	<ul style="list-style-type: none"> • Assessing regulations • Number of political prisoners • Government responses to individual Cases
<p>6. Freedom of religion and belief, both public and private</p>	<ul style="list-style-type: none"> • Allowing space for independent churches and civil society groups 	<ul style="list-style-type: none"> • Number imprisoned for religious beliefs • Number of Falungong practitioners' deaths related to police custody, torture and beatings
<p>7. Respect for the right to organise</p>	<ul style="list-style-type: none"> • Allowing the existence of independent unions while reversing China's declaration regarding the ICESR 8.1(a) 	<ul style="list-style-type: none"> • Allowing independent trade unions • Number of imprisoned labour activists • Assessing labour union regulations
<p>8. Respect for cultural rights and religious freedoms in Tibet and Xinjiang, taking account of the recommendations of the UN treaty bodies, halt "patriotic education" campaign in Tibet, access for an independent delegation to the young Panchen lama who has been recognised by the Dalai Lama.</p>	<ul style="list-style-type: none"> • Ending patriotic education in Tibet • Allowing education in Uigher and Tibetan language • Access for an independent delegation to the young Panchen lama who has been recognized by the Dalai Lama 	<ul style="list-style-type: none"> • Education reform • Access to Panchen lama • Number of Han Chinese in Tibet and Xinjiang

Attachment 3: Summary of Special UN Human Rights Mechanisms

RAPPORTEUR	CHRONOLOGY	STATUS
Working Group on Arbitrary Detention	<ul style="list-style-type: none"> • Visit in October 1997. • China promised to extend unconditional invitation to the rapporteur at December 2002 US-China human rights dialogue. 	Working Group's 1997 <u>Recommendations</u> have not been implemented.
Special Rapporteur on Extra-judicial, Summary or Arbitrary Executions	<ul style="list-style-type: none"> • Rapporteur requested an invitation in 1992. • The request was repeated in 1993, 1994, 1995, 1996 and 1997. 	<u>No formal invitation</u> has been issued.
Special Rapporteur on Freedom of Religion or Belief Special Rapporteur on Religious Intolerance (2001)	<ul style="list-style-type: none"> • Visit in November 1994. • China agreed to invite the rapporteur in 2002, but the visit has not taken place yet. 	<u>No formal invitation</u> has been issued.
Special Rapporteur on Torture	<ul style="list-style-type: none"> • Rapporteur requested first invitation in 1995. • China first issued invitation in 1999 but parties could not agree on terms of reference for visit. • Chinese invitation repeated in 2001 to the new rapporteur. China pledged to reissue unconditional invitation to the rapporteur at December 2002 US-China human rights dialogue. 	<u>No agreement yet</u> on terms of reference for visit.
Special Rapporteur on Freedom of Opinion and Expression	<ul style="list-style-type: none"> • Rapporteur requested a visit in 1999. • Request was repeated in 2000 and 2001. • The new rapporteur requested a visit in 2002 and 2003. 	<u>No formal invitation</u> has been issued.
Special Rapporteur on the Independence of Judges and Lawyers	<ul style="list-style-type: none"> • China agreed to consider issuing an invitation at the November 2002 UK-China human rights dialogue. 	<u>No formal invitation</u> has been issued.
Special Rapporteur on Education	<ul style="list-style-type: none"> • Visit in September 2003. 	SP Report (11/21/03) PRC Response (12/11/03)

**Attachment 4: Implementing Economic, Cultural and Social Rights,
1996-2003**

Area of Progress	Indicator (Source)	1996 Dialogue Year	2003 Dialogue Year ⁱ	Intra-Country Gaps																								
Overall Health ⁱⁱ	Human Development Index, <i>(UNDP Human Development Report)</i>	Ranked 106 th /174 countries	Ranked 104 th /175 countries	HDI Rank of Selected Provinces, 1999 <table border="1"> <thead> <tr> <th>Province</th> <th>HDI Rank</th> </tr> </thead> <tbody> <tr> <td>Shanghai</td> <td>1</td> </tr> <tr> <td>Beijing</td> <td>2</td> </tr> <tr> <td>Xinjiang</td> <td>15</td> </tr> <tr> <td>Tibet</td> <td>31</td> </tr> </tbody> </table>	Province	HDI Rank	Shanghai	1	Beijing	2	Xinjiang	15	Tibet	31														
	Province	HDI Rank																										
Shanghai	1																											
Beijing	2																											
Xinjiang	15																											
Tibet	31																											
Gender Equality	UNDP Gender-Related Development Index. <i>(UNDP Human Development Report)</i>	Ranked 93 rd /174 countries	Ranked 83 rd /175 countries																									
Poverty eradication; Equality in income or consumption	UNDP Human Poverty Index 1 <i>(UNDP Human Development Report)</i>	Human Poverty Index value 17.1% ⁱⁱⁱ	Ranked 26 th /94 developing countries																									
	UNDP Gini index ^{iv} , <i>(UNDP Human Development Report)</i>	...	40.3 ^v	GDP per Capita and Income Index by Selected Province, 1999 <table border="1"> <thead> <tr> <th>Province</th> <th>GDP per Capita in China currency</th> </tr> </thead> <tbody> <tr> <td>Shanghai</td> <td>30,805</td> </tr> <tr> <td>Beijing</td> <td>19,846</td> </tr> <tr> <td>Xinjiang</td> <td>6,470</td> </tr> <tr> <td>Tibet</td> <td>4,262</td> </tr> </tbody> </table>	Province	GDP per Capita in China currency	Shanghai	30,805	Beijing	19,846	Xinjiang	6,470	Tibet	4,262														
Province	GDP per Capita in China currency																											
Shanghai	30,805																											
Beijing	19,846																											
Xinjiang	6,470																											
Tibet	4,262																											
Literacy and Enrollment	Adult Literacy Rate	81.5% ^{vi}	85.8% ^{vii}	Literacy Rate of Selected Provinces^{viii} <table border="1"> <thead> <tr> <th>Province</th> <th>Literacy Rate</th> </tr> </thead> <tbody> <tr> <td>Shanghai</td> <td>91.32%</td> </tr> <tr> <td>Beijing</td> <td>93.55%</td> </tr> <tr> <td>Xinjiang</td> <td>90.23%</td> </tr> <tr> <td>Tibet</td> <td>33.82%</td> </tr> </tbody> </table> Enrollment rate in Tertiary Education in Selected Provinces^{ix} <table border="1"> <thead> <tr> <th>Province</th> <th>Percent</th> </tr> </thead> <tbody> <tr> <td>Shanghai</td> <td>57.47</td> </tr> <tr> <td>Beijing</td> <td>76.59</td> </tr> <tr> <td>Tibet</td> <td>38.63</td> </tr> <tr> <td>Yunnan</td> <td>22.63</td> </tr> <tr> <td>Xinjiang</td> <td>20.17</td> </tr> <tr> <td>Henan</td> <td>18.21</td> </tr> </tbody> </table>	Province	Literacy Rate	Shanghai	91.32%	Beijing	93.55%	Xinjiang	90.23%	Tibet	33.82%	Province	Percent	Shanghai	57.47	Beijing	76.59	Tibet	38.63	Yunnan	22.63	Xinjiang	20.17	Henan	18.21
	Province	Literacy Rate																										
Shanghai	91.32%																											
Beijing	93.55%																											
Xinjiang	90.23%																											
Tibet	33.82%																											
Province	Percent																											
Shanghai	57.47																											
Beijing	76.59																											
Tibet	38.63																											
Yunnan	22.63																											
Xinjiang	20.17																											
Henan	18.21																											
	Gross and Net primary enrolment ratio ^x	58% gross enrolment ratio for all levels (% age 6-23) based on 1995 data	64% combined primary, secondary and tertiary gross enrolment ratio ^{xi}	Enrollment Rate in Primary Education of Selected Provinces^{xii} <table border="1"> <thead> <tr> <th>Province</th> <th>Enrollment Rate in Primary Education</th> </tr> </thead> <tbody> <tr> <td>Shanghai</td> <td>99.97%</td> </tr> <tr> <td>Beijing</td> <td>99.95%</td> </tr> <tr> <td>Xinjiang</td> <td>96.58%</td> </tr> <tr> <td>Tibet</td> <td>78.2%</td> </tr> </tbody> </table> <ul style="list-style-type: none"> • Migrant children without access to education: 1.8 million^{xiii} 	Province	Enrollment Rate in Primary Education	Shanghai	99.97%	Beijing	99.95%	Xinjiang	96.58%	Tibet	78.2%														
Province	Enrollment Rate in Primary Education																											
Shanghai	99.97%																											
Beijing	99.95%																											
Xinjiang	96.58%																											
Tibet	78.2%																											

Health access, services and resources	Population with access to improved sanitation,	24% ^{xiv}	40% ^{xv}	Sanitation Statistics in selected Provinces, 1999^{xvi} <table border="1"> <thead> <tr> <th>Province</th> <th>Length of Sewer pipelines (km)</th> <th>Daily disposal capacity of sewage (10,000 tons)</th> </tr> </thead> <tbody> <tr> <td>Shanghai</td> <td>4577.00</td> <td>524.30</td> </tr> <tr> <td>Beijing</td> <td>4067.47</td> <td>14.87</td> </tr> <tr> <td>Xinjiang</td> <td>1915.48</td> <td>37.80</td> </tr> <tr> <td>Tibet</td> <td>220.00</td> <td>--</td> </tr> </tbody> </table>	Province	Length of Sewer pipelines (km)	Daily disposal capacity of sewage (10,000 tons)	Shanghai	4577.00	524.30	Beijing	4067.47	14.87	Xinjiang	1915.48	37.80	Tibet	220.00	--
	Province	Length of Sewer pipelines (km)	Daily disposal capacity of sewage (10,000 tons)																
	Shanghai	4577.00	524.30																
Beijing	4067.47	14.87																	
Xinjiang	1915.48	37.80																	
Tibet	220.00	--																	
Population with sustainable access to an improved water source,	67% ^{xvii}	75% ^{xviii}	Per cent of China's Villages with Various Forms of Basic Infrastructure (1999) <table border="1"> <thead> <tr> <th>Province</th> <th>Tap Water</th> </tr> </thead> <tbody> <tr> <td>Eastern Provinces</td> <td>33.8%</td> </tr> <tr> <td>Western Provinces</td> <td>9.1%</td> </tr> <tr> <td>Xinjiang</td> <td>15.6%</td> </tr> <tr> <td>Tibet</td> <td>2.0%</td> </tr> </tbody> </table>	Province	Tap Water	Eastern Provinces	33.8%	Western Provinces	9.1%	Xinjiang	15.6%	Tibet	2.0%						
Province	Tap Water																		
Eastern Provinces	33.8%																		
Western Provinces	9.1%																		
Xinjiang	15.6%																		
Tibet	2.0%																		
Population with sustainable access to affordable essential drugs.	...	80-94% ^{xix}	Per cent of Selected Villages and Population without Health Units <table border="1"> <thead> <tr> <th>Province</th> <th>% Village without Health units</th> <th>% Population without Health units</th> </tr> </thead> <tbody> <tr> <td>Shanghai</td> <td>3.0</td> <td>.49</td> </tr> <tr> <td>Beijing</td> <td>17.4</td> <td>5.27</td> </tr> <tr> <td>Xinjiang</td> <td>12.9</td> <td>8.69</td> </tr> <tr> <td>Tibet</td> <td>44.9</td> <td>38.89</td> </tr> </tbody> </table>	Province	% Village without Health units	% Population without Health units	Shanghai	3.0	.49	Beijing	17.4	5.27	Xinjiang	12.9	8.69	Tibet	44.9	38.89	
Province	% Village without Health units	% Population without Health units																	
Shanghai	3.0	.49																	
Beijing	17.4	5.27																	
Xinjiang	12.9	8.69																	
Tibet	44.9	38.89																	
Leading global health crises and challenges	Number of people suffering from HIV+/AIDS	...	1 million ^{xx, xxi}																
	Adults living with HIV/AIDS ^{xxii}11% ^{xxiii} Estimated number of adults and children living with HIV/AIDS, end of 2001 ^{xxiv} <ul style="list-style-type: none"> Adults (15-49) 850,000 Women (15-49) 220,000 Children (0-15) 2,000 																
Cultural Diversity				Per cent of Han Chinese Population in Selected Provinces^{xxv} <table border="1"> <thead> <tr> <th>Province</th> <th>1996</th> <th>2002</th> </tr> </thead> <tbody> <tr> <td>Xinjiang</td> <td>37.2</td> <td>40.6</td> </tr> <tr> <td>Tibet</td> <td>3.3</td> <td>5.9</td> </tr> </tbody> </table>	Province	1996	2002	Xinjiang	37.2	40.6	Tibet	3.3	5.9						
Province	1996	2002																	
Xinjiang	37.2	40.6																	
Tibet	3.3	5.9																	

Sources: Asian Development Bank (ADB) 2002; China Statistical Yearbook 2000; Tibet Statistical Yearbook; UNDP 1996, 2002, 2003

ⁱ Data refer to the most recent year available during the 2003 dialogue.

ⁱⁱ Achievements in terms of life expectancy, educational attainment and adjusted real income.

ⁱⁱⁱ Data refer to 1995

^{iv} The Gini index measures inequality over the entire distribution of income or consumption. A value of 0 represents perfect equality, and a value of 100 represents perfect inequality.

^v Data refer to 1998 survey year; survey based on income.

^{vi} Data refer to 1995 statistics.

^{vii} Data refer to percent age 15 and above; Data refer to 2001 statistics.

^{viii} UNDP, 2003 citing China Statistical Yearbook, 2000.

^{ix} UNDP, 2003 citing China Statistical Yearbook, 2000.

^x "The official statistics on school enrollment, all about 99 per cent, conflict with reports of large numbers of children who cannot afford to go to school. The World Bank has confirmed that 'the high out-of-pocket costs of education [are consistently cited] as a primary reason for student drop-outs or non-enrolments' " (Tomaševski, 2003).

^{xi} Based on UNDP Human Development Report 2003

^{xii} UNDP, 2003 citing China Statistical Yearbook, 2000.

^{xiii} Human Rights in China. 2002. *Shutting out the Poorest: Discrimination against the most disadvantaged migrant children in city schools*. http://iso.hrichina.org/iso/article.adp?article_id=2432&category_id=30

^{xiv} UNDP, 1998. Data refer to 1990-1996 statistics on population with access to sanitation.

^{xv} Data refer to 2000 statistics

^{xvi} UNDP, 2003 citing China Statistical Yearbook, 2000.

^{xvii} UNDP, 1998. Data refer to 1990-1996 statistics on population with access to safe water.

^{xviii} Data refer to 2000 statistics

^{xix} cited by UNDP, 2003. The data are based on statistical estimates received from World Health Organization country and regional offices and regional advisers through the World Drug Situation Survey carried out in 1998-99.

^{xx} "Chinese officials acknowledge 1 million people living with HIV/AIDS in China, while the Joint U.N. Programme on HIV/AIDS (U.N.AIDS) estimates between 800,000 and 1.5 million people. However, in China's 2003 application to the Global Fund to Fight AIDS, Tuberculosis and Malaria, the state reports HIV prevalence rates among rural blood donors ranging from 4-40% across seven provinces with a combined total population of 420 million; and in all seven provinces, blood donation was a common source of supplemental income for farmers and their families." Without further information about this survey, these percentages cannot be evaluated, but they suggest potentially higher national infection rates than have previously been admitted. Country Coordinating Mechanism, 2003 Proposal to the Global Fund. Section III. p.13. Cited by Human Rights Watch, 2003.

^{xxi} The U.S. National Intelligence Council forecasted that China would have 10-15 million AIDS cases by 2010.

National Intelligence Council, *The Next Wave of HIV/AIDS: Nigeria, Ethiopia, Russia, India, and China* (Washington D.C., September 2002), p.4.

^{xxii} Per cent age 15-49; Data refer to the end of 2001.

^{xxiii} Data refer to 2001 statistics.

^{xxiv} These estimates include all people with HIV infection, whether or not they have developed symptoms of AIDS, alive at the end of 2001. UNAIDS, UNICEF, and WHO, *Epidemiological Fact Sheets on HIV/AIDS and Sexually Transmitted Infections, 2002 update*, (2003).

^{xxv} However, actual numbers of Han Chinese are unclear. The official statistics of Han Chinese in both Tibet and Xinjiang are underreported because the official numbers do not include military troops of the permanent PLA garrisons or seasonal migrant workers.