

February 27, 2003

Briefing to the 59th Session of the UN Commission on Human Rights

China

Objective

Human Rights Watch calls on the Commission on Human Rights to adopt a resolution condemning China's violations of the rights to freedom of expression, association and assembly, thought, conscience, religion and belief, and urging judicial proceedings that meet international standards. The resolution should also condemn the Chinese government's use of the international "war on terrorism" to justify the imprisonment of Uighurs in the Xinjiang-Uighur Autonomous Region for peacefully advocating full autonomy or independence; and protest its policy of forcibly returning North Korean asylum-seekers in violation of international law.

Background

In the last two-and-a half years, Human Rights Watch has documented abuses directed against political dissidents, religious believers, labor activists, alleged "separatists" in Xinjiang and Tibet, and North Korean asylum seekers, as well as the political use of psychiatric imprisonment.

Freedom of association and the right to strike

In March 2002, large and well-organized worker demonstrations in several northeastern cities protested non-payment of back wages and pensions, unilateral rollbacks of severance agreements, absence of a social security safety net, and managerial corruption. Officials responded with arrests, attacks on unarmed protestors, and threats to fire workers whose relatives were participating. In December 2002, two worker-representatives in Liaoyang, Liaoning province, were charged with subversion, which carries potentially severe penalties. For several months after their detentions, the men had no access to defense counsel, and following the trial, the men's families were warned against communicating with the foreign media. China continues to deny workers the right to free association as guaranteed in China's constitution and in the International Covenant on Economic, Social, and Cultural Rights, ratified by China.

Freedom of belief

In July 1999, Chinese authorities moved to dissolve Falungong and to arrest its leaders. A massive crackdown followed, hundreds were imprisoned and thousands sent without judicial review to reeducation-through-labor camps. The government labeled Falungong a cult, thus outside the purview of protected state-controlled religious organization. In addition, the government closed Christian churches, Muslim mosques, and Tibetan monasteries which resisted state control, and arrested clergy and laity who refused to comply with government edicts.

Crackdown in the Xinjiang-Uighur Autonomous Region

Implementation of the nationwide "Strike Hard" anti-crime campaign in Xinjiang, justified as a counter-terrorism measure, resulted in summary trials and mass sentencing rallies as officials proceeded with "quick arrest," and "quick proceedings." Although precise figures are unavailable, there have been credible reports of the extensive use of torture and the death penalty in the course of the campaign and little distinction made between criminal acts and peaceful expression of separatist sentiment. Printing houses producing unauthorized religious literature have been closed; mandatory "patriotic reeducation" campaigns for imams instituted; surveillance of Muslim weddings, funerals, circumcisions, and house moving rituals stepped-up; clerics arrested; religious classes raided; traditional gatherings such as the *meshrep* banned; and mosques leveled.

Repatriation of North Korean asylum seekers

China, claiming that North Korean asylum seekers are economic migrants, has forcibly repatriated them although they may be severely punished upon their return home. China is a party to the 1951 Refugee Convention and its 1967 Protocol which prohibits such repatriation. China has not permitted the U.N. High Commissioner for Refugees to establish a presence on the China-North Korean border.

Freedom of expression

The Chinese authorities continue to progressively restrict the Internet in violation of the right to free expression. Broadly-worded decrees prohibit posting of information that violates the constitution, undermines the unity of the country, threatens social order, spreads rumors, promotes superstition, or injures the reputation of state organs. Regulations require Internet service providers to use only domestic media news postings, to record information useful for tracking the viewing habits of users, and to acquire the capacity to copy users' e-mails. Thousands of Internet cafes have been closed; foreign search engines have been shut down or selectively blocked; and dozens of activists arrested or sentenced to terms as long as eleven years.

Judicial proceedings

The legal rights of defendants are routinely compromised by police officials, prosecutors, and judges. Although the 1996 Criminal Procedure Law revisions added to defendants' rights, there is no presumption of innocence; defendants are denied timely access to counsel and to counsel of their own choosing; defense counsel's ability to gather and present evidence is severely limited in both the pre-trial period and during the trial itself; and although torture is officially prohibited, evidence obtained during torture is permitted at trial. Cases in point are those of Lobsang Dhondrup, reported to already have been executed, and Tenzin Delek Rinpoche, a prominent Tibetan spiritual leader sentenced to death with a two-year reprieve, in connection with a series of bombings. China also maintains a system of administrative justice which permits incarceration of thousands of citizens each year for up to three years without benefit of judicial review.

Recommendations

The Commission on Human Rights should:

- **Condemn China's grave human rights abuses.** The resolution should call on the Chinese authorities to immediately and unconditionally release all those held for peacefully exercising their rights of free speech, expression, and association including those accused of religious or political offenses, labor activism, and so-called separatist activities; to abolish the reeducation-through-labor system; to amend all relevant Chinese laws and regulations, such as the Trade Union Law, to bring them into conformity with international human rights law; to rescind the reservation to Article 8(1)(a) of the International Covenant on Economic, Social and Cultural Rights; and to permit workers to form and join their own trade unions and to bargain collectively.
- The resolution should further **urge revision of the Law on Protecting State Secrets** to bring the scope of information deemed secret in line with international human rights standards; amend China's constitution so that freedom of belief encompasses manifestation of that belief "in worship, observance, practice and teaching;" rescind the requirement that to be legal, a congregation must be vetted and registered; permit foreign and domestic legal observers to attend all trials as provided for under international human rights standards; revise the Criminal Procedure Code such that the rights of defendants during trial and pre-trial proceeding are equal to those of prosecutors.
- **Urge China to ratify the International Covenant on Civil and Political Rights** which it signed in October 1998.
- **Insist that China honor its refugee commitments**, immediately halt all repatriation of North Koreans entering China, and begin a dialogue with the U.N. High Commissioner for Refugees about access to the China-North Korea border.
- **Cooperate with U.N. mechanisms.** The resolution should call on the Chinese government to invite U.N. Rapporteurs--particularly the Special Rapporteurs on torture, on freedom of religion, and on the independence of lawyers and judges to visit China. The Rapporteurs should pay special attention to the situation of Uighurs in the Xinjiang-Uighur Autonomous Region.