



**Australian Government**

**Department of Foreign Affairs and Trade**



# **DFAT COUNTRY INFORMATION REPORT PEOPLE'S REPUBLIC OF CHINA**

3 October 2019

# MAP



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## ACRONYMS

CCC	Chinese Christian Council
CCDI	Central Commission for Discipline Inspection
CCP	Chinese Communist Party
CCPA	Chinese Catholic Patriotic Association
CSO	Civil Society Organisation
NPC	National People's Congress
NSC	National Supervision Commission
OECD	Organisation for Economic Cooperation and Development
PAP	People's Armed Police
PBSC	Politburo Standing Committee
PISA	Programme for International Student Assessment (run by OECD)
PLA	People's Liberation Army
PRC	People's Republic of China
PSB	Public Security Bureau
RIC	Resident identity card
RMB	Renminbi, also referred to as CNY (Chinese Yuan), China's official currency
SARA	State Administration for Religious Affairs
SARFT	State Administration for Radio, Film and Television
TAR	Tibetan Autonomous Region
TSPM	Three-Self Patriotic Movement
UNDP	United Nations Development Programme

### Some sensitive anniversaries and events in the Chinese calendar

Five-yearly CCP Congress held in October in years ending in 2 and 7 (last Congress in October 2017)

#### Annual events and anniversaries

Early March:	'Two meetings' – official meetings of the NPC and the Chinese People's Political Consultative Conference
10 March	Anniversary of the 1959 Tibet uprising that led to the flight of the Dalai Lama to India
4 June	Anniversary of the deployment of PLA troops against protesters in Beijing's Tiananmen Square and surrounds in 1989

## GLOSSARY

<i>guanxi</i>	(Literally) connection; social networks and individual relationships which facilitate business and other interactions
<i>hukou</i>	Government household registration system, which requires all Chinese citizens to register in their locality of origin and can affect a person's ability to access services outside that locality
<i>liuzhi</i>	(Literally) retention in place or detention in custody; a system of detention not only for Party members but for any public servants who receive a salary from the government and who are investigated for illegal and criminal misconduct
<i>shuanggui</i>	(Literally) double or parallel rules; a former system of extra-legal detention for members of the CCP run by the Central Commission for Discipline Inspection, replaced by <i>liuzhi</i> (see above).
<i>sinicisation</i>	The process of adapting foreign (usually western) concepts and practices to Chinese culture and practice; used by the CCP to adapt foreign concepts to CCP ideology

### Terms used in this report

high risk	DFAT is aware of a strong pattern of incidents
moderate risk	DFAT is aware of sufficient incidents to suggest a pattern of behaviour
low risk	DFAT is aware of incidents but has insufficient evidence to conclude they form a pattern

#### official discrimination

1. legal or regulatory measures applying to a particular group that impede access to state protection or services that are available to other sections of the population (examples might include but are not limited to difficulties in obtaining personal registrations or identity papers, difficulties in having papers recognised, arbitrary arrest and detention)
2. behaviour by state employees towards a particular group that impedes access to state protection or services otherwise available, including by failure to implement legislative or administrative measures

#### societal discrimination

1. behaviour by members of society (including family members, employers or service providers) that impedes access by a particular group to goods or services normally available to other sections of society (examples could include but are not limited to refusal to rent property, refusal to sell goods or services, or employment discrimination)
2. ostracism or exclusion by members of society (including family, acquaintances, employers, colleagues or service providers)

# 1. PURPOSE AND SCOPE

1.1 The Department of Foreign Affairs and Trade (DFAT) has prepared this People's Republic of China Country Information Report for protection status determination purposes only. It provides DFAT's best judgement and assessment at time of writing and is distinct from Australian government policy with respect to China.

1.2 The report provides a general, rather than an exhaustive country overview. It has been prepared with regard to the current caseload for decision makers in Australia, without reference to individual applications for protection visas. The report does not contain policy guidance for decision makers.

1.3 Ministerial Direction Number 84 of 24 June 2019 under s 499 of the Migration Act 1958 states that:

Where the Department of Foreign Affairs and Trade has prepared [a] country information assessment expressly for protection status determination purposes, and that assessment is available to the decision maker, the decision maker must take into account that assessment, where relevant, in making their decision. The decision maker is not precluded from considering other relevant information about the country.

1.4 This report draws on DFAT's on-the-ground knowledge and discussions with a range of sources in China. It takes into account relevant and credible open source reports, including, but not limited to, those produced by: the Chinese government's official web portal; Chinese and international media; Chinese NGOs; Amnesty International; Human Rights Watch; the Committee to Protect Journalists; international organisations, including the International Monetary Fund; the World Bank; United Nations Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment; UN Office of the High Commissioner for Human Rights; the United Nations Development Programme; the United Nations Office of the High Commission for Refugees; the United States State Department; the British Foreign Office; and the Immigration and Refugee Board of Canada. Where DFAT does not refer to a specific source of a report or allegation, this may be to protect the source.

1.5 This updated People's Republic of China Country Information Report replaces the previous DFAT report released on the People's Republic of China published on 21 December 2017, and the DFAT Thematic Report for Fujian province, People's Republic of China, published on 16 December 2016.

## 2. BACKGROUND INFORMATION

### RECENT HISTORY

2.1 Mao Zedong proclaimed the People's Republic of China on 1 October 1949, following the Chinese Communist Party's (CCP's) victory against Chiang Kai-shek's Nationalist forces and the latter's subsequent withdrawal to Taiwan.

2.2 Since the announcement of Deng Xiaoping's 'reform and opening up' policy in 1979, China has undergone profound economic change. China's economy has transformed from a poor, planned and primarily agricultural economy to become the second largest in the world, resulting in an unprecedented rise in living standards. The World Bank estimates 800 million Chinese have been lifted out of extreme poverty since 1978.

2.3 Political liberalisation has been slower and has recently regressed in some areas. Although Chinese citizens are able to exercise a significant degree of personal choice in relation to employment, education, travel and commerce, the CCP restricts most forms of organised or published critical political expression and opposition. Recognising that limited freedom of expression enables the government to monitor potentially problematic social issues, the Chinese government has tolerated some criticism, but only in government-controlled forums. Government actions in recent years suggest the space for such limited criticism is narrowing (see [Political Opinion \(actual or imputed\)](#)).

### DEMOGRAPHY

2.4 Mainland China has a population of 1.4 billion, 150 million of whom are aged over 65, and a total land area of 9.6 million square kilometres. In 2017, urban residents accounted for 58 per cent of the total population.

2.5 In 2018, six of the world's 33 megacities (with populations over 10 million) were in China. China's largest city is the municipality of Shanghai (population 25.5 million in 2018), and the municipality of Beijing (the capital) is the second largest (population 19.6 million in 2018). In 2017, the Pearl River Delta region, which includes Guangzhou and Shenzhen, had a combined population of over 66 million.

2.6 Aside from the majority Han who account for just over 91 per cent of the total population and dominate the political, economic and social landscape in China, the Chinese government officially recognises 55 other ethnic groups. China's largest ethnic minority is the Zhuang (1.3 per cent). The remaining 7.1 per cent are Hui, Manchu, Uighurs, Miao, Yi, Tujia, Tibetan, Mongol, Dong, Buyei, Yao, Bai, Korean, Hani, Li, Kazakh, Dai and other ethnic groups. Mandarin (Putonghua) is the national language but there are currently 299 living languages in use.

2.7 Mainland China has 22 provinces, five autonomous regions (the Inner Mongolia Autonomous Region, Xinjiang Uighur Autonomous Region, the Guangxi Zhuang Autonomous Region, the Ningxia Hui Autonomous



Region and the Tibet Autonomous Region), and four centrally administrated municipalities (Beijing, Chongqing, Shanghai and Tianjin) that report directly to the central government. Autonomous Regions are typically based on cultural presence, and have a higher population of a certain ethnic group than represented in other areas of China. Autonomous Regions are similar to provinces in that they each have their own governing body, although, they hold more legislative rights.

## ECONOMIC OVERVIEW

2.8 China is the world's second-largest economy (after the United States), the largest exporter of goods, the second-largest importer of goods, the fifth-largest exporter of commercial services and the second-largest importer of commercial services. China's economy averaged real annual GDP growth of around 10 per cent between 1978 and the onset of the global financial crisis in 2008. Since then, economic growth has slowed with slowing capital and labour productivity. According to China's National Bureau of Statistics, China's GDP grew 6.6 per cent in 2018.

2.9 The World Bank ranks China as an upper middle-income country. The United Nations Development Programme ranks China 86th out of 189 countries in its 2018 Human Development Report, in the 'High Human Development' Category. China was the first developing country to meet the UN Millennium Development Goal of halving the number of people living in poverty before 2015. China's major cities have per-capita income levels comparable to some lower income OECD member countries.

2.10 China's development, however, has been uneven. Large parts of the country, particularly the central and western regions, remain poor and underdeveloped. According to the 2018 World Inequality Report, the top 10 per cent and bottom 50 per cent of China's population shared 27 per cent of national income in 1978. However, by 2015 the top 10 per cent's share had increased to 42 per cent, and the bottom 50 per cent's had decreased to 15 per cent. By the end of 2017, 30.46 million people (just over 2 per cent of the population) were still living below the government's decreed annual poverty line of 2,300 RMB (approximately AUD 460).

2.11 President Xi Jinping has made 'eliminating poverty by 2020' one of the government's top priorities. Persistent rural poverty is a challenge to the CCP's main political goal of doubling China's 2010 per capita income by 2020 to become an 'all-round moderately prosperous society' by the centenary of the founding of the CCP in 2021. China's 13th Five Year Plan (2016-2020) also set an annual growth target of 6.5 per cent. The Plan outlined measures to rebalance the economy away from resource-intensive, fixed-asset investment and export-driven growth towards domestic consumption and environmentally sustainable services-led growth.

2.12 China is also the world's largest energy consumer, accounting for half of global coal consumption. A key focus of economic reform measures is to reduce pollution and improve the quality of the living environment (see Health).

2.13 China's society is ageing rapidly, owing to significant advances in the quality of and access to healthcare and decades of low birth rates, due in part to family planning policies (see [People affected by Family Planning Policies](#)). China's fertility rate of 1.6 births per woman is below the replacement level of 2.1. The traditional preference in Chinese society for boys, combined with decades of the one-child policy, have also contributed to a sex ratio of 1.16 male births to every one female birth (compared with a natural rate of 1.05:1).

2.14 The government changed its family planning policies in 2016 to allow all families to have more than one child, with a view to boosting the birth rate (see [People affected by Family Planning Policies](#)). Despite the

policy change, many young Chinese families report they cannot afford the economic cost of a second child on top of caring for aging parents and the increased cost of living in China's megacities (see [Economic Overview](#)). While the birth rate initially increased by 1.31 million (to almost 18 million) births in 2016, the increase did not meet government expectations (20 million), and rapidly declined in 2017, with 630,000 fewer births than in 2016. The increase in births is not sufficient to reverse the effects of the declining trend.

2.15 DFAT assesses China's demographic challenges, combined with high levels of income inequality, rapid urbanisation, challenges to environmental sustainability, as well as risks posed by a declining property market and significant levels of debt (particularly at the provincial level), pose challenges to future growth and act as significant push factors for internal and external migration.

## Health

2.16 Average life expectancy at birth in China is 76.4 years, with geographical variations, particularly between urban and rural areas. The burden of disease in China is dominated by non-communicable diseases (NCD), causing an estimated 88 per cent of deaths per annum, with tobacco use and exposure to pollution leading risk factors. While China's estimated prevalence of HIV is very low at less than 0.1 per cent, due to the size of the population, the Centers for Disease Control (CDC) estimates 825,000 people are living with HIV, rendering China one of the most infected and at-risk populations globally (see [People living with HIV/AIDS](#)). Air pollution is also a significant public health challenge, and continues to reach hazardous levels, particularly in the northeastern provinces, where heavy-polluting iron, steel and cement-producing industries are based.

2.17 Health care varies significantly between urban and rural areas. High-quality public health care is available in the main urban centres, but only those with the relevant urban *hukou* (household registration) have access to social services (see [Hukou \(household registration\) system](#)). Health care in rural areas is of a lower standard, and public provision is patchy. China's unusually high household savings rate partly reflects the historical need for families without urban *hukou* (including migrant workers in cities) to save for future health costs. However, in April 2019, the National Development and Reform Commission announced the 2019 Urbanisation Plan which relaxed *hukou* residency restrictions in small and medium-sized cities to address migrant worker residency challenges, boost urbanisation, and increase domestic consumption (see [Hukou \(household registration\) system](#)).

## Mental Health

2.18 Mental health services are governed by the *Mental Health Law* (2013; amended 2018) and the *National Planning Guideline for the Healthcare Service System (2015-2020)*. The government has increased investments in mental health services over the last decade; however, services remain inadequate to meet demand and mental illness remains a public health challenge in China.

2.19 Estimates suggest 54 million people reportedly had depression in 2017, 173 million had a diagnosable mental illness or psychiatric disorder in 2012 (and only 15 million of the 173 million people sought treatment), and China accounted for 26 per cent of global suicides in 2016. Women suicided at a rate at least three times higher than men (the only country in the world where this is the case, see [Women](#)), and those in rural areas suicided at a rate at least three times higher than those living in urban areas. Unlike in other parts of the world, a low rate of psychiatric illness (particularly clinical depression) is associated with suicides in China. This is due to a combination of the unique cultural-socioeconomic disadvantages experienced by rural females in China and cultural attitudes toward suicide. However, there is some evidence to suggest suicide rates may be falling, which some observers have attributed to the rapid increase in rural female engagement in migrant work and

e-commerce, as well as smaller family sizes. In 2002, the Lancet reported 23.2 suicides per 100,000 people between 1995 and 1999. However, in 2016 Hong Kong University reported the average annual rate had dropped by 58 percent, to 9.8 per 100,000 between 2009 and 2011.

2.20 'Left behind children,' an unintended consequence of internal economic migration and the *hukou* registration system, can also face mental health issues and higher risk of abuse, suicide and delinquency (see Children and *Hukou* (household registration) system). Migrant workers are unable to change their *hukou* when relocating for work and are therefore unable to access health and education services for their families, forcing them to leave their children behind with their extended family or alone (see *Hukou* (household registration) system).

2.21 Despite growing demand for mental health services, Chinese people can be reluctant to seek professional help due to social stigma associated with mental illness.

### People living with Disability (PLWD)

2.22 Disability is generally hidden in China. Children living with disability (CLWD) are often kept in the home, abandoned, or placed for adoption and lack access to higher education, including due to social stigma and barriers set by the family (see Children). CLWD also experience higher rates of familial violence. Education for PLWD is managed by the Ministry for Disability, rather than by the Ministry of Education, which restricts the accessibility and level of education available to PLWD. The government maintains a quota for Chinese companies employing PLWD; however, sources report companies can avoid hiring PLWD if they pay a fine. Some foreign companies do provide employment opportunities for PLWD.

2.23 DFAT assesses that PLWD are at moderate risk of official and societal discrimination, as well as familial and societal violence in China.

### People living with HIV/AIDS

2.24 The *Regulations on the Prevention and Treatment of HIV/AIDS* state that 'no organisation or individual shall discriminate against HIV/AIDS infectors or patients or their families, and that HIV/AIDS patients enjoy the rights to employment, medical care and others'. However, the law also allows employers and schools to ban individuals with infectious diseases, and does not provide specific protections based on HIV status.

2.25 Lack of understanding and public anxiety associated with HIV/AIDS issues continues to cause widespread stigma and discrimination. At times, a person's HIV/AIDS status can be mistakenly conflated with sexual orientation (see [Sexual Orientation and Gender Identity](#)), leading to discrimination affecting access to employment, education, housing and health care for affected persons. People living with HIV/AIDS cannot work in the civil service and some businesses test employees and dismiss those who test positive for HIV. In 2017, state media reported some instances of people living with HIV/AIDS barred from housing, education, or employment due to their HIV status. Members of the LGBTI community claim they have been refused treatment at non-HIV specialist hospitals, despite being HIV negative, and are instead referred to HIV hospitals that may not offer specialities relevant to their condition.

2.26 DFAT assesses that people living with HIV/AIDS are at moderate risk of official and societal discrimination in China. DFAT has no specific information in relation to violence against persons living with HIV/AIDS; however, due to issues of conflation with sexual orientation, DFAT notes increased rates of familial and intimate partner violence are likely (see [Sexual Orientation and Gender Identity](#)).

## Employment

2.27 China's reported unemployment rate has been consistently around 4.1 per cent since 2011 (2018 UNDP Human Development Report estimate was 4.7 per cent; March 2019 media estimate is 5.3 per cent). This rate counts only registered workers with an urban *hukou* household registration (see [Hukou \(household registration\) system](#)), and does not include urban workers holding a rural registration, nor workers in rural areas. NGOs working on labour issues claim that in 2016-17, only 35 per cent of Chinese workers had official labour contracts. The 2017 official annual survey of migrant workers estimated there were 287 million rural migrant workers in 2017, which is more than one third of the entire working population of China.

2.28 Since 2013, reforms to state-owned enterprises and market developments in the coal and steel sector have led to pockets of underemployment and effective unemployment in coal- and steel-producing provinces, notably Liaoning, Heilongjiang, Shenyang and Shanxi. In March 2017, the government announced it would lay off 1.8 million workers in the coal and steel industries as part of efforts to reduce industrial over-capacity. While the government committed to re-deploying all workers, anecdotal evidence suggests many laid-off workers returned to subsistence lifestyles in rural areas, working for significantly less money or not finding work. At the same time, wages in manufacturing have been rising and now exceed those in much of Southeast Asia.

2.29 The services sector in China also continues to grow, with rising wages. However, China's economic transition from low-wage manufacturing towards service industries and high-value production, supported by reliance on automation and artificial intelligence, has affected the job market for unskilled and migrant workers. Migrant workers are now taking up informal employment in even poorer regulated platform based service industries (food delivery and courier service apps), rather than traditional labour based roles. Platform-based service industries are often sub-contracted, offer low earning potential, lack legal and social protection and provide poor working conditions.

2.30 Modern slavery remains unregulated in China and people can be trafficked into bonded labour overseas (see [Arbitrary Arrest and Detention](#), [Detention and Prison](#), [Children](#) and [Application of Family Planning Policy in Fujian](#)).

2.31 The official retirement age is 60 years for males, 55 for female white-collar workers, and 50 years for female blue-collar workers. While the government has suggested reforming the age of retirement, incrementally increasing it to 65 for both men and women, no change has come into effect.

2.32 DFAT assesses that employment conditions and economic opportunity are a significant driver of internal migration within China, particularly from rural to urban areas.

## Education

2.33 China's adult literacy rate is 95.1 per cent. Despite a nine-year compulsory education policy, children in China attend school for 7.8 years on average (females 7.6 years and males 8.3 years). Attendance rates vary according to location, and education standards vary considerably across the country. Schools in the high-income regions of Beijing, Shanghai, Jiangsu and Guangzhou perform well against international benchmarks such as the OECD's Programme for International Student Assessment (PISA), whereas schools in rural areas are under-resourced and must often not only educate, but also accommodate and feed, students who live in remote areas.

2.34 Gross enrolment in tertiary education throughout China increased from 2 per cent in 2006 to 39 per cent in 2014. As with health services, children whose birth has not been registered can face barriers accessing education, as can the children of migrant workers if they are forced to relocate outside of their *hukou* (see [Hukou \(household registration\) system](#), [Health and Children](#)).

## POLITICAL SYSTEM

2.35 China is a one-party state governed by the CCP (also known as ‘the Party’). While minor political parties exist, they are approved by and are subordinate to the CCP. The Party’s peak leadership body, the Politburo Standing Committee (PBSC), is responsible in practice for making all key decisions on foreign and domestic policy. The head of the Party, General-Secretary Xi Jinping (concurrently president and chairman of the Central Military Commission) is a member of the PBSC. PBSC members are drawn from the subordinate 25-member Politburo, which in turn is drawn from the Party’s central committee. The 2017-2022 PBSC has seven members, the same number as for the 2012-2017 term.

2.36 China’s government enacts policy decisions. The government is subordinate to the Party, which is an integral element of China’s government structure. Senior government officials at all administrative levels concurrently hold Party positions, and in almost all cases the local Party Secretary outranks the most senior government position. These structures are replicated across the country’s various administrative levels. The National People’s Congress (NPC) is the highest state body, and is China’s closest approximation to a parliament. In March 2018, under the leadership of President Xi, the NPC amended the Constitution to abolish presidential term limits and establish a National Supervision Commission (NSC) under the new *PRC Supervision Law* (2018) to investigate party members and civil servants (see [Corruption](#)).

2.37 The State Council is the most important administrative body of China’s central government. It oversees the implementation of policy decisions, as well as regulations and laws adopted by the NPC. The premier (currently Li Keqiang) is head of the State Council and China’s Head of Government. Premier Li is also a member of the PBSC.

2.38 Governments at the provincial level and below are responsible for the majority of public expenditure on health, education, unemployment insurance, social security and welfare. They have the power to enact their own regulations as a means of implementing laws adopted centrally. Below the provincial level are prefectural-level administrative units, counties and county-level cities, and finally townships and towns.

2.39 The government has allowed ‘grass-roots elections’ to take place every three to five years at the local (village) level in some provinces. This administrative level is outside the formal four-tier government system. According to China’s *Electoral Law* (1979; amended 2010), any citizen can become a candidate as long as they are nominated by the Party or receive 10 signatures supporting their candidacy. Party-appointed local election committees must confirm candidates, publish final lists of candidates, set rules for campaigning, and count and announce results. In practice, candidates not put forward by the Party are rarely successful.

## Corruption

2.40 China ranked 87 out of 180 countries and territories measured on Transparency International’s 2018 Corruption Perceptions Index. The most prevalent forms of corruption in China are bribery, diversion of public funds, and favouritism by government officials. Bribery, political interference and facilitation payments are common when acquiring public services and dealing with the judicial system.

2.41 Of Chinese companies surveyed in 2015, 35 per cent had paid bribes to government officials, and the 2017 Global Corruption Barometer found 26 percent of respondents in China had paid bribes when accessing public services, including education, health care, and the criminal justice system. The common practice of *guanxi*, a custom for building connections and relationships based on gifts, banqueting or small favours (see [Guanxi](#)), can also be considered bribery by foreign companies and by national and international anti-corruption laws.

2.42 On taking office in 2013, President Xi launched a nation-wide anti-corruption campaign promising to catch officials of both high and low rank. Authorities conducted 172,000 anti-corruption investigations in 2013, 330,000 in 2015, 527,000 in 2017, and 302,000 in the first half of 2018. By mid-2017, the crackdown had caught over 1,800 officials, including 182 officials ranked at or above the deputy provincial or deputy ministerial level. It had led to the arrest, expulsion from the Party or conviction for corruption of 1,130 officials (including 139 senior officials). Ousted senior officials include provincial Party secretaries, former generals, and former Politburo Standing Committee member Zhou Yongkang. Targets include heads of state-owned enterprise and officials who have fled China with large sums of public money.

2.43 The campaign has led to a decline in some corruption-related activities. The 2017 – 2018 Global Competitiveness Index ranked China 49th out of 137 countries for frequency of irregular payments and bribes, and 20th for favouritism by government officials, compared to 67th for irregular payments and bribes and 34th for favouritism by government officials in 2012. Nevertheless, corruption remains widespread in China. The government and Party did not implement the law consistently or transparently and court judgements were not uniformly enforced against Party members, the military, government departments or state owned enterprises.

2.44 In March 2018, the NPC adopted the *Supervision Law* (2018) and established a new National Supervision Commission (NSC), with subordinate Supervision Commissions at the province, city and country level. The NSC is the supreme supervisory organ of the state responsible for investigating corruption within the Party; People's Courts and Procuratorates; the People's Congress, their standing committees and subordinate organs; China's eight 'democratic parties'; managers of state-owned enterprises, public universities, public research institutes, public hospitals and sports units; and anyone performing 'public duties.'

2.45 Upon its creation, the NSC absorbed the investigative function of the People's Procuratorate and the entirety of the Ministry of Supervision (which no longer exists), effectively merging with the Central Commission for Discipline and Inspection (CCDI) (the Communist Party's internal corruption body). The NSC, in conjunction with the CCDI, is thus responsible for conducting graft and ideological investigations against all Party members and public officials. The NSC has the power to detain people under the *liuzhi* system in residential surveillance at a designated location (RSDL) for up to six months (an initial period of three months, extendable by a further three months), at undisclosed locations without access to a lawyer (see [Arbitrary Arrest and Detention](#) and [Detention](#)). Conviction rates for corruption cases, as with all criminal cases, are close to 100 per cent (see [Judiciary](#)).

2.46 The Party Central Committee's Propaganda Department maintains tight control over media coverage of the anti-corruption campaign and, consequently, state media rarely play a watchdog role. Authorities have detained members of the public, including journalists, who have sought to publicise official corruption beyond that endorsed by authorities. International observers report the government and Party have not implemented the PRC Supervision Law consistently or transparently; however, DFAT notes the law was only passed in March 2018. Likewise, court judgements have not been uniformly enforced against Party members, the military, government departments or state owned enterprises.

2.47 Prior to the Supervision Law (2018), anti-corruption confessions were obtained under the ‘*shuanggui*’ system, a detention system outside of the formal legal system. The ‘*liuzhi*’ system, a system of extra-legal detention not only for Party members but also for public servants investigated for misconduct (see Glossary), replaced the *shuanggui* system under the PRC Supervision Law (2018) (for comparison and recent cases see Treatment of Party and public officials).

## Guanxi

2.48 *Guanxi* is the Mandarin term for a system where progress in business or government relies heavily on patronage networks. Literally meaning ‘connection’, *guanxi* historically manifested through the provision of gifts, meals and favours. Along with China’s rapid economic development, expensive gifts of branded cigarettes and alcohol or lavish banquets quickly advanced to gifts of large sums of money, property or title.

2.49 The government has introduced a range of austerity measures to limit official hospitality in line with its anti-corruption campaign. *Guanxi*-related gifts can be considered bribery by foreign companies and by national and international anti-corruption laws, and anti-corruption laws are inconsistently and selectively enforced. Despite this, patronage networks and the notion of ‘building *guanxi*’ remains important within Chinese culture, particularly in business and government. A person’s *guanxi* can affect their ability to secure favourable outcomes such as access to senior officials, enrolment in preferred schools, universities, jobs or legal outcomes. A lack of *guanxi* can render such favourable outcomes unattainable.

## HUMAN RIGHTS FRAMEWORK

2.50 The Constitution provides for freedom of speech, the press, assembly, association and religious belief. Article 33 states that ‘all citizens of the People’s Republic of China are equal before the law. The State respects and preserves human rights’. In practice, however, the Constitution is non-justiciable and these freedoms are significantly curtailed. The one-party political system lacks effective safeguards to allow independent monitoring and investigation of human rights abuses by the state, such as an independent media, judiciary or a national human rights institution.

2.51 In December 2018, the State Council issued a white paper on ‘*Progress in Human Rights over the 40 Years of Reform and Opening Up in China*’, the 17th such report on human rights issued since 1991. These white papers emphasise China’s view of human rights in aspirational rather than legal terms, and stress the importance of improvements in social and economic rights over civil and political rights or ethnic and minority rights. China published its *National Human Rights Action Plan (2016–2020)* in October 2016.

2.52 Formally, China has opted into the international human rights framework by acceding to a range of human rights instruments. China has ratified the following primary international human rights conventions: the Convention against Torture and Other Cruel Inhuman or Degrading Treatment or Punishment (UNCAT); the Convention on the Elimination of All Forms of Discrimination against Women (CEDAW); the Convention on the Rights of Persons with Disabilities (UNCRPD); the International Covenant on Economic, Social and Cultural Rights (ICESCR); the Convention on the Rights of the Child (UNCRC) and its Optional Protocols on the involvement of children in armed conflict and on the sale of children, child prostitution and child pornography; and the International Convention on the Elimination of All Forms of Racial Discrimination (ICERD). China has signed but not ratified the International Covenant on Civil and Political Rights, and is the only permanent member of the UN Security Council not to have done so.

2.53 China is currently serving a three-year term on the UN Human Rights Council, which commenced in January 2017. China previously served on the UN Human Rights Council between 2006 and 2012, and between 2014 and 2016. China has generally pursued a defensive agenda within UN human rights institutions, focusing on curbing criticism by the UN and other governments. China occasionally permits external examination of its human rights situation. Professor Philip Alston, United Nations Special Rapporteur on extreme poverty and human rights, visited China in August 2016. While no UN human rights related visits have occurred since 2016, previous visits have examined issues of arbitrary detention (1997 and 2004); education (2003); freedom of religion (2004); torture (2005); food (2010); discrimination against women (2013); impacts of foreign debt on human rights (2015); and extreme poverty and human rights (2016). China participated in its second Universal Periodic Review (UPR) in October 2013 and third UPR in November 2018. Although it agreed at the UPR to allow visits by Special Rapporteurs on a range of issues, including water and sanitation, health, the environment, freedom of expression, human rights defenders, and freedom of assembly, China is yet to schedule the visits.

2.54 During the 2018 UPR China received 346 recommendations from 150 states focused on, but not limited to: China's international obligations and cooperation with international human rights mechanisms and bodies; lack of a national human rights institution; national security laws and their application towards ethnic minorities and human rights defenders; use of mass surveillance; lack of anti-discrimination laws; use of the death penalty; independence of the judiciary and political interference; freedom of expression and information; religious freedom; discrimination on the basis of sexual orientation and gender identity, ethnicity and religion; maltreatment and detention of human rights lawyers, journalists, political activists and other human rights defenders; policies towards Xinjiang and Tibet; and, the use of large scale internment/re-education camps and unlawful detention.

## SECURITY SITUATION

2.55 Gaining support for CCP policies throughout the country and maintaining social stability are top priorities for the CCP. To achieve this, the government deploys a vast internal security apparatus. China's internal security agencies include: the Ministry of Public Security, which is responsible, inter alia, for the police, border security and household registration (*hukou*, see [Hukou \(household registration\) system](#), [Health and Children](#)); the Ministry of State Security, the main intelligence agency; the People's Armed Police (PAP), a paramilitary force responsible for internal security; and the People's Liberation Army (PLA), China's military (see also [Military](#) and [Police](#)). In November 2013, President Xi established a new National Security Commission to strengthen coordination of both international and domestic security issues.

2.56 Security personnel and surveillance technology are ubiquitous throughout China. Increased artificial intelligence (AI) capabilities serve China's economic and military modernisation interests, while simultaneously enhancing Party stability through increased power to surveil and control the population (see [The Social Credit System](#)).

2.57 Some reports estimate 170 million surveillance cameras have been installed in cities and towns across the country in the past decade. Everyday street crime and violence in China's major cities is generally low. Sensitive social groups, including religious organisations, Uighur and Tibetan ethnic groups, Falun Gong practitioners and human rights activists, have alleged that the government uses a range of surveillance methods to monitor their activities. Since 2016, media have reported that Chinese police and security agencies have begun combining photo databases, artificial intelligence and facial recognition technology installed in surveillance cameras to track down criminal suspects and 'destabilising agents' in society.



2.58 Since 2010, China's expenditure on internal security agencies such as the police, the PAP, the courts and the prison system has outstripped spending on the military. In 2016, the gap between domestic security and defence expenditure reportedly reached a record high of 13 per cent, with domestic security expenditure increasing by 17.6 per cent compared to the previous year, to exceed RMB 1 trillion (AUD 209.4 billion), while defence expenditure only increased by 7.5 per cent. However, the actual amount China spends on its military and domestic security is widely debated. Most foreign experts, governments and relevant publications concur that Chinese statistics on security spending do not include some outlays that are standard reporting for most other countries, and note there is no way to verify the accuracy of official figures reported by China.

2.59 Domestic security expenditure across all provinces and regions increased by 215 per cent between 2007 and 2016, and continued to grow in 2018 - particularly in sensitive minority regions such as Xinjiang and Tibet, where security remains volatile due to heightened ethnic tensions and government attempts to curb perceived threats to social stability (see [Ethnic Uighurs](#) and [Ethnic Tibetans](#)). Over the same 10 year period, security expenditure increased by 411 per cent in the Xinjiang Uighur Autonomous Region (XUAR, Xinjiang), by 404 per cent in the Tibet Autonomous Region (TAR) and 316 per cent in Qinghai (where the population is approximately 25 per cent Tibetan). In February 2018, Xinjiang reported a 92.8 per cent increase in its domestic security spending, from RMB 30.05 billion (AUD 6.3 billion) in 2016 to RMB 57.95 billion (AUD 12.9 billion) in 2017. The increase in security spending in TAR is estimated at 9.3 per cent, although TAR maintains its position as the region with the highest per capita domestic security expenditure of all provinces and regions since 2008, ahead of Xinjiang. Analysts of Chinese security expenditure suggest that per capita domestic security spending in sensitive minority regions is now higher than per capita domestic security spending in the US or Russia (PP adjusted by wage levels).

2.60 In June 2017, China's National People's Congress Standing Committee also passed a new *National Intelligence Law* (2017; amended 2018) which forms part of a national security legal architecture introduced in 2014 which includes the *Counter-Espionage Law* (2014), *Criminal Law* (1979; Amended 2015), *National Security Law* (2015), *Anti-Terrorism Law* (2015) and *Cyber Security Law* (2017). The National Intelligence Law calls upon all elements of Chinese society, including individuals, to contribute to national intelligence work. The law *inter alia* empowers security agencies: to launch intelligence operations in China and abroad; to collect intelligence on foreign bodies 'engaged in activities that may harm China's national security or its interests'; to monitor suspects, raid premises or seize vehicles during the investigation of domestic or foreign individuals or groups; to gain priority use of transportation or telecommunications equipment, buildings or enterprises; and to employ 'technical reconnaissance' measures with permission. The law explicitly requires security agencies to act in strict compliance with laws relating to the protection of human rights, and states agencies should not exceed their authority or abuse their powers. DFAT is aware of reports of kindergarten children being given homework instructing how they should assist state security officers.

## 3. REFUGEE CONVENTION CLAIMS

### RACE/NATIONALITY

3.1 Chapter Two of the Constitution, Fundamental Rights and Duties of Citizens, prohibits discrimination on the grounds of ethnicity and protects people's ability to use and develop their own spoken and written languages, and to preserve or reform their own folk customs. Article 4 of the Constitution also commits the government to upholding 'equality, unity and mutual assistance' among all of China's 56 recognised ethnic groups (see [Demography](#)). However, President Xi has reportedly directed the government to 'sinicise' China's ethnic and religious minorities (see [Ethnic Uighurs](#), [Ethnic Tibetans](#) and [Religion](#)).

3.2 China has 155 Autonomous areas (consisting of the five 'regions' mentioned previously, as well as 30 'prefectures' and 120 'counties' distributed throughout its territory where people of one ethnic minority live in concentrated communities. These areas encompass 44 of China's total 55 recognised ethnic minorities and account for 64 per cent of China's total territory. According to the Constitution and the *Regional Ethnic Autonomy Law* (1984; Amended 2001), autonomous regions have greater legislative authority than provinces, including a certain degree of self-government (for example, senior government representatives can be drawn from the dominant ethnic group) (see [Demography](#)).

3.3 The 19<sup>th</sup> Party Congress elected 15 members of ethnic minority groups to the 202-person Central Committee. There are no representatives of ethnic minority groups in the Politburo. There is one representative currently serving as a Party Secretary with a provincial jurisdiction, and there are representatives of ethnic minority groups in leadership roles in provincial governments.

3.4 The government has invested heavily in Tibet and Xinjiang (the only two autonomous regions where the largest ethnic minority group outnumbers the local Han population) to improve livelihoods and material living standards. However, rising numbers of (mostly) Han Chinese migrants have increased competition for economic opportunities, and altered traditional livelihoods and cultural practices. Han Chinese have also disproportionately benefited from government programs and economic growth in minority regions. In some cases, resulting grievances have led to resentment and violence between Han and ethnic minority communities. In September 2018, the UN Committee on the Elimination of Racial Discrimination reported concern that ethnic Uighurs, Mongolians and Tibetans, along with other ethnic minorities, often face discrimination in job advertisements and recruitment processes.

3.5 In March 2017, the UN Special Rapporteur on Extreme Poverty and Human Rights stated that, despite the government's dialogue on the promotion of equality, most ethnic minorities in China are exposed to serious human rights challenges such as higher poverty rates, ethnic discrimination and forced relocation. Broader political issues also compound the situation for Uighurs and Tibetans.

## Uighurs

3.6 Uighurs are an ethnically Turkic, predominantly Muslim people native to Central Asia (see [Muslims](#)). Uighurs are predominantly Sunni Muslims, but also identify themselves according to a secularised cultural identity and, in some cases, traditional Sufism.

3.7 The estimated 11 million Uighurs in China live mostly in the southern, poorer areas of the Xinjiang Uighur Autonomous Region (XUAR, Xinjiang, the only Muslim-majority province), as well as in Gansu, Qinghai, Tibet and Hunan. Xinjiang is the largest region of China, and borders Mongolia, Afghanistan, Pakistan, India and the former Soviet Central Asian republics.

3.8 Uighurs accounted for around 45 per cent of the total population of Xinjiang in the 2010 census; Han Chinese accounted for around 40 per cent. Han Chinese account for 75 per cent of the population in Xinjiang's capital, Urumqi. This reflects decades of state-sponsored Han resettlement: in 1949, Han comprised only an estimated six per cent of the Xinjiang population. Average life expectancy in Xinjiang is 72.35 years, which is slightly lower than the national average.

3.9 There is considerable international concern regarding the treatment of Uighurs in Xinjiang. In September 2018, the UN Committee on the Elimination of Racial Discrimination (CERD) reported over one million people, including large numbers of ethnic Uighurs and other Muslim minorities, had been detained in political and cultural re-education centres in Xinjiang. The Australian Strategic Policy Institute has produced a map, informed by satellite imagery, detailing the locations of re-education centres in Xinjiang. While the government denied these claims, in October 2018, the Xinjiang government issued regulations regarding the use of 'vocational skills and educational training centres' to 'counter extremism' through 'transformation.'

3.10 UN CERD has also expressed concern over claims of human rights abuses in Xinjiang, including:

- people being held in incommunicado detention without being charged or tried, often for long periods, under the pretext of countering religious extremism;
- mass surveillance disproportionately targeting ethnic Uighurs, including frequent police stops, scanning of mobile phones at police checkpoint stations, and mandatory collection of extensive biometric data of Uighur residents (including DNA samples and iris scans);
- imposition of travel restrictions (as detailed above), including on those wishing to travel for religious purposes;
- cases of Uighurs who had left China allegedly returned against their will, with fears for their safety, and;
- banning of Uighur language education from schools (sources report this change to the language of educational instruction has generalised across Xinjiang).

3.11 The Chinese government's actions in Xinjiang follows several violent incidents that occurred in Xinjiang during the last decade, resulting in both Uighur and Han casualties. Riots in Urumqi on 5 July 2009 resulted in approximately 200 (mostly Han) deaths. Terrorism incidents, purportedly linked to Uighur separatists, have also occurred throughout Xinjiang as well as in Yunnan and Beijing in the past.

3.12 The government has implemented a zero-tolerance campaign against separatists and terrorists and maintains a heavy security presence across Xinjiang, which has increased ethnic tensions (see Security Situation). This approach has intensified since August 2016, when the former Party Secretary of Tibet, Chen Quanguo, became Party Secretary of Xinjiang.

3.13 The government has carried out high-profile prosecutions of persons with suspected links to violent incidents. These have included mass arrests, mass trials and mass sentencing. Sentences have included the death penalty and executions have been carried out. Some Uighurs have received lengthy sentences for their political views: a prominent Uighur academic, Ilham Tohti, has been serving a life sentence since 2014 for alleged separatism for advocating on social media greater cultural and religious autonomy for Uighurs. Others have reportedly received lengthy prison sentences for conducting religious activities that have included circulating passages from the Koran, praying in groups, and observing Ramadan (see [Muslims](#)). Chinese authorities tightly control access to information about incidents of violence in Xinjiang and related legal cases, and information is difficult to verify.

3.14 DFAT is unable to verify claims that the government subjects many Uighurs in rural prefectures to forced labour (*'hashar'*). Media has reported that government officials in Hotan announced a new ban on *hashar* in 2017, despite the Party claiming compulsory labour had been banned in Xinjiang decades earlier. Media has also reported that Uighurs detained in re-education centres in Xinjiang have been taught 'vocational skills,' including manufacturing in textiles, and are providing labour in nearby factories (see [Arbitrary Arrest and Detention](#)).

3.15 Authorities cite the need to curb extremism to justify extreme security measures in Xinjiang. In November 2016, the government confiscated the passports of all Uighurs in Xinjiang, citing the need to prevent terrorists from travelling to the Middle East as foreign fighters. In 2017, media reported the passport recall expanded to all Uighurs in China, as a part of heightened security measures linked to the 19<sup>th</sup> Party Congress. Any Uighur wishing to travel abroad had to apply to have their passport returned. The government has also increased efforts to surveil and control the Uighur diaspora: Chinese authorities ordered Uighurs studying abroad to return by May 2017 and, at the request of Chinese authorities, over 200 Uighur students living in Egypt were arrested and returned to China in July 2017. Media reports claim some returning Uighur students were detained in re-education centres, and some died in custody. Chinese security agencies have also allegedly detained family members of Uighurs living abroad, in some cases to force returns (see [Arbitrary Arrest and Detention](#)). Sources report officials regularly subject Uighur families to 'homestays,' during which Uighur families are reportedly required to provide officials with information about their lives and political views and are subjected to political indoctrination.

3.16 In May 2019, Human Rights Watch published a report, *China's Algorithms of Repression*, detailing the capacities of a mass surveillance app used by Xinjiang police and other officials to communicate with the Integrated Joint Operations Platform (IJOP) used for mass surveillance in Xinjiang. Human Rights Watch reports that officials use the IJOP app collect personal information; report on activities or circumstances deemed suspicious (Xinjiang authorities consider many forms of lawful, non-violent behaviour - including not socialising with neighbours or not using the front door - as suspicious); and prompt investigations of people the system flags as problematic. The IJOP system surveils and collects data on everyone in Xinjiang, and tracks the movement of people by monitoring the trajectory and location data on mobile phone handsets, ID cards and vehicles. The IJOP app collects personal information including, but not limited to, the colour of a person's car and their height, and links this information to their national identification number. Dependent on the level of perceived threat and based on factors programmed into the IJOP system, an individual's freedom of movement can be restricted. Restrictions include detention in re-education centres, house arrest, not being allowed to leave a registered location, not being allowed to enter public spaces or not being allowed to leave

China. The IJOP app also scores government officials on their performance in fulfilling tasks and is a tool for higher-level supervisors to assign tasks to, and monitor the performance of, lower-level officials.

3.17 The Chinese government has also implemented a range of policies targeted at education and family planning for Uighurs in Xinjiang. The government uses cash incentives to encourage marriages between Uighur and Han Chinese and to reward Uighur families that have fewer children than the permitted limit for ethnic minorities (see [People affected by Family Planning Policies](#)). DFAT is also aware of, but cannot verify, reports of forced sterilisation of Uighur women. Many Uighur groups and international human rights organisations also claim the Chinese government's policies, including those aimed at modernising Xinjiang's economy, maximising exploitation of minerals and resources and encouraging Han migration, have disproportionately benefited the Han community and undermined Uighurs' religious and ethnic identity (see [Muslims](#)).

3.18 Some Mandarin-educated middle-class Uighurs have been able to successfully integrate into mainstream society, including through joining the CCP. Uighurs serve in the Xinjiang administration. However, in April 2019, Nur Bekri, a Uighur who was the Vice Chairman of the National Development and Reform Commission, was removed from his position and arrested over allegations of bribery. Sources report Uighurs with poor Mandarin skills can have trouble obtaining employment in Han-dominated companies. Uighurs, including those with good Mandarin skills, report experiencing discrimination in other parts of the country, including being denied accommodation at hotels or being subjected to regular security and police checks, both in the street and in their homes.

3.19 DFAT assesses that Uighurs in Xinjiang and in other parts of China face a high risk of official discrimination due to their ethnicity, particularly where authorities perceive them to be politically or religiously active (see [Muslims](#)). As a result of the government's zero-tolerance campaign against separatists and terrorists, and social pressures enforced by reporting obligations under the national security laws, DFAT assesses Uighurs in other parts of China face an increasing risk of moderate societal discrimination due to their ethnicity (see [Security Situation](#) and [The Social Credit System](#)).

## Tibetans

3.20 There are over six million ethnic Tibetans in China, mostly residing in the Tibetan Autonomous Region (TAR), as well as ethnically Tibetan areas of Gansu, Yunnan, Qinghai and Sichuan. The Chinese government has invested heavily in economic development in the TAR in line with its 'leapfrog development' policy. According to government statistics, RMB 400 billion (approximately AUD 82.9 billion) has been invested since 1959. The region has a 15-year free compulsory education policy and residents are entitled to 75 to 95 per cent reimbursement for medical care. Officially, farmers and herders are exempt from agricultural taxes. The government claims to have provided 90 per cent of farmers and herders with new government-built housing, although DFAT is aware of cases of Tibetans forced to give up their centrally located land in exchange for government housing in city outskirts. According to the UNDP China Human Development Report, average life expectancy in the TAR was 68.17 years in 2010, compared to a national average of 74.83. In 2015, 37 per cent of Tibetans aged 15 and older were illiterate, compared with around 5 per cent of Chinese overall. Ethnic Tibetans participate in the TAR government, including in senior roles, and middle-class Tibetans educated in Mandarin can live and work in other parts of China.

3.21 Tibetan activists and human rights groups claim the benefits of development have disproportionately accrued to Han migrants and have come at the cost of traditional Tibetan livelihoods, the environment, and religious freedom. Policies to maintain stability include mass surveillance and propaganda campaigns (see [Security Situation](#)). Media and NGO reports say Tibetan authorities have confiscated passports of ethnic

Tibetans in the TAR, Gansu, Qinghai and Sichuan since 2015. Since 2013, the Nepalese government has increasingly detained and repatriated Tibetans crossing informally into Nepal, and Tibetans attempting to cross from Nepal into India.

3.22 In March 2008, on the eve of the 49<sup>th</sup> anniversary of a Tibetan uprising against Chinese rule, protests by Tibetan monks in Lhasa turned violent with numerous Han Chinese casualties. The International Campaign for Tibet lists 731 Tibetans imprisoned since then, some of whom have been released, some executed, and some of whom have died in custody (see [Deaths in Custody](#)). The International Campaign for Tibet lists the names of 153 Tibetans who have self-immolated in protest against Chinese government policies in Tibet or in support of the Dalai Lama's return to Tibet. Tibetan groups report official discrimination against and surveillance of Tibetans travelling in non-Tibetan areas of China. The Chinese government restricts travel by foreigners, particularly foreign diplomats and media, to the TAR, making it difficult to verify the situation on the ground. Foreigners who have travelled to Tibet report a heavy security presence throughout the region.

3.23 In September 2018, the UN CERD stated concern regarding reports that: Tibetans were subjected to significant restrictions on movement within and beyond the TAR, and the issuance of passports for foreign travel was almost entirely banned in the region; Tibetan language teaching in schools in the TAR had been significantly restricted and had not been placed on an equal footing in law, policy and practice with Mandarin; Tibetan language advocacy had been punished; and Tibetans did not have access to Tibetan language translations during court proceedings, which were held in Mandarin.

3.24 DFAT assesses that Tibetans face a high risk of official discrimination in the TAR and other Tibetan regions in China. Ethnic Tibetans in other parts of China face a moderate risk of official and societal discrimination.

## Mongolians

3.25 According to 2010 census statistics, there are over 4 million ethnic Mongolians living in the Inner Mongolia Autonomous Region (IMAR), although other population estimates range up to 6 million. Ethnic Mongolians can face internal displacement. A large number of farmers and nomadic herders have lost their traditional lands and livelihoods owing to poverty alleviation and ecological restoration resettlement measures. Official policies on ecological migration and livestock grazing ban policies have negatively affected ethnic Mongolian traditional pastoralist lifestyles.

3.26 In September 2018, the UN CERD reported concern regarding: abuse by state authorities against ethnic Mongolians peacefully protesting against confiscation of land and development activities resulting in environmental harm; insufficient or lack of compensation for expropriated property, or loss of traditional livelihoods as herders owing to bans on livestock grazing; lack of informed consent regarding resettlement, despite an official policy of voluntary resettlement; and a significant reduction in the availability of Mongolian language public schooling.

3.27 DFAT assesses that Mongolians face a moderate level of official discrimination regarding access to land rights in China.

## RELIGION

3.28 China is a religiously diverse country with a rich and complex society of faiths, belief systems and organised religious groups. Confucianism, Taoism and Buddhism constitute the 'three teachings', a philosophical framework which historically has had a significant role in shaping Chinese culture, including traditional folk religions. Christianity has been present in China since the seventh century but increased when Catholics became active in the late thirteenth century and through Protestant Christian missionaries in the nineteenth century. The establishment of the PRC in 1949 under the control of the atheist CCP resulted in the expulsion of Christian missionaries and the establishment of 'Patriotic Associations': government-affiliated organisations which seek to regulate and monitor the activities of registered religious organisations on behalf of the CCP.

3.29 In 2018, the Government attempted to regulate religious groups to prevent challenges to CCP and Government control. As religious observance has grown, the CCP has increased oversight and worked to tighten control over state-sanctioned religious organisations. Nevertheless, despite the atheist nature of the ruling CCP, as many as 25 per cent of Party officials in some localities are estimated to engage in some type of religious activity (mostly associated with Buddhism or folk religion).

3.30 It is difficult to provide exact figures on the number of religious believers in China. In 2018, the government released a white paper on *China's Policies and Practices on Protecting Freedom of Religious Belief* (CPPPFRB white paper). This states the major religions practiced in China are Buddhism, Taoism, Islam, Catholicism and Protestantism, and religious believers total almost 200 million (including more than 380,000 clerical personnel). The white paper also notes the majority of 10 of China's ethnic minorities, totalling 20 million people, follow Islam (around 57,000 clerical personnel); 6 million follow Catholicism (8,000 clerical personnel); and 38 million follow Protestantism (57,000 clerical personnel).

3.31 The CPPPFRB white paper indicates there are also approximately 5,500 religious groups in China, including seven national organisations: the Buddhist Association of China, Chinese Taoist Association, China Islamic Association, Chinese Catholic Patriotic Association, Bishop's Conference of Catholic Church in China, National Committee of the Three-Self Patriotic Movement of the Protestant Churches in China, and the Christian Council. There are also an estimated 144,000 places of worship in China: 28,000 Han Buddhist temples; 3,800 Tibetan Buddhist lamaseries; 1,700 Theravada Buddhist temples; 9,000 Taoist temples; 35,000 Islamic mosques; 6,000 Catholic churches and places of assembly spread across 98 dioceses, and 60,000 Protestant churches and places of assembly. China also has 91 religious schools, approved by the State Administration of Religious Affairs (SARA), where more than 10,000 students study, including: 41 Buddhist, 10 Taoist, 10 Islamic, nine Catholic and 21 Protestant schools. It has six national level religious colleges: the Buddhist Academy of China, High-Level Tibetan Buddhism College of China, Chinese Taoism College, China Islamic Institute, National Seminary of the Catholic Church in China, and Nanjing Union Theological Seminary.

3.32 In practice, the number of religious believers, places of worship and religious organisations is likely to be much higher - particularly with respect to unregistered organisations (including house churches) which operate in parallel to state sanctioned Christian churches. Freedom House estimates there are more than 350 million religious believers in China who are mostly Chinese Buddhists (185 to 250 million), followed by Protestants (60 to 80 Million, of which only 30 million are registered), Muslims (21 to 23 million), Falun Gong practitioners (7 to 20 million), Catholics (12 million, of which 6 million are registered) and Tibetan Buddhists (6 to 8 million). Other otherwise unaccounted for groups tend to observe aspects of Buddhism, Daoism and 'folk religion'. Discrepancies between official statistics and international estimates are due to the fact that China does not recognise worshippers who engage in religious activity outside of state-sanctioned organisations or believers who are under 18.

## Religion in Fujian

3.33 While a wide variety of religions are practised across China, they are generally able to thrive to a greater degree in Fujian province (Fujian). This is largely due to Fujian's ethnic and linguistic diversity and historical geographical isolation from other parts of China. However, Fujian's links with other areas of China increased following the mid-1950s completion of a railway line that connected Xiamen to other areas of China.

3.34 Fujian, home to only 2.8 per cent of the Chinese population, is located in the southeast of the People's Republic of China, bordered by Zhejiang Province to the north, Jiangxi Province to the west and Guangdong province to the south. Its main cities are Fuzhou, Xiamen and Quanzhou, which are all located along or close to the coast facing the Taiwan Strait. Quanzhou linked Tang dynasty China (618 – 907) with Southeast Asia through trade and shipping.

3.35 Because of poverty and poor agricultural productivity, Fujian residents have a long history of emigration to Southeast Asia and, in more recent times, to the United States, Europe, Australia and Africa. Fujian is the historic 'hometown' of many overseas Chinese and in 2017 there were an estimated 15.8 million people originating from Fujian residing across 180 countries and regions overseas. The historical willingness of people from Fujian to travel overseas continues in 2019.

3.36 DFAT assesses that individuals in Fujian have historically practised religion more freely within state-sanctioned boundaries than in other parts of China, as long as practices do not challenge the interests or authority of the Chinese Communist Party. However, DFAT assesses religious control in Fujian has incrementally tightened, albeit from a looser base, in line with the rest of the country (See [Government Framework regarding religion](#)).

## Government framework regarding religion

3.37 Chinese law recognises five religions (Buddhism, Taoism, Islam, Catholicism and Protestantism), members of which must register with the government's Patriotic Associations mentioned above (Protestants must be non-denominational). These organisations must be independent of foreign associations (for example, the Vatican).

3.38 Article 36 of the Constitution states that citizens enjoy freedom of religious belief, and that no state organ, public organisation or individual may compel citizens to believe in, or not believe in, any religion. Discrimination on the basis of religion is prohibited by law. According to China's 2018 CPPPFRB white paper, every citizen 'enjoys the freedom to choose whether to believe in a religion; to believe in a certain religion or a denomination of the same religion; to change from a non-believer to a believer and vice versa. Believers and non-believers enjoy the same political, economic, social and cultural rights, and must not be treated differently because of a difference in belief.' However, Article 36 of the Constitution also states that no one may make use of religion to engage in activities that disrupt public order, impair the health of citizens or interfere with the educational system of the State. This is enforced by Chinese public security officials who monitor registered and unregistered religious groups.

3.39 Historically, the CCP's United Front Work Department (UFWD), State Administration for Religious Affairs (SARA), and the Ministry of Civil Affairs provided policy guidance and supervision on the implementation of the regulations. However, in 2018 the CCP moved religious affairs under the direct purview of the UFWD, and thus the CCP's Central Committee. To 'ensure centralised and unified leadership,' the UFWD absorbed



SARA and has direct oversight of the State Ethnic Affairs Commission and the Overseas Chinese Affairs Office, and has been elevated to a level of importance not seen since 1949.

3.40 The conditions governing the establishment of religious bodies and religious sites, the publication of religious material, and the conduct of religious education and personnel are outlined in the *Regulations on Religious Affairs* (RRA). In April 2017, President Xi called on CCP officials working in religious administration to reassert the Party's 'guiding' role in religious affairs. Xi's speech emphasised the need to 'sinicise' religion, to ensure religious rights did not impinge on CCP authority, and to enforce the prohibition on Party members from belonging to any religion. In September 2017, the State Council approved revisions to the 2005 RRA, which came into effect on 1 February 2018. The RRAs devolve substantial powers and responsibility to local authorities to prevent illegal religious behaviour, including undue influence from foreign organisations. Local authorities have significant discretion in interpreting and implementing the regulations at the provincial level.

3.41 The 2018 RRAs 'protect citizens' freedom of religious belief, maintain religious and social harmony and regulate the management of religious affairs,' and give state-registered religious organisations rights to possess property, publish literature, train, and approve clergy, collect donations, and proselytise within (but not outside) registered places of worship and in private settings (but not in public). Government subsidies are also available for the construction of state-sanctioned places of worship and religious schools.

3.42 According to the State Council, the RRA also 'curb and prevent illegal and extreme practices,' and emphasise the need to prevent 'extremism', indicating they may target Uighur Muslims and Tibetan Buddhists. The RRAs: restrict religious education in schools; restrict the times and locations of religious celebrations; impose fines for organising illegal religious events or fundraising; detail procedures for approval and monitoring of religious training institutions and monitoring online religious activity; detail a requirement to report all donations over RMB 100,000 (AUD 20,750); prohibit registered religious organisations from distributing unapproved literature, associating with unregistered religious groups, and accepting foreign donations (previously permitted); and prohibit foreigners from proselytising. Parallel provisions in the Foreign NGO Law also prohibit foreigners from donating funds to Chinese religious organisations, or raising funds on their behalf.

3.43 The devolution of enforcement of the RRAs to local government and Party authorities also affects unregistered Christian churches. Historically, those involved with unregistered churches could be charged with fraud. However, under the RRA it is now considered a crime to organise people for the purpose of religion (with a particular focus on the organisers).

3.44 Broadly speaking, religious practice in China is possible within state-sanctioned boundaries, as long as such practices do not challenge the interests or authority of the Chinese government. While practice of non-recognised faiths or by unregistered organisations is illegal and vulnerable to punitive official action, it is, to some degree, tolerated, especially in relation to traditional Chinese beliefs. Nevertheless, restrictions on religious organisations vary widely according to local conditions, and can be inconsistent or lack transparency, making it difficult to form general conclusions.

3.45 Religious practice that the government perceives as contravening broader ethnic, political or security policies (for example, see [Uighurs](#) and [Muslims](#)) is at high risk of adverse official attention. China has one of the largest populations of religious prisoners, estimated in the tens of thousands. Human rights groups claim, but DFAT cannot verify, that some religious prisoners are tortured and killed in custody. Since 1999, the US State Department has annually designated China as a country of particular concern for religious freedom due to continued reports of arbitrary detentions and violence with impunity.

3.46 Members of religious groups claim government authorities continue to press to install CCTV at all religious sites, and failure to comply can lead to authorities cutting power and water, or restricting rental space to pressure compliance. According to media, in April 2018, the Zion Church in Beijing (one of Beijing's largest unofficial Protestant house churches) refused a request from government authorities to install 24 CCTV cameras, including in worship areas, for security purposes. Churchgoers were reportedly harassed by police and state security officials at their homes and places of employment, and the Zion Church was evicted by its landlord.

3.47 Regulations prohibiting proselytising are generally enforced across Chinese cities. Public expressions of faith are more vulnerable to adverse treatment than private worship (including in small groups). In Rongcheng, Shandong, an Social Credit System (SCS) pilot area (see [The Social Credit System](#) and [Security Situation](#)), residents of First Morning Light, a neighbourhood of 5,100 families, have taken the official Rongcheng SCS pilot a few steps further and introduced their own SCS penalties for 'illegally spreading religion.' DFAT is aware of reports of foreigners, including religious missions, being refused entry at churches due to pressure from local authorities.

3.48 DFAT assesses an individual's ability to practise religion can be influenced by whether the individual exercises faith in registered or unregistered institutions, whether they practice openly or privately, and whether or not an individual's religious expression is perceived by the CCP to be closely tied to other ethnic, political and security issues.

3.49 While the Constitution and 2018 RRA allow for sanctioned religious belief, DFAT assesses adherents across all religious organisations – from state-sanctioned to underground and/or banned groups – faced intensifying official persecution and repression in 2018, which continues in 2019. However, DFAT assesses that as Buddhism (as compared to Tibetan Buddhism) and Daoism are part of China's cultural heritage and are not associated with foreign influence, believers are unlikely to experience significant restrictions.

## Muslims

3.50 Muslims account for 1.8 per cent of the population (approximately 25 million people), although estimates vary. The highest concentration of Muslims is in western China, primarily in Xinjiang (the only Muslim majority province), Ningxia Autonomous Region (NAR), and Gansu. Other significant Muslim populations reside in Henan, Qinghai, Yunnan, Hebei and Shandong.

3.51 China has 10 major Muslim ethnic groups, the largest of which are the Hui who are predominantly based in the NAR, Gansu, Qinghai, and Yunnan provinces. The Hui are relatively assimilated, speak Mandarin and tend to look similar to Han Chinese, to whom they are ethnically related. Uighurs (see [Ethnic Uighurs](#)), primarily based in Xinjiang, are also predominantly Muslim. According to the government, 23,000 of China's over 30,000 mosques are in Xinjiang.

3.52 China's 2018 CPPPFRB white paper notes the *Regional Ethnic Autonomy Law* (1984; Amended 2001) states organs of self-government in ethnic autonomous areas shall guarantee citizens of all ethnic groups the freedom of religious belief (see [Religion](#)). In practice, however, authorities have increasingly restricted expressions of the Islamic faith, and officials apply the law rigorously and tightly control religious activity in relation to Uighur Muslims (see [Ethnic Uighurs](#)). Xinjiang is of particular concern to the government due to Xinjiang's ethnic and religious ties to neighbouring states and an increase in attacks against government workers and civilians, including bombings, and vehicle and knife attacks. The government alleges the East Turkestan Islamic Movement (ETIM), a militant Islamic separatist group, is behind the violence, but experts

suggest the threat posed by ETIM may be exaggerated. However, authorities claim such attacks have not occurred in recent years as a result of policies in place in Xinjiang.

3.53 In 2017 and 2018, restrictions against certain practices were formalised in laws and regulations such as (but not limited to) the *Xinjiang Regulations Against Extremism* (2017; Amended 2018) (Xinjiang Regulations). These restrictions, which had been in place for some time, target practices such as: 'generalising the concept of halal,' wearing full veils or masks, growing beards, using religious names for Muslim newborns, and marrying only in religious ceremonies (without formal marriage under law). It is also illegal under Chinese law for people under the age of 18 to attend prayer at mosques, and for government officials or students to fast during Ramadan, or to participate in private religious education.

3.54 Article 33 of the Xinjiang Regulations also notes 'educational transformation institutions such as vocational skill education and training centres shall teach the national common language, laws and regulations, and vocational skills, and; centres should organize and carry out anti-extremist ideological education, psychological correction, and behaviour correction to transform the thinking of the trainees so as to help them return to society, and to their family'.

3.55 In September 2017, Radio Free Asia reported that Xinjiang police were confiscating all 'Islamic-related items', including prayer mats and copies of the Koran. In 2016 and 2017, officials in Xinjiang actively prohibited Ramadan observance, reportedly forcing people to eat during the day.

3.56 Courts in Xinjiang have handed down a number of sentences to people convicted of conducting religious activities (see [Ethnic Uighurs](#)). In June 2017, for example, a court sentenced a person to two years in prison for posting Islamic religious instruction on social media. Reports also indicate Uighurs have been jailed for distributing unauthorised religious material on the internet, and large numbers of Muslims have been sent to 're-education centres'. According to media reporting, behaviour which could lead to detention in such a centre includes, but is not limited to: following a 'halal lifestyle,' preventing children from attending state education, refusing to watch state television or listen to state radio, and spreading religious fanaticism by having 'abnormal beards' or 'unusual names.'

3.57 While non-Uighur Muslims in the rest of China have historically experienced greater religious freedom, the government backed China Islamic Association is reportedly developing a five-year plan to sinicise Islam, which media claims is mostly targeted at Hui Muslims. In November 2018, Chinese state media also reported local authorities in the NAR had signed a 'cooperation anti-terrorism agreement' with Xinjiang, to 'learn from the latter's experiences in promoting social stability.'

3.58 In August 2018, hundreds of ethnic Hui protested in Tongxin, Ningxia, following the demolition of the newly built, Islamic-style Weizhou Grand Mosque. The Weizhou Grand Mosque had originally been a Chinese-styled building which was demolished during the Cultural Revolution. The Islamic-styled mosque was rebuilt with local government support, however was accused of contravening China's policy of religious sinicisation. Restrictions on religious expression have led some Hui to fear increasing restrictions on their religious practice.

3.59 DFAT assesses state sponsored religious control of Muslim Uighurs was significant in 2018, and remains so in 2019. DFAT assesses Uighur Muslims in Xinjiang face a high risk of official and societal discrimination based on their religion. DFAT assesses Uighur Muslims outside of Xinjiang face a high risk of official discrimination due to their religion and a moderate risk of societal discrimination.

3.60 DFAT assesses that non-Uighur Muslims in other parts of China have historically faced a low risk of official and societal discrimination (as they are more integrated and are not perceived to pursue an

independence agenda); however, DFAT notes a trend of official discrimination towards all Muslims grew in 2018, and continues to do so in 2019.

## Buddhists

3.61 Buddhism is acknowledged as a major religious faith in China. However, with the exception of Tibetan Buddhism, there is no clear distinction between Buddhism, so-called ‘folk religions’ and Daoism, all of which exert an influence in Chinese culture.

3.62 As an East Asian religion, Buddhism has not been targeted for ‘sinicisation’ in the same way as Christianity or Islam, although DFAT is aware of instances where local officials have targeted Buddhist monks and nuns for performing rites regarded as superstitious. In 2017, SARA issued ‘Guidelines on Further Controlling the Commercialization of Buddhism and Taoism,’ which ‘prohibit commercial capital from being invested in religious revenues, to prevent normal religious activities from being affected by money-grabbing behaviour.’

### Tibetan Buddhists

3.63 The Tibet Autonomous Region (TAR) is home to over six million ethnic Tibetans, nearly ninety per cent of the TAR population, the majority of whom practice Tibetan Buddhism (see Ethnic Tibetans). The Dalai Lama, condemned by the CCP as a criminal and exiled in India since 1959, is the spiritual leader of one of the main schools of Tibetan Buddhism.

3.64 Despite China’s 2018 CPPPFRB white paper citing the *Regional Ethnic Autonomy Law* (1984; amended 2001) stating ‘organs of self-government in ethnic autonomous areas shall guarantee citizens of all ethnic groups the freedom of religious belief,’ Chinese authorities strictly control religious observance within the TAR and Tibetan regions of Sichuan, Qinghai and Gansu.

3.65 The government monitors major monasteries and reserves the right to disapprove individual applications to take up religious orders. These restrictions also extend to lay Tibetan Buddhists. In 2018, following a period of expulsions from and demolition of Buddhist institutions, CCP cadre and officials were given control over Larung Gar, Sichuan province, one of the largest Tibetan Buddhist institutions in the world. In March 2017, the government also demolished over 3,000 homes at Larung Gar, and sent resident monks and nuns to the TAR, where human rights groups claim they were subject to ‘patriotic education’.

3.66 Tibetans are not permitted to display images of the Dalai Lama, or otherwise show veneration for him. Tibetans must also not display veneration for Gedhun Choekyi Nyima, nominated in 1995 by the Dalai Lama as the incarnation of the Panchen Lama, Tibetan Buddhism’s second most senior spiritual leader (see [Enforced or Involuntary Disappearances](#)). Tibetans must instead venerate the Chinese-nominated Panchen Lama, Gyaltzen Norbu. State Religious Affairs Bureau Order No 5, Measures on the Management of the Reincarnation of Living Buddhas, decreed that the government must approve all reincarnations, and would recognise reincarnations only from approved temples.

3.67 The government has detained monks and nuns suspected of supporting Tibetan separatism, or who actively support the exiled Buddhist spiritual leader, the Dalai Lama. It has also detained and harassed Tibetans seen to participate in activity deemed hostile to the Chinese state, including protests, provision of assistance to people viewed as dissidents, failure to report prohibited behaviour, possession of images of the Dalai Lama, and attendance at funerals for people who have self-immolated.

3.68 At a societal level, Buddhism occupies a place of historical influence and respect, and Tibetan protests against the government are largely confined to the TAR and other Tibetan regions. Buddhist monks in the TAR have participated in largely peaceful anti-government demonstrations; however, some have included riots and self-immolations. Consistent messages from the state and CCP about the threat of Tibetan splittism (pursuit of factional interests in opposition to official CCP policy) the evil intent of the Dalai Lama and the primitive and exotic nature of Tibetan culture, however, feed ignorance about Tibetan religious practice.

3.69 DFAT assesses that Tibetan Buddhists in Tibetan regions face a high risk of official discrimination. DFAT assesses ethnic Tibetan Buddhists in other parts of China face a lower risk of official discrimination based on religion (see [Tibetans](#)). DFAT assesses practitioners of Tibetan Buddhism who are not ethnic Tibetan face a low risk of official or societal discrimination based on their religion.

## Yi Guan Dao

3.70 Yi Guan Dao (YGD, also known as Tian Dao and I-Kuan Dao) is a syncretic Chinese religion derived from Buddhism. DFAT is unable to provide an estimate of the numbers of YGD followers in China.

3.71 In December 1950, YGD was the target of a nationwide crackdown, after which the group was driven underground. It sought to re-establish itself following China's cultural revolution, but quickly became the target of strike-hard campaigns in 1983, during which many followers were incarcerated.

3.72 While YGD continues to be prohibited in China, it is not included on the list of active cults released by the China Anti-Cult Association in 2017 (see [Other groups, including 'cults'](#)). This suggests YGD is not considered to have a significant active presence in mainland China by Chinese authorities. However, not dissimilar to other religions, DFAT notes China's legal prohibition on proselytisation under the RRA (see [Government Framework regarding religion](#)) directly conflicts with the movement's requirement to proselytise and undertake missionary work.

3.73 Academics note YGD has been gradually re-establishing itself as an underground movement through the efforts of missionaries from outside mainland China (notably Taiwan and Hong Kong). The Dui Hua Foundation reported in late December 2018 that followers of YGD continue to be the targets of government crackdowns. In May 2018, the Chenghai District government in Shantou, Guangdong province, issued a notice labelling Yi Guandao a 'superstitious secret society' which 'seriously and adversely affected the socialist construction of spiritual civilisation and the normal life of the people.' Followers were called to register with local police, sign statements of repentance and vow not to rejoin YGD. It is unclear in most cases whether YGD followers were criminally charged for their religious activities.

3.74 The present status of YGD in China is unclear. However, the Dui Hua Foundation reports YGD followers in mainland China are likely to be concentrated in Guangdong and Fujian, where there are higher numbers of practising Taiwanese followers. DFAT is not able to verify the extent to which YGD members practise their faith in China.

3.75 DFAT assesses restrictions on the free practice of religion continue to tighten in mainland China and would likely affect followers of YGD, as they would followers of any other unsanctioned, underground religion. While the group is not currently considered an 'active' cult in China, DFAT assesses YGD followers may face a degree of harassment and be subject to suppression by Chinese authorities and police. DFAT is unable to verify the extent or severity of such harassment or suppression.

## Christians

3.76 China has seen a significant growth in Christianity since the 1980s. In 2010, the Pew Research Center estimated there were 67 million Christians in China (58 million Protestant, including both state-sanctioned and independent churches). However, 2018 estimates had grown closer to 100 million (unregistered churchgoers outnumber members of official churches nearly two to one).

3.77 In addition to state-sanctioned Catholic and (non-denominational) Protestant churches in China, SARA historically permitted friends and family to hold small, informal prayer meetings without official registration. This, combined with the controlled nature of religious worship amongst registered Christian institutions, has led to the proliferation of sizeable unregistered Christian communities in both rural and urban China. Independent churches, otherwise known as ‘house’ or ‘family’ churches (for Protestant organisations), and ‘underground’ churches (for Catholic organisations) are private religious forums that adherents create in their own homes or other places of worship. ‘House’ or ‘underground’ churches vary in size from around 30 to several thousand participants/attendees.

3.78 There has been an increase in state control of both registered and unregistered churches in recent years, including targeted campaigns to remove hundreds of rooftop crosses from churches, forced demolitions of churches, and harassment and imprisonment of Christian pastors and priests (see [Government Framework regarding religion](#)). Some churches deliberately restrict their numbers to avoid attracting adverse official attention. Government officials are more likely to scrutinise churches with foreign affiliations, or those that develop large or influential local networks, and house churches are under pressure to ‘sinicise’ their religious teachings.

3.79 Leaders of both registered and unregistered churches are also subject to greater scrutiny than ordinary worshippers are, and leaders of registered churches must obtain permission to travel abroad. Church leaders (registered or unregistered) who participate in protest activity on behalf of their congregations or elsewhere are at high risk of official sanction, but this is likely to relate more to their activism than to their religious affiliation or practice (see [Political Opinion \(actual or Imputed\)](#) and [Protesters/petitioners](#)).

3.80 Religious NGOs claim that, while pressure on Christian groups differs from province to province, a trend of increased pressure on Christian groups normalised across provinces in 2018. Authorities apply pressure to Christian churches during monthly ‘tea’ meetings. According to media, authorities cracked down on Christmas celebrations in December 2018. Several cities, schools and government institutions issued instructions not to celebrate Christmas and to promote Chinese culture instead, and at least four cities and one county issued a ban on Christmas decorations. In Langfei, Hebei province, authorities ordered the removal of all Christmas decorations and stopped shops selling Christmas-themed products to ‘maintain stability.’ In Changsha, Hunan province, the education bureau issued a directive to schools not to celebrate ‘western festivals’ such as Christmas, and not to put up decorations, post related messages or exchange gifts. Nevertheless, DFAT notes Christmas decorations were still visible in some department stores in major cities across China.

3.81 In December 2018, police raided a children’s bible class in Guangzhou, and shut down the Early Rain Covenant Church in Chengdu, arresting 100 members and keeping others under close surveillance in December 2018. In September 2018, one of China’s largest underground churches, Beijing Zion Church, was shut down (see [Government Framework regarding religion](#)). Members of the Early Rain Covenant Church were detained by authorities in June 2018 due to plans to hold a prayer service to mark the anniversary of Tiananmen Square and, in May 2018, due to plans to hold a prayer service to mark the tenth anniversary of the Sichuan earthquake.

3.82 Heightened government sensitivity over foreign influence creates difficulties for prominent members of unregistered churches seeking to travel abroad, particularly for religious events, and for foreign church organisations to work, or liaise with registered churches, in China. NGOs report increasing difficulties for mainland Christians seeking to travel to Hong Kong or Macau for religious activities, and for Christian NGOs or activists from Hong Kong and Macau to travel to the mainland.

3.83 DFAT assesses members of unregistered churches who participate in human rights activism are at high risk of official discrimination and violence, as are their families (see [Political Opinion \(actual or Imputed\)](#)). DFAT assesses the adverse attention relates to their activism and association with unregistered (and illegal) organisations, rather than specifically to their Christian faith.

## Protestants

3.84 The Three-Self Patriotic Movement (TSPM), established in 1949, oversees China's 'post-denominational' (non-denominational) Protestant church and is estimated to have 23 to 30 million members (official statistics). The 'Three-Self' is a Chinese abbreviation for the church's three principles of self-administration, self-financing and self-evangelisation. The Chinese Christian Council (CCC) and the TSPM supervise approximately 60,000 registered Protestant churches and several hundred thousand affiliated meeting points.

3.85 The TSPM operates seminaries in Liaoning, Zhejiang, Heilongjiang, Guangdong, Fujian, Jiangsu, Shandong and Nanjing, as well as many bible schools across the country. Unlike other religions, sources report the government provides financial support to TSPM seminaries, and TSPM seminaries are required to play an informal role in implementing government policy and regulations on religion (see RRA, [Government Framework regarding religion](#)), and monitoring provincial churches.

3.86 Between 100 and 200 students are estimated to study at each TSPM seminary each year. TSPM seminary study is four-years long, and graduates are required to return to teach at their original church on completion of the course, and to return to their TSPM seminary every three years (while under 60 years of age). Qualifications from foreign seminaries are not recognised in China. TSPM believers are not permitted to proselytise outside of church or seminary walls, and TSPM seminaries require provincial-level approval from the TSPM committee to invite foreign religious leaders to visit the seminary. Sources report the demographics of TSPM followers are shifting. Historically, believers were mostly older and female, whereas there is a growing trend of younger adults with higher levels of education joining TSPM.

3.87 Estimates of numbers of unregistered Protestants in China vary from around 30 million to over 100 million. Unregistered Protestant churches risk adverse treatment by authorities due to their illegal status. Adverse treatment can include raids and destruction of church property, pressure to join or report to government-sanctioned religious organisations and, on occasion, violence and criminal sanction, particularly in response to land disputes with local authorities. DFAT is aware of, but cannot verify, reports of authorities pressuring house churches by cutting off electricity or forcing landlords to evict members. Some members of house churches claim to have been able to use registered church facilities for weddings, or to purchase bibles. Others have reported difficulties in hiring even commercial facilities such as hotels or restaurants, because of their association with illegal churches. Christian organisations report house church members were arrested in 2017 for refusing to register with the TSPM, and Christian schools were closed for 'brainwashing' children.

3.88 The Zhejiang provincial government's 2013 urban renewal campaign led to the demolition of several hundred unregistered churches. In 2017, the US Commission on International Religious Freedom reported over 1,500 church demolitions or removals of crosses since 2014. The government has punished church

leaders who oppose the campaign with heavy prison sentences (up to 14 years) on public disorder charges, as well as apparently unrelated charges such as embezzlement. In May 2019, media and Christian advocacy groups reported the government launched a new campaign called 'Return to Zero' in April 2019, aimed at eradicating underground house churches and ensuring only state sanctioned and heavily restricted TSPM churches remained functional. Authorities have also targeted lawyers defending the church leaders (see [Human Rights Defenders \(including Lawyers\)](#)).

## Catholics

3.89 The Chinese Catholic Patriotic Association (CCPA) has managed Catholic affairs in China, including the appointment of bishops, since 1957. The CCPA does not recognise the authority of the Holy See to appoint bishops. Relations between the Vatican (which recognises Taiwan) and the PRC have varied over time. Between 1993 and 2010, the Vatican had discreet input or even right of approval for bishop candidates in some provinces prior to their ordination by the CCPA. Since 2010, the CCPA has ordained most bishops without Vatican input. In April 2013, the *Regulation on the Election and Consecration of Bishops* required candidate bishops to pledge support publicly for the CCPA. Approximately 40 Vatican-ordained bishops remain independent of the CCPA.

3.90 In 2016, the Vatican and CCPA agreed on the ordination of two bishops, but there is still no agreement on the treatment of bishops ordained by each respectively but not recognised by the other. In-country contacts say discussions between the Vatican and Chinese officials have led to little change in the treatment of members of the underground Catholic Church. In May 2017, Vatican-appointed Bishop Peter Shao Zhumin was arrested and detained at a location unknown to the Vatican or his family. Bishop Thaddeus Ma Daqin was released from four years of house arrest in 2016 after he published a statement strongly supporting the CCPA. In 2018, China reached a provisional agreement with the Vatican under which Pope Francis recognised several Chinese state-appointed bishops who had been ex-communicated.

3.91 In the past, local authorities required priests to submit sermons and prayers in advance for approval and to regularly provide names and addresses of congregation members. Sources report this is no longer required in areas where the Catholic Church has built trust with local officials over time.

3.92 DFAT assesses Catholics in China can experience officially-sanctioned harassment and discrimination where authorities regard their activities to be politically sensitive. Catholics in China face a low risk of societal discrimination.

## Other groups, including 'cults'

3.93 The Criminal Law provides for prison sentences of up to seven years for individuals who use 'superstitious sects, secret societies or evil religious organisations' to undermine the state's laws or administrative regulations. A 1999 judicial explanation refers to: 'those illegal groups that have been found using religions, qigong [a traditional Chinese exercise discipline], or other things as a camouflage, deifying their leading members, recruiting and controlling their members, and deceiving people by moulding and spreading superstitious ideas, and endangering society.' While the criminal provisions principally target Falun Gong, others who engage in practices deemed superstitious or cult-like can face harassment, detention and imprisonment.

3.94 In September 2017, the government published a list of 20 banned groups on its official Anti-Cult website '*xie jiao*' (cult) and launched an anti-cult platform on social media called 'Say No to Cult,' which includes



a function for reporting suspicious activity. Eleven banned groups were listed as ‘dangerous’ on the *xie jiao* website: Falun Gong, Eastern Lightning (also known as The Church of Almighty God), The Shouters, The Disciples Society (or Mentu Hui), Unification Church, Guanyin Method Sect (Guanyin Famen or the Way of the Goddess of Mercy), Bloody Holy Spirit, Full Scope Church, Three Grades of Servants (or San Ban Pu Ren), True Buddha School and Mainland China Administrative Deacon Station. The *xie jiao* website also warned the public to ‘be on guard against’ an additional nine groups: the Lingling Church, the Anointed King, the Children of God, Dami Mission, the New Testament Church, the World Elijah Gospel Mission Society, the Lord God Sect, the Yuandun Dharma Gate, and the South China Church.

3.95 Local authorities interpret ‘cult’ in different ways. Chinese government sensitivities towards religious cults have historical roots: religious cults led significant rebellions during the 19<sup>th</sup> century. Mainstream Christians tend to deride cults as heretics, but government crackdowns on ‘cults’ can affect unregistered mainstream Christian churches, as local officials may have difficulty distinguishing unregistered mainstream churches from cults.

## Falun Gong

3.96 Falun Gong (also known as Falun Dafa) is a spiritual movement that blends aspects of Daoism, Buddhism, and Qigong (traditional breathing and meditation). Freedom House estimates seven to 20 million people currently practice Falun Gong in China. Falun Gong practitioners claim the movement has ancient origins, but it first appeared in its modern form in 1992, when founder Li Hongzhi began teaching the exercises in Changchun, Jilin province. Unlike other religions, Falun Gong focuses on private exercises and meditation.

3.97 The government declared Falun Gong illegal and ‘an evil cult’ after a large protest by followers at the CCP headquarters in Beijing in 1999. The CCP maintains a Leading Small Group for Preventing and Dealing with the Problem of Heretical Cults to eliminate the Falun Gong movement and to address ‘evil cults’. An extrajudicial security apparatus known as the 6-10 Office (named after 10 June 1999 crackdown against Falun Gong) has the task of eradicating Falun Gong activities. The 6-10 office has reportedly created specialised facilities known as ‘transformation through re-education centres’ to force practitioners to relinquish their faith. Falun Gong reportedly remains active throughout China, but most prominently in Shandong and northeastern China, although Falun Gong’s illegal status makes this difficult to verify.

3.98 Since the abolition of re-education through labour centres in late 2013, Falun Gong practitioners have reportedly been subjected to residential detention, criminal and other forms of administrative punishment (see [Arbitrary Arrest and Detention](#)), or have been released after receiving propaganda training. Freedom House states it independently verified 933 cases between 1 January 2013 and 1 June 2016 of Falun Gong adherents receiving prison sentences of up to 12 years for their beliefs.

3.99 Falun Gong members do not openly proselytise in mainland China, although the movement is active in Hong Kong (where it remains legal) and abroad. Falun Gong practitioners identify potential new members and slowly introduce them to the practices and beliefs of Falun Gong. Falun Gong practitioners are generally able to practise privately in their homes. Once known to authorities, colleagues or neighbours, however, Falun Gong members face widespread official and societal discrimination.

3.100 Lawyers representing Falun Gong practitioners claim a typical Falun Gong case involves: a period of initial investigation; the suspect having their personal belongings confiscated and being placed in custody for three to six months; trial by court; and then sentencing. Arrested Falun Gong practitioners (leaders and followers alike) commonly receive sentences of three to seven years’ imprisonment. Correctional officers will pressure Falun Gong practitioners to denounce their faith, and detainees may receive better treatment if they

sign confessional statements. Falun Gong practitioners and their lawyers claim that judges and lawyers are actively discouraged from taking on Falun Gong cases, and that Falun Gong practitioners have suffered psychiatric experimentation and organ harvesting. DFAT is not able to verify these claims.

3.101 On release from detention, Falun Gong members can be placed under surveillance and can experience difficulties finding employment beyond low-skilled jobs. Discrimination against Falun Gong practitioners can extend to family members and can result in the loss of employment, pensions or social relationships. Government officials, members of the police force and employees of state-owned enterprises are commonly required to sign a statement that they and their families are not Falun Gong members. A widespread and sustained government communications campaign against Falun Gong has effectively discredited it within mainstream Chinese society.

3.102 Unlike other officially designated cults, the government regards Falun Gong practitioners as political opponents rather than victims, and treats them accordingly (see [Political Opinion \(actual or imputed\)](#)). Lawyers who defend Falun Gong practitioners are frequently denied access to their clients in detention or court, and are subjected to adverse treatment and physical and electronic surveillance by authorities (see [Human Rights Defenders \(including Lawyers\)](#)).

3.103 Falun Gong practitioners known to the authorities would likely find it difficult to obtain a passport. Sources report some migration agents, particularly in transit countries, may have coached would-be asylum seekers on Falun Gong practices to facilitate their claims.

3.104 DFAT assesses that Falun Gong practitioners, and their lawyers, are at high risk of official discrimination. Due to the government's sustained public campaign against them, Falun Gong practitioners, if exposed, face a moderate risk of societal discrimination.

### The Shouters (Local Church)

3.105 The Shouters (also known as 'Yellers', 'Local Church', 'Recovery Church', 'Assembly Hall' and 'Assemblies') are a Chinese offshoot of Watchman Nee's Little Flock led by Nee's student, Changshou Li, otherwise known as 'Witness Lee'. The Shouters were created in the US in 1962 and introduced to China in 1979. Witness Li created a 'Recovery Bible' by annotating the standard Bible and claimed that the gift of tongues could be taught, and that salvation could be had by saying 'O Lord' three times. The Shouters are named for their practice of stamping their feet while shouting as part of their worship. By 1983, the group had up to 200,000 followers across China.

3.106 The CCP targeted the Shouters in the early 1980s as counter-revolutionary, and the Shouters splintered into several groups including Eastern Lightning (also known as the Church of Almighty God, see [Eastern Lightning](#)). DFAT is unable to verify the extent to which Shouters remain active in China.

### Eastern Lightning (Church of Almighty God, COAG)

3.107 The Chinese government listed Eastern Lightning, an offshoot of the Shouters, also known as 'The Church of the Almighty God (COAG)', 'The Congregation', 'Oriental Lightning', 'Seven Spirit Sect', 'Second Saviour Sect', 'True Light Sect', 'True Way Sect', and 'New Power Lord's Church' as a banned *xie jiao* (cult) in November 1995. According to Chinese government statistics, COAG had four million members in 2014. However, COAG claims more than a million followers in a seven-level hierarchy. DFAT is unable to verify the number of COAG members practising in China. Chinese government sources claim most members are

uneducated rural women aged around 50 years. However, academics suggests COAG membership also includes middle and upper class, Chinese males and females.

3.108 Zhao Weishan, a physics teacher from Henan province who later fled to the United States, is claimed to have founded COAG in 1989. However, academics note COAG members have denied Zhao was their founder, and some claim a small community existed before Zhao's involvement. COAG adherents believe Jesus returned to earth and was incarnated as 'Almighty God,' a living person, sent 'to bring the fullness of truth to purify and save humankind.' Most of 'Almighty God's' utterances are collected in the book 'The Word Appears in the Flesh.' COAG members also believe they are in a constant mortal struggle against the 'Great Red Dragon' (a possible reference to the CCP), and that membership of the group will save them from impending apocalypse. According to the COAG movement, 'Almighty God' came to inaugurate the third and final age of humanity, the Age of Kingdom, which follows the Age of Law (the Old Testament) and the Age of Grace (of Jesus).

3.109 There is no formal liturgy in the COAG movement, nor sacraments or eucharist, as these are viewed by members as practices of the Age of Grace, not the Age of Kingdom. However, academics report COAG has a structural church system, with local and international leaders, and claim gathering is important to COAG members, who worship by meeting and discussing their understanding of 'Almighty God's' words, listening to sermons and singing hymns.

3.110 Although the movement never mentions the name of 'Almighty God,' nor any specific biographical details, academics believe 'Almighty God' identifies a Chinese woman known as 'lightning Deng' (Yang Xiangbin, the wife of Zhao Weishan). In 2000, Zhao and Yang Xiangbin moved to the United States and led the movement from New York. Academics note members refer to 'Almighty God' as 'Almighty God,' and not by any civil name, nor by any specific gender.

3.111 COAG reportedly encourages members to break away from family, although academics claim the accusation that COAG's theology is anti-family does not have any support in COAG's scriptures, which teach that the family is part of Almighty God's plan and reiterate Almighty God's requirement to honour parents and be faithful spouses in the Age of Kingdom. COAG reportedly demands unconditional obedience from low-level believers.

3.112 Academics claim the movement has been severely persecuted in China, and many COAG members, including national leader Ma Suoping (1969-2009), have been arrested or killed. According to statistics claimed by the movement, more than 400,000 members have been arrested in China to date. Security agencies have arrested large groups of sect members in Qinghai, Guizhou, Ningxia, Henan, Hubei, Xinjiang, Anhui and Liaoning provinces in recent years. DFAT is unable to verify these claims; however, academics cite semi-weekly references in Chinese State media reports regarding anti-COAG campaigns and arrests. State media reports detail abductions; extortion; beatings; murder; seduction; and aggressive proselytising as part of the group's practice of recruiting new members and punishing non-believers, including those seeking to leave the group.

3.113 In May 2014, six people, who the Chinese government claim were COAG members, reportedly beat a woman to death at a McDonald's restaurant in Zhaoyuan, Shandong. Two of the six alleged perpetrators were executed in 2015. Three others received prison sentences of life, ten and seven years respectively for their roles in the attack. The sixth was a minor aged 12. The McDonald's case triggered an official crackdown on 'cult' organisations. Academics claim the McDonald's murder was not conducted by COAG, but instead perpetrated by an unrelated, but similar religious movement. Zhang Fan, a leader of the movement linked to the McDonald's murder, denied she had ever been a member of COAG, but was executed in 2015.

3.114 Sources report the government's efforts to crackdown on Christian 'cult' organisations aim to identify and punish the leaders, with disciples viewed as victims. COAG in Australia (which denies connection to the McDonald's attack) claims Chinese security agencies have monitored, intimidated, detained and mistreated its members in China since 2011, and its Annual Reports detail several such instances. Such treatment would be consistent with government treatment of members of other banned organisations. Stigma associated with cults may make it difficult for members to find defence lawyers, and lawyers taking on their cases are often themselves targets of adverse attention by authorities (see [Human Rights Defenders \(including Lawyers\)](#)). DFAT is unable to verify the extent to which COAG is active in China.

### Jehovah's Witnesses and Mormons

3.115 Interest in non-sanctioned religions, including Mormonism, Jehovah's Witnesses, Eastern Orthodox Christianity and the Baha'i faith, appears to be rising in China, but numbers are difficult to verify, not least because of their illegal status. Government sensitivity towards foreign influence and CCP mistrust of organisations it does not control would likely make it difficult for Jehovah's Witnesses and Mormons to practise their faith in China. In particular, the legal prohibition on proselytisation under the 2018 RRA (see [Government Framework regarding religion](#)) directly conflicts with the religious requirement of both Jehovah's Witnesses and Mormons to proselytise in the broader community.

3.116 Jehovah's Witnesses claim they have faced increased nationwide religious persecution since May 2018, and report maltreatment has occurred in, but is not limited to, Zhejiang, Guangzhou, Qingdao, Xinjiang, Nanjing, Tibet, Chongqing, Zhuhai, Shangxi and Dali. Jehovah's Witnesses also claim community members have experienced home raids, physical abuse, separation from families (including visa cancellation and deportation for couples with foreign spouses), interrogation, detention and placement in re-education centres, and that authorities seized phones and laptops in 2018. Jehovah's Witnesses claim it is common for the foreign spouses of Chinese citizens who are Jehovah's Witnesses to be separated from their families and deported, with no right to return for five years.

3.117 The present status of Jehovah's Witnesses in China is unclear and DFAT is not able to verify the extent to which Jehovah's Witnesses practise their faith in China. China is not on the Jehovah's Witness website's world listing. However, DFAT assesses restrictions on the free practice of religion continue to tighten in mainland China and would likely affect Jehovah's Witnesses (and potentially the faith's willingness to list its operation in China on its official website), as they would follow any other unsanctioned underground religion. While the group is not currently considered an 'active' cult in China, DFAT assesses followers may face a degree of harassment and be subject to suppression by Chinese authorities and police. DFAT is unable to verify the extent or severity of such harassment or suppression.

3.118 DFAT does not have any specific information in relation to Mormons in China.

## POLITICAL OPINION (ACTUAL OR IMPUTED)

3.119 Article 35 of China's Constitution states that citizens of the People's Republic of China enjoy freedom of speech, the press, assembly, association, procession and demonstration. China's 2018 *White Paper on Progress in Human Rights over 40 years*, also states 'the system of multi-party cooperation and political consultation...gives expression to people's democracy...It guarantees that all social strata, people's organizations and patriots from various quarters can express their opinions and play a role in the country's political and social life.' China's National Human Rights Action Plan 2016-2020 also outlines the Government's plans to advance the right to expression 'giving more space to public opinion, [...] improving the check and

supervision system for the operation of power, and protecting in accordance with the law the citizens' rights of free expression and democratic supervision'.

3.120 In practice, however, laws and regulations enforcing these constitutional rights are not well developed. China's law requires all gatherings of people numbering more than 200 persons to obtain approval from public security authorities. The *Law of Assemblies, Demonstrations and Processions* (1989) puts organisers of unapproved protests at risk of detention or prison sentences, often on public order charges.

3.121 The CCP has little tolerance for public dissent on a wide-range of matters considered politically sensitive, including social stability, the legitimacy of central authorities and one-Party rule, and other topics that authorities consider might aggravate social unrest. Examples of issues which authorities deem sensitive include, but are not limited to, commentary on serious economic, health and environmental concerns, financial risks, land and property issues, ethnic and religious unrest, labour disputes and official responses to natural or anthropogenic disasters. The Party and government may, in limited circumstances, tolerate commentary on corrupt local officials, particularly those already under investigation (see [Corruption](#)). What the authorities deem sensitive can change with no warning.

3.122 Pre-emptive detention of activists and rights defenders is common around sensitive political anniversaries and other high profile political or 'sensitive' events (see [Arbitrary Arrest and Detention](#)). Those publicly advocating greater human or civil rights, including the '709 Lawyers' (see [Human Rights Defenders \(including Lawyers\)](#)) have also been detained and charged under public order offenses or accused of state subversion. Duihua's Political Prisoners Database, which records information about political and religious prisoners incarcerated in China since 1980, contained 40,053 entries as of April 2019.

3.123 In recent years, several people charged with political offences have appeared on Chinese state television making public confessions to alleged crimes. In some cases, the public confessions have taken place before trial and conviction. Recent examples include several '709' lawyers (see [Human Rights Defenders \(including Lawyers\)](#)), journalists who have exposed official abuse of power, and two registered refugees who were returned from Thailand (see [Enforced or Involuntary Disappearances](#)). Those confessing commonly express regret for having sought to sow instability and work against the authority of the CCP, and have often included alleged admissions of colluding with 'foreign forces' to destabilise the country. Some have subsequently claimed their confessions were forced.

3.124 Political prisoners can legally be deprived of political rights (freedom of speech, assembly, association, procession, demonstration, vote and holding a position in a state organ) after completing a prison term. In many cases, individuals have been placed under house arrest for extended periods of time after official release from prison (see [Arbitrary Arrest and Detention](#)). Those deprived of political rights can face difficulties finding employment, renting property, travelling freely, and accessing social services. Such penalties can also now be formalised under the social credit system (see [The Social Credit System](#)). Prisoners and their families have reported harassment or intimidation, including police surveillance, telephone wiretaps, and property and body searches.

3.125 Families of dissidents, including children, have also been subject to movement restrictions, exit bans and other forms of harassment by Chinese authorities. The teenage son of a '709' lawyer was placed under effective house arrest from 2015 until late 2017 (see [Enforced or Involuntary Disappearances](#)). Children of other '709' lawyers have been denied entry to primary school and pre-school, and the spouses of some detained lawyers have reported being evicted from their apartments. Chinese authorities have also reportedly harassed family members in China of overseas dissidents. Overseas Uighur activists have reported police harassment of their China-based families, including jail terms (see [Ethnic Uighurs](#)). Other high profile critics of

the Chinese government's human rights record have also reported harassment of their China-based families and some have publicly severed ties with their families in order to protect them from further harassment. DFAT is aware of claims that authorities have confiscated ID cards or *hukou* (see [Hukou \(household registration\) system](#)) of families of dissidents, limiting their ability to access medical care, education and social services.

## GROUPS OF INTEREST

### Human Rights Defenders (including Lawyers)

3.126 The government considers human rights issues sensitive and can view those advocating for human rights as critical of the government. DFAT is aware many foreign and national entities and individuals working on human rights issues experienced significant attention, including harassment, from government authorities as well as restrictions on operations in 2018.

3.127 Authorities have paid particularly close attention to lawyers taking up sensitive and human rights-related cases. The Chinese Government views lawyers as civil servants rather than independent practitioners of the law. Lawyers who take on clients and cases the government considers politically sensitive (such as those concerning labour rights, Uighurs, Tibetans, Falun Gong practitioners, or those engaged in 'anti-government' activities) can place themselves at risk of adverse treatment by authorities, including through discrimination, harassment, detention, residential surveillance, movement restrictions, the revocation of lawyer licences and ill-treatment (see [Torture](#)).

3.128 Chinese police arrested and interrogated around 300 human rights lawyers, legal assistants and activists in the '709 crackdown' that began on 9 July 2015. The '709' lawyers worked largely as human rights defenders as well and as such have been treated as 'enemies of the state'. In many of these cases, those detained have disappeared (see [Enforced or Involuntary Disappearances](#)). In some cases, detainees have appeared in court some months later, and state television broadcast videos of their alleged confessions at trial (see [Political Opinion \(actual or imputed\)](#)). Other trials have been closed to foreign diplomats and media. In many cases, families of the defendants claim that the authorities forced them to dismiss their own lawyers and accept state-appointed counsel. Some of the dismissed lawyers have themselves been detained and tried.

3.129 In July 2018, on the three-year anniversary of the 709 crackdown, human rights defenders claimed Chinese authorities had not stopped persecuting the 709 lawyers and their families, whether imprisoned or freed after serving their sentences. Amnesty International's 2017/2018 China report notes that among the nearly 250 individuals questioned or detained by state security agents following the 709 crackdown: nine were convicted of subverting state power, inciting subversion of state power or picking quarrels and provoking trouble; three were given suspended sentences; one was exempted from criminal punishment while remaining under surveillance; and five remained imprisoned.

3.130 It is becoming more difficult for human rights lawyers to practise in China. In March 2017, the Party aligned All-China Lawyers Association issued new regulations 'to protect the rights of lawyers' that put strict limits on courtroom behaviour and imposed sanctions including withdrawal of registration for 'engaging in any activities that might endanger national security, or making use of their profession to plan, incite or organise individuals to disrupt social order'.

3.131 Lawyers are required to be registered with the All China Lawyers Association and a law firm to maintain their license. Sources report law firms have been pressured to terminate and/or not hire human rights lawyers working on human rights cases deemed to be sensitive by the government. If a lawyer remains unemployed for more than six months, their license can be revoked. In August 2017, China's Minister for Justice convened a four-day conference for criminal defence lawyers, where he called on them not to speak publicly about cases outside the courtroom and said lawyers would be subject to 'harsh discipline' for contravening regulations. Sources report that, due to monitoring, increased security and threats, the number of students willing to study human rights law in China is declining.

3.132 Several sources claim the Chinese authorities use restrictions on freedom of movement to try to silence activists. According to the US State Department, the Chinese Government has increased its use of unofficial house arrests or denial of permission to travel for those individuals considered politically sensitive (see also [Enforced or Involuntary Disappearances](#) and [Arbitrary Arrest and Detention](#)). The authorities have targeted a broadening range of activists, including, but not limited to, those working to improve workers' and women's rights, those protesting against pollution, and those exposing official negligence or abuse of power.

3.133 DFAT assesses human rights lawyers and other rights activists face a high risk of official discrimination in China.

## Protesters/petitioners

3.134 Protests and petitions occur regularly across China. An estimated 180,000 popular protests (of more than 10 people) occurred in China in 2010, the last date for which official data is available. China Labour Bulletin (CLB) obtained details of 1,287 protests in 2017, and 1,318 protests between January and October 2018, but it estimates this only reflects one tenth of protests that occurred. Most protests concern land disputes, housing problems, industrial, environmental, and labour matters, and government corruption. Others are provoked by accidents or related to personal petitions, administrative litigation, and other legal processes. While construction issues account for around 40 per cent of labour issues, in line with changing patterns of migrant work (see [Employment](#)), NGOs working on labour issues claim an increasing trend towards protests over service sector work (more than 20 per cent), rather than industry and factory work.

3.135 Despite recent reforms leading to improved legal protections for property ownership and compensation for expropriated land, protests and petitions related to land seizures by officials and the conduct of developers remain common in China. According to the State Bureau of Letters and Calls (the national department responsible for local petitioning offices) in 2014, an estimated four million disputes over expropriated land and property demolitions occur every year. DFAT is aware of, but cannot verify, reports describing aggressive, and sometimes violent, action by private security contractors hired by property developers to manage protesters.

3.136 China's Constitution and *State Compensation Law* (1994; amended 2010) enables citizens to seek compensation from the state but the public's confidence in the judicial system and ability to afford lawsuits is generally low (see also [Judiciary](#)). The Chinese Government encourages Chinese citizens to submit complaints through government-controlled websites and local petitioning offices. Under regulations promulgated in 2014, the central government no longer accepts petitions that should be lodged at local government level. The regulations include measures designed to improve transparency and responsiveness. Sources report that local officials are encouraged to ensure protests do not reach Beijing. The SCS can be used to restrict movement of people to prevent them from travelling to Beijing to petition the government (see [The Social Credit System](#)).

3.137 In practice, the treatment of individual cases depends heavily on the attitude of local officials towards the individuals and circumstances in question, making it difficult to generalise. A series of protests over land appropriation in 2011 in Wukan, a village of 20,000 people in Guangdong province, led to the resignation of local officials and direct elections of village office-holders. While hailed at the time as a sign of greater openness to democratisation, in 2016 provincial authorities arrested the popularly elected local chief, sparking further protests. In contrast to 2011, authorities violently suppressed the 2016 protests and excluded foreign media (including from Hong Kong), some of whom claimed themselves to be victims of police violence while attempting to cover the event. Police blockaded the village, preventing access to goods and services, and local leaders received lengthy sentences (up to ten years in prison) for their role. In November 2017, media reported the village remained under lock-down and a provincial level 'Wukan Mass Working Group' had been established, with 100 staff responsible for ensuring stability by marshalling a network of informers, security patrols, surveillance systems and floodlights in the village.

## Civil society organisations (CSOs)

3.138 In 2016, the Chinese Government passed two laws affecting the management of CSOs in China: the *Law on the Management of Foreign Non-Governmental Organizations' Activities Within Mainland China* (2016, Foreign NGO law), and the *Charity Law* (2016). The two laws set out procedures for registration, supervision and management of CSOs, and set out the types of activities allowed, as well as rules for fundraising. Under the *Charity Law*, the Ministry for Civil Affairs and local civil affairs bureaux are responsible for registering and supervising domestic CSOs. Some domestic CSOs have welcomed the clearer procedures outlined in the *Charity Law* for registration and management of charities, and the clear designation of the Ministry of Civil Affairs as the responsible agency. Others have criticised the ill-defined requirements that charities 'must not violate social morals, and must not harm national security, the societal public interest or the lawful rights and interests of others'.

3.139 The Foreign NGO law governs CSOs with foreign connections, and all foreign NGOs including those from Hong Kong and Macau. The law covers a broad range of foreign organisations working in China, including educational institutions and foreign chambers of commerce. Under the law, the Ministry of Public Security and local Public Security Bureaux are responsible for registration and oversight of foreign NGOs, and have broad powers to enter premises and acquire documents and equipment if the NGOs are suspected of illegal behaviour or 'other situations that endanger state security or damage the national or public interest'. According to the Ministry of Public Security, 236 of the 7,000 foreign NGOs estimated to operate in China had registered by the end of October 2017. According to Amnesty International's 2017/2018 China Report, foreign NGOs that are not yet registered but continue to operate in China can face a freeze on bank accounts, sealing of venues, confiscation of assets, suspension of activities and detention of staff. CSOs claim the space for civil society became more restricted in 2018.

3.140 DFAT assesses that employees of registered CSOs can operate free from official and societal discrimination as long as they work within tight government restrictions and refrain from engaging in activities considered politically sensitive (see [Race/Nationality](#), [Religion](#) and [Groups of Interest](#)). DFAT is not aware of any publicly available listing of registered CSOs. In the recent past, the government appeared to encourage CSO activity in certain non-sensitive areas, notably poverty and social programs, and delivery of health services. Recent arrests of activists, in areas such as domestic violence and assistance to migrant workers, suggest the range of activities considered sensitive is increasing. There are no clear criteria to assess what may trigger reconsideration of the sensitivity of a previously tolerated activity.



3.141 DFAT assesses people working for unregistered CSOs are at moderate risk of official discrimination, and it may be difficult for them to obtain legitimate employment records, work references or wages.

3.142 People associated with, or employed by, organisations whose activities are considered politically sensitive risk adverse treatment by authorities, landlords and neighbours. DFAT is aware of, but cannot verify, reports of official and societal discrimination in the form of enforced evictions, power cuts, harassment and extortion, including directed at family members (see [Political Opinion \(actual or imputed\)](#)). DFAT assesses that such people are at high risk of official discrimination, at moderate risk of societal discrimination, and at low risk of societal violence.

## Media

3.143 Article 35 of the Constitution provides guarantees for freedom of speech and the press. However, in practice, the CCP heavily controls and censors traditional print and broadcast media. China ranks as 177th out of a total 180 countries on the 2019 Press Freedom Index compiled by Reporters Without Borders and, according to the Committee to Protect Journalists (CPJ), at least 47 journalists were in prison in China in 2018.

3.144 In February 2016, President Xi called on all Chinese state and non-state media to serve the interests of the CCP. In a tour of the three largest CCP and state news organisations, President Xi said all Chinese media must be part of the 'Party family' (literally, must 'bear the surname of the Party'). The Chinese Government blocks broadcast of foreign television in China except by cable to a limited audience (also subject to censorship), which includes authorised public servants, authorised academics and business executives, and international hotels rated at four stars or higher. The State Administration for Radio, Film and Television (SARFT) strictly regulates domestic content. News must derive from state-approved sources and SARFT censors fictional and historical content.

3.145 Content showing the CCP or government in a poor light, as well as explicit sexual material (and all same-sex material), has long been prohibited. Recently, restrictions have expanded to include all sexual references, underage drinking, and blurring lines between 'truth and falsehood, good and evil, beauty and ugliness'. The lack of precision in the guidelines allows censors broad latitude. In March 2016, SARFT and the Ministry of Industry and Information Technology issued *Regulations on the Management of Internet Publishing Services* (2016) prohibiting foreign companies from disseminating content on-line, including text, maps, games, animation, audio and video. Foreign-owned companies can publish material in joint venture with a Chinese partner, but only with government approval.

3.146 The Chinese Government heavily censors news media. The government routinely suppresses reporting of sensitive events, such as disasters – particularly when not naturally caused, or when attributable to or exacerbated by official laxity or corruption. If news gets out (often on social media), official media are quick to revert to a government line. The government has recently targeted even CCP publications that question central policies, changing the management of a liberal magazine in July 2016. The government has told financial journalists and financial analysts to ensure reporting does not 'talk down' Chinese economic conditions or policy measures: one financial journalist was jailed in 2015 for unfavourable reporting on the government's response to a stock market crash. Sources report that what is 'considered sensitive' has widened in recent years, with the academic, environment and health sectors increasingly censored.

3.147 As a result of these restrictions, journalists working for China's domestic media practise a high degree of self-censorship. State scrutiny of media 'loyalty' and, consequently, media self-censorship is also particularly intense during significant anniversaries, such as those relating to the 1959 Tibetan uprising, the 1989

Tiananmen protests, and significant events such as meetings of the National People's Congress or the Communist Party Congress.

3.148 DFAT assesses journalists and editors who transgress officially sanctioned lines risk official discrimination in the form of harassment, which may include loss of employment or imprisonment, depending on the perceived severity of the transgression.

## Internet Freedom

3.149 China has the world's largest internet-using population, with 772 million users. Over 95 per cent of the online population is able to access the internet via a smartphone. However, while the rise of the internet has created a non-traditional space for the expression of political opinion in China, authorities have developed and applied increasingly sophisticated methods to limit online expressions of dissent. The Freedom House 'Freedom on the Net' 2018 report rated China as the most restrictive country in the world in terms of internet access for the fourth consecutive year in a row.

3.150 China's security apparatus invests heavily in monitoring and controlling the internet. The Cyberspace Administration of China monitors all use of approved networks and many foreign websites (including Facebook, Twitter, Google and many foreign media sites) are blocked. Censorship tightened significantly prior to the 19th Communist Party Congress in October 2017 and the March 2018 annual meetings of the national legislature and its main advisory body, during which the constitutional changes to end presidential term limits were announced (see Political System).

3.151 Internet freedom declined in 2018 due to the introduction of the *Cybersecurity Law* (2017) in June 2017. The Cyber Security Law strengthened repressive restrictions on online activities, placed onerous financial burdens on technology companies, independent media, and bloggers, and increased censorship requirements. Data localisation is now mandated, and real-name registration is required for internet companies, which are also now obliged to assist security agencies with investigations.

3.152 The Chinese Government has required real name registration for email and internet users since 2015. All users of Chinese social media accounts must register with their real names, and all comments posted on websites or social media must carry real name identifiers, in order to 'safeguard national security and the public interest'. New regulations requiring online publishers to register for permits led to dozens of social media accounts that published celebrity gossip or other entertainment news closing down, signalling an expansion of censorship to a news sector that had been considered relatively free. Sources report that the government is able to delete individual WeChat accounts and chats. New regulations also make the 'creator' of a group chat responsible for its content.

3.153 The government has also cracked down on the use of virtual private networks, a means by which Chinese citizens and companies have gained access to banned sites by routing their searches through a foreign server. Companies must now apply for permission to use such networks, and must demonstrate a business requirement.

3.154 The government reportedly employs up to two million people to police the internet and post pro-government comments, and encourages netizens both to post positive comments and to report negative ones. WeChat and Weibo (Chinese social media platforms) accounts of offshore users are also censored, although, to a lesser extent than China-based accounts. Censors are quick to block trending words designed to circumvent controls, and satire directed at CCP leaders. In 2018, the #MeToo campaign against sexual assault and harassment gained traction in China and, while Chinese students spoke out about their

experiences, the social media movement was heavily censored. ‘*Neihan Duanzi*,’ a ‘buzz-feed’ style parent app of joke sharing app ‘*Tou tiao*,’ was also shut down by censors in 2018, for ‘hosting vulgar jokes and videos’ after it received a large following online. The head of *Neihan Duanzi* was forced to make a public apology.

3.155 Other examples of prohibited subjects include the death of Nobel Laureate Liu Xiaobo (see [Deaths in Custody](#)) references to the 1989 suppression of protests in Tiananmen Square in Beijing, and any references to the 2015 crackdown on human rights lawyers (‘709’ incident – see [Human Rights Defenders \(including Lawyers\)](#)). Censored posts have been used in court as evidence of public order and subversion offences (see [Ethnic Uighurs](#)).

3.156 In September 2013, a court judgement ruled that an author of an internet post could face up to three years in prison if their post was reposted more than 500 times, read more than 5,000 times, led to mass protests, instigated ethnic or religious clashes, damaged the country’s image or caused ‘a bad international effect’. Since then, authorities have detained and tried popular bloggers, particularly where they have drawn attention to abuses of power, including at a local level. In some cases, bloggers have spent up to two years in detention (see [Arbitrary Arrest and Detention](#)).

3.157 Religious and ethnic minorities (see [Race/Nationality](#) and [Religion](#)) also continue to be heavily monitored and persecuted for spiritual and cultural expression, criticising the government, or airing rights violations against their communities, both online and in the public domain. Users of mobile phones in Xinjiang were forced to install a surveillance app ‘*Jingwang*,’ which can search for files that match blacklisted content (see also reporting on the Integrated Joint Operations Platform (IJOP) used for mass surveillance in Xinjiang under [Ethnic Uighurs](#) ).

3.158 Censorship of the internet in China is extensive. People who post online comments criticising the CCP, CCP policy or discussing issues deemed sensitive by the CCP currently face censorship and can suffer reductions in their social credit (although application of the SCS can vary substantially across China) (see [The Social Credit System](#)). DFAT assesses that people who repeatedly post unapproved material are at high risk of attracting adverse treatment by authorities, including possible criminal charges or threat of charges.

## The Social Credit System

3.159 China’s new ‘social credit system’ (SCS) is a highly complex, albeit evolving, technologically enhanced system of social control, which augments the Party’s existing political control mechanisms. According to the Australian Strategic Policy Institute, the SCS harnesses AI-enabled processes and big-data collection and analysis to monitor, shape and rate behaviour (social credit score) via economic and social processes.

3.160 In 2014, the State Council issued a detailed ‘*Planning Outline for the construction of a Social Credit System (2014-2020)*,’ and tasked all provincial and local governments to formulate and implement plans for its establishment. According to the Planning Outline, the government’s aim is to ‘establish and complete a social credit system (SCS) system,’ which ‘commends sincerity and punishes insincerity,’ and ‘strengthens sincerity in government affairs, commercial sincerity, social sincerity and judicial credibility construction.’ ‘Constructing sincerity’ in social affairs includes, but is not limited to, healthcare, hygiene, population and birth control, drug security, social security, labour and employment, education and scientific research. The Planning Outline also prioritises ‘perfecting operational mechanisms with reward as the focus point,’ including systems that: incentivise trust-keeping; strengthen restraint and punishment for trust-breaking; and reward reporting of acts of breach of trust.

3.161 A 2016 CCP opinion on 'Accelerating the Construction of Credit Supervision, Warning and Punishment Mechanisms for Persons Subject to Enforcement for Trust-Breaking' outlines restrictions that can be levied for trust-breaking. These include restrictions on: engaging in particular sectors or affairs; obtaining government support or subsidies; obtaining qualifications or credentials to hold positions (such as, but not limited to, those required to become a director of a board, a member of the civil service, a member of a social organisation, or a member of the CCP); obtaining access qualifications (such as, but not limited to, those required to work in customs-authenticated enterprises, food and drug security, or building and housing enterprises); obtaining honorific titles and credit awards; special market transactions; and conspicuous consumption and related consumption (such as, but not limited to, consumption with respect to transport, hotels, restaurants, high-fee school attendance by offspring, purchasing insurance with a cash value, building or renovating a property).

3.162 The CCP expects the SCS to roll out across China by 2020 and claims it will enable millions of people lacking access to financial services to receive them, and will address the current high levels of social distrust among Chinese citizens. China began testing SCS pilots in 2015, and in 2019 several pilot models exist in varied stages of development and operation across the country. However, despite the 2020 implementation target, China is yet to legislate for a uniform, nationwide SCS and SCS pilot programs remain disjointed.

3.163 Four key agencies are working to establish basic infrastructure, in line with regulatory responsibilities, to support a nationwide SCS: the People's Bank of China, the Supreme People's Court, the National Development and Reform Commission and the Ministry of Commerce. The Supreme People's Court has developed 'red lists' (good behaviour) and 'black lists' (bad behaviour) to incentivise compliance with court judgements, and has developed 'joint sanctions and rewards systems (JSRs)'. JSRs have been established at local, municipal and provincial levels. Under a JSR, a blacklisted individual or firm's information is shared by a government agency, such as the Supreme People's Court, with participating authorities who are required to take action against the subject of the blacklist.

3.164 Media reports claim an official notice, signed by eight ministries, including China's aviation regulator and the Supreme People's Court, notes the SCS is being developed based on the principle of 'once untrustworthy, always restricted.' In February 2019, Chinese media reported: over 3.59 million Chinese enterprises were added to official creditworthiness blacklists in 2018; approximately 17.46 million 'discredited' people were restricted from flying; 5.47 million were prohibited from purchasing high speed train tickets; and 3.51 million 'untrustworthy' individuals and entities had repaid their debts, taxes or fines due to pressure applied by JSRs. In 2017, the Supreme People's Court announced that more than 170,000 people who 'failed to honour court orders' since 2013 had been banned from taking senior positions in companies, and 8.8 million individuals had been placed on a blacklist for violations related to transferred or hidden assets, or evading and resisting law enforcement.

3.165 In March 2018, the National Development and Reform Commission announced that, effective 1 May 2018, travellers who used expired tickets or smoked on trains would be put on a blacklist, and individuals found to have committed financial wrongdoings, such as employers who failed to pay social insurance or people who refused to pay fines, would also face restrictions. The Commission subsequently announced it would extend the train and flight travel restrictions to those who spread false information about terrorism and those who used expired tickets. In September 2018, media reporting estimated around 10 million people in SCS trial areas had been punished. In October 2018, media reported official statistics, which claimed nine million people with low scores were blocked from buying tickets for domestic flights, and a further three million from purchasing business-class train tickets.

3.166 According to international media, the government is also working in partnership with several companies to nationalise the system, and to develop and coordinate technology and algorithms to determine

the national citizen score. The giant Chinese e-commerce company, Alibaba, is reportedly using its large customer database to pilot aspects of the system. Public blacklists under the SCS have been incorporated into the mobile payment service, 'Zhima Credit' (also known as Zhima Xinyong or Sesame Credit), provided by Alipay, owned by Ant Financial and WeChat pay. Zhima Credit, which has approximately 520 million users, is an optional service, not yet officially linked to the government's SCS, which calculates an individual's personal credit based on spending history, friends on the Alipay social network and other consumer behaviour.

3.167 While much remains unknown regarding the various and varied SCS pilots underway, the following provides an overview of application of SCS pilots based on Chinese and international media. Media reports the SCS can track citizens' financial, legal and social activities and uses 'algorithmic governance' to distil their behaviour into a single 'citizen score' (a 'trustworthiness' score, ranging from zero to 800-900), able to affect many facets of life, from travel and obtaining bank loans to using library cards. Individuals with high citizen scores (closer to 800/900) can receive preferential treatment from hotels, airports, financial institutions, and universities and in the job market, and receive benefits such as reduced heating costs. Media reports entities, such as companies, are also subject to the SCS and can receive good scores for paying taxes on time, and high scorers can access less burdensome administration during public tendering or more favourable loan terms.

3.168 In 2015, media reported Baihe, China's largest dating website, partnered with Sesame Credit, the financial wing of Alibaba, to actively promote the profiles of individuals with higher citizen scores (most clients openly display their citizen scores on their Baihe profile). Research from 2018 indicates those with higher citizen scores are embracing the SCS due to increased access to benefits. Traditionally, some people in China have not been able to access credit cards, partly due to the insufficient capacity of traditional banking institutions to assess financial creditworthiness. Now, people with high citizen scores can use these scores as a helpful alternative to gain access to finance.

3.169 Those with low citizen scores (closer to 0) can be placed under travel bans, blocked from using social media, or blocked from obtaining financial credit, government employment opportunities, or high school and higher education opportunities. Various media reports also claim moral factors may affect the 'citizen score'. Such factors include: whether an individual expresses negative views about the government (in person or on social media); who they associate with; whether they jaywalk; if they are late to pay taxes or bills; if they have posted 'fake news'; if they are deemed to have purchased too much alcohol or played video games for too long; or if they have smoked in non-smoking areas.

3.170 In 2018, media reported in one SCS pilot in Rongcheng, Shandong, that if an individual received a traffic fine, they would lose five points, but if they earned a 'city-level award' by performing a 'heroic act', 'doing exemplary business' or 'helping their family in unusual, tough circumstances,' they could earn 30 points. In Rongcheng, citizens are also allocated an alphabetical grade rating (A+++ to D) based on the bracket of their citizen score. Drink driving can cause grading to drop to C, whereas A+++ grading can be rewarded with one and a half hours of free public bicycle rental with no deposit required, discounted winter heating and/or favourable bank loan terms. DFAT is aware of reports that under the Shenzhen smart city SCS model, individuals who have jaywalked have been captured by CCTV in real time and publicly shamed on street-side televisions.

3.171 International media reports the varied SCS pilots across the country are enforced by high-tech AI enhanced surveillance systems, which employ facial recognition, body scanning and geo-tracking. Media reports in September 2018 claimed China's network of over 200 million surveillance cameras was expected to triple within 18 months. Regular and customised smartphone apps are also being used for daily data collection and to monitor online behaviour (see [Ethnic Uighurs](#) for information on use of the customised IJOP app in

Xinjiang). Big data sourced from government records, such as educational and medical data, state security assessments and financial records, is also fed into citizen scores.

3.172 In 2013, Liu Hu, an investigative journalist who claims to have uncovered high level corruption within the CCP and solved several serial murder cases, published an article alleging extortion by a government official. Liu was sued for defamation, lost the case, and was ordered by the court to publish an apology and pay a fine. According to media, Liu claimed the court sought an additional fee, which he refused to pay, and he was subsequently blacklisted as 'dishonest' under a pilot SCS. Liu is now blocked from booking travel, and any attempt is denied with advice 'the transaction cannot be processed due to a Supreme Court blacklisting and/or legal restrictions.' Liu has been unable to have the blacklisting reversed. Liu has also had social media accounts where he posted articles shut down, and his Wechat and Weibo accounts (with over two million followers) are now censored.

3.173 Critics express concern the SCS may lead to greater self-censorship, increased suppression of online dissent and an increasingly fearful society. DFAT assesses the government has the capacity to monitor, restrict and block an individual's travel, finances, social media accounts, and access to education, and notes there is no opportunity for redress under any pilot SCS systems. DFAT assesses it is likely that individuals with social behaviour deemed 'non-compliant' by the government, and thus low credit scores, may have their lives significantly curtailed, through financial, educational and/or domestic and international travel restrictions. DFAT assesses it is likely individuals with low credit scores may not be able to depart China. DFAT assesses it is likely that low credit scores could lead to an increased risk of claims for protection, and negatively affect Chinese government support for travel overseas. Nevertheless, DFAT notes that while the development of nationally coordinated reward and sanction schemes has potential to affect the political, social and economic life of citizens, full implementation of the SCS at the national level is yet to be realised, and thus the extent of possible implications remains unknown.

## Sexual Orientation and Gender Identity

3.174 China's laws do not explicitly criminalise private consensual same-sex activities between adults. However, the Chinese Government does not recognise de facto or same-sex partnerships and China's *Marriage Law* (1980; amended 2001) recognises marriage only between a man and a woman. Due to societal discrimination and family expectations, most individuals who identify as lesbian, gay, bisexual, transgender, or intersex (LGBTI) do not publicly discuss their sexual orientation or gender identity. Parental stigma is often associated with concerns that a child may not be able to marry, have children, and therefore provide for the extended family.

3.175 China's existing anti-discrimination regulations do not explicitly deal with sexual orientation and gender identity relating to individuals who identify as lesbian, bisexual or transgender. A small number of hospitals deliver sex-reassignment surgery for transgender people but individuals are required to complete 12 months of psychotherapy before undergoing the surgery. Sources report there are a few limited hospitals, which offer gender reassignment surgery in Shanghai and Beijing; however, individuals aged under 21 who wish to undergo gender reassignment surgery require parental consent, which is often denied. Sources report there is often pressure from the patient's family placed on doctors to deny reassignment surgery. Members of the LGBTI community advise that, while transition therapy is available (at a cost) for the transgender community, it is associated with significant stigma. Hormone replacement therapy is not legally available for transition purposes; however, unregulated hormones are available on the black market. (For information regarding availability of HIV treatment see [People living with HIV/AIDS](#)).

3.176 National laws allow transgender people to change their gender on ID cards and household registration if they have undergone full sex-reassignment surgery. Individuals may not change their gender on other official documents, such as educational certificates, thus limiting access to employment opportunities. DFAT is also aware of anecdotal claims regarding individuals who have transitioned being refused social security benefits on presentation of identification. DFAT is unable to verify these claims.

3.177 Homosexuality and bisexuality were removed from the Ministry of Health's list of mental illnesses in 2001. However, many individuals identifying as LGBTBI report being forced into 'conversion therapy' by family members. Advertising and providing conversion therapy services is illegal. In July 2018, a Henan province court ordered a Zhumadian City 'mental hospital' pay a homosexual man RMB 5,000 (AUD1,024) in compensation over forced 'conversion therapy' following diagnosis of a 'sexual preference disorder' in 2015. The conversion therapy included, but was not limited to, 19 days of medication and injections.

3.178 Censorship laws explicitly ban same-sex content in any form in movies and television (see [Media](#)). No laws or national regulations prohibit workplace discrimination based on sexual orientation and gender identity; however, such discrimination is common. According to the UNDP, discrimination against LGBTBI individuals occurs most often in the family, followed by schools and workplaces.

3.179 Members of the LGBTBI community also claim high levels of familial violence and stigma from family and members who do not accept their sexuality, as well as high levels of intimate partner violence. UNDP reported that only around 15 per cent of LGBTBI people disclose their sexual orientation to their families, and only around five per cent outside of their families. According to a 2009 survey of 900 lesbian and bisexual women about family violence, 48.2 per cent reported violence and abuse from parents and relatives, including involuntary committal to psychiatric wards. As a result, according to LGBTBI NGOs, the rates of mental health issues among the LGBTBI community are high. Nevertheless, regulations on domestic violence and the *Family Violence Law* (2016) do not include same-sex partnerships, giving LGBTBI victims of domestic violence less legal recourse than heterosexual victims.

3.180 As a result of the Foreign NGO Law and the Charity Law (see [Civil society organisations \(CSOs\)](#)), similar to other CSOs working on issues perceived as sensitive by the government (or in receipt of foreign funding), LGBTBI CSOs can experience difficulties with legal registration, receiving funding, and arranging public advocacy activities. In June 2017, authorities permitted an International Pride Film Festival in Guangzhou, but the Public Security Bureau disrupted or cancelled some events. In May 2017, Xi'an police detained nine members of same-sex advocacy group, 'Speak Out,' hours before a conference organised by the group was due to commence.

3.181 Civil society groups advocating for LGBTBI rights claim it is generally harder to operate in Beijing (many activities are shut down or stopped in advance) than other parts of the country (such as in Guangzhou, where civil society estimates around 500 events are run per year, with under ten shut down). Nevertheless, civil society groups also claim the operating environment for groups working on LGBTBI rights became tighter across the country in 2018, with more contact from authorities seeking information regarding attendees, numbers and event details. Media also reports LGBTBI groups are increasingly monitored by the police, and public events cancelled or forced to relocate to less prominent locations. Censorship of LGBTBI issues has also increased in academia. Members of the LGBTBI community claim the open course on LGBTBI issues at Sun Yat Sen University is no longer available, and a female student who wrote a graduation essay on same sex couple violence was advised by the University that she could not use the essay for graduation.

3.182 Members of the LGBTBI community claim that while 'private space' for the expression of LGBTBI rights and sexual identity is increasing, the 'public' or 'government space' for freedom of expression of sexual identity

is shrinking. The word 'pride' was censored in 2018 and is now considered sensitive by the government; however, due to online social pressure, China's largest social media platform Weibo was forced to apologise after it purged LGBTI content (Weibo grouped homosexuality with violence and pornography as 'undesirable content,' see [Internet Freedom](#)).

3.183 While public opinion regarding homosexuality is gradually becoming more tolerant, it remains predominantly negative. People in larger, wealthier cities in China, such as Beijing, Shanghai and Guangzhou, have greater tolerance for individuals who identify as LGBTI. Larger cities are starting to have LGBTI-friendly media and clubs. Public displays of affection between same-sex couples and heterosexual couples are discouraged, and members of the LGBTI community report discrimination in the workplace continues (including loss of employment). Members of the LGBTI community claim rural communities can be less accepting of LGBTI people owing to traditionally conservative views, lack of education, or misplaced stigma associated with HIV/AIDs (see [People living with HIV/AIDs](#)). Some members of the LGBTI community have expressed concern that a rise in Christianity in China is leading to a rise in negative perceptions of homosexuality.

3.184 DFAT assesses that LGBTI people face a moderate risk of official discrimination. DFAT assesses societal discrimination against LGBTI people exists, particularly within families, but varies in frequency and severity depending on the location. LGBTI individuals in rural areas or smaller cities face a higher risk of societal discrimination than those in larger and wealthier cities. DFAT assesses LGBTI people face a low risk of official violence, but face a moderate risk of violence by family members and intimate partners.

## Women

3.185 Article 48 of the Chinese constitution states women 'enjoy equal rights with men in all spheres of life'. The *Law on the Protection of Women's Rights and Interests* (1992; amended 2005) provides for equality in ownership of property, inheritance rights, access to education, and equal pay for equal work. Under the *Provisions on Female Labor Protection under Special Circumstances* (2012), women are eligible for 98 days of paid maternity leave. Despite these measures, women remain disadvantaged compared to men in most measurable areas. In 2017, the US State Department documented continuing discrimination, unfair dismissal, demotion, and wage discrepancies. On average, women reportedly earn 35 per cent less than men doing similar roles, and this wage gap is greater in rural areas. Women remain under-represented in senior CCP and government positions, despite high female workforce participation. Women held only 23.4 per cent of the total number of seats in the National People's Congress in 2013 and one of the 25 seats in the current Politburo. Unmarried mothers and married mothers who have more children than allowed by government policy also face particular difficulties (see [People affected by Family Planning Policies](#)), as do lesbian, bisexual and transgender women (see [Sexual Orientation and Gender Identity](#)).

3.186 China is one of the few countries in the world where female suicides outnumber male suicides. According to the Chinese Centre for Disease Control and Prevention, in 2012, women committed suicide at a rate three times that of men, although this situation has improved in recent years. Rape is illegal and penalties range from three years in prison to a death sentence, however, spousal or same-sex rape are not illegal (see [Sexual Orientation and Gender Identity](#)). According to the US State Department, in 2018 the majority of reported rape cases were closed through private settlement, rather than prosecution (some individuals convicted of rape were executed in 2018; see [Death Penalty](#)).

3.187 Domestic violence remains pervasive in China. According to the All-China Women's Federation (the state-run women's organisation), one quarter of married women in China have experienced violence in their



marriage. In 2015, ten per cent of homicide cases in China related to domestic violence. Domestic violence is seen as a private household matter and a source of shame, so often goes unreported. Figures are likely to understate the actual situation. Prosecution of domestic violence cases can be difficult due to failure of authorities to collect evidence, such as photographs, hospital records, police records, or child testimony. Witnesses also rarely testify in court.

3.188 Although a new *Family Violence Law* (2016) came into effect in March 2016, implementation and enforcement of the law is not substantial and is inconsistent. Where domestic violence cases are reported, authorities are reluctant to enforce the new law. NGOs reported that, while court recognition of domestic violence improved and there was an increase in women seeking assistance under the law, authorities, including the judiciary and police, still lacked awareness of the law, and court protective orders prohibiting a perpetrator coming near a victim were not always implemented correctly in 2018.

3.189 DFAT is aware of, but cannot verify, anecdotal reports of a female who sought a protection order under the Family Violence Law from a Beijing court (due to violence experienced during pregnancy) and who was denied protection by the ruling judge. Despite being reportedly supportive of the woman's need for protection, the judge did not believe it was culturally appropriate for the violent perpetrator to be required to move out of the residence. DFAT is also aware of anecdotal evidence to suggest police do not routinely separate couples when conducting interviews into claims of familial violence. DFAT is unable to verify these claims. Public security forces reportedly continue to ignore domestic violence, and legal aid institutions working with victims of domestic violence have been pressured to suspend public activities and cease policy advocacy (see [Civil society organisations \(CSOs\)](#)).

3.190 While there are limited shelter and social work services available to victims of domestic violence, they are generally of poor quality and can also cater to other vulnerable groups (such as the homeless). Courts can issue temporary guardianship to protect children who experience familial violence (see [Children](#)).

3.191 The law also prohibits sexual harassment against women, which can incur a penalty of up to 15 days detention; however, sexual harassment is not clearly defined. It is hard for victims to file a sexual harassment complaint (if they report at all) and for judges to reach a ruling. In March 2015, five China Women's Rights Action Group members, known as 'the Feminist Five,' were criminally detained for planning a public sexual harassment awareness campaign to hand out awareness stickers at public transportation hubs in Beijing, Guangzhou and Hangzhou to mark International Women's Day. Media reports the detention of the Feminist Five was part of the broader government crackdown on NGOs and civil society to dissuade collective political action, and received global attention under the #FreeTheFive movement. The Feminist Five remained in detention for 37 days and were released on bail (but under '*qubao houshen*,' subject to surveillance, restrictions and further investigation for a year) following former US Secretary of State John Kerry calling for their release. The international attention regarding the Feminist Five led to the current trend of increased sensitivity regarding gender issues and feminism in China. The word 'feminism' is now considered sensitive by the government and was heavily censored in 2018.

3.192 Several prominent media reports of sexual harassment and assault, which went viral on social media as a part of the global #metoo campaign in 2018, were also heavily censored (see [Internet Freedom](#)). Women's rights NGOs working to increase public awareness of sexual harassment reported harassment by public security and faced challenges executing their programs. In May 2018, police searched houses of feminists suspected of printing clothing with anti-sexual harassment slogans (see [Civil society organisations \(CSOs\)](#)). In March 2018, authorities closed the social media account of women's rights organisation Feminist Voices for 'posting illegal and sensitive information', and prevented activists engaging in public activities on International Women's Day.

3.193 The government manages family planning under the *Population and Family Planning Law* (2016, amendment) (Population Law, see [People affected by Family Planning Policies](#)). Under the Population Law, parents' rights to choose the number of children in their family is restricted, and thus women's reproductive rights curtailed. A two-child policy has been in effect since 2016 (although, some couples can apply for permission to have a third child if they meet certain conditions, see [People affected by Family Planning Policies](#)). While many sources believe the Population Law is loosening, and some predict 'full liberalisation of the fertility policy' in the near future, women reportedly continue to face coerced abortions and sterilisations. State media claims coerced abortions declined in recent years following loosened regulations, such as the implementation of the two-child policy.

3.194 Overall, DFAT assesses that women in China face a low risk of official discrimination. DFAT assesses individuals promoting 'feminism' in China (deemed sensitive by the government) and working on some areas of women's rights can face moderate official discrimination. Women in China face a moderate risk of societal violence, particularly domestic or intimate partner violence. While women in violation of the Population Law can face a moderate risk of official violence in the form of coerced abortion or sterilisation, not all women pregnant outside of policy will face this outcome (fines or job loss are also possible if the pregnancy is discovered, see [People affected by Family Planning Policies](#)).

## People affected by Family Planning Policies

3.195 China has had nation-wide family planning policies since the late 1970s, aimed at controlling population growth (initially in response to famine), in support of China's economic ambitions. Article 25 of the Constitution states 'the State promotes family planning so that population growth may fit the plans for economic and social development.' Article 49 states 'marriage, the family and mother and child are protected by the State. Both husband and wife have the duty to practise family planning. Parents have the duty to rear and educate their children who are minors, and children who have come of age have the duty to support and assist their parents.'

3.196 The government manages family planning under the Population Law (see [Women](#)), which has historically required government departments, state media and schools to advocate family planning policies. Such policies include encouraging late marriage and childbearing, and limits on the number of children permitted per family. Until 2015, the state encouraged late marriage and childbearing and mandated one child per couple. Exceptions were permitted if both spouses were sole children; the first child had a disability; both spouses were members of ethnic minorities; or, for rural residents, the first-born child was a girl. From 2013, couples were also permitted to have two children if either spouse was a sole child. However, concerned about its ageing population, the National People's Congress published a new amendment to the Population Law in 2016. The 2016 amendment included the implementation of a 'two child' policy (subject to other health, age and timing requirements), the abolition of forced contraception, and changes to certain leave entitlements for parents (including maternity and paternity leave). Lower level governments down to neighbourhood and village committees are responsible for implementation of the two-child policy. Interpretation and implementation of the policy varies enormously across China (see [Family Planning in Fujian](#)).

3.197 Authorities enforce compliance with family planning regulations through both incentives and punishments. There are financial and administrative penalties for births that exceed limits or violate regulations. The law, as implemented, requires each woman with an unauthorised pregnancy to abort or pay a 'social compensation fee' (SCF, '*shehui fuyang fei*,' also known as 'social maintenance fees'). The parents of each unapproved child must pay a SCF. The national law does not set out a fee schedule that applies to all

localities; exact SCF amounts vary widely across and within provinces, and on individual financial circumstances.

3.198 County-level governments collect the revenues from fees. Authorities calculate individual SCFs according to 'last year's local disposable annual income per capita' in urban places, and 'the net annual income per capita' in rural places. Average annual disposable incomes for urban residents and net average incomes for rural areas differ according to the county, city or district (see [Family Planning in Fujian](#)). In some cases, this can amount to up to ten times a person's annual disposable income. Information on actual fees charged is difficult to obtain as they are subject to local discretion (leaving open the possibility of individual or institutionalised manipulation). DFAT is aware of, but cannot verify, reports of people falsely presenting themselves as officials to claim SCF illegally.

3.199 Both the previous and current Population Law require those who give birth to a child in contravention of family planning policies (including second children born before 1 January 2016) to pay a SCF, irrespective of *hukou* status (see [Hukou \(household registration\) system](#)). The *hukou* system ties access to services including health and education to an individual's place of birth or, in some circumstances, their parent's place of birth. Prior to the 2016 amendment, SCF payment ensured children born in violation of the birth restrictions had access to government-provided social services and rights under the *hukou* system. However, following the 2016 amendment, children born before 1 January 2016 have a right to *hukou* and access to health and education services irrespective of SCF payment. Children whose unauthorised birth might previously have gone unregistered are now by law able to apply for a *hukou* irrespective of whether their parents have paid the relevant fees.

3.200 Some parents still avoid the SCF by hiding children born in violation of the law with friends or relatives. Such hidden children do not have access to social services and rights under the *hukou* system (see [Children](#)). Awareness of SCFs is widespread and, in many cases, couples wishing to have an additional child will save the required SCF. In these cases, the SCF operates as a pseudo tax, rather than as a punitive arbitrary measure. Local authorities have the discretion to decide whether to impose a more lenient fine if parents report an out-of-policy (child born to a single woman) or unauthorised birth (additional child born to a married couple) soon after it occurs. Authorities are likely to apply heavier penalties for uncooperative behaviour, such as hiding children, and can apply additional surcharges to those who fail to pay the required fee. The local family planning bureau and employers may also pressure the parents of out-of-policy and/or unauthorised children. In some provinces or counties, authorities have also imposed fines on entire work units in addition to the individuals concerned.

3.201 Officials can receive rewards or penalties based on meeting population targets set for their administrative region. However, the change to the two-child policy, as well as a broader reluctance among a large proportion of the population to have no more than two (and in some cases no more than one) child, have made it easier to achieve population targets in recent years and reduced pressure on local officials (also see paragraphs 3.207-208 regarding foreshadowed policy and budgetary changes).

3.202 Parents denied registration in contravention of provincial regulations or national law can, in theory, seek legal redress, but are then subject to the general conditions governing protection against abuse of power by officials (see [Judiciary](#)). Chinese authorities have regarded public opposition to family planning policies as provocative and treated petitioners and their advocates as political opponents (see [Political Opinion \(actual or imputed\)](#)).

3.203 Media reports that authorities have employed coercive practices (such as forced abortions, sterilisations or invasive medical inspections) in order to force compliance with family planning policies.

International NGO reports suggests the incidence of coercive practices has reduced since the introduction of the two-child policy. Nevertheless, the US State Department reports regulations requiring women who violate the family planning policy to terminate their pregnancies still exist and were enforced in some provinces in 2017, including Hubei, Hunan, and Liaoning, and other provinces, such as Guizhou, Jiangxi, Qinghai, and Yunnan, also maintained provisions requiring ‘remedial measures’ (which the US reports is an ‘official euphemism for abortion’). DFAT notes reliable data on the frequency of coerced or forced abortions or sterilisations is not available. While family planning officials face criminal charges and administrative sanctions if they violate citizens’ human or property rights, abuse their power, accept bribes, misappropriate or embezzle family planning funds, or falsely report family planning statistics in the enforcement of birth limitation policy, forced abortion is not specifically listed as a prohibited activity.

3.204 Despite the introduction of the two-child policy in 2016, couples with only one child received a certificate entitling them to collect a monthly incentive payment and other benefits. Benefits varied across provinces, from around RMB 6 (AUD1.23) per month up to RMB 3,000 (AUD615) for farmers and herders in poorer areas. Couples in some provinces were also reportedly still required to seek approval and register before conceiving.

3.205 Although China’s Marriage Law (see [Sexual Orientation and Gender Identity](#)) states children born outside of marriage have the same rights as those born to married parents, the Population Law (see [Women](#)) only refers to the rights of married couples. As such, local implementation remains inconsistent, and children born out of wedlock continue to be considered to be ‘outside of policy’ under the two-child policy. Single mothers with children born out-of-policy must pay SCFs, and pay for contraception and all medical expenses associated with giving birth. They are still denied legal documents and *hukou* for their children (and the health and education benefits it provides) (see [Hukou \(household registration\) system](#)). State subsidies for maternal and child services are available only with the permission of family-planning authorities, who require proof of marriage. Consequentially, many single mothers give birth outside of medical facilities with associated complications for both mother and child. Single mothers can also find it difficult to obtain birth certificates. Sources report that heavier SCFs will be imposed on those who give birth to out-of-policy children born from an extra-marital affair. However, children born out-of-policy are reconsidered to be within-policy (legitimate) and the mother will avoid any penalty if the mother marries within 60 days of the child’s birth. Sources report that heavier SCFs will be imposed on those who give birth to out-of-policy children born from an extra-marital affair.

3.206 While the introduction of the two-child policy in 2016 led to a temporary increase in birth rates, the increase did not continue in 2018. Population and fertility policy experts argue long-term application of the one-child policy has led to social change, resulting in families still preferring to have only one child, despite policy change. Media and many people in China cite the economic cost of raising one child makes having a second child prohibitive. Experts working on fertility policy in China anticipate the government may approve full liberalisation of the fertility policy (removing birth limits) in coming years in an attempt to increase birth rates, in favour of ageing population policies. Recent budget and government department structural changes are early signals in this regard. The former National Health and Family Planning commission was renamed as the National Health Commission in March 2018, and had ageing added to its portfolio and family planning budget lines removed. The family planning budget is now part of the basic public health package.

3.207 In September 2018, state-media reported ‘the three departments responsible for implementing family planning policies [had] been removed from the new structure of the National Health Commission.’ In August 2018, media reported China appeared to be considering dropping its family planning policy, and that all media content related to family planning had been dropped in a draft civil code, set to be completed by 2020. In late

2018, state-controlled media performed an about-face and started publishing articles regarding the need to reverse China's low birth rate and proactively encouraging births.

3.208 DFAT is aware of reports that, following departmental structure and budgetary changes, some provinces had more discretion to not charge the SCF in 2018. DFAT notes in country-sources report a general trend of significant relaxation of the enforcement of the SCF across China, especially in rural areas. Anecdotal evidence suggests married informal sector workers in Fuzhou who gave birth to unauthorised children in 2018 were not required to pay a SCF. DFAT is unable to verify these claims.

3.209 DFAT assesses that, while the introduction of the two-child policy has reduced the need for the application of penalties to those in violation of the Population Law and family planning policies, application of law and policy remains inconsistent and non-transparent across provinces. DFAT assesses inconsistent and non-transparent application of SCFs leaves open the possibility of individual or institutionalised corruption. If the government were to approve full liberalisation of the fertility policy at any stage, there would no longer be a use for the SCF or other punitive measures against married couples; however, the possible impact on single, unmarried mothers remains unclear.

### Application of Family Planning Policy in Fujian

3.210 The *Population and Family Planning Regulation of Fujian* (2016) aligns with the national two-child policy (under the Population Law), and has the following exceptions which allow a third child if: the first child has a disability; divorced couples remarry; the parents belong to an ethnic minority group; and if one half of the couple lives overseas with 'surplus' children. 'Surplus' children born overseas are able to return to China for an accumulated period of less than 18 months in two years; however, if they 'settle down' for a period of more than six months, the family may be subject to a SCF.

3.211 The term 'returned overseas Chinese couple' refers to couples who had permanently settled in foreign countries but who have given up their long-term, permanent or lawful right of residence and returned to China. Returned overseas Chinese couples who return to China may then give birth on their return to further children in accordance with the regulations. Citizens who are based temporarily abroad, such as those who are abroad for study or employment purposes are not considered to be 'returned overseas Chinese couples'.

3.212 As with national policy, if a couple has an unauthorised child they will be subject to a SCF. According to the Fujian family planning office, Fujian SCFs are in line with the national policy and are based on either the prior year's average annual disposable income at county level, or 200 to 300 per cent of the individual's prior year's salary (disposable income), whichever is greater. Average annual disposable incomes for urban residents and net average incomes for rural areas differ according to the county. The actual application of SCFs varies across Fujian and is subject to local discretion (and leaves open the possibility of individual or institutionalised manipulation).

3.213 The SCF applies to both parents. If parent A earns more than the county average, their SCF fee will be 200 to 300 per cent of their income in the prior year. However, if parent B earns less than the county average (or has no job), their SCFs will be 200 to 300 per cent of the average county income in the prior year. SCF for single women who have had an out-of-policy child are calculated at 60 to 100 per cent of the individual's income in the prior year, or the county average, whichever is higher. While the SCF is applied equally, fines can vary due to the different income level of different families. The provincial government also has discretion to arrange SCF instalment payments for families experiencing financial hardship.

3.214 Sources report that, if an individual works in a government agency and has an official payslip, the individual's prior year's salary is very clear and thus the SCF is transparent and easy to calculate. However, if an individual's salary is above average (county level), it is harder to calculate the SCF, especially if the individual does not have a clear payslip. Individuals who cannot provide clear evidence of their income will be fined in accordance with the average county income.

3.215 In March 2016, the Deputy Chairman of the Fujian Family Planning Association stated that, if parents had received previous notification of SCFs under the 2014 Regulations, these penalties stood under the 2016 Regulations. If individuals in breach of the 2014 Regulations had not received notification of SCF, local authorities would not pursue the issue further. The 2016 Regulations only apply to children born after 1 January 2016, or in cases where SCF notices have not been issued for children born prior to 1 January 2016.

3.216 DFAT is aware of a range of measures used in Fujian to secure payment of SCF, including applying personal pressure through personal calls and visits. In July 2015, the Fujian Health and Family Planning Commission signed a Memorandum of Understanding with the Fujian High Court, the Fujian Development and Reform Commission and the Fuzhou Branch of the People's Bank of China to list people who failed to pay SCFs on a 'black list', limiting their ability to bid for government-linked contracts, apply for loans or credit cards, obtain market access certificates for their businesses, board planes or book soft berth tickets on trains. These restrictions are indicative of punitive measures possible under the SCS (see [The Social Credit System](#)).

3.217 In August 2015, the Fujian Public Security Department implemented a new 'Household Registration Management System,' directing local authorities to not treat the payment of SCF as a prerequisite for accepting an application for a *hukou* (see [Hukou \(household registration\) system](#)). Children whose unauthorised births might previously have gone unregistered are subsequently able to apply for a *hukou* irrespective of whether the relevant SCF has been paid.

3.218 In Fujian, authorities no longer distinguish between urban and rural *hukou* – all households are now registered as 'residents' and are entitled to access available social services. Despite this, local authorities have significant flexibility in setting stricter (or looser) restrictions in order to control population flows to urban areas and therefore limit associated pressure on social services (which are often of a higher quality in urban areas, thereby exacerbating inequality between urban and rural residents). This flexibility has also created a greater potential for corruption.

3.219 Under the system, children may be registered under the *hukou* of either parent, who must normally supply supporting documentation including the child's birth certificate, household registration books of the parents, identification cards of the parents and the marriage certificate of the parents. If the child is born out-of-policy, the registering parent must supply a 'declaration' of the child's situation and/or a paternity test certificate.

3.220 Trafficking of young girls, smuggling activity and illegal adoption catering to the child-bride market are common in Fujian, particularly from, between, and to Changle District, Putian City and Zhenping Village (also reported as 'Child Bride Village') in Donghai Town (see [Children](#)). DFAT is aware of cultural practice local to Changle District, Fuzhou (although likely to occur elsewhere), whereby female children are less desirable than males, and a man's family will not allow the registration of their son's marriage until their female partner gives birth to a male child. This causes an abundance of illegitimate, out-of-policy, female children born to unmarried parents in Changle District. This issue is reportedly due to economic pressure, family planning policies and the uneven male/female birth ratio in China, which make it difficult for women to secure husbands. To compensate, parents of daughters incentivise marriage through the purchase of cars and houses to secure a husband for their daughter. In 2018, media reported anecdotal evidence of a rural family in Changle District

which gave birth to eight girls before giving birth to a boy. The family reportedly could not afford to raise nine children and voluntarily sent five children to a baby trafficker.

3.221 The 2016 Fujian Regulations are consistent with the Population Law (see assessments under [People affected by Family Planning Policies](#)); however, DFAT assesses application remains at the discretion of local Fujian officials and is therefore inconsistent. Due to relaxation of national family planning policies, and a desire to increase the national birth rate, DFAT assesses officials in Fujian have more flexibility to decide not to charge, or arrange a payment plan for, SCFs to reduce financial pressures on those with unauthorised or out-of-policy children. DFAT assesses children born in Fujian whose unauthorised birth might previously have gone unregistered are able to apply for a *hukou* irrespective of whether the relevant SCF has been paid, and are not blocked from accessing social health and education benefits.

## Children

3.222 Article 49 of the Constitution provides for the state protection of children, and prohibits maltreatment of children. The primary law protecting child rights, the *Law on the Protection of Minors* (2007; amendment) (Minors Protection Law), establishes that minors are defined as citizens less than 18 years old, and outlines the responsibilities of the families, the schools, and the government with regard to the protection of children's rights, and judicial protection.

3.223 China has signed and ratified the UN Convention on the Rights of the Child; Optional Protocol to the Convention on Rights of Child on Sale of Children, Child Prostitution and Child Pornography; International Covenant on Economic, Social and Cultural Rights; the Convention on the Elimination of All Forms of Discrimination Against Women; Worst Forms of Child Labor Convention, and The Hague Convention on the Protection of Children and Cooperation in Respect of Intercountry Adoption. However, China made a reservation to Article 6 of the Convention on the Rights of the Child on the inherent right to life, and stated China shall fulfil its obligation provided by this article under the prerequisite of planned birth provided by Article 25 of the Constitution.

3.224 Children's citizenship is obtained through their parents, who must register their offspring in accordance with the *hukou* system within one month of birth (see [Hukou \(household registration\) system](#)). Children who are not registered, do not have a *hukou* and cannot access public services, such as health care and education, and they cannot legally marry, or obtain a job in the formal workforce.

3.225 'Left behind children' are an unintended consequence of internal economic migration and the *hukou* registration system (see [Children](#) and [Hukou \(household registration\) system](#)). Over nine million rural children aged under 16 were estimated to be 'left behind' by both parents who migrated to urban areas for work in 2016. Up to 60 million children under 18 were living without one or both of their parents in 2010. An estimated 89.3 per cent of left-behind children live with their grandparents and 4 per cent have no guardian. While 39.4 per cent see their parents once a year, many report no emotional connection to their parents. Many of these children are also unregistered, and considered '*heihazi*' (black children), as they are born in violation of the two-child (or former one-child) policy.

3.226 In 2015, state media reported the government would allow unregistered children to obtain documents and thus gain access to health, education and other social services (see [Hukou \(household registration\) system](#)). In 2016, the State Council issued Guidelines on Protection of Left Behind Children, which seeks to reduce the number of children left behind in rural areas as a result of migration, and improve their welfare and protection. In June 2016, the State Council also issued an Opinion on Strengthening Protection for

Vulnerable Children, requiring the creation of positions in every village to ensure child welfare and child rights. The approach is a community-based model to extend social services and protection to vulnerable children who live in the remotest and poorest parts of the country. The Ministry of Civil Affairs is also working to obtain *hukou* for out-of-policy and unauthorised children (see [People affected by Family Planning Policies](#)), although is mainly focused on rural areas (rather than the migrant population in cities), increasing access to social services (see [Hukou \(household registration\) system](#)).

3.227 The gap in the quality of education for urban and rural children is large (see Education). Although the law provides for nine years of compulsory education for children, many in economically disadvantaged rural areas do not attend school for the required period. Public schools charge miscellaneous fees due to insufficient local and central government funding, which make it difficult for poorer families and some migrant workers to send their children to school (see [Mental Health](#)).

3.228 Article 15 of *the Labor Law* (1994) prohibits an employer from recruiting minors under the age of 16, with exception made for institutions of literature, art, physical culture, and special crafts, which may recruit minors through investigation and approval of the government authorities, and must guarantee the minors' rights to compulsory education. Using child labour without government approval may result in a RMB5,000 (AUD1,025) fine per child worker per month. Despite this, child labour remains persistent, but data on the prevalence of child labour in China is difficult to obtain.

3.229 Infanticide, and mistreatment or abandonment of children are against the law. Parents of children living with disabilities commonly abandon infants at hospitals due to the cost of medical care. While gender-biased abortions, as well as abandonment and neglect of female infants are reportedly in decline, they persist due to traditional preference for male offspring and the two-child policy. Despite reported decrease in gender-biased abortions, Chinese women, particularly in rural areas, continue to face pressure to give birth to male offspring (see [Application of Family Planning Policy in Fujian](#)). Estimates in 2015 indicated China had at least 502,000 orphans, 92,000 of whom were up for adoption. According to the US State Department, the government has acknowledged orphanages are unable to adequately provide for some children, particularly those with serious medical conditions. Adopted children are generally counted within the family planning policy as if they were a couple's biological child, thus limiting the amount of future offspring. Children whose family are not identified within 12 months of abandonment are legally allowed to be put up for adoption.

3.230 According to the Criminal Code, the abduction and trafficking of a woman or child can result in punishments from five years imprisonment to the death penalty. There is no reliable data on the abduction and trafficking of children in China; however, media estimates around 20,000 to 70,000 children are kidnapped and sold on the black market every year, and around 200,000 disappear annually. China is on the 2018 US State Department's Trafficking in Persons Report 'Tier 3 Watch List,' and is a source, transit, and destination country for men, women, and children trafficked for the purposes of forced labour and sexual exploitation. A significant number of Chinese women and children are trafficked internally as child brides and forced labour. Fujian, Zhejiang, Heilongjiang, Wubei and Liaoning are hotspots for trafficking and irregular migration (see [Application of Family Planning Policy in Fujian](#)). Media reports nearly half of all cases of children who are sold have involved the consent of their biological family, particularly in the case of daughters who are sold for economic purposes.

3.231 The All China Women's Federation is responsible for the care of victims of trafficking (VoT) if returned from overseas; however, their focus is often to send the VoT home. There are no specialist shelters for VoTs and VoTs are often placed in homeless shelters. In 2018, media reported the arrest of six people following the sale of a Chinese baby for RMB 60,000 (AUD 12,642) was advertised on social media. Police uncovered a



WeChat based human trafficking operation based in Yiyang, Hunan that was contacting pregnant women who arrived at a Yiyang-based hospital and sourcing buyers for their babies within two to three days.

3.232 Physical abuse of children is grounds for criminal prosecution and the Family Violence Law (see [Women](#)) affords protection to children; however, violence against children and the use of corporal punishment in the home, child care and educational settings, remains common (see [Corporal Punishment](#)).

3.233 The minimum age for consensual sex is 14. The US State Department reports the sexual abuse of minors, particularly rural children, is a significant issue. Pilots are underway in three major provinces to develop and implement child protection laws and protocols for protection and treatment of children, including mandatory reporting. Those who force girls under 14 into prostitution can be sentenced to between 10 years and life in prison, face fines, lose property, or, in more serious cases, can be issued a life sentence or the death penalty. People who solicit the services of girls under 14 forced into prostitution are subject to five years or more in prison and a fine.

3.234 The age of criminal responsibility in China is 14 for murder and capital offences, and 16 for lighter offences. Children cannot be charged with the death penalty. The Minors Protection Law requires the judiciary to protect minors' legal rights during judicial proceedings; however, in practice, judicial protection is not always enforced effectively.

3.235 DFAT assesses out-of-policy and unauthorised children, children who are disabled, or children of migrant workers who are not registered under the *hukou* system can lack access to basic social services. DFAT assesses these children are vulnerable, cannot always access adequate state protection and can be at a higher risk of societal violence and/or trafficking. DFAT assesses 'left behind' children are also at higher risk of abuse, mental health issues, suicide and delinquency.

## Loan Sharks

3.236 There is no comprehensive data available on short-term cash lending (including online lending), as illegitimate lenders (otherwise known as loan sharks) operate illegally. In 2017, the Supreme People's Court ruled that courts could only accept cases involving debt collectors seeking repayment of their loans if the interest rate charged did not exceed 24 per cent. Media reports claim that, as a result of the ruling, creditors have been forced to find other ways to get their money back if the rate is higher, and reportedly often resort to physical violence and threats against borrowers. Media reports also claim that loan sharks predominantly operate online and are increasingly designing debt traps disguised as legitimate lending. In May 2019, media reported that Shanghai authorities charged 316 criminal gangs, detained more than 1,770 suspects and retrieved more than RMB 1.2 billion in loan shark victim losses during October 2019 in a crackdown on loan shark activity.

3.237 DFAT considers these claims plausible, but is unable to verify them, and has no further information on the prevalence of loan sharks or alleged maltreatment of borrowers in China.

## 4. COMPLEMENTARY PROTECTION CLAIMS

### ARBITRARY DEPRIVATION OF LIFE

4.1 Article 37 of China's Constitution states that 'freedom of the person' of citizens of the People's Republic of China is inviolable.

#### Extra-Judicial Killings

4.2 Media sources allege that, in some instances, Chinese security forces have committed torture and extrajudicial killings with impunity, and that China is committing cultural genocide in Xinjiang (see [Torture](#)). Human rights groups have claimed police in western China have used lethal force to disperse unarmed groups of Uighurs and Tibetans protesting against religious restrictions. The Chinese Government has denied these claims. Restrictions on foreign access to these regions have made it impossible for DFAT to assess these claims (see [Enforced or Involuntary Disappearances](#)).

#### Enforced or Involuntary Disappearances

4.3 Chinese law permits security agencies to detain suspects without charge for varying lengths of time during an investigation, with the conditions dependent on the nature of the offence investigated (see [Arbitrary Arrest and Detention](#)). Police have broad powers of detention during investigations relating to national security or intelligence matters, as defined by the CCP or state agencies. In the course of the anti-corruption campaign, the CCDI has detained many Party members suspected of corruption, holding some for several months before delivering them to the state criminal justice system (see [Corruption](#)).

4.4 The authorities' power to restrain the liberty of citizens through a number of legal or extra-legal measures applies to children as well as adults: Then six-year-old Gedhun Choekyi Nyima disappeared with his parents in 1995, after the current Dalai Lama recognised him as the reincarnation of the Panchen Lama, Tibet's second most senior spiritual leader. The Chinese authorities declared the nomination invalid and installed another six-year-old, Gyaltzen Norbu, as Panchen Lama in his place (see [Buddhists](#)). No international observer (diplomatic, media or NGO) has seen Gedhun Choekyi Nyima since 1995. The then 16-year-old son of a '709' lawyer (see [Human Rights Defenders \(including Lawyers\)](#)) was arrested in 2015 at Beijing airport on his way to school in Australia, and again later that year on the Chinese-Myanmar border. In November 2017, he was denied exit from Beijing airport while again seeking to travel to Australia for study.

4.5 Several lawyers and legal assistants disappeared in 2015 during a crackdown on human rights defenders (called the '709' lawyers, as a large number disappeared on 9 July 2015 (see [Human Rights Defenders \(including Lawyers\)](#)). Some have subsequently been released (some after public confessions); others have been tried and sentenced. In some cases, detainees and their families have made allegations of

torture (see [Torture](#)). In September 2018, media also reported the high profile disappearance of Chinese celebrity Fan Bingbing of X-Men stardom, allegedly for tax related crimes. According to media, Fan Bingbing was detained under residential surveillance at a holiday resort for three months, and reappeared in October 2018 to issue an official public apology confessing to tax evasion.

4.6 Tibetans and Uighurs have disappeared into official custody in recent years, and media and human rights sources have documented the detention of over one million Uighurs and other Muslims in re-education camps in Xinjiang (see [Ethnic Uighurs, Muslims, Extra-Judicial Killings and Ethnic Tibetans](#)). Some have later appeared in court on charges of endangering state security or terrorism. Some have received lengthy sentences or the death penalty. The Australian Strategic Policy Institute has used satellite imagery and other sources to document and map the existence and expansion of 28 detention camps in Xinjiang. Media and ASPI report the footprint of the 28 re-education camps had expanded by over 2 million square kilometres by late 2018.

4.7 DFAT is also aware of numerous reports of family members of Uighur Australians who have become uncontactable in Xinjiang in recent years. Xinjiang officials state the re-education camps are 'vocational training centres.' The UN has requested access to Xinjiang to verify 'worrying reports' regarding re-education centres in Xinjiang detaining Uighurs.

## Deaths in Custody

4.8 A number of high profile deaths in custody have occurred in China in recent years. Media and NGO reports of deaths in custody include deaths caused by denial of access to proper medical care. While most high-profile deaths in custody have involved political prisoners (including, in July 2017, of Nobel Peace laureate Liu Xiaobo), some appear to have involved lower level police brutality. Some cases seem to have involved mistaken identity. The government denies that it holds prisoners for their political views, claiming that they are common criminals who have violated the law. The government also denies mistreatment of prisoners, although it has refused to release the bodies of some high profile detainees to families. In lower profile cases, police have claimed that video and audio footage from police devices and surrounding closed circuit security cameras was unavailable due to device malfunction. Where authorities have announced investigations into police misbehaviour, the results are generally not made public (see [Police](#)). In one high-profile case, the courts ordered officers face internal discipline.

## DEATH PENALTY

4.9 China retains the death penalty for 46 offences. The number of offences attracting the death penalty was reduced from 55 in November 2015 following an amendment to the Criminal Law. Capital offences include a number of economic and non-violent crimes such as corruption and drug-related offences. Capital crimes include; 'endangering public security' (such as arson, hijacking or the selling or producing of fake medicines) and 'infringing upon citizens' right of the person and democratic rights' (including homicide, rape, and trafficking).

4.10 According to Articles 347, 348 and 357 of the Criminal Law (1979; Amended 2015), individuals found guilty of smuggling, trafficking, transporting, manufacturing and illegally possessing narcotics (opium, heroin, ice, morphine, marijuana, cocaine, and 'other' addictive narcotics and 'drugs for mental sickness' under the state's control), regardless of the quantity, shall be investigated and punished. Cases of smuggling, trafficking, transporting and manufacturing opium with a quantity of more than 1000 grams, heroin or methylaniline of

more than 50 grams, or 'other drugs' with a 'large' quantity are subject to punishment including 15 years' imprisonment, life imprisonment, or the death penalty. A Supreme People's Court Judicial Interpretation issued in June 2016, 'Several Issues concerning the Application of Law in the Trial of Drug-Related Criminal Cases,' provides more detailed guidance regarding the specific types and amounts of narcotics determined to meet the condition of 'a large amount of any other drug' as stated in Article 347 and 348 of the Criminal Law (1979; amended 2015). Cases involving lower quantities of narcotics do not attract the death penalty, and instead attract punishments ranging from more than seven years to less than three years imprisonment, detention or control, and a fine.

4.11 Pregnant women and people who are aged under 18 or over 75 years at the time the crime is committed are exempt from the death penalty. All death sentences are subject to the approval of the Supreme People's Court and the court must provide a lawyer to any individual facing the death penalty if they do not already have one. According to the US State Department, in some instances, executions have followed criminal proceedings that lacked due process or appeal channels. In some highly publicised cases, the Supreme People's Court has posthumously reversed death penalty verdicts after finding either police or prosecutorial misconduct, or other irregularities in the process leading to execution.

4.12 Courts can impose either a death sentence (without reprieve) or a death sentence with a two-year suspension of execution. The latter punishment can be commuted to life imprisonment at the end of the two-year period if no other intentional crimes have been committed during the period of suspension. A person who demonstrates 'meritorious service' in prison during their suspension period may receive a reduction of sentence to 15 to 20 years' imprisonment.

4.13 The government's 2016-2020 *Human Rights Action Plan* states an intention to strengthen the process and oversight of the death penalty. In its 2013 UPR Report, China confirmed it would reduce the use of the death penalty; however, it subsequently rejected recommendations made by over 20 countries regarding the death penalty during the 2018 UPR. Amnesty International claims China has the highest rate of executions in the world. However, DFAT notes the number of executions in China remains a state secret: Duihua estimates 2,000 people were executed in 2016 (latest data; compared to 2,400 in 2013).

## TORTURE

4.14 China ratified the Convention against Torture and Other Inhuman and Degrading Treatments in 1988. Chinese law prohibits the physical abuse of detainees and forbids prison guards from extracting confessions by torture, insulting prisoners' dignity, and beating or encouraging others to beat prisoners. Amendments to the Criminal Procedure Law that exclude evidence, including confessions, obtained through illegal means, including under torture, took effect on 1 January 2013.

4.15 In 2015, the UN Committee against Torture expressed serious concern over consistent reports indicating torture and ill-treatment were still deeply entrenched in China's criminal justice system (see [Torture](#)). In 2016, in its concluding observations on the Fifth Periodic Report of China in January 2016, the UN Committee against Torture also expressed concern over a number of continuing practices that it assessed increased the risk of torture of detainees. These practices include: lengthy pre-trial detention; denial of access to a private lawyer; withholding of information from the detainee's family in cases deemed 'endangering state security', 'terrorism' or serious 'bribery'; 'residential surveillance' (see [Arbitrary Arrest and Detention](#)); the lack of independence of medical practitioners examining detainees; revisions to laws that prohibit (undefined) 'conduct that disrupts court order'; lack of judicial or procuratorial oversight of criminal investigations; lack of information on past investigations of allegations of torture by security officials; unexplained deaths in custody;

solitary confinement and use of restraints; a lack of information on inspection of detention facilities; exclusion of matters relating to 'State secrets' from the government's reporting on torture; and the broad definition of many offences, including 'endangering State security', 'picking quarrels and provoking troubles', and 'gathering a crowd to disturb social order'.

4.16 Family members of the '709 lawyers' (see [Human Rights Defenders \(including Lawyers\)](#)) wrote an open letter to world leaders on 1 March 2017 detailing allegations of mistreatment of their family members while in detention. The allegations included: forced consumption of drugs; marathon interrogation sessions and sleep deprivation; beatings; the application of heavy weights on legs; being almost entirely submerged in water for several days at a time; and threats and detention of family members. Individual lawyers detained during the '709' crackdown have also detailed allegations of mistreatment at the hands of the authorities.

4.17 Falun Gong practitioners have reported mistreatment in custody including sleep deprivation, enforced standing and kneeling for extended hours, nasal feeding (forced feeding through a tube inserted into the nostril), being forced to drink dirty or salty water, shackling and beatings (see [Falun Gong](#)). International human rights reporting continues to document use of psychological pressure against Falun Gong practitioners.

4.18 Media, human rights groups, members of the international community, and Uighurs have also reported the use of violence and torture of Uighurs in re-education centres in Xinjiang (see [Ethnic Uighurs, Muslims](#)). Media and Uighurs' reports of physical and psychological maltreatment have included, but are not limited to, interrogation, inappropriate clothing for climate, sleep deprivation, administration of electric shocks, having weights tied to feet, indefinite confinement, forced administration of medication, psychiatric drugs, injections, blood tests, DNA sampling, and medication to stop menstruation, as well as intrusive medical examinations.

4.19 DFAT considers allegations of torture, particularly those detailed in cases deemed politically sensitive, to be credible.

## CRUEL, INHUMAN OR DEGRADING TREATMENT OR PUNISHMENT

### Arbitrary Arrest and Detention

4.20 The Ministry of Public Security manages pre-trial detention facilities and procedures. Authorities with the power to authorise the detention of a criminal suspect include (but are not limited to) the Public Security Bureau (PSB), Ministry of State Security, and the Anti-Smuggling Bureau.

4.21 Under the Criminal Procedure Law, the term 'arrest' refers to the stage of the criminal prosecution process when authorities determine there is sufficient evidence to proceed with prosecution. A suspect can be, though is not necessarily, detained prior to being formally arrested. A detention warrant must be issued to a suspect's family within 24 hours of their detention. The formal arrest of a detainee must be approved by the Procuratorate, which can take up to 37 days. Unless released on bail, criminal suspects will generally remain detained until the conclusion of the judicial process, including appeals. In practice, the rate of release on bail is extremely low. Bail is not considered a right; under the Criminal Procedure law bail 'is not an individual right designed to minimize restraints on freedom, but an alternative pre-trial coercive measure. When bail is granted, it is usually on the initiative and for the convenience of the police.'

4.22 These procedures are not subject to judicial oversight. The post-arrest investigation period can be up to seven months, and preparation of indictment can take up to six and a half months. The total time required to hear a case and issue a verdict in standard cases ranges from twenty months to an indefinite period. Security agencies can hold individuals for years while they progress through the charge, arrest, investigation, court hearing and sentencing processes. Individuals convicted of an offence do not move into the prison system until their case is finalised, including any appeal processes. Time served in a detention centre is deducted from their custodial sentence.

4.23 Amendments to the Criminal Procedure Law (1979; amended 2012, 2018) require the prompt delivery of suspects to detention facilities following arrest. The law stipulates that interrogations must take place in the detention facility, and must be recorded in audio and video. The revised law also requires judicial officials to investigate cases of extraction of confessions under torture.

4.24 Police and other security agencies have broad administrative detention powers and the ability to detain individuals for extended periods without formal arrest or criminal charge. Police can hold individuals for up to 30 days in criminal detention before deciding whether to pass the case to prosecutors, and for an additional seven days prior to formal arrest. Police detention beyond 37 days requires prosecutorial approval of a formal arrest and notification of family members within 24 hours of detention. The law permits officials not to provide notification if doing so would 'hinder the investigation' or for cases pertaining to 'national security, terrorism, and major bribery'. During periods and anniversaries considered politically sensitive, authorities often detain activists without charge for the full 37-day period.

4.25 Administrative detention is regulated under the law on *Penalties for Administration of Public Security* (2006). Administrative detention is imposed for crimes of a minor nature, and which are not serious enough to warrant criminal prosecution and punishment under the Criminal Procedure Law or Criminal Law. It is imposed by public security organs at the local (county) government level. While there are various forms of administrative detention in China with different procedures and time-limits, the maximum period of administrative detention for any one act is 15 days, and where multiple periods of administrative detention are imposed concurrently for several acts, the maximum period of detention is 20 days.

4.26 Under the Criminal Procedure Law, police may also detain individuals in 'residential surveillance at a designated location' (RSDL) away from their home for up to six months before formal arrest or release. RSDL can be used to detain individuals suspected of crimes endangering national security, involving terrorist activity, or involving serious corruption (see [Corruption](#)), or where the suspect or defendant does not have a fixed residence. Authorities must notify relatives of individuals placed under formal arrest or residential surveillance in a designated location within 24 hours, unless notification is impossible. The notification does not need to specify the reason for or location of detention. Suspects do not have the right to meet defence lawyers in these categories of cases. In cases involving national security or terrorism, police are authorised to detain a suspect after arrest for up to an additional seven months while investigating the case. Following investigation, the procuratorate has an additional 45 days to determine whether to file criminal charges of detention, during which time detention can continue. The law explicitly allows detainees to meet with defence counsel before criminal charges are filed but this rarely happens where cases are considered politically sensitive. After filing charges, authorities can detain a suspect for an additional 45 days before beginning judicial proceedings.

4.27 RSDL has been criticised for exposing detainees to risk of mistreatment (see [Torture](#)) and for enabling conditions of detention that produce forced confessions. While evidence obtained while in RSDL should be able to be excluded in court, rarely is this the case. Human rights groups report RSDL has been increasingly used to detain activists, human rights lawyers and government critics in recent years, and claim police training dormitory facilities have been repurposed for RSDL.

4.28 Locations used to enforce RSDL are often referred to as ‘black jail,’ however the term ‘black jail’ more correctly describes short-term detention in rented/owned, run down hotel rooms or similar, often used for petitioners, criminals and those under suspicion of less sensitive allegations, as a coercive measure. The primary distinction between RSDL and ‘black jail’ is that RSDL is a formal feature of the Chinese legal system. RSDL also reportedly often entails treatment more severe than in ‘black jails,’ and occurs in government-run, custom fit for purpose facilities, whereas black jails are quasi-administrative holding centres for petitioners and criminals.

4.29 Public security authorities continue to use other forms of administrative detention to suppress political and religious dissidents, sex workers, drug users and petitioners. Authorities also detain family members of dissidents: poet Liu Xia, widow of Nobel Peace laureate Liu Xiaobo, was released in July 2018 after being under house arrest for nearly eight years following her husband’s nomination for the Nobel Peace Prize in 2010 (see [Deaths in Custody](#)). Authorities have also curtailed the freedom of family members of ‘709’ lawyers (see [Human Rights Defenders \(including Lawyers\)](#)) and Uighur and Tibetan activists (see [Ethnic Uighurs](#) and [Ethnic Tibetans](#)). The law does not provide for house arrest. Individuals facing this type of detention do not have the right to legal counsel or due process. The Chinese government abolished its ‘re-education through labour’ policy in December 2013, although media and human rights groups claim re-education through labour (including in prisons and linked to Xinjiang-based re-education centres) continued in 2018 and supported production in factories for overseas markets (see [Detention and Prison](#) and [Ethnic Uighurs](#)).

4.30 DFAT assesses that reports that security authorities use extra-legal detention for politically sensitive investigations are credible.

### Treatment of Party and public officials

4.31 At the 19<sup>th</sup> Congress of the CCP in October 2017, President Xi announced the abolition of a parallel system of detention called *shuanggui* (see acronyms), run by the CCDI and applied to Party members suspected of disciplinary violations. The CCDI had extensively used *shuanggui* in the anti-corruption campaign (see [Corruption](#)). *Shuanggui* was not subject to the normal rules governing criminal detention or prosecution and human rights groups had criticised its lack of transparency, which they argued increased the risk of torture or mistreatment. *Shuanggui* was replaced by the ‘*liuzhi*’ system (see acronyms) under the PRC Supervision Law (2018, see [Corruption](#) and [Security Situation](#)). *Liuzhi* is a new detention power, which allows NSC authorities to detain Party or government officials whilst they are under investigation.

4.32 The *Supervision Law* (2018) codifies many of the procedures previously followed by the CCDI. The law explicitly forbids collection of evidence by threats, intimidation or physical violence, and requires interrogators to retain audio-visual records (Article 42). It provides some new procedural requirements to protect detainees, such as: a time limit of three months, extendable to six months, for holding detainees in custody for the purposes of interrogation; a requirement for family members to be informed within 24 hours, except where it would impede the investigation; and guaranteeing the detainee food, rest and safety (Article 41). However, it does not provide for independent oversight of the conduct of supervision officials. Defendants or family members who have complaints about the conduct of a case can only appeal to the supervision organ itself or a higher level of the supervision administration (Article 62).

4.33 Amnesty International and human rights advocates claim that in practice, *liuzhi* is unlikely to operate any differently to *shuanggui*. The *Supervision Law* (2018) circumvents judicial institutions, and has no checks and balances external to the Party. Human rights groups also claim the remit is wider under *liuzhi*, as those working for the accused can also be held to account and detained without legal rights under RSDL. In May 2018, media reported the first person who died under *liuzhi* as being the driver of a Deputy District Chief under

investigation by the Supervision Commission. The driver had been detained in RSDL for 26 days in relation to the Deputy District Chief's bribery case when his family was notified of his death.

## Corporal Punishment

4.34 In 2013, the Government reported to the Committee on the Rights of the Child that China's laws explicitly prohibit all corporal punishment of children, including in the home. However, provisions against violence and abuse in the Constitution, the *Law on the Protection of Minors* (2006; amended 2012), the Criminal Law, and the Marriage Law are not prohibitive of all corporal punishment in childrearing. Article 10 of the *Law on the Protection of Minors* (2006; amended 2012) prohibits 'domestic violence against minors, abuse, abandonment and infanticide,' and article 12 of the *Anti-Family Violence Law* (2016) prohibits the use of violence against children by guardians; however, neither law explicitly prohibits corporal punishment.

4.35 Corporal punishment of children remains common in China. In 2014, 53.7 per cent of mothers and 48.3 per cent of fathers surveyed in China had physically punished their children (aged three to 15) in the past year, and in 2010 a survey of primary school children aged nine to 12 found 73 per cent had been physically punished by their parents. In the 2010 survey, 48 per cent of girls and 60 per cent of boys reported being subjected to 'mild' corporal punishment (spanking, hitting, or slapping with a bare hand; hitting or slapping on the hand, arm, or leg; shaking, or hitting with an object), and 10 per cent of girls and 15 per cent of boys, reported being subjected to severe corporal punishment (hitting or slapping the child on the face, head, or ears; beating the child repeatedly with an implement) by someone in their household over a one month period.

4.36 Articles 21 and 63 of the *Law on the Protection of Minors* (2006; amended 2012) prohibit corporal punishment in kindergartens and nurseries; however, there is no explicit prohibition in other early childhood care. For children of school age, Article 16 of the *Compulsory Education Law* (1986) prohibits physical punishment of students, and article 37 of the *Teachers' Law* (1994) specifies teachers imposing corporal punishment can be subject to administrative sanctions, dismissal or criminal investigation. However, a 2012 UNICEF survey found up to 32.1 per cent of surveyed first and second year students reported they had experienced corporal punishment by teachers when at school.

4.37 Corporal punishment is explicitly prohibited as a disciplinary measure in penal institutions under Article 248 of the Criminal Law, Article 14 of the Prison Law, Article 22 of the People's Police Law, and Article 36 of the *Law on the Prevention of Juvenile Delinquency* (1999). In 2006, the Ministry of Justice also issued two regulations, 'Six Prohibitions on People's Prison Police' and 'Six Prohibitions on People's Reeducation Through Labor (RTL) Police,' which prohibit subjecting inmates serving a prison or RTL sentence to corporal punishment, or instigating others to beat or subject an inmate to corporal punishment. The *Ordinance on Discipline for the People's Police of the Public Security Organs* (2010) also punishes the infliction of physical punishment of suspects and persons in custody, and Article 4 of the *Regulations on Detention Facilities* (1990) and Article 3 of the *Regulations on Detention Houses* (2012) prohibit beating, corporal punishment and ill-treatment of persons in custody.

4.38 In 2012, the Supreme People's Court issued an interpretation concerning the application of the Criminal Procedure Law, confirming that the use of corporal punishment or disguised corporal punishment on defendants constitutes 'illegal means such as coercion of confession by torture,' in accordance with article 54 of the Criminal Procedure Law. There is no provision for judicial corporal punishment in the Criminal Law.

4.39 DFAT assesses corporal punishment of children remains common in the home, some day care and possibly alternative care settings in China.



## 5. OTHER CONSIDERATIONS

### STATE PROTECTION

5.1 Article 5 of the Constitution states that ‘no laws or administrative or local regulations may contravene the Constitution. All State organs, the armed forces, all political parties and public organisations and all enterprises and institutions must abide by the Constitution and other laws. All acts in violation of the Constitution or other laws must be investigated. No organisation or individual is privileged to be beyond the Constitution or other laws’.

5.2 There is no organisation in China tasked with enforcement of the Constitution and courts do not have the general power of judicial review which would allow them to invalidate laws on the grounds they violate the Constitution. The Constitution states the National People’s Congress and its Standing Committee have the power to review laws that violate the Constitution, but, in practice, these powers are rarely exercised, with only one instance of regulations being rescinded.

5.3 Crimes are investigated by public security organs, generally the PSB, but also including other organs such as the Anti-smuggling Bureau, Ministry of State Security and National Supervision Commission, prosecuted by the People’s Procuratorate, and tried in the People’s Courts. All lawyers must be registered with, and operate in compliance with, regulations issued by the All China Lawyer’s Association, which is directly supervised by the Ministry of Justice (see [Human Rights Defenders \(including Lawyers\)](#)).

5.4 The Criminal Procedure Law and Criminal Law regulate arrest and detention. The Criminal Procedure Law sets out the procedures to be followed in the criminal process. It applies prior to a verdict being issued by a court and the Criminal Law is applied after a verdict has been issued. Criminal prosecution can be lengthy, and it can take in excess of one year for a case to progress from initial detention to verdict and sentencing.

### Military

5.5 China has the largest active military service in the world. The People’s Liberation Army (PLA) reports to the Party’s Central Military Commission, which is headed by the president (and Party General Secretary). The PLA currently has over two million members. It serves the Party, rather than the Chinese state. In March 2018 the Ministry of Finance proposed increasing China’s defence budget by 8.1 per cent, from RMB 1.044 trillion (AUD 218.6 billion) in 2017, to RMB 1.107 trillion (AUD 231.8 billion) in 2018. The PLA has shrunk significantly from an estimated three million active personnel in 1992. It continues to decrease as it seeks to improve the quality of its staff and systems. The PLA has five branches of service: Army, Navy, Air Force, Rocket Force (strategic missile force) and Strategic Support Force (space and cyber forces). While China reported spending 1.28 per cent of GDP on the military in 2016, actual military expenditure is probably higher. The military service age is 18-24 years for selective compulsory military service, with a two-year service obligation. There is no minimum age for voluntary service (all officers are volunteers). The PLA has not been deployed

against Chinese citizens in China since June 1989, when PLA units killed several hundred protesters in Beijing's Tiananmen Square and surrounding areas.

## Police

5.6 The Ministry of Public Security oversees the police force, which is organised into specialised police agencies and local, county, and provincial jurisdictions. The government no longer publicises the size of its police force, but media estimates place the number at around two million. The People's Armed Police, a paramilitary force responsible for internal security issues such as riots, terrorist attacks, natural disasters and other emergencies, has an estimated 660,000 members. Police undertake four-year training programs that include courses in procedural law and public order, as well as extensive physical training. Performance is statistics-driven and a national ranking system provides incentives for compliance. Local-level police are generally entitled to receive housing and food allowances as part of their monthly salaries, which are calculated according to local conditions rather than a national standard.

5.7 Maintaining public order and social stability – defined as defending CCP rule – are the key priorities of the police force in China, and outweigh protection of the public from criminal activity. Regular police do not generally carry firearms but can do so in areas of heightened security (such as in Xinjiang and Tibet). Reflecting the power held by the Ministry of Public Security, procuratorate oversight of the police is limited, localised and ad-hoc.

5.8 Chinese citizens have the right to lodge complaints against the police in their city of residence through a telephone hotline, or online complaints website, in person, or in writing to the Public Security Bureau Complaints Office. Local authorities have targeted petitioners (including those with complaints against police) with punishments including arrest and detention (see [Protesters/petitioners](#)). Complaints against police rarely lead to disciplinary action and, where investigations are announced, their outcomes are not publicly released (see also [Deaths in Custody](#)).

5.9 Police are unable to open a case until the prosecutor is confident there is a high chance of conviction. Police are required to send a brief to the prosecutor seeking formal permission to arrest, and only very clear-cut cases are generally approved, accounting for the 99 per cent conviction rate. When the procuratorate deems there is not enough evidence to justify arrest, it sends the case back for further investigation. Sources report that police are under pressure to obtain confessions prior to trial, and to ensure success in all police investigations. However, China has taken some positive steps to protect individual rights through amendments to the Criminal Procedure Law prohibiting the use of confessions obtained under torture as evidence, and requiring interrogations in major criminal cases to be audio and video recorded. However, these protections do not apply in cases involving national security, which are investigated outside of China's criminal justice system. In practice, the number of cases in which evidence is not accepted at trial because it was obtained through torture or other coercive means is still very low, and only very few cases of this nature have been reported.

5.10 DFAT has no additional information on the quality of local policing or responsiveness of the PSB to local crime.

## Judiciary

5.11 China has explicitly rejected ‘Western notions’ of separation of powers and judicial independence. While China has undertaken significant reform to minimise officials’ interference in lower-level court cases and professionalise China’s judiciary, courts remain subject to a variety of internal and external controls that limit their engagement in independent decision-making. The CCP approves judicial appointments and personnel decisions. Jurors are also appointed to a jury pool by the CCP for a five-year period and therefore serve the needs of the Party. The CCP also exercises direct influence in individual cases through Political-Legal Committees (PLCs) at each level of government. PLCs supervise and direct the work of state legal institutions, including the courts, and are typically staffed by court presidents, the heads of law enforcement agencies, officials of the justice ministry or bureau, and other legal organs. Although PLCs focus primarily on ideological matters, they can influence the outcome of cases, particularly when the case is sensitive or important.

5.12 China’s 2016 *White Paper on Judicial Reform* includes measures to reduce political influence on courts, improve access to justice, strengthen professionalism of the judiciary, and increase transparency. In an effort to curb local corruption, new policy shifts funding of courts from the local to provincial level and courts have started recording attempts to influence proceedings. Since May 2015 there has been a mandatory nation-wide case filing system, through which courts cannot refuse to hear cases without sound legal justification.

5.13 Enforcement of court judgements remains an issue. However courts now publish many routine judgements online on the Open Trial Network (OTN). The OTN is a case database platform, which increases transparency (for listed cases) to help enforce judgements and parole. If individuals or entities do not comply with fines or fulfil judgements, they can face other restrictions in line with the SCS (see [The Social Credit System](#)). Nevertheless, OTN coverage is patchy and not all cases reported in the media are listed. The 709 crackdown cases, for example, are not listed on the OTN. Only final judgements can be viewed on the OTN; intermediary judgements are not always accessible if there is an appeal.

5.14 Articles 183, 274 and 196 of the Criminal Procedure Law require cases involving state secrets, personal privacy, trade or commercial secrets or where the defendant is under 18, to be tried in a closed court. Cases involving trade or commercial secrets are also held in private if any party concerned in the matter requests a closed court session. However, Article 196 requires all verdicts to be issued in open courts.

5.15 Judicial reforms implemented in recent years have led to an increase in administrative law cases, albeit from a very low base, including local cases of official abuse of power. For example, the Shenzhen court has published figures for administrative cases showing 10,133 administrative cases in 2015, compared with 9,167 in 2014 and only 3,840 in 2013. In 2015, the government lost 381 (15.2 per cent) of 2508 lawsuits against it. While improving, these relatively low numbers - even in one of China’s wealthiest and most international cities (Shenzhen has a population of 12 million) - indicate the difficulties faced by ordinary people in pursuing cases against officials.

5.16 A number of special courts also play a key role in the judicial system. The Standing Committee of the National People’s Congress has the power to list the functions and powers of special courts and set up new special courts. Special courts include the military courts, maritime courts, railway transportation courts, forestry courts and the intellectual property courts. The military court, established within the People’s Liberation Army, is responsible for hearing criminal cases involving servicemen and women. This is a relatively closed system without external supervision.

5.17 The maritime court system deals with highly specialised issues related to waters under Chinese jurisdiction. Maritime courts operate in Shanghai, Tianjin, Qingdao, Guangzhou, Wuhan, Haikou, Xiamen,

Ningbo, and Beihai, and there are also 39 detached tribunals in major port cities across 15 provinces. Maritime courts have jurisdiction over maritime tort disputes, maritime contract disputes, sea environmental protection cases, and maritime administrative and special procedure cases, including any disputes in this category arising between Chinese and foreign citizens, organisations and enterprises. The procedures of the maritime courts are governed by *the Civil Procedure Law* (1991; amended 2017), and where there is no provision in the Civil Procedure Law, the *Special Maritime Procedure Law* (1999) applies. However, maritime courts have no jurisdiction over criminal cases and other civil or administrative cases without a maritime element. In the event of a jurisdictional dispute regarding the existence of a maritime element, the ordinary court at one level higher than the maritime court and the ordinary court seeking to exercise jurisdiction, will determine jurisdiction. The High People's Court in the locality where a particular maritime court is located has appellate jurisdiction over judgments and orders of the maritime court. Sources claim the maritime court's remit has, at times, increased to include administrative cases, labour cases involving unpaid workers, shop workers (sailors) and maritime pollution cases. The Maritime Courts connect with port and border authorities, and entry and exit can be prohibited if an Individual has a pending Maritime Court order.

5.18 DFAT assesses that a lack of separation of powers creates structural vulnerabilities within the judicial system. Judicial autonomy is limited in cases that authorities consider politically sensitive or that involve vested economic or political interests. Public confidence in the ability of courts to enforce judgements, particularly in rural areas, remains low.

## Detention and Prison

### Prison

5.19 Prison conditions vary significantly among different parts of the country depending on local economic conditions; however, conditions in prisons are generally better than conditions in detention centres. Chinese law provides for prison accommodation to be ventilated, clean and warm with natural light. Prisons are required to provide adequate medical, living, and sanitary facilities. In practice, there is no independent monitoring of the prison system and the lack of transparency into China's legal system makes it difficult to make generalised assessments of prison conditions.

5.20 In general, prisoners are segregated by gender, and four to eight prisoners are allocated to each cell, although DFAT is aware of reports of up to 20 to 40 people in cells. Conditions can be overcrowded, and detainees can be required to sleep on the floor and denied regular exercise. Nevertheless, prisoners generally have beds, shower facilities, access to telephone calls and family visits. However, conditions vary depending on the location, resources available, training of prison or detention guards, and perceived level of political sensitivity and profile of the individual concerned. Foreign prisoners generally receive better treatment in detention than locals receive.

5.21 Meals are served regularly, but nutritional quality is poor (often plain rice and vegetables) and quantities are small. Many detainees rely on supplemental food, medicines and warm clothing provided by relatives. Sanitation facilities are limited to buckets and sanitation troughs and/or open toilets. Prison officials sometimes deny these privileges as a form of punishment, particularly for political dissidents (see [Torture](#)). Prisoners do not always receive adequate medical care (see [Deaths in Custody](#)).

5.22 All prisoners are put in the same cells, irrespective of their crime. There is no solitary confinement. Those sentenced to the death penalty are shackled during the day, and locked to a permanent position in the cell at night in the period before execution. Due to shackling, those sentenced to the death penalty have

reported they were required to seek the assistance of other non-shackled prisoners to access basic needs like food, water and toilet facilities. Only family members can visit prisoners in China, and prisons generally allow one family visit per month. Women's prisons are more likely to have better conditions than men's, and tend to have more psychosocial support services.

5.23 Prisoners are generally required to perform work tasks. Prisons operate a merit points system (similar to [The Social Credit System](#)), whereby work (such as factory or circuitry work) can be performed to earn points to reduce sentencing, to pay off fines, or supplement inadequate food supplies. In order to be eligible for prisoner exchange, sentences need to be reduced from 'life sentences' to a tangible fixed-term sentence of a number of years. However, DFAT is aware it is difficult for prisoners to use work to successfully achieve sentence reductions, and understands working conditions are generally poor. The government formally abolished its 're-education through labour' policy in December 2013. Media and human rights observers claim, however, that forced labour in prisons continued in 2018, supporting production for overseas markets.

5.24 Medical facilities in prisons can be comprehensive. Most prisons have a hospital wing, where medical conditions can be treated and monitored. There is at least one prison hospital in each province, and prisoners suffering serious or long-term medical conditions can be transferred to the prison hospital.

## Detention

5.25 See [Arbitrary Arrest and Detention](#) for distinctions between types of detention. Conditions in administrative and pre-trial detention facilities are typically harsh, and often worse than in prisons. Pre-trial detention is highly controlled, and there are no opportunities to work to reduce sentences or for family visitation. Cells in pre-trial detention are approximately 12 metres long and five metres deep, with up to 24 detainees held in each cell.

5.26 Detainees are not permitted to leave cells except to meet with investigating and Procuratorate officials, lawyers and consular officials. There is no opportunity to exercise. Meals are delivered to cells three times a day, and detainees are permitted to purchase a limited range of additional food, clothes and personal hygiene items. In pre-trial detention, bright, fluorescent lights are generally switched on 24 hours a day. DFAT is aware of reports of violence and mistreatment in detention centres, with authorities taking immediate action (including shackling violent detainees) to discourage violence.

5.27 Hygiene, medical services and food and water provisions are sub optimal and rudimentary at best. Cellmates generally share one open toilet per cell. While detention centres will generally have on-site doctors, they have limited options for treating medical problems.

5.28 As in the prison system, national Detention Centre regulations require detainees sentenced to a non-suspended death penalty to be shackled, to prevent self-harm. Detainees subjected to shackling must wear the restraints, which are fixed to an anchor point in the cell, at all times, and require assistance from other detainees for toileting and washing themselves. According to the mandate of pre-trial detention centres, offenders who are sentenced to death are often kept in detention centres (rather than transferred to prisons), thus detained together with pre-trial detainees.

5.29 Family visits are technically possible after all judicial proceedings have been finalised and the defendant is sentenced. However, DFAT is aware of reports that family visits to detainees are generally not permitted and, in most cases, families must wait until the defendant has been transferred to a prison and completed their mandatory one-month induction process before they can visit.

5.30 Australia has signed, but has not ratified an extradition treaty with China.

## INTERNAL RELOCATION

5.31 There are many opportunities for internal relocation in China and movement of people is fundamental to China's push for continued economic growth and urbanisation. While there are no legal impediments to internal migration, the *hukou* system presents the biggest administrative impediment to freedom of internal movement (see [Hukou \(household registration\) system](#)). Those who have otherwise come to the attention of the authorities may also face impediments to freedom of movement (see [The Social Credit System](#) and [Security Situation](#)).

5.32 Linguistic and cultural barriers are not an inhibiting factor for ethnically Han Chinese to move away from their place of *hukou* registration. Ethnic minorities may face varying degrees of difficulty or discrimination, depending on their ethnicity and their destination (see also [Uighurs](#) and [Tibetans](#)).

5.33 DFAT assesses internal relocation is possible unless a person has attracted adverse attention from authorities at the local or national level or has a low social credit score (see [The Social Credit System](#), [Religion](#), [Political Opinion \(actual or imputed\)](#) and [Groups of Interest](#)). People subject to adverse attention from authorities or with a low social credit score are unlikely to be able to re-locate internally, due to the Chinese state's significant surveillance capability and ability to restrict finances and travel (see [Security situation](#) and [The Social Credit System](#)).

### Hukou (household registration) system

5.34 The *hukou* system ties access to government services, such as education above a certain level and health, to a citizen's place of birth, or even their parents' place of birth, rather than their place of residence. Only an estimated 35 per cent of urban residents have an urban *hukou*. Chinese migrant workers (estimated at 282 million) who move away from rural areas for better employment opportunities, are unable to access key services and in some cases, face institutionalised discrimination. An estimated 60 to 100 million children have been 'left behind', either in their grandparents' care or alone, while their parents work in cities.

5.35 The Ministry of Public Security reported 28.9 million new urban residency permits issued in 2016, mostly in third or fourth tier cities. The local governments of the largest cities, including Beijing, Shanghai, Guangzhou, Shenzhen, Chengdu, Wuhan and Xi'an, have historically had tough restrictions on granting new *hukou* permits given the already high populations and overburdened infrastructure in these cities. Lower-tier cities (with fewer than 3 million permanent residents in downtown areas) have been generally more willing to issue *hukou*, in line with government's aim to drive economic growth in less developed and less populated regions.

5.36 In April 2019, the National Development and Reform Commission announced the 2019 Urbanisation Plan, which relaxed *hukou* residency restrictions in small and medium-sized cities. The 2019 Urbanisation plan requires cities with populations between one and three million to end all household registration restrictions under the *hukou* system. Cities with populations between three and five million will relax restrictions on new migrants and remove limits on key population groups, including graduates of universities and vocational colleges. Small and medium-sized cities and towns of under one million permanent residents have already gradually lifted restrictions on household registration. In addition to loosening *hukou* restrictions, the plan

directs local governments to promote basic public services for permanent residents and further develop urban infrastructure to handle increases in population.

5.37 According to media reports, it will be easier to apply for *hukou* in big, medium-sized, and small cities (some second-tier and all third and fourth tier cities). China has 13 cities with a population of more than five million in their urban areas, which will not see a relaxation of hukou restrictions under the new policy: Beijing, Shanghai, Guangzhou, Shenzhen, Tianjin, Chongqing, Wuhan, Chengdu, Nanjing, Zhengzhou, Hangzhou, Shenyang and Changsha. Cities that may be affected by the new plan may include, but are not limited to: Xi'an, Harbin, Changchun, Taiyuan, Nanning, Dongguan, Suzhou, Hefei, Jinan, Qingdao, Dalian, Xiamen, Ningbo, Kunming, Shijiazhuang, Nanchang and Fuzhou.

## TREATMENT OF RETURNEES

5.38 China is a signatory to the 1951 Refugee Convention but does not have a refugee status determination procedure. The UNHCR, rather than the Chinese government, has the authority to grant refugee status within China. As at December 2015, China had around 200 (non-Chinese) refugees. The UNHCR and IOM are not able to provide statistics on returned refugees. The Chinese government has forcibly returned North Korean defectors, viewing them as economic migrants.

5.39 China has sought the return of Chinese nationals granted refugee status from other countries. In November 2015, the UN High Commissioner for Refugees protested to the Government of Thailand after it forcibly deported two Chinese nationals, Jiang Yefei and Dong Guangping, who had UNHCR refugee status and were awaiting re-settlement in Canada. The Thai government said it had deported the two men for immigration offences. Media reports quote an unnamed official confirming that China had requested the deportations. The two men subsequently appeared on Chinese state television confessing to charges of human trafficking.

## Exit and Entry Procedures

5.40 Chinese law provides for foreign travel, emigration, and repatriation. A number of agencies within the Ministry of Public Security hold responsibility for monitoring entry and exit procedures at airports, including the Public Security Bureau, the Entry and Exit Authority, and the Frontiers Inspection Bureau. China's major airports have a centralised system with name matching alert capabilities. Facial recognition technology is also widely deployed at all international checkpoints (air, land and sea). Security monitoring capabilities at airports are comprehensive, and departing passengers pass through several identity checks (including passport and ticket/boarding pass inspection) run by different agencies between arriving at the airport and boarding a flight. The government maintains an immigration exit control list.

5.41 Biometrics and fingerprinting is conducted at most airports, and the National Immigration Administration (NIA) has taken over from the bureau of entry and exit and is gradually mainstreaming management of regional airports. This is supported by AI enhanced security and surveillance capabilities (see [Security Situation](#)), and a document examination centre at Beijing airport with connectivity to all airports across the country.

5.42 There are thirteen land border crossings, mostly on the Gobi desert, Himalayas, and southeast Asian jungle, which are harder to police but similarly harder to physically cross. Land borders between Yunnan, Vietnam and Myanmar remain porous. There are border communities, which are permitted to live in border

zones with permits. There is also another lower tier of border crossings which only permit nationals of bordering countries to cross (and not other foreign nationals), and are governed by specific agreements between China and Mongolia, China and Myanmar, China and Vietnam, and China and Russia. For example, a Chinese resident can get a visa on demand at the Russian border on a 'one time' passport, but cannot travel beyond Russia.

5.43 In September 2018, a new joint Hong Kong and China immigration border point located in Hong Kong, created to facilitate the Guangzhou-Shenzhen-Hong Kong high speed rail, was officially handed over to Chinese jurisdiction, and thus is subject to Chinese national law (see [State Protection](#) and [Security Situation](#)).

## Conditions for Returnees

5.44 DFAT is not able to verify the treatment of failed asylum seekers returned to China. DFAT has no information to suggest authorities target individuals solely for having sought asylum abroad if they have not otherwise come to adverse attention. DFAT is unable to verify whether having sought asylum abroad would worsen the situation of individuals attracting adverse attention from authorities for other reasons. Chinese authorities are likely, however, to be aware of the behaviour of Chinese asylum seekers while they are outside of China (see [Security situation](#)). Party members or public officials who return to China to face corruption offences are subject to Party disciplinary measures and potentially criminal prosecution (see [Treatment of Party and public officials](#)).

5.45 While victims of trafficking (VoTs) do not generally face state based discrimination on return to China, they often do not wish to return to their city of origin due to perceived or actual risk to physical safety. If the VoT is relocated to an alternate city to mitigate against this risk, they may face issues with *hukou* and access to social welfare (see [Hukou \(household registration\) system](#)). Moreover, DFAT is aware that VoTs accused of committing a secondary crime (such as telecommunications fraud), particularly those who confess under duress, may be treated as wanted criminals on return to China.

## Double Jeopardy

5.46 Articles eight to 12 of the Criminal Law outline provisions against double jeopardy. In practice, Chinese citizens convicted and punished for offences abroad may face punishment for the same offence on return to China. Authorities are less likely to pursue those who have committed offences overseas carrying a sentence in China of three years or less. Those convicted of offences that are more serious are more likely to be re-sentenced on return, depending on the offence and the severity of punishment served overseas: more severe punishment overseas would likely attract a lesser punishment on return. Authorities have also pursued individuals for crimes for which they were acquitted abroad. In April 2017, the Kenyan government (which recognises the PRC) deported a group of Taiwanese and Chinese passport-holders in contravention of a Kenyan court order, which also confirmed their acquittal of financial crimes. While the incident in part reflects political considerations in cross-strait relations (with Taiwan), the fact that mainland Chinese passport-holders were part of the group suggests that double jeopardy can apply to Chinese citizens who are acquitted abroad.



## DOCUMENTATION

### Birth and Death Certificates

5.47 While there are no official data on unregistered births, birth registration rates are low in rural areas and for marginalised children (see [Children](#) and [People affected by Family Planning Policies](#)). The 2010 census found 13 million unregistered people, mostly relating to births concealed because they violated family planning policies. In 1996, the law on *Maternal and Infant Health Care* (1995; amended 2008) introduced a nation-wide official birth certificate system. The Ministry of Public Health issues birth certificates through the hospital or facility where the child is born. Parents must register births in the police station of their *hukou*. Relevant branches of the Ministry of Public Security assess the issuing of *hukou*, and sources report that family planning records are the most important documents required for this purpose. Procedures for registering deaths vary by area and location of death. The Ministry of Health usually issues death certificates. Death certificates are required to cancel *hukou* registration and to bury the deceased.

5.48 Documentation problems for children generally occur due to identity and consent issues. Surrogacy is neither legal nor illegal in China. The Supreme Court issued advice noting biological parents have the right to custody unless extinguished; however, extinguishing such rights appears almost impossible in practice. In accordance with Article 4 of the *Adoption Law* (1998), adoption is not possible in China unless a child under the age of 14's parents are incapacitated (incapable guardian, death or abandonment).

5.49 DFAT is aware of increasing issues in relation to issuance of birth certificates for children born to surrogacy or through IVF, or who are biologically different to their parents. Hospitals have produced genuine birth certificates that state a child's adoptive parent names, rather than the biological surrogate or biological parent names. Genuinely issued, fraudulent birth certificates render consent invalid, and consent cannot be obtained where the biological mother or father of a child remains unclear from documentation.

5.50 Guardianship has a broad meaning in China. According to a Joint Opinion issued by the Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security, and the Ministry of Civil Affairs regarding Dealing with Violation by Guardians against Child Rights, courts can become involved in the confirmation of legal guardianship of an orphan, and to deprive legal guardianship following violation of child rights. However, according to the General Provisions of the Civil Code, in the case of an orphan the community/village committee would appoint a legal guardian first (in the follow order: grandparents, adult sibling, other relatives and family friend, and civil affairs). The court will only issue a court order confirming the legal guardianship following the procedures set in the Civil Procedure Law when there is a dispute over the committee's appointment.

### National Identity Cards

5.51 Citizens over the age of 16 are required to apply for identification cards while those under 16 years can voluntarily apply with the assistance of a guardian. The PSB issues and manages ID cards according to the *Resident Identity Cards Law* (2003). Cards are valid for five years for children under 16, ten years for individuals aged between 16 and 25 years, twenty years for individuals between 26 and 45 years and permanently for individuals aged 46 years or older.

5.52 Use of China's latest (second generation) resident identity cards (RICs) became mandatory in 2013. RICs include the cardholder's name, sex (male or female), ethnicity, date of birth, residential address, a unique 18-digit ID number and coloured photograph. Embedded digital microchips in each card contain the same identifying information, as well as work history, educational background, religion, police record, medical insurance status, landlord's telephone number, and reproductive history. Cards issued in ethnic minority areas contain corresponding text in the minority language. Han Chinese in ethnic minority autonomous regions must have text listed only in Mandarin.

5.53 Applicants must complete a Registration Form of Application for Resident Identity Card and present their *hukou* for examination by public security authorities. Costs of new or renewed cards vary according to location and the circumstances of the applicant. For example, the law exempts payment for urban residents on subsistence allowances and rural residents who live in 'specially straitened' circumstances. Breaches of the law can lead to disciplinary warnings, fines (ranging from RMB 200 to 1,000 – approximately AUD 40 to 200) and up to ten days detention. Forgery of cards is a criminal offence.

5.54 Second-generation cards are reportedly difficult to counterfeit. Since 2013, the government has run trials to include fingerprints on the cards making it more difficult to forge. Places such as banks, train stations and airports have card readers. Valid ID cards are required for *hukou*, employment, opening bank accounts, obtaining passports and drivers' licences, applications for tertiary study, travel by plane or train, marriages and legal cases. Internet cafes and some shops also require proof of identity.

5.55 Sources report that the government has longer term plans to change the national identity card to an online identity card.

## Passports

5.56 According to the *Passport Law* (2006), ordinary passport applicants must apply in person to the Entry-Exit Control Department of the Ministry of Public Security or the authorised county-level bureau where their *hukou* is registered. Applicants must provide their RIC, *hukou*, recent photos, and documents substantiating the reasons for their application. Once approved, a passport is generally issued within 30 days. If a passport application is refused, reasons for the refusal are provided in writing and the applicant is informed of their right to apply for administrative reconsideration or to file an administrative lawsuit. Costs of passports vary according to location but are considered affordable.

5.57 An ordinary passport records the holder's name, sex, date and place of birth, the date of issue, term of validity and place of issue of the passport, and the issuing authority. The term of validity of an ordinary passport varies according to age of the passport holder. Passports are readable visually and by computer and contain anti-forgery properties. The sale or use of a forged passport is a criminal offence.

5.58 Under the Passport Law, authorities can refuse passports to people who 'will undermine national security or cause major losses to the interests of the State'. According to Freedom House, the government has refused passports to millions of people on these grounds, many of them religious and political dissidents, including Uighurs and Tibetans. The government does not publish data on passport denials. DFAT is also aware security authorities have recalled and held Uighur and Tibetan passports (see [Ethnic Uighurs](#), [Muslims](#) and [Ethnic Tibetans](#)).

5.59 The Passport Law states passports can be obtained within 15 days. Uighur and Tibetan applicants, however, require approval from provincial authorities and their local public security bureau, a process that

can take time. University administrators must approve applications by Uighur and Tibetan students. DFAT is aware of cases where human rights activists, lawyers, Uighurs and Tibetans have had their passports confiscated either as punishment for their political activities or to limit the risk of such individuals causing embarrassment to the Chinese government when overseas.

5.60 China does not recognise dual citizenship.

## PREVALENCE OF FRAUD

5.61 DFAT assesses it would be difficult to depart China on a forged passport. Chinese passports use sophisticated technology and authorities have a high surveillance capability, particularly at train stations, airports and ports. An ordinary citizen would find it difficult to bribe border protection agents because of sensitivities to corruption, and the professional and comparatively well paid status of public security officials. DFAT is aware of cases where genuine documents obtained by fraudulent means (such as *hukou* registration, proof of employment, academic transcripts, banking statements and ID cards) are submitted in support of visa applications. DFAT assesses such documents are relatively easy to obtain and are commonly used.

5.62 Organised irregular migration is common, and is backed by a high level of sophistication with respect to counterfeit documentation for visa applications. Fraud has also evolved to take advantage of online visa application systems. The use of manipulated images has increased and is common (largely manipulated ID numbers and place of residence and issuance locations to reflect lower risk source cities). Organised immigration malpractice regularly floods online application systems using documentation with misrepresented residential locations to identify which locations can circumvent risk tools. Sources report that such issues are more prominent in applications from southern and northeastern provinces.


5.63 DFAT is aware of sophisticated syndicates that provide packages, with targeted background stories, to support fraudulent documents used in visa applications. The 'ten-year migration plan,' another form of organised migration malpractice, is also highly prevalent. The ten-year migration plan involves a couple who wishes to migrate their family overseas. One member of the couple will seek to secure an expat husband or wife, or source another form of temporary visa, then travel overseas. Organised migration malpractice syndicates are known to advertise payment (reportedly ranging between AUD10, 000 to 20,000) in return for marrying a Chinese spouse, or to facilitate jobs overseas in support of the ten-year plan. Once in country, the individual will seek citizenship, and once granted they will divorce the expat husband or wife and apply for visas for their entire family. Sources report a spike in ten-year plan cases originating from Fujian.

5.64 Borders are not very permeable and fraudulent entry and exit would require high-level facilitation. DFAT assesses it would be difficult to manage illegal entry or exit through most airports without major corrupt government facilitation. However, following the government's crackdown on corruption, DFAT assesses official corruption facilitating documentation fraud has reduced, which has forced an increased trend towards electronic manipulation of documents.

5.65 Sources report that the government is in the process of centralising identification documentation in an online portal, which when completed, may simplify documentation checks online.

### Fraud in Fujian

5.66 There is a well-established history of individuals from Fujian using fraudulent documents to obtain visas to Australia and other western countries. Fraudulent activity is supported by highly organised and well-



resourced networks of agents and counterfeiters. High-risk documents include financial and employment records, which can be either fraudulent or altered. Organised immigration malpractice and syndicates selling immigration packages for visa applicants are active in Fujian. Syndicates have been known to alter identity documents such as passports or national identification cards to misrepresent the applicant's place of birth (to avoid greater scrutiny of their applications). Sources report that applicants originating from Fuqing, Lianjiang and Pingtan have demonstrated particularly high rates of fraud and non-compliance.