

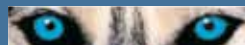
# Changing China

*Country status report within  
the political and social context*



A c t i o n . C o m p a s s i o n . T o g e t h e r

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## Acknowledgements

This report is published as part of ACTAsia's efforts to promote animal protection legislation in China. Other documents to promote legislation are available at ACTAsia's web site: [www.actasia.org](http://www.actasia.org)

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### Acknowledgement

Special thanks to: Janice Cox and Wim de Kok for their encouragement and support.  
Amelia Tarzi and Zhu Bin for providing legal expertise and comments.  
Joy Leney for editing.

**Sponsor** World Animal Net



ACTAsia thanks World Animal Net for support and funding the production of this report. World Animal Net has over 3,000 affiliate societies in more than 100 countries, and has United Nations consultative status.

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ACTAsia for Animals is a non-profit organisation set up in 2006 by experienced Asian animal advocates to develop and promote sustainable and professional animal advocacy. ACTAsia aims to provide knowledge, tools and platforms for Asian animal protectionists and groups, through training, mentoring and networking. We focus on working with individual animal protectionists and grassroots animal organisations, to help them to raise their effectiveness and standards, in order to achieve lasting positive social change.

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March 2011

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## China: Country Facts

- **Full name:** People's Republic of China.
- **Location:** East of the Asia continent on the western shore of the Pacific Ocean.
- **Located:** in both eastern and northern hemispheres.
- **Bordered by 14 countries:** North Korea to east, Mongolia to north, Russia to north east, Kazakhstan, Kyrgyzstan, Tajikistan to north west, Afghanistan, Pakistan, India, Nepal, Bhutan to west and south west, Myanmar (Burma), Laos, Vietnam to the south.
- **Bordered by:** East China Sea, Korea Bay, Yellow Sea, South China Sea.
- **Population:** 1.35 billion, the largest population in the world (No.2. India, 1.2 billion). Made up of 92% Han Chinese, remaining 8% made up of 55 minority groups.
- **Largest country in Asia:** 9.6 million sq km (3.7 million sq miles)
- **3<sup>rd</sup> largest country in the world by area:** (No.1: Russia, No.2: Canada)
- **Major Political Party:** Chinese Communist Party.
- **Head of State:** President Hu Jintao (2003 to date)
- **Capital:** Beijing (population 11.2 million)
- **Largest city:** Shanghai (population 13 million)
- **Areas in China:** 23 provinces (Taiwan is classed as the 23<sup>rd</sup>); 5 autonomous regions, 4 municipalities, 2 special administrative regions i.e. Hong Kong and Macau.
- **Major language:** Mandarin Chinese spoken by 70% of the population. There are 8 dialects, plus sub dialects and ethnic groups' 'native' languages.
- **Major religions:** although China is officially atheistic, there are 5 State registered religions, Buddhism, Taoism, Islam, Catholic and Protestant Christians.
- **National Day:** October 1<sup>st</sup>.
- **Life expectancy:** males 72 years, females 76 years.
- **Currency:** Yuan (CNY) or Renminbi (RMB) 6.6 Yuan = 1 \$ US (as at February 21<sup>st</sup> 2011)
- **Main exports:** Manufactured goods, including textiles, garments, electronics, arms
- **GNI per capita:** US \$ 3,590 (World Bank, 2009)
- **Internet domain:** .cn
- **International dialling code:** + 86

### Sources:

- i) *US Census Bureau 2010.*  
Copyright @ 2010 Miniwatts Marketing Group.
- ii) *China National Tourist Office 2010.*  
Los Angeles and New York.
- iii) *UK Foreign and Commonwealth Office website.*  
Crown copyright 2011. [www.fco.gov.uk](http://www.fco.gov.uk)
- iv) *United Nations website 2010.* [www.un.org](http://www.un.org)

## Map of China



Source: <http://wikitravel.org/nl/China>

## Summary

During the past 30 years, China's political, economic and social situation has progressed significantly through a less repressive Communist government structure than in previous years, bringing greater opportunities for global trading. This in turn has led to improvements in living standards for some sectors of the population, but with the largest human population of any country in the world, currently at 1.35 billion, China is faced with enormous challenges in order to meet social demands.

In 1978 under the leadership of President Deng Xiaoping, a series of economic reforms were introduced to focus on three key issues: globalization, urbanization, marketization. The term 'socialist economy' is used instead of the term 'capitalism' as China's one ruling party system of Communism, still controls all activities in China. However there are growing opportunities for budding entrepreneurs to enter into a business partnership with the government, bringing significant economic benefits to the stakeholders. There are now 143,000 multimillionaires and 8,800 billionaires in Beijing alone. China has the fastest growing economy in the world with potential foreign investors eager to forge working relationships through business and trade opportunities.

Today the successful economic reforms are in evidence, but despite more government openness and new channels of communication for the public to address any concerns, the regime still controls a tight grip on the population relevant to human rights issues, e.g. freedom of expression; censorship for those who appear to be critical of the government. However China has taken an enormous leap forward during the past 100 years, having moved from 2,000 years of feudalism; followed by warlordism, the Japanese invasion and the Civil War. In 1949 when the Communist Party seized control under the leadership of Mao Zedong, an era of extreme suppression and revolutions spanned the next 27 years.

China's societal structure has gradually changed, with the internet largely responsible for the rapid circulation of information. Although China's computer network is policed by the government, with some websites either closed down or banned from operating in China, the World Wide Web undoubtedly has major influence on its users.

In addition to the rapidly expanding commercial sector, the charity sector i.e. Non-Government Organisations (NGO) has emerged in recent years, including those in support of animal protection. Initially such organisations or individuals tend to have scant knowledge of animal welfare concerns, but their enthusiasm is infectious as they reach out to those who may be able to help them e.g. international animal welfare organisations.

To date, the response from international groups has been swift, with genuine willingness to co-operate and transport their experiences and knowledge. However the political and social structure of China is historically complex, with the one party system unfamiliar to NGOs in western countries where democracy with freedom of expression is paramount to the social structure of a country.

This report attempts to detail the legislative process in China to give greater understanding of what can reasonably be achieved, in what time scale and how it should be approached. The opportunities to develop a successful NGO animal welfare sector are plentiful, but to enable this to happen, overseas assistance needs to be coupled with a greater understanding of the recent historical, political and social factors in China, as animal welfare can only be addressed within this context.

It is important to recognise that the 'propaganda' machine in China may sometimes distort western rationale, but if international support can be harnessed to help build the necessary capacity for NGOs in China, their collective voice will be heard and have greater influence on the essential process of introducing legislation to protect animals.



## Chapter 1

# Introduction

*In 2008, draft animal protection legislation was initiated and prepared in China by a committee of academics headed by Professor Chang Jiwen at the Institute of Law, Chinese Academy of Social Sciences. This work was funded by the International Fund for Animal Welfare (IFAW) and the UK based Royal Society for the Prevention of Cruelty to Animals (RSPCA). ACTAsia for Animals submitted comments from international experts, which included detailed animal welfare recommendations. It is envisaged that the final draft will eventually be submitted to the relevant government authorities for consideration, requesting that it is put forward to the official legislative process of China.*

To date, this initiative is not recognised as ‘official’ as there has been no directive from the government legislative authorities to prepare the document. However as there is increasing recognition for the work of non-government organisations (NGOs), it is feasible that the document will be accepted for consideration.

ACTAsia together with animal protection groups in China, intend to try and influence the legislative process in order to ensure optimum protection for animals in China. Therefore the legal system and decision-making process, with contributing factors, needs to be fully understood by key players and other interested parties, in order to create an effective lobbying and advocacy platform. The legal system in China may be unfamiliar to international personnel as it differs significantly from many other countries and thus may appear ambiguous and complex. Lack of recognition and understanding of this process could result in the introduction of unsuitable and flawed strategies, detrimental to comprehensive and enforceable animal protection legislation.

This report focuses on the wider political and social context, relevant to the legislative process and associated procedures. It includes:

- ◆ The current political and social environment in China
- ◆ Legislative system
- ◆ Existing national/regional legislation and regulations, relevant to animal welfare and enforcement
- ◆ Relevant government structures
- ◆ The process by which legislation is considered
- ◆ Power and decision-makers
- ◆ How decisions are processed
- ◆ International agreements and participation with international bodies that influence animal welfare
- ◆ Factors which influence decisions – including potential allies, opponents and targets; events and meetings; opportunities to move forward

It is intended that national and international animal protection organisations and individuals, will be able to use this document as an educational tool to develop their knowledge and understanding of China, working within the realities and constraints of the political and social environment.



Chairman Mao ruled China from 1949 - 1976

Image: [www.freeimages.co.uk](http://www.freeimages.co.uk)

## Chapter 2

# Brief overview of China's modern history

*One hundred years ago, Sun Yat-Sen, the founding father of the Republic of China, led the Xinhai Revolution which shook the foundations of the Qin Dynasty. In 1912, the Republic of China replaced the last Emperor of China, and more than two thousand years of feudalism officially ended in China.*

Between 1912-49, China endured warlordism (1915-28), the Japanese invasion (1937-45) and the Chinese Civil War (1927-49) fought between the Kuomintang Party led by Chiang Kai-Shek and the Communist Party led by Mao Zedong. In 1949 the Communist Party gained control of China and Mao Zedong ruled China until 1976.

During Mao's leadership, he led numerous political campaigns to suppress and eliminate any opposition, with desperate attempts to control the large population of China. The Cultural Revolution of 1966-76 was a most relentless political campaign that used concerted efforts country-wide to suppress and remove opposition, with any freedom of expression banned. The youth of China, males and females, were drafted as enforcers (Red Guards) to implement Mao's demands. Such suppression of individuals and communities resulted in negative effects for China with regard to ethics, culture, religion, education, economy, art and democracy. The economy of the country eventually collapsed.

With industrial production abandoned, citizens had no options other than to live as peasants in order to survive, regardless of any privileged status they may have once held. Mao decreed that a practical basic education was all that an individual needed, believing that the more books an individual read, the more ineffective and confused that person became. The media was not allowed freedom to report on the Cultural Revolution and was used only as a tool to promote positive propaganda on Mao's leadership. Owning a domestic animal, a cat or a dog, was considered to be the frivolous indulgence of the bourgeoisie and was banned, with any citizen having the authority to shoot such animals. The ban was in operation until the late 1970s and was only relaxed following the death of Mao.

During the cultural revolution, traditional social values, moral standards and life styles, were eroded as people relied on 'connections' and 'bribery' to survive. The effects of those 10 years caused millions of citizens to live in fear, suspicious of others, in their attempts to survive. This unnatural lifestyle left a legacy of psychological difficulties for many people, even to the present day, some 35 years later. So despite the development of China's economy and other recent advances in societal development, many citizens who lived through the cultural revolution appear to have inbuilt fear and suspicion, as more changes, opportunities and choices become available.



With rapid on-going changes currently taking place in China, largely through economic power and global co-operation and with the inevitable implications and opportunities for social change in China, it is necessary for 'foreigners' intending to work in China, to have an understanding of significant historical factors which have influenced and shaped the evolution of Chinese society to the present day. A review of China's modern history, concludes that for three quarters of the 20th century, the majority of the Chinese population lived in poverty, in a harsh, unstable and unsafe environment. Therefore when the policy of Economic Reform was introduced by China's leader Deng Xiaoping in 1978, an 'all-out grab for short-term gains at whatever cost' mentality prevailed.

### 2.1 Deng Xiaoping's economic reform

Deng Xiaoping came to power in 1978 and began to introduce a series of 'reforms'. He recognized three key issues: globalization, urbanization and marketization, knowing that all of these factors were necessary to bring China into a position as a world leader and would bring about improvements in living standards. The Communist Party gradually allowed artists, writers, and journalists to take more critical approaches, but outspoken criticism of authority was strictly forbidden. For example, in more recent times, the world renowned artist Ai Weiei, also known in China as a social reform activist and an animal lover, was attacked and injured by persons unknown when he questioned the poor quality of school buildings where thousands of children died during the Sichuan earthquake in 2008. It is alleged that his movements and activities are still closely monitored by the authorities.

Deng's reform policies have resulted in significant improvements in living standards, especially for urban workers and for farmers who took advantage of opportunities to diversify from growing crops, to establishing village industries. The reform of the economy was called 'socialist economy' instead of 'capitalism' and allowed private owners to set



Chinese government created Special Economic Zones in 5 areas and in 14 Coastal Open Cities which provided modern high tech infrastructure to enable efficient trading and business opportunities. Image: [www.freeimages.co.uk](http://www.freeimages.co.uk)

up business in China for the first time since 1949. However as recent as the early 1990s, private business and shops, known as 'Getihu', were considered by the population to be new and risky activities, fearing that the government may intervene or change their private enterprise policy.

Small and medium sized state-owned enterprises were privatized during the 1990s and 2000s with large numbers of state employees losing their 'iron bowls' (guaranteed income). Today, the State still owns some industries, e.g. financial services; power; telecommunications.

The newly created opportunities for foreign investment allowed thousands of foreign companies and factories to set up in China, which in turn led to the increase of a new young middle class generation in China's major cities. The government created Special Economic Zones in 5 areas and in 14 Coastal Open Cities which provided modern high tech infrastructure to enable efficient trading and business opportunities, e.g. special tax incentives for foreign investors; foreign joint partnerships.



Controls on literature and arts were relaxed and Chinese intellectuals were able to establish links with scholars in other countries. Comments and opinions from overseas regarding the government's policies and even legislation, are no longer seen as a threat by the authorities, but are often used to give credibility to China's progressive development. The boundaries of freedom are indeed more relaxed on the surface, as long as individuals' activities and opinions, do not threaten the State's authority and power of control. Educational opportunities are increasing, with fierce competition amongst young people eager to enter China's state run universities. In addition, increasing numbers of students each year, are able to pursue graduate and postgraduate courses in English speaking foreign countries –e.g. USA, Canada, UK, Australia and New Zealand—owing to their parents economic situation which has steadily improved in recent years.

Attitudes within the hierarchy of the ruling regime are changing, with returning overseas graduates and corporate leaders included in debate and their opinions considered in decision making. Officials working at both central and municipal levels are now more welcome to attend business meetings and to discuss social issues of concern with the rapidly expanding NGO sector. These are indeed significant and welcome changes, both internal and external to China, considering the historical situation of repression during the reign of Mao.

## 2.2 Economic growth and financial power

In 1949 China's share of global economy was approximately 5% and China was seen as one of the poor countries of the world.<sup>1</sup> By 2008 China's economic scale to the global economic total percentage had changed to 16%.<sup>2</sup> China now has the fastest growing economy in the world with an average 10% increase in the last 30 years.<sup>3</sup> By 2020, it is predicted that China will account for 25% of the global economy, with the United States of America at 15% and Western Europe at 13%. From 2010 to 2020, China and India together will account for half of the global growth.<sup>4</sup> China's foreign trade forms a large part of its economy and in 2008 accounted for around \$ 2.4 trillion.<sup>5</sup> It is the largest export and the second largest import nation in the world, trading with its main partners, Japan, Germany, Taiwan, United States and South Korea. The most important imports are power generating equipment, aircrafts, agricultural products, chemicals etc.

Professor David Lampton, the Director of China Studies and Dean of Faculty at the Johns Hopkins School of Advanced International Studies, USA, explained the financial power of China and stated that “The USA, Europe and Japan think of China as the seller. But China's power is increasing as the buyer... Now the Chinese are also buying up land and establishing businesses in the USA. China is investing in the US and this is creating employment. This is not just an economic but also a political decision on their part. They have 1.7 trillion dollars in foreign holdings, this is increasing Chinese influence around the world—they're buying up assets all over the world.”<sup>6</sup>

To date China's successful economic growth is still predominantly State controlled and through successful internal business strategies, the country no longer depends so heavily on foreign financial investment. However there is still the need within China for specific specialist skills and advanced technology, but foreign investors appear unwilling to provide for this need perhaps fearing that if such skills and technology are developed within China, it would weaken their own competitive advantage. Therefore over time, profit margins would inevitably be reduced, and the foreign investor could even lose his entire investment. Also China's poor record to safeguard intellectual property rights is of major concern to foreign investors.

Per capita output is a useful indicator to measure economic conditions: despite the global recession and vast social issues within China, the economy is still rapidly growing, with Gross Domestic Product (GDP) in 2010 reaching \$ US 3,000 per capita, a decade sooner than predicted by the Communist Party's 'think tank'. However, China's GDP is still far behind many other countries, for example the USA has a GDP per capita of around \$ US 46,000. (Source: International Monetary Fund, 2009)<sup>7</sup>

According to Hunrun's Report, 2009, there are 143,000 multimillionaires and 8,800 billionaires in Beijing, with some 116,000 multimillionaires and 7,000 billionaires in Shanghai.<sup>8</sup> Although there are many wealthy people in major cities throughout China, daily survival for others is an uphill struggle. The gap between affluent lifestyles and those living in poverty is increasing, which brings additional challenges through social instability and inequality.

Brief examples to demonstrate consumer power within China: to show that China is not just a country of production, but is also a major consumer of world products.

### i) Fur trade

- ◆ China consumes over 66% of global fur products. (Chinese Leather Association, 2010).
- ◆ Historically, female consumers over the age of 35 years have been the prime target, but consumers now range from 20 years of age. In addition, designers of men's clothing have entered the market, as a result of increased demand from the growing male population.
- ◆ It is estimated that the demand for fur will increase during the next few years, with owning a fur garment, becoming as desirable as owning a car. Auction markets in Finland and Denmark sell 40% of their furs to Chinese buyers.
- ◆ China has become the largest fur trading and processing country in the world, with over 70% of all furs processed in China.
- ◆ The sales of luxury goods are predicted to grow by 10-20%, with China by 2015, becoming the 2<sup>nd</sup> largest country to consume luxury goods. USA is currently No.1, with Japan No.2.<sup>9</sup>
- ◆ There is greater demand in China for products using the fur of cats, dogs, rabbits, than in some other parts of the world e.g. western Europe. This may be as a result of the recent financial crisis, but more likely through greater awareness of animal welfare and environmental considerations.



China is the largest fur trading and processing country in the world. © EAST



To meet the demand, intensive factory farming of hens has rapidly developed in China. © EAST

### ii) Farm animals

- ◆ In 1978, meat consumption in China was 8.9 kilos/per person/per annum and by 2007 consumption had increased to 54.8 kilos/per person/per annum.<sup>10</sup>
- ◆ In 2003 China consumed 400 billions (400,000,000,000) eggs, approximately 300 eggs/per person/per annum, equivalent to double the consumption in any other country.<sup>11</sup>
- ◆ In order to meet the demand, intensive factory farming of hens has rapidly developed in China. For example, a joint venture between a Chinese company and a Danish company, house 900,000 hens in 8 layers of battery cages to reach high production rates.<sup>12</sup>

### 2.3 Social costs of economic growth

Since the Economic Reform in 1978, over 400 million people have risen above the poverty level, through improvements in living standards and financial returns, i.e. interest on disposable income savings from Chinese banks. China has consistently given priority to its blooming economy, but this in turn has significantly contributed to large scale social problems such as inflation, urban migration, prostitution, bribery, loss of moral standards, middle class bankruptcy, pollution, sabotage of natural habitats, waste of resources.

These aspects are now recognised and acknowledged by the leadership of China, and the balance between the capacity to meet growing demands and to maintain a stable society, must be found. The closure of many state-owned enterprises has left millions of people – primarily those in rural areas – with little access to health care, education and other social services. So managing the needs of the socially disadvantaged (especially in the countryside) whilst forging and managing economic

growth, are major challenges for the leaders in China and for Chinese society as a whole. As stated by Professor Lampton: 'Chinese institutional capacity and the rising demands are unprecedented in history and are causing enormous problems. The rising appetite of the growing middle class, (as large as the entire population of the USA); the rapidly aging population (with no 'iron rice bowl' in place) and the pressure to conform to international norms, are all creating huge difficulties.'<sup>13</sup>

and the level of violence are increasing in China, largely as a response to the public's frustration caused by social issues for concern, especially social issues in rural areas.

Even violence towards animals by individuals and commercial companies has numerically increased, e.g. within the farming industry and laboratories, also the reported rise in animal abuse cases perpetrated mainly by younger citizens is causing



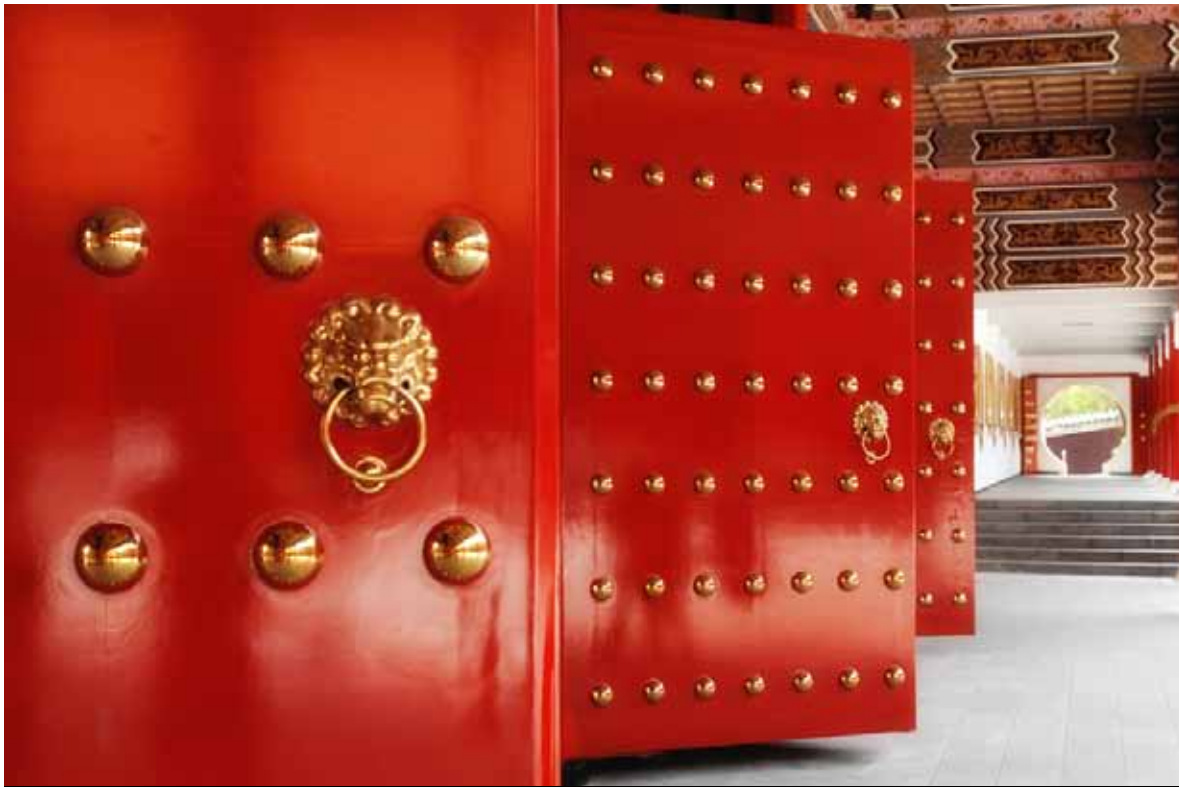
Trees were burned to make way for the paper industry, which has caused great environmental concern in Hubei Province. © X. S. Liu

Corruption amongst government officials is a major challenge and the State has publically voiced its determination to tackle this serious problem. Although currently there are in excess of 1,200 laws, rules, directives and annual anticorruption campaigns to combat the issue, the situation does not appear to have diminished. Data collected by Transparency International ranked from 1 – 10, with 'highly clean' ranked as 10, revealed scores of 3.5 in 1999-2002; 3.4 in 2003 and 2004; 3.2 in 2005.<sup>14</sup>

The Carnegie Endowment 2007 report states: 'Corruption Threatens China's Future... where roughly 10% of government spending, (contracts and transactions) is estimated to be used as kickbacks and bribes, or simply stolen... The absence of competitive political process and free press make these high-risk sectors susceptible to fraud, theft, kickbacks, and bribery. The direct costs of corruption could be as much as \$86 billion each year.'<sup>15</sup> Other major concerns include the rapid growth of organized crime, and large-scale outbreaks of social tension and destruction. Both the scale of protests

alarm through the media and amongst the general public. Environmental issues are of major concern to the population, as a result of the rapid and increased urbanization of cities. It is estimated that the urban population of 430 million in 2001 will reach 850 million by 2015.<sup>16</sup> The rapid expansion of townships and cities now rank China as having 16 of the world's 20 most polluted cities, with one-third of the country's major water basins, highly polluted. The desertification and erosion of agricultural land is increasing every year with China now the world's second-largest source of greenhouse gas (GHG) emissions. The large consumption of coal and oil alone, has caused 6.2 billion tons of carbon dioxide emission.





*Religion plays a significant part in the lives of many Chinese today*

©Ross Dyer

#### **2.4 Religion**

During the Cultural Revolution all religions were banned, as considered by the ruling party to be based on superstition. Prior to the Revolution, Buddhism was the major religion in China and although temples were preserved, Buddhist monks were forced to abandon their Buddhist practice, leave the temples and work for the Communist Party. Religious statues, paintings and books were destroyed if found on display at individual's homes and although Temples became known as 'model locations' for sightseeing, they were devoid of any religious activities.

Following the end of the Cultural Revolution, freedom to follow a religion was gradually accepted, although individuals were reluctant to voice their beliefs. But in the last 10-15 years, people have started to discuss religious topics in a more open manner, with faith no longer regarded as the preserve of ethnic minorities, uneducated women, and the elderly. Now Chinese people from all walks of life appear to be seeking a moral compass and are choosing to embrace a religious faith.

Religion plays a significant part in the lives of many Chinese today, with the East China Normal University's 2007 survey, concluding that 31.4%

of Chinese citizens aged 16 and over, are religious believers. However religious practice is still restricted for other than those recognized by the Chinese authorities, which include Buddhism, Taoism, Islam, Catholicism, and Protestantism. Buddhism is most widely practiced and it is estimated that there are 100 million Buddhists in China. Official figures indicate there are 20 million Muslims, 20 million Protestants, and 5.3 million Catholics; unofficial estimates are much higher. In 1999 the suppression of the spiritual movement Falun Gong, demonstrates the intolerance of Chinese authorities towards a non-state approved religion. Falun Gong was set up in 1992 and its followers grew rapidly throughout China. They held protest demonstrations in public places and distributed leaflets on moral and social issues of concern. The government viewed them as a potentially harmful cult and in 1999, banned the movement from operating in China. Some of the activists were charged with acting illegally and imprisoned, others escaped to foreign countries to seek refuge.

Up to the early 1990s, vegetarianism was a rare dietary choice, with vegetarian food only available in certain Buddhist temples. However with the increasing number of Buddhists, awareness of



environmental issues and the economic reforms allowing private business, vegetarian food has become a lifestyle choice in China and is now easy to obtain. The numbers of vegetarians are steadily increasing and in 2007 there were 6 million vegetarians, by 2010 there were 18 million.<sup>17</sup>

### 2.5 Media and Freedom of Speech

In reality, public action and criticism against the ruling communist party and its leadership, is strictly prohibited. But in theory, the authorities have created a system whereby complaints from the public can be addressed. However obstacles within the system tend to severely restrict a fair or democratic system, e.g. layers of 'red tape'; corruption; long distances to travel for hearings. China's electronic mass media is regulated by the State Administration of Radio, Film, and Television, a subordinate agency of the Ministry of Information Industry. The Chinese Communist Party's Propaganda Department has historically played a large role as arbiter of standards for appropriate broadcasts, with the government active in regulating newspapers.



The Internet is closely monitored by the authorities, and any critical comments appearing on Internet blogs, forums and major portals are usually erased within minutes. Image: [www.freeimages.co.uk](http://www.freeimages.co.uk)

In June 2010, the government issued a 'China Internet Status' white policy paper, stating that the Constitution had given its citizens the right to freedom of speech, so now through the use of internet, Chinese citizens can freely express their views and opinions in any kind of format on the world wide web. The usage and contributions to forum discussions and blogs, are vast. Currently China has millions of forums with some 220 million blog users and it is estimated that each day, in excess of 3 million messages are posted on forums, blogs, and news reviews.

More than 66% of Chinese internet users discuss and express their views on line, through the websites. Therefore the policy paper concludes that the use of internet has provided a service to the citizens with regard to freedom of speech.<sup>18</sup>

However, the policy paper did not mention the internet police and commentators who closely monitor messages and discussions, to ensure that discussions or opinions do not relate to political or other sensitive topics. The internet police are under the police bureau at municipal and provincial levels and the commentators are recruited under the propaganda departments. Any critical views and discussions which specifically relate to the authorities are often erased within minutes. Even if there is no specific political related content e.g. a forum set up by a cat rescue group to discuss cat behaviour or stray issues, discussion may refer to the lack of government concern for animals. In such a situation, the commentators or web police will contact the forum's registered administrator and request that the message or discussion is removed. If this request is ignored, the forum is likely to be closed.

### 2.6 Internet/world wide web

McKinsey research states that the internet in China, is poised for rapid growth and change. It is already an important, even routine, part of making a purchase i.e. Chinese consumers use internet to research information on products they consider buying, also to hunt for bargains. Even amongst those who were initially opposed to e-commerce, use of the internet to research purchasing decisions is growing. More than 75% of users surveyed, agreed or somewhat agreed that 'I cannot live without the internet'.<sup>19</sup>

In June 2010, China had 420 million internet users – more than five times as many as India and nearly twice as many as the United States – and was adding new users at a rate of six million a month. About half of China's urban population uses the internet, and one in every seven rural residents. By 2015, it is forecast that urban internet PC penetration will reach 66%, a level similar to that of western Europe today, and rural penetration will double, to almost 30%. China will then have more than 750 million internet users, including those with mobile devices.

The Ministry of Information Industry regulates access to the internet while the Ministry of Public Security and the Ministry of State Security monitor its use. A broad range of topics considered by the authorities as potentially subversive, or as slanderous to the State, are prohibited by various laws and regulations. Internet service providers (ISPs) are restricted to domestic media news postings and are required to record information useful for tracking users and their viewing habits, install software capable of copying e-mails, and immediately abort transmission of material considered subversive. As a result, many ISPs practice self-censorship to avoid violations of the broadly worded regulations.



In 2010, China had 420 million internet users.  
Image: [www.freeimages.co.uk](http://www.freeimages.co.uk)

Google objected to government censorship when operating in mainland China, and after negotiations failed to reach agreement, withdrew, following a government ban. However, Chinese citizens are able to access Google through Google Hong Kong. Baidu, a Chinese competitor, is promoted and supported by the Chinese government and is therefore the country's premier search engine. Facebook and Twitter are both banned in China, although they are the dominant social networks around the world. LinkedIn is permitted, but does not generate a high level of popularity as in western countries. Because of government censorship, China has developed alternative web sites e.g. Youku is a substitute for YouTube. Sina's micro blog is the Chinese equivalent of Twitter site. Different tools and services available in China can be grouped into categories. (See Appendix A: Popular Websites in China)

## 2.7 Status of NGOs

In the Mao Zedong era, the Communist Party controlled all economic and social functions, with non-government organizations (NGOs), banned. NGOs resurfaced after 1978 through the Economic Reform, but it was not until the mid 1990s that the sector started to grow, with 415,000 NGOs officially registered by 2009.<sup>20</sup> However, the infrastructure and environment for encouraging the development of NGOs is still not generally supported by the authorities. Some provinces or municipalities appear to be taking a more friendly approach towards NGOs, but others have tightly controlled measures with regard to registration and NGO activities.

By the early 1990s, it became clear to China's top leaders that, given the downsizing of central government and the growing power of local governments, they needed help to address a broad range of emerging social and environmental concerns and to keep a watchful eye on the actions of local governments. Therefore, in 1994 the government passed regulations that for the first time permitted social organizations, 'minjian tuanti' to register and have legal status to operate. Environmental NGOs were the first to register and now form the largest sector of civil society groups in China.

Whilst this permission represents a significant political opening, the registration regulations remain fairly restrictive and all Chinese NGOs are required to obtain a government sponsor (referred to as 'popo' or mother-in-law) and do not permit them to open branch offices, or have paying members. Only one group can pursue specific objectives in a city or province. Clearly these restrictions do not satisfy the needs of some NGOs, so to retain independence, a group may prefer not to apply for registration, but function in a somewhat surreptitious manner.

Many of the registered NGOs, are the combination of a government agency and an NGO, known as a Governmental NGO (GNGO), often having directors who are retired government officials. For example a retired Minister of Health could become the NGO director of the Medical Association in China. An NGO that would not be accepted for registration, or one that does not wish to apply, often registers as a business – to date thousands of grassroots and community-based organizations are registered as businesses. These unofficial NGOs play an important role in the area of growing social needs, but are stretched to meet the demands for their services



Keeping companion animals is a recent trend in China but abandoned and unwanted animals are increasing: encouragingly there are more animal protection groups set up to tackle the issue. ©SZCat

e.g. environmental protection, poverty reduction, disadvantaged individuals, children's welfare, and labour issues.

In 1994, the first group to register under the new regulations was Friends of Nature, an environmental NGO. Other groups who sought registration but failed, often registered as businesses or operated without formal status (e.g. international NGOs operating in China). Registering a private nonprofit organization in China, both for Chinese and international groups, remains a formidable and frustrating task. International assistance has been a major catalyst for enabling expansion and capacity of Chinese environmental NGOs. Besides providing funding, international NGOs have included Chinese NGOs, as well as other stakeholders into their projects, helping to share in the decisionmaking process of the respective issue(s).

In the wake of the 2004 Asian tsunami disaster, the China Red Cross was the only NGO allowed to solicit donations from the Chinese public, and donation stations were run by government officials who orchestrated 'mandatory voluntary' contributions from state agencies, companies, and state-run social organizations. However, unusual levels of media coverage generated unprecedented popular interest and compassion for the plight of their Asian neighbours and many individuals and businesses donated money directly to the embassies of the countries involved, deliberately sidestepping China's official agencies.

The lack of management skills, project expertise and sustainable financial support, appear to be the main challenges across the NGO sector in China. Government control over society weakens a community sense of ownership and many people are reluctant to join or support any NGO that does not have state endorsement, uneasy that involvement could invite trouble as 'non-government' may be interpreted as 'anti-government'. Also lack of transparency in the nonprofit sector makes the public suspicious of donating funds or volunteering their time, for fear of irregularities. So people who take the lead in the work of nonprofit organizations tend to be lone pioneers, lacking both public support and the expertise to build and sustain an organization.

Animal protection in China is a relatively new concept. There are few individuals and organisations taking it forward, although these numbers are increasing. They have to face a wide range and scale of animal abuse, with little or no legal protection, together with a lack of public awareness and support. They do not have the resources and skills that are available in countries where animal protection is an established, or at least a recognized sector. To generalise, such pioneers are unpaid, so in order to pursue their animal related activities, they need to work in full time employment as a means for their survival. Working full-time on more than one job, often results in negatives effects for the individuals and their families, e.g. physical exhaustion, stress. Often their actions and opinions are misunderstood by other citizens, as they endeavour to highlight animal suffering and abuse. They may be ridiculed for their passion and concern for the plight of animals, when there are numerous social problems to be addressed and may even be subjected to abuse themselves.

## 2.8 Changes during the past 10 years within the animal protection sector

- ◆ Awareness of animal cruelty, protection and welfare issues is growing amongst the general public, with attitudes gradually changing from indifference to concern.
- ◆ The numbers of animal protection groups are increasing. In 2002 there were less than 20 groups, now there are more than 130 countrywide. IFAW was the first international organisation to set up an office in Beijing China, followed by representation from other major international organisations e.g. RSPCA, WSPA, CIWF, PETA, AAF, HSUS/HSI, ACTAsia.
- ◆ ACTAsia's 5 year Capacity Building programme (2006-10) was specifically designed for China, to enable local groups develop capacity in the areas of campaigning, project management, public outreach, lobbying and the management of volunteers, through training workshops and role-play facilitated by experts from Asian countries and other international personnel.
- ◆ Focus has gradually shifted from mainly rescuing stray animals to concentrating on public awareness, education, lobbying and campaigning e.g. eating of dog/cat meat; culling issues.
- ◆ Welfare concerns and knowledge for animal species other than companion animals has increased e.g. working animals; performing animals; fur animals.
- ◆ Demand for animal protection legislation is high e.g. to prevent individual animal abuse; to ban dog and cat eating; to eliminate bear farms.



ACTAsia's 5 year Capacity Building programme (2006-10) was specifically designed to empower animal protection groups in China. © ACTAsia

## Chapter 3

# The status of animals in China

*Cases of extreme cruelty are alleged to be seen in all areas of animal use, e.g. zoos, circuses, research, livestock factory farming, commercial wildlife breeding farms, with living environment conditions failing to meet the basic needs of the animals.*

### 3.1 Companion animals

Breeding and keeping domestic animals is a recent trend. Regulations on pet-keeping differ from province to province, e.g. restrictions on height, number of pets allowed, vaccination requirements, neutering awareness, animal care, commercial breeding and sale of animals. In some cities pets are not allowed in public places such as parks. Registration of owned animals is complex, which deters owners from registering. Also registration can identify the owner of the animal if their animal attacks causes injury or damage to a person or property. In such a situation, the owner would be held responsible and incur financial penalties.

A local government may perhaps change their policies without adequate notice e.g. relevant to the height of dogs, the breeds on the list of dangerous dogs, and the numbers of dogs allowed in a home. When these regulations are changed, animals that do not meet the requirements have to be surrendered to the authorities. Registered animals are the first ones to be targeted when such changes are made, creating even more of a disincentive for owners to register their animals.

Rabies is endemic in China, and the current standard government response to a case of human rabies, is widespread killing of owned and stray animals, even vaccinated animals. For example, in 2006, 54,000 dogs were killed in Mouding City, Yunan Province<sup>21</sup> and in 2009, 37,000 were killed in Hanzhong City, Shanxin Province.<sup>22</sup> Unknown numbers of dogs were killed in other parts of China in 2006 and 2009, all in response to cases of human rabies.

Towards the end of 2006, the local Beijing government began killing all owned and stray animals that were above a maximum height limit of 35cm, as these larger dogs were considered to be dangerous. ACTAsia started an online petition to stop the killing, and this was submitted to the

Beijing authorities. Reacting to the media response generated by the large numbers of protests from various organisations, the Chinese President stopped the killing. It is rumoured that dogs and cats caught by the authorities are put up for adoption, killed, or sold to dealers in other regions (this could be for meat, skin, vivisection or other purposes).



Cats stacked on top of each other waiting to be transported to their final destination for human consumption.

Pet ownership is increasing in China, and the pet industry is thriving. Increased pet ownership has resulted in numerous companion animal issues for concern, e.g. abandoned animals, puppy mills, irresponsible owners, non-vaccination, poor feeding regimes, indiscriminate breeding. Unfortunately, owner education, public awareness, and regulations have not developed concurrently with the rapid growth in pet ownership. Pet shops and markets are flourishing but there are no regulations to ensure minimal welfare standards for the protection of these 'in transit animals'. Many are believed to be sourced from suppliers who maintain 'puppy mills', i.e. breeding factories, often with inadequate



standards of care. Many of these animals die before, or soon after, they reach a final owner and those that become sick after sale, may be abandoned, thus adding to the stray animal population.

The human consumption of dog and cat meat is a major issue of concern for most animal groups in China and is one of the most widely discussed issues, both nationally and internationally. Some of the main discussion points on this issue include:

- ◆ The dog eating issue is more complex than the cat eating issue, e.g. producing dog meat for the table is an industry, whereas there is no structured industry for cat meat.
- ◆ Dog meat is available pre-packaged, in supermarkets.
- ◆ Dog breeding farms have been established to supply dog meat. At some farms, Saint Bernard dogs are crossed with local breeds to increase the amount of meat per animal. Stray dogs are also caught to be eaten. In some cities stray dogs caught by authorities are often sold again to dog meat brokers.
- ◆ In some provinces dog meat production is a major part of the local economy, e.g. Xuzhou, in Jiangsu Province.
- ◆ The source of cats for meat is mainly through the capture of strays or theft of owned cats.
- ◆ Owned companion animals are often stolen from their owners for the dog and cat meat market.
- ◆ Individuals and groups protesting against dog and cat eating often use unclear or weak arguments, e.g.
  - a) Dogs and cats are superior to other animals and closer to humans, therefore people should stop eating them. This is an emotional argument that can undermine other serious animal abuse issues.
  - b) Animal welfare concerns are often neglected or unclearly stated.
  - c) The practice of eating dogs and cats versus eating chickens, pigs and cows is a perennial debate. For example, if slaughter methods are inhumane, then it is logical to discourage demand, but promoting non meat-eating, is not on the agenda for most groups.

- ◆ An increase in animal rescue operations: cat lovers in Suzhou, Nanjing and Shanghai in Jiangsu Province, organised several cat rescues. Volunteers drove behind lorries that were transporting cats for meat, to southern China, then blocked the lorries and called the police. A 2010 documentary, *San Hua*, looked at these rescue operations in detail.
- ◆ To transport live animals from one province to another area, vehicles are required to have inspection certificates to prove that the animals are free of disease. However it is known that the lorry drivers seldom carry authentic certificates. Having this information has enabled animal protectionists to successfully intervene.
- ◆ 10,000 cats are eaten in Guangdong province every day, where cat meat is seen as a delicacy.<sup>23</sup> The fur is also used, and the remaining meat is sold for pork sausages, or as fake rabbit meat. This means that anyone buying these products could unwittingly be supporting the cat meat trade.

### 3.2 Fur

An undercover investigation into Chinese fur farms in 2004 provided the following observations:<sup>24</sup>

- ◆ Most Chinese fur farms were established in the last ten years. Animals include fox, mink, raccoon, dog and rabbit. Dogs and cats have also become a source for fur as a by-product of their meat.
- ◆ 15% to 20% of the country's fur is obtained from wild animals, while 80-85% originates from captive animals.
- ◆ The number of animals on fur farms, including foxes, raccoon dogs and mink, exceeds 50 million.
- ◆ High levels of stereotypic behaviour were observed throughout the farms.
- ◆ Cage sizes fell short of minimum EU recommendations.
- ◆ Slaughter methods were inhumane. Animals were stunned by repeated blows to the head or by picking them up by their hind legs and swinging them against the ground. Significant numbers of animals remained fully conscious throughout the whole process of skinning.
- ◆ The conditions on these farms were unacceptable from a veterinary, animal welfare and moral point of view, in terms of housing, husbandry, transport and slaughter standards.



High levels of stereotypical behaviour were observed throughout Chinese fur farms and cage sizes fell short of minimum EU recommendations. © EAST, Taiwan

In 2011, ACTAsia together with 48 local groups in China, launched the Chinese New Year 'Fur Free' campaign by using online tools and China's social network – sina.com micro blogs. Their joint press statement was reported on Beijing News, also sina.com sent it to their millions of fans. The response was overwhelming with many Chinese celebrities joining the campaign to give their own anti-fur statements.

### 3.3 Tiger farming

The use of tiger bones can be traced back in China to 1,500 years ago. According to Chinese medical theory, tiger bone is used to eliminate dampness and disperse cold energy. Proponents of tiger bone medicines claim benefits include anti-inflammatory pain-relief for rheumatism, also for joints and muscles; relaxing and strengthening of tendons; with beneficial effects for blood circulation, liver and kidney functions.

Although China and other tiger bone consuming countries have banned trade in tigers, and even though China removed tiger bone from its official Traditional Chinese Medicine (TCM) pharmacopoeia in 1993, the demand for tiger parts, especially for bones, still remains strong. Commercial tiger farmers have reared about 6,500 tigers in captivity since tiger farms were established. Each year, an

estimated 1,000 cubs are born in commercial tiger farms.<sup>25</sup> In February 2007 researchers from ITN, the UK television network, visited Xionsen Bear and Tiger Mountain Farm in Guilin, China, and were offered meat in the farm's restaurant. Using DNA analysis, the meat proved to be tiger meat – however, the owner of the farm denied the result and considered the analysis to be flawed.

The Chinese authorities invited 'specialists' to visit its captive tiger farms in 2006, and had talks with the Indian government about lifting the ban on the use of captive bred tiger parts from China's stockpile, claiming the stockpile could satisfy market demands and protect tigers in the wild. However, the positive conservation effect of tiger farming, for the wild tiger population, is indeed subjective, whereas the poor standards of animal welfare are undeniable.

Tiger farms are used as a tourist attraction and claim to be part of a programme to re-introduce tigers into the wild. There is evidence to strongly suggest that most, if not all farms, are involved in the illegal trade in tiger parts. Allowing the commercial breeding of tigers in China and lifting the ban on trading in tigers and their parts, could signal the end of the species.



### 3-4 Bear farming

Bears have been farmed in China since the 1990's. Animals are surgically mutilated by making an incision into the gall bladder so that bile can be extracted for use in TCM. The abdominal wounds are kept open after daily bile extraction. Confinement of the bears leads to stereotypic behaviour such as weaving, pacing inside their enclosures and self inflicted wound – the latter mainly caused through rubbing their bodies against the iron bars of the cages. Bear cubs are taken away from their mothers when they are as young as three months of age – in the wild, they stay with their mothers until they are eighteen months old. Many of the farms do not have qualified vets. Bear farming also jeopardises the survival of bears in the wild, as wild bears are captured for their gall bladders in South East Asia and the USA.

Many groups campaign to end this practice. In recent years, the Chinese government and others who are pro bear farming have repeatedly claimed that with new management and modern techniques, bear bile extraction is taking place in a more humane form on bear farms. However, Animal Asia Foundation (AAF) reports that the suffering of bears continues at these farms. AAF set up a centre for moon bears rescued from bear farms in Chengdu City, Sichuan Province, to give a permanent home to these animals, providing medical treatment and on-going care.

Bear farms are hoping to become registered as commercial captive breeding centres under CITES (the Convention on International Trade in Endangered Species, of which China is a signatory), in order to allow international trade in bear bile. If this happens, it would be detrimental for the well-being of the species globally, as marketing initiatives would stimulate consumer use of products such as bear soap, facial cream, wine, eye drops. Bear farms extracting bile from live bears need to get permits from the state in accordance with the Terrestrial Wildlife Protection Implementation Bylaw, article 22. Processes to extract bile need to comply with standards for producing bear bile powder according to Notice (1996) No. 310 issued by the Pharmaceutical Affairs Bureau, Ministry of Health.



Recently, protests against Chinese bear farming increased significantly and are no longer just protests from outside of China. In 2010, Kai Bao, a listed pharmaceutical company, wanted to open a bear farm. The company announced through the media that they intended to invest RMB150 millions (equivalent to US \$22 millions) in a farm, as they wanted to extract bile from bears under stable conditions, regulate the supply and monitor quality control. The company was already producing and marketing traditional Chinese medicines in modern packaging e.g. vials for oral use. This information evoked outrage amongst animal protectors in China. An online petition was set up, letters of protest were sent to Shanghai Municipality and the media reported on the concern of so many who were objecting to Kai Bao's plan. The protest initiatives were taken by Chinese nationals living within China, also living overseas, who were concerned with the proposed opening of yet another bear farm. However, International organisations that had campaigned against bear farms, failed to seize the opportunity to support local nationals initiatives. Possibly they did not recognise the importance of the collective voice of Chinese nationals, who now have an awakening understanding of animal welfare concerns, which will inevitably lead to long term and necessary change in China.

In February 2011, Guei Zhen Tang, a pharmaceutical company located in Quan Zhou City, Fu Jian Province, announced its intention to become a listed company. Guei Zhen Tang, uses bear bile to produce bear bile tea and various tonic products. It owns a bear bile farm, housing more than 400 bears and breeds around 100 bear cubs annually.<sup>26</sup> Again the announcement caused protests from concerned Chinese nationals, individuals and animal protection NGOs, attracting Chinese celebrities to join in and support the cause. In addition this was the first time that the bear bile issue gained support from other sectors of the NGO movement e.g. China SOS Help, an NGO concerned with social injustice issues e.g. poverty, health, missing children and environment. Currently the protests against Guei Zhen Tang's still continue.

### 3.5 Farm animals

China is the world's largest producer of pork, mutton and eggs, the world's second largest producer of poultry and the third largest producer of beef. In the 13 years to 2001, China's meat production increased from 26 million tonnes to 63 million tonnes, milk from 7 million tonnes to 23 million tonnes and eggs from 4 million tonnes to 11 million tonnes. Although much animal farming is still small-scale and traditional, intensive factory farming is increasing rapidly, helped by government approval, foreign investment and joint ventures and the support of institutions such as the World Bank. China's entry into the World Trade Organisation in 2001, has considerably increased foreign investment. Currently animal welfare is seldom considered on farms, with no legislation to ensure humane treatment for the animals.



China is the world's second largest producer of poultry.

China has opened its doors to investment from major multinational meat and dairy producers, as well as animal feed corporations, including Tyson, Smithfield, and Novus International. Keen to increase output, these corporations and the Chinese government promote the intensive systems of raising farmed animals that have become commonplace in industrialized countries: small, battery cages for egg-laying hens; metal stalls for pigs; sheds holding thousands of meat or broiler chickens; and feedlots for dairy and meat cattle.<sup>27</sup>

Long distance transport and slaughter are major areas of concern for farm animals. Owing to the size of China animals are routinely transported under crowded conditions, for many hours, with limited space in which to stand up or turn around. Forced feeding and hosing water into pigs prior to slaughter are common practises. In 2007, a Memorandum of Understanding (MOU) on humane slaughter programmes in China was signed between the



*Animal circus and zoos have been banned since Jan 2011. However the outcome of this ban and the future of these performing animals are unknown. © ACTAsia*

World Society for Protection of Animals (WSPA) and the Beijing Chaoyang Anhua Animal Product Safety Research Institute (APSRI), for the 'Chinese humane slaughter project' to share the best practice on human slaughter within China.<sup>28</sup> A humane slaughter training course was delivered to government inspectors and technical managers in slaughterhouses.

### 3.6 Animals in entertainment

Although traditional zoos exist in all Chinese cities, since 1993 over thirty wildlife parks (safaris) have been established. Many zoos and wildlife parks are located in beautiful surroundings and cover large areas. As profit is the main driver, animal welfare is seldom considered. Most of the land is used for visitor facilities, not for the animals. Most animals are confined in small concrete enclosures, without any environmental enrichment.

Animals such as tigers, chimpanzees, and bear cubs are used for photo opportunities with the visitors. In addition, animals including monkeys, tigers, lions, bears, pigs, goats, dogs and ponies are made to perform tricks such as riding a bicycle on tightrope, boxing, and dancing – all such activities are against their natural behaviour.

In October 2010, the Ministry of Housing and Urban-Rural Development, which is the managing authority of zoos in China, issued a document called 'Rules to improve management of zoos'. In this document it said: 'All animal performances in zoos and parks should be stopped within three months of publication of this document.' Chinese zoos officials have objected to this ban.

The Ministry of Forestry (MoF), (China's wildlife management authority), would prefer changes to improve standards relating to performing animals and allow performances to continue, unlike MHURD's direct ban. In December 2010, the MoF released its inspection report on zoo performances. The report ordered 57 zoos to improve their standards and 7 were ordered to close down.

MHURD's document was issued in mid-October 2010 so all performances should have stopped by mid-January 2011. To date, this has not happened. It is unclear whether MoF or MHURD, has the ultimate authority in this matter.

The inhumane practice of live animal feeding, continues in Chinese zoos. Live animals, including sheep, goats, cows, chickens, rabbits and ducks, are thrown into large mammal (tiger, lion, hyena, leopard, panther) enclosures to feed these carnivores. The zoos and wildlife parks say that this practice prevents predators from losing their hunting instincts. In some places, feeding can be done by the visitors – they can buy the prey and throw it into the carnivore enclosures. Alternatively, feeding shows are held several times a day in a large arena, often in front of young children. The animals used as bait are often injured badly, and they will be reused for the next show without any veterinary attention if they have not been torn to pieces or eaten by the predators. Although the Chinese State Forestry Administration announced a ban on all live feeding performances in October 2007, it still continues e.g. a live feeding event at a zoo in Badaling was exposed by a British newspaper in January 2008.

## Chapter 4

# The political structure

In theory the main organs of State power (see Fig.2) are the National People's Congress (NPC), the President (Head of State), and the State Council, but the Chinese Communist Party (CCP) has always controlled the Chinese Government, which exists to implement Party Policies.

### 4.1 How China is ruled

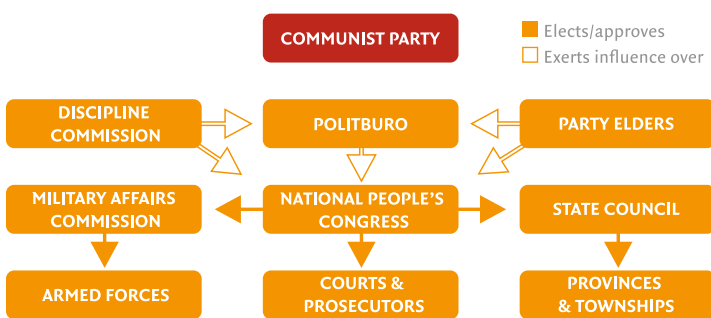


Figure 1. Source: BBC News 2011. How China is Ruled <sup>29</sup>

#### 4.1.1 Chinese Communist Party (CCP)

The authoritarian CCP has over 76 million members, and is the dominant force behind the government.

The main organs of power in the CCP include:

1. Central Committee of the Party: There are currently 204 members. Members are appointed during the Party's National Congress, held every five years. The 17<sup>th</sup> Party Congress was held in 2007. When the National Congress is not in session, the Central Committee implements all resolutions, directs all Party work and represents the Party in all external situations.

According to the CCP Constitution (Article 15):  
"Only the Central Committee of the Party has the power to make decisions on major policies of a nationwide character. Party organizations of various departments and localities may make suggestions with regard to such policies to the Central Committee, but shall not make any decisions or publicize their views outside the Party without authorization."

The General Secretary of the Central Committee is the leader of the CCP, and also usually holds the post of President; Hu Jintao currently occupies both positions.

2. The Political Bureau (Politburo) of the Central Committee: Currently consists of 25 full members, including the members of the Politburo Standing Committee. These members are not elected democratically, but come into office through the power and influence of their personal relationships and abilities. These personal relationships and loyalties are built up over many years, and allow such leaders to influence major decisions, even when they are no longer visibly active. This is the source of continuing power.

The Politburo ensures the Party line is followed as it also controls three powerful bodies; the Military Affairs Commission, also known as the Central Military Commission (which controls the armed forces); the National People's Congress (parliament); and the State Council (the government's administrative arm).

3. The Politburo Standing Committee. It currently consists of nine members. When the Central Committee is not in session, the Politburo and its Standing Committee exercise the functions and powers of the Central Committee. In theory, the National Party Congress ranks as the highest organ of party power, but the power really lies in the Central Committee of the Party and its Politburo, with the Politburo Standing Committee at the top.
4. The Secretariat: The principal administrative mechanism of the CCP is the working body of the Politburo of the Central Committee and its Standing Committee.
5. The Central Military Commission.
6. The Discipline Inspection Commission: its function is to deal with corruption among Party members.

Despite the control the Communist Party wields over the country, it is difficult for China to be ruled from Beijing (HQ of the CCP) because of the size of the country and its huge and socially diverse population. This means that consensus must sometimes be built for new central policies among different audiences including Party members, local and regional leaders, individuals outside the Party who are influential, and the general public.

This external influence can be seen primarily when there are economic factors at stake, and is visible in the coastal region with its developing economic zones. The Party has the greatest control over urban areas and government offices, and much less over rural areas. Even if it appears to be opening up in some areas, e.g. delegating some decision making to local level, it still retains control over all important policies.

#### 4.2 Formal state organs of power:



Figure 2. State Organs. 2003.  
Source: 10<sup>th</sup> National People's Congress and Chinese People's Political Consultative Conference <sup>30</sup>

#### 4.2.1 National People's Congress

People's congresses are the basic units of political power in China. The National People's Congress (NPC) and its Standing Committee are at the highest level of this structure. The NPC is responsible for making laws at a national level, and some local people's congresses can make decisions at their respective levels.

In principle, 'the NPC is the supreme source of law in China and the basic laws and other laws adopted by the full NPC or its Standing Committee are the highest form of law after the Constitution.' However, it is only since the 1990s that it has actually begun to take more control of the national agenda, as before that time it just implemented the Party's orders. Laws are not usually created and amended based on the public's wishes – they are based on Party priorities.

The 3,000 members of the NPC meet once a year for about two weeks and serve 5-year terms. Delegates are elected by the people's congresses at the provincial level as well as by the People's Liberation Army. Provincial delegations meet before each NPC session to discuss agenda items.

Some of the major functions of the NPC are to:

- amend the state constitution and enact laws,
- supervise the enforcement of the state constitution and the law,
- elect the president and the vice president of the republic,
- decide on the choice of premier of the State Council upon nomination by the president,
- elect the major officials of government,
- elect the president of the Supreme People's Court and the procurator-general of the Supreme People's Procuratorate.

The NPC has six permanent committees:

1. minorities
2. law
3. finance
4. foreign affairs
5. overseas Chinese
6. education, science, culture, and health

#### 4.2.2 NPC Standing Committee (NPCSC)

When the NPC is not in session, its Standing Committee assumes legislative responsibilities and exercises the NPC’s power. The NPCSC consists of delegates elected from the NPC. It has a very similar structure and processes to the NPC. Although the NPCSC cannot draft as many types of laws as the NPC, it exercises legislative power for most of the year, and therefore produces more laws.

Some of the NPCSC’s functions:

- conducting the election of NPC delegates.
- interpreting the State Constitution and laws.
- supervising the work of the executive and judicial organs.
- deciding on the appointment and removal of State Council members on the recommendation of the premier.
- approving and removing senior judicial and diplomatic officials.
- ruling on the ratification, annulment or abolition of treaties.

Members of the NPC Standing Committee are either powerful individuals in the CCP, or leaders of other large organisations. The NPCSC now has 175 members, of which 20 are full-time delegates with professional backgrounds – this is a new development.

#### 4.2.3 The President of State

The President (also known within China as Chairman of State) is chosen for a five-year term. As the President is legally China’s head of state, the holder of this post is responsible for China’s foreign affairs. Since 1993, the President has also been the General Secretary of CCP. He is responsible for establishing general policy and direction for the state and leaves responsibility for implementation to the Premier. The post of President is therefore very powerful. The President may delegate some of his responsibilities to the Vice President.

Among the President’s powers:

- Promulgation of laws
- Proclamation of war or martial law
- Appointment and dismissal of members of the State Council
- Ratification of treaties

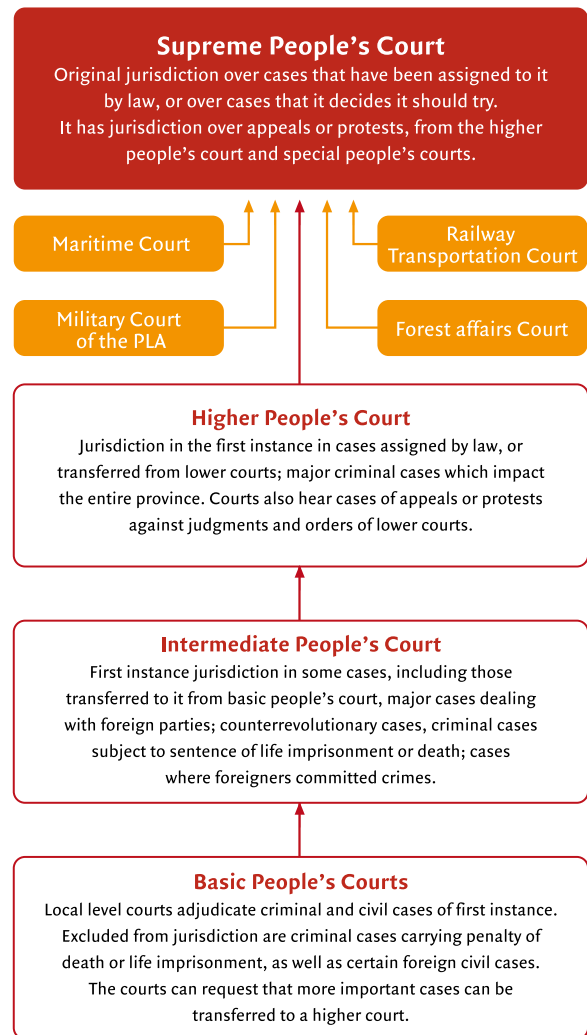


Figure 3. Court System.

Source: Law Info China 2011, Legal System of China <sup>31</sup>

#### 4.2.4 Supreme People’s Court

China has a four-level court system.

1. **Supreme People’s Court:** The highest court in the country. It may take on original cases but also supervises lower courts and takes on appeals from lower levels. Local people’s courts deal with criminal and civil cases and are the remaining three levels of the court system:
2. **Higher people’s courts:** For provinces, autonomous regions, and special municipalities
3. **Intermediate people’s courts:** For prefectures, autonomous prefectures, and municipalities
4. **Basic people’s courts:** For autonomous counties, towns, and municipal districts.

There are more than 3,000 basic courts at county level, divided into ‘people’s tribunals’ in towns and villages.



Although the court system is well-structured, courts do not have much power, and they cannot set precedent through their decisions unlike in many other countries. In China the formal power for interpretation and enforcement of laws belongs to the NPC and its Standing Committee, and for administrative regulations this power belongs to the relevant department.

This lack of judicial power has been a problem because enforcement is difficult, legal policies cannot be influenced by courts, and, as the CCP controls the courts, any abuse of the system by relevant Party officials (public security, prosecutors, etc.) cannot be stopped.

#### **4.2.5 Supreme People's Procuratorate**

This body is in charge of prosecutions, and reports to the NPC and the NPCSC. It is also in charge of investigating official corruption and related issues. The procuratorates under the Supreme People's Procuratorate conduct public prosecutions, check on cases investigated by security officials, look into complaints about government officials and supervise criminal cases. Procuratorates can take action and appeal court verdicts if they feel that an error has been made.

#### **4.2.6 State Council**

The State Council, also called the 'central government', is primarily an administrative body, implementing laws passed by the NPC and supervising government personnel. Members of the State Council are usually also high level CCP members, so they have a lot of influence over Party instructions.

Although the State Council is theoretically accountable to the NPC, getting approval from the NPC for legislation submitted by the State Council is usually a formality.

The State Council consists of the Premier, Vice-Premiers, State Councillors, Ministers, Auditor-General, and the Secretary-General. The Council has a five-year term of office. Its functions include:

- Adoption of administrative rules and orders
- Submission of proposals to the NPC
- Creation and execution of a plan for national economic and social development
- Finalising treaties

The Premier, also sometimes called the Prime Minister, has a five-year term, and is the head of the State Council. Below the Premier are the Vice-Premiers, ministers and chairmen of commissions. Although the Premier is formally approved by the NPC, in reality the Politburo of the CCP decides on the candidate, and all Premiers so far have been members of the CCP Politburo Standing Committee.

Under the State Council are the ministries, commissions and offices that introduce and supervise policy, with large departments that provide detailed instructions on implementation of different laws. (See Appendix B. Government Structures).

#### **4.2.7 Local People's Congresses (LPC)**

Under the National People's Congress there are four lower levels of people's congresses, with their respective standing committees, performing similar functions to the NPC and its Standing Committee. People's Congresses consist of members who are elected.

The various congresses at different levels are the:

- a. People's congresses of provinces, autonomous regions and central government-controlled municipalities (Governors of provinces and autonomous regions and mayors of the above municipalities are appointed by the central government – the NPC gives formal consent to these appointments; Deputies to the congress are elected by the people's congress at the next lower level)
- b. People's congresses of cities divided into districts and autonomous prefectures (Deputies to the congress are elected by the people's congress at the next lower level)
- c. People's congresses of cities not divided into districts, municipal districts, counties and autonomous counties (Deputies to the congress are elected directly by their constituencies for five-year terms)
- d. People's congresses of townships, ethnic minority townships and towns (Deputies to the congress are elected, directly by individuals)

The China Communist Party (CCP) has control over the representatives in all congresses. There are direct elections only at the township congress level, and even these elections are not similar to those in democratic countries, as there is only one party and no media campaigning is allowed. The CCP monitors this activity closely and controls all elections at higher levels.



Annual session of the NPC and CPPCC, the most significant event in the political calendar.

Although there are other political groups in China e.g. Kuomintang, such parties are 'unofficial' and are not allowed to stand for election, or to challenge the ruling Communist Party.

In the same way that the State Council is the administrative body of the central government, the local people's government provides administration at different levels:

- a. the provinces, autonomous regions, and special municipalities
- b. autonomous prefectures, counties, autonomous counties, cities, and municipal districts
- c. administrative towns

These congresses and governments have considerable power at their respective levels, including:

- legislating on local matters
- drafting local regulations to implement NPC laws
- drafting detailed implementation rules

The procedures for drafting and passing local legislation are similar to those laid out at national level (for further information see Appendix C). Local congresses supervise other government agencies, and are responsible for hiring and firing personnel in these agencies. They enforce central laws and the constitution.

As the Chinese people have started to demand legislative reforms and for limits to be put on the power of the government, changes are being made in the process by which local legislation is passed. There is increasing transparency and participation by the public in local legislative processes. To date this has only happened in a few regions, so the CCP ultimately controls legislation.

#### 4.2.8 Chinese People's Political Consultative Conference (CPPCC)

The CPPCC is an advisory body with members from different parties and organisations. As is expected, the majority of members are from the CCP, with others from CCP allies (United Front parties) and a few independent members. It performs an advisory role similar to the upper parliamentary house in many countries, and the National Committee of the CPPCC holds a meeting every year while the NPC sessions are being conducted.





## Chapter 5

# The legislative system

*China, consistent with its political structure, does not have an independent legal system. The NPC is the main legislative body with authority over other state legislative agencies, and any laws that are passed by the NPC have to be implemented by these agencies, including the State Council, the Supreme People's Court and the Supreme People's Procuratorate. As the NPC is only in session once a year, the NPCSC holds the NPC's legislative powers at all other times. The NPC Standing Committee drafts five-year plans for NPC legislative work, which is done with input from the State Council and NPC Committees. (See Figure 2. State Organs)*

### 5.1 Law-making authorities

In China legislation can also be drafted by bodies below the NPC and NPCSC. However, laws at different levels have different effects. The Constitution takes precedence over all other legal instruments, and nothing is allowed to conflict with the Constitution. At the next level are State laws, then State administrative regulations, then local statutes and regulations.

State Council passes administrative regulations, and has ministries and administrative departments which can draft legislation. Administrative departments can make ministerial regulations and propose national statutes in their specific areas. Ministerial regulations do not usually need approval before being passed by respective departments. Proposals for national legislation must be reviewed and approved by the State Council and then by the NPC.

1. The NPC has nine committees consisting of congress members who are experts in relevant issues. These committees are advisory in nature and are responsible for drafting and overseeing implementation of national laws.
2. People's congresses and standing committees of provinces, autonomous regions and centrally controlled municipalities can create local statutes that have to be reported to the NPCSC and State Council.
3. There is an opportunity for congresses and standing committees of larger cities to pass local statutes as long as they do not conflict with any

higher laws, regulations or the Constitution.

These only need to be approved by the standing committees of people's congresses of their provinces or autonomous regions.

4. Provincial governments can also issue local regulations as long as they do not contravene any rules of the provincial people's congress. Four centrally-controlled municipalities have similar powers to those of provincial governments – these are Beijing, Chongqing, Shanghai, and Tianjin.
5. People's congresses of national autonomous areas can create regulations based on their needs. These must be approved by the standing committees of the people's congresses of the provinces, autonomous regions, and centrally-controlled municipalities.
6. China has established special economic zones (SEZs) for more open trade with other countries – these include Shantou, Shenzhen, and Zhuhai in Guangdong Province, Xiamen in Fujian Province and the island of Hainan. There are also 14 coastal open cities that allow increased overseas investment. The SEZ is subject to laws of its municipality, but the municipality can choose to pass different regulations for an SEZ within its territory once it receives permission from the NPC and as long as these regulations do not contravene any higher laws or rules. This means that it would be possible for a SEZ to establish an animal protection regulation through the People's Congress of the city or province where the SEZ is located, even if there is no related national law.

| Legislative authority   | Legislation  | Level of power |
|---|--|----------------|
| NPC, NPCSC  | National law, legal interpretation   | 1              |
| State Council   | Administrative regulation  | 2              |
| Supreme People's Court, Supreme People's Procuratorate  | Judicial interpretation  | 2              |
| People's Congress and Standing Committee of province or city where a special economic zone is located   | Special economic zone decrees  | 3              |
| People's Congress of national autonomous area   | Autonomous decrees and specific decrees                                    | 3              |
| People's Congress and Standing Committee of province, autonomous region, municipality under central government and major city                     | Local statutes (decrees)   | 4              |
| Departments, Commissions, China People's Bank, auditing administration and bodies directly under the State Council exercising regulatory function | Departmental administrative rules (decisions or orders)                    | 4              |
| Local department of province, autonomous region, municipality under central government and major city   | Local government's departmental administrative rules (decisions or orders) | 5              |

The table above summarises the different legislative authorities, the type of legislation they can pass, and the level of power for such legislation. 1 means the highest legal power and 5 means the lowest.

Note: a major city refers to a city where the People's Congress of the province or autonomous region is seated, a city where a special economic zone is located, and any other major city approved by the State Council.

## 5.2 Changes in the legal system

China has stated that it wants to move towards the 'rule of law' principle that states that no individual is above the law. This is challenging as there is no Chinese tradition for applying 'rule of law', and the CCP does not want a democratic government. However, the Constitution was amended to include the goal of 'building a socialist rule of law country' in 1999. It was also amended in 2004, adding the protection of human rights and private property to the Constitution, but this is proving difficult to implement.

After 1979, when Deng Xiaoping began economic and legal reforms in China, the NPC has enacted and updated more than 200 laws, which still exist and are in line with international legal principles. China is party to many international agreements, including 21 international conventions on human rights and World Trade Organization (WTO) accession agreements. The State Council has also passed thousands of implementing rules. From fewer than 2,000 lawyers and two law schools in 1979, China now has over 120,000 lawyers and over 300 law schools. (Ref: *The Rule of Law in China: Incremental Progress*, Jamie P. Horsley, March 2006).

Before the 1980s, the CCP controlled policies and implementation, but following reforms the NPC and NPCSC have been given more power to pass legislation, with the legislative process becoming more standardised (See following sections for details). There is also more public participation in this process, as well as the setting up of special committees in the NPC and NPCSC with specific functions such as:

- drafting, reviewing, and revising bills,
- collecting and processing suggestions and proposals from NPC delegates and the general public,
- bringing ministries, specialists, scientific research, and educational components into the legislative process.<sup>32</sup>

There are other changes in China that have been instrumental in promoting legal reform which include:

1. Legal scholars in the country have started to play a role in the promotion of a wider legislative system and on human rights issues. These scholars, as well as other relevant experts, have been invited to join permanent PC committees.
2. A growing number of lawyers are taking an interest in legal reform, and are also taking on more low-income, potentially controversial cases for individuals and organisations. All lawyers are obliged to take on a required number of legal aid cases every year, as instructed by the Ministry of Justice. Over 400 lawyers serve as local people's congress deputies.

3. Legal aid clinics are sponsored by the government, law schools and non-governmental organisations.
4. The government has launched campaigns to improve legal education, and has introduced law-related subjects into schools.
5. Governments above the county level have informative websites, in line with China moving towards posting more government activity online. They also hold press conferences about their activities.
6. People's Congress deputies are now trained to understand legal policy issues.
7. In Jan 2007 a national Open Government Information (OGI) law was passed in a general meeting of State Council and became effective in May 2008. Local governments have been encouraged to put in place systems that allow citizens to get information from the government, and over 30 provinces and municipalities have put this system in place. However, there are loopholes within this law, so the government is still able to withhold information from the public.
8. Research centres have been established at law schools and they also take on public interest cases.
9. The public have started using the law to deal with complaints, including issues involving the government.
10. There are increasing numbers of media reports on legal matters and cases.
11. Legal assistance must be provided for criminal defendants.
12. The NPCSC now has an office to review all government regulations and legal interpretations – this is to help standardise legal work in the country.
13. Over the last decade, expertise external to China has been used to help with drafting bills. International input may be beneficial in attracting support for the bill.

As lawyers take on more cases of social relevance, there are potential benefits for policy reform through media attention. However, there are also potential risks if the local government disapproves of their actions, as lawyers may be arrested on various charges, or have their licences taken away. The CCP still retains ultimate control over legal issues, particularly sensitive ones, even as the legal system appears to be changing. This can be seen in the example of Dr Xu Zhiyong, a solicitor

and university lecturer, who was a People's Representative of Beijing. He founded the Open Constitution Initiative (OCI), providing free legal services to the underprivileged in China, and also researched and raised concerns about social issues, e.g. homeless people who died in government shelters. Dr Xu is also one of the very few People's Representatives who raised concerns about the crackdown on dogs taller than 35cm (Beijing Dog Keeping Regulations). He wrote proposed legislative amendments to the Beijing Measures on the Administration of Dog Ownership. Dr Xu was arrested in July 2009 for tax due, based on overseas donations e.g. from Yale University, received for the OCI. All his documents, files and computers were confiscated. A campaign was started to release Dr Xu, asking the Chinese public to each donate one dollar to pay for OCI's tax, and he was released on bail in August 2009. In August 2010 the accusation was withdrawn. However, the OCI website was banned and information about Dr Xu and his story was restricted on the internet.

There has been increased transparency and an invitation for input on proposed legislation has been given to local PCs. It is occasionally published through the media and internet; public hearings may be held with scholars and stakeholders may be consulted. Citizens can ask to attend as observers congressional sessions, both local and national as observers. The first public hearing by the NPC was held in 2005.

In recent years, many of the officials responsible for drafting local regulations in the legislative department of local municipalities have become more willing to discuss drafts with NGOs. For example, dog keeping regulations exist in all municipalities in China and animal groups have opportunities to meet the local government or People's Representatives to express their concerns and provide input. Lobbying is becoming a more established activity in local situations. For example, in Shanghai which is often the centre of emerging legal reform efforts, the Shanghai People's Congress has taken a number of steps to open up its legislative process. The Shanghai People's Congress now makes a practice of seeking the views of the Shanghai Bar Association when issuing any new laws and Chinese lawyers report that the People's Congress is considering financial support for academics to draft legislation. Moreover, the Shanghai People's Congress has been a pioneer in holding open hearings on legislation. Using a

model for public hearings based on U.S. practice, the Shanghai People's Congress has been working to develop its own procedures. This process is evolving. The Shanghai People's Congress has experimented with different methods to notify the public about the hearings and with a variety of formats for the hearings themselves. It has also sought input and feedback from a number of sources on how to improve its hearings. Shanghai has seen a growing number of exchanges with delegations from other LPCs interested in improving public participation in the drafting process.

Other LPCs have begun making efforts to improve the transparency of their legislative processes in the past years. The Standing Committee of the Yunnan Provincial People's Congress passed a 'Decision to Openly Solicit Legislative Items and Draft Laws,' calling for the public to submit legislative items and draft laws. This decision was the first attempt by Yunnan authorities to open the legislative process to public participation.

There are two laws that could potentially be used to help with animal related cases in the absence of any animal welfare laws:

1. The Administrative Litigation Law (ALL), passed in 1989, allows citizens to sue the government if the government takes any practical action that violates their rights and interests
2. The State Compensation Law (SCL), passed in 1994, allows citizens to demand compensation if injured by unlawful government actions.

Many citizens filed lawsuits when these laws were first passed, but this number has not increased in recent years. This is thought to be because of the practical subordination of courts to the government, which makes it difficult to file cases or to get results. Although the Administrative Litigation Law could theoretically be used to prosecute local governments that undertake mass killing of dogs, on the basis that dogs with licences and vaccination certificates should be exempt from such culling, the lack of human rights in China could make such action potentially dangerous.

### 5.3 Other challenges facing legal reform

Courts are not independent from the government. The NPCSC interprets law, and courts are only supposed to implement it. There can be intervention from political sources if cases are sensitive, and as the Party controls committees that supervise the judges, objective judgements cannot be ensured.<sup>33</sup> (Ref: *The Rule of Law in China: Incremental Progress*, Jamie P. Horsley, March 2006)



As judges at each level are appointed by their respective people's congresses, this makes the problem even worse. Salaries are also low, which can increase the power of political influence. It is only in recent years that judges have been required to be educated to university level, pass national law examinations and attend programmes for further professional development. The majority of judges still do not meet these requirements.

Even when laws are drafted and passed, in many cases the infrastructure still does not exist for effective implementation of these laws. Unfortunately, the government response to problems with existing laws is usually to draft new laws instead of making current laws more effective.

## Chapter 6

# The Process for Passing a Bill: National People's Congress

*The process by which the NPC passes a bill is taken from the Legislation Law of the People's Republic of China, (using the official translation) which was passed in July 1, 2000. See Appendix C.*

### Introduction of a bill on the agenda of the current NPC session:

- ◆ **Article 12:** The presidium of the NPC can introduce a bill to the NPC for deliberation in its current session.  
Also, the State Council, the Central Military Committee, the Supreme People's Court, the Supreme People's Procuratorate, and the various special committees of the NPC can introduce a bill, and if it is approved by the presidium it will be put onto the agenda of the current session.
- ◆ **Article 13:** A delegation, or at least 30 delegates acting jointly, can introduce a bill to the NPC. The presidium decides either to put the bill on the current session's agenda, or to refer it to the relevant special committee for discussion. The special committee may invite the bill sponsor to the deliberation session to give comments. The special committee recommends whether a bill should be put on the agenda or not, and the presidium then decides what to do.
- ◆ **Article 14:** If the NPC is not in session, a bill for the NPC can be submitted to the NPCSC, which will decide whether to introduce it to the NPC. The NPCSC or the bill sponsor will brief the NPC session regarding this bill.
- ◆ **Article 15:** If the NPCSC decides to submit a bill to the upcoming session of the NPC for deliberation, the draft law must be distributed to all the delegates one month prior to the commencement of the session.

### Deliberations on the bill:

- ◆ **Article 16:** Once a bill has been put on the agenda of the current session of the NPC, the plenary session shall be briefed by the bill

sponsor. After that the delegations shall begin deliberation. During these deliberations, the bill sponsor sends representatives to hear comments and answer questions. Also, if a delegation asks, relevant agencies or organisations must send representatives to brief the delegation.

- ◆ **Article 17:** The bill will also be deliberated by the relevant special committee. The special committee then submits its opinions to the presidium, and the opinions are printed and distributed to the delegates attending the session.
- ◆ **Article 18:** After opinions have been gathered from the delegations and the relevant special committee, the Legislative Committee conducts its deliberations and then submits a deliberation report and amended draft law to the presidium. The deliberation report contains explanations of the major differences of opinions, and after the presidium has deliberated and passed the deliberation report and the amended draft law, they are printed and circulated to the delegates attending the session.
- ◆ **Article 19:** If needed, the executive chairman of the presidium may call a session of the delegation leaders to hear the opinions of the various delegations on major matters covered by the bill and conduct discussions. This session reports to the presidium the status of the discussion and the opinions expressed. The executive chairman of the presidium may also call a session of the relevant delegates elected by various delegations to discuss major special issues involved in the bill, and reports the status of the discussion and the opinions expressed to the presidium.

### Withdrawal of the bill or postponement of deliberations:

- ◆ **Article 20:** If a bill sponsor requests its withdrawal before it is brought to a vote, the sponsor must explain the reason for the withdrawal, and if the presidium consents, a report is made to the plenary session, and deliberation on the bill shall terminate.
- ◆ **Article 21:** If major issues are encountered while deliberating a bill, the presidium may bring a motion, that has to be decided up by the plenary session, to authorise the NPCSC to conduct further deliberations based on the opinions of the delegates. The NPCSC will report its decision to the next session of the NPC. The NPCSC may also be authorised to prepare an amendment plan, to be submitted to the next session of the NPC for deliberation and decision.

### Passing of the bill:

- ◆ **Article 22:** After deliberation by the delegations, the amended draft law is further amended by the Legislative Committee based on the deliberating opinions of the delegations. The Legislative Committee presents a voting version of the draft law to be submitted by the presidium to the plenary session for voting. This version of the bill is adopted if it receives votes of approval from more than half of all delegates.
- ◆ **Article 23:** A national law enacted by the NPC shall be promulgated by way of a presidential order signed by the state president.



# The process for passing a bill: National People's Congress Standing Committee

*The process by which the NPCSC is passed is taken from the Legislation Law of the People's Republic of China (using the official translation) which was passed on July 1, 2000. See Appendix D.*

### Introduction of a bill on the agenda of the current NPCSC session:

- ◆ **Article 24:** The Chairman's Committee can introduce a bill to the NPCSC for deliberation during its current session. The State Council, the Central Military Committee, the Supreme People's Court, the Supreme People's Procuratorate, and the various special committees of the Standing Committee can also introduce a bill to the NPCSC. The Chairman's Committee decides whether to put the bill on the agenda of the upcoming session of the NPCSC, or first refer it to the relevant special committee for deliberation. In the latter case, a report on the bill is submitted by the special committee, and then the Chairman's Committee decides whether to put it on the agenda of the upcoming session of the NPCSC. If the Chairman's Committee believes that there are material issues with the bill which need further study, it may advise that the bill sponsor revise and improve the bill before it is introduced to the NPCSC.
- ◆ **Article 25:** Ten or more members of the NPCSC acting jointly may introduce a bill to the NPCSC, and the Chairman's Committee decides whether to put it on the agenda of the NPCSC's session, or whether to refer it to the relevant special committee for deliberation and recommendation before deciding to put it on the agenda. If such a bill is not put on the agenda of the NPCSC session, the Chairman's Committee must make a report to the NPCSC session or give an explanation to the bill sponsor.

During deliberations, the special committee may invite the bill sponsor to the session to give comments.

### Deliberations on the bill:

- ◆ **Article 26:** Once a bill is on the agenda, unless there are special circumstances, it must be distributed to the members of the NPCSC seven days prior to the beginning of the session.
- ◆ **Article 27:** In general, the bill will be deliberated, on three occasions in the current session of the NPCSC before being voted on. During the first deliberation, the bill sponsor briefs the plenary session; then preliminary deliberation is conducted during sub-group sessions. During the second deliberation, the Legislative Committee briefs the plenary session on the status of amendment and major issues in respect of the draft law; then further deliberation is conducted during sub-group sessions. During the third deliberation, the Legislative Committee gives a report to the plenary session on the result of the deliberation on the draft law; then deliberation on the amended draft law is conducted during sub-group sessions. During deliberations, if necessary, the NPCSC may convene a joint group session or a plenary session to discuss major issues of the draft law.
- ◆ **Article 28:** If a consensus is reached, a bill on the agenda may be put to a vote after two deliberations by the session of the NPCSC; for a bill which partially amends a national law, if there is a consensus, it may be put to a vote after one deliberation.
- ◆ **Article 29:** During deliberation by the subgroups of the NPCSC, the bill sponsor shall send representatives to the deliberating sessions to hear comments and answer questions. If requested by a subgroup, the relevant agency or organization shall send representatives to brief the subgroup.

- ◆ **Article 30:** The bill is also deliberated by the relevant special committee, which presents its opinions. These are printed and distributed to members attending the NPCSC session. During deliberations, the relevant special committee may invite members of other special committees to the session to give comments.
- ◆ **Article 31:** The Legislative Committee conducts deliberations based on the opinions expressed by the members of the NPCSC, the opinions delivered by the relevant special committee and concerned constituents. It then gives a report on the status of amendment or delivers a deliberation report and the amended draft law. The status report or deliberation report contains notes on the major differences of opinion. Where a major opinion by a relevant special committee has not been adopted, the Legislative Committee must give an explanation in its report and also report back to the special committee.  
During deliberations, the Legislative Committee may invite members of the relevant special committee to the session to give comments.
- ◆ **Article 32:** During deliberations, a special committee shall convene a plenary session to conduct the deliberations. If necessary, it may request that the relevant agency or organisation send its representative to brief the session.
- ◆ **Article 33:** If there is a difference of opinion among the special committees on a major matter covered by the draft law, they shall report such differences to the Chairman's Committee.
- ◆ **Article 34:** The relevant special committee and the office of operation of the NPCSC shall hear the opinions of the concerned constituents. In gathering opinions, various methods may be adopted, such as a panel discussion, a feasibility study, hearings, etc.  
The NPCSC's office of operation (i.e. secretariat) shall distribute the draft law to the relevant agency, organisation and experts for comments, and shall compile such comments and present them to the Legislative Committee and the relevant special committee, and where necessary, it shall distribute them to the current session of the NPCSC.
- ◆ **Article 35:** For major bills, the Chairman's Committee may decide to present the draft law to the public for comments. The comments presented by the various agencies, organisations and citizens shall be submitted to the office of operation of the NPCSC.

- ◆ **Article 36:** The office of operation of the NPCSC shall collect and compile the comments made by the subgroups during deliberation, as well as comments made by concerned constituents, and where necessary, it shall distribute them to the current session of the NPCSC.

#### Withdrawal of the bill or postponement of deliberations:

- ◆ **Article 37:** If the bill sponsor asks for a bill to be withdrawn before it is brought to a vote, the bill sponsor shall give an explanation. Subject to consent by the Chairman's Committee, a report shall be made to the NPCSC, whereupon the deliberation on the bill shall terminate.
- ◆ **Article 38:** After three deliberations by the NPCSC session, if a bill still has major issues which require further study, upon a motion brought by the Chairman's Committee, and upon approval by the joint group session or the plenary session, voting on the bill may be postponed. The bill shall then be submitted to the Legislative Committee and the relevant special committee for further deliberation.
- ◆ **Article 39:** If deliberation on the bill has been postponed for two years due to major differences among the concerned constituents on major issues such as the necessity or feasibility of enacting such bill, or voting was postponed and the bill has not been put on the agenda of the session of the NPCSC for two years, the Chairman's Committee shall make a report to the NPCSC, whereupon deliberation on the bill shall terminate.

#### Passing of the bill:

- ◆ **Article 40:** Upon deliberation of the draft law by the NPCSC session, the Legislative Committee shall make further amendments based on the comments by members of the NPCSC, and shall present a voting version of the draft law. The Chairman's Committee shall put the draft law to a vote by the plenary session of the NPCSC. The bill will be enacted if more than half of the votes cast by the members of the NPCSC are in favour.
- ◆ **Article 41:** A national law passed by the NPC shall be promulgated by way of a presidential order signed by the state president.



## Chapter 8

# Existing legislation, regulations and rules relevant to animal welfare

### 8.1 Laboratory animals

There are three existing regulations which have clear definitions of animal welfare and relevant management of laboratory animals.

#### I. Regulations for the Administration of Affairs Concerning Experimental Animals:

(approved by the State Council on Oct. 31st, 1988, and passed by the National Science and Technology Commission Decree No. 2, on Nov. 14th, 1988.)

These regulations have supreme legal authority on laboratory animal management in China, and all relevant government departments, research institutes and citizens have to follow them. If there are any violations of these regulations during the feeding, keeping and use of laboratory animals, any organisation or individual has the right to ask the national or local Science and Technology Committee to step in and investigate to protect laboratory animals. If it can be determined that an injured animal belongs to a government department, a complaint can be made to the administrative authority of that particular department, and the authority has an obligation to deal with the case.



The welfare of lab animals should be regulated under the 'Regulations for the Administration of Affairs Concerning Experimental Animals'.

**Article 5.** The National Science and Technology Committee shall be responsible for laboratory animal issues. Science and Technology Committees in provinces, autonomous regions and municipalities are in charge of local laboratory animal issues. Departments of the State Council should be responsible for management of laboratory animals in their respective departments.

**Articles 13, 14 and 15** regulate the feeding, housing and keeping of animals in laboratories.

**Article 29.** Those who deal with experimental animals must treat them well, and it is forbidden to torment or abuse them.

This valuable article directly provides for kind treatment towards animals. Based on the article, workers who torment or abuse experimental animals should be punished by the relevant department or authorities. More importantly, this could be regarded as a vital development as this regulation indicates that animals' lives should be protected and respected.

#### II. Rules for the kind treatment of experimental animals

Ministry of Science and Technology [2006] No. 398  
These Rules were established after the Regulations for Administration of Affairs Concerning Experimental Animals (RAACEA) were enacted, and anything done with laboratory animals must legally proceed in accordance with these Rules.

1. In the chapter on general provisions, article 1 clearly sets out the basic principles of animal welfare. It is the first kind of law to use the term 'animal welfare' in China. It is also significant as it clearly shows that animal welfare can be implemented through the legal process in China.
2. The Rules provide a lot of detail on protecting the welfare of laboratory animals. If relevant units and individuals violate the Rules, any organisation or individual has the right to report the violation to the administrative department who can punish the offenders in accordance with the Regulations.

### III. Medical Laboratory Animal Management Rules

Ministry of Health Decree No. 55, issued on Jan. 25th, 1998

1. Where animals are used in laboratories which are under different government departments, these departments have responsibilities to manage the use and breeding of laboratory animals. Any violations of the rules can be reported to these government departments (for example, the Bureau of Health, Agriculture or Drug Control) or to the managing authorities of laboratory animals – national or local – by the Science and Technology Commission.
2. If animals are used in laboratories under any health department or bureau where the laboratory is not of a proper standard to conduct the procedures, apart from receiving orders to improve the situation, the products related to these experiments will be banned.
3. Article 32 If using laboratory animals from unqualified sources (i.e. other than those bred specifically for research) or conducting experiments in laboratories that do not meet legal requirements, research results will be invalid, and cannot be published or used as a basis for further research or product development. Article 33 states that anyone who violates these rules can be issued warnings and orders by the Department of Health or Provincial Health Department to improve conditions within a given period of time.

### 8.2 Wildlife

The Wildlife Protection Law was passed in 1988 and last amended in 2004. It is the only national legislation that protects wildlife in China. The managing authorities are the Ministry of Forestry, which is responsible for terrestrial wildlife, and the Ministry of Fisheries, which is responsible for aquatic wildlife. In China, legislation for wild animal protection does not give consideration to animal welfare, but is a measure to protect resources for humans. The principle of the use of wildlife as a resource, is evident throughout this legislation. In addition, forestry authorities have a right to grant authorisation for hunting or capture of wildlife. The captive breeding of wildlife is encouraged. As stated by Lisa Hua, from IFAW China: 'In China although we have a 'Wildlife Protection Law'..., that legislation is mainly to regulate the ways in which people use wildlife as resources. and there is no clear differentiation between animals in the wild and those in a captive environment. There is also no

anti-cruelty or animal welfare legislation in China. Whenever a welfare issue comes up in a captive environment, we can do nothing but show moral condemnation.' (Source: Extract from Forum on Promoting Animal Protection Legislation in China 2009) A prime example is the bear farming industry, which is condemned worldwide, but the Chinese Wildlife Protection Law is not an adequate tool to prohibit this activity, as bear farms and the sale of bear bile products are not illegal in China, providing the bears used are not bears taken from the wild.



The welfare of livestock in transport should be regulated under the 'Animal Husbandry Law.' © Malcolm Bull

### 8.3 Farm animals

There are specific regulations on animal slaughter which are related to animal welfare. Although the provision does not cover all farm animals used for meat, it is a good starting point for similar legislation.

#### 1. Animal Husbandry Law of the People's Republic of China (passed on July 1st, 2006)

1. Necessary conditions for raising livestock – articles 22, 42, 43 and 54. These articles focus on the animals used as food for humans, but even though they do not directly talk about animal welfare, some of the clauses could promote better welfare during rearing, feeding and breeding. If these are violated, the animal husbandry and veterinary administrative department can be asked to investigate the matter.
2. Article 53 for the protection of livestock during transport: If animals have inadequate space during transport, or are deprived of an adequate supply of food or water, this matter can be reported to the relevant government departments.

## II. Measures for the Prevention of Animal Disease

**Epidemics** (Ministry of Agriculture Decree 2019 No. 7, passed on May 1st, 2010)

Provisions in favour of animal protection while preventing disease are included in articles 2 to 25. These newly issued quarantine rules have numerous references to the rearing of animals, slaughter, and quarantine.

## III. Enforcement Measures of Pig Slaughtering Regulations

(passed on August 1st, 2008)  
Article 13 encourages slaughterhouses to follow humane slaughter methods based on national standards as mentioned below.

## IV. Technical Criteria for Humane Slaughter of Pigs

(passed on Feb.1st, 2009)  
Humane pig slaughter is still not performed widely in mainland China. These criteria cover issues related to human consumption and animal welfare. Whether this provision can be considered to have achieved these goals or not, it has destroyed the long existing belief that legislation should only take the needs of people into account with little regard for animal welfare.

It is unclear whether humane pig slaughter is a mandatory requirement or not. The Enforcement Measures of Pig Slaughtering Regulations above only 'encourage' the implementation of humane slaughter in accordance with national standards, which shows that it is not mandatory.

## 8.4 Companion animals

There is no legal definition of 'companion animal' in mainland China, and no legal document specifically related to companion animals. Therefore the only legislation that currently covers them is legislation that covers animals in general.

### I. Animal Epidemic Prevention Law of the People's Republic of China <sup>34</sup>

(passed on Jan. 1st, 2008)  
This law states that all animals for sale, transport and slaughter should be inspected and issued with a certificate. All provincial authorities and municipalities should follow this law, taking action to prevent animal disease epidemics. Animals transported by rail, road, water or air should have inspection certificates. Article 78 states that anyone violating this law can be fined between 10%-50% of the value of the animals or products. The carrier transporting the animals can be fined between 1-3 times the cost of transportation.

## II. Animal Quarantine Regulations

(passed on March 1st, 2010)

This document is a bylaw of the Animal Epidemic Prevention Law. It provides more details about applying for inspection certificates and conditions under which these certificates are issued.

## III. Highway Animal Epidemic Prevention and Inspection Station Management Measures

(passed on August 28th, 2006)

Article 6 states that the highway inspection station's main duties include examining relevant certificates and inspecting transported animals and products; disinfecting vehicles and equipment used to transport animals according to disease control requirements; taking action according to the animal disease prevention regulations; on identification of a communicable disease, reporting to relevant authorities and taking appropriate action.



In 2006, the first ever animal protection march in China protesting against indiscriminate culling of owned dogs, over 35 cm.

## IV. Rabies Prevention Rules

(issued by Ministry of Agriculture in 2002, amended in 2006)

This is another bylaw of the Animal Epidemic Prevention Law and is used by the local authorities to cull dogs when human deaths occur from rabies, even though this document prohibits indiscriminate culling. According to the Rules, only sick animals or those bitten by affected animals at the epidemic site should be culled. Other animals should be isolated for observation, mandatory immunisation etc. So it is reasonable to conclude that orders to cull dogs are illegal and should be revoked.

If any animal has been culled or has died owing to control requirements, the government is required to compensate the owner. The rules give detailed provisions for rabies prevention.

## V. Dog keeping regulations established by each municipality.

Dog keeping is a relatively new practice in China, only permitted since the 1980s. The first city to establish regulations was Beijing. These regulations were passed in 1995 and were known as 'Beijing Controlled Pet Keeping Regulations'. They were amended in 2003, and the name changed to 'Beijing Dog Keeping Regulations':



Under 'Beijing Dog Keeping Regulation', residents in Beijing do not allow the keeping of 41 'dangerous' breeds or any breed with a height of more than 35cm (14 inches) in its 8 focused management areas. ©Ross Dyer

It lists 41 breeds as dangerous dogs and categorises dogs above 35cm in height as 'big' dogs.

The regulation includes:

- ◆ **Article 7:** 8 districts (areas/boroughs) identified as Focused Management Areas (FMAs) – due to tourism, finance, etc.
- ◆ Article 10, in these FMAs, only one dog per household is permitted. Dangerous or big dogs cannot be kept (Therefore dogs such as Labradors, Golden Retrievers, Huskies, Collies, Shetland Sheepdogs and Cocker Spaniels are not allowed in the FMAs).
- ◆ Article 17, item 5: Outside the FMAs, such dogs are permitted. However, they cannot be taken out in public, except in special cases e.g. veterinary visits – and must be muzzled.
- ◆ Dangerous and big dogs should be kept indoors, either tethered or in cages.
- ◆ Promotion of 'Civilised Pet Keeping', with 9 offences, i.e.

1. Big or dangerous dogs in FMAs
2. No licence
3. More than one dog in a house
4. No leash when walking the dog in public areas
5. Environmental pollution
6. Disturbance of people's normal lives, such as barking at night
7. Stray dogs
8. Illegal trade of dogs in markets/  
Selling dogs in the street
9. Over expansion of veterinary clinics and pet shops

- ◆ The list of dangerous dogs includes the following breeds: Akita, Australian Shepherd, Border Terrier, Boxer, Bulldog, Borzoi, Bull Terrier, Basenji, Bouvier des Flandres, German Shepherd, St Bernard, Keeshond, Pyrenean mountain dog, Bernese mountain dog, Samoyed, Irish Wolfhound, Great Dane, Rottweiler, Tibetan Mastiff, Tosa Inu, Kerry Blue Terrier, Old English Sheepdog, Pointer, Newfoundland, Afghan Hound, Foxhound, Bloodhound, Alaskan Malamute, Bracco Italiano, Chow Chow, Greyhound, Vizsla, Weimaraner, Setter, Saluki, Doberman, Bearded Collie, Scottish Collie, Bedlington Terrier, Belgian Shepherd, Dalmatian.
- ◆ The 2003 restrictions on 'dangerous' and 'big' dogs have been causing public concern since the regulation was passed. Animal protection groups in Beijing have regularly petitioned the authorities for amendments to this regulation, also through web discussions, letter-writing and public petitions, stating that the restrictions were unscientific. When the Beijing government ordered a culling to enforce the order against dangerous and big dogs in 2006, it caused major public protest and the first ever animal protection march in China with over 10,000 people in Beijing.
- ◆ **Article 13:** Owner should pay an annual dog management and service fee. The fee is RMB1000 (£100) for the first year and RMB500 (£50) from the second year. For senior citizens or neutered dogs the fee for the first year is RMB500.
- ◆ **Article 17:** The first paragraph states that dogs cannot enter any public areas such as parks, public greens, markets, shops, schools, hospitals, museums, etc.

The breeds on the list of dangerous dogs and the height of dogs allowed may vary from city to city, but Beijing's Dog Keeping Regulations are a template for the rest of the cities in China.

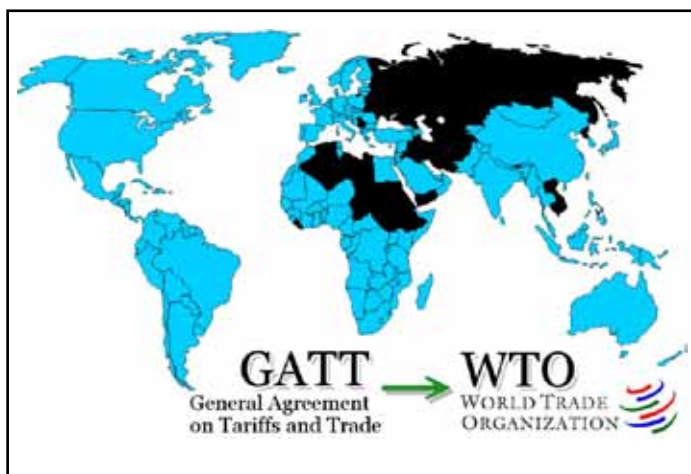


## 8.5 International agreements

As part of its World Trade Organisation accession process, China undertook to eliminate certain trade-related investment measures and to open up specified sectors that had previously been closed to foreign investment. Many new laws, regulations, and administrative measures to implement these commitments have been issued. Major remaining barriers to foreign investment include opaque and inconsistently enforced laws and regulations and the lack of a rule-based legal infrastructure.

### 8.5.1 Membership of international organizations

China holds a permanent seat, which affords it veto power, on the Security Council of the United Nations (UN). Prior to 1971, the Republic of China in Taiwan held China's UN seat, but, as of that date, the People's Republic of China successfully lobbied for Taiwan's removal from the UN and took control of the seat. China is an active member of numerous UN system organizations, including the UN General Assembly and Security Council; Food and Agriculture Organization of the UN; UN Conference on Trade and Development; UN Educational, Scientific and Cultural Organization; UN Office of the High Commissioner for Refugees; UN Industrial Development Organization; UN Institute for Training and Research; UN Monitoring, Verification, and Inspection Commission; and UN Truce Supervision Organization. China also holds memberships in the African Development Bank, Asian Development Bank, Asia Pacific Economic Cooperation, Association of Southeast Asian Nations (dialogue partner), Association of Southeast Asian Nations Regional Forum, Bank for International Settlements, Caribbean Development Bank, Group of 77, International Atomic Energy Agency, International Bank for Reconstruction and Development, International Chamber of Commerce, International Civil Aviation Organization, International Criminal Police Organization, International Development Association, International Federation of Red Cross and Red Crescent Societies, International Finance Corporation, International Fund for Agricultural Development, International Hydrographic Organization, International Labour Organization, International Maritime Organization, International Monetary Fund, International Olympic Committee,



China is a member of the World Trade Organisation. As part of its WTO accession process, China undertook to eliminate certain trade-related investment measures and to open up specified sectors.

International Organization for Migration (observer), International Organization for Standardization, International Red Cross and Red Crescent Movement, International Telecommunication Union, Latin American Integration Association (observer), Non-Aligned Movement (observer), Organisation for the Prohibition of Chemical Weapons, Permanent Court of Arbitration, Shanghai Cooperation Organization, Universal Postal Union, World Customs Organization, World Health Organization, World Intellectual Property Organization, World Meteorological Organization, World Tourism Organization, World Trade Organization, and Zangger Committee.





*China has signed numerous international conventions and treaties including the Convention on International Trade of Endangered Species (CITES). Commercial trade with tigers and tiger parts are banned by CITES and is also banned in China. Despite this, the number of captive bred tigers in farms is increasing every year. © Save the tiger fund*

### 8.5.2 Major international treaties

**The People's Republic of China has signed numerous international conventions and treaties. Treaties signed on behalf of China before 1949 are applicable only to the Republic of China in Taiwan. Conventions signed by Beijing include:**

Assistance in Case of a Nuclear Accident or Radiological Emergency Convention; Biological and Toxin Weapons Convention; Chemical Weapons Convention; Conventional Weapons Convention; Early Notification of a Nuclear Accident Convention; Inhumane Weapons Convention; Nuclear Dumping Convention (London Convention); Nuclear Safety Convention; Physical Protection of Nuclear Material Convention; Rights of the Child and on the Sale of Children, Child Prostitution, and Child Pornography Convention (signed Optional Protocol); and Status of Refugees (and the 1967 Protocol) Convention. Treaties include the Comprehensive Test Ban Treaty (signed but not ratified); Protocol for the Prohibition of the Use in War of Asphyxiating, Poisonous, or Other Gases, and of Bacteriological Methods of Warfare (Geneva Protocol); Treaty on the African Nuclear-Weapon-Free Zone (Treaty of Pelindaba, signed protocols 1 and 2); Treaty on the Non-Proliferation of Nuclear Weapons; Treaty on Outer Space; Treaty for the Prohibition of Nuclear

Weapons in Latin America and the Caribbean (Treaty of Tlatelolco, signed Protocol 2); Treaty on Seabed Arms Control; and Treaty on the South Pacific Nuclear-Free Zone (Treaty of Rarotonga, signed and ratified protocols 2 and 3). China also is a party to the following international environmental conventions: Antarctic-Environmental Protocol, Antarctic Treaty, Biodiversity, Climate Change, Climate Change-Kyoto Protocol, Desertification, Endangered Species, Hazardous Wastes, Law of the Sea, Marine Dumping, Ozone Layer Protection, Ship Pollution, Tropical Timber 83, Tropical Timber 94, Wetlands, and Whaling.

# Initiatives relevant to animal welfare legislation

*China's use of animals is not currently regulated through animal welfare legislation, although the range and scale of animal abuse is immense and it affects farm animals, companion animals, laboratory animals and animals used for entertainment.*

More and more individual animal activists, local and international groups are gradually taking action to get animal protection legislation passed in China. The Chinese media are increasingly interested in discussing animal abuse, welfare and legislation issues. For example, CCTV (the equivalent of the BBC) has made several TV news programmes exploring animal cruelty, stray animal problems and legislative issues. In addition, scholars and students in Chinese universities have also started to discuss these issues and publish academic research papers which is a relatively new development in China. An Animal Protection Law Research Centre at the Northwest University of Politics and Law in Shaanxi was established in December 2008 – a first for China. The centre is led by Professor Sun Jiang. It aims to promote animal welfare and encourage research in animal protection/welfare and related laws, and has both graduate and post-graduate courses on these issues.

Public awareness is also increasing. According to an online survey in June 2009 by Xina and Sohu, two major Chinese search engines, 80% of respondents agreed that an animal protection law should be established and 75% agreed that torturing animals to death should be made a criminal offence.<sup>35</sup>

A 2006 study of college students by Gareth Davey, found that students were 'moderately concerned' with animal welfare. Davey's study found that: 'The three issues that received most concern were (a) hunting wild animals for sport, (b) the slaughter of whales and dolphins, and (c) keeping wild animals in zoos. However, students seemed undecided on issues such as hunting wild animals for food, whether setting aside more land for wildlife is more important than economic growth, and using animals in medical research.' A 2005 survey of college students by Shuxian et al, found that the majority of the students opposed animal cruelty

and supported the work of animal protection and welfare organizations.<sup>36</sup> In another study in 2005 by the International Fund for Animal Welfare (IFAW), 90% of respondents said they believed they had a moral duty to minimize animal suffering and 77% declared an interest in animal welfare legislation.<sup>37</sup> In another survey conducted by Davey regarding reasons for visiting zoos, he found that among the motivations (conservation, education, entertainment, and research), the traditional role of entertainment was considered to be the least important, while the need for conservation and environmental education was recognized.<sup>38</sup>

### 9.1 Efforts made by members of the NPC and CPPCC

The Small Animal Protection Society was founded in 1992 by Professor Lu Di. Over the years she has urged the CPPCC and NPC to establish national legislation for animal protection. From 2000 onwards more and more deputies to the NPC and members of the national committee of CPPCC started to openly support the introduction of an animal protection law.

In 2004 a member of the CPPCC Beijing committee proposed that China should urgently draft a law protecting animals nationwide, with specific emphasis on the welfare of farm animals during slaughter and transport. This proposal was the first initiative in China to legally address animal welfare concerns alongside public health issues.

In 2006 Han Chuan, a member of the national committee of the CPPCC, together with 23 other members submitted a 'proposal for legislation against cruelty to animals' and asked for national legislation to be passed to combat the increasing number of animal cruelty cases. The proposal suggested using the legislative experience of Hong Kong and Taiwan as a template and focusing on animal abuse issues which are relatively

straightforward, e.g. the skinning of live animals for fur, at open markets; banning the trade in live animals for fur at open markets; banning animal experiments in primary and lower secondary education. The proposal also suggested that major cities such as Shanghai and Beijing could be used as models, with their experience promoted across the country. A document was drafted by Chinese animal protection groups and individuals, supported and submitted by CPPCC members, primarily because of a 2004 report showing the cruel practices behind the Chinese fur industry, also through the widely circulated fetish video where a kitten was slowly and deliberately crushed by the heel of a woman wearing high-heeled shoes.

In March 2011, during Lianghui, at the NPC and CPPCC's 4<sup>th</sup> annual session of the 11<sup>th</sup> conference, NPC and CPPCC members submitted proposals to ban the farming of bears for bile extraction and to pass animal protection legislation with expediency. These proposals attracted wide media coverage within the country.

Every year thousands of proposals are submitted to the NPC to be listed on the agenda. Only the NPC Presidium, NPCSC, the State Council, the Central Military Committee, the Supreme People's Court, the Supreme People's Procuratorate, special committees of the NPC, and delegations of 30 or more NPC members can submit proposals for approval by the Presidium in order to be included on the NPC agenda. (See section 6 for details of the legislative process). The content of the proposal and deliberations are not accessible to the public, so little is known about the realities of this process.

Members of the NPC serve for five years and they meet annually. The NPCSC creates a 5-year plan on legislation that should be drafted, passed or amended at the next 5 NPC annual meetings. This plan can be modified every year. To date, no animal protection law or anti cruelty law has ever been included in the NPCSC's five-year plans. (Ref: <http://env.people.com.cn/GB/1072/10030843.html>)

The current 5-year plan ends in 2012, and new NPC members will be chosen in 2012, meeting for the first time in 2013. The NPCSC will make a new 5-year legislation plan for 2013-2018. It would be a welcome starting point if animal protection legislation could be listed in the NPCSC's next five year legislation plan. A more detailed analysis of how the NPCSC's

5-year legislation plan is influenced, will help to determine if this is a feasible objective.

According to Chinese animal groups and academics who are actively involved in animal issues, the process of establishing national animal protection legislation is still at a very early stage. Some of them have even stated that it could take another 10-15 years for the law to be passed, despite numerous efforts over the last few years to promote animal protection legislation in the public arena and to the legislative bodies. The potential economic and political benefits from passing such a law are likely to be the key factors determining the future of this legislation. For example, if the lack of animal protection legislation in China deterred WTO trading countries from trading with China, this would be a strong incentive for China to pass such laws.



*In September 2009, the Forum on Promoting Animal Protection Legislation in China was organised by ACTAsia and the Capital Animal Welfare Association. It invited Chinese academics from a range of disciplines at leading universities. People's Representatives from Beijing Municipality and officials from the legislative office of the CPPCC also attended the forum.*

### 9.2 Efforts made by scholars

In December 2008, the University of Politics and Law in Xi'an organised a conference to discuss international animal welfare legislation and the development of similar legislation in China. The forum was co-hosted by the International Fund for Animal Welfare (IFAW), RSPCA International, and the Oxford Centre for Animal Ethics. Some 300 delegates attended, including representatives from government departments, law societies and Chinese universities. The Hong Kong SPCA, AAF, ACTAsia, EAST Taiwan and some Chinese groups also participated at the conference. A committee to draft an animal protection law was set up during the conference, with eight Chinese legal academics led by Professor Chang Jiwen; the project was funded by IFAW and RSPCA.

In September 2009, Chinese academics from a range of disciplines at leading universities and institutes together with over 30 animal protection groups from different provinces attended the Forum on Promoting Animal Protection Legislation in China. The forum was organised by ACTAsia for Animals, Capital Animal Welfare Association, Alliance for Animals in China and supported by international groups, including Care for the Wild International (CWI), AAF, Humane Society International and One Voice for Animals. People's Representatives from Beijing Municipality and officials from the legislative office of the CPPCC also attended the forum, with discussion focusing on i) the importance of ethics in relation to animal welfare and ii) the impact of China's history, culture, social and economic environment on animal protection legislation. Chinese experts presented the current situation of animals in China in different industries. Experts from Canada, Hong Kong and Taiwan covered the legislative enactment process and enforcement, and how laws were implemented in their respective regions. Participants also discussed the essential content for legislation in China and how government decision makers could be positively influenced.

Two weeks after this forum, a first draft of the animal protection law with over 180 articles was prepared by the drafting committee, and publicised by Dr. Chang Jiwen who invited comments and suggestions. The draft received media attention and gave rise to much discussion. ACTAsia invited legal experts and lawyers from USA, UK, Germany, and France to give detailed comments on this draft to Dr. Chang. Although the draft was an encouraging step, the content caused some concern among Chinese animal groups who felt that it did not tackle major animal issues such as dog and cat eating. The principles of 'animal use and management' instead of 'animal protection' appeared throughout the draft and the definition of cruelty was unclear.

A second draft was released in January 2010 and discussed in March at an international conference in Beijing, 2010. In this draft, the title of law was changed from an 'animal protection law' to an 'anti-cruelty law', as Dr. Chang explained that 'the animal protection law does not fit into the current Chinese situation and an anti-cruelty law is more appropriate for current circumstances within society'. In the meantime, Dr. Chang used the committee's name to submit a proposal to the NPCSC to urge them to pass an anti-cruelty law. The committee also

submitted another proposal asking the NPCSC to amend the Criminal Law under Chapter VI, Section 1 - Disturbing Public Order, by adding new articles on animal abuse, animal abandonment, and 'maliciously showing animal abuse images'.

A third draft was released in June 2010, with the number of articles reduced to 83 and the inclusion of the fundamental principles of animal cruelty. This draft does not ban dog and cat eating, but includes the phrase: 'the country does not promote dog and cat eating'. It also states that sellers of live dogs and cats, skins, meat, fur and organs, need to be able to provide documents to prove the legality of the source of animals for sale. A certificate of transport and inspection from the police is required to transfer animals between provinces. Two proposals were submitted on this occasion to the NPCSC, asking it to modify Chinese Criminal Law and pass an anti-cruelty law.

### 9.3 Efforts made at local level

As the animal protection movement is relatively new in China and because of the country's one party political system, lobbying activities are relatively rare and unfamiliar to the majority of animal groups. ACTAsia's on-going capacity building programme, introduced in 2006, emphasises the importance of legislation for the animal protection movement, the important role of animal groups in promoting the creation and implementation of animal protection legislation, and how animal groups can improve and promote animal protection legislation even with limited resources.

It is encouraging to see that more local animal groups have started to get involved in legislative work, either locally or nationally. A city's 'Dog Keeping Regulations' are the subject on which local groups often focus, as most of these regulations are not animal friendly. Regulations are often used as a tool for mass dog culling or animal confiscation. Encouragingly, many groups have started to build a good relationship with the local public police bureau, which is the managing authority enforcing the regulations and catching dogs. Animal groups have started to provide their views and suggestions to the police bureau. In cities like Xiamen, Shanghai, Beijing, Shenzhen and Guangzhou, local animal groups have urged the local people's representatives to submit proposals with recommendations to amend regulations in each city.



In November 2009, two months after Dr. Chang's first draft was released, IFAW hosted a seminar inviting 13 local animal groups to provide their feedback and recommendations on this draft. The conclusions and collective suggestions were compiled by IFAW and submitted to Dr. Chang. This shows how groups in China have started to become more directly involved in the creation of legislation.

The efforts of local animal groups on regional and national legislation should not be ignored or neglected. Even though these groups may have limited experience in lobbying and working on legislative issues, they are likely to be instrumental in ensuring the implementation of legislation once it is passed.



*A dog was rescued from a dog meat restaurant, but ended up chained, with no shelter, for 24 hours a day. Lack of understanding of the basic needs of animals is often key to the failure to meet animal welfare standards.*

#### 9-4 Challenges for animal protection legislation

- 1) Low awareness of animal welfare, lack of understanding of the basic needs of animals. Animals are not seen as sentient beings with the capacity to feel pain and emotions, but are treated as objects.
- 2) The concept that the needs of humans come first with animals being of minor concern, is a dominant belief in China. So when considering legislation for the protection of animals, the legislative body will first consider how animal protection law can benefit human society and the country.
- 3) Lack of infrastructure to support animal welfare legislation. Animal welfare issues are new to the authorities, and it is unclear which departments are responsible for different animals. For example, there are no regulations on keeping cats, and no municipal department in charge of stray cat issues. Cats appear to be under the control of the livestock and veterinary bureau. The police bureau are responsible for dog catching, but the police are not familiar with dog care or disease issues. A ban was recently proposed on animal performances in zoos, but there is confusion as zoos are under the control of the Ministry of Housing and Development. The MOHD support the ban, but the Ministry of Forestry who are in control of wild animals, are opposed to a ban, preferring to have regulations to improve welfare standards for performing animals.
- 4) Economic development in the country is a priority area, above human rights issues, environmental protection and animal welfare. Chinese industries involved with animals claim that they cannot afford the high cost of providing better animal welfare standards as the economy and technology are still in the early stages of development.
- 5) China has changed significantly in the last 30 years. Although the economy is booming and the standard of living has improved, the country is also facing a critical period with urgent social issues emerging that need to be addressed. For the government to establish or to consider establishing an animal protection law, it has to have the incentive of political, social or economic benefits. It is estimated that there are still more than 3,000 pieces of legislation waiting to be either amended or adopted in China.
- 6) Enforcement is a major concern. There is no clear allocation of responsibilities to a particular government authority or department in the current animal related legislation.
- 7) China's Communist Party's dominant power in ruling the country and the multi-legislative system make the enactment of animal protection legislation relatively difficult. In democratic countries where there is more than one political party, NGOs have the option to lobby any one of the parties, or all of the parties, also to identify and enter into a working relationship with a politician(s) sympathetic to their cause.
- 8) Animal protection efforts are mostly focused on companion animals, which is just one sector of the animal world. Other types of animals also need 'a voice', to lobby on their behalf.
- 9) There is no culture in China of supporting charities or non-government organisations – the NGO sector needs to network with decision makers.
- 10) The NPCSC and NPC's presidium have the ultimate power to determine the legislative agenda.



## Chapter 10

# Pioneering change



This report has attempted to show the extent to which the political and social situation has changed in China since 1978. In just over 30 years, the country has changed from a totalitarian state to the present day quasi-totalitarian state, through the Economic Reform policy introduced by Deng Xiaoping. For example, as detailed in earlier chapters, there are now trading opportunities with foreign partners; dialogue with international enterprise competitors and educational opportunities for Chinese students to study in English speaking countries.

China's economy, the fastest growing economy in the world, has enabled those with entrepreneurial flair to reap economic benefits providing immense wealth for such individuals and their families, many of whom live in the millionaire belts of Beijing and Shanghai. Life has also improved for people living in cities and the developing urban areas, in terms of work opportunities and hygienic living standards. However, for millions of people living in rural areas, life continues to be harsh as they struggle to survive with income below the 'poverty line'. With rising social issues such as poverty, crime, prostitution and environmental concerns, the government is faced with numerous challenges.

China's one party system of Communism continues to control all areas of societal life, but some of the controls are now less stringent than in former decades. For example the NGO sector, prohibited under Chairman Mao's rule, is now rapidly expanding and includes a growing number of enthusiastic animal protection organisations. These emerging groups are hungry for knowledge relating to animal welfare concerns and have turned to western countries for advice and guidance. International animal protection organisations have eagerly responded with offers of help, but sometimes their assessment of the situation in China is based on 'perceived needs' as opposed to 'actual and realistic needs'. This approach, albeit well meaning, has resulted in mixed reactions and some frustration from local groups and individuals, as certain recommended strategies are inappropriate for their needs.

As a general air of optimism and expectancy is currently evident in China, it is reasonable to believe that the time is right to forge ahead with animal welfare reforms, so it is essential that international groups research the needs and priorities of the local groups and keep abreast of the changes that are sweeping through China, as these changes will inevitably impact on viable animal protection strategies.

In the past 2 years, three drafts for a comprehensive animal protection law have been prepared by academics and on each occasion the drafting committee have welcomed comments and recommendations from national and international organisations, which has led to further re-drafting. Recent proposals to ban bear farming and introduce animal protection legislation as submitted to the NPC and CPCC's 4<sup>th</sup> annual sessions during Lianghui, has widespread support from the media and the general public.

So with the eyes of the world closely watching the economic transformation of China, it is in the interest of the ruling party to listen and act on the demands of the pioneering voices that are calling for essential social reforms, including legislation to safeguard the humane treatment of animals.

ACTAsia will continue to listen to local groups and individuals, working with them as a catalyst and facilitating initiatives which will help to build the respective group's capacity. Only with a strong and visible NGO animal protection sector within the country, can the lives of animals be respected and protected and therefore co-exist in harmony with the human population of **Changing China**.

# Appendices

## Appendix A. Popular websites in China

Different tools and services available in China can be grouped into categories. The following list gives the names of some of the companies operating in China.

### Publish/search engine:

- Blogbus (博客大巴) [www.blogbus.com](http://www.blogbus.com)
- Baidu baike (百度百科) [www.baikе.baidu.com](http://www.baikе.baidu.com)

### Sharing online video (similar to YouTube)

- Youku (优酷) [www.youku.com](http://www.youku.com)
- Ku6 (酷6) [www.ku6.com/](http://www.ku6.com/)
- Dazhong Dianping (大众点评) [www.dianping.com](http://www.dianping.com)
- Douban (豆瓣) [www.douban.com](http://www.douban.com)

### Social network sites/discussion groups/blogs/micro-blogs

– similar to Facebook, Twitter.

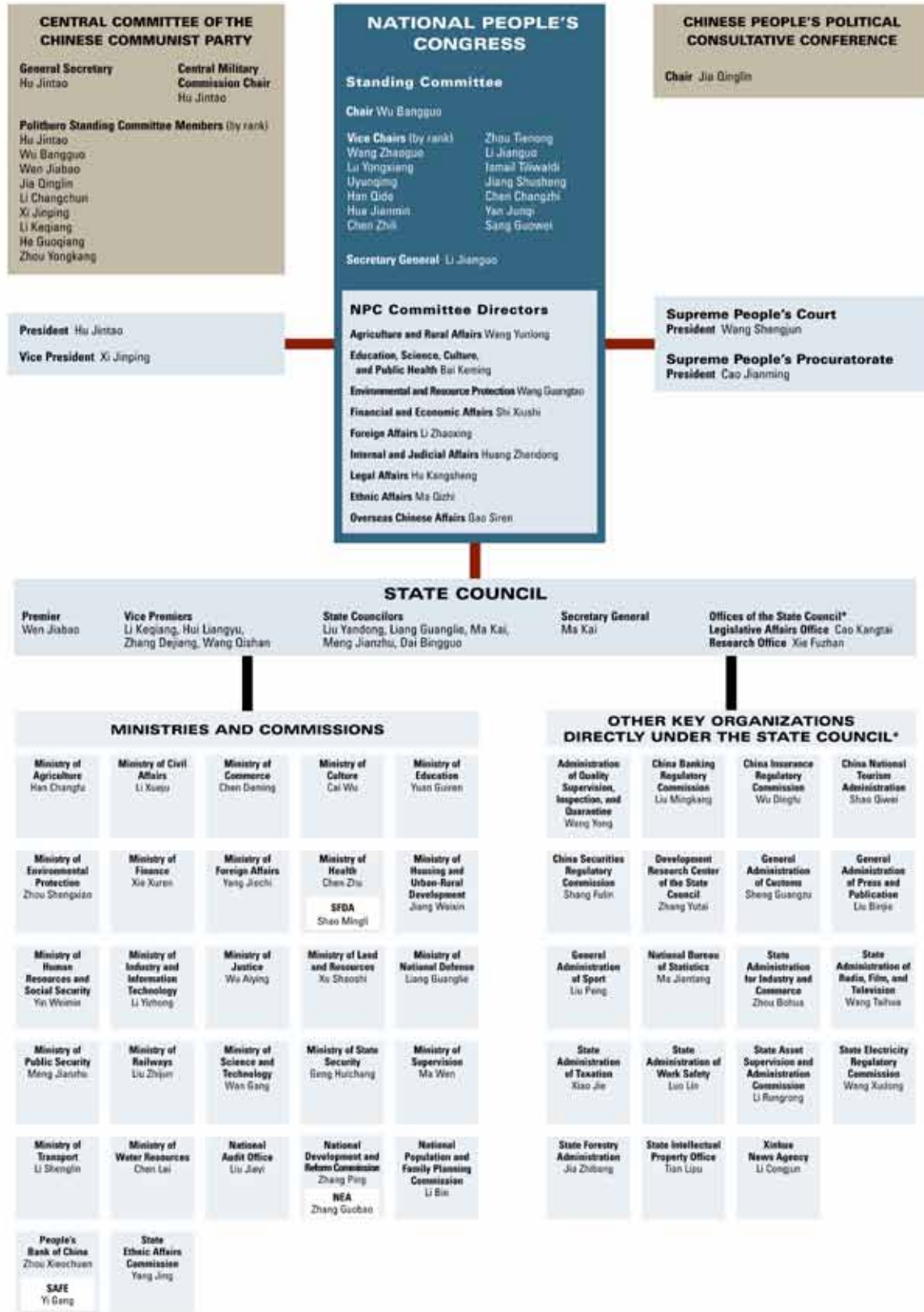
- xici (西祠胡同) [www.xici.net](http://www.xici.net)
- tianya (天涯) [www.tianya.cn](http://www.tianya.cn)
- sohu (搜狐) [www.sohu.com](http://www.sohu.com)
- 白社会 [www.baisohu.com](http://www.baisohu.com)
- QQ (腾讯) [www.qq.com](http://www.qq.com)
- sina (新浪) [www.sina.com.cn](http://www.sina.com.cn)
- t.sina.com most popular micro blog in China
- 9911 microblog [www.9911.com](http://www.9911.com) ( MySpace in China )
- renren (人人网) [www.renren.com](http://www.renren.com)
- 开心网kaixin [www.kaixin001.com](http://www.kaixin001.com)
- tongxue [www.tongxuewang.cn](http://www.tongxuewang.cn)

### Livecast:

- Zhiboo (直播网) [www.zhiboo.net](http://www.zhiboo.net)
- Vbus (第一视频) [www.bus.vodone.com](http://www.bus.vodone.com)
- China Network Televisions (央视网) [www.cntv.cn](http://www.cntv.cn)

# Appendix B. The Government Structure

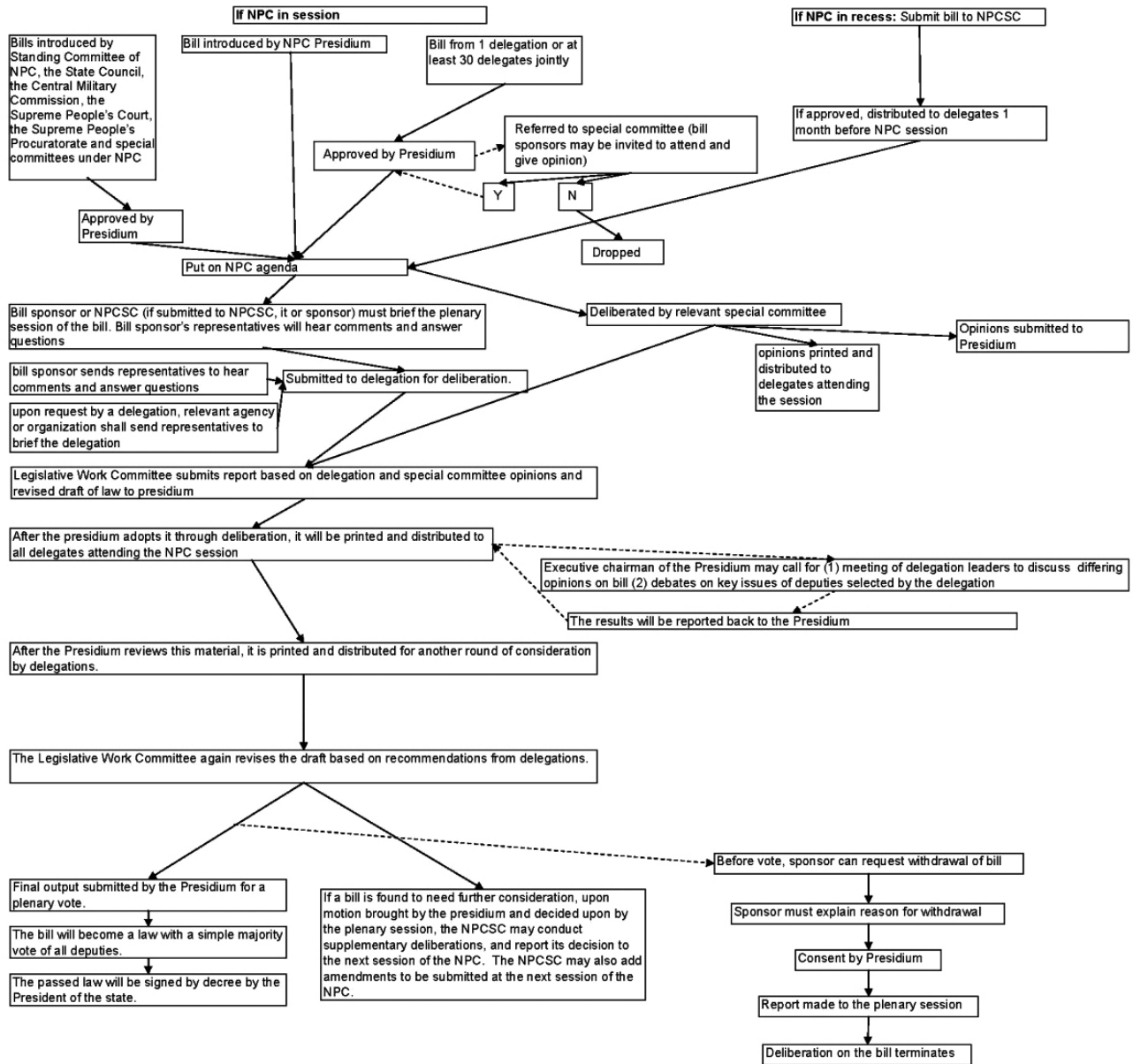
## PRC Government Structure



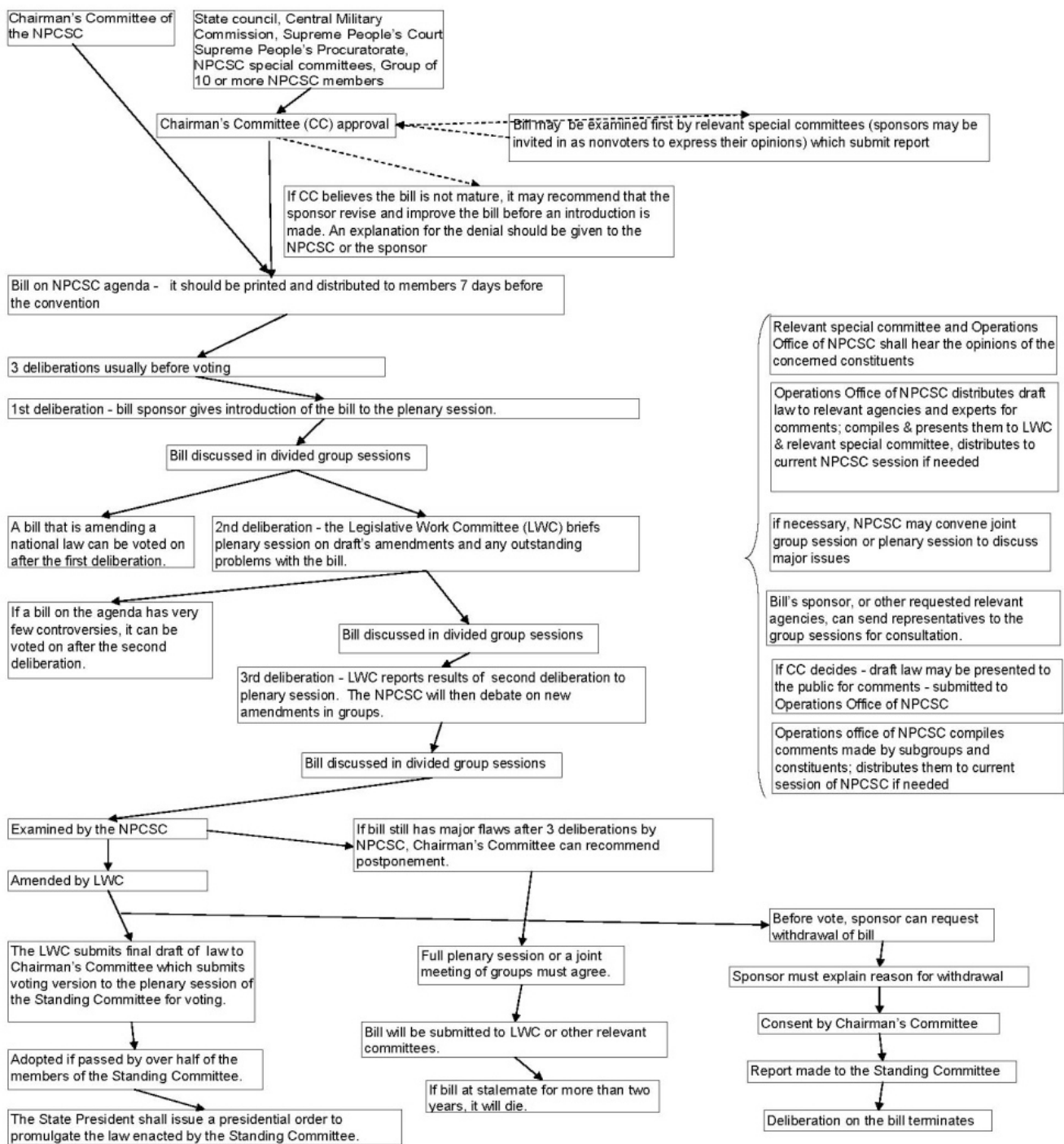
Sources: PRC government websites  
© 2010 The China Business Review

\* Not comprehensive  
Notes: NEA = National Energy Administration; SAFE = State Administration of Foreign Exchange; SFDA = State Food and Drug Administration. This chart reflects appointments as of March 31, 2010.

## Appendix C. The Process for Passing a Bill in the NPC



## Appendix D. The Process for Passing a Bill in the NPCSC.





## Glossary

1. AAF: Animals Asia Foundation – [www.animalsasia.org](http://www.animalsasia.org)
2. CASS: Chinese Academy of Social Sciences - an institution directly under the State Council and the highest academic research organisation in the fields of philosophy and social sciences, is a national centre for comprehensive studies in the PRC.  
[http://bic.cass.cn/english/infoShow/Arcitle\\_Show\\_Cass.asp?BigClassID=1&Title=CASS](http://bic.cass.cn/english/infoShow/Arcitle_Show_Cass.asp?BigClassID=1&Title=CASS)
3. CCP: Chinese Communist Party - The CCP has over 76 million members, and it is the dominant force behind the Chinese government. It is the founding and ruling political party of the People's Republic of China, and in reality, it is China's only political party.
4. Chiang Kai Shek and the Kuomintang:  
The Kuomintang is a political party of Taiwan. The first half of the 20th century saw China plunged into a period of disunity and civil wars that divided the country into two main political camps – the Kuomintang, led by Chiang Kai Shek, and the communists. Major hostilities ended in 1949, when the communists won the civil war and established the People's Republic of China in mainland China. The Kuomintang relocated to Taiwan, where it is currently the majority party in terms of seats.  
[http://en.wikipedia.org/wiki/Peoples\\_Republic\\_of\\_China](http://en.wikipedia.org/wiki/Peoples_Republic_of_China)
5. CITES: Convention on International Trade in Endangered Species of Wild Fauna and Flora – is an international agreement to which States (countries) adhere voluntarily. Its aim is to ensure that international trade in specimens of wild animals and plants does not threaten their survival. States that have agreed to be bound by the Convention ('joined' CITES) are known as Parties. Although CITES is legally binding on the Parties – in other words they have to implement the Convention – it does not take the place of national laws. Rather it provides a framework to be respected by each Party, which has to adopt its own domestic legislation to ensure that CITES is implemented at the national level. [www.cites.org](http://www.cites.org)
6. CIWF: Compassion in World Farming [www.ciwf.org.uk](http://www.ciwf.org.uk)
7. CWI: Care for the Wild International [www.careforthewild.org](http://www.careforthewild.org)
8. Coastal Open Cities: China has 14 coastal open cities that allow increased overseas investment.
9. CPPCC: Chinese People's Political Consultative Conference - is an advisory body with members from different parties and organisations. It performs a similar advisory role to the upper parliamentary house in many countries.
10. Delegates to the NPC - Delegates are elected by the people's congresses at the provincial level as well as by the People's Liberation Army. Provincial delegations meet before each NPC session to discuss agenda items.
11. FMA: Focused Management Area – Eight districts within Beijing (mainly central Beijing) are categorised as FMA under Beijing Dog Keeping Regulation.
12. HSI: Humane Society International [www.hsi.org](http://www.hsi.org)
13. IFAW: International Fund for Animal Welfare – [www.ifaw.org](http://www.ifaw.org), [www.ifaw.org.cn](http://www.ifaw.org.cn)
14. Iron bowl/iron rice bowl – is a Chinese term used to refer to an occupation with guaranteed job security, as well as steady income and benefits. Traditionally, people considered to have iron rice bowls include military personnel, members of the civil service, as well as employees of various state run enterprises.
15. Lianghui, annual session of the National People's Congress (NPC) and Chinese People's Political Consultative Conference (CPPCC) held in March in Beijing, the capital city of China. It is the most significant event in the political calendar; the NPC and CPPCC attracts attention from interested parties both national and international.
16. Legislative Committee/Legislative Work Committee – NPC's legislative work is coordinated by this body, which oversees the work of various specialised committees responsible for finance, education, science, foreign affairs, etc. This body is usually responsible for examining all the bills submitted to the NPC and the NPCSC.

17. MHURD: Ministry of Housing and Urban-Rural Development – it is the managing authority of zoos in China
18. MoF: Ministry of Forestry – China’s wildlife management authority
19. NGO: Non-Governmental Organisation – is basically a legally constituted organization which is operated by legal persons who act independently from any government. The name is used for those organisations which have wider social targets than companies. The term ‘non-governmental organisation’ has no agreed legal definition and is termed a ‘civil society organisation’ in many areas. [www.ngo.in](http://www.ngo.in)
20. NPC: National People’s Congress – People’s congresses are the basic units of political power in China. The NPC and its Standing Committee are at the highest level of this structure. The NPC is responsible for making laws at a national level.
21. NPCSC: National People’s Congress Standing Committee – When the NPC is not in session, its Standing Committee assumes legislative responsibilities and exercises the NPC’s power. The NPCSC consists of delegates elected from the NPC. It has a very similar structure and processes to the NPC.
22. One Voice: One Voice for Animals. [www.one-voice.fr/en](http://www.one-voice.fr/en)
23. PETA: People for the Ethical Treatment of Animals. [www.peta.org](http://www.peta.org), <http://china.petaasiapacific.com>
24. PC/LPC: People’s Congress/Local People’s Congress – Under the National People’s Congress there are four lower levels of people’s congresses, with their respective standing committees, performing similar functions to the NPC and its Standing Committee. People’s Congresses consist of members who are elected.
25. PRC: People’s Republic of China – commonly called China.
26. Presidium - When the National People’s Congress meets, it elects a Presidium to conduct its session. Typically the Presidium includes leaders from the CCP and the state, leaders from the central committees of non-Communist parties and citizens without party affiliations. The Presidium elects some of its members to rotate as executive chairmen of the sessions. Standing chairmen shall be elected by the Presidium to convene and preside over meetings of the Presidium.
27. Rule of law: the principle that no individual is above the law.
28. RSPCA: Royal Society for the Prevention of Cruelty to Animals – [www.rspca.org.uk](http://www.rspca.org.uk)
29. State Council – also called the ‘central government’, is primarily an administrative body, implementing laws passed by the NPC and supervising government personnel. Members of the State Council are usually also high level CCP members, so they have a lot of influence over Party instructions.
30. SEZ: Special Economical Zone – is a geographical region that has economic and other laws that are more free-market-oriented than a country’s typical or national laws. ‘Nationwide’ laws may be suspended inside a special economic zone. [http://en.wikipedia.org/wiki/Special\\_Economic\\_Zone](http://en.wikipedia.org/wiki/Special_Economic_Zone).  
The government of the People’s Republic of China gives SEZs special economic policies and flexible governmental measures. This allows SEZs to utilize an economic management system that is especially conducive to doing business that does not exist in the rest of mainland China. Primarily geared to exporting processed goods, the five special economic zones are foreign-oriented areas which integrate science and industry with trade, and benefit from preferential policies and special managerial systems. [http://en.wikipedia.org/wiki/Special\\_Economic\\_Zones\\_of\\_the\\_Peoples\\_Republic\\_of\\_China](http://en.wikipedia.org/wiki/Special_Economic_Zones_of_the_Peoples_Republic_of_China)
31. State Organ: China has six central state organs: the National People’s Congress and its Standing Committee, the Presidency of the PRC, the State Council, the Central Military Commission, the Supreme People’s Court and the Supreme People’s Procuratorate.
32. WSPA: World Society For the Protection of Animals – [www.wspa-international.org](http://www.wspa-international.org)
33. WTO: World Trade Organization – is the only global international organization dealing with the rules of trade between nations. At its heart are the WTO agreements, negotiated and signed by the bulk of the world’s trading nations and ratified in their parliaments. The goal is to help producers of goods and services, exporters, and importers conduct their business. [www.wto.org](http://www.wto.org)

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ACTAsia for animals: a registered non-profit organisation set up by Asian animal protectionists.

[www.actasia.org](http://www.actasia.org)