

Receding Judicial Transparency in the People's Republic of China

1. In 2018, Dui Hua made a submission to China's third Universal Periodic Review (UPR). Dui Hua acknowledged advances in judicial transparency China had made since 2013, citing the number of indictments, court judgments and judicial decisions published online by the Supreme People's Procuratorate (SPP) and Supreme People's Court (SPC).
2. Judicial transparency is essential for research and advocacy. It enables researchers to uncover the names of political prisoners and identify types of meritorious behavior that qualify prisoners for clemency and better treatment. Governments and NGOs use this information to advocate for the release and better treatment of political and religious prisoners.
3. Judicial transparency declined following China's UPR in 2018. Accessing information about individual cases and cases of certain crimes has become increasingly difficult, exacerbated by mass purges of indictments, court judgments, and judicial decisions posted online before the 2018 UPR. Few cases deemed politically sensitive are selected for public disclosure. The number of annual executions remains a closely guarded secret while statistics on political crimes and women in prison are rarely published.

Purges of documents on the judicial websites & other data restrictions

4. Among the first judicial websites to be purged was the Information Website of National Courts' Sentence Reduction, Parole, and Temporary Service of Sentences Outside Prisons. While court notices, decisions, and other documents for ordinary criminal offenses are still added, the website's search function no longer produces meaningful results. Dui Hua previously uncovered rare instances of clemency granted to prisoners convicted of political crimes such as endangering state security (ESS) and "organizing/using a cult to undermine implementation of the law" (Article 300) from the website. Most of these documents are no longer available, and no updates of ESS cases after 2020 have been found.
5. China Judgements Online (CJO), a website hosted by China's Supreme People's Court to promote judicial transparency, allows free access to judicial documents including judgments, decisions, and regulations. The website permits searching or filtering documents by various criteria, including defendant name, crime type, court, and judge. As of 30 June 2023, the website had over 140 million court judgments and decisions.
6. On 1 September 2020, the CJO website began requiring user registration with a valid mobile number.¹ While allegedly intended to combat unauthorized data crawling by third-party data farms,² this measure hinders access to information about individual cases, especially for overseas researchers, and puts privacy at risk for domestic

¹ "More than 100m Chinese court judgements now available online," *China Daily*, 3 September 2020, <https://www.chinadaily.com.cn/a/202009/03/WS5f508563a310675eafc57527.html>

² "Number of Court Judgments Reaches 100 Million on China Judgments Online," *China Justice Observer*, 13 September 2020, <https://www.chinajusticeobserver.com/a/number-of-court-judgments-reaches-100-million-on-china-judgments-online>

researchers whose work can be considered politically sensitive.

7. Additionally, the whole crime category of ESS was purged from CJO in June 2021. Judgments involving other politically motivated offenses such as Article 300 have largely disappeared. At the time of writing, no judgments involving this crime can be found, compared to 4,000 judgments before the purge.
8. An expanded list of censored search terms is in place on CJO. Before the purge, Dui Hua found scores of previously unknown religious cases using “圣经” (Bible) as a search term. Defendants in such cases were typically accused of conducting illegal business activity by printing or selling Bibles without a license.³ The same term no longer yields searchable results.
9. In March 2022, Dui Hua released its report “The Persecution of Unorthodox Religious Groups in China.”⁴ Drawing on online indictments and judgments, the report detailed lesser-known religious groups facing repression. Tablighi Jamaat is one such group with a following among Hui Muslims.⁵ Transliterations of the group include *taibilike* (台比力克), *zhema’erti* (哲麻尔体), *zhemati* (哲麻提), *chuzhemati* (出哲麻提), and *dawa xuanjiaotuan* (达瓦宣教团). These terms, once searchable on CJO, are now censored.
10. The purge extends to indictments posted by procuratorates. ESS cases have disappeared from the document website operated by the Supreme People’s Procuratorate (SPP). At the time of writing, the SPP website only had 30 results related to Article 300, down from 5,000 documents before the purge. Beyond prosecution dates, these remaining documents provide no information about suspects’ gender, religious affiliation, or sentencing; even their names are often obscured.
11. China National Knowledge Infrastructure (CNKI) allowed researchers to browse government yearbooks and academic papers without having to physically travel to libraries or universities in China. Statistics Dui Hua culled from provincial yearbooks revealed that few ESS trials have been concluded in Han-majority provinces such as Chongqing and Guizhou.⁶
12. Suspension of foreign access that began on 1 April 2023 has adversely affected research. This might be linked to an investigation launched by the Cybersecurity Administration, which accused CNKI of “exposing sensitive information such as China’s major projects, important scientific and technological achievements, and key technological trends.”⁷ It is unclear when the suspension will be lifted. Some scholars

³ “‘Illegal Business Activity’ and Christian Bookstores,” *Human Rights Journal*, The Dui Hua Foundation, 9 May 2018, <https://www.duihuahrjournal.org/2018/05/illegal-business-activity-and-christian.html>

⁴ The Persecution of Unorthodox Religious Groups in China, The Dui Hua Foundation, 29 March 2022, https://duihua.org/wp-content/uploads/2022/11/Persecution-of-Unorthodox-Religious-Group_Dui-Hua-Report.pdf

⁵ “Tablighi Jamaat and Hui Muslims,” *Human Rights Journal*, The Dui Hua Foundation, 21 January 2021, <https://www.duihuahrjournal.org/2021/01/tablighi-jamaat-and-hui-muslims.html>

⁶ “Decoding State Security Trials, Part II: ‘Other’ Trials & Other Provinces,” *Human Rights Journal*, The Dui Hua Foundation, <https://www.duihuahrjournal.org/2022/02/decoding-state-security-trials-part-ii.html>

⁷ “China’s internet watchdog launches cybersecurity investigation into country’s largest academic research database CNKI,” *South China Morning Post*, 24 June 2022, <https://www.scmp.com/tech/big-tech/article/3183008/chinas-internet-watchdog-launches-cybersecurity-investigation>

believe it may become permanent.⁸

13. Dui Hua conducts library research to find prisoner names from local gazettes, records, and yearbooks published by state security bureaus, public security bureaus, procuratorates, courts, and justice bureaus. While Dui Hua used to find useful titles in libraries and bookstores in China and elsewhere, recent publications have become more difficult to acquire.
14. Poor judicial transparency and restrictions on international access to open-source data have negative consequences beyond the judicial system. They hamper governance, business, and cooperation on cross-border challenges such as pandemic controls and economic stability.⁹

Selective Disclosure of Political Cases in Media

15. Although ESS cases are by nature sensitive and subject to low transparency, the Chinese government appears more willing to disclose information about cases of “foreign spies.” Such cases are prominently featured in Chinese propaganda, and full details of these cases are often available. In 2023, four cases were highlighted on National Security Education Day. They involved Chinese nationals who allegedly set up illegal maritime surveillance to steal military intelligence, received foreign funds to provide aerospace information, and “concocted” lies about forced labor in Xinjiang.¹⁰
16. There is more public information about Taiwan residents under coercive measures in China, including people accused of ESS.¹¹ Press conferences convened by China’s Taiwan Affairs Office provide specifics about Taiwan detainees, including the recent cases of Yang Chih-yuan (杨智渊) and Li Yanhe (李延贺). On 23 April 2023, the office announced the Zhejiang procuratorate’s decision to formally arrest Yang for splittism.¹² At that press conference, it was revealed that Li was placed under residential surveillance at a designated location (RSDL) in Shanghai for inciting splittism.¹³
17. It is unclear how deprivation of political rights (DPR) sentences are enforced in cases when Taiwan residents are involved. DPR is a supplemental sentence often imposed on ESS prisoners who have completed their sentences. Lee Ming-che (李明哲) was allowed to leave China when his five-year sentence for subversion expired in April

⁸ “A portal to China is closing, at least temporarily, and researchers are nervous,” *South China Morning Post*, 25 March 2023, <https://www.scmp.com/news/china/article/3214808/portal-china-closing-least-temporarily-and-researchers-are-nervous>

⁹ “The Perils of China’s Great Information Wall,” *Time*, 25 June 2023, <https://time.com/6289567/china-restricts-open-source-data-research-backfire/>

¹⁰ “China’s national security authority reveals ‘new methods’ of criminal activities by overseas anti-China hostile forces,” *Global Times*, 14 April 2023, <https://www.globaltimes.cn/page/202304/1289154.shtml>

¹¹ “Taiwan dismisses latest China spying accusations as an attempt to smear the government,” *The Economic Times*, 13 October 2023, <https://economictimes.indiatimes.com/news/defence/taiwan-dismisses-latest-china-spying-accusations-as-an-attempt-to-smear-the-government/articleshow/78638599.cms>

¹² Taiwan Affairs Office of the State Council, 国台办新闻发布会辑录, 26 April 2023, http://www.gwytb.gov.cn/m/speech/202304/t20230426_12530250.htm

¹³ *Ibid.*

2022 without serving his two-year DPR sentence in China.¹⁴ Lee Meng-chu (李孟居) and Tsai Jin-shu (蔡金树), also Taiwan residents, have not been allowed to return to Taiwan since completing their ESS sentences in July 2021 and May 2023, respectively, because Chinese authorities argued that their DPR sentences had not been completed.¹⁵ No explanation has been given as to why they received different treatment.

18. Information about Chinese nationals accused of subversion or inciting subversion is heavily censored. Despite overseas media attention on the sentencing of Xu Zhiyong (许志永), Ding Jiayi (丁家喜) in April, and Yang Maodong (杨茂东) in May 2023, their names are censored on the internet in China and did not receive domestic coverage.
19. “Desecrating the national flag or emblems” and “infringing on the reputation of national heroes and martyrs” are among the few remaining crimes of a political nature not censored. At the time of writing, 41 court judgments and rules concerning the former crime remain accessible on CJO. The case of Luo Changping (罗昌平) received substantial state-run news coverage to showcase the application of the latter crime after it was added to the Criminal Law in 2018.¹⁶ However, the court judgments were not released on CJO.

Cases in Xinjiang

20. Most people in custody for ESS are ethnic minorities, particularly Uyghurs.¹⁷ Common charges against them include splittism and inciting splittism. The Chinese government has made an apparent attempt to obfuscate the names of Uyghur prisoners convicted of either charge. Even before the CJO purge, none of the disclosed ESS rulings and judgments involved Uyghurs in Xinjiang.¹⁸
21. While transparency of ESS cases involving ethnic minorities is extremely limited, state propaganda occasionally highlights cases to justify anti-terrorism measures. In a state-produced documentary released in April 2021,¹⁹ two officials of Uyghur ethnicity confessed to crimes of splittism and taking bribes. Shirzat Bawudun and Sattar Sawut were accused of being “two-faced” and seeking to undermine Chinese rule. Both were sentenced to death with two-year reprieve. Official sources did not disclose details of their sentencing. Similarly, the fate of Atikem Rozi, a former student of Ilham Tohti, had remained unknown since she and six other students were sentenced in 2014. The same documentary, released seven years after the trial,

¹⁴ Rights groups call on China to release Taiwanese man who attended Hong Kong protests, Radio Free Asia, 29 April 2022, <https://www.rfa.org/english/news/china/taiwan-protester-04292022155315.html>

¹⁵ 台学者遭控“台谍”刑满 传遭软禁鼓浪屿, Radio Free Asia, 8 June 2023, <https://www.rfa.org/mandarin/yataibaodao/gangtai/hcm2-06082023112714.html>

¹⁶ “Journalism Becomes a Victim of China’s New Nationalism,” Chinese Human Rights Defenders, 27 October 2021, <https://www.nchrd.org/2021/10/journalism-becomes-a-victim-of-chinas-new-nationalism/>

¹⁷ “Decoding State Security Trials, Part I: ESS Cases in Tibet Rose Sharply in 2020,” *Human Rights Journal*, The Dui Hua Foundation, 25 January 2022, <https://www.duihuahrjournal.org/2022/01/decoding-state-security-trials-part-i.html>

¹⁸ “Transparency in Inciting Splittism Trials,” *Human Rights Journal*, The Dui Hua Foundation, 13 May 2021, <https://www.duihuahrjournal.org/2021/05/transparency-in-inciting-splittism.html>

¹⁹ “New documentary reveals ‘inside agents’ supporting terrorism, separatism in Xinjiang,” *Global Times*, 2 April 2021, <https://www.globaltimes.cn/page/202104/1220133.shtml>

revealed that she had been sentenced to four years in prison.

22. Most extremism or terrorism cases are believed to occur in Xinjiang. They are handled with great secrecy. Kamile Wayit was among those detained in December 2022 for posting a video about unrest across China.²⁰ Her alleged crime of “advocating extremism” was not made public until June 2023 when a spokesperson from China’s Ministry for Foreign Affairs confirmed that she was sentenced on March 25 without giving the sentence length.²¹ In July 2023, it was reported that Kamile is serving her three-year sentence in a women’s prison in Kashgar, Xinjiang.²²
23. In March 2023, the Working Group on Arbitrary Detention (WGAD) expressed regret over China’s failure to respond to inquiries about Qurban Mamut, Ekpar Asat, and Gulshan Abbas.²³ The WGAD acknowledged the scarcity of information in Xinjiang, where the fate and whereabouts of Uyghur detainees are often concealed, and held that the three Uyghurs have been arbitrarily detained. No information about the charges and trials has been relayed to the family or made public.
24. In 2022, China responded to the WGAD about Yalqun Rozi, another Uyghur detainee subject to arbitrary detention.²⁴ The response merely stated that China abided by the law in adjudicating the case without giving details to rebut the allegation or confirm the report of Rozi’s fifteen-year sentence in 2018.

Cases Involving Foreign Nationals

25. The names of foreign nationals, alongside the charges against them, are more likely to be made public, but their cases are not necessarily transparent. The Australian government has complained about the lack of transparency in the case of Cheng Lei (成蕾).²⁵ The Australian national has been detained in Beijing since 2020. China only confirmed Cheng had been arrested for “illegally providing state secrets overseas” six months after she was placed under RSDL.²⁶ The Australian ambassador was not permitted entry to the court because the case involved “state secrets.” Cheng has been unable to speak to her children.²⁷ Similar issues are evident in the case of another

²⁰ “Uyghur student convicted after posting protests video on WeChat,” *The Guardian*, 8 June 2023, <https://www.theguardian.com/world/2023/jun/08/uyghur-student-convicted-posting-protests-video-wechat-kamile-wayit>

²¹ *Ibid.*

²² “Detained Xinjiang University Female Student Serving Sentence in Kashgar Women’s Prison,” *Radio Free Asia*, 11 July 2023, <https://www.rfa.org/mandarin/Xinwen/7-07112023162056.html>

²³ Working Group on Arbitrary Detention, Opinions adopted by the Working Group on Arbitrary Detention at its ninety-fifth session, 14–18 November 2022, <https://www.ohchr.org/sites/default/files/documents/issues/detention-wg/opinions/session95/A-HRC-WGAD-2022-88-China-AEV.pdf>

²⁴ Working Group on Arbitrary Detention, Opinions adopted by the Working Group on Arbitrary Detention at its ninety-fourth session, 29 August–2 September 2022, <https://www.ohchr.org/sites/default/files/documents/issues/detention-wg/opinions/session94/2022-12-16/A-HRC-WGAD-2022-64-China-AEV.pdf>

²⁵ “‘We need transparency’: Prime Minister Anthony Albanese quizzed on detained Australians Cheng Lei and Yang Hengjun,” *Sky News Australia*, 21 May 2023, <https://www.skynews.com.au/world-news/china/we-need-transparency-prime-minister-anthony-albanese-quizzed-on-detained-australians-cheng-lei-and-yang-hengjun/news-story/a60e7574ab01f1898ec226c6ca60eed8>

²⁶ *Ibid.*

²⁷ “Statement on Cheng Lei,” Minister for Foreign Affairs of Australia, 31 March 2022, <https://www.foreignminister.gov.au/minister/marise-payne/media-release/statement-cheng-lei-1>

Australian national, Yang Hengjun (杨恒均).²⁸

26. The specifics of ESS cases involving foreign nationals are unclear. On 15 May 2023, US citizen and Hong Kong resident John Leung Shing-wan (梁成运, Liang Chengyun) was sentenced to life imprisonment for espionage in Suzhou. Despite wide coverage of the case, Chinese government sources only added that Leung was given “compulsory measures according to the law” in April 2021 without revealing details about his alleged offense or which country he was accused of spying for.²⁹
27. US citizen Mark Swidan has been in custody in Guangdong for drug charges since 2012. Before he was sentenced to death with reprieve in April 2019, his family had never been told why the judgment was repeatedly extended, a violation of a basic norm of transparency.³⁰ In 2020, the WGAD concluded that Swidan has been arbitrarily detained.³¹ The appeal trial, filed in 2019, was postponed more than a dozen times and only concluded in April 2023. At the time of writing, his family has not received a copy of the judgment.
28. The number of people under exit bans is unknown. Individuals are often unaware of this measure until they are at the border attempting to leave the country. Between 2016 and 2020, there was reportedly an eight-fold increase in the number of cases mentioning exit bans in CJO.³² In April 2023, China amended its counter-espionage law, allowing exit bans to be imposed on foreign nationals who are deemed a potential security risk after leaving the country. Dui Hua estimates that as many as 30 US citizens are unable to leave China due to exit bans.³³

Televised Confessions

29. Human rights groups have long criticized the use of televised confessions, which violate the right to a fair trial and the presumption of innocence.³⁴ In early 2023, China’s state broadcaster aired a four-part series of confessions involving 26 people³⁵ accused of corruption charges. Some confessions were filmed before the accused were convicted.³⁶

²⁸ “‘We need transparency’: Prime Minister Anthony Albanese quizzed on detained Australians Cheng Lei and Yang Hengjun,” Sky News Australia, 21 May 2023, <https://www.skynews.com.au/world-news/china/we-need-transparency-prime-minister-anthony-albanese-quizzed-on-detained-australians-cheng-lei-and-yang-hengjun/news-story/a60e7574ab01f1898ec226c6ca60eed8>

²⁹ “China jails US citizen for life on espionage charges,” *Hong Kong Free Press*, 15 May 2023, <https://hongkongfp.com/2023/05/15/china-jails-us-citizen-for-life-on-espionage-charges/>

³⁰ “Chinese Court Sentences American Mark Swidan to Death with Two-Year Reprieve,” The Dui Hua Foundation, 30 April 2019, <https://duihua.org/chinese-court-sentences-american-mark-swidan-to-death-with-two-year-reprieve/>

³¹ “United Nations Body Finds American Citizen Mark Swidan Arbitrarily Detained, Urges His Immediate Release,” The Dui Hua Foundation, 10 February 2020, <https://duihua.org/united-nations-body-finds-american-citizen-mark-swidan-arbitrarily-detained-urges-his-immediate-release/>

³² “Trapped: China’s Expanding Use of Exit Bans,” Safeguard Defenders, 2 May 2023, <https://safeguarddefenders.com/en/blog/new-report-trapped-china-s-expanding-use-exit-bans>

³³ “Dozens of Americans Are Barred From Leaving China, Adding to Tensions,” *Wall Street Journal*, 13 November 2022, https://www.wsj.com/articles/china-us-exit-ban-diplomacy-11668357015?mod=hp_lead_pos7

³⁴ “China State TV airs 26 confessions in corruption docuseries,” Safeguard Defenders, 18 January 2023, <https://safeguarddefenders.com/en/blog/china-state-tv-airs-26-confessions-corruption-docuseries>

³⁵ *Ibid.*

³⁶ *Ibid.*

30. ESS prisoners from Taiwan are featured in televised confessions. Cheng Yu-chin (郑宇钦) and Shih Cheng-ping (施正屏) appeared on state television in 2020 to confess to “spying” or “illegally procuring state secrets for Taiwan.” Observers argued that their confessions were coerced possibly in exchange for lighter punishment.³⁷
31. Televised confessions are also used for other crimes. Qiu Ziming (仇子明) was sentenced to eight months in prison for violating Article 299(1) of the Criminal Law “infringing upon the reputation/honor of national heroes and martyrs.” He was ordered to apologize publicly in the media and through “major domestic portals.”³⁸ He made a televised confession on CCTV wearing a detention center uniform. His guilty plea resulted in a lighter sentence.³⁹

Death Penalty

32. While China continues to lead the world in the number of executions per year, only a fraction of the names who have been sentenced to death are known.⁴⁰ As of 30 June 2023, Dui Hua’s Death Penalty Log had recorded 619 executions from 2018 to 2023 and 776 death penalty sentencing from first instance trials. While well-known executions received widespread state media coverage, as in the child trafficking cases of Zhang Weiping and Zhou Rongping,⁴¹ their judgments or SPC review decisions are not posted online.
33. Many judgments and rulings involving death penalty cases have similarly disappeared from CJO. Dui Hua found that 122 death penalty review decisions had been re-uploaded in 2022. They were issued from 2017-2022. Of them, only eight documents were issued in 2022. The SPC website’s Court News section reported that three executions took place on 23 May 2023, but no death penalty judgments or review decisions have been posted online since July 2022 at the time of writing.

Women in Prison

34. From 2003 to the first half of 2015, statistics on the number of women in prison were reported in the annual reports of the Asian Pacific Conference of Correctional Administrators (APCCA) and the *China Statistical Yearbooks* published by the National Bureau of Statistics. In 2013, the *China Statistical Yearbooks* stopped reporting statistics on women prisoners.
35. China agreed to the 2013 UPR recommendation to improve the collection and publishing of gender-specific data in the fields of economic and social development, but this has not been implemented. The latest available information provided by the Chinese government to World Prison Brief revealed that women accounted for

³⁷ “Dozens of Americans Are Barred From Leaving China, Adding to Tensions,” *Wall Street Journal*, 13 November 2022, https://www.wsj.com/articles/china-us-exit-ban-diplomacy-11668357015?mod=hp_lead_pos7

³⁸ “China jails blogger who ‘slandered’ dead in India border clash,” *The Guardian*, 1 June 2021, <https://www.theguardian.com/world/2021/jun/01/china-jails-blogger-who-slandered-dead-in-india-border-clash#:~:text=The%2019%2Dyear%2Dold%2C,Dubai%20authorities%20during%20a%20stopover.>

³⁹ *Ibid.*

⁴⁰ “Recorded executions skyrocket to highest figure in five years,” Amnesty International, 16 May 2023, <https://www.amnesty.org/en/latest/news/2023/05/death-penalty-2022-executions-skyrocket/>

⁴¹ “Pair of kidnappers executed in Guangzhou,” *China Daily*, 27 April 2023, <https://www.chinadaily.com.cn/a/202304/27/WS644a4c54a310b6054fad037d.html>

145,000, or 8.4 percent, of its prison population in 2018.

Recommendations

36. China accepted 284 of the 346 recommendations made at the 2018 UPR. In line with China's response to Germany guaranteeing fair trials, prompt notification of defendants' families and transparent legal procedures, Dui Hua recommends that China:
 - a. Resume posting indictments, court judgments, and rulings online,
 - b. Allow unfettered access to information about criminal cases regardless of defendants' crime, ethnicity, and nationality.
37. In line with Austria's recommendations to publish execution data and increase transparency regarding the death penalty, noted but not yet agreed to by China, Dui Hua recommends that China publish the number of annual executions.
38. In line with recommendations made by States Parties and considering China's responses to those recommendations at the 2013 UPR on China, Dui Hua recommends that China resume providing the number of women in prison. China agreed to the recommendation by the State of Palestine to increase releases of gender data, but releasing the number of female prisoners in China has not resumed.
39. Dui Hua calls on the Chinese government to stop the use of televised confessions and to make public trial and sentencing documents for cases that have used televised confessions. Dui Hua urges the full disclosure of all relevant information about these cases.