

Beijing, Chengdu (Sichuan province), Lhasa (Tibet) and Shanghai and a number of detention facilities. The report of the visit (E/CN.4/1998/44/Add.2) includes commentary on: the organization of courts and tribunals and people's procuratorates, conditions of recruitment of judges and procurators, the revised Criminal Law, reforms related to the revised Criminal Procedure Law (CPL), reforms related to judicial deprivation of liberty, and reform of the administrative procedures and measures for deprivation of liberty. The Annex to the report provides a description of each of the detention facilities visited.

The description of the organization of courts and tribunals notes that the Supreme People's Court, comprised of more than 200 magistrates, includes special criminal, civil, economic and administrative chambers, a special chamber for transport and a chamber for petitions and complaints, as well as a Standing Adjudication Committee. Cases before this court include those assigned to it by law in first and last instance, and cases that the court considers its direct jurisdiction because of their importance in terms of principle or national scope. The Court also functions as an appeal court, ruling on decisions handed down by lower courts, ensuring unity of interpretation of laws and, on request or on its own initiative, giving courts advisory opinions on the interpretation of the legislation applicable, even when cases are already in progress.

Local courts are composed of: higher people's courts and basic-level people's courts. Local courts may, if necessary, set up subsidiary courts, and are divided into civil, criminal, economic and administrative chambers with each one having a standing committee of judges. The local courts judge cases which by law come directly within their jurisdiction in first and final instance, appeals against decisions handed down by the courts immediately below them, as well as applications for judicial review referred to them by the people's procuratorates, and, at the administrative level, monitor the judicial activities of the courts below it.

The third level is the special people's courts — military, marine, and rail transport tribunals — which have jurisdiction in specific sectors of activity.

On the people's procuratorates, the report notes that they are organized on similar lines to the local courts and: act as public prosecutors in serious criminal cases with political implications; investigate criminal cases they receive directly; determine the follow-up to public security investigations; support the prosecution in ordinary criminal cases, with the exception of military affairs; and verify the legality of sentences and their execution, as well as the activities of prison establishments. The WG concluded that criminal investigations are carried out by the Public Security Office (PSO — the police) in 90 per cent of the cases and that the People's Procuratorate investigates the remaining 10 per cent.

The summary of article 9 of the Judges Act and article 10 of the Procurators Act describe the conditions of recruit-

ment of judges and procurators. These articles stipulate that judges and procurators must: be nationals of the People's Republic of China; be at least 23 years of age; uphold the Constitution; have good political and vocational training and a record of good conduct; be in good health; and, have a law degree or have attained a similar standard.

The commentary on legislative reform refers to changes in laws related to criminal and administrative procedures, the prisons and police, and state compensation. The report notes that the sources and ranking of legal texts is not specific and may be inferred from the categories of law, meaning: the Constitution (adopted by the National People's Congress), regularly ratified international treaties, fundamental laws adopted by the National People's Congress, laws adopted by the Standing Committee of the National People's Congress, administrative regulations, decisions and ordinances adopted by the State Council (government), local regulations adopted by local people's congresses, and regulations of ministries and local governments. The WG stated that difficulties of access are compounded by the absence of a single official bulletin. The National People's Congress produces its own official bulletin for laws; administrative regulations are published in the official bulletin; the State Council and the major ministries produce their own official bulletins; and, texts enacted by people's congresses and local governments are registered by the Legal Department of the State Council, which ensures that the texts conform with the law.

Referring to the revised Criminal Law, the WG noted a number of provisions with a particular relevance to its mandate. Article 13 absolves a person of criminal responsibility if the act committed is minor and the harm caused is not great, on the basis that such acts are not considered to be crimes. Article 33 establishes "control" as one of the principal punishments — for a period of not less than three months and not more than two years, and executed by a public security organ. The provision further stipulates that the person: must abide by laws and administrative regulations and submit to supervision; may not exercise the rights of freedom of speech, the press, assembly, association, and demonstration without the approval of the organ executing the control; must report on activities pursuant to the rules of the organ executing the control; must abide by the rules of the organ executing the control for meeting visitors; and, must report and obtain approval from the organ executing the control for a change in residence and departure from the city or country. The report also refers to supplementary punishments and notes that one such punishment involves the deprivation of the political rights: to elect and be elected; freedom of speech, the press, assembly, association, and demonstration; to hold a position in state organs; and to hold a leading position in a state-owned company, enterprise, institution or people's organization. The categories of convicted persons who may be subject to these punishments are those who endanger state security, and those found guilty of serious crimes (e.g., murder or rape) or of seriously undermining the