



Annual Report

2012



Advancing
rights
through
dialogue
以对话 倡人权

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Our Mission



“ Dui Hua (对话 or “dialogue”) is a nonprofit humanitarian organization that seeks clemency and better treatment for at-risk detainees through the promotion of universally recognized human rights in a well-informed, mutually respectful dialogue with China. Focusing on political and religious prisoners, juvenile justice, women in prison, and issues in criminal justice, our work rests on the premise that positive change is realized through constructive relationships and exchange. ”

Established in 1999, Dui Hua achieves its mission through five approaches:

Advocacy

through respectful, well-informed dialogue with China both directly and via international and governmental institutions

Expert Exchange

among criminal justice practitioners and experts, China’s Supreme People’s Court and lower courts, and US judges

Research

into Internet and library resources worldwide to uncover and analyze relevant cases, regulations, and trends

Publications

of research findings, cases, and analysis on China’s criminal justice system and human rights developments

Community Engagement

to apprise the global community of research findings and practical experience

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Executive Director's Letter

Last year was one of transition in both the United States and China. After a bruising campaign in which China policy was the subject of heated debate, President Barack Obama won reelection in November. A few days later, at the 18th Communist Party Congress that was delayed by scandals and infighting—including the defection of Chongqing's police chief to a US consulate—Xi Jinping was selected as party secretary.

In the trenches of domestic politics, leaders of the two countries spent little time focusing on US-China relations. According to US trade statistics, China enjoyed a record trade surplus with the United States in 2012. China's worsening air and water pollution has yet to be adequately addressed in bilateral and multilateral negotiations on climate change. Both countries are trading accusations over cyber hacking. Insofar as international hot spots are concerned, Washington and Beijing do not see eye to eye on how best to handle the civil war in Syria, Iran's race to acquire nuclear technology, and North Korea's increasingly provocative behavior. China's territorial disputes with neighbors to the east and south are a source of deep concern.

And then there is human rights, a wide-ranging issue that receives little attention from US politicians and officials. Neither President Obama nor his challenger Mitt Romney mentioned China's human rights record in debates or speeches on the campaign trail. Yet, for Americans, the issue looms large. In the midst of the election, the Pew Global Attitudes Project released a poll that showed 53 percent of Americans think that promoting human rights in China is a "very important" priority for American policy towards China, with nearly one in five calling it the most important priority.

The lack of high-level attention to human rights in China obscures both positive and negative developments. On the negative side, policies against freedom of expression and the exercise of cultural and religious rights by minorities remain harsh. On the positive side, China engaged with Dui Hua on a third expert exchange on juvenile justice, focusing on the implementation of rehabilitative justice. Several Chinese government ministries are in full support of Dui Hua's plans to hold a Sino-international conference on women in prison in Hong Kong in early 2014. Although the figure remains in the thousands, the number of Chinese executions likely dropped again in 2012.

In a letter to me written shortly after he assumed the position of Secretary of State in early 2013, John Kerry recognized the assistance Dui Hua has provided for US-China human rights dialogues. "Efforts by organizations like Dui Hua are vital to advancing human rights in China and around the world," Secretary Kerry wrote. With support from political leaders and senior officials in China, the United States, and Europe, Dui Hua will continue to address differences between East and West in the treatment of at-risk prisoners in the spirit of dialogue and mutual cooperation.



John Kamm
John Kamm
Executive Director



Political & Religious Prisoners

Dui Hua continued to call for clemency and better treatment for political and religious prisoners by raising their names directly with Chinese interlocutors; governments that conduct bilateral human rights dialogues with China; and the UN Office of the High Commissioner for Human Rights (OHCHR) and subordinate Special Procedures. In 2012, we drafted or edited 15 prisoner lists totaling over 400 names for submission to Chinese authorities.

The Chinese government was especially reluctant to provide responses in 2012. Five bilateral dialogues were held, but only one dialogue partner—the European Union—got a response to their list. This is the first year in which no response was provided to the United States. Meanwhile, the Chinese government directly provided Dui Hua with information on 25 prisoners, including several sentence reductions.

Ahead of the US-China Human Rights Dialogue, Executive Director John Kamm met with Assistant Secretary of State Michael Posner, who led the US delegation, to request that a number of cases be addressed during the dialogue. Among them, Kamm mentioned American citizens Xue Feng (薛锋) and Hu Zhicheng (胡志成). Later in the year, reliable sources told Dui Hua that Xue, who has been included on five of Dui Hua's prisoner lists, received his first sentence reduction of 10 months and is eligible

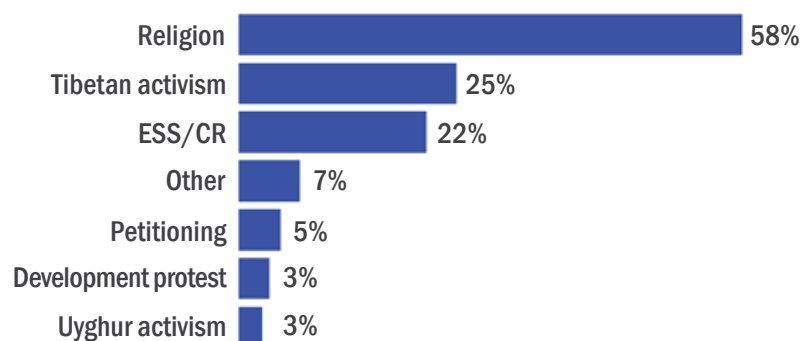
for another sentence reduction in 2013 or 2014. Although Dui Hua has included him on two prisoner lists, the Chinese government has not provided any responses regarding Hu Zhicheng. As an automotive engineer with 48 patents to his name, Hu went to China to reduce car emissions and clean up the air. He was detained on suspicion of obtaining business secrets in 2008. The charges were dropped in 2010, but a patent lawsuit was filed immediately afterward. Hu has been prevented from exiting China for the last three years despite the efforts of many, including Hu's wife and children.

Xue's and Hu's cases are among the more than 26,000 records in Dui Hua's Political Prisoner Database (PPDB). As of December 31, 2012, these records included about 5,000 active cases, i.e., people known or believed to be in custody. Falun Gong cases account for more than half of these detainees, while Tibetan activism contribute a fourth, and allegations of counterrevolution or endangering state security (ESS) make up just over a fifth.

Chinese government interlocutors informed Dui Hua of early releases for four

American citizen Xue Feng received his first sentence reduction in 2012.

Active Cases by Type in the PPDB



Notes: Active cases refer to people known or believed to be in custody in China. Individuals may be included in more than one category. Religion includes Falun Gong and Protestant and Islamic groups. ESS/CR refers to endangering state security and counterrevolution as defined by the Criminal Law.

people involved in Falun Gong cases. Falun Gong was banned as a so-called cult in 1999, making it a crime to practice or distribute information about the group. Since 2009, the Chinese government has provided information on sentence reductions for at least 18 people convicted in Falun Gong cases, while providing no information on clemency for Tibetans or other ethnic minorities and information on just two sentence reductions for people convicted of subversion or inciting subversion.

Tibetan activism documented in the PPDB was mostly related to pro-independence or self-immolation protests. More than 80 Tibetans staged self-immolation protests in 2012. In December, Dui Hua uncovered and translated an editorial from a local party paper in Gansu that cited national guidelines for criminalizing activities related to the self-immolations—including classifying several of the activities as intentional homicide.

Many speech and association activities—like writing essays critical of one-party rule, selling banned books, and starting political parties—are ESS offenses. Despite gradual decline from a spike in 2008, the number of

ESS indictments remained high in 2011. Dui Hua’s estimate of the figure, released in March 2012, was within 1 percent of the officially reported number, 974, released in November. We estimate that the number of people indicted rose to about 1,060 in 2012. Through open-source research, Dui Hua uncovered the names of many ESS prisoners, including Li Nanhong (李南航), Wu Xuping (吴旭平), and Sun Tianxi (孙天西), each sentenced to between three and 10 years’ imprisonment for establishing political parties.

Library research also unearthed an official account of the protests that culminated in the Tiananmen Massacre on June 4, 1989. The account indicates that more than 1,600 people were convicted and sentenced to prison for participating in related demonstrations nationwide. Dui Hua brought significant media attention to this finding by announcing the figure along with an estimate that less than a dozen June 4 prisoners remained incarcerated by mid-2012—more than 20 years later. We published the entire account in *Reference Materials*.

“Quiet, behind-the-doors diplomacy on cases and the ‘speaking loud and clear’ or ‘naming and shaming’ approaches are not mutually exclusive.”

—John Kamm quoted by Deutsche Presse-Agentur

Dui Hua’s Mass Incident Database ended 2012 with more than 4,300 records. Almost a third of newly documented incidents were labor protests, while a fourth were development protests. A state counselor said at a party committee meeting in February that in 2011 there was an average of 500 mass incidents per day throughout China. ■

Clemency Reported in 2012

Name	Details	Sentence	Lists*	Sentence Reduction
In Prison				
Wei Pingyuan (魏平原)	Wei was one of three British nationals convicted of espionage in Guangzhou in 2004. All three were senior officials at Xinhua News Agency—Beijing’s de facto embassy in Hong Kong prior to 1997.	Life	5	Reduced a total of 58 months; current release date, 2022
Xue Feng (薛锋)	As a geologist working in China for an American firm, Xue advised his firm to buy a commercially available oil industry database, leading to his conviction for illegally procuring state secrets. Born in 1965, Xue is a naturalized US citizen. He earned his PhD in geology from the University of Chicago.	8 years	5	Reduced 10 months; current release date 4/3/2015
Released				
David Dong Wei (董维)	Dong became a US citizen in 1995. As part of a Louisiana trade delegation to Guangzhou, he was detained for allegedly lobbying the US government on Taiwan’s behalf and later convicted of espionage. Born in 1952, he suffers from heart disease and hypertension.	13 years	12	Reduced 9 months, 6/2011; released 11 months early, 9/2012 (reported in 2013)
Gu Zhiyuan (顾智元)	Convicted of espionage, details unknown	12 years	1	Released ~4 years early, 1/12/12
Li Wenshan (李文山)	Li was a farmer in Gansu and leader of the Chinese People’s Democracy Party. The party aimed to promote democracy, human rights, and prosperity. Li was born in 1953.	13 years	17	Released 2 years early upon commutation, 5/2011
Liu Jingsong (刘镜崧)	As co-owner of a Guangzhou publishing house, Liu was accused of printing books without a license and publishing “obscene” materials that included Falun Gong books.	16 years	3	Released ~5 years early, 2010
Liu Yong (刘勇)	As owner of a media company, Liu was accused of ordering Falun Gong books.	15 years	3	Released ~5 years early, 2010
Tong Taiping (童太平)	Tong was arrested in 2003 during the espionage crackdown that ensued during Chen Shui-bian’s bid for presidential re-election in Taiwan. Tong was born in 1966.	13 years	2	Released ~4 years early, 6/12/12
Xu Huayang (许华洋)	Xu was a Nanjing-based entrepreneur alleged to have produced and distributed Falun Gong materials. She was born in 1967.	12 years	4	Released early
Yu Guoping (于国平)	Yu allegedly produced and distributed Falun Gong materials and wrote an open letter denouncing persecution of the group.	12 years	2	Released early

* The number of lists of cases of concern including the individual’s name that Dui Hua has drafted for submission to the Chinese government.



Juvenile Justice

Dui Hua continued to support juvenile justice reform and promote the best interests of children in conflict with the law. In September, Dui Hua hosted a Chinese delegation led by the Supreme People’s Court (SPC) Guiding Group on Juvenile Courts on a week-long study tour in the San Francisco Bay Area. The study tour aimed to help shape concrete implementation measures for new juvenile procedures passed in revisions to the Criminal Procedure Law (CPL) in March. Coming from the SPC and courts in Heilongjiang, Fuzhou, Hunan, and Henan, the judges visited courts, community-based service centers, and detention facilities and observed a juvenile trial and mock mediation. Delegates participated in a “ride-along” with probation officers to visit youth on probation. They attended a seminar at UC Hastings College of the Law and receptions hosted by the California Supreme Court and sponsors, including law firms Ropers Majeski Kohn & Bentley and Kilpatrick Townsend & Stockton.

In the 18 months of planning prior to the exchange, Senior Manager of Development & Programs Daisy Yau visited several juvenile facilities throughout the Bay Area. In March, Kamm and Yau discussed the exchange during a meeting with Professor Jean

Zermatten, chair of the Committee on the Rights of the Child. In August, Kamm spoke at the American Chamber of Commerce in Hong Kong about the importance of juvenile justice reform and the need for international partnerships on human rights.

During the exchange, with the support of the San Mateo Superior Court, delegates were immersed for three days in San Mateo to learn about the independent yet collaborative role of the probation department. China’s revised CPL includes measures for juvenile probation, but the country does not have juvenile probation officers. It is largely relying on judges and prosecutors to fill the gap.

Aspects of the exchange “were very helpful for promoting innovation and reform.”

— Chinese delegation to the 2012 exchange



Chinese judges are not always provided with the same types of resources and tools that we have here in the United States. Through the **sharing of our best practices** and programs, we hope that the delegation gained further insight into how future reform may be carried out in China.

— Judge Elizabeth Lee,
Superior Court of San Mateo County



Additional collaboration and expertise are needed to support the expansion of non-custodial punishments that are crucial for helping juveniles avoid re-offending, ensuring their healthy development, and facilitating their positive interaction with the community. In 2012, 42 percent of Chinese juveniles who were adjudicated received non-custodial punishments, up from 35 percent in 2008.

With the support of the San Francisco Superior Court and Santa Clara Superior Court, the exchange also highlighted innovative methods including community-based group homes, electronic monitoring, collaborative courts, and records sealing. Juvenile records sealing is an important addition to China’s revised CPL because it will allow juveniles more equal access to educational and job opportunities for the future.

Following the exchange, the Chinese delegation assessed it as a “successful bilateral exchange” that was “rich in content.” The delegation noted that the “US probationary system and pre-trial hearings were very helpful for promoting innovation and reform in the Chinese juvenile justice system in the areas of pre-trial investigation and post-sentencing assistance.”

In November, *The International Herald Tribune* published an op-ed by Executive Director Kamm outlining progress in juvenile justice. He opined that success in this area has shown “it is possible to identify areas of common interest in the field of human rights and to work together to improve each other’s human rights records.” KTSF Channel 26, an independent broadcasting station in the San Francisco Bay Area, later featured Dui Hua’s work on juvenile justice reform on its nightly news program aired in Mandarin and Cantonese. ■

History of Exchange

Dui Hua held exchanges with the Supreme People’s Court (SPC) in 2008, 2010, and 2012. Concepts proposed during the exchanges, like diversion, were incorporated into revisions to the Criminal Procedure Law passed in 2012. Sponsored by the John D. and Catherine T. MacArthur Foundation, the 2008 exchange was the SPC’s first US study tour on juvenile justice. US Supreme Court Associate Justice Anthony Kennedy received the delegation in Washington (*right*). In 2010, the SPC invited US delegates to China. Supported by Hong Kong’s Fu Tak lam Foundation, the exchange included a court tour led by Judge Shang Xiuyun, known as China’s “Mother Judge” for her commitment to rehabilitative justice for juveniles.





Women in Prison

Dui Hua hopes to improve the lives of women by drawing attention to the conditions of women in prison in China and encouraging the government to incorporate gender-specific policies into its corrections system. Official statistics indicate that there were more than 93,000 women in prison by the end of 2011. Domestic violence continues to be a leading trigger of crimes committed by women. Histories of abuse are one of several commonalities among women's prisoners that led to the passage of the [Bangkok Rules—Rules for the Treatment of Women Prisoners and Non-Custodial Measures for Women Offenders](#)—by the UN General Assembly in December 2010. The rules attempt to provide gender equality by recognizing that women in conflict with the criminal justice system are generally more likely than men to have histories of domestic, sexual, or substance abuse; to suffer from mental illness; or to be primary caretakers of minor children. Despite worldwide growth in the number of women in prison, few policymakers and corrections officers are aware of the Bangkok Rules.

Dui Hua is putting together a Sino-international conference on women in prison. In 2012, we reached agreements with three partners—Renmin University's Center for Criminal Procedure and Reform, Hong Kong University's Centre for Comparative and Public Law, and London-based Penal Reform International (PRI)—to collaborate on the conference. The project has received enthusiastic support from China's Ministry of Foreign Affairs, SPC, Supreme People's Procuratorate, and Embassy in Washington.

Tentatively scheduled for Hong Kong in early 2014, the conference is intended to bring together experts and practitioners to report on the local situations of women in prison and prospects for implementing the Bangkok Rules. Hong Kong has one of the highest percentages of women prisoners in the world, including many mainland Chinese women detained for immigration status violations such as working without proper documentation.

With the conference in mind, Dui Hua staff toured Norway's largest women's prison in March. Bredtveit Prison (*left*) has become a model for rehabilitative corrections, with many policies that accord with the Bangkok Rules. While in Europe, Dui Hua staff participated in the 19th Session of the UN Human Rights Council. At a forum on the Bangkok Rules, panelists urged the need to spread awareness about the rules and proposed an implementation plan.

Using the Bangkok Rules as a guide, Dui Hua conducts research on women in prison in China. Following the passage of CPL revisions, we reviewed new criminal procedures for women and girls, acknowledging improvements such as greater access to non-custodial measures for pregnant and breastfeeding women as well as stronger protections during questioning for girls. However, we also pointed out that the law is less explicit in how to account for histories of domestic violence and other psychological and physiological attributes common to women in conflict with the law. In our quarterly newsletter, *Dialogue*, we focused on the often forgotten children of incarcerated mothers. We described the insecurity brought about by a dearth of



More than
93,000 women
are in prison in China,
many as a result of
domestic violence.

Credit: Sichuan News Agency

nationwide child protection initiatives in the US and China and the hope found in regional pilot projects.

In September, *The New York Times* quoted Kamm regarding the need for international exchange focused on women in prison. Xinhua, China's official news agency, translated the article, entitled

“Women in Prison Fare Better in China,” making it available to a wider Chinese audience. In the article Kamm praised CPL revisions but noted that they did not apply to women in the reeducation through labor system. He also stated that only 16 US states have banned the shackling of incarcerated women during childbirth—a practice unheard of in China. ■

“Even for people who support the death penalty, there is a strong feeling that you shouldn't kill people for economic crimes.”

—John Kamm quoted by *The Los Angeles Times*

Death Penalty



Dui Hua monitors developments in Chinese criminal justice and rule of law including the use of the death penalty. In media interviews, publications, and communications with government interlocutors, Dui Hua spoke out against the death sentence against Wu Ying (吴英), a businesswoman convicted of fundraising fraud. Wu's case represents the difficulty entrepreneurs face in securing loans from China's state-owned banks and provided impetus to the growing consensus among Chinese citizens that the death penalty is inappropriate for economic crimes. After reviewing the case, the SPC sent it back to the Zhejiang High People's Court for retrial, resulting in a reduced sentence of death with two-year reprieve, which is commuted to life or fixed-term imprisonment roughly 99 percent of the time.

In *Human Rights Journal*, Dui Hua analyzed new provisions for death penalty cases included in CPL

revisions passed in March. The most significant changes included expanded access to legal aid, recorded interrogations, longer trials, mandatory appellate hearings, and more rigorous death penalty review. The SPC must now question defendants as part of the review process, though such questioning need not take place in person. In 2012, the SPC and Ministry of Public Security jointly released a notice requiring detention centers to build interrogation rooms for remote video interrogation. Video conferencing greatly reduces the financial burden on the SPC to interrogate defendants dispersed throughout the nation, but it does so at the cost of the defendants' rights to due process and to be heard in a neutral environment.

Scores of international media reports cited Dui Hua's estimate that China executed 4,000 people in 2011, down about 50 percent since the SPC regained the power to conduct final review over death sentences in 2007. We believe the number of executions dropped again in 2012, but remained in the thousands.

In November 2012, a senior official in China's Ministry of Health said that the country would end its dependence on prisoner organs and establish “an ethical and sustainable” organ donation system by 2015. Executed people account for more than 90 percent of China's deceased organ donors. In an interview with Deutschlandfunk radio, Kamm welcomed the end of the practice that has been plagued by corruption and doubts about its voluntary nature. ■

Community Engagement

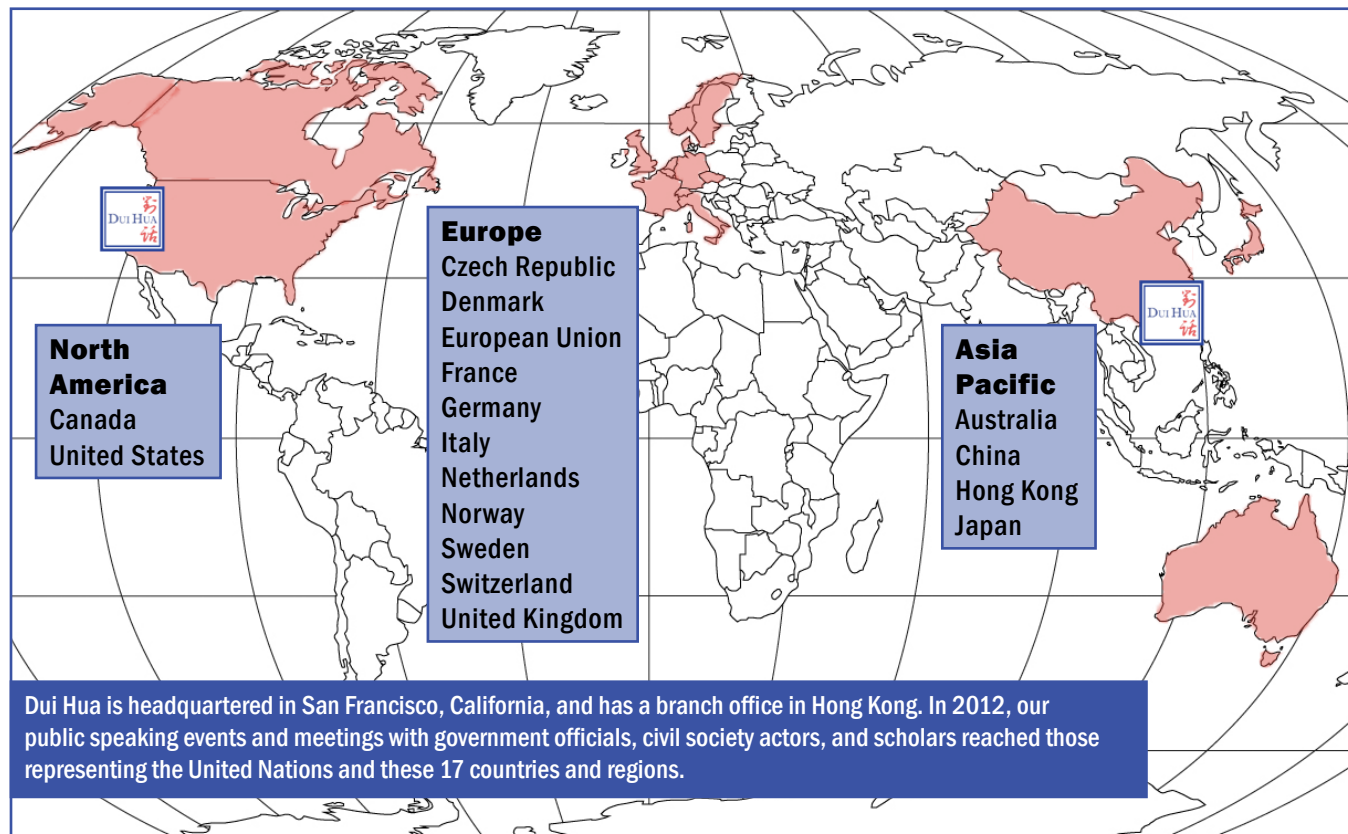
Dui Hua accomplishes its mission by engaging senior government officials in charge of human rights and foreign affairs, meeting with civil society actors, and speaking to diverse audiences in the United States, China, and Europe. Kamm made three trips to the East Coast in 2012 to meet with senior staff of the US Department of State and members of Congress as well as the Chinese Ambassador to the UN. Kamm also spoke at various forums including the National Committee on US-China Relations, Princeton University, Stanford Law School, and the University of Kentucky.

Kamm made three trips to Beijing and Hong Kong, meeting with Chinese officials and foreign diplomats. Dui Hua staff interviewed Hong Kong journalist and human rights activist Ching Cheong (程翔) in March and visited Hong Kong's Shek Pik Prison in November. Dui Hua's



Hong Kong office celebrated its 5th anniversary with a reception for local supporters on March 20, 2012. The office was established in 2007 to strengthen research efforts and facilitate ties with stakeholders working in Hong Kong and mainland China.

In March, Dui Hua attended the UN Human Rights Council in Geneva where meetings were held with senior staff of the OHCHR,



the chairs of the Working Group on Enforced or Involuntary Disappearances and the Committee on the Rights of the Child, and the deputy head of Asia operations of the International Committee of the Red Cross.

On July 19, Dui Hua hosted nearly 100 friends and supporters at the Juvenile Justice Initiative Dinner to build support for our Juvenile Justice Expert Exchange. In attendance were judges, officials, and academics from San Mateo, San Francisco, and Santa Clara counties. We also

hosted annual Friends of Dui Hua receptions in DC and San Francisco.

Dui Hua was featured or mentioned in about 250 media reports in 2012, up 16 percent from 2011. Coverage spanned more than 45 countries and regions—more than doubling our reach in the previous year. American Public Media radio program *The Story*, featured Kamm in a radio segment entitled, “Toasting China and Pushing for Human Rights,” in February. ■



Contributions & Support

All of the national grants that ended in 2012 were renewed for 2013. The Smith Richardson Foundation grant, which helped establish Dui Hua in 1999, was renewed for another two years. The Swedish International Development Cooperation Agency awarded its first grant to Dui Hua in December, following the end of the grant from the Embassy of Sweden in Beijing. Norway increased support in 2012, and Switzerland and Denmark continued their two-year and four-year grants, respectively. A grant from the Netherlands supported our women in prison initiative, enabling us to study the feasibility of conducting a Sino-international conference on the issue. International Republican Institute (IRI), which is funded in part by the US Department of State, renewed its grant, but due to

congressional holds, there was a three-month gap in funding. Because of US sequestration, which began on March 1, 2013, IRI's current grant may be reduced by 5–10 percent, and its next grant, if awarded, might face significant reduction and delay.

Due in large part to uncertainties over the US “fiscal cliff” debate at the end of 2012, several of Dui Hua’s large individual donors did not make contributions, resulting in a modest deficit for the year. Overall the number of donors rose by 14 percent to 216. Dui Hua is continuing to reach out to more grantors, and we hope to continue to broaden our base of support going forward. ■

Dui Hua launched **Reference Materials** (www.duihuaresearch.org) in October. Its eponymous print predecessor is now available for purchase. For more information, visit the blog.

Summarized Audited Financial Statements

These statements are summarized from the financial statements audited by Lindquist, von Husen & Joyce LLP, San Francisco, California. All amounts are in US dollars.

STATEMENT OF FINANCIAL POSITION

(as of December 31, 2012)

	Assets	Liabilities & Net Assets
Cash & cash equivalents	740,113	
Deposits & prepaid expenses	37,184	
Contributions receivable	462,321	
Property & equipment (net)	11,364	
Accounts payable & accrued expenses		48,624
Net assets		1,202,358
Unrestricted net assets	433,510	
Board-designated reserve fund	300,000	
Undesignated	133,510	
Temporarily restricted net assets	768,848	
Total	1,250,982	1,250,982

STATEMENT OF ACTIVITIES

(year ended December 31, 2012)

	Unrestricted	Temporarily Restricted	Total
Support & revenue			
Government & foundation grants	133,172	789,017	922,189
Individual & corporate contributions	169,101	45,851	214,952
Special events & publication sales	1,615	-	1,615
Investment & other income	10,612	-	10,612
Net assets released from restrictions	609,470	(609,470)	-
	<u>923,970</u>	<u>225,398</u>	<u>1,149,368</u>
Expenses			
Program services	757,694	-	757,694
Supporting services			
Management & general	121,703	-	121,703
Fundraising	89,827	-	89,827
	<u>969,224</u>	<u>-</u>	<u>969,224</u>
Change in net assets	(45,254)	225,398	180,144
Net assets, start of year	478,764	543,450	1,022,214
Net assets, end of year	433,510	768,848	1,202,358

Our Generous Contributors

Grantors

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(in memory of Nan & Colin Cullen)
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