Chapter Thirteen
Recommendations and Conclusions

INTRODUCTION

In the Introduction to this book, the overall research objective was to explore the Chinese regulatory framework governing RLR to determine its consistency by reference to international human rights ethics. This approach has demonstrated that the development of Chinese society demands a re-examination of the regulatory framework governing RLR, and a greater awareness of the need to protect RLR. Increased priority given to the protection of RLR, may improve the likelihood that an effective legal resolution of issues associated with its protection, is found. This chapter, in drawing together the conclusion of this book, recommends the means by which the Chinese regulatory framework governing RLR might be improved. Six recommendations focused on the design of a new unified migration law are explained separately.

The existing regulatory framework governing RLR is incapable of delivering adequate protection for people who exit and enter China. The recommendations in this chapter are based on the premise that the regulatory structure crushes the possibility of exiting and entering China for part of Chinese population; especially *huaqiao*, irregular Chinese migrants; and all Chinese dissidents who want to return. It has also been argued that these issues undermine the protection of human rights, stifle political and economic reform, and discourage the spirit of creativity and the promotion of international exchange.
The protection of RLR needs a coherent and malleable regulatory system. The existing regulatory framework governing RLR cannot achieve that. A four-year reform strategy published in 2001 supported reforming the exit and entry administration, including the existing laws. Reform is also supported by the newest amendment of the Constitution in March 2004, under which the State is obliged to respect and protect human rights. Although the need for reform of law governing RLR is becoming urgent, the measures that need be taken by the Chinese government remain uncertain.

13.1 FACTORS THAT HELP DETERMINE THE EXTENT OF THE REFORM

Before providing recommendations for regulatory framework reform, it is important to analyse the factors that help determine the extent of the reform. They consist of six aspects.

The reform of the regulatory framework governing RLR should be part of a systematic process that simultaneously addresses a number of issues currently facing contemporary Chinese society. Along with migration law reform, protection of RLR requires reform of laws governing households, foreign exchange, emigration intermediary agencies, administrative law, administrative procedural law, labour exports, border inspection, the political structure, as well as the content of legal education. In addition to this multifaceted approach to reform, China, as the President of the Supreme People’s Court of the PRC, Xiao Yang has accepted:

May learn from the experiences and lessons of safeguarding human rights in the world, collate the universal standard of human rights in concluded or acceded to international human rights conventions, systematically summarise past work of safeguarding human rights, and make a comprehensive plan to guide future work of safeguarding human rights.¹

The reform of the regulatory framework governing RLR needs to be a gradual process. In March 2004, The People’s Daily reported that “Just 20 years ago, human rights were still regarded as a so-called ‘capitalist notion’ in China”.² Relevant research and publicity were prohibited. China’s history of complete gov-
