



## Prisoner Profile:

### Zheng Enchong

Compiled by Stacy Mosher

On October 28 the Shanghai Second Intermediate People's Court sentenced lawyer Zheng Enchong to three years in prison on charges of "illegally providing state secrets to entities outside of China."

Born in Shanghai in 1950, Zheng Enchong was a lawyer with Shanghai's Siwei Law Office until July 2001, when the Shanghai Municipal Judicial Bureau revoked his license on the grounds that he had contravened the PRC's Law on Lawyers.

Zheng's problems with the authorities stemmed from his long-standing assistance to families displaced in Shanghai's urban redevelopment projects, a matter of increasing controversy in Shanghai as in many other major urban areas. Even after his license was revoked, Zheng continued to provide legal advice in redevelopment cases, and by the time of his arrest in June 2003 he was reported to have assisted families in more than 500 cases.

The impetus for Zheng's arrest may have stemmed from his assistance to families involved in a lawsuit alleging official collusion with a wealthy property developer, Zhou Zhengyi. The case has raised keen attention in the Mainland and Hong Kong media because of the close relationship between Zhou Zhengyi, now a Hong Kong resident, and certain senior officials in the central government.

On May 28, 2003 the Jing'an District People's Court in Shanghai began hearing a lawsuit by six homeowners representing 2,159 original residents of a property in West Beijing Road. The plaintiffs alleged that a company controlled by Zhou Zhengyi had with the connivance of local officials evaded requirements to provide appropriate housing to displaced families in return for the waving of payment for a 70-year lease on the property, valued at 300 million *yuan*.

Barely a week after the Zhou Zhengyi trial commenced, on June 6, 2003, Zheng Enchong was arrested on charges of "illegally obtaining state secrets." Police searched Zheng's home and removed a large quantity of documents, and Zheng was formally arrested on June 18.

In July, Zheng's wife, Jiang Meili, sent an open letter to Chinese President Hu Jintao and Premier Wen Jiabao calling for the central authorities investigating the Zhou Zhengyi case to also take over the investigation of Zheng Enchong's case. Jiang Meili quoted an unnamed official as saying, "Nearly every official in Shanghai hates Zheng Enchong."

The Geneva-based International Commission of Jurists also issued a letter to the Chinese government condemning Zheng's arbitrary arrest and detention and the unlawful revocation of his license in 2001. The letter, addressed to President Hu Jintao and copied to Premier Wen Jiabao and other senior officials, urged the Chinese government to release Zheng from detention and reinstate his license to practice law.

However, official proceedings continued against Zheng, with the Shanghai Procuratorate referring Zheng's case to the courts in early August. Zheng was allowed two visits with his legal counsel, Guo Guoting and Zhang Sizhi, but has not been allowed a single visit from family members since being taken into custody.

Zheng Enchong went on trial on August 28 on amended charges of "illegally providing state secrets to entities outside of China." More than 200 police officers were deployed around the courthouse as more than 100 protesters, most of them people Zheng had helped, turned up to protest his prosecution. The verdict delivered on October 28 indicates that Zheng was convicted on the basis of communications with Human Rights in China.

Zheng is currently being held in the Shanghai Municipal Detention Center.

For the sake of clarifying the circumstances of Zheng's arrest and conviction, HRIC has translated the court's judgment, a fax used as evidence against Zheng, and the defense presented by Zheng's lawyer, Zhang Sizhi.

#### **Shanghai No. 2 Intermediate People's Court**

#### **Criminal judgment (2003) (Shanghai No. 2 Intermediate Criminal Docket No. 136)**

The public prosecutor's office of the Shanghai People's Procuratorate Second Division (*Gongsu jiguan shanghai shi renmin jianchayuan dier fenyuan*):

Defendant Zheng Enchong, male, born on September 2, 1950 in Shanghai, Han nationality, college graduate in Culture, formerly a member of Shanghai Min Jian law firm, residing at 88 Puyuan Road #1-1406 in Shanghai, registered at 200 Maotai Road No. 3-504 in Shanghai. Detained on June 6, 2003; arrested on June 18, currently being held at the Shanghai City Detention Center.

For the defense: Guo Guoting, a lawyer at Shanghai Tianyi law firm.

For the defense: Zhang Sizhi, a lawyer at Beijing Wuluan Zhaoyan law firm.

The Shanghai People's Procuratorate Second Division Indictment No. 91 charged defendant Zheng Enchong with the crime of illegally transmitting state secrets abroad (*wei jingwai feifa tigong guojia mimi*) and initiated a public prosecution against him on August 15, 2003. This court convened a collegiate bench according to law, but according to law did not conduct a public trial because this case involves state secrets. The Shanghai City People's Procuratorate Second Division designated prosecutors Yuan Hanjun, Wang Li, and procuratorate representative Xu Jing to support the prosecution; defendant Zheng Enchong and defense lawyers Guo Guoting and Zhang Sizhi participated in the litigation in this court. This trial was extended by one month according to law, and the trial has now been concluded.

#### [The Shanghai People's Procuratorate charges the following:](#)

In the last ten days of May 2003, defendant Zheng Enchong learned about the Shanghai

public security organ's handling of an emergency crowd incident at the Shanghai Yimin Food Products No. 1 Factory from a police officer named Xu. Zheng took notes of the secrets of that situation, organized them, and from his residence at Puyuan Road on the afternoon of the 23rd, faxed a handwritten draft that included the aforementioned secrets to the organization Human Rights in China in New York. In order to ensure the widespread dissemination of these secrets, that night Zheng Enchong also sent Human Rights in China an email disclosing the aforementioned secrets. The Shanghai State Secrets Bureau (*Shanghai shi guojia baomi ju*) has confirmed that the aforementioned secrets are classified as state secrets.

On May 28, 2003, defendant Zheng Enchong, from his residence at Puyuan Road, faxed a copy of the article "Reporters covering conflict sparked by forced removal come under attack" (*Qiangxing suqian yinfu chongtu, jizhe caifan zaoyu weigong*) from a "Selected Internal Briefing" (*Neican xuanbian*) of the Xinhua News Agency (Issue 17, 2003) to Human Rights in China, on which is clearly written in Zheng's own handwriting: "Xinhua News Agency internal draft, for your use" (*"Xinhuashe neican gao, wang yin yong"*). The Shanghai State Secrets Bureau has confirmed that this document is classified as a state secret.

The Shanghai People's Procuratorate Second Division transferred to this court confirmed and verified evidence, including documentary evidence, witness testimony, and defendant Zheng Enchong's statement, alleging that defendant Zheng Enchong's actions constitute a violation of Article 111 of the Criminal Law of the People's Republic of China and that he is criminally liable for illegally providing state secrets to an organization outside the country.

[Defenses]

In response to the prosecution's accusations, defendant Zheng Enchong and his defenders argued that Zheng's actions in providing the aforementioned documents to an organization outside the country were in fact not objectionable; as a complete defense, that Zheng Enchong was not aware the above documents are classified as state secrets; that he did not knowingly transmit state secrets outside the country, and that the foreign organization did not actually receive Zheng's transmitted documents, and therefore, there were no consequences,

so the public prosecutor's criminal charges against Zheng cannot be established.

The following was established at trial:

On May 28, 2003, defendant Zheng Enchong, from his Puyuan Road residence, faxed Human Rights in China in New York a copy of the article "Reporters covering conflict sparked by forced removal come under attack" from the Xinhua News Agency publication "Selected Internal Briefing" (Issue 17, 2003), on which Zheng's handwritten message "Xinhua News Agency internal draft, for your use, Zheng" was inscribed. This copy was tracked down by the public security organ after the case was opened, and the Shanghai State Secrets Bureau has confirmed that the article "Reporters covering conflict sparked by forced removal come under attack" is material that is classified as state secrets.

In addition, in the last ten days of May 2003, defendant Zheng Enchong sent the information that he compiled and organized in regards to the Shanghai public security organ's handling of the emergency incident via fax and email to a foreign organization.

These facts were confirmed by evidence:

Witness Xue Minchun confirmed that Zheng Enchong gave Xue an article about himself to submit to foreign media, and in January 2003 Xue sent this article to Human Rights in China in New York, and thereafter received a faxed reply from the organization with Liu Qing's signature. Xue Minchun showed Zheng this fax and informed Zheng that Human Rights in China in New York would make contact, and Zheng kept a copy.

The name of the recipient "Liu Qing, 2003.1.29" was written on the copy of the document sent to Human Rights in China in New York as well as the organization's phone number, its fax number, and that Liu Qing's assistant is a Mr. Jiao.

The Shanghai State Security Bureau's submission "Materials Relating to the Identification of Human Rights in China, Human Rights in China president Liu Qing, and his assistant Jiao Baigu" verified that Human Rights in China was established and has an office in New York, Liu Qing is its president, and Jiao Baigu is assistant to the president.

Witness Zhao Hanxiang confirmed that around 3 pm on May 28, 2003, he went to Zheng Enchong's residence and gave him a

copy of the Xinhua News Agency's "Selected Internal Briefing."

According to defendant Zheng Enchong's statement, a "Selected Internal Briefing" is an internal reference document, and may only be accessed by high level cadres. Zheng also acknowledged Human Rights in China's contact number, Jiao Baigu's phone number, fax number, and Jiao Baigu's email address. Furthermore, Zheng Enchong could not deny that he faxed a copy of the article "Reporters covering conflict sparked by forced removal come under attack" from the "Selected Internal Briefing" of the Xinhua News Agency (Issue 17, 2003) to Human Rights in China.

The public security organ confirmed in its "Search Record" (*Soucha bilu*) and "Inventory of Seized Items and Documents" (*Kouya wupin, wenjian qiandan*) that it found the Xinhua News Agency "Selected Internal Briefing" (Issue 17, 2003) article "Reporters covering conflict sparked by forced removal come under attack" (inscribed with the handwritten remarks "Jiao: Xinhua News Agency internal draft, for your use, Zheng") at Zheng Enchong's residence at 88 Puyuan Road, No. 1-1406.

The Shanghai Public Security Bureau confirmed in its "Document Confirmation Records" (*wenjian jianding shu*) that the handwriting on the aforementioned copied documents has been verified as belonging to Zheng Enchong.

The Shanghai branch office of the Xinhua News Agency confirmed in its "Identification Materials" (*Zhengming cailiao*) that the article "Reporters covering conflict sparked by forced removal come under attack" was written by a journalist from a branch office and was published in Issue 17 of the Xinhua News Agency's "Selected Internal Briefing" on April 30, 2003.

The Shanghai State Secrets Bureau confirmed in its "Classification of Secrets Manual" (*Miji jianding shu*) that the article Zheng Enchong transmitted outside the country, "Reporters covering conflict sparked by forced removal come under attack," that appeared in the secret "Selected Internal Briefing" of Issue 17 in 2003, was classified as state secrets.

The State Secrets Bureau affirmed that the confirmation of the classification of secrets in the "Response to Questions Concerning the Shanghai State Secrets Bureau's Confirmation of the Classification

of Secrets in Zheng Enchong's Case" (*Guanyu shanghai baomijue dui zheng enchong an suozuo miji jianding youguan wenti de fuhan*) is valid.

Witness Xue Lili confirmed that on May 28, 2003 at Zheng Enchong's residence, he helped Zheng send multiple copies of the materials to a person surnamed Jiao.

Shanghai Telecom Inc. confirmed that according to the registration information in its telephone register, the telephone number 63804774 is registered to Zheng Enchong and is installed at 88 Puyuan Road No. 1-1406.

China Unicom Inc. confirmed that according to telephone customer communications records produced by its regular correspondence department, on May 28, 2003 contact between the telephone number 63804774 and the telephone number for Human Rights in China in New York was established several times.

This court affirms and acknowledges the evidence produced in this court, including the cross-examination, investigation and verification.

This court finds that defendant Zheng Enchong illegally provided state secrets to an organization outside the country. His conduct establishes that he committed the crime of illegally providing state secrets, under relatively minor circumstances. The charges made by the public prosecutor have been established. In light of defendant Zheng Enchong's level of education, knowledge of society, and his profession, combined with the special significance of Zheng's additional message "Xinhua News Agency internal draft, for your use" transmitted with the aforementioned documents to Human Rights in China in New York, as well as Zheng's admission after the case began that the "Selected Internal Briefing" was an internal reference document accessible only to high level cadres, Zheng had the subjective intent to knowingly transmit state secrets abroad illegally. Zheng's defenders' excuses and defenses, that Zheng was not aware that these were state secrets and that he did not intentionally transmit state secrets abroad, are not accepted. Defendant Zheng Enchong's acts of transmitting state secrets abroad have harmed society; as to the foreign organization not receiving them, and this attempt to harm the national interest having no consequences, these considerations do not affect the determination of this crime.

Therefore, Zheng Enchong and his defenders' arguments that this foreign organization never received these state secrets and as a result his actions did not affect any consequences are not accepted as establishing adequate excuses or defenses for the crime. In order to maintain social order and safeguard state security; and in accordance with Article 111; Article 56, Section 1; Article 55, Section 1; and Article 64 of the Criminal Law of the People's Republic of China (*Zhonghua renmin gongheguo xingfa*); and Articles 1;4;5 of the "Explanation of the Supreme People's Court to Certain Questions Concerning Specific Laws to be used in Adjudicating Cases of Foreign Theft or Spying to Obtain, or Provide Illegally, State Secrets or Intelligence" (*Zuigao renmin fayuan guanyu shenli wei jing-wai qiequ, citan, shoumai, feifa tigong guojia mimi, qingbao anjian juti yingyong falu ruogan wenti de jieshi*), judgment is as follows:

1. Defendant Zheng Enchong has committed the crime of illegally providing state secrets to an organization outside the country, and is sentenced to three years imprisonment and deprived of his political rights for one year.

(Time of sentence will be calculated from the date of execution of the verdict. For time served in custody before the execution of the judgment, one day served in custody counts as one day of the sentence period, from June 6, 2003 to June 5, 2006)

2. Confiscation of tools and materials relating to the crime and state secrets.

If you are not satisfied with the judgment, you may appeal to this court or directly to a higher people's court in the time period from one to ten days after receiving the written judgment. In a written appeal, you should submit the original appeal document and a copy.

October 28, 2003

Chief Judge Shen Xingkai  
Judge Wang Yuzhan  
Adjudicator Jiang Zhengyu

Clerk Dong Wei  
Clerk Li Shu

### **This is the fax transmission on which Zheng Enchong's conviction was based:**

**Jiao:** This was told to me by a police officer from the Hongkou Dispatch Unit of the Shanghai Public Security Bureau.

On May 9, from 10:00 a.m. until 5:00 p.m., at the Shanghai Yimin Food Products No. 1 factory (of which Jiang Zemin served as deputy director and Party secretary from 1949-1954), more than 500 workers declared a strike and burst out of the factory entrance with the intent of petitioning the municipal government. As the workers poured out onto the corner of Siping Road and Guanzhong Road near the factory entrance, they were surrounded by more than 30 police vehicles and more than 500 police officers (including 300 uniformed police officers and 200 plainclothes officers), with 20 to 30 officers dispatched from each of a number of different police stations, including those of Ouyang, Jiaying, Xingang, Chuanbei, Zhapu, Tilan and Quyang districts.

At 10:00 a.m. police forced the workers back into the factory, but at 2:00 p.m. more than 500 workers poured out of the factory again and tied up traffic at the corner of Siping Road and Guanzhong Road for about three hours.

The Shanghai Yimin Food Products No. 1 factory has about 200 workers; in recent days it was announced that three quarters of the workers would be laid off and that those who had worked for the company for several decades would be compensated with a one-off payment of about 30,000 RMB.

The workers cried out, "Jiang Zemin, please come back!", "When Jiang Zemin got his job, we lost ours!", "Mao Zedong was like the sun, Deng Xiaoping was like the moon, Jiang Zemin is like the stars, and laid-off workers are as numerous," "If Jiang Zemin cannot save Yimin No. 1 factory, he cannot save China," "If workers lose their jobs, so should Jiang!" Around 4:00 p.m. a small poster was put up inside the factory stating, "I have nothing to eat, I want to spread poison." Police took this opportunity to disperse the workers.

Who put up that small poster? Was it a frame-up?

The Shanghai Public Security Bureau 803 Special Investigations Unit is now carrying out a handwriting analysis.

The Shanghai Public Security Bureau is maintaining strict confidentiality.

Zheng  
2003.5.23 10:50 a.m.

### Zheng Enchong "Illegally Transmitting State Secrets Abroad" First Instance Defense Statement

Chief Judge,

Judges of the Collegiate Court:

I concur with my colleague Guo Guoting in submitting to the public prosecutor this opinion, and agree with his evaluation of the indictment. I wish to add the following:

As a whole, the contents of the indictment are not in accordance with the requirements of the "People's Procuratorate Criminal Procedure Rules" (*renmin jiancha yuan xingshi susong guize*). Section 2 of Article 281 of these Rules provides: "(Indictment must be true to) the facts of the case, including the time, place, course, motive, objective, harmful consequences, etc. of the crime." The court's arguments in support of the indictment affirming that Zheng Enchong committed a criminal act, although the same as those in the indictment, were not stated clearly, and further did not make clear the criminal motive, objectives, and methods of the defendant, and also did not demonstrate or prove how the nature of the crime was "minor" and what kind of harmful outcome was caused by Zheng Enchong's actions. Finally, although these were criminal accusations, there was no "motive" or "objective," there was a lack of means, and no "consequences" that could be articulated. Generally speaking, this matter lacks not only the objective elements of a crime, but also the necessary subjective prerequisites, and in combination they likewise do not fulfill the necessary conditions. This defect is why the prosecutor in this case could not clearly identify or distinguish criminal causes from the non-criminal root causes. This defect also forms the fundamental basis for our critical analysis of the indictment. It is not aligned with reality, and we request that the judges rigorously investigate.

The following are supplemental queries to the basic evidence of this case, and explanation of my views in detail, in relation to my defense of Zheng Enchong:

The indictment alleges: "In the last ten days of May 2003, defendant Zheng Enchong learned about the Shanghai public security organ's handling of an emergency crowd situation at the Shanghai Yimin Food Products No. 1 Factory from a police officer named Xu. Zheng took notes of the secrets of that situation, organized them...faxed a hand-written draft that included the aforementioned secrets to the organization Human Rights in China in New York." "The Shanghai State Secrets Bureau has confirmed that the aforementioned secrets are classified as state secrets."

Against this, the following supplementary inquiries and defenses are made:

(I). This "hand-written draft" was offered by the prosecutor and accepted accordingly as evidence of the crime, but no justification was offered for why this principal evidence was not actually produced in court, and as was explained in court, this has to a clear extent limited the defense capabilities of the defendant and his defense lawyers, and this should be corrected. In deference to ensuring the efficiency of the court, we will defer this for the time being.

From our inspection of other case materials, the aforementioned "hand-written draft" sent to Human Rights in China was nothing more than two statements: one is that workers of the Yiming Food Products No. 1 Factory engaged what is called an "emergency situation" (*tufa xing shijian*); the other is that Public Security was directed to maintain order at the scene of this situation. The nature of the first is that the workers and staff of a small factory exercised their basic constitutional rights by fighting for workers' rights through this "group incident" (*qunti shijian*) in the form of a "demonstration" (*shiwei*); the nature of the second is that Public Security police handled the situation by administering public order and security measures. This was certainly not a matter governed by "State Safety and National Interest Relations" stipulated in Article 2 of the "Law Protecting State Secrets" (*baoshou guojia mimi fa*), nor does it involve any of the seven examples listed as "Secret Matters" (*mimi shixiang*) in Article 8 of this Law, and according to Section 5 of Article 8: "Those not conforming to the stipulations in Article 2 of this law are not classified as state secrets;" Zheng

Enchong's transmission of the above materials to Human Rights in China, including the hand-written and typed versions, are clearly not state secrets. This allegation made by the prosecution is not in accordance with the law and cannot be established.

(II). We take note of the following: The prosecutor submitted in court a copy of (2003) Shanghai Secrets Confirmation No. 14, "Classification of Secrets Manual" (*miji jian ding shu*), in order to prove the allegations, as well as "Confirmation Opinions" (*jian ding yijian*) which reads in its entirety:

"On the basis of Item 10, Section 2 of Article 3 of the "Regulations on the Specific Scope of Public Security Work in State Secrets and Secrets Classification" (*Gongan gongzuozhong guojia mimiji qi miji juti fanwei de guiding*) your bureau provides confirmation of the classification of secrets that Zheng Enchong sent to a foreign organization...the materials from the May 9 Shanghai Yimin Food Products No. 1 Factory "emergency crowd situation"(Hand-written), ...(typed) five copies of the materials, all involve the police handling of this (factory) 'group incident' all are classified as state secrets."

Upon careful examination of Article 3 of the above "Regulations on the Specific Scope of Public Security Work in State Secrets and Secrets Classification," (effective May 1, 1995), the original wording reads: "The following matters in public security work are not categorized as state secrets, but they are matters to be managed internally, and may not be disseminated without approval from the organ." This article listed 12 such items, and item 10 reads: "Opinions Under Consideration for Organizations and Staff Allocation." From the Secrets Bureau classification Article cited above, it is possible to conclude that Zheng Enchong's transmission of the two copies of the materials to Human Rights in China cannot be "all classified as state secrets," and use of the above to establish the guilt of Zheng Enchong shows serious lack of care. This use of this item as evidence is not in accordance with the law and should be rejected.

The following is added for the purposes of deeper articulation of argument and clarification of the issues:

Certain matters and issues clearly do not amount to "state secrets," but

because some people who are engaged in this business or who have narrow local interests aggressively label these as "secrets," they are controlled internally, and confirmed after the fact, with members of the general public routinely at a loss over how to respond and easily subjecting themselves to criticism. Take for example, the SARS epidemic last winter and spring, which was also kept "secret" by those in power until the honest Dr. Jiang provided foreign media with the "secrets" of the situation, and the epidemic was finally controlled, saving who knows how many lives! But if we follow the logic of the indictment, aren't Dr. Jiang's actions also sufficient to establish the crime of illegally providing state secrets abroad? This is plainly unacceptable. Here three concepts are implicated, from Article 37 of the "Measures for the Administration of the Law Protecting State Secrets" (*Baoshou guojia mimi fa shishi banfa*), which designates "state secrets", "other secrets" and "internal matters" as well as the reasoning behind their differentiation, so that they cannot be confused, and which also states clearly and irrefutably that the latter two categories, "other secrets" and "internal matters," are not governed by "State Secrets Law" (*baomifa*) or "Administration Measures" (*shishi banfa*). We have faith that the collegiate bench will uphold what has been said about the social situation and the cited laws and regulations, and their relevance to Zheng Enchong's case.

(III). Along with the above two arguments, I assert: there is no point in disputing that the issue of massive forced relocation and the human rights issues involved have drawn the close scrutiny of people abroad, who write reports and level criticism; in this information era widespread dissemination is impossible to prevent. As to these methods, whether they are right or wrong depends on who you are talking to, and it is difficult to achieve universal agreement. However, acting in the spirit of the constitution is not a crime, and this should be an undisputed fact.

To summarize, the prosecutor's use of the "Classification of Secrets Manual" cannot prove that Zheng Enchong committed a crime; it does not have the authority of evidence. I am confident that the judge will fully investigate.

(Second point of evidence) The indictment's second item in "Facts of the Crime" (*fanzui shishi*) is: Zheng Enchong faxed Human Rights in China in New York a copy of the article "Reporters covering conflict sparked by forced removal come under attack" from the Xinhua News Agency publication "Selected Internal Briefing" (Issue 17, 2003)...The Shanghai State Secrets Bureau has confirmed that above document is classified as a state secret." Regarding this, I have the following three additional defenses:

1. The aforementioned article "Reporters covering conflict sparked by forced removal" is a Xinhua News Agency newswire with the heading, "News Advisory" (*xinwen jian-du*). At any given time and place, a "News Advisory" is invariably characterized as public, transparent, timely and accurate; at any given time and place, keeping watch over, managing and monitoring may be "secret," but an advisory, particularly "News Advisory," cannot under any circumstances be a "state secret." Xinhua News Agency's "News Advisory" is the Party and the people's mouthpiece, so how can it possibly be turned into withholding secrets from the people?

It is because a news advisory is public and transparent that the newswire, "Forced Removal," cannot be considered "secret" or "classified." The prosecutor submitted for court inspection the Xinhua News Agency's "Identification Materials" (*zheng-ming cailliao*), which was a total of 55 words and merely certified that "Our agency reporter wrote the article "Forced Removal" that was published in Issue 17 (2003) of the publication 'Selected Internal Briefing,'" without one word or sentence identifying this Xinhua news advisory article as involving "state secrets" or as a "secret document". For this reason, the charge that Zheng Enchong "illegally provided state secrets" cannot be established.

2. We have observed that the Shanghai State Secrets Bureau's "Classification of Secrets Manual" submitted by the prosecution in court and discussed above concluded that the article "Forced Removal" that "appeared in the secret "Selected Internal Briefing" of Issue 17 in 2003, was classified as state secrets." Regarding this, we make the following queries and defenses:

1. As far as Zheng Enchong is concerned, Issue 17 of the Xinhua News Agency's "Selected Internal Briefing" and its newswire article, "Forced Removal" were two separate matters. Zheng received a copy of the "Forced Removal," article but had not read it when he received a copy of the "Selected Internal Briefing"; for this reason, whether or not the "Selected Internal Briefing" is classified as a state secret is not relevant to this case and has nothing to do with Zheng Enchong. It is obvious why the prosecution has avoided classifying this document.

2. The indictment's assertion that the aforementioned "document" (*wenjian*) is classified as a state secret is the result of a clear conceptual transformation from a newswire "article" (*gaojian*) into a "document" (*wenjian*) for the purposes of classification, and the change of a single term indicates the direction. The Shanghai State Secrets Bureau classified only the "Selected Internal Briefing," and then used ambiguous wording to apply this classification to the "Forced Removal" newswire. This purposefully misleading action violates legally mandated principles of classification.

3. As to whether the Xinhua News Agency journalist's article constitutes a "state secret," Section 2 of Article 5 of the "Law Protecting State Secrets" stipulates that "central government organs working within the scope of their functions and powers shall be in charge of or guide the system in the work of protecting state secrets," and the Xinhua News Agency comes under this provision. Regarding "State Secrets and the Specific Scope of the Classification of Secrets", in accordance with the principle enumerated in Article 10 of the "State Secrets Law," the State Secrets Bureau is subject to the same stipulations as the Xinhua News Agency. But up to now, the scope of the Xinhua News Agency's protection of secrets has not followed prescribed legal procedures, and for that reason when a specific question is involved, it should fully comply with the stipulations in Article 2 and 8 of the "State Secrets Law." The law is clear and inviolable on this point.

4. In order to prove that the Shanghai State Secrets Bureau's classification is valid, the prosecution submitted a reply from the State Secrets Bureau stating that "According to the provisions in the Supreme People's Court Interpretation No. 4 (2001), the (Shanghai) Bureau's classification of secrets in Zheng Enchong's case is valid.

Upon close examination of this reply from the State Secrets Bureau, it is clear that it does not reflect the specific provisions in the Supreme People's Court (01) No. 4 document. Upon examination, Article 7 of this Interpretation in the ruling provides: In adjudicating cases that involve the classification of secrets, this should be done by departments involved in secrets work. According to this, the Shanghai State Secrets Bureau should be categorized as an authorized body. But there are two issues here: First, for a classification to be confirmed as evidence, it should be cross-examined by the court. In case it is not correct, should it still be certified as "valid"? Second, this judicial interpretation, in essentially allocating and confirming the limits on powers of classification, has already overstepped the substantive bounds of this judicial interpretation, as well as the law that should be used in this case, let alone that its contents and the related provisions of the "Law Protecting State Secrets" promulgated by the Standing Committee of the NPC are not entirely in accordance. Therefore, in times of application one should without a doubt adhere to legal standards, and not handle affairs according to judicial interpretations. It is especially necessary to point out that Article 1 of this judicial interpretation plainly and correctly determines: "Article 111 of the Criminal Law stipulates that 'state secrets' are governed by Article 2 and 8 of the 'Law Protecting State Secrets' and to be determined by the matters listed in Article 4 of 'Measures for the Administration of the Law Protecting State Secrets,'" which explains that Article 4 of the "Measures for the Administration of the Law Protecting State Secrets" determines the matters, and explains that the inter-related arguments we have articulated here are in accordance with the law, and are completely correct.

3. Finally, it should be stated clearly: On May 28, Zhao Hanxiang, who is not party to this case, was handed the "Forced Removal" newswire article as a flier on the street, and he passed it to Zheng Enchong because of the relationship between them as client and legal counsel in a court case; that night, Zheng received the information again from Hong Kong. How can anyone credit the description as "state secret" of a news article that has been handed out as a flier on the street and published abroad? The prosecutor alleged: Zheng Enchong knew that a "Selected Internal Briefing" was different from an ordinary document, and his clear intent was to illegally provide a "not ordinary document." The issue is this: a "Selected Internal Briefing" is a selection of newswires of the Xinhua News Agency, and there are obviously differences from what is called an "ordinary document"; however, there are even greater differences between the "Selected Internal Briefing" and the "Forced Removal" article. These two types of differences make it clear that the article "Forced Removal" is not a "state secret" according to law. Therefore, even if Zheng Enchong was "clearly aware" of the first difference, that doesn't prove that he illegally provided "state secrets"!

To synthesize the above defenses, we only need to make one statement: The principal evidence supporting the charge that Zheng Enchong committed the crime of illegally providing state secrets lacks the authority of evidence in all respects, and cannot serve the function of evidence. The charges cannot be established or defended.

Our inquiry into the evidence of this case is an important matter of procedural rights. The practice of trying Zheng's case has proven: To use a confirmation as evidence is not conclusive or decisive. Of course, all of this must go through a court examination and determination. We would not call into question the authority of the collegiate court.

The above points are our specific arguments offered for consideration.

Chief Judge: Having gone through the court proceedings for inspecting the evidence relating to the circumstances of Zheng's case, we are deeply impressed with the objectivity and highly efficient adjudication style of the judges. However, in evaluating the whole case, we have also

deeply felt outside influences and complications, and as a lawyer I worry that the profound social background of Zheng's case has made it difficult for the collegiate bench to remain immune from these influences in its pursuit of judicial independence. I will not in this court express views on the question of Zheng Enchong's obvious legal qualifications. Nonetheless I would like to say that Zheng Enchong, in his legal work on behalf of scores of forced-clearance victims, has been diligent, dedicated, upright and honest, and has made more contributions than mistakes, consistently year in year out, for which he has gained the respect of the general public. Unfortunately, because of his persistence and lack of instinct for "self-preservation," disaster has befallen him at the hands of greedy and ruthless people. Law enforcement acted with impunity and without consulting others; the prosecution was careless; and the wrong verdict was issued. I sincerely plead that this court consider his actual performance and complete history, consider that his actions have caused no harm to society, that he himself also does not pose a subjective threat, and on that basis declare him not guilty and restore his reputation so that he can better serve the interests of the general public.

Your honors: It is very difficult to practice law now, and lawyers who fulfill their professional duties selflessly and courageously frequently suffer difficulties; the fact that hundreds of lawyers end up in jail through practicing their profession is shocking and cause for deep reflection. I plead with all related departments to put forward their legal suggestions, and adopt practical measures to improve the professional environment to enable lawyers to serve as pillars of our developing legal system and to enable all lawyers to put forth their best effort on the road to a democratic rule of law: serve the country, serve the people, work for the future!

We hold the greatest confidence in the judges' administration of justice. We place our hopes in the justice of the collegiate court.

Zhang Sizhi  
August 28, 2003