

RETHINKING A DEADLY SYSTEM

The cases of She Xianglin and Nie Shubin, wrongfully convicted of murder, raised considerable discussion over the likelihood that many people may have been executed or imprisoned for crimes they did not commit. Following are four articles by mainland Chinese commentators calling for a reexamination of systemic flaws that result in needless suffering or loss of life.

“Resurrection” Exposes Confession under Torture

BY LENG WANBAO

Known cases of wrongful murder convictions raise questions over how many other innocent people have been imprisoned or executed.

Recently the news media reported a shocking case of manufactured evidence exposed by the sudden “resurrection” of Zhang Zaiyu, a Hubei woman supposedly murdered by her husband, She Xianglin. Although She managed to escape a death sentence, he was sentenced to 15 years in prison, where he remained until his wife’s unexpected reappearance earlier this year.

This is by no means the only case of a man wrongfully convicted of killing his wife. In 1986, Li Huawei, a cement factory worker in Yingkou County, Liaoning Province, returned home and found his wife murdered. He immediately reported the matter to police, but was soon detained himself, and after three years in a detention center, he was convicted of murder by the People’s Court and sentenced to death, suspended for two years, with permanent deprivation of political rights. He ended up spending 15 years in prison.

In April 1998, Wang Xiaoxiang, a female police officer with the communications bureau of the Kunming Public Security Bureau, and Wang Junbo, the deputy director of Kunming’s Lu’nan County Public Security Bureau, were found shot to death in a car. Du Peiwu, Wang Xiaoxiang’s husband and himself a police officer, was arrested on suspicion of murder. On February 5, 1999, the Kunming Intermediate Court found Du Peiwu guilty of murder and sentenced him to death. On appeal the death sentence was suspended for two years, and Du Peiwu was sent to Yunnan Province No. 1 Prison.

In both cases the actual murderer was eventually apprehended and the truth came to light, but by then the innocent

men had spent many years in prison. It’s hard to know how many such wrongful convictions have occurred in China.

In all of these cases, the authorities manufactured their so-called “evidence” and then carefully embroidered it to develop the frame-up. Confession by torture is one of the main methods used by police to obtain so-called evidence for a case. Let’s look at how the investigations against these three men were carried out:

She Xianglin described how he was tortured into a confession: “Take a look at this finger—one joint went missing in prison. Look at my toes—even now they still haven’t straightened out. Look at my leg here, and here, those scars. Was there any way out for me? Once you’re inside, you’re lost. Think about it—they locked me up for ten days and nights and interrogated me around the clock, alternated with beatings and haranguing. I wasn’t allowed to sleep. Who could stand up under that? Finally, when I was dazed and confused, they thrust a pile of stuff in front of me and told me to sign it and stamp my fingerprint—you think you wouldn’t have done it?”¹

Li Huawei said, “The police said to me, ‘There’s blood on your collar, you’re the murderer . . . Admit it.’ When I refused to confess, the police interrogated me under torture for three days and nights . . . The lead investigator, surnamed Sun, said, ‘This is what will happen: your father is a Party member, your mother’s health is poor, your younger brother is preparing to marry. If you don’t confess, they’ll be rounded up, too, and it’ll be even worse for you.’ For days in a row they had me stand straight with my head against the wall while they took turns sleeping, drinking, eating and torturing me. I couldn’t bear the torture, the threats, the intimidation; especially when they detained my mom and brought her in—I couldn’t take it any

more. Sun told me to repeat everything he said, and he led me through a statement that would meet their purpose.”²

After Du Peiwu was detained, investigators Qin Bolian and Ning Xinghua interrogated him continuously without allowing him to sleep, and beat and kicked him or instructed other officers to do so. They hung him from the door by his handcuffed hands, and repeatedly removed the stool from beneath his feet, or yanked on a rope tied around his feet, so that his full body weight bore down on his cuffed hands. When Du could no longer withhold his cries of pain, the officers tied a gag around his mouth, then made him kneel on the floor and struck him with electric batons until Du finally relented and “admitted” he was the murderer and identified the “crime scene.”³

If even a police officer such as Du Peiwu could be subjected to such torment by his own brothers in the profession, the experiences of ordinary people can only be imagined with fear and trembling.

In the bleak history of China’s political and legal system, these three innocent husbands can be considered “lucky,” as the truth eventually came out. In She’s case the dead woman was “resurrected,” and in the others the actual killers were finally apprehended and brought to justice. But if the real killer or a “resurrected” dead person is the only evidence that can vindicate the wrongfully accused, this is a horrific burden of proof indeed. If the dead person remains dead, and the real culprit is never apprehended, the authorities will continue to maintain their “iron-clad” case.

From these cases of wrongly accused husbands, it is easy to see that the authorities’ handling of a case is dominated by initial suspicions and first impressions, and the Party’s policy of heavier punishment for those who refuse to confess leads the authorities to rely heavily on “statements,” while neglecting physical evidence that might vindicate the suspect.

For example, a year after She Xianglin’s wife was “killed,” someone reported seeing the “victim” somewhere else. The authorities not only did not believe the report, but intimidated the witness and his family. Investigators, rewarded with promotions and salary increases for successful cases, are well motivated to burnish the image of official infallibility.

Judicial officials are certainly aware that the use of confession under torture in processing cases is the rule rather than the exception in China. The courts are supposed to be the last bastion of justice, but because the courts do not enjoy true independence and are merely the tools of the Party and the government, with political legal committees routinely serving as the real deciding force in a judgment, the courts regularly give the green light to abusive and unlawful actions by officials, aiding and abetting the authorities in their frame-ups of innocent people.

As it is impossible to rely on the present law enforcement bodies to eradicate confession under torture and manufactured evidence, the national legislative bodies need to establish new laws granting criminal suspects the “right to remain silent” and the right to have a lawyer present, and providing for

audio-visual recordings of interrogations for presentation in court. Such measures would help ensure that the personal and legal rights of criminal suspects are not infringed, and could help a suspect present evidence supporting his innocence in cases where coerced confessions are used. In addition, there should be stipulations against the use of unlawfully obtained evidence—not only should such evidence be banned from court, but the police officers responsible for obtaining it should be punished.

The central government should also guarantee the right of citizens and their families to appeal and petition. In the case of She Xianglin, when She’s family attempted to appeal and petition on his behalf, officials refused to follow the appropriate legal processes, and even applied pressure tactics, throwing She’s mother and elder brother into detention as a means of preserving their “iron-clad case.” Appeals and petitions should not be considered a scourge, but a means by which the families of the unjustly convicted might obtain justice. Only those with genuine grievances would take the trouble to appeal or petition, and most of these people have been driven to desperation. The government should not consider those who appeal and petition to be destabilizing factors in society, but rather as a reflection of the true source of social instability: a political and legal system that frames innocent people, and officials that deprive them of their legal rights.

Of course, these suggestions are really just stop-gap measures. What matters is whether the government leadership can set up an equitable system with genuine oversight. If not, any claims of protecting the rights of Chinese people are nothing more than empty words. I would like to conclude with one final point: if the authorities are unable to protect the lawful rights of Chinese citizens, then the existence of these authorities is not only of no value to the ordinary people, but is actually harmful to them. In this situation, the authorities will not only disregard the Constitution, but will consider the abuse of ordinary people the key to maximizing their personal benefit.

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1. Quoted in Wang Xin, “She Xianglin an—yuan’an weihe bianchengle ‘tie’an’?,” published on the Web site of *People’s Daily*: <http://www.people.com.cn/GB/news/25064/3300177.html>.
2. See “Jingshi yuan’an,” published on the Web site of *Legal Daily* (Fazhi Rebao): http://www.legaldaily.com.cn/gb/content/2000-12/22/content_10791.htm.
3. An account of this case, published in *China Youth Daily* on August 21, 2000, is accessible on the Web site of *Epoch Times*: <http://www.epochtimes.com/gb/1/7/20/n111283.htm>.