LEGAL REFORM AND ACCOUNTABILITY

MO SHAOPING  A RIGHTS DEFENSE LAWYER TAKES THE LONG VIEW
HE QINGLIAN  OFFICIALLY SANCTIONED CRIME AND PROPERTY RIGHTS
MARGARET K. LEWIS  TRANSNATIONAL LEGAL ASSISTANCE AND HUMAN RIGHTS
CHINA’S DEATH PENALTY REFORMS
HEPATITIS B AND ANTI-DISCRIMINATION REFORM

HU PING  THE JUNE 4TH MASSACRE AND CHINA’S ECONOMIC MIRACLE
HRIC PODCAST SERIES  REMEMBERING TIANANMEN 1989
OFFICIAL ACCOUNTABILITY AND THE 1957 ANTI-RIGHTIST CAMPAIGN

PLUS A RESOURCE LIST ON LAW IN CHINA, SUPPORTING LAWYERS IN DETENTION

FEATURES, POETRY AND BOOK REVIEWS, JOURNALISTS AND THE 2008 OLYMPICS
Legal reform is a theme periodically revisited in CRF, and articles in this issue illustrate why: the legal system is relevant not only to the administration of justice and the treatment of detainees, which directly affect only a minority of people, but also to aspects of everyday life, such as employment, land use and publication, that affect virtually everyone. A legal system that fails its residents in these everyday areas ultimately deprives the mass of residents of basic human rights to shelter, subsistence and free expression.

The Chinese authorities are making an effort to address systemic shortcomings in both criminal justice and basic rights. For example, this year the Chinese government initiated reforms to the death penalty system, aimed at reducing the possibility of innocent people being executed for crimes they didn’t commit. Other reforms recognizing private land ownership are a significant step for a government that previously considered all property to be communally owned by the state and the masses. In both case, the greatest challenge to reform is long-standing abuse: the routine extraction of confessions through torture, and the forcible confiscation of land without appropriate compensation. Systemic problems such as restricted access to or intimidation of legal counsel, and official suppression of protests and petitions, compound the likelihood of injustice or abuse.

Another more general challenge to reform is official reluctance to acknowledge error. This issue of CRF revisits the violent suppression of unarmed protesters in June 1989, along with recent attention to a much earlier outrage, the Anti-Rightist Campaign, which marks its 50th anniversary this year. The unanswered demands of this campaign’s victims, most of whom are now elderly or dead, bodes ill for hopes that the authorities will acknowledge accountability for those killed or injured in the June 4th crackdown. Yet, official accountability is an essential element of the rule of law that must drive any genuine reform.

China’s important steps toward legal reform deserve and require more than lip-service. In addition, they need input and support from the public whose interests they serve. Voices such as those represented in this issue of CRF can serve the Chinese government in identifying the gaps in reform, and measuring success in filling them.

On a lighter note, readers will notice our new layout, which we hope will make CRF more reader-friendly. We welcome readers’ feedback on this and all other aspects of CRF.

— Stacy Mosher, Editor
## TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Page</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Letter from the Editor</td>
</tr>
<tr>
<td>6</td>
<td>Contributors</td>
</tr>
<tr>
<td>8</td>
<td>News Roundup&lt;br&gt;&lt;em&gt;Mid-February to April 2007&lt;/em&gt;</td>
</tr>
</tbody>
</table>

### Legal Reform and Accountability

<table>
<thead>
<tr>
<th>Page</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>19</td>
<td>Foreword: Circling Towards Law&lt;br&gt;&lt;em&gt;Sharon Hom&lt;/em&gt;</td>
</tr>
<tr>
<td>23</td>
<td>Song of the Willow&lt;br&gt;&lt;em&gt;A poem by Ouyang Xiaorong&lt;/em&gt;</td>
</tr>
</tbody>
</table>

### REFORM AND REALITY

<table>
<thead>
<tr>
<th>Page</th>
<th>Title</th>
</tr>
</thead>
<tbody>
<tr>
<td>26</td>
<td>China’s Death Penalty Reforms&lt;br&gt;&lt;em&gt;This HRIC Issues Brief examines recent reforms to China’s death penalty system, and the remaining loopholes in safeguarding human rights.&lt;/em&gt;</td>
</tr>
<tr>
<td>39</td>
<td>The Mystery of China’s Death Penalty Figures&lt;br&gt;&lt;em&gt;Wang Guangze believes increasing transparency over capital punishment in China is necessary and inevitable.&lt;/em&gt;</td>
</tr>
<tr>
<td>44</td>
<td>Officially Sanctioned Crime and Property Rights&lt;br&gt;&lt;em&gt;In this excerpt from an upcoming report, He Qinglian investigates how corruption and abusive practices nullify China’s legal measures to protect property rights.&lt;/em&gt;</td>
</tr>
<tr>
<td>58</td>
<td>Wheeling and Dealing in Real Estate&lt;br&gt;&lt;em&gt;A poem by Zhao Fei&lt;/em&gt;</td>
</tr>
<tr>
<td>59</td>
<td>Property Law, Compensation to Rightists, and My Family Property&lt;br&gt;&lt;em&gt;Liu Zili ties compensation for seized property to the wider issue of political accountability.&lt;/em&gt;</td>
</tr>
<tr>
<td>63</td>
<td>Why China Needs a Press and Publications Law&lt;br&gt;&lt;em&gt;Li Pu and Wang Jianxun call for legislative protection against arbitrary censorship.&lt;/em&gt;</td>
</tr>
<tr>
<td>67</td>
<td>Hepatitis B: A Catalyst for Anti-Discrimination Reforms?&lt;br&gt;&lt;em&gt;Bonny Ling and Wing Lam look at the struggle of HBV carriers to protect their basic rights, and how resulting reforms might be applied to other forms of discrimination.&lt;/em&gt;</td>
</tr>
</tbody>
</table>

We welcome unsolicited articles and letters. The opinions expressed in this journal are not necessarily those of HRIC.

**EDITORIAL ADVISORY BOARD**
- Ian Buruma
- Cheng Xiaonong
- Sharon Hom
- Hu Ping
- Perry Link
- Andrew Nathan
- Yan Li

**EDITOR**
- Stacy Mosher

**EDITORIAL ASSISTANTS**
- Carol Wang
- Elisabeth Wickeri

**DESIGN AND PRODUCTION**
- Jenny Dossin

**PUBLICATION DATE**
- JUNE 2007

All copyright © China Rights Forum
ISSN 1068-4166

Send subscriptions, related correspondence, letters to the editor, and submissions to:

**HUMAN RIGHTS IN CHINA**
350 Fifth Avenue Suite 3311
New York, NY 10118
tel: 212 239 4495
fax: 212 239 2561
e-mail: hrichina@hrichina.org
web site: www.HRChina.org
CONTRIBUTIONS TO HRIC
ARE TAX DEDUCTIBLE

ACCOUNTABILITY FOR PAST INJUSTICES

134 Voices of Tiananmen: The HRIC Podcast Series
Feng Congde interviews participants of the 1989 Democracy Movement in an ongoing series surrounding the movement, the crackdown and the aftermath.

145 Remembering Li Hai
A poem by Ouyang Xiaorong

151 Tiananmen, 1989: An Outside View
Wei Liu recalls the impressions the 1989 Democracy Movement made on Chinese youth, even from a distance.

157 Selection from a Banned June 4th Poetry Collection
Translations of some poems compiled by Jiang Pinchao to commemorate the 18th anniversary of the Tiananmen crackdown.
162 **The June Fourth Massacre and China’s Economic Miracle**
Hu Ping analyses how the 1989 Tiananmen crackdown set the stage for the most coercive and inequitable aspects of China’s economic reform.

171 **Who Will Compensate Victims of the Anti-Rightist Campaign?**
Shao Yanxiang argues that as the inheritor of Mao Zedong’s regime, the Chinese government owes a historical debt to victims of Mao’s Anti-Rightist Campaign.

179 **Petitioning for Redress over the Anti-Rightist Campaign**
Two petitions make moral, legal and constitutional arguments why victims of the campaign deserve compensation.

190 **Some Deaths are More Equal than Others**
Li Jianhong finds that tragedies occurring around the same time in China and the United States illustrated the different levels of concern their respective governments and media pay to victims.

**REGULAR FEATURES**

196 **OFF TOPIC: Bridging the Gap: Experiences and Attitudes in Sino-African Relations**
Carol Wang and Danielle Flam explore the interpersonal dimension behind China’s increasing diplomatic and business ties with African states.

209 **OFF TOPIC: Seeing Green: Standing Up for Farmers in Chongqing**
Li Miao Lovett talks with grass-roots environmentalists battling corporate giants in a major industrial center.

215 **Book Reviews**
*Reviews of Ruyan@SARS.com, by Hu Fayan; Zhao Zhiyang: Captive Conversations, by Zong Fengming; Two Kinds of Truth: Stories and Reportage from China, by Liu Binyan; and the postscript to China’s Bastille, by Li Guiren*

221 **Resource List**
*Online materials relating to law and legal reform in China*

226 **Take Action**
*Lawyers in prison or under surveillance*

232 **Bulletin**
*HRIC’s activities in February–May 2007*

235 **Incorporating Responsibility 2008:**
*FAQ: Foreign Journalists Operating in China During the 2008 Beijing Olympics*
THIS ISSUE’S WRITERS

A.E. Clark is a friend of HRIC.

Donghai Yixiao (Xu Zhangfa) is a prolific poet and essayist based in Hangzhou.

He Qinglian, an economist and author of China’s Pitfall and Media Control in China, is a senior researcher in residence with HRIC.

Sharon K. Hom is the executive director of HRIC and professor of law, emerita, CUNY School of Law.

Hu Ping is chief editor of the New York-based Chinese-language monthly Beijing Spring, and is a member of the board of directors of HRIC.

Le Shangjia is a journalist based in Shanghai.

Margaret K. Lewis is a research fellow at New York University School of Law’s U.S.-Asia Law Institute, where she focuses on criminal justice issues in China.

Li Guiren was editor-in-chief of the Hua Yue Literature and Art Publishing House in Shaanxi until he was imprisoned for trying to organize a protest after the June 4th crackdown.

Li Jianhong, based in Shanghai, writes about China’s disadvantaged. She was detained briefly in 2006 while on hunger strike protesting the harassment of rights defenders.

Li Pu is former deputy head of the China’s official Xinhua News Agency. He was one of only two directorate-level officials who openly supported the 1989 Democracy Movement.

Liu Zili is a writer based in Beijing.

Liu Xiaobo is a dissident intellectual based in Beijing. He was a key participant in the protests at Tiananmen Square in 1989.

Li Miao Lovett is a freelance journalist who has written for the San Francisco Chronicle, Sierra Club Planet, the environmental news service Planet’s Voice and local public radio.

Mo Shaoping is one of China’s most prominent rights defence lawyers. He is based in Beijing.

Ouyang Xiaorong, trained as an engineer, is a young poet based in Kunming.

Qj Yanchen is an economist based in Hubei Province. In 2000 he was sentenced to four years in prison on charges of subversion for articles he wrote that were posted on the Internet.

Shao Yangxiang, a prominent poet and essayist, was labeled a rightist in 1957. He is currently the director of the Chinese Writers Association.

Tenzin Tsundue is a Tibetan poet and the general secretary of the Friends of Tibet (India).

Clare Turnbull is a research associate with the Manchester-based Omega Research Foundation, an organization focusing on human rights, torture and the arms trade.

Wang Guangze was dismissed as a reporter for the 21st Century Business Herald in Guangdong Province after he gave a speech in the U.S. on Chinese politics and the Internet in November 2004. He now lives in Beijing.

Wang Jianxun is a former editor of the Worker’s Press. He contributed to a biography of Hu Yaobang published in Hong Kong in 2005, which mainland authorities attempted to suppress.

Wei Liu, born in China in 1970, came to the U.S. in 1999 and obtained two M.A. degrees in English. He works as a freelance writer and translator.
**Xiao Qiang** is the founder and chief editor of the Berkeley-based China Digital Times news portal. He is the former executive director of Human Rights in China.

**Yang Jianli** came to the U.S. after participating in the 1989 Democracy Movement, but was imprisoned in China in 2002 after he returned using a friend’s passport. He was released from prison on April 27, 2007.

**Yuan Hongbing**, a native of Inner Mongolia, headed up university law programs in China until his political writings led him to obtain political asylum in Australia in 2004.

**Zhao Fei** is a poet who teaches at a secondary school in Xuecheng City, Shandong Province.

**Bonny Ling, Carol Wang, Cliff Ip, Feng Congde, Tina Nguyen, Elisabeth Wickeri, Si-si Liu, Cliff Ip and Wing Lam** are staff of Human Rights in China. **Danielle Flam, Dominic Yau and Vivian Shen** were interns with HRIC.

**THIS ISSUE’S TRANSLATORS**

**Caitlin Anderson** is a doctoral candidate in pre-modern Chinese literature at Princeton University.

**Kevin Carrico** is an incoming graduate student in anthropology at Cornell University. He can be reached at kevinjocarrico@yahoo.com.

**Paul Frank** translates from Chinese, German and French. He lives in Switzerland and can be reached at paulfrank@post.harvard.edu.

**Nancy Li**, based in Paris, provides translation and interpretation services in Chinese, English and French for international organizations and for TV networks such as the BBC and Yorkshire Television.

**Wang Ai** is a New York-based writer and translator, and treasurer of the Independent Chinese PEN Center.

Our thanks also to three other translators who preferred not to be credited by name.

**DIRECTORS**

*Co-chairs* Christine Loh, Andrew J. Nathan  
*Executive Director* Sharon Hom  
*Secretary* Cheuk Kwan  
*Treasurer* R. Scott Greathread  
*Chair Emeritus* Robert L. Bernstein

William Bernstein  
Ian Buruma  
Cheng Xiaonong  
Han Dongfang  
Hu Ping  
Li Jinjin  
Li Lu  
Liu Qing  
Robin Munro  
James Ottaway, Jr.  
Megan Wiese

*Honorary Directors* Joseph L. Birman  
Marie Holzman  
Robert G. James  
Joel Lebowitz  
Torbjörn Lodén  
Paul Martin  
Nina Rosenwald  
Ruan Ming  
Anne Thurston
For updated monthly summaries on current events regarding media censorship, human rights defenders, petitions and protests, labor and death penalty, see our online Monthly Briefs at www.hrichina.org.

MEDIA CENSORSHIP

New cyber cafes prohibited
Under a new notice issued in mid-February, no new cyber cafes will be allowed to open in 2007. Starting in July, the government will ban the opening of new Internet cafes in a campaign to clamp down on online addiction and juvenile crime. Freedom-of-expression organizations say it is an attempt to control the spread of politically sensitive information. (Wen Wei Po, Guardian)

French Web site blocked
A France-based Web site could not be accessed after it had published an article that warned of investment risks in China in late February. (RFA)

Tibetan dissident’s blog blocked
Tibetan writer Woesser’s foreign-based blog was blocked in China on February 6, one day after it went public. (RFA)

Official denies banning books
A senior publishing official denied reports on February 9 that the General Administration of Press and Publication (GAPP) banned eight books recently. The GAPP was criticized by mainland and overseas intellectuals in the beginning of February for imposing ideologically-based bans. (SCMP)

Blog of protesting lawyer shut down
Pu Zhiqiang, one of the four lawyers who protested censorship of the Xinlang (“New Wave”) blog on Sina.com, had his own blog on Sohu.com shut down on February 13. Pu, along with lawyers He Weifang, Xiao Han and Xu Zhiyong, had in early February initiated an online campaign demanding an explanation for the removal of postings from the Xinlang blog. (RFA)

Aftermath of beating death of journalist
Following the fatal beating of journalist Lan Chengzhang by thugs employed by a Shanxi Province coal mine owner, four management-level employees of Beijing-based China Trade News, the newspaper that employed Lan, were dismissed in March. One anonymous employee said the newspaper made the dismissal decision itself, while critics believe the dismissed employees were merely scapegoats.

Mine owner Hou Zhenrun and six others went to trial on April 30 before the Linfen Intermediate People’s Court on charges related to Lan’s death. (BBC, RFA)

Victims of anti-rightist campaign seek compensation
Sixty-one victims of the anti-rightist campaign submitted an open letter to the country’s top leaders on March 4, seeking a public apology and financial compensation for their trauma. (SCMP)

Five journalists beaten
Five journalists from mainland China and Hong Kong were beaten by security officers or unknown assailants while trying to report on three separate incidents in Nanjing, Guangxi and Guangdong Province in February. (RFA, EastDay)

Seizing of books on Mao Zedong
The Guardian reported in early March that customs officers
in Tianjin began stepping up inspections and seizing books on Mao Zedong, according to an international shipping agent who asked not to be identified because his business depends on government cooperation. (Guardian)

**Yahoo! cleared of violating privacy laws**

Hong Kong investigators announced on March 4 that there was not enough evidence to convict Yahoo! Hong Kong of providing private information that helped convict Shi Tao of leaking state secrets, for which he was sentenced to 10 years in prison in 2005. (TT)

**Magazine’s latest issue pulled**

On March 14, the editor-in-chief of *Caijing* magazine admitted that the original version of the magazine’s latest issue had been withdrawn due to pressure from unnamed authorities. The magazine had planned to publish an article exploring the implications of the draft Property Law to be decided on at the annual NPC meeting in Beijing. However, Chinese authorities prevented the article from going to press until a number of changes were made. (RFA)

**Foreign journalists barred from interview on riot**

BBC journalists tried to carry out interviews on a riot in Hunan in mid-March, but were told by the police that the regulations relaxing controls on foreign journalists’ reporting activities prior to the Olympics were only for “Olympic-related stories.” The BBC team was then sent away. (BBC)

**Web site apologizes for censorship**

In mid-March, the Web site Sina.com apologized to rights defender *Zan Aizong* for removing his blog entries, and allowed them to be republished. (RFA)

**Premier’s remarks censored**

In mid-March, Xinhua removed from its Web site comments by Premier Wen Jiabao about a book on Zhao Ziyang published in Hong Kong. Wen was responding to a question from a journalist during a press conference. A full transcript of the remainder of Wen’s comments was provided on the Xinhua Web site. (RFA)

**Editor imprisoned for ‘inciting subversion’**

The Intermediate People’s Court in Ningbo, Zhejiang Province on March 19 sentenced Zhang Jianhong (pen-name Li Hong), former editor-in-chief of the Aiqinhai (“Aegean Sea”) Web site, to six years’ imprisonment on charges of inciting subversion through the publication of anti-government essays. (Reuters)

**Internet reports on “nail house” banned**

In late March, China banned several Internet reports concerning a household’s resistance to eviction in Chongqing. In addition, a Web site was ordered to pull reports on a forced eviction that took place on March 27 and 28 in Guangxi Province. (RFA)

**Journalist takes local government to court**

Sheng Xueyou, a Beijing-based journalist, took the Qitaihe municipal Office of Law and Order to court in what may be the first defamation case against a local government agency. The Office of Law and Order had stated that Sheng lacked journalistic ethics when he criticized an arbitration committee in Qitaihe over coal mine disputes. Sheng has demanded an apology and compensation of 200,000 yuan. (CER, SCMP)

**Documentary exhibition cancelled for film on Cultural Revolution**

A documentary exhibition, originally scheduled to start on April 6 in Yunnan Province, was delayed indefinitely for including a film about the Cultural Revolution. (RFA)

**CCTV journalists beaten**

Three CCTV journalists were beaten by unidentified thugs in early April while trying to report on pollution caused by a factory in Hebei Province. (RFA)

**More French web sites blocked**

After the Web site of Observatoire International des Crises (OIC) was blocked in late March, two other French Web sites, Dailymotion.fr and Canalblog.com, also became inaccessible in China in early April. (RFA)
**“Expunge vulgarity”**
The State Administration of Radio, Film and Television on April 10 called for intensified efforts to “expunge vulgarity from the airwaves” in order to “promote core socialist values and cultivate a harmonious cultural environment.” It warned TV and radio stations against “vulgar and low-taste” program content driven by viewer ratings. (SCMP)

**New campaign to restrict illegal web activity**
The Ministry of Public Security (MPS), along with nine other government departments, announced a new campaign on April 12 to restrict the spread of pornography on the Internet. In the next six months, the ministries plan to crack down on distribution of pornographic materials and the organization of cyber strip shows, and to purge the Web of sexually-explicit content. Illegal online lotteries and contraband trade will also be shut down. (XH)

**Yahoo! sued**
The World Organization for Human Rights USA filed a lawsuit against Yahoo! on April 18, on grounds that the Internet company revealed information that assisted the Chinese government in arresting political dissidents. The organization wants Yahoo! to actively pursue the release of those detained as a result of its actions. Plaintiffs include Wang Xiaoning, who was sentenced to 10 years, and his wife, Yu Ling.

Yahoo! has acknowledged turning over data on its users at the request of the Chinese government, saying company employees face civil and criminal sanctions if they ignore local laws. The lawsuit, filed under the U.S. Alien Tort Claims Act and the Torture Victims Protection Act, is believed to be the first of its kind made against an American Internet company. (Times)

**Editor demoted over sensitive cover story**
Former executive editor Miao Wei of *Sanlian Life Weekly* confirmed on April 27 that he was demoted for publishing a sensitive cover story on the Gang of Four. (RFA)

**June 4th poetry book confiscated**
In late April, Chinese officials were reported to have intensified their efforts in confiscating copies of a June 4th poetry book. (RFA)

**Forced abortions**
Also in late April, victims of forced abortions in Guangxi Province were warned not to talk to the media. (RFA)

**Local TV station shut down**
A television station created by a village committee in Xi’an, Shaanxi Province, was shut down at the end of April because it violated the Regulation on Broadcasting and Television Administration, which stipulates that TV stations can only be created by people’s governments at the city level or above. (RFA)

**PETITIONS AND PROTESTS**

**Number of petitions drop: China**
According to the Chinese authorities, the number of petitions dropped by 15.5 percent in 2006 compared to 2005. (EastDay)

**Illegal “petitioners’ education center” in Shandong**
It was reported in February that petitioners in Shandong Province were being detained in a “petitioners’ education center” in Yantai City, where they were held illegally and subjected to regular physical and verbal abuse by education center personnel. (HRIC)

**Same-sex marriage demonstration in Beijing**
On February 14 there was a demonstration in Beijing promoting the legalization of same-sex marriage. It was believed to be the first public protest for this cause in China. (PinkNews)

**Village representatives prosecuted over protests**
Shenzhen authorities have taken measures against a number of residents for protesting the construction of the new Shenzhen-Hong Kong Western Corridor. Since last October, about 500 villagers have been organizing protests at the municipal government building against the construction,
planned as close as 90 meters from some of their homes. The recent crackdown resulted in the indictment of a dozen village representatives on charges of “disrupting social order” or “organizing illegal demonstration.” (RFA)

78-year-old petitioner sentenced
Seventy-eight-year-old petitioner Shuang Shuying was sentenced to two years’ imprisonment on February 26 for “intentionally damaging property.” Her oldest son, who attended the trial, was not convinced by the evidence presented by the prosecution regarding the damage she caused to a passing vehicle and a computer monitor used by petitioners. Shuang said she would appeal. Her second son was arrested at the same time and is awaiting trial. (RFA)

Environmental protesters arrested
Ten Guangxi farmers who had participated in a protest in January 2007 have been put under criminal detention for committing the crime of “interfering with official duties” before the Chinese New Year. Three have since been released, while the other seven reportedly received formal arrest notifications from the Guangxi People’s Procuratorate on January 19, 2007. About a hundred farmers staged a protest against a local paper-making factory for causing severe environmental pollution in the locality.

Elsewhere in Guangxi, some 2,000 villagers clashed with police on April 16 during a protest over serious pollution caused by an electroplating plant. The authorities used tear gas to disperse the crowd. Six protesters were severely injured and more than 10 arrested. According to the villagers, the amount of manganese in their river water is 30,000 times higher than acceptable standards. (RFA)

Roundup of petitioners ahead of/during NPC and CPPCC sessions
Beijing authorities stepped up action against petitioners ahead of the two sessions in late February and early March. More than 500 petitioners were taken away on the night of February 28, and petitioner Zhou Li said the local authorities had offered her a free trip to Hainan Province if she would not petition in Beijing during the meetings. Witnesses said public security officers took away another 100 petitioners on March 7, while the NPC and CPPCC conferences were underway. Some longtime petitioners were reportedly sent to reeducation-through-labor centers or placed under administrative detention. (RFA)

The Ministry of Public Security (MPS) on March 30 denied ordering controls over petitioners in Beijing during the NPC and CPPCC sessions. A newspaper reported on March 16 that the MPS had issued an order stipulating that local authorities would be fined 10,000 yuan for every petitioner from their locality caught in Beijing. (Ming Pao)

Protests over bus fares
Protests erupted in Hunan Province after a local firm took over bus routes in Zhushan Town and doubled the fares. Complaints came initially from the parents of elementary school children, who began protesting on March 9. They were joined by others over the weekend, with the number of protesters reportedly reaching 20,000. The protests became violent on March 12 as 1,000 police in riot gear clashed with demonstrators and vehicles were burned. One person was reported killed, though this was denied by the Xinhua News Agency. (BBC)

Villager dies in Guangdong land clash
It was reported on March 22 that one villager was beaten to death and another was in critical condition after a conflict between construction workers and residents of Guanzhou Island in the Haizhu District of Guangzhou City. Villagers were angered by the seizure of farmland to build an international biosphere as part of a controversial “College City” project. Four people were later detained in connection with the protest, including three villagers who had been beaten and a village vice-head who had allegedly failed to control the situation. (RFA)

Residents block railway tracks
On March 22, residents of Guixi, Jiangxi Province, blocked railway tracks for six hours to protest a government redistricting plan that they feared could reduce social welfare benefits. An estimated 200 people participated in the protest, while several hundred more looked on. Provincial police arrived on the scene to contain the protest, but there were no reports of arrests or injuries. (AP)
Newspaper urges officials to refrain from using force to control protests
A state-owned newspaper, The Study Times, on March 22 urged government officials at all levels to refrain from using force to control protests. The article stated that police should only use force in cases where mass incidents have violated laws and regulations, and the use of firearms should be undertaken with caution. The article also encouraged officials to make more effort to prevent mass incidents from erupting. (XH)

Study shows worrying situation for petitioners
On April 5, it was reported that a survey by the Chinese Academy of Social Sciences (CASS) found that the situation of petitioners in Beijing remained serious. Seventy-one percent of the respondents said they had been beaten, and 64 percent had been detained. Moreover, 71 percent of the respondents believed that persecution and violence by local authorities against petitioners had increased after the new petitioning regulation was passed in 2005. (NW, VOA)

Whereabouts of petitioner unknown after detention
The whereabouts of Jiangsu petitioner Su Jilan, placed under criminal detention for 23 days between March and April, remained unknown following her release. An official told Su’s husband that she was attending an education class, but did not tell him where the class was being held. (RFA)

Henan HIV/AIDS patients protest medical treatment
More than 300 people infected with HIV/AIDS from Checheng County, Henan Province, petitioned the Chengzhou government on April 11 over the insufficient supply and poor quality of medicine they received from the government. Most of the petitioners were infected with the HIV virus after they donated blood at government-backed blood-collecting stations in the 1990s. Another HIV/AIDS patient, Sun Ailing, was beaten while trying to petition the Henan Bureau for Letters and Petitions on April 5. She was later warned not to continue attending AIDS-related gatherings, or her free drugs would stop. (RFA)

Vice-mayor detained in protest
Anhui workers held a vice-mayor in a factory during a wage protest on April 16. (Ming Pao)

“Nail houses”
Throughout April, reports of private property owners holding out against the government and major land developers flooded the Internet. In Chongqing, one well-known “nail house,” where owners refused to leave despite massive redevelopment in the area surrounding their property, was finally demolished on April 2. On April 22, eviction petitioners in Chengdu were threatened with arrest if they spoke to Radio Free Asia, which officials described as an “illegal media organization.” (RFA)

Shanghai petitioners detained
More than 200 Shanghai petitioners, including Ma Yalian, Chen Enjuan, Sun Xicheng and Xi Guozhen, protested at the offices of the official Party paper, Liberation Daily, on April 11, claiming that an article published on April 9 presented a distorted picture of the plight of petitioners. More than 100 police officers reportedly confronted the petitioners and forcibly loaded them into police vehicles, after which they were taken to a secondary school in Shanghai’s Huangpu District and held until evening. On the following day, around 30 petitioners went to see district head Chen Anjie during his regular public session for petitions, but no one was willing to meet with them. They proceeded to the district government office, where they were confronted by a dozen police officers, and one petitioner, Chen Suqin, was reportedly knocked unconscious. Chen was taken to a hospital for treatment, but then taken away by police. Two other petitioners, Zhang Hui and Liu Shan, were also detained. (HRIC)
**Protesters sentenced**

Liu Dehuo, a protest organizer who had demanded compensation for land seized by a local company, was sentenced on April 13 to four years in prison in Nanhai County, Guangdong Province. Six other protesters were also sentenced on the same charges to prison terms ranging from two years and six months to four years. (Reuters)

**Suicide bombing over land dispute**

Farmer Yue Xiaobao detonated explosives strapped to his body as he approached officials from Lishan Village, Yunnan Province, on April 15. Village leaders had destroyed Yue’s crop and forced him to plant tobacco. Yue and Lishan village leader Ren Xuecai were killed immediately, while nine others were expected to lose their eyesight, according to the *Beijing Times*. (AFP)

**Evictions continue for Olympic construction**

Construction workers on April 20 began demolishing a home belonging to a Beijing family that had held off eviction for over five years. Angry neighbors protested the demolition, while Li Xiuyun said her 80-year-old husband and 20-year-old mentally-impaired son remained inside the building. The family claims that a Beijing court ruled in 2003 that the developer—New World China Land—had no right to evict them because it had never presented them with an eviction order or paid them compensation. Similar incidents have become common across Beijing as part of a building boom ahead of the 2008 Olympic Games. (AP)

**Tibet protesters on Mount Everest**

Five Tibetan activists, including one Tibetan American, Tenzin Dorjee, 27, staged a protest at the Tibet base camp of Mount Everest on April 25. They were protesting the Beijing Olympics, and specifically, Tibet as a stop on the route of the Olympic Torch. Dorjee was taken into custody on April 25, along with Kristen Westby, Laurel Mac Sutherlin and Shannon Service, while Jeff Friesen was detained on April 26. Service told Associated Press that the detainees had been deprived of sleep for over 30 hours, and of food and water for over 14 hours, and that they had been menaced and intimidated. The detainees were all released early on April 27, and transferred to Kathmandu, Nepal. (SFT)

**HUMAN RIGHTS DEFENDERS**

**Harassed and abused**

On March 6, Fu Xiancai, a Three Gorges activist who was left paralyzed after an attack last June, appealed to the National People’s Congress (NPC) for redress. A police investigation into Fu’s beating said the activist had inflicted the injuries on himself, and local courts had thrown out the case. (HRIC)

Hubei policeman Wu Youming was dismissed on March 16 after he wrote an open letter detailing and criticizing the tactics used to obstruct petitioners. (RFA)

Gao Yaojie, the 79-year-old doctor and AIDS activist, was placed under house arrest on February 1 to stop her from traveling to an awards ceremony in the United States. Her apartment in Zhengzhou was surrounded by police, and her phone lines were cut. After two weeks of detention in her home and a barrage of international pressure throughout the beginning of February, she was allowed to travel to the U.S. to collect a human rights prize from Vital Voices for her role in exposing and fighting the spread of HIV/AIDS in rural central China in the 1990s.

While in the U.S., Gao found that her email account and that of her son were being blocked in mid-March. An editor who had tried to publish Gao’s work was also fired. During her visit, Gao said the number of illegal blood banks has continued to rise in China, notwithstanding official claims that they had been closed. (Reuters, RFA)

Environmental activist Sun Xiaodi went to Beijing in March for treatment of a life-threatening tumor, and has continued to face serious harassment. Since he was presented with the Nuclear-Free Future Award at the end of 2006, official harassment of Sun has intensified, including constant surveillance, water supply shut-offs and vandalism to his home. While Sun and his daughter were in Beijing, his wife continued to receive threats and harassment from unknown individuals. Sun’s family believes those individuals were hired by local officials, who fear that Sun has actually gone to Beijing to report further on abuses at the No. 792 Uranium Mine. (HRIC)

Shenzhen-based dissident Guo Yongfeng’s Internet access was blocked on April 2 after he launched a signature cam-
campaign advocating political reforms in the Communist Party leadership. (RFA)

Guangxi-based Yang Zaixin was hospitalized after being beaten by thugs on April 8. He suspected the beating might be related to his rights defense activities. (RFA)

Zhejiang-based China Democracy Party member Wu Yuanming, called in to meet with officials from the Domestic Security Protection Section on April 11, was struck by a vehicle and suffered a broken leg. (RFA)

Jiangsu rights defender Shi Fukui was beaten by village cadres in mid-April after he exposed the imposition of excessive fines on violators of the one-child policy. (RFA)

Chinese authorities prevented five human rights lawyers from participating in a conference organized in Hong Kong by a “reactionary organization” on April 21. The event was organized by the China Human Rights Lawyers Concern Group and the Centre for Comparative and Public Law in the Faculty of Law at the University of Hong Kong. (RFA)

Zou Tao, the initiator of the “Don’t Buy Apartments” campaign, said in April that he was giving up his rights defense work due to government pressure. (Ming Pao)

Hubei-based village representative Ma Quandou was attacked by two unidentified knife-wielding thugs on April 23, three days after he revealed irregularities in the finances of the village committee. (RFA)

Disappeared
Li Shuangling, a lawyer from the An Yuan law firm in Beijing, was reported to have disappeared from his hotel in Haizhu District just before a court hearing on March 25. Li was helping residents of Guanzhou Island file lawsuits against the government for being forcibly evicted to make way for a biomedical industries park. His family has not been notified of his whereabouts by officials, who are required to give notification within three days if he has been officially detained. (SCMP)

In detention
Yuan Weijing, the wife of Chen Guangcheng, a blind activist opposing China’s coercive family planning policy, was allowed to visit her husband for 10 minutes on March 1, the first such meeting since Chen was detained a year ago. Chen’s lawyers were informed on March 20 that his request to serve his sentence outside prison had been turned down, holding that Chen’s blindness would not prevent him from taking care of himself inside prison. (WP, RFA)

Yan Zhengxue was sentenced to three years in prison on April 13 on charges of “incitement to subvert state power.” Yan objected to his conviction but decided not to appeal because he believes that China’s judicial system is ineffective. He is scheduled to complete his sentence on October 17, 2009. According to Chinese PEN, the crimes Yan was accused of committing include: 1) being a secret member of the China Democracy Party; 2) publishing articles on foreign Web sites; 3) fundraising for journalist Liu Binyan, and 4) intervening in a land grab incident in Zhejiang. Yan was detained on October 18, 2006, in Zhejiang Province, and was reportedly interrogated under inhumane conditions in March. (RFA, HRIC)

As of March 16, AIDS activists Zhu Longwei and Li Xige had been under house arrest in Henan for nearly two months. Zhu was placed under house arrest in mid-January after being interviewed by a British journalist. Li Xige has been under house arrest since early February and has not been allowed to communicate with the outside world. (RFA)

China Democracy Party member Zhu Yufu was released on March 13 after 10 days of administrative detention. He remained under surveillance following his release. (RFA)

On March 23, the Cangzhou City Intermediate People’s Court in Hebei Province upheld the original verdict for Internet essayist Guo Qizhen, who was sentenced to four years’ imprisonment and three years’ subsequent deprivation of political rights for “inciting subversion of state power.” Guo was tried on October 9, 2006, and found guilty of subversion for posting more than 30 essays criticizing the government. (RFA)

In early April, Beijing-based dissident Ren Wanding was allowed to go to Hong Kong for a medical examination. Ren said on April 10 that he would stay in Hong Kong for a week for health checks and to meet with members of the
city’s democratic camp. Ren was detained in 1979 and spent four years in prison for his role in the Democracy Wall movement. He served another seven years following the 1989 Democracy Movement. Alleged 1989 Democracy Movement “black hand” Chen Ziming was also allowed to visit Hong Kong around the same time. (Guardian)

Rights defense lawyer Gao Zhisheng and his family disappeared from their Beijing home on April 14, a week after Gao revealed the circumstances behind his suspended sentence in a phone call recorded and released publicly by rights activist Hu Jia on April 6. Hu himself was placed under house arrest on April 10. Gao Zhisheng told Hu Jia that the confession that led to his conviction on sedition charges last year had been made under torture and that the well-being of his wife and children was also threatened. (NYT)

Environmental activist Wu Lihong was taken away by police on April 13 and subsequently arrested on charges of blackmail. Wu has been campaigning for years against the pollution of Taihu Lake, which is a major source of drinking water for residents of the border area between Jiangsu and Zhejiang provinces. As of April 30, Wu’s lawyer had been barred from meeting with him. (AFP)

Zhejiang police formally placed dissident Zhu Yufu and his son under criminal detention on April 18 on allegations of “interfering with official duties.” According to Zhu’s wife, her son was beaten and taken away because he refused to let the police enter his home to check if his dissident friend Hu Junxiong was there, and Zhu Yufu was detained when he tried to help his son. Hu Junxiong, who had been dismissed from his job with an IT company on April 12, was placed under house arrest on April 18 for helping Zhu bypass the government’s Internet block. (RFA)

A State Council cadre said on April 25 that the Pan-Blue Alliance was an illegal organization. More than 10 of its members were placed under house arrest, and Cai Aimin and two others were placed under administrative detention for two weeks for trying to welcome Taiwanese politician Lien Chan during his trip to mainland China. Other members were also harassed. In March, he was sent on a “forced vacation” with official escorts so that he would not petition during the NPC and CPPCC sessions. (Ming Pao, RFA)

**Imprisonment**

Guangzhou prison authorities refused to allow the wife of jailed journalist Ching Cheong to have a holiday meal with him on February 14. Authorities said Mary Lau would have to wait until March at the earliest to see him. Ching Cheong has not been allowed to see his wife since he was detained in southern China in April 2005. Lau had applied to have the traditional meal with her husband before the Lunar New Year, but after she was refused, prison officials allowed her a half-hour visit with Ching on February 16. Lau told Hong Kong’s Commercial Radio that her husband’s health was deteriorating in prison, that he is very thin and has constant abdominal pain. (AM, RFA)

Shanghai petitioner Xu Zhengqing has been beaten in prison and subjected to generally abusive conditions since being sentenced in October 2005 to three years in prison on charges of “disrupting public order.” Xu was initially held in Shanghai’s Putuo District Detention Center, but on February 22, 2006 was transferred to Tilanqiao Prison. Xu told his family during a prison visit in February that he had been subjected to a range of physical abuses because he refused to admit wrongdoing or wear a prison uniform. Xu said that he was once placed in restraints used for psychiatric patients for three days and two nights. He was being held in a cell with two prisoners sentenced to life imprisonment, who had reportedly been instructed to watch his every move. Xu’s family visits and telephone conversations are monitored by prison guards, and if he brings up what the guards consider a sensitive subject, the visit or phone call is abruptly terminated. (HRIC)

**Trial developments**

Hong Yunzhou, Zhou Zhirong and Tan Guotai were sentenced to more than a year in prison on April 9 on charges of “gathering crowds to disturb public order” in Hebei Province. They had held a kneeling protest against the rights violations caused by the Three Gorges construction last September. The lawyer of the trio said they were prepared to appeal. (RFA)

Seven Guangdong protesters were convicted on extortion charges on April 10 and sentenced to prison terms of two-and-a-half to four years. The villagers argued that money paid to them by a developer was actually compensation for illegal land grabs. (RFA)
Mao Hengfeng, an activist against China’s one-child policy, was denied her appeal against a two-and-a-half-year sentence for “intentionally destroying property” following a 10-minute session on April 16 at which only her judgment was read. Neither Mao nor her lawyer was permitted to present any argument or evidence. (HRIC)

Ablikim Abdureyim, the son of prominent Uyghur human rights defender Rebiya Kadeer, was convicted on April 17 of “instigating and engaging in secessionist activities” and sentenced to nine years imprisonment and three years deprivation of political rights by the Urumqi Municipal Intermediate People’s Court. (HRIC, UHRP)

The Urumqi Intermediate People’s Court in Xinjiang Province sentenced Canadian Uyghur rights activist Huseyin Celil to life in prison on April 19 for “taking part in terrorist activities and plotting to split the country,” according to a Xinhua report. Chinese officials have not permitted Canada consular access to Celil, or visits by his family or the Red Cross. (IHT, Journal Cretienne)

Environmentalist Zeng Jianyu lost his appeal against his fraud conviction and was sentenced to two years imprisonment by the Luzhou Intermediate People’s Court on April 23. Zeng’s sister argued that the real reason for his conviction was his reports on land grabs and pollution, which had drawn wide public concern. (RFA)

The Guangzhou PSB referred rights defender Guo Feixiong’s case to Guangzhou’s Tianhe District Procuratorate, but the case was sent back on January 19 for supplemental investigation. On January 20, the case was transferred to the authorities in Liaoning Province. The case was referred again to the Tianhe District Procuratorate on February 17, but the procuratorate sent it back once more to the Guangzhou Municipal PSB on March 1 for another round of supplemental investigation. Guo was formally indicted on May 15, the last day on which a prosecution could be initiated against him. (HRIC)

Released
Zhejiang house church leader Liu Fenggang was released on February 4 and returned to his Beijing home on February 6. He had been sentenced to three years’ imprisonment on charges of gathering and providing state secrets to overseas organizations. Liu said he was poorly treated in prison and was not given proper medical treatment for his heart disease, diabetes and high blood pressure. His request for release on medical parole had been denied. (RFA)

The former editor and director of the Southern Metropolitan Daily, Li Minying, has been released three years before the end of his six-year sentence, and has returned to his home in Guangdong Province. Li was one of three Southern Metropolitan executives detained in 2004 after the newspaper reported on the beating death of a young college graduate in detention. (IHT)

Zhejiang-based activist Lin Bingzhang, accused of tax evasion, was released on bail in early April after three months of detention. He said the accusations were trumped up as retaliation for his rights defense work. (RFA)

Sichuan rights defender Xu Yuanzheng was released three months early on April 18 for “good behavior in prison.” Xu had been sentenced to four years in prison for “gathering crowds to disrupt social order” after he led tens of thousands of farmers in a protest against the construction of a hydroelectric plant. (RFA)

Political activist Yang Jianli, a U.S. permanent resident, was released from a Beijing prison on April 27 after serving a five-year sentence for spying and illegally entering China. He was detained in April 2002 while entering the mainland with a friend’s passport after Beijing refused to renew his own due to his involvement in the 1989 Democracy Movement. According to his lawyer, Yang is still being deprived of his political rights and has no freedom of speech. (RFA)

LABOR

2006 numbers for mine accidents
Officials reported that a total of 4,746 Chinese coal miners were killed in gas blasts, floods and other accidents in 2006 as mine owners pushed production beyond safety limits to meet robust demand and increase profits. A total of 661 miners were killed in the first three months of 2007, a decrease of 15.6 percent from last year; however, in Henan Province, 89 people have been killed in 11 colliery accidents since the beginning of 2007, more than double the number of fatalities over the same period in 2006. (XH)
Penalties for coal mine safety accidents
On March 1, China’s Supreme People’s Court (SPC) and Supreme People’s Procuratorate co-issued a legal interpretation on penalties for coal mine safety accidents. Coal mine operators will be sentenced to up to three years in prison if illegal production leads to accidents with more than one fatality or three injuries, or causing economic losses of more than one million yuan (about $128,000). They will face imprisonment of up to seven years for casualties exceeding three dead or 10 injured, or economic losses of more than three million yuan. (XH)

The State Administration of Work Safety (SAWS) reported on March 5 that 4,000 inefficient and dangerous coal mines will be shut down in 2007. Two thousand mines have already been closed this year. (Reuters)

Draft regulation regarding workplace safety
A draft regulation concerning the handling of workplace accidents was discussed and ratified in principle by the executive session of the State Council on March 28. The meeting stated that production safety is of key importance to people’s lives and property, and to the reform, development and stability of the country. Government officials were called on to put safety first and take preventative measures to ensure safety in production. Strict investigation of accidents was also urged, and officials were instructed to report accidents quickly and accurately, with no delays, false reports or cover-ups. (XH)

New crackdown on accident cover-ups
Officials noted a series of cover-ups of fatal accidents in March, and on April 17 launched a new crackdown on cover-ups and dishonest reports of colliery accidents filed by mine owners. The State Council called for harsher punishments for those who cover up or make dishonest reports of accidents and attempt to escape responsibility, and the SAWS vowed to join with public security departments to bring those responsible to justice. (Reuters, XH)

Disciplined
The owner and manager of the Xing’an Coal Mine in Henan Province were arrested with four others for trying to conceal deaths in an explosion. Four officials were also dismissed. Seven deaths were originally reported to newspapers, while the mine owner ordered miners to seal the shaft to cover evidence of 17 deaths. (AP)

On February 27, the Datong People’s Court in Shanxi Province sentenced a coal mine boss to 16 years in prison for trying to cover up the death toll of a mine in Zuoyun County that flooded on May 18, 2006, killing 56 people. The coal mine boss, Li Fuyuan, reported a death toll of five to the authorities and bribed officials. (Reuters)

Ten people held responsible for a gas blast accident that killed 15 miners were arrested in Hunan Province on March 28. (XH)

Another 10 people, including a sight supervisor, were detained at the end of March following the collapse of a subway tunnel under construction in Beijing. The accident, which occurred on March 28, trapped six workers, but the construction company, China Railway 12th Bureau Group Co., failed to report the accident and instructed employees not to talk to the media or police. Municipal authorities only learned of the collapse eight hours later. All six trapped workers were eventually found dead. (XH)

By April 4, the Standing Committee of the National People’s Congress (NPC) had received a total of 4,713 suggestions via Internet and mail following its announcement on March 25 welcoming members of the public to comment on the draft employment promotion law. Discrimination was one of the issues of most concern. (XH)

Chinese State Councilor Chen Zhili called for more innovative efforts to improve energy efficiency and work safety in China on April 12. After an inspection tour of Shanxi Province, she urged local officials to replace outdated production facilities with more modern ones and to train more high-skilled staff. (XH)

It was reported in April that China’s legislators are considering special protection for female workers in the draft labor contract law. About 50.2 percent of female migrant workers have no labor contracts, compared with 40.2 percent of men. Twenty-one percent of migrant women were fired after they became pregnant or had a child. (XH)

On April 24, a mid-level manager with Qinghe Special Steel
Corporation in Liaoning Province was detained over a breach of safety regulations blamed for a molten steel spill on April 18 that killed 32 workers. Investigators found the ceiling-mounted workshop crane used to move ladles of molten metal was not up to the standards required under work safety provisions, and that managers had ignored work safety precautions by holding a meeting too close to the pouring site. (SCMP)

A coal mine boss, Wang Jianjun, was sentenced to life imprisonment and fined one million yuan on April 27 for a gas explosion in Shanxi Province that killed 21 miners on March 18. Wang allegedly failed to report to the local work safety administration and tried to conceal the accident by sending victims’ family members to Henan Province and offering them hush money. Wang also denied inspectors access to the site and delayed rescue work for 44 hours. The mine had been operating in violation of an order to cease operation in January 2006. Twenty-one others held responsible for the accident, including the contractor, the district work safety inspector and the official in charge of monitoring gas density, received jail sentences ranging from 18 months to 20 years in a ruling by the Jincheng City Intermediate People’s Court. (XH)

The Deputy Director of the State Administration of Work Safety (SAWS), Wang Xianzheng, said on April 28 that the Chinese government will increasingly cooperate with international organizations to help improve its occupational health and safety standards. (XH)

For details of industrial accidents reported in the media, see the Monthly Briefs posted on HRIC’s Web site: www.hrichina.org

DEATH PENALTY

2006 execution numbers released
Amnesty International said in its annual report that China executed an estimated 1,010 people in 2006. Xinhua News Agency reported that the number of death sentences reported last year by Chinese courts was the lowest in more than 10 years.

In a joint statement released March 11, the Supreme People’s Court, the Ministry of Public Security and the Ministry of Justice have called for a reduction in the number of death sentences. The statement says China cannot abolish the death penalty, but should “gradually reduce its application.” It also says that if there is any question about whether the death penalty is appropriate in a given case, a person “should without exception not be killed.” (AI, XH, VOA)

A new regulation that took effect on February 28 will require China’s Supreme People’s Court (SPC) to send cases involving death sentences back to provincial courts for retrial if it finds errors in judgment. In the past, the SPC would simply overturn the sentence.

For details of death sentences and executions reported in the press, see the Monthly Briefs posted on HRIC’s Web site: www.hrichina.org

ABBREVIATIONS

<table>
<thead>
<tr>
<th>Abbreviation</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>AP</td>
<td>Associated Press</td>
</tr>
<tr>
<td>AFP</td>
<td>Agence France Presse</td>
</tr>
<tr>
<td>AM</td>
<td>Asia Media</td>
</tr>
<tr>
<td>BBC</td>
<td>British Broadcasting Corporation</td>
</tr>
<tr>
<td>CER</td>
<td>China Economic Review</td>
</tr>
<tr>
<td>CYD</td>
<td>China Youth Daily</td>
</tr>
<tr>
<td>Guardian</td>
<td>The Guardian (London)</td>
</tr>
<tr>
<td>HRIC</td>
<td>Human Rights in China</td>
</tr>
<tr>
<td>IHT</td>
<td>International Herald Tribune</td>
</tr>
<tr>
<td>LD</td>
<td>Legal Daily</td>
</tr>
<tr>
<td>NW</td>
<td>Nanfang Weekend</td>
</tr>
<tr>
<td>RFA</td>
<td>Radio Free Asia</td>
</tr>
<tr>
<td>SCMP</td>
<td>South China Morning Post</td>
</tr>
<tr>
<td>Times</td>
<td>The Times (London)</td>
</tr>
<tr>
<td>TT</td>
<td>Taipei Times</td>
</tr>
<tr>
<td>VOA</td>
<td>Voice of America</td>
</tr>
<tr>
<td>XH</td>
<td>Xinhua News Agency</td>
</tr>
</tbody>
</table>
FOREWORD

CIRCLING TOWARDS LAW

By Sharon K. Hom

There has been significant progress towards rebuilding the legal system in China since the early 1980s, including impressive legislative activity, training of legal personnel (lawyers, judges, law professors) and development of legal and administrative institutions and processes. The role of foreign foundations, governments and academic institutions has been prominent, especially in supporting exchange and capacity-building initiatives. Substantive legislative initiatives to date have focused on economic law, civil law and other regulatory areas necessary to promote market reforms, along with administrative law and administrative procedure law.

Recent human rights-related reforms include the addition of a human rights provision in the PRC Constitution, 2 the return of death penalty cases review to the Supreme People’s Court, 3 and the announced abolition of one form of abusive administrative detention, Custody and Repatriation. But does this emerging legal and administrative system protect human rights? What about the extensive system of administrative detention left intact, out of public sight and beyond judicial review? What are the costs, both to individuals and to Chinese society? What about spillover impact regionally and globally? What role can different actors play to advance human rights at this critical juncture of China’s reform path?

These are difficult challenges in light of persistent structural and systemic problems including: endemic corruption and influence of guanxi (relationships), levels of legal competency, the role of the CPC and the lack of an independent judiciary and bar. While the number of lawyers in China has grown from about 200 in the early 1980s 4 to nearly 130,000 at present, 5 harassment, intimidation, detention and prosecution targeting Chinese defense lawyers undermine the development of a professional and independent bar. The crackdown on lawyers further undermines the criminal justice system and contributes to an overall chilling effect on rights defense work. 6 Professor Jerome Cohen, a prominent China legal expert, recently observed that the plight of Chinese lawyers might be like the plight of Chinese pandas—an attractive breed, but always on the verge of extinction.

NEGOTIATING CHINA’S “RULES OF ENGAGEMENT”

This important historical juncture, especially in the final lead-up to the 2008 Olympics, presents domestic and international developments and windows of opportunity for more traction on human rights. Most importantly, despite crackdowns, detentions, censorship and surveillance, and a restrictive regulatory framework, Chinese lawyers, journalists,
petitioners and democracy and rights activists continue to raise issues of corruption, land seizures, environmental hazards, criminal justice issues and freedom of expression, and advocate for greater transparency and official accountability for past and present abuses.

Yet China’s increasing integration into the international community also provides a platform for monitoring and engaging China on its implementation of international obligations. In its successful 2006 bid for membership on the United Nations Human Rights Council, China asserted its respect for the universality of human rights and pointed to its active implementation of international treaties. Over the past two decades, China has signed and ratified key international human rights and labor rights treaties and conventions, including those addressing discrimination, torture, economic, social and cultural rights, and rights of women and children. This commits China to implementation, including reporting on its progress and participating in the international review and oversight of its record. Although China has signed, but not yet ratified, the International Covenant on Civil and Political Rights (ICCPR), as a signatory it is obliged not to defeat the object and purpose of the treaty. In addition, China is clearly demonstrating increasing sophistication in invoking human rights language, norms and procedures of the various human rights bodies and processes.

Yet, the numerous recommendations and conclusions produced by these international expert human rights reviews remain underutilized in bilateral and other international engagements with China aimed at advancing rule of law and human rights. For example, various UN bodies and special procedures have issued recommendations that would advance legal reforms in China, including ratifying the ICCPR, reducing the scope of the death penalty, abolishing Section 306 of the Criminal Law targeting lawyers, amendment of the Trade Union Law to allow for independent unions, and reforms aimed at clarifying or promulgating definitions for non-discrimination, crimes of torture and “endangering national security.” In addition, numerous systemic and process recommendations, such as reporting disaggregated information (by gender, ethnicity, province and rural versus urban areas) and removing restrictions on freedom of expression, would enhance transparency and accountability.

These recommendations for reforms also reflect domestic Chinese civil society debates, concerns and recommendations by Chinese legal experts and practitioners, and labor and other rights activists. One strategic challenge facing international actors is how to engage with China in a way that supports these voices and expands the independent civil space, while negotiating the trade-offs to maintain their access—access to domestic civil society groups, the huge China market or influential government relations. While the implementation challenges facing China are not unique, the daunting tasks facing legal reform efforts given existing political constraints are considerable.

Beyond formal legislative initiatives, adequate funding, training of personnel and strengthening institutions such as courts, the development of a rule of law that protects human rights will require a radical cultural shift that draws upon changes already underway. Despite the emergence of some kind of adversarial legal system, a political culture of corruption undermines human rights. Yet, the deployment of resources to implement the extensive review and overhaul of existing laws, as well as promulgation of new laws neces-
sary to bring Chinese law into compliance with WTO accession obligations, the extensive training initiatives launched, and the prominent role of international expertise, all reflect the scope and speed of reforms possible given adequate political will.11

TOO MANY SECRETS

Information control is another overarching obstacle to developing more effective approaches to addressing these systemic challenges and assessing current reform efforts. In a new report, State Secrets: China’s Legal Labyrinth, Human Rights in China (HRIC) provides a detailed examination of this system of information control, and its chilling effect on efforts to develop the rule of law and independent civil society inside China. This state secrets system controls the public dissemination of an all-encompassing universe of information as diverse as the total number of laid-off workers in state-owned enterprises; national statistics on the death penalty; statistics on unusual deaths in prisons; statistics on trafficking in women and children; and data on water and solid waste pollution in large and medium size cities.

Accurate, reliable and accessible information is critical to developing effective solutions. The control of information not only affects the work of individual Chinese activists, journalists, business actors and academics, but also that of government agencies, non-governmental organizations and domestic and foreign institutions committed to grappling with the complex environmental, health and other social challenges facing China.

The Chinese government recently announced governance and legal reforms aimed at providing greater accountability and transparency. But will these initiatives really have an impact on loosening the Chinese government’s grip on information control? One such recent development was the announcement of a national Open Government Information (OGI) law, to go into effect on May 1, 2008. The new law was heralded as recognition of the “right to information” and a significant step in promoting government accountability in China. However, one category of information excluded from the new OGI law, or from any of the local OGI laws enacted in the past five years, is information classified as “state secrets.” Without addressing this huge universe of classified information, these OGI initiatives will have limited impact in addressing real problems covered up and exacerbated by lack of transparency and official accountability.

“HISTORY TAKES A LONG TIME”

The articles in this issue of China Rights Forum examine some key areas of recent legal reforms and debates, including death penalty reforms, property law, corruption, and accountability for past injustices resulting from the June 4 crackdown and the Anti-Rightist Campaign of the 1950s. As these articles suggest, the reform road towards greater transparency and accountability is a rocky and circular one. The official failure to address the claims of victims of massive past injustices contributes to perpetrating present wrongs and a culture of impunity that undermines the construction of a truly harmonious society. The articles in this issue also examine the international dimen-
sions in areas such as extradition and international cooperation in criminal justice, or production and export of tools of torture, underscoring the interrelatedness and spillover effects of China’s domestic human rights policies and practices. Tenzin Tsundue’s testimony of his experience as a prisoner in China’s penal system also underscores the critical role that foreign intervention and attention can play.

Professor Cohen notes the profound irony of China today—“when you go to Pakistan, you know you are in a police state, but when you go to China everything looks good; everyone is eating and drinking like there is no tomorrow. But they have no understanding of the Secret police . . . that is the underpinning of this marvelous progress.” Yet, like many human rights lawyers, activists and scholars working for legal reforms, Professor Cohen remains reasonably optimistic, pointing out that “history is on their side, but history takes a long time.”

Notes
3. The Decision by the Supreme People’s Court Regarding Certain Questions on Unifying the Review and Approval Process for Death Penalty Cases, issued December 28, 2006.
13. Ibid.
Song of the Willow

Dedicated to the Wives of Political Prisoners and Internal Exiles

by Ouyang Xiaorong

It’s not yet daybreak.
Why do you say this is an early spring?
Across the sky there’s nought but snow, or stars.

Once
There were countless people
Calling your name,
Like those who’ve never met
But will be lovers in another life.

In the season when your blossoms fall,
The cuckoo will cry.
Freedom’s not yet come,
Yet still you sway.
If time should shed a hundred seasons’ skin,
Will you then hear
On the horizon the rumbling of the guns?

The bluebird soon will go;
There is no one more gentle than you.
What is far away ultimately belongs far away,
Like the brilliant sky that burns in the fire of Hades.
I cling to hope,
And you,
As always, keep waiting . . .

Rendered into English by A.E. Clark

The original Chinese poem was posted on the Web site of Democracy Forum, www.asiademo.org
CHINA’S DEATH PENALTY REFORMS

An HRIC Issues Brief

The Chinese authorities have introduced reforms to the death penalty system aimed at “killing fewer, and killing carefully.” Key systemic challenges remain, however, in ensuring that the criminally accused are not arbitrarily deprived of their inherent right to life.

In 1996, Hugejileitu, a 18-year-old Inner Mongolian man, was executed on hooliganism and murder charges 62 days after a young woman was raped and murdered in the midst of a national “Strike Hard” (yanda) campaign against crime. Hugejileitu’s family had accused the police of torture during his interrogation and was also reportedly denied visitation prior to his execution.

Yan Feng, a friend of Hugejileitu who was also detained around that time, recalled hearing his friend’s screams during the interrogation. The next morning, Yan saw Hugejileitu squatting with his hands shackled behind his back. In 2005, almost 10 years after Hugejileitu’s execution, the official Xinhua News Agency reported that a serial killer had confessed to having committed the crime and gave a detailed account of the murder.

China has long been criticized for its high number of executions. Exact figures on the number of executions carried out annually cannot be obtained because they are classified as state secrets, but various estimates have already ranked the number of executions in China as the highest in the world (see Wang Guangze’s article elsewhere in this issue of CRF). Amnesty International estimated that in 2006, between 7,500 and 8,000 people were executed in China, and that even the much smaller number of 1,010 executions indicated in publicly available documents made up more than 60 percent of the 1,591 executions reliably confirmed worldwide that year. There are also concerns over the fact that the death penalty can be applied to as many as 68 wide-ranging offences, including economic or other non-violent crimes such as smuggling, counterfeiting currency, embezzlement and bribery.

In 1980, the power to review some capital punishment cases, such as murder, rape and robbery, was delegated from the Supreme People’s Court (SPC) to Higher People’s Courts (HPCs). In a key reform move on the application of the death penalty in
China, beginning January 1, 2007, the SPC reassumed power to review all death sentences handed down for immediate execution (sixing liji zhixing)—a move that Chinese officials claimed will help the government to “kill fewer and kill carefully.”

The SPC review does not extend to death sentences handed down with a two-year reprieve (sixing huanqiliangnianzhixing), in which the death penalty is automatically commuted to life imprisonment if the convicted person does not willfully commit an additional crime during the two-year period.

This Issues Brief provides an overview of the series of reforms that culminated in the SPC reassuming judicial review of immediate execution cases in January 2007, and examines the structural challenges of China’s judicial system that have serious implications for cases involving the death penalty. These include the lack of transparency in China’s death penalty figures, the prevalence of confession extracted through torture, the lack of procedural protections for a fair trial, and the lack of judicial independence.

The term “death penalty” will be used to refer to both types of death sentences, but the specific term death penalty (immediate execution) will be used if the scope of review only covered such cases.
Overview of death penalty reforms

The SPC stated its intention to reform the death penalty system in its Second Five-Year Reform Plan (2006–2010). Since 2006, several legal documents governing procedural aspects of death penalty cases have been issued. Box 1 highlights some of these major changes.

<table>
<thead>
<tr>
<th>BOX 1: KEY REFORMS TO THE DEATH PENALTY SINCE 2006</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>DOCUMENT ISSUED</strong></td>
</tr>
<tr>
<td>Supreme People’s Court, Notice on Improving Work on Open Trial for Second Instance Cases with Death Sentences</td>
</tr>
<tr>
<td>Provision on Some Issues Concerning the Court Trial Procedures for the Second Instance of Cases Involving the Death Penalty (for Trial Implementation)</td>
</tr>
<tr>
<td>Amendment to the Organic Law of the People’s Court</td>
</tr>
<tr>
<td>Provision of the Supreme People’s Court on Several Issues Concerning the Review of Death Penalty Cases</td>
</tr>
<tr>
<td>Opinions on Strengthening Handling Cases in Strict Accordance with Law and Guaranteeing the Quality of Handling Death Penalty Cases</td>
</tr>
</tbody>
</table>
Further reforms may yet be issued. In late January 2007, SPC judge Lu Guanglun said that the SPC was considering sentencing guidelines for four types of cases that make up more than 90 percent of all death penalty sentences in China (murder, aggravated assault, robbery and drug trafficking). These guidelines, however, have yet to be published as of June 1.

Box 2 provides a comparison of policy and procedure before and after the death penalty reforms began in 2006.

The flowchart at the end of this Brief illustrates the simplified process of the SPC review for cases involving one suspect on one criminal charge.

Remaining challenges to death penalty reforms

LACK OF JUDICIAL INDEPENDENCE

The effectiveness of all legal reforms must be viewed in light of the fundamental lack of judicial independence. The highly politicized nature of China's judicial system under-

### Box 2: Key Changes Promulgated by Death Penalty Reforms Begun in 2006

<table>
<thead>
<tr>
<th>Subject Matter</th>
<th>Before Reforms in 2006</th>
<th>After Reforms</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) Exercise of the death penalty in general</td>
<td>No official position on the frequency of imposing the death penalty</td>
<td>Officially stated intent to “kill fewer, (and) kill carefully”</td>
</tr>
<tr>
<td>2) Death penalty (immediate execution) cases review body</td>
<td>Higher People’s Courts (HPCs) reviewed certain kinds of death penalty (immediate execution) cases</td>
<td>SPC reassumes power to review all death penalty (immediate execution) cases</td>
</tr>
<tr>
<td>3) Decision on a wrongful conviction/sentence</td>
<td>Review court empowered to replace death sentence (immediate execution) with more lenient sentence when ruling that application of law was wrong or sentence inappropriate</td>
<td>SPC will order a lower court to retry a case in most cases, except in very limited scenarios</td>
</tr>
<tr>
<td>4) Questioning of convicted person during review</td>
<td>Review judges not required to question convicted person</td>
<td>SPC judges should question the convicted person “in principle”</td>
</tr>
<tr>
<td>5) Open trial in second instance court</td>
<td>Open trial not required when certain procedures carried out and when facts are clear</td>
<td>Open trial for all cases that may result in death penalty (immediate execution)</td>
</tr>
</tbody>
</table>
mines the ability of the courts to provide “a fair and public hearing by a competent, independent and impartial tribunal established by law.”

In practice, the work of the four levels of courts—the Supreme People’s Court, higher people’s courts, intermediate people’s courts and local courts—is guided by the Political-Legal Committee of the Communist Party of China (CPC), which consists of the heads of the public security organ, the state security organ, the procuratorate, the court, the judicial administrative organ and the administrative organ for civil affairs on the same level. This Political Legal Committee also selects senior judges, including members of the court’s adjudication committee, which has the authority to decide important cases. Chinese courts are also financially dependent on their equivalent governments for salaries, housing and other benefits, which may make it difficult for the court to rule against the government in particularly sensitive cases. These factors allow opportunities for the CPC to exert significant influence, including the cloaking of the judiciary in a secrecy similar to that of the CPC. A prime example is the notorious secrecy surrounding China’s death penalty statistics, and the related lack of transparency in judicial application of capital punishment.

ABSENCE OF TRANSPARENCY

Transparency is “a key component of the concept of accountability which underpins the international human rights system,” and “among the fundamental due process safeguards that prevent the arbitrary deprivation of life.” China’s state secrets laws include no less than eight separate provisions for classifying death penalty-related information, maximizing government control over the nature and tenor of facts and statistics that are actually released. The broadest classification places figures on the ratification and execution of death sentences nationwide at the top-secret level, and others cover the number of new prisoner executions, intermediate court ratification of death sentences, military statistics and information on the uses of executed criminals’ corpses and organs. Because current death penalty reforms do not include moves to declassify statistics on executions, it remains difficult to verify estimates on the number of executions in the past, or to gain a sense of how far the reform process might go in reducing executions in the future.

International standards on the right to a fair trial include the provision that judgments rendered in a criminal case or in a lawsuit shall be made public except in circumstances where it is contrary to the interest of juvenile persons. Currently, judgments in China’s death penalty cases are not routinely made public. There is no institutional avenue for legal professionals, scholars and the public in general to consistently examine the arguments that the courts have used to reach their decisions on death penalty cases, or to follow the development of domestic jurisprudence in this regard.

THE PREVALENCE OF CONFESSION EXTRACTED THROUGH TORTURE

The right of individuals to be free from torture or other cruel, inhuman or degrading treatment is one of the most basic human rights, and no derogations may be made
even in times of a public emergency. In China, the prohibition on confessions extracted by torture has been in the Criminal Procedure Law (hereinafter “CPL”) since 1979, but in practice, torture remains a serious problem within the Chinese criminal justice system. In December 2005, after concluding a two-week visit to China, the UN Special Rapporteur on torture and other cruel, inhuman or degrading treatment or punishment, Manfred Nowak, concluded that the practice of torture, though on the decline particularly in urban areas, remains widespread in China.

The significant gap between Chinese law and international standards is particularly evident in the stipulation that evidence procured through torture, coercion, intimidation, entrapment or deceptive practice can be introduced as long as it does not form the basis for conviction. The lack of any law or regulation that absolutely excludes evidence obtained through torture from making its way through Chinese courts should raise serious questions regarding the nationwide conviction rate of nearly 99.8 percent for most of 2006.

The serious problem of coercive confessions being used to convict defendants in criminal cases has been acknowledged by a deputy procurator-general of the Supreme People’s Procuratorate, Wang Zhenchuan, who admitted “nearly every wrongful verdict in recent years relates to illegal interrogation,” and that there were at least 30 cases every year of wrongful convictions attributable to confessions extracted through torture. The reported torture of Hujileitu related above may well have been the key factor in his wrongful conviction and execution. Although death penalty reform reaffirms the prohibition against basing a conviction on confessions extracted under torture, it does not explicitly exclude such a confession from evidence that can be used against the defendant.

**LACK OF PROCEDURAL GUARANTEES TO A FAIR TRIAL**

The right to a fair trial is a fundamental human right and essential component of the administration of criminal justice. In 1948, the Universal Declaration of Human Rights, the cornerstone of human rights law, proclaimed that “Everyone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him.” In 1966, this right was codified and further elaborated in Article 14 of the International Covenant on Civil and Political Rights (ICCPR).

The Human Rights Committee, which is the treaty monitoring body for the ICCPR, has explicitly stated that for cases involving the death penalty, “[t]he procedural guarantees therein prescribed [in the ICCPR] must be observed, including the right to a fair hearing by an independent tribunal, the presumption of innocence, the minimum guarantees for the defense, and the right to review by a higher tribunal.” Given the irreversible nature of execution, the risk of executing innocent individuals remains an unresolved tension in jurisdictions where the death penalty remains a legally sanctioned form of punishment, and most particularly in countries such as China where international standards of fair trial are not consistently met. Although China has yet to
ratify the ICCPR, it signed this key human rights treaty in 1998 and is bound by the spirit of the treaty to refrain from acts that would defeat its object and purpose.43

Procedural justice remains an area of serious concern in China. Four years after the revised CPL came into force in 1997, a report by HRIC, Empty Promises: human rights protections and China’s criminal procedure law in practice, found that the CPL fell short of international standards in a range of areas relating to criminal justice, such as the right to a fair trial. Due process protections continue to be key issues in China’s legal reform process. Procedural justice is particularly at risk during China’s nationwide “strike hard” campaigns, when police, public prosecutors and courts collaborate to investigate, try and punish crime severely and swiftly.44 The “Opinions on Strengthening Handling Cases in Strict Accordance with Law and Guaranteeing the Quality of Handling Death Penalty Cases” affirmed that the national “strike-hard” strategy will continue to be a key component in the country’s “difficult and complex task of protecting social harmony.”45 Given this continued emphasis on “strike-hard” strategy, the following procedural justice concerns are likely to remain particularly relevant in the context of China’s death penalty reforms.

**Presumption of innocence**

The CPL does not include a presumption of innocence. There has been discussion for several years of possible revisions to the Criminal Law and CPL to ensure that a person charged with a criminal offense is presumed innocent until proven guilty, in accordance with the recommendation made by the UN Working Group on Arbitrary Detention in 1997, but no such revision has yet been enacted.46 Apart from the question of judicial principle, the absence of a presumption of innocence has a direct bearing on the prevalence of confessions extracted through torture.

**Intimidation of criminal defense lawyers**

Another consequence of the absence of a presumption of innocence is constraints on the efforts of criminal defense lawyers to zealously defend their clients. Article 306 of the Criminal Law holds criminal defense lawyers personally liable if they destroy or forge evidence, help any of the parties destroy or forge evidence, or coerce or entice their client or a witness into giving false testimony or changing testimony in defiance of the facts.47 The main threat lawyers face under this law is when they counsel their clients to repudiate a forced confession, persuade a witness to retract false testimony obtained by police through coercive means, or turn up evidence disadvantageous to the prosecution. Some 500 lawyers were detained under this law between 1997 and 2002,48 and more than 100 have been accused specifically of violating Article 306 by fabricating evidence. Ultimately, the accused lawyers have been cleared in more than 90 percent of these Article 306 cases,49 indicating that the statute is often abused or invoked improperly by officials attempting to constrain defense lawyers.

Basic legal defense of the criminally accused is further undermined by three difficulties
that Chinese criminal defense lawyers routinely face in performing their duties: restrictions on meeting with their clients, gathering evidence and accessing all case documents. These restrictions and their overall chilling effect on criminal defense efforts adversely affect the implementation of two key international standards guaranteeing a person’s right to a fair trial: to have adequate time and facilities for the preparation of his defense and to communicate with counsel of his own choosing; and to defend himself in person or through legal assistance of his own choosing.

**Examination of witnesses**

Under the ICCPR, the opportunity for an individual “to examine, or have examined, the witnesses against him and to obtain the attendance and examination of witnesses on his behalf under the same conditions as witnesses against him” is a minimum requirement for a fair trial. At present, less than 10 percent of witnesses testify at various levels of the Chinese courts, according to Hu Yunteng, Deputy Director of the SPC Research Office. This low rate of witness participation deprives defendants of the opportunity to challenge prosecution witnesses, or take advantage of testimony that could exculpate them, a potentially fatal disadvantage in cases where the death penalty might apply. While the Second Five-Year Reform Plan of the People’s Courts (2006–2010) and a Notice of the reform package encouraged increased witness attendance by stipulating that important witnesses “must attend the trial” (*yingdang chuting*), the SPC diluted this requirement in its latest Opinion by stipulating only that the court “must inform” (*yingdang tongzhi*) key witnesses to attend the trial.

Professor He Jiahong of Renmin University believes a major reason for witnesses’ reluctance to testify in court is the fear of revenge, given the well-known phenomenon of witness intimidation in sensitive criminal cases. For instance, one day before the retrial of blind rights defense lawyer Chen Guangcheng, one of his key witnesses, Chen Guanghe, was abducted by individuals allegedly linked to the local public security bureau (PSB). Days later, police notified Chen Guanghe’s family that he had been formally arrested and placed under criminal detention on charges of forging evidence.

**Moving forward with reform**

International human rights law stipulates that no one shall be arbitrarily deprived of life. Although not prohibited under international law, application of the death penalty must be seen as an “extreme exception” to the inherent right to life. China’s integration into the international human rights system brings with it a large number of concrete obligations to fulfill the fundamental protection of an individual’s right to life. Making death penalty reform a reality will depend on key systemic changes, including a mechanism to monitor, assess and ensure effective implementation of the reforms. Effective implementation will further require a series of concrete measures: 1) Declasifying statistics and other information relating to the death penalty to allow monitoring of its application and possible misuse; 2) rendering confessions extracted under torture
strictly inadmissible as evidence in trials; 3) requiring all key witnesses to appear in trials where the death penalty is applicable; 4) improving defendants’ access to legal counsel; and 5) curtailing the harassment and intimidation of criminal defense lawyers. Until these concrete steps can be implemented, China will continue to face challenges in its efforts to bring its application of the death penalty in line with international human rights standards, and innocent people such as Hugejileitu will continue to suffer the most irreversible consequence of injustice.

Death Penalty Review Process for Cases in Which a Defendant is Sentenced to Death with Immediate Execution on One Capital Charge

1. The primary researchers and drafters of this Brief were Cliff Ip, Si-si Liu and Bonny Ling. The authors are grateful to Elisabeth Wickeri for earlier reviews of this draft.

4. The Higher People’s Courts (HPCs) were delegated review power for death penalty cases through a number of legal documents since 1979. The list of crimes varied over the years, but these three crimes (murder, rape and robbery) were the common ones throughout these documents. In addition, some provinces had review power on drug cases involving the death penalty since 1991.

5. Supreme People’s Court, Supreme People’s Procuratorate, Ministry of Public Security and Ministry of Justice, Notice on Printing and Distributing the “Opinions on Strengthening Handling Cases in Strict Accordance with Law and Guaranteeing the Quality of Handling Death Penalty Cases” [Yinfa “Guanyu jinyibu yange yifa banao banli sixinganjian zhiliande yijian” de tongzhi], March 9, 2007. Para. 4.


7. Supreme People’s Court, People’s Courts’ Second Five-Year Reform Plan (2006–2010) [Renmin fayuan diergew unian gaigegangyao (2006–2010)], October 26, 2005. Please note that this Brief does not include an earlier SPC Notice on careful application of the death penalty in rural areas, which was not mentioned in the Reform Plan. For the provisions in this Notice, see Supreme People’s Court, Notice on Publishing “The Summary of Workshop on People’s Courts’ Maintaining Stability in Rural Areas Through Criminal Justice Work” [Zuigao renmin fayuan guanyu quanguo fayuan weihu nongcun wending xingshi shenpan gongzuo zuotanhui jiyao de tongzhi], October 27, 1999, Para. 2(1).

8. Supreme People’s Court, Notice on Improving Work on Open Trial for Second Instance Cases with Death Sentences [Zuigao renmin fayuan guanyu jinyibu zuohao xingsi anjian kaiting shenli quanguo tongzhi], December 7, 2005.


10. Standing Committee of the National People’s Congress, Amendment to the Organic Law of the People’s Courts, October 31, 2006.


12. This is the issuing date of the Notice on Printing and Distributing the “Opinions on Strengthening Handling Cases in Strict Accordance with Law and Guaranteeing the Quality of Handling Death Penalty Cases,” which contains a full text of the said Opinions. The issuing date of the Opinions itself is not included in the Notice and could not be found to the best of the authors’ efforts.


15. These cases included murder, robbery and drug trafficking in certain provinces. The major legal documents which allowed for the delegation include: (i) Supreme People’s Court, Notice on Certain Regulations About Reporting Review of Death Penalty Cases [Zuigao renmin fayuan guanyu baosong sixing fuhe xingshige guanyu sixinganjian tongzhi], December 12, 1979; (ii) Standing Committee of the National People’s Congress, Decision About the Review of Death Penalty Cases [Quanguo renmin daibiao dahui changwu weiyuanhui guanyu sixing anjian]
hezhun wentide jueding], June 10, 1981; (iii) Supreme People’s Court, Notice on Delegating the Power of Approval of Death Sentences in Some Cases to Higher People’s Court [Zuigao renmin fayuan guanyu shouquan gaoji renmin fayuan hezhun bufen sixing de tongzhi], September 7, 1983; (iv) Supreme People’s Court, Notice on Delegating the Power of Approval of Death Sentences in Drug Crimes to the Yunnan Higher People’s Court [Guanyu yunnansheng gaoji renmin fayuan hezhun bufen dunpin fanzui sixing anjiande tongzhi], June 6, 1991; (v) Supreme People’s Court, Notice on Delegating the Power of Approval of Death Penalty Cases to Higher People’s Courts and People’s Liberation Army Courts [Zuigao renmin fayuan guanyu shouquan gaoji renmin fayuan he jiefangjun junshi fayuan hezhun bufen sixing anjiande tongzhi] September 26, 1997; (vi) Supreme People’s Court, Interpretation on Certain Issues Relating to the Implementation of the Criminal Procedure Law of the PRC [Zuigao renmin fayuan guanyu zhixing “Zhonghua renmin gongheguo xingshisusongfa” ruogu wen tide jieshi], June 29, 1998, Article 274. An exception was made for cases in which the appeal court overturned the ruling of the court of first instance: Supreme People’s Court, Interpretation on Certain Issues Relating to the Implementation of the Criminal Procedure Law of the PRC [Zuigao renmin fayuan guanyu zhixing “Zhonghua renmin gongheguo xingshi susongfa” ruogu wentide jieshi], June 29, 1998, Articles 257 and 274.

Amendment to the Organic Law of the People’s Courts, op. cit. Art. 48 of the Criminal Law and Art.199 of the Criminal Procedure Law provide that this review power stays with Supreme People’s Court. However, various other legal documents unjustifiably deviated from the two national laws by delegating reviewing powers to the HPC. See “Review of Procedure Laws Raises Hopes for Justice,” China Rights Forum, 2 (2005): 43–50.

Interpretation on Certain Issues Relating to the Implementation of the Criminal Procedure Law of the PRC, op. cit., Art. 285(3). Moreover, a 1979 SPC Notice (no longer effective; passed before SPC delegated its review power in certain death penalty cases) provided that the SPC could order a lower court to retry the case or substitute lower court’s sentence with its own. Refer to: Supreme People’s Court, Notice on Certain Regulations About Reporting Review of Death Penalty Cases [Zuigao renmin fayuan guanyu baosong fuhede jixiang guidingde tongzhi], December 12, 1979, (Para. 4(3)).

Provisions of the Supreme People’s Court on Several Issues Concerning the Review of Death Penalty Cases, op. cit., art. 6 and 7. Art. 6 provides that, if a person is sentenced to death based on two or more charges by lower courts and SPC finds the procedures, material facts and evidence for all charges well-established, but the application of the penalty to some—not all—charges is found inappropriate according to law, then SPC can substitute the application of law concerning these wrong charges, and confirm the death sentence for those charges that are based on correct application of law. If more than one person is sentenced to death by lower courts and SPC find the procedures, material facts and evidence for the conviction well-established, but the application of the penalty to some defendants is found inappropriate according to law, then SPC can substitute the sentence of these defendants while approving the sentence for others (Article 7). No limit on the number of retrials is specified.

Notice on Printing and Distributing the “Opinions on Strengthening Handling Cases in Strict Accordance with Law and Guaranteeing the Quality of Handling Death Penalty Cases,” op. cit., Para. 42.

Criminal Procedure Law, op cit., Art. 187. This article has yet to be amended despite the reform.

Open trials are however not conducted for cases involving state secrets, personal privacy or minors in most cases. Refer to Criminal Procedure Law, op. cit., Article 152; Provision on Some Issues concerning the Court Trial Procedures for the Second Instance of the Cases Involving Death Penalty (for Trial Implementation), op. cit.

It is important to note here that SPC review powers also extend to the other two types of death penalty cases, one suspect with multiple charges resulting in death sentences and multiple suspects involving in one criminal case, but these more complicated processes are not depicted by this flowchart.

While Article 126 of the PRC Constitution bars interference from administrative departments, social organizations and individuals into the work of the courts, it, however, does not extend
the same prohibition against interferences from political parties. Article 126 states: “The people’s courts shall, in accordance with the law, exercise judicial power independently and are not subject to interference by administrative organs, public organizations or individuals.”


29. Statistics about death penalty are protected as “top secrets” at the national level. The same statistics at the level of province, autonomous region and directly-administered municipality are classified as “highly secret” and those at the Intermediate Court level are classified as “secrets.” See Ministry of Justice and the National Administration for the Protection of State Secrets, Regulation on State Secrets and the Specific Scope of Each Level of Secrets in Judicial Administration Work [Sifa xingzheng gongzuozhong guojia mimi jiqimijijutifanweide guiding], August 31, 1995, Article 2 (2)(1) and Article 2 (3)(3); Supreme People’s Procuratorate and the National Administration for the Protection of State Secrets, Regulation on State Secrets and the Specific Scope of Each Level of Secrets in the Work of the People’s Procuratorates [Jiancha gongzuojinhui mimi jiqimijijutifanweide guiding], January 15, 1996, Article 3 (1)(2); and Supreme People’s Court and the National Administration for the Protection of State Secrets, Regulation on State Secrets and the Specific Scope of Each Level of Secrets in the Work of the People’s Courts [Renmin fayuan gongzuozhong guojia mimi jiqimijijutifanweide guiding], July 31, 1995, Article 3 (1)(3), Article 3 (2)(3), and Article 3 (3)(3–5). See also: forthcoming Human Rights in China report on China’s state secrets framework, State Secrets: China’s Legal Labyrinth, June 2007.

30. Zhao Lei, “China’s Courts to Order Fewer Death Sentences” [Zhongguo sifakaiqishaosha niandai], Nanfang Weekend, December 31, 2006.

31. ICCPR, op. cit., Article 14(1).


33. ICCPR, op. cit., Article 7; and the United Nations, Universal Declaration of Human Rights (UDHR), adopted by General Assembly resolution 217A (III) on December 10, 1948, Article 5.

34. ICCPR, op. cit., Article 4 (2); and United Nations, Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, adopted by General Assembly resolution 39/46 on December 10, 1984, entered into force on June 26, 1987, Article 2.


38. According to a Xinhua news report on supreme court statistics: “More than 759,230 suspects were convicted in China in the January–November period [of 2006], while a relatively small number—1,464 people—were found innocent . . . The convicted number rose 4.3 percent from the same period in 2005.” This means that the conviction rate for January to November 2006 was as high as 99.8 percent. “Chinese Courts Convict over 759,230 People Last Year,”


40. Notice on Printing and Distributing the “Opinions on Strengthening Handling Cases in Strict Accordance with Law and Guaranteeing the Quality of Handling Death Penalty Cases, op. cit, Para. 6.

41. UDHR, op cit., Article 10.

42. Human Rights Committee, General Comment No. 6 on the Right to Life (Article. 6), April 30, 1982, Para. 7.


45. Notice on Printing and Distributing the “Opinions on Strengthening Handling Cases in Strict Accordance with Law and Guaranteeing the Quality of Handling Death Penalty Cases,” op. cit., Para. 3.


50. For more information on these difficulties, see Yi Yanyou, Criminal Procedure Law [Xingshi Susong Fa], 2nd ed. (Beijing: Law Press, September 2004). Chapter 9.

51. ICCPR, op cit, Article 14(3).

52. Ibid.


54. Supreme People's Court, Notice on Improving Work on Open Trial for Second Instance Cases with Death Sentences, op. cit., Para. 4.

55. Opinions on Strengthening Handling Cases in Strict Accordance with Law and Guaranteeing the Quality of Handling Death Penalty Cases, op. cit., Para. 32.


THE MYSTERY OF CHINA’S DEATH PENALTY FIGURES

By Wang Guangze (Beijing)

Granting the Supreme People’s Court right of review over all death penalty cases may at last bring an end to the secrecy surrounding China’s death penalty statistics.

China executes an estimated 8,000 people each year, nearly 20 times the number of people executed in all other countries combined. On January 1, 2007, China’s Supreme People’s Court regained the right to review all death penalty cases. In effect, the power over life and death has been transferred back to the central government after 23 years of being exercised by the lower courts.

Liu Renwen, professor of the National Institute of Law at the Chinese Academy of Social Sciences, said recently that China has been one of the world’s major proponents of the death penalty since the Shang and Zhou eras,1 but he expects the number of death sentences to decrease significantly in the wake of the Supreme People’s Court regaining its right of review. Liu noted that after the government promulgated its revised Criminal Code in 1997, the number of death sentences dropped by half, and review by the top court should bring a further decrease of 20 percent. As a result, China’s status as the world leader in executions could well change.

Liu Renwen explained that since 1949, the number of executions in mainland China has always been a mystery, because the Supreme People’s Court has never disclosed any detailed figures. During the founding of the PRC, executions were an important means of consolidating authority under the severe political challenges faced by Red China.

Take the campaign against counterrevolutionaries as an example: the number of executions can be roughly estimated. In The Selected Works of Mao Zedong: Volume V, published in 1997, the article entitled, “Strike Surely, Accurately and Relentlessly in Suppressing Counterrevolutionaries” (written in 1951)2 says that an execution rate of “no more than 10 percent” was adequate for counterrevolutionaries. A report entitled, “Historical and Political Movements since the Founding of the People’s Republic,” edited by the Party History Research Center of the Chinese Communist Party Central Committee and three other departments in 1996, says that in the campaign to suppress counterrevolutionaries, conducted in two phases from early 1949 to 1952, some 1,576,100 counterrevolutionaries were struck down, and more than 873,600 were executed.
Five years into China’s reform-and-opening, the central leadership determined that the Cultural Revolution had created many hooligans, robbers, murderers, thieves and organized gangs. On July 19, 1983, Deng Xiaoping reportedly told Liu Fuzhi, then Minister of Public Security, “We can’t allow these criminals to carry on undaunted. The ‘Strike Hard’ campaign will strengthen the dictatorship; that’s what dictatorship is. We’ll protect the safety of the majority; that’s what humanitarianism is.” He added: “Every three years, organize one, two or three campaigns in a big city to round up a big batch of criminals in one fell swoop.”

In non-“Strike Hard” years, the number of executions in mainland China has varied. China launched its first one-year “Strike Hard” campaign at the end of August 1983. According to the book *Forty Years under the Chinese Communist Party,* published in 1989, state public security organs arrested 1,027,000 individuals, including murderers, arsonists, robbers, rapists, hooligans and other offenders; the procuratorates prosecuted 975,000; the courts sentenced 861,000, including 24,000 sentenced to death; and the judicial and administrative departments accepted 667,000 individuals for reform through labor (laogai) and 169,000 for reeducation through labor.
One scholar noted that according to the *Hangzhou City People’s Public Security Journal*, the armed police detachment of the Hangzhou Public Security Bureau of Zhejiang Province assisted the People’s Court in carrying out 88 executions in 1990, 65 in 1991, 64 in 1992 and 58 in 1995. Executions have averaged 71 annually in Hangzhou, the capital of Zhejiang Province. If 10 other prefecture-level cities each executed 40 people a year, the annual number of executions in Zhejiang Province would be around 500 people.

Liu Renwen once disclosed in an interview that academic estimates put China’s executions at around 8,000 per year. A long-time criminal defense lawyer in Henan Province calculated that in non-“Strike Hard” years, more than 500 people are executed in Henan annually, while the number in “Strike Hard” years hits around 800. On the basis of this execution rate, he estimated that the total number of executions in China’s 30 provinces amounts to 10,000 or even 12,000 per year, as some international organizations have estimated. Liu Renwen said that by any estimates, China is the nation with the largest number of death sentences.

According to statistics collected by Amnesty International from media reports in mainland China, at least 3,797 people were executed in 25 countries around the world in 2004, and at least 7,395 people in 65 countries had been sentenced to death and were awaiting execution. Some 97 percent of the executions were carried out in China, Iran, Vietnam and the United States, with Iran executing at least 159 people, Vietnam at least 64, and the United States 59 in 2004. In other countries, the number of death sentences is publicly disclosed. In the United States, for example, death sentences and executions are headline news in local and national media. The Bureau of Justice Statistics in the U.S. Department of Justice provides regularly updated figures on death sentences and executions (http://www.ojp.usdoj.gov).

Canada’s *Globe and Mail* also reported that nations other than China, including Iran, Vietnam, the United States and Saudi Arabia, execute a combined total of around 400 to 500 people annually. But China, with about 8,000 executions yearly, exceeds the rest of the world’s executions by a factor of 20.

Mo Shaoping, a well-known criminal defense lawyer in Beijing, once said in an interview that he could not determine the figure of 8,000 executions in China per year. He thinks the number may be only an academic estimate, and the Supreme People’s Court knows the real figure. At present, the Supreme People’s Court still regards the number of executions as a national secret, and never discloses it to the public. Mo also added that the types of crime that lead to the death penalty in China, as well as the number of death sentences, show the severity of punishment according to law.

A senior judge who was recently appointed to the Supreme People’s Court to review death sentences observed that the Supreme Court has always rationalized its refusal to disclose figures on death sentences on the grounds that nationwide statistics are difficult and complicated, but that this excuse will become untenable now that the top court has regained the authority to review all death sentences. It is therefore possible that the Supreme People’s Court will begin releasing statistics on executions once the number drops. The judge said that the Supreme People’s Court had regained its
power to review death sentences precisely because the current number of executions is too high to disclose, and has brought China under excessive international pressure.

Wang Shizhou, a professor of law at Peking University, takes a similar view. He said that in reality, “The reason that nationwide statistics on the death penalty could damage national security and interests is that the number is too great.”

The government fears that the excessive number of executions will attract censure from international human rights organizations and other countries over China’s human rights conditions, so it can’t be open and above-board on this matter.

Mo Shaoping noted in an interview that the death penalty can currently be imposed under 68 different crimes:

After the enactment of the new Criminal Code in 1997, the number of crimes punishable by death in China has greatly increased. It used to be only around 20. For that reason, there is a growing consensus that China should restrict use of the death penalty through legislative means. For instance, we should reduce or eliminate the imposition of the death penalty for some types of economic crime; or we should extend prison sentences as a substitute for the death penalty for serious crimes. . . . China’s present criminal code stipulates that the maximum prison term shall not exceed 15 years, or 20 years for combined terms. This sometimes compels courts to apply the death penalty for serious crimes. In fact, China could follow the example of the United States by increasing prison sentences to several decades, or even more than 100 years.

Mo Shaoping also feels that refusal to publish statistics on the death penalty is not a sustainable practice. According to the Criminal Procedure Law, any criminal case, whether or not it is held in open court, must have its outcome made public. This means that the imposition of the death penalty in any case should be made known to society, and that, consequently, the number of death sentences and executions should be a matter of public record. Keeping this information secret is impossible under this requirement, and in any case only leads to erroneous speculation and inaccurate statistics.

Translated by Wang Ai

The original Chinese article was published in HRIC’s Chinese online journal, Ren Yu Renquan, http://www.renyurenquan.org/ryrq_article.adp?article_id=611.

Notes

2. It appears that in this and the subsequent paragraph, the author is quoting Liu Renwen's article "Sixing zhengce: Quanqiu shiye ji Zhongguo shijiao [Death penalty policies: The world view and China's perspective]," posted on the Web site of the University Services Centre of the Chinese University of Hong Kong, http://www.usc.cuhk.edu.hk/wk_wzdetais.asp?id=2623.


12. The editor was unable to identify the source of this reference.


OFFICIALLY SANCTIONED CRIME AND PROPERTY RIGHTS

By He Qingliang

This excerpt from an upcoming report describes how laws and contracts on property rights are rendered useless by official corruption and the use of thug violence to intimidate individuals who attempt to protect their rights.

Chinese media coverage of the connections between Chinese government officials and criminal organizations tends to assume that crime bosses take the initiative in corrupting government officials and that officials are passive agents in such relationships. This assumption fails to explain a significant political phenomenon that has occurred in China in recent years: officially sanctioned crime. This trend is particularly evident in the requisition of land in rural areas and the eviction of residents and demolition of their homes in the cities.

Since the policy of reform and opening began in 1978, there have been two large-scale “enclosure movements” (quandi yundong) in China. The first fueled a real estate boom; the second movement, which began in 1999 and is still underway, is the product of rampant corruption that enabled officials to abuse their authority through large-scale eviction of urban residents and seizure of rural farmland.

In both the rural and urban situations, ordinary people’s fundamental right to housing is being violated. Chinese people have grown accustomed to enduring injustice and oppression, but when deprived of the basic resources of survival, their resistance has been fierce and is growing every year. In 2003 alone, 58,000 protests and public disturbances broke out across China; in 2004 there were as many as 74,000, and in 2005 the figure reached more than 87,000. Most were protests against forcible seizures of land and housing. Faced with tenacious resistance from dispossessed farmers and evicted city-dwellers, local officials have proven all too willing to enlist the assistance of criminal elements to impose their will.
Violations of property rights since the late 1990s

From 2001 to 2004, real estate topped the list of China’s 10 most profitable industries, and was ranked third in 2005. According to industry insiders, real estate companies elsewhere in the world make an average profit of approximately five percent per transaction, but in China, the average profit is more than 15 percent. In Forbes magazine’s list of the world’s billionaires, only 30 out of 500 are property developers, but on the list of the “Top 100 Chinese Business Leaders” published by Forbes in 2002, more than 40 were in real estate. Even after some of these tycoons were arrested for various economic crimes, 35 real estate developers remained on Forbes’ 2003 list.

The obvious question is: how can China’s real estate market sustain such high profits? The main reason is an abundance of cheap land, and land is cheap for no other reason than that it has been forcibly seized.

THE PHENOMENON OF FORCED EVICTIONS

In the real estate markets of most other countries, there are two main players: developers and home buyers. In China, two additional parties are involved: the original occupants of the property, and the local governments that seize the land. The central government has proven singularly ineffective as an arbiter between these parties.

There is no doubt that of the four parties involved, the local government plays the most important role, “requisitioning” land from the original occupants by various means and then selling the right to use the land to real estate developers. In effect, local governments create the real estate market.

Why are local governments so keen to buy and sell land? Local governments play a leading role in land seizures and forced evictions, mainly because land-use fees have become an important source of income for them. The key factor is the huge difference between purchase and selling price. Statistics show that between 2001 and 2003, local governments earned 910 billion yuan from the transfer of land-use rights. In comparison, from 1998 to 2003, when a proactive fiscal policy was implemented, China’s national debt was around 930 billion yuan. By 2003, real estate had already become the second most important source of income for these “second governments.” In some cities, districts and counties, income from land-use fees accounts for half of fiscal revenues, and may even exceed fiscal revenues.

Real estate is also a source of private profit: it is an open secret that individual government officials pocket fees for the transfer of land-use rights. Real estate developers know that making big bucks requires cooperating with government officials, and there is ample opportunity for corruption in this process. How much money do corrupt officials actually make from real estate deals? Two statistics are revealing; according to industry insiders, just one instance of bribery in a large-scale transaction can cost a real estate developer up to 30 percent of the value of the land. China’s National Audit Office has revealed that more than 80 percent of high-level officials charged with corruption...
have been involved in land deals. Since the National Audit Office began publishing its annual audit, it has consistently described the land-use review and approval process as a black hole of corruption.

**How much money do local governments make from property deals?** The figure of 910 billion yuan cited above is too general. Here are two specific examples:

- When the Beijing government requisitioned land from Liuquan Village near the southern section of Beijing’s Fourth Ring Road, it paid farmers 177 yuan per square meter. That same land was later sold for 6,750 yuan per square meter. This means that the government acquired the land at virtually no cost relative to its value.

- The government of Conghua City, Guangdong Province, violently evicted merchants from their shops in the town’s Xiaohai District, paying proprietors 2,500 yuan per square meter in compensation. It then decided that after the Xiaohai development zone project was completed, land there would sell for 13,000 yuan per square meter.

**How much money meant to compensate evictees actually goes to corrupt officials and property developers?** A redevelopment project in Beijing provides an example of how a series of frauds diverts funds into the pockets of developers and officials:

- State-owned land being redeveloped for urban renewal is transferred gratis to property developers without the payment of land-use fees that should go to the central government.

- Developers fail to pay the compensation promised to evicted residents. Instead, evictees are relocated to housing that is typically on the outskirts of the city—in most cases to buildings constructed illegally on rural collective land or apartment blocks owned by government agencies—and given three years’ rent, or about 20,000 yuan. After the three years are over, they are forgotten. Meanwhile, developers fraudulently declare the payment of full compensation to evictees as a tax deduction.

- When facing disgruntled evictees, developers cite the Detailed Regulation of Beijing Municipality for the Implementation of the Regulation on Managing Urban Residential Demolition and Eviction to claim they are not required to pay private land use compensation. Then, when the property is sold, the developers turn around and include payment of this compensation as the main factor in valuing the property, and quote land-use rights fees to tout “prime neighborhoods” with “limitless appreciation potential.” In the western and eastern districts of Beijing, the price for new buildings has shot up to tens of thousands of yuan per square meter, but it is the location of the property, rather than the actual development costs, that determined the price.

**How much money are we talking about?** It is impossible to estimate any reliable
numbers for China as a whole, but approximate figures are available for Beijing. Experts estimate that from 1994 to 2003, state-owned property with a total value of approximately 138 billion yuan was unlawfully appropriated through forced demolitions and evictions. The Beijing municipal government has neither confirmed nor denied this figure.13

**Why doesn’t the central government restrict the seizure of land by local governments?** Even though land seizures and forced evictions have become the leading cause of social unrest in China, local governments have shown no intention of stopping this serious violation of human rights, and the central government has turned a blind eye to it for the simple reason that local governments now depend on land-use fees to survive and to continue operating.

Since the two-tiered tax-sharing fiscal system was introduced in 1994, the central government has scooped up the most lucrative taxes, leaving the lowest-revenue taxes to local governments.14 This tax system has provoked a divergence of interests between the central and local governments. Initially, the problem was not critical, because local state-owned enterprises had not yet gone bankrupt on a large scale and China’s consumer market had not yet begun to slow. Starting in the mid-1990s, however, one local state-owned enterprise after another went bankrupt, and tax revenues from local enterprises—and the profits they previously turned over to local governments—gradually dried up.

Personal income tax is a negligible source of government revenue in China, while the shrinking consumer market has gradually eroded the business tax base, and deed and inheritance taxes are also inconsequential sources of revenue. This means the only way for local governments to raise revenue is to tax farmers and their land. Local governments have therefore continuously raised taxes on agriculture, on special kinds of agricultural produce, on the use of agricultural land and on the slaughtered livestock sold by farmers. In addition to these regular taxes with established names, local governments are forever inventing all sorts of irregular and arbitrary taxes and fees, which in spite of their small scale have become a principal source of income for local government.

Burdening local government with far more responsibilities than it has the financial resources to pay for is a sure recipe for disaster. To survive, local governments below the county level spend much of their time exacting land taxes and other fees from farmers, while major public services such as education, bridge repair and road construction, and even ordinary public services such as waste disposal, have all but ground to a halt. Local officials are finding it increasingly necessary to resort to violence to collect land taxes and other fees, and as a result, political power in small towns and villages has fallen into the hands of local despots and bullies. The growing influence of gangsters, bandits and the criminal underworld in such areas is very evident.

In an effort to develop new sources of taxation, local governments have set their sights on the last resource available to farmers: their land. The main goal of the second enclosure movement in the late 1990s was to seize the land that farmers rely upon to survive,
but a secondary goal was to take back many of China’s old urban neighborhoods. Given the increasing importance of capital gains taxes from land sales and land use fees on state-owned land as revenue, placing restrictions on land development would be tantamount to cutting off the main source of funding for the day-to-day operations of local governments.

Whether it involves seizing farmland in the countryside or tearing down old houses in the cities, this newest enclosure movement has led to a sharp deterioration in living conditions for untold numbers of people. The compensation paid to farmers has always been exceedingly low, and huge amounts of the money earmarked for such compensation has in fact been misappropriated by local officials. As a result, nearly all displaced farmers have been thrown into poverty. In Zhejiang, a relatively developed province, farmers deprived of their land are supposed to receive compensation above the national average and therefore ought to be less dissatisfied than farmers in other provinces. But according to a survey conducted by the Zhejiang Province Rural Investigation Team, only 6.8 percent of farming households said they were satisfied with their compensation, while 22 percent thought it was extremely low and 53.2 percent thought it was somewhat low. Many local governments manage to embezzle all of the compensation funds and force farmers from their homes without a penny.

Nearly all displaced farmers have been thrown into poverty.

If the central government feels inclined to put an end to this key source of revenue, it faces the real possibility of resistance or boycott from local governments. This happened previously when the authorities tried to reduce the agricultural tax.

THE 2006 CAMPAIGN AGAINST CORRUPT LAND DEALS: DIVIDING THE SPOILS

Given the social problems caused by land seizures and forced evictions, the Chinese government has begun publishing annual statistics on illegal land deals, but it does not rigorously investigate these incidents. According to incomplete statistics from the Ministry of Land Resources, based on an investigation conducted in 2003 of 168,000 cases of illegal land transactions, including many that were previously overlooked, only 738 people were disciplined by the Party, and only 134 were subjected to criminal prosecution and prison terms. Extrapolating from these numbers, if each land-violation case had involved just one guilty official, 168,000 people could have been prosecuted for corruption; but in fact, less than one percent of these officials were held criminally responsible. This shows that the risk of being prosecuted for involvement in corrupt land deals is extremely low compared with the very high returns they bring. Under these circumstances, the anti-corruption campaigns the central government launches every few years have had no deterrent effect whatsoever.

More recently the government has appeared to be taking a tougher stance on land-use violations. In early June 2006, the Ministry of Land Resources convened a National Land Law Enforcement Conference and declared that corrupt land deals had become an extremely serious problem. It also ordered provincial land management departments to investigate and prosecute at least three cases involving serious violations of land-use laws by the end of the month, and up to eight cases by the end of the year.
What made the Ministry of Land Resources’ offensive different from the National Audit Office’s almost comical annual anti-corruption campaigns was that it had the backing of the central government. The People’s Daily and the Xinhua News Agency endorsed the move with articles about a major effort to enforce land-use laws and regulations. As a result of this directive, numerous local governments took the central government’s arrest quotas as an opportunity to aggressively pursue local real estate magnates (popularly known as “Land Gods”) who had earned their envy and enmity by amassing substantial fortunes. By the end of June 2006, several officials involved in shady land deals had been arrested, including Beijing Vice-Mayor Liu Zhihua, Tianjin Procurator-General Li Jinbao, Tianjin Vice-Mayor Chen Zhifeng and several real estate bigwigs in Fuzhou.

Nevertheless, anyone who thinks that the Chinese government’s latest campaign is really intended to combat corruption and stop the local governments’ plunder of people’s farmland has completely misunderstood repeated public announcements made by the Ministry of Land Resources.

There are two reasons for the Chinese government’s campaign against land-use violations:

1) China’s available land resources are dwindling rapidly. As of October 31, 2005, China’s total arable land was 1.83 billion mu (122 million hectares; one mu equals one fifteenth of one hectare). Per-capita arable land has dropped from 1.41 mu (0.094 hectare) last year to 1.4 mu (0.093 hectare) this year, which is less than 40 percent of the world average.

2) Nearly all serious violations of land-use laws and regulations involve local governments or their officials. In many cases, local government agencies whose responsibility it is to monitor and manage land have been the principal culprits in violations of the law. That is why the central government has reclaimed the authority to examine and approve land-use rights.

The first fact speaks volumes. China remains a country in which 70 percent of the population consists of farmers, for whom the loss of arable land is a threat to livelihood. It is therefore a real cause for concern that the Ministry of Land Resources has not made a commitment to stop future land development, but has merely said that the central government intends to reclaim the power to examine and approve land-use rights. The clear implication is that land development will continue, but from now on, the central government will have the final say and local governments will have to withdraw from the business.

The Ministry of Land Resources has made no effort to conceal its real objective for enforcing land-use laws, which was to let the central government have a share in land profits. Many experts understand what this means, with one pointing out that in 2001, when the State Council issued the “Notice on Strengthening the Administration of Income from the Grant and Transfer of State-Owned Land-Use Rights,” the notice “stipulated that 40 percent of the income from the transfer of land-use rights would go
to central government coffers and 60 percent to local governments. Subsequently, how-
ever, the central government’s share of local government land transfer fees was repeat-
edly decreased in order to enable local governments to finance the costs of urban
construction. In the end, the matter was left unresolved. 20

This was, in any case, the reason given to the public. Another unofficial but widely
understood reason was that officials in Beijing wanted the ability to obtain commis-
sions from the review and approval of land-use rights, rather than letting local officials
take in all the spoils. After all, since they are all members of the same Communist Party,
why should local officials be the only ones to rake in profits while officials in the capital
remain empty-handed?

The Chinese government has shown little concern for the fact that forced land seizures
rob huge numbers of farmers of their means of livelihood. Rather, the central govern-
ment has focused its efforts on ensuring that it obtains a share of the profits from local
governments. Rather than engage in protracted and difficult negotiations on this mat-
ter, the central government has taken advantage of the fact that it appoints all local offi-
cials. Since the public takes for granted that local officials are inevitably corrupt, the
central government need only wave its magic wand and discipline a recalcitrant official
for corruption, and everyone sings the government’s praises.
The trouble is that the central government cannot prove that its hands are cleaner than those of local governments. This was made clear in the case of former Ministry of Land Resources Director Tian Fengshan, who in December 2005 was sentenced to life imprisonment for accepting bribes totaling more than five million yuan (about $600,000). The more power and authority that are vested in central government agencies, the more corrupt they become. Over the past few years, the central government has established the China Banking Regulatory Commission, the China Securities Regulatory Commission and the China Insurance Regulatory Commission, ostensibly to keep watch over fat cats in the banking, securities and insurance sectors. But the power to supervise these industries has done little more than provide government officials with the opportunity to take bribes and charge commissions. With rich and easy pickings to be made, the supervisors and the supervised have become one big happy family.

In fact, the sole reason land development is a breeding ground for official corruption is that land actually belongs to the state, creating an institutional window of opportunity for local governments to involve themselves in the business of buying and selling land. The current campaign to enforce land-use law has simply enabled the central government to grab its share of the spoils. The only effective way to end the serious corruption engendered by land seizures would be to privatize land ownership and allow farmers to own their land, and thereby prevent local governments from plundering the people’s farmland and homes.

Farmers dispossessed of their fields

While millions of urban residents have been forcibly evicted from their homes, the number of farmers who have lost their land is even greater as China faces the harsh reality of a steady decrease in arable land.

This decline is a direct consequence of China’s real estate boom. According to a report published by the Ministry of Agriculture, China’s arable land dwindled from 1.951 billion mu (130 million hectares) to 1.837 billion mu (122 million hectares) in the period from 1996 to 2004. That is a loss of almost 120 million mu (eight million hectares) in eight years, or an annual average decrease of 14.25 million mu (950,000 hectares). By October 31, 2005, China’s total arable land had fallen to 1.831 billion mu (122 million hectares), and its per-capita arable land had dropped to 1.4 mu (0.093 hectares), which is less than 40 percent of the world average and near the minimum level below which subsistence is impossible. If the current trend of steadily dwindling arable land coupled with a steadily rising population continues, by 2020 China’s supply of arable land will fall short of national needs by at least 100 million mu (6.67 million hectares).22

Behind these cold figures are the tragic stories of innumerable dispossessed farmers. In 2003, the National Bureau of Statistics’ Research Team on Rural Society and Economy issued the Notice on the Critical Need to Investigate the Situation of Farmers who Have Lost Their Land,23 and local governments have also conducted various surveys.24 According to official statistics, more than 40 million farmers had been displaced from
their land as of March 2005, and this number continues to increase by more than two million a year.\textsuperscript{25} According to a sample survey conducted by Professor Wang Jingxin of Zhejiang Normal University in 134 counties in 11 provinces, including Hebei, Shandong, Hubei, Guangxi, Zhejiang and Yunnan, only 84.5 percent of the total agricultural population has been allotted a plot of land. Professor Wang estimates that at least 13.7 percent of Chinese farmers, some 51–55 million individuals, have lost their land. If farmers who were not allotted land for other reasons (such as having more children than permitted by government population quotas) are added to these figures, more than 60 million farmers in China are landless.\textsuperscript{26}

According to a circular published by the Ministry of Agriculture in March 2006, more than two million \textit{mu} (133,000 hectares) of farmland are seized every year, which means that in all likelihood more than one million farmers are dispossessed every year.\textsuperscript{27} If we accept the Ministry of Agriculture’s figure of two \textit{mu} (0.12 hectares) of farmland per farmer, some 120 million \textit{mu} (eight million hectares) of farmland were lost in the eight years from 1996 to 2004, affecting approximately 60 million farmers.

The forcible expropriation of farmland is closely correlated to the peculiar characteristics of China’s land system, which allows farmers to use land, but not to own it, and provides institutional protection for the new enclosure movement currently underway in China. The system also enables local officials to act as proxy landowners and seize farmers’ land when the farmers happen to be away from it, or to use other methods to cheat the farmers out of their land.

Because the government prohibits farmers and workers from forming organizations outside its control, local farmers lack the resources to engage in collective action. Loose and temporary instances of collective action based on regional and kinship ties nearly always end in failure, because they are no match for the formidable organizational resources of local governments that increasingly resort to criminal tactics, and for the real estate developers who enjoy their backing.

**THE DINGZHOU INCIDENT**

The Dingzhou Incident of June 11, 2005, serves as a particularly revealing example of government-sanctioned crime employed in land seizures.

In 2001, the Hebei Guohua Dingzhou Power Plant Co. Ltd. (hereafter referred to simply as the power plant) began to build a major thermal power plant that went into operation in 2004. The original government plan for the plant—one of 15 key national construction projects—called for dumping coal ash on 379 \textit{mu} (about 25 hectares) of land south of Shengyou Village, which was located less than two kilometers from the plant.

The piece of land designated for the dumpsite consisted of an 80-\textit{mu} (5.4 hectares) collectively owned orchard with some 3,000 pear trees, 200 \textit{mu} (13.3 hectares) of woodland leased to local farmers and planted with two-to-three-year-old poplars, and

---

More than 40 million farmers had been displaced from their land as of March 2005.
another 100 mu (6.7 hectares) allocated to farming families under the household responsibility system.

The crux of the conflict was compensation for the expropriated land. According to the director of the power plant, the total compensation amounted to more than 46 million yuan, but a village cadre said the township only gave the village 5.86 million yuan. The villagers believed that most of the compensation funds were given to corrupt “higher-ups” (as they call government officials above the village level). As to which level of “higher-ups” kept the money—Dingzhou City officials or township officials or officials at every level—that is something that has yet to be made public. Unable to determine the disposal of the compensation they had been promised, the villagers felt they had no option but to protest.

The Dingzhou government played a peculiar double role during this land seizure. Its first role was to suppress the villagers’ protests through a series of tactics:

1) Contingents led by government officials moved against villagers who were guarding the construction site. On March 15, 2004, Dingzhou Party Committee Deputy Secretary Zhao Guojun personally led 200 policemen, government officials and builders equipped with eight forklift trucks to the ash dumpsite to ensure that construction went ahead.

2) The police arrested a dozen village representatives, including Niu Xuguang, Niu Tongshun and Niu Caimin and his wife, on charges of “gathering a crowd to disrupt social order.” More than 200 arrests were made in the course of the crackdown.

3) The authorities resorted to violence to remove villagers who were guarding the building site. From March to July 9, 2004, the Dingzhou municipal government dispatched more than 5,000 police officers on more than 10 occasions to secure the construction site. From July 2004 onward, the villagers took turns guarding the building site to prevent construction work from getting underway, and conflict erupted every time construction work began. The Dingzhou government’s cold-bloodedness can be glimpsed from an incident on April 7, 2004. When Dingzhou Party Secretary He Feng went to Shengyou Village, more than a thousand villagers knelt before him to vent their grievances. He responded, “I’ve seen more than enough of this place. Don’t give me anymore of this nonsense.”

The government’s other role was to use violent underworld tactics in dealing with the villagers. During clashes with the local government, numerous villagers, including village representative Niu Yanping, were repeatedly attacked by “unidentified persons” who were actually government-hired goons. Before dawn on June 11, 2005, some 300 unidentified thugs wearing camouflage attacked the villagers in their sleep, killing six and wounding more than 140 (many suffered disabilities that have incapacitated them for work).

The central government took no notice of what happened, because such incidents are
nothing rare in China. It was only after the Washington Post obtained a video from local villagers that showed the attack in all its violence and brutality—evidence that “good friends of China” could not possibly refute—that the Chinese government decided to take action against Dingzhou Party Secretary He Feng and other local officials. In February 2006, seven months after the incident, the Handan City Intermediate People’s Court in Hebei Province sentenced 27 people for their involvement in planning the attack and killing the villagers. Four of the accused were sentenced to death, and five were sentenced to life imprisonment, including Party Secretary He Feng, who was found to have ordered the attack. Even so, the local government continued to deny any responsibility. It claimed that a small minority of officials committed unlawful acts, insisted that the land requisition was legal, and refused to pay compensation to the villagers.

THE THREE ELEMENTS OF OFFICIALLY SANCTIONED CRIME IN RURAL LAND SEIZURES

The Dingzhou incident contains the three elements common to all land seizures and forced evictions by local governments:

1) The three parties in the Dingzhou incident—the government, an enterprise or business (in this case, a real estate developer) and local villagers—are the same three parties that have been involved in every incident arising from land seizures in recent years.

2) The municipal government and municipal Party committee played the dual role of buyer (by forcibly requisitioning the land from the farmers) and seller (by selling the seized land at a high price to real estate developers).

3) The local government hired thugs to attack villagers to force them into submission. What made this incident different was intense international public pressure, which led to the Chinese government ultimately bringing criminal charges against Dingzhou Party Secretary He Feng.

Other notable examples of officially condoned thug violence have targeted individual activists:

- In the Taishi Village incident in 2005, gangsters kidnapped rights activist Guo Feixiong, and assaulted university professor Ai Xiaoming and lawyers Tang Jingling and Guo Yan.

- In Zigui County, Hubei Province, unidentified thugs attacked Fu Xiancai in June 2006 after he gave an interview to a German television station regarding irregularities in the compensation for villagers displaced by the Three Gorges Dam project. Fu remains paralyzed from the waist down.

- In August 2004, farmers from Wanli Village in Cangshan Township, Fujian Province, were attacked while they were staging a sit-in at a factory they had set
up, and which had subsequently been taken over by the local government without any compensation paid to the villagers. Fifteen villagers were injured in the attack, which was carried out by government officials, police officers and a dozen government-hired thugs. 32

In recent years, it has become a matter of course for officials to hire members of criminal organizations to beat up rights activists while the police look on with folded arms. As far as local governments are concerned, having dissidents attacked by unidentified thugs is convenient for two reasons:

First, the Chinese authorities can promise to search for the “unidentified thugs” without assuming any responsibility for the attacks. The public may suspect that the government hired the thugs, but where is the proof?

Second, by relying on the criminal underworld to do their dirty work, the government can exert enormous psychological pressure on dissidents. Dissidents and other rights defenders know that when they confront official suppression, there is only so far the government will go; the Chinese government, keen to join the ranks of “great nations,” does not want to be seen employing the brutal tactics of a Saddam Hussein or Kim Jong Il. Criminal organizations, on the other hand, have no qualms about stooping to any methods necessary to terrorize their victims. Dissidents may have the courage to disregard their own safety, but when their families are threatened, even the bravest will hesitate.

Outsourcing the use of violence to “unidentified thugs” enables the Chinese government to deal with cases such as Fu Xiancai’s by having the Foreign Ministry issue high-sounding official declarations to stop the international outcry, while doing absolutely nothing about paying for Fu’s medical treatment or punishing his attackers. International human rights organizations are powerless to take action against “unidentified thugs” in foreign countries, and imposing economic sanctions against a criminal organization has certainly never happened.

In an article published in 2003, I discussed the growing trend in China towards the privatization of public power, the legitimization of political violence and the increasing official use of criminal tactics. 33 Under these circumstances, applying international values such as human rights, democracy and freedom to judge a government that increasingly uses underworld violence to keep down its citizens is like—as the Chinese saying goes—“climbing a tree to catch a fish.”

Translated by Paul Frank

He Quigian’s full-length report, Officially Sanctioned Crime in China: A Catalogue of Lawlessness, will be published by HRIC later this year.

Notes

1. Translator’s note: The author alludes loosely to the British enclosure movement of the 16th-
Enclosure was the process whereby open land or common land was parceled up into privately owned fields.


3. “Zhongguo 36 chengshi jiang chengli fankong fangdichan zhongxiaoxue jiaoyu juqianlie” (China is Setting Up Special Police Units in 36 Cities to Put Down Riots), BBC Chinese Service, August 18, 2005.


7. “Guotuziyuanbu fubuzhang: wentigaoyuan duoshao dou gen tudiyouguan” (Vice-Minister of the Ministry of Land Resources Says That Most High-Level Officials Charged with Corruption Have Been Involved in Real Estate), NetEast.com (http://news.163.com), July 4, 2005; originally published on the People’s Daily Web site.”


15. Zou Yurui, “Todi shenji fengbao, 2,046 ge kaifaqu juanru, jin qianren shou qianlian” (Land Audit Storm Sweeps Through 2,046 Economic Development Zones; Almost 1,000 Individuals Implicated), Beijing Yule Xinbao (Beijing Entertainment News), December 24, 2003.


20. “Jujiao tudi zhifa fengbao, duoguan qiaxia wadiao ‘mai di shengcai’ yin gen” (Focus on the Land Use Law Enforcement Campaign: A Multifaceted Approach to Eliminate the Addiction

21. See Guo Yukuan, “Jingcheng chaiqian: yige hairentingwen de zhenshi gushi” (Forced Evictions and Demolitions in the Capital: A Shocking True Story), Zhishi Xueshuwang (Knowledge and Learning Online), April 4, 2005, http://www.zisi.net/htm/xzwj/gykwj/2005-04-04. This article adds another detail: On July 21, 1995, the director of the Beijing Real Estate Bureau signed and issued Document No. 434, which stated: “Article 10 of the Constitution of the People’s Republic of China adopted in 1982 states, ‘Land in the cities is owned by the state’. . . When urban construction is necessary, the state has the right to requisition the above-named land without compensation. . . . In conclusion, the real estate bureau believes that when residents of privately-owned buildings are evicted and their buildings are demolished for purposes of urban construction, compensation can only be given for the building proper and its dependencies; no compensation can be given for the right to use the state-owned land on which the building stands.” When Wu Qing, a deputy to the Beijing Municipal People’s Congress, requested an explanation from the Beijing Real Estate Bureau, the bureau replied with brazen assurance: “Private house owners have no proprietary rights to their houses.”


23. “Guanyu jinjikaizhan shidinongmin xianzhuang diaocha de tongzhi. ”


29. “Dingzhoushi weishi He Feng yin Shengyoucun xue’an beipan zhongshen jianjin” (Dingzhou City Party Secretary He Feng Sentenced to Life Imprisonment for His Involvement in the Shengyou Village Murder Case), Radio Free Asia, February 9, 2006.


Wheeling and Dealing in Real Estate, 
the Crooks are Raking it in

By Zhao Fei

Like some demented donkey, house prices leap and roll.
During Premier Hot’s first term of office,
A family’s life savings
Is blown into a bubble for a few rooms.
Properties get flipped ruinously, with somebody’s slimy hand on the spatula,
And the surging revenues have rolled into somebody’s pocket.
Does the whole country belong to you fellows?
The guy wielding the big pen makes any deal he wants to.
Those who have power and money don’t need to buy another house, it’s superfluous;
Those who have no money and no power desperately need a roof over their heads
and worry themselves sick over it.
The People’s Representatives get whisked from door to door,
They step from their cars and make a beeline for the big bar at the Empire Garden Hotel.
Are the People’s Representatives still capable of representing the people?
Do the People’s Representatives still know the hardships of ordinary life?
Do the People’s Representatives ever worry about buying a home?
Do the People’s Representatives know that title was unobtainable for my apartment?
Do the People’s Representatives know that the paperwork for
Swaying Blossom Development was never completed?
Do the People’s Representatives know that Fu Conghua
of the Crystal Spring residents’ committee
Has repeatedly given me a hard time about straightening out
the household registration for my kid?
Premier Hot’s speech is interrupted more than thirty-six times for applause.
This is unprecedented.
You know that 88.8 percent
Of the fat slobs sitting at his feet are corrupt officials,
They are alien elements, they are not of the people.

Rendered into English by A.E. Clark


Note

1. Premier Wen Jiabao’s surname means “warm”
A new law designed to improve protection of private property raises important issues of history and social justice.

The Communist government is trumpeting the so-called “Property Law.” But is this law genuine? The author thinks not. This is not a matter of law, or even of common knowledge; it is simply a political show.

In short, since implementing nationalization, the Communist Party has usurped innumerable private properties. Land reform, joint state-private ownership, property confiscated during the Anti-Rightist Campaign, the “confiscate the four olds” movement during the Cultural Revolution and all the other outright plundering committed... all this political oppression aggravated by economic usurpation has never been admitted or explained. Since all this abuse incurred through nationalization has never been compensated, what kind of Property Law can the government implement now?

On the other hand, it is fine if the Communist Party really means to implement a system of returning fields to the farmer, governance to the people and property to the people, but first, the Party must admit to all the property confiscated in the name of “anti-landowner, anti-rightist” actions since the existence of nationalization, and make appropriate compensation. In particular, it must earnestly respond to and deal with the current legitimate demand by “rightists” for compensation. This demand will be the acid test of whether the Property Law is genuine or fake in other words, whether the billions held by today’s special interest groups merit property rights and various other types of protection, but—too bad!—the relative pittance demanded by the rightists will not be compensated—not one cent. In other words, you rich landlords, rightists, reactionaries and bad elements will not receive a cent of compensation for the property confiscated from you during the Party’s previous campaigns. And the same goes for the land that’s already been grabbed, the jobs already stolen, the homes already taken—not a cent of compensation for that. Under these circum-
stances, what are property rights? How can the staging of this political show have any real meaning?

The next question is: will the government rob the robbers? After all, this was their most loudly proclaimed slogan half a century ago.1

Under this regime, with its blurred definition of Party property and its corrupt administration, how can people discern what are legitimate material rights, what is legitimate private property, and what are the spoils of theft?

In the past, people have pointed out issues such as “legalized corruption” and “legalized theft.” These problems still exist. What kind of political guarantee, measures or scrutiny can the people use to ensure “legal” property rights? Is it even possible?

In theory, in implementing the so-called Property Law, the Communist Party must first take a clear stand on principle by denouncing the plundering and forcible seizure it carried out in 1949 under nationalization. This means denouncing the Communist Party’s thieving behavior in the name of land reform and joint state-private ownership movements. For these past abuses, justice must be rendered to history and property returned to the people. Without mentioning how the Party grabbed its seed money, whether under the name of nationalization or privatization, there is no way to take the first step toward a system of rationalizing private property.

Secondly, if the regime ignores the historical reality of the above-mentioned origins of its property, or if it even, as in the case of the Anti-Rightist Campaign, insists on its correctness and refuses to make any apology or squaring of accounts for its plundering under nationalization, then how can the public be expected to accept or interpret ownership of what appears to be the spoils of a series of ruthless acts?

Thirdly, any measures to affirm and safeguard privatization and private property must be based on the considerations of a legitimate political system. Lacking this prerequisite, is there really some Communist principle of property ownership under which plundering under both nationalization and privatization can be legitimized in tandem?

Fourthly (and this is currently the most disputed point), how is it possible to legitimize and rationalize the special interests, special property and special rights that derived from the nexus of money and power? In other words, if the government does not denounce the “legality and legitimacy” of this institutional robbery, then this “Socialist Property Law” will not have any universal value or human value.

Fifthly, the crux of this law does not even touch upon how to rationalize public ownership under socialism. As mentioned above, under the old Communist system, Mao alone held all of the country’s spiritual and material property. Using that system to attack the privileges enjoyed by the current special interest groups is tantamount to a moral dispute between wolves; it has neither meaning nor legal grounding. As the old saying goes, “[S]ocialism is a capitalist’s capitalism.”2 What we now call the Chinese characteristic of socialism is really nothing more than collective capitalism.
Without a doubt, the Property Law does provide resolution of certain property rights conflicts—but it is a rather tragi-comic resolution, the preposterous sort of resolution that is the best one can hope for in appealing to China’s legal, administrative or Party organs. It is obvious to anyone that whether a robber takes all or part of one’s property has no bearing on his being identified as a thief; the fact that you had 10 yuan and he took 8 does not change the fact that you were robbed. One cannot say, “Look, he let you keep 2 yuan—that’s progress!”

No, that is not a reasonable conclusion. Following is a concrete example.

One of my relatives lives in a large courtyard villa in Beijing’s Dongcheng District, on Xizongbu Hutong. The property belongs to the Liu family, in the name of a distant aunt of mine. Her husband Li Wen was a member of the first graduating class of the Huangpu Military Academy, and went on to become a regiment commander in the Kuomintang Army. After sparring with the Communist forces in Sichuan, he switched his allegiance and was officially accepted into the Communist Army. He subsequently went to Hong Kong, then to Taiwan, and finally to the United States. The Communist Party put his property under a trusteeship, and it was not confiscated. In the past decade, my family has made numerous demands to retake possession of the property.

The property is a big traditional courtyard house, with more than 100 rooms. After the departure of Li Wen in 1949, the property was occupied by Zhang Lan,4 and after Zhang died, by Li Zongren,5 who had just returned to Beijing. After Li Zongren died, it was subsequently occupied by Lu Dingyi6 upon his release after the Cultural Revolution. One can imagine how extensive the grounds are, probably exceeding a thousand square meters.

After lengthy, complicated negotiations, the government finally handed down an administrative decision containing several key points:

1) In calculating the property compensation for the house, the Communist Party did not include the land value, but only the surface area of the structure. The reason is simple: the land is the property of the nation and is not subject to compensation. Therefore the property value does not include land value.

2) According to their so-called property “depreciation” estimate, calculated since 1949, this house with its courtyard spanning over 1,000 square meters is worth a mere 800 yuan per square meter, or a total of 800,000 yuan.

3) The author’s relatives had requested housing of an equivalent size as compensation, since the original house and courtyard had been demolished, but this request was rejected. The government replied that the house does not exist any more, and therefore there is no basis for compensation in kind.

4) And who, then, was responsible for demolishing the house? Certainly not the owner of the house, but this is a matter of no consequence to them.

This was how my relatives obtained partial compensation.
As everyone knows, the current real estate values in Beijing’s Dongcheng neighborhood in the Xizongbu Hutong location definitely exceeds 10,000 yuan per square meter, but the depreciated property value in this case came to a mere 800 yuan per square meter. What kind of property rights does this Property Law guarantee? We are not impressed. And when can we have an opportunity to demand compensation for land value?

My family’s housing dispute experience clearly shows the threat the Property Law poses to private land ownership. Beijing’s municipal government once announced that the private property issue had been resolved. Now we know exactly how it has been resolved!

For those who praise this law for affirming private property, have they considered that this Property Law, carefully tailored to Chinese characteristics, might just be another set of new clothes for the emperor?

Translated by Nancy Li


Notes

1. These are references to losses that resulted from economic reform rather than political action—the dispossession of former occupants of rural and urban land under redevelopment, and the widespread loss of employment through the privatization of state-owned enterprises.
2. Lenin in December 1917 launched a campaign to “rob the robbers,” or despoil landowners and the bourgeoisie, a model followed by Mao following China’s revolution.
4. Zhang Lan (1872–1955) helped launch the China League of Democratic Political Groups (later renamed the China Democratic League) in 1941, and served as chairman of the first Chinese People’s Political Consultative Conference, and as vice chairman of the Central People’s Government.
5. Li Zongren (aka Li Tsung-jen, 1890–1969) was a KMT military commander and served as vice-president and acting president of the Republic of China under the 1947 Chinese Constitution. After the nationalist capital of Nanjing fell to the Communist forces in 1949, Li flew to New York for treatment of a chronic health condition, and while visiting President Harry S. Truman, denounced KMT head Chiang Kai-shek as a “dictator” and “usurper.” Li became a Communist sympathizer and moved to Beijing with the support of Zhou Enlai in 1965.
6. Lu Dingyi (1906–1996), serving as China’s Minister of Propaganda, helped launch the Hundred Flowers Movement that resulted in an outpouring of criticism against Mao. He was arrested in 1968 during the Cultural Revolution, and was not released until after Mao’s death.
WHY CHINA NEEDS A PRESS AND PUBLICATIONS LAW

By Li Pu and Wang Jianxun

The recent banning of eight books through informal and arbitrary means demonstrates the need for China to formulate a press and publications law to protect freedom of expression from arbitrary official whim.

It was only after reading two statements by writer Zhang Yihe on January 19 and 24, 2007, that we learned that Wu Shulin, deputy director of the General Administration of Press and Publications (GAPP), had again banned some books during a so-called “information meeting” on January 11, this time eight at one go.1 This new round of cultural corralling has drawn widespread criticism from intellectuals, who have lined up to decry Wu’s action as violating both the Constitution and the principles laid out in Premier Wen Jiabao’s “Heart-to-Heart” speech. We will not expand on this argument, but rather will analyze the incident from two angles to express our support for the laudable resistance put up by that “solitary old woman,” as Zhang Yihe describes herself.

Wu Shulin’s information meetings must be discontinued

China set up the system for its Foreign Ministry press spokesperson years ago, and in recent years it has become a notably successful model for many of the State Council’s lower-level ministries and commissions. For all its deficiencies, this system ultimately maintains the upright, refined tone of a great country. Wu Shulin and GAPP should have set a similarly good example for other ministries, but unfortunately, Wu has in fact served as an example of what not to do. If you really believe in your position, why not use normal channels such as a press conference to announce your decisions publicly? “Advance briefings,” “information meetings,” “warning meetings” and other such informal, underhanded methods are inconsistent with the concept of a modern, civilized country that governs according to the rule of law. Wu Shulin’s self-satisfied persistence in using such methods indicates that he and his cohorts are at heart the functionaries of a dictatorial, anti-civilization, inhuman, reactionary cultural autocracy. Such notions are diametrically opposed to the concepts of putting people first and of establishing a harmonious society that have been repeatedly emphasized over the
last two years by Hu Jintao. Moreover, they run counter to the powerful world trend towards democracy.

Wu Shulin’s use of an “information meeting” to implement his course and peremptory targeting of particular writers implies that Wu is aware of the underhanded nature of blacklistng Li Rui and other “problematic” writers. What an obscene travesty it is for 5,000 years of glorious civilization to be despoiled by the current rabble!

Incidentally, it is worth noting that Wu Shulin, by once again using an “information meeting” to ban authors and books instead of circulating a document and explaining his administrative intentions in a transparent manner, betrays something like a guilty conscience. Wu Shulin, are you afraid that in the days to come the political terrain will change and you will be called to account? If you really want to say what you think, why not simply publish another “May 16 Notice,” or declare that so-and-so is permanently expelled from the Party? From the standpoint of basic decency, you don’t even match up to the priggish pedants of 40 years ago, who at least dared to publicly proclaim their own political appeals, even if they offended the whole world in doing so. But you? Why have you veered off the high road and set out on a dead end? We don’t require you to fill newspapers with beautiful writing or to publish scholarly articles around the world, but before you have the guts to nitpick and carp about these eight writers’ works, shouldn’t you yourself possess some rudimentary qualifications?

The background of modern China’s press and publications laws

Though Wu Shulin’s new round of cultural corralling clearly violates laws and the Constitution, it also results from the absence of controls and protections that would be pro-
vided by a press and publications law. The People's Republic of China has already been established for 58 years, but up to this point it has never had such laws, allowing Wu Shulin to stir up trouble and do as he pleases in the news and publications domain, secure in the knowledge that he has strong backing. Setting aside foreign standards, such actions are out of line even with China's history.

Tracing the source of such autocratic control over cultural output, records show that in the year 221 B.C., Emperor Qin Shihuang ordered that all pottery must bear his "imperial edict" seal; next, around 125 B.C., Emperor Han Wudi had an imperial censorship law "proclaimed everywhere under heaven"; afterwards, there was the Tang Dynasty's "government bulletin" and "official report statute," among other such official communications. In July 1906, Empress Cixi, regarded by present-day scholars as ignorant and stupid, promulgated the "Great Qing Printed Material Special Law" as a means of more conveniently governing publications; later, in January 1908, the Qing court once again issued the "Great Qing Newspaper Edict." These last two laws represented an ominous new chapter in the history of China's press and publications law. In December 1914, Yuan Shikai's government unleashed the "Publications Law." In the 1930s, under conditions of foreign invasion and domestic unrest, Chiang Kai-shek's constantly embattled government still found the time to pass a "Publications Law" and "Press Censorship Standards," among a series of other similar decrees.

Jumping ahead, at 1978's Fifth National People's Congress and Chinese People's Political Consultative Congress, a few NPC delegates and CPPCC members proposed the formulation of a "Press Law" and a "Publications Law"; at the Sixth Party Congress in 1983, even more representatives and committee members favored this proposal. At the time, the Party and government's highest leaders, nominally Hu Yaobang and Zhao Ziyang, put strong emphasis on this matter, instructing the Chinese Communist Party's Ministry of Propaganda to conduct research and propose a plan. The head of the Ministry of Propaganda at the time, Zhu Houze, directed the head of the Ministry's News Bureau, Zhong Chongzhang, to assemble the heads of the National People's Congress Legal Committee and the Science, Education, Culture and Health Committee to meet on December 28, 1983, to discuss this matter. In the end, they decided to have Hu Jiwei, who had just stepped down from his position as director of People's Daily, and who was at the time Deputy Director of the Education, Science, Culture and Health Committee, set up a drafting committee. Later, due to one sentence from the mouth of one old man, this research mechanism was revoked.

In January 1987, the General Administration of Press and Publications was established with the publicly stated aim of "drafting laws and regulations dealing with the press and publications..." And afterwards? Leap ahead 20 years to today's legal vacuum, and to Wu Shulin and his furtive and lawless political activities. By this standard, Wu Shulin has proven himself to be the pupil who surpasses his teacher.
Hu Yaobang opposed censorship

The reason we have provided this rough sketch of China’s history of press and publications law is to urge the relevant parties to formulate new laws as quickly as possible, to standardize the press and publications codes, to curtail the activities of certain professionals and officials, and to guarantee the observance of the relevant articles of the Constitution that endow the people with rights in this area. A country without law is a wasteland of brambles and thorns; without law, a country is a bandit’s paradise; without law, a country is a tragedy of human civilization; without a law that supports and protects those like Zhang Yihe, writers can only defend their words with their lives.

In the early 1980s, Hu Yaobang, then head of the Ministry of Propaganda, often recommended Marx’s 1842 article, *Comments on the Latest Prussian Censorship Instruction,* to his subordinates as a way of expressing his opposition to censorship and cultural tyranny. Many readers are already very familiar with this article, but we wish to quote a particularly splendid paragraph to conclude our message of support for Zhang Yihe: “You admire the delightful variety, the inexhaustible riches of nature. You do not demand that the rose should smell like the violet, but must the greatest riches of all, the spirit, exist in only one variety?”

Translated by a friend of HRIC

Postscript: In late April, Long Xinmin, director of the General Administration of Press and Publication, was demoted to the post of Deputy Director of the Central Party Literature Research Centre, following a wave of public outcry over the book bans and other recent censorship controversies. At the same time, Chinese officials unveiled new rules described as creating an environment of greater government transparency.

The original Chinese article was published in the March 2007 edition of Hong Kong’s *Open Magazine* (*Kaifang*).

Notes

1. The eight books included *Cang Sang,* by Xiao Jian; *I Object: The Political Career of a People’s Congress Delegate,* by Zhu Ling; *Past Stories of Peking Opera Stars* by Zhang Yihe; *The Family History of an Ordinary Chinese* by Guo Ya; *The Other Stories of History: My Days at the Supplement Division of the People’s Daily* by Yuan Ying, *Era of History,* edited by Kuang Chen; *This is How it Goes@sars.com* by Hu Fayun; and *The Press* by Zhu Huaxiang. For an English translation of Zhang Yihe’s January 19 statement, see the EastSouthWestNorth blog, http://www. zonaeuropa.com/20070120_1.htm.
2. The “May 16 Notice,” issued by the Central Committee of the Chinese Communist Party on that day in 1966, launched the Cultural Revolution.
3. Marx’s article can be accessed online through the Marxists Internet Archive, http://www. marxists.org/archive/marx/works/1842/02/10.htm.
HEPATITIS B: A CATALYST FOR ANTI-DISCRIMINATION REFORMS?

By Bonny Ling and Wing Lam

Increasing public awareness of the discrimination faced by people with chronic Hepatitis B in China could become a catalyst for invoking international human rights standards when addressing discrimination on the domestic front.

Echoing a chapter in the history of the global struggle against HIV/AIDS, the legacy of widespread discrimination sounds all too familiar in the daily struggles of China’s estimated 120 million carriers of the Hepatitis B virus (HBV). These individuals with a chronic HBV infection represent a staggering 10 percent of the country’s population. While the government has recognized HBV as a serious public health issue and has almost tripled the percentage of infants who are vaccinated against HBV since 2002, prejudice and discrimination against individuals with chronic Hepatitis B have become widespread and flagrant, despite constitutional guarantees of equality. Even though HBV cannot be transmitted through day-to-day contact, and many chronic Hepatitis B individuals lead healthy and normal lives, simply being an HBV carrier can result in expulsion from school, loss of employment and alienation from friends and community.

Discrimination based on a person’s HBV status extends across all age groups, in both the public and private sectors. In March 2006, 20 three-year-old toddlers in Hangzhou were denied admission to kindergarten because they were HBV carriers; six months later, 19 Uyghur students tested positive for HBV and were expelled from Urumqi public schools; a newlywed husband in Shenyang filed for divorce after discovering that his wife had chronic Hepatitis B; and in March 2007, a Chinese job applicant filed a lawsuit against Nokia, alleging that its China branch had refused him employment after a company-ordered medical exam found him to be an HBV carrier.

In a 2005 survey on individuals with HBV conducted jointly by the Chinese Medical Association’s Society of Hepatology and Society of Infectious Diseases, half of the respondents said they became estranged from friends who learned they were infected with HBV, and 68 percent said that the infection had adversely affected family relations.
These reports of daily discrimination against individuals with HBV have become headline news and have drawn increasing public concern as more and more victims of Hepatitis B discrimination in China are breaking their silence and bringing their cases to the courts and public attention. Since 2003, some high-profile lawsuits of Hepatitis B discrimination have unveiled rampant discrimination against HBV carriers in the workplace. Labor experts see Hepatitis B discrimination as one of the major types of labor rights violations in China. Despite increasing attention to this problem, even the 2004 Law on the Prevention and Treatment of Infectious Diseases—seen as a significant step forward by prohibiting discrimination on the basis of infectious diseases—does not specifically mention Hepatitis B, nor is its anti-discrimination provision echoed in the Labor Law.\textsuperscript{11}

Weiquan (rights defense) activities against discrimination based on HBV status, such as efforts to resort to the legal system, sending petitions and finding support and mobilization through online forums, illustrate the broader challenges facing China’s domestic legal reforms, in particular inadequate rights awareness among members of the public. This requires an active human rights education campaign that could change not only the pattern of Hepatitis B prejudice but also other forms of discrimination in China.

Fears and prejudice

The prevalence of Hepatitis B discrimination in China results from public misunderstanding fueled by ignorance over how HBV is transmitted, and by unscrupulous medical companies that exaggerate the dangers of HBV transmission while touting cures. Many individuals with chronic HBV infection lead normal and healthy lives and do not develop any symptoms. Nonetheless, a common misperception that HBV can easily be transmitted by air or through day-to-day contact reinforces a social stigma that wrongfully labels HBV carriers as the source of the spread of the disease.

Hepatitis B employment discrimination

Discrimination against HBV carriers features most prominently in employment, and can start at the initial stage of recruitment. In October 2006, a Beijing-based recruitment agency revealed that it would routinely arrange compulsory medical exams for candidates to fill positions in foreign-owned corporations, and that applications would not be processed for candidates testing positive for HBV. To avoid legal liability in future discrimination claims, the recruitment agency would advise its corporate clients not to mention in internal documents that a candidate was rejected on the basis of HBV status.\textsuperscript{14}

HBV carriers who are already employed also receive little support in the workplace. A recent survey conducted by the Chinese University of Political Science and Law on
**UNDERSTANDING HEPATITIS B**

**What is Hepatitis B?**

- Hepatitis B is the world’s most common liver infection caused by the Hepatitis B virus (HBV) that primarily affects the liver. It may lead to acute or chronic disease, and can cause hepatitis, liver failure, scarring of the liver (cirrhosis), liver cancer and death. Upon initial infection with HBV, most adults get rid of the virus and are not chronically infected.

- People who do not clear the virus after six months of exposure have a chronic HBV infection. Some develop the chronic disease, but others have no symptoms. While they can still transmit HBV, they may not know of their infection until undergoing blood tests. People with **chronic Hepatitis B** are also known as “carriers,” and they are at increased risk for developing cirrhosis and/or liver cancer.

**Who is more likely to develop a chronic infection?**

- The risk of chronic infection is age dependent: around 2 to 6 percent in people over 5 years old; 30 percent in children aged 1-5 years; and up to 90 percent in infants.

**How is HBV transmitted?**

- Similar to HIV, the virus that causes AIDS, HBV is transmitted through contact with blood or body fluids that contain blood.

- This can occur through direct contact with blood, transfusions, unprotected sex, intravenous drug use or from a mother to her newborn at birth.

- HBV **cannot** be transmitted by contaminated food or water, and cannot be spread casually in the workplace.

---

health discrimination in employment found that 49 percent of the 3,500 respondents were not willing to work with HBV carriers, and 55 percent said they would not hire HBV carriers. Numerous cases have come to light in which employees have been forced to resign or were dismissed on unrelated grounds after compulsory medical exams that included a test for HBV. For example, a 28-year-old man surnamed Liao had won a company award for good performance at an electronics company near Shanghai, but was later told that he was unfit for employment after a company physical found him to be an HBV carrier. Liao’s case represents the wider trend of negative sentiments towards HBV carriers, and exemplifies the difficulties and pressures faced by most individuals with chronic HBV infection in a labor market that offers few safety nets for employees.
Efforts against Hepatitis B discrimination

While many HBV carriers might have simply accepted unjust discrimination by their employers in the past, now an increasing number of support networks are encouraging them to break their silence. The turning point came in 2003 with the case of a young graduate, Zhou Yichao, from Jiaxing City, Zhejiang Province. In January 2003, Zhou Yichao ranked among the highest scorers in a civil service exam in Jiaxing City, but his application for employment was rejected because he had tested positive for HBV during a routine medical exam. Similar to many asymptomatic individuals with chronic Hepatitis B, he hadn’t known before that he was an HBV carrier. Driven by anger and despair, Zhou broke into the recruitment office, stabbing one official to death and seriously wounding another. Zhou was subsequently sentenced to death by a local court and executed in March 2004. 17

The tragedy of 22-year-old Zhou Yichao was a wake-up call to the government and society, underscoring the need to recognize the long-standing frustration and injustice suffered by HBV carriers, whose normal lives are undercut by the strong stigma against Hepatitis B in general. Zhou’s case inspired a great deal of sympathy, as well as criticism of discriminatory hiring practices. Later the same year, another young university graduate named Zhang Xianzhu challenged discrimination based on HBV status by filing China’s first Hepatitis B discrimination administrative lawsuit in Wuhu, Anhui Province, and won a partial victory against the local government’s personnel bureau.

With the two high-profile cases of Zhou Yichao and Zhang Xianzhu—two comparable situations of promising graduates who fell victim to Hepatitis B discrimination in public hiring—2003 became a turning point. The case of Zhang, in particular, came to symbolize the increasing willingness of victims to seek legal remedies against discrimination.20 In the words of prominent labor-rights lawyer Zhao Litai, who supports HBV carriers bringing their cases to the courts, “Progress can only be made by seeking legal redress.”21

Changing public attitudes

The cases of Zhou Yichao and Zhang Xianzhu also illustrate the potential of public sympathy and mobilization to change attitudes towards discrimination. Zhou’s case inspired solidarity among those who suffer from similar discrimination, and led the Chinese media to name 2003 the “Year of Anti-Discrimination of HBV Carriers.”22 A Web site forum called Gandan Xiangzhou (a Chinese idiom suggesting close friendship and understanding), became a popular platform for indi-

China’s First Hepatitis B Discrimination Administrative Lawsuit: The Case of Zhang Xianzhu

Zhang Xianzhu was a 25-year-old university graduate who received the highest score in the Wuhu civil service qualifications examination. His employment, however, was denied after he tested positive for HBV in a routine pre-employment medical exam. In November 2003, he filed China’s first Hepatitis B discrimination administrative lawsuit at the People’s Court in Xinwu District, Wuhu City, Anhui Province, alleging that the ban against HBV carriers was discriminatory and violated his constitutional rights of equality and political participation.18

The case was tried in December 2003, and a judgment in Zhang’s favor was delivered in April 2004.19 The court ruled that there was insufficient evidence to demonstrate that Zhang, although an HBV carrier, belonged to one of the seven HBV groups that Anhui’s provincial health standards barred from public service.

However, it was an empty victory: although the court could have ordered the local personnel bureau to accept Zhang’s application, it denied Zhang’s request to be reconsidered for the civil service position, noting that the recruitment season had already finished.
individuals with chronic HBV infection to exchange news and incidents of discrimination, share experiences and advocate equal treatment.

Members of Gandan Xiangzhou quickly took an instrumental role in Zhang Xianzhu’s administrative lawsuit, offering advice on his litigation strategy, contacting the media to raise publicity and encouraging fellow HBV carriers to show support by attending Zhang’s court hearing. They also submitted a petition signed by 1,611 individuals to the Standing Committee of the National People’s Congress, requesting a constitutional review of all existing government regulations barring HBV carriers from civil service. The petition also called for the enactment of legislation specifically aimed at protecting China’s HBV carriers from employment discrimination. The huge support for Zhang Xianzhu vividly demonstrated how effective public mobilization could not only make a difference in an individual case, but also positively affect public sentiment towards people with chronic Hepatitis B infection.

Changing laws

Public opinion about the Zhou and Zhang cases exerted pressure on the government to make concrete legal and administrative changes. Faced with increasing public awareness and sympathy for HBV carriers, the government made its first attempt to address Hepatitis B discrimination by revising the Law on the Prevention and Control of Infectious Diseases in August 2004. For the first time, the government explicitly barred “discrimination against people infected with contagious diseases, people carrying the pathogen of a contagious disease, and people who are suspected of having a contagious disease.” A few months later, in January 2005, the Ministry of Personnel and the Ministry of Health lifted the ban on public service recruitment of HBV carriers in a new set of national standards on public servants’ medical exams. These were seen as a triumph in the struggle to protect the rights of individuals with HBV.

Though these new statutory provisions represent positive change, significant legal challenges remain, in particular a lack of legal redress for victims of Hepatitis B discrimination. This is in large part due to the fact that China’s domestic law does not have a clear and comprehensive definition of discrimination, even though the Constitution states that all citizens are equal before the law and enjoy the rights prescribed by the Constitution and the law. Lack of legal redress is particularly acute in the private sector, where China’s Labor Law does not offer any specific reference to non-discriminatory employment of HBV carriers beyond the general non-discrimination clause—“[L]aborers shall not be discriminated against in employment, regardless of their ethnic community, race, sex, or religious belief”—and the stipulation that citizens have the right to be employed on an equal basis.

In February 2007, Qu Jianzhi, the lawyer for a young university graduate (alias Chen Long) from Jiangsu who had filed a lawsuit against a Shanghai-based technology company for employment discrimination against HBV carriers, assessed his client’s limited chances of success by noting that it is inherently difficult to seek justice for those who are the victims of discrimination because China does not have specific legislation on the prevention of discrimination.

Nonetheless, Qu hopes that Chen Long’s case will improve the current situation of employment discrimination and push forward the legislative reform agenda on measures to prevent discrimination.
A clear legal definition on discrimination would help to advance claims of Hepatitis B discrimination, given that at present, most such cases are lost, or are simply not accepted by the court. The absence of a concrete definition of discrimination may also dissuade many prospective claimants from seeking legal remedies in the first place, given the likelihood of losing the claim while bearing the costs and enduring the inevitable publicity. Consequently, the number of Hepatitis B discrimination cases appearing before the courts today very likely represents only a very small number of the overall cases, given that 10 percent of the population is believed to have chronic HBV infection.

Institutional and broader challenges

Seeking legal remedies for Hepatitis B discrimination illustrates the broader challenges facing China’s domestic legal reforms. These challenges include laws that are too vague to offer genuine protection; the arbitrary and weak implementation of legal provisions; and inadequate rights awareness among members of the public. For instance, the absence of a specific and comprehensive definition of discrimination in Chinese laws undermines the effectiveness of legal channels within the context of an already weak framework for protecting workers’ rights in China. Labor laws are arbitrarily enforced amidst allegations that even the statutory labor inspectors monitoring compliance can be bribed to overlook violations.

On the other hand, media attention to lawsuits on Hepatitis B employment discrimination has opened a space for public concern and debate on this issue. Even with relatively low success rates, the implications of these cases have provoked serious discussions on labor rights. It is this public realm that holds the greatest promise for change in ending the prejudice and systematic discrimination against China’s 120 million HBV carriers. Foremost, public education on HBV is crucial to ending the ignorance and fear surrounding this medical condition and the stigma attached to people with chronic HBV infection.

Beyond this is a clear need for more education fostering practical and useful knowledge of international human rights principles and standards. For instance, in their reviews on China’s implementation progress, UN human rights treaty bodies have long recommended that the Chinese government adopt a definition that would concretely set out the scope of legislation targeting discrimination. The fact that this recommendation has yet to be routinely referenced by China’s activists fighting Hepatitis B discrimination indicates a considerable gap between domestic and international jurisprudence, and underscores the need for China’s international human rights reviews to be publicized more at the domestic level. Placed in the context of China’s international human rights obligations, efforts to end China’s longstanding prejudice against HBV carriers could potentially become a catalyst for wider institutional change against all forms of discrimination.

Postscript: As this issue of CRF went to press, China’s ministries of health and labor...
issued new guidelines targeting workplace discrimination against Hepatitis B carriers, including a prohibition against compulsory HBV tests for job applicants. For more details, see Raymond Li, “Guidelines to protect hepatitis-B carriers,” *South China Morning Post*, June 1, 2007.

**Notes**

1. The authors are grateful to two medical practitioners, S. Lam and A. Unger for valuable background discussions on Hepatitis B.
3. Ibid.


24. Law on the Prevention and Control of Infectious Diseases, op. cit., Article 16.


28. PRC Constitution, op cit, Article 33. The Law on the Protection of Disabled Persons, however, does explicitly forbid discrimination against disabled persons; for example, Article 34 elaborates the non-discrimination against disabled persons in the workplace: “No discrimination shall be practiced against disabled persons in recruitment, employment, obtainment of permanent status, promotion, determining technical or professional titles, payment, welfare, labor insurance or in other aspects.” The Law of the PRC on the Protection of Disabled Persons, promulgated on December 28, 1990 and effective on May 15, 1991.


30. Ibid., Article 3.

31. Fanyigan qishi lumanman, op cit.


33. Ibid.


CRIMINAL JUSTICE CHALLENGES
A RIGHTS DEFENSE LAWYER TAKES THE LONG VIEW

An interview with Mo Shaoping
by the editors of Ren Yu Renquan

One of China’s most prominent rights defense lawyers talks about the need for more lawyers and more people to care about democracy, social justice, legal reform and human rights.

In February 2007, Mo Shaoping went to France to attend the 3rd World Congress Against the Death Penalty. After that, Mo accepted an invitation from China law expert Jerome Cohen to give a talk at the New York University School of Law. Ren Yu Renquan interviewed Mo Shaoping while he was in New York.

Ren Yu Renquan (RYRQ): Mr. Mo, I’m very glad to have the chance to interview you in New York. Can you tell us a little about your recent itinerary?

Mo Shaoping (Mo): The 3rd World Congress Against the Death Penalty, held in Paris from February 1 to 3, was organized by Ensemble contre la peine de mort (Together against the Death Penalty) and the Paris Bar Association. It was attended by representatives of nongovernmental organizations from dozens of countries, and was sponsored by the European Union and the governments of France and Germany and other countries, which also sent representatives to attend and speak at the congress. The attendees included judges, prosecutors, lawyers and other judicial officers from many countries. Opposing the death penalty is a human rights policy of the European Union (EU), which excludes from membership any country that has the death penalty.

RYRQ: Then the Congress must have a lot of criticism of China’s death penalty policies.

Mo: Of course, China carries out more executions than any other country in the world. Every year China has more than 8,000 executions, which, incredibly, makes up 95 percent of the world total. For that reason, many speakers at the Congress called on China to abolish the death penalty.

RYRQ: What’s your own view?

Mo: Personally, I oppose the death penalty for many reasons—from the perspective of
the law, morality and human rights—and I hope China will abolish it in the future. But it would be very hard for China to do so at present. The reasons are complex, and they include China’s large territory, its immense population, low education levels, high crime rate, the traditional view that a killer must lose his life, the blind faith of lawmakers and judges that the death penalty can serve as a deterrent, and so on.

Abolishing the death penalty in China will require a process. For example, recently China allowed the Supreme People’s Court to resume its power to review death penalty cases, which is progress. We should also remember that a number of other countries still have the death penalty, including the United States, Japan and Singapore. On a per capita basis, Singapore actually executes four times more people than China. During the Congress, I pointed out these facts to other representatives, which made me look like I was defending the death penalty. But in fact, I oppose it.

**RYRQ:** Could you tell us what else you did in France?

**Mo:** While in Paris I gave a lecture on legal issues in China at the invitation of the International Institute of the Centre national de la recherche scientifique, which is similar to the Chinese Academy of Sciences. After that I came to the U.S. at the invitation of Professor Jerome Cohen to give a lecture at the New York University School of Law. Professor Cohen is an expert in Chinese law—he’s sometimes called the “godfather” of Chinese law—and counts Ma Ying-jeou and Annette Lü among his former students. He had invited me a long time ago, but I was too busy to accept his invitation. This time, since I was attending the conference in France, I decided not to disappoint Professor Cohen again, so I came over to America.

**RVRQ:** I know this isn’t the first time you’ve given a lecture in the U.S.; you gave a talk at George Washington University in 2005. How many lectures do you plan to give here?

**Mo:** NYU Law presented a lecture series from February 4 to 14 focusing mainly on China’s criminal law. Most of the participants were law students at NYU, along with some scholars and experts on China issues such as Professor Andrew Nathan of Columbia University. The emeritus chair of Human Rights in China, Robert Bernstein, and HRIC’s executive director, Sharon Hom, also took part.

I studied law as an undergraduate for four years and as a graduate student for three years, and then worked as a lawyer for 20 years, so I’m quite familiar with China’s criminal law and the legal profession. After I arrived in New York, I received invitations to lecture at several universities. This afternoon I have a lecture at Yale, and last Sunday I went to Princeton, where I saw Professor Perry Link. But I don’t really have time to go anywhere else.

**RVRQ:** From what you’ve seen, how well do your Western colleagues understand China’s legal and judicial system?

**Mo:** A few experts understand it, and are even proficient in it, like Professor Jerome Cohen. But most of my Western colleagues don’t understand it very well.
RYRQ: In what areas do you see the greatest lack of knowledge?

Mo: I would say it’s the judicial system. In my lectures, I always give details of specific cases, and my audience is invariably mystified as to how a particular judgment is reached. They don’t understand Chinese jurisprudence, and view the cases from a Western perspective. Judicial independence is a fundamental principle in Western jurisprudence, but there is no judicial independence in China.

Article 126 of China’s Constitution states, “The people’s courts shall, in accordance with the law, exercise judicial power independently and are not subject to interference by administrative organs, public organizations or individuals.” Many people think this means the judiciary is independent, but they haven’t scrutinized the article closely enough.

First of all, the article says that the people’s courts “shall exercise judicial power independently,” but that’s not the same as saying that individual judges exercise their power independently. Secondly, the people’s courts are led by the Chinese Communist Party. Every Party committee includes a member of the Politics and Law Committee, who serves as vice-secretary in charge of judicial work. Moreover, China’s courts have judicial committees composed of the court’s president, vice-president and presiding judge, which decide on major cases, difficult cases and complex cases—which means deciding on all of the important cases. In other words, it is a unique characteristic of China’s judicial system that those who try the cases do not pass judgment on them, and those who do not try the cases do pass judgment.

Furthermore, in the Constitution, the term “public organization” does not include the Party, which means that the Constitution does not prohibit the Party from interfering with the judiciary. The Party’s leadership of the judiciary, as embedded in the Constitution, is the key to understanding China’s judicial system. Luo Gan, the Communist Party’s top official in charge of the police and prisons, has in recent times repeatedly emphasized that “the Party committees at all levels should strengthen and improve their leadership role in politics and law, and should make a concerted effort to establish a sound system for the Party to exercise leadership in politics and law.”

RYRQ: People are already aware that China’s judiciary is not independent, but they aren’t as deeply familiar with it as you are. The more common opinion is that China’s Constitution stipulates an independent judiciary but that it just hasn’t been implemented in practice. What you’re saying, though, is that China’s Constitution provides for a judiciary that is not independent.

Mo: Yes, that’s correct. Another important factor is that the judiciary is under the control of local political bodies. The local courts and procuratorates are not part of an independent system directly led by the Supreme Court and the Supreme Procuratorate, but rather fall under the leadership of local Communist Party committees. This creates a system of local protectionism for the judiciary, with the result that the central government is unable to implement laws uniformly across the country. In addition, the courts cannot carry out trial procedures independently, but have to comply with the opinions
of the local Party Committee and the local government. This is another element that prevents China's judiciary from being independent.

**RYRQ:** Then how can China ensure an independent judicial system?

**Mo:** Judicial independence requires a constitutional government. Conversely, if China wants a constitutional government, it must also ensure judicial independence. It will take time for China to gradually establish a constitutional government, but for the time being we can still enhance judicial independence to some degree. For example, could we consider breaking through the regional political demarcation and establishing a judicial system that is unified from top to bottom, so the judiciary is no longer subject to local political influence? Could we also gradually reduce the influence of judicial committees and strengthen the power of judges in the judicial process?

**RYRQ:** You were one of China's first human rights lawyers, and have taken on many major human rights cases, defending important “political criminals” such as Xu Wenli, Liu Nianchun, Yang Jianli, Liu Xiaobo, Yao Fuxin, Shi Tao, Zhao Yan, Gao Zhisheng and Guo Feixiong. You've played an important role in advancing judicial progress and human rights in China. Now there are more human rights lawyers in China, and there's been a big change in people's attitudes toward defending people accused of political crimes; for example, human rights lawyers are now called “lawyers of conscience,” which shows that people approve of and support them. At the very least, they regard you as righteous and courageous people. As I recall, back when you first stepped forward to defend “political criminals” and “counterrevolutionaries,” it was regarded as quite a risky undertaking. Could you tell us what your thoughts were at the time?

**Mo:** In fact, my thinking at that time was very simple. Every profession has its own professional requirements. I’m a lawyer, and it’s my duty to defend the law and to do whatever is required of a lawyer. According to the law, every criminal suspect is entitled to defend himself—this is a basic right. It’s abnormal if lawyers in a given country are afraid to defend political criminals, because the purpose of having laws and lawyers is to defend human rights. This is what lawyers are for. Of course, defending political criminals involves a lot of risk and little pay—I’ve often had to put up my own money for a case. And of course, we’re fighting the government, so we can’t win. Nevertheless, the fact that a lawyer shows up to defend a political criminal shows that laws exist and that we are protecting the rights of political criminals. This is the least that we as lawyers can do.

Moreover, we should put our faith in history and believe that people hundreds of years from now will recognize that what we did was right. Nelson Mandela and Kim Dae Jung were both put on trial, and Kim was even sentenced to death, but what happened later on? Now the speech given by Mandela during his trial is kept in the British Museum. Time brings progress and change. As lawyers, we are responsible for defending the rights of the parties involved, and we are also responsible for upholding justice. In addition, we need a sense of morality and ethics, which is so important. You could say that this is the essence of the law; without it, one can hardly be a good lawyer.

---

It's abnormal if lawyers in a given country are afraid to defend political criminals.
**RyrQ:** You have defended more than 20 dissidents, but never with a successful outcome. What’s the point of taking on these cases?

**Mo:** There’s more to these cases than their results. The purpose of defending a dissident, regardless of the result, is to defend his or her legal rights, which means ensuring that they are afforded professional legal defense and counsel. Although the laws of China are not implemented effectively, the existence of defense attorneys indicates the existence of law.

Defense lawyers also serve as a check on the judiciary; even if it’s just for show, the judiciary has to take account of the lawyer. For example, in most cases the court notifies us by telephone when a court session will start, but in the Shaanxi oil field case, I was notified of the trial date in writing, and the notification was delivered to me in person by a representative who flew over so I could sign the document. Why? The court didn’t want failure to notify me to become a point that we could use against them in court, so they were meticulous about the legal procedures. In other words, even if courts make arbitrary rulings, the presence of a defense attorney forces them to take account of the law and follow legal procedures. By his very presence in a courtroom, a defense attorney acts as a check upon the judiciary, which means that at the very least, he might improve trial procedures and facilitate judicial reform. Many changes and much progress in the world takes place gradually, imperceptibly.

Also, court rulings in China are made public, even in cases where trials are held in secret. A public ruling elicits public opinion, which is very important for advancing social justice. For example, although Shi Tao was sentenced to 10 years in prison, there was a public reaction, which shows that people have a sense of justice, and this in turn promotes social values. None of the cases I have handled have had a good result, but there are more human rights lawyers now than in the past, and people’s views about dissidents have changed. This is all a mark of social progress.

**RyrQ:** Some media reports have referred to you as a “lawyer who wears a crown of thorns.” This is praise, of course, but it’s also an indication of the risks and pressures you have to bear. How do you handle it?

**Mo:** Anything involves risk and pressure, but of course these are greater when defending dissidents in our country. For example, most of my family members and friends disapprove of me taking on these cases, which, apart from being risky, also pay poorly. Having experienced so many political movements in China, people don’t want to see their family members reviled and attacked in public by the Communist Party. Guo Guoting is another human rights lawyer whose experience shows the high degree of risk in such a job, and of course there are other human rights lawyers in China as well, but I won’t talk about them here. All the same, it is no longer the Mao era. Chinese society has seen great change, and there is more space for people to do things, which we should cherish and utilize as much as possible.

My motto is: keep a low profile and be professional. The purpose of a constitutional government is to resolve political problems through the law, and this should be our
direction. In China, we would rather do such things in a low-profile way. As a lawyer, I have a dream of some day having a constitutional government and perfecting the legal system. In my practical work, I put the cases I take on into a legal framework and handle them according to the law.

Of course, the legal system is not perfect, and as I mentioned earlier, the judiciary is not independent, but improvements will take time and must be undertaken through legal means. When working on specific cases, we need to be factual and realistic, to fulfill our responsibility to the parties involved, to defend their rights, and to not be impulsive. Nowadays, you can see certain undesirable trends in human rights cases, such as lawyers taking on cases for the sake of media exposure and pushing for quick results. The legal profession is one that requires a great deal of professionalism, and I require this of myself. My seven years of legal education, and my 20 years of work experience, should demonstrate my familiarity with this profession. The more professional we are, the better we can defend our clients and the more we can reduce the risks we undertake.

For China to see progress, people in every profession must make an effort. China will make progress if every one of us has a fundamental desire to achieve a constitutional government and social justice. At the same time, everyone must become proficient in his or her own profession and work hard; only in this way will China advance.

**RYYQ: One last question: what are your hopes for human rights lawyers?**

**Mo:** First, the more human rights lawyers we have, the better. There are still too few in China. China needs more lawyers, and also more people to care about democracy, social justice, the legal system and human rights. Also, lawyers should use proper tactics when defending human rights and should do things one step at a time, little by little, and gradually help China to advance. As professional lawyers, we should resolve cases within the existing legal framework, and should improve our professional qualifications. We should strive to be as professional as possible. A large number of high-level professional lawyers will help further the progress of China’s legal system.

Finally, I hope the media will try to be factual and avoid sensationalizing cases. The media plays a big role in modern society, but this is a double-edged sword. Fact-based reporting helps us defend the rights of our clients and further judicial progress, but sensationalizing cases and exaggerating the facts only intensifies conflict and pushes matters to an extreme. This is my own viewpoint as a professional lawyer, and may not represent the views of others.

**RYYQ: Thank you very much for your rational and clear-headed defense of the values of the legal profession. I’ve noticed that many politicians in Western democratic countries were once lawyers, which makes me wonder if this might be a factor in developing a constitutional government in China. It would be good for China’s future politicians and leaders to include lawyers.**

**Mo:** Well, that’s still in the future. Right now, it’s enough for me to be a lawyer who does his job well.
Translated by Wei Liu

The original Chinese version of the article was published in HRIC’s Chinese monthly online magazine, Ren Yu Renquan, http://www.renyurenquan.org/ryrq_article.adp?article_id=610.

Editor’s notes:

1. For more information on the Congress, see http://www.abolition.fr/ecpm/english/congres.php?subject=182&topic=76.
2. The National Center for Scientific Research, France’s largest and most prominent public research organization.
3. Ma Ying-jeou is the former mayor of Taipei, and until recently was chairman of Taiwan’s Kuomintang Party. He has announced that he will run for president of the Republic of China in 2008. Annette Lü Shiu-lien is Vice President of the Republic of China and a member of Taiwan’s Democratic Progressive Party. She is also considered a contender for the 2008 presidential election.
6. Mo Shaoping served as defense counsel to Feng Bingxian, the leader of a group of private investors fighting seizure of their oil fields by the municipal governments of Yulin and Yanan, Shaanxi Province, in 2003. Feng was ultimately sentenced to three years in prison. See “Court Sentences Shaanxi Investor Feng Bingxian to Three Years Imprisonment,” Congressional-Executive Commission on China, http://www.cecc.gov/pages/virtualAcad/index.php?showsingle=36987.
7. Shi Tao, a journalist, was convicted in on April 30, 2005, of “illegally providing state secrets overseas” after he posted online his notes from an editorial meeting regarding preparations for the anniversary of the June 4th crackdown.
9. Guo Guoting, who defended a number of high-profile dissidents, had his law license revoked in February 2005, and soon after that was placed under house arrest. He was granted political asylum in Canada in May 2005.
MUTUAL LEGAL ASSISTANCE AND EXTRADITION: HUMAN RIGHTS IMPLICATIONS

By Margaret K. Lewis

The fate of criminal defendants in China remains a roadblock to some forms of international legal cooperation, especially extradition. Some countries are finding mutual benefit in sharing evidence with China on transnational cases, but difficult human rights concerns remain.

In 1999, Lai Changxing, the alleged mastermind behind a multi-billion dollar smuggling and bribery operation in the port city of Xiamen, fled the People’s Republic of China for Canada. The Chinese government has been trying to secure his return ever since. On April 5, 2007, the Canadian courts handed Lai, his ex-wife and their children a victory when a federal judge granted the applications for judicial review of their removal orders. The family remains in Vancouver.

In another recent headline-grabbing case, China is seeking the return from Canada of Gao Shan, the former head of a Bank of China branch in the northeastern city of Harbin. Gao allegedly diverted one billion yuan ($130 million) from customers’ accounts to Canada between 2002 and 2004. Canadian authorities arrested Gao in February 2007 on charges that he lied on his immigration forms when entering Canada.

Meanwhile, south of the border, four Chinese nationals await trial in Las Vegas on charges of racketeering, money laundering and fraud stemming from a complex plan to defraud the Bank of China of a reported $485 million. A fifth participant in the scheme earlier entered a guilty plea and returned to China, where he was convicted of embezzlement and related charges.

Lai, Gao and the participants in the Bank of China case may be among the most notorious fugitives from China, but they are far from the only ones. The official Xinhua News
Crime in China has taken on an increasingly transnational dimension.

Agency quoted sources from the Ministry of Public Security as saying that “800 suspects at large abroad were wanted for economic crimes. They are accused of embezzling a total sum of almost 70 billion yuan (US$8.75 billion).” And these are just the fugitives accused of economic crimes. According to the same report, China has brought back only about 70 criminal suspects from foreign countries since 1998.

Undeniably, crime in China has taken on an increasingly transnational dimension. In part this is due to the cross-border nature of certain crimes, such as smuggling and drug trafficking. In other situations, the crimes are committed solely within China but the suspects flee, sometimes with the alleged fruits of the crime in hand. In either case, there is a need for cooperation between Chinese and foreign law enforcement and judicial authorities. This cooperation comes in many forms. China’s Ministry of Justice lists three major avenues for cooperation in criminal matters: 1) bilateral judicial-assistance treaties, 2) multilateral conventions with provisions on judicial assistance and extradition, and 3) cooperation in individual cases with countries that have not concluded a treaty with China. This article focuses on bilateral treaties and their relevance to the protection of human rights, including issues presented by politicized prosecutions, limits on criminal defendants’ access to evidence, and cases where criminal defendants may face the death penalty in China.

Bilateral judicial-assistance treaties

Bilateral treaties concerning criminal matters can be divided into two general types: mutual legal assistance treaties (MLATs) and extradition treaties. There is no reason that these two forms of cooperation cannot be combined in a single agreement, but the common practice of many countries, including China, has been to keep them separate. By the end of January 2007, China had signed a total of 86 legal assistance treaties with 52 countries, including 54 MLATs covering civil or criminal matters, 28 extradition treaties and four agreements for the transfer of sentenced persons. Already this year, China has signed a new MLAT with Pakistan and an extradition treaty with France; ratified extradition treaties with Namibia and Angola; and issued a joint statement with Japan on their intent to conclude an MLAT. In addition, previously signed MLATs with Australia and Spain have entered into force.

Both MLATs and extradition treaties allow for exceptions based on human rights concerns. Extradition treaties commonly contain provisions to protect people from being returned for political reasons—the so-called “political offense” exception. Likewise, MLATs usually provide that a country may deny assistance if the request relates to a political offense. The sufficiency of these safeguards, however, is a subject of increasing debate. For example, there are provisions to prevent an extradition from occurring, but not to protect those who are returned. One option is post-return monitoring, but as noted in more detail below, this is also subject to mounting criticism.

For the time being, human rights concerns are arguably better served if countries do not enter into extradition treaties with China, but rather adopt more flexible ways of
returning fugitives to China on a case-by-case basis while evolving norms develop more fully. Although an adaptable approach lacks the virtues of predictability and horizontal justice (whereby similarly situated suspects receive similar treatment), these drawbacks are outweighed by the need for discretion in individual cases. In any case, the lack of an extradition treaty does not mean that it will never be appropriate for a country to repatriate a fugitive to China. As described below, the United States recently returned a fugitive to China through a plea bargain acceptable to both the fugitive and the Chinese authorities.

MLATs, on the other hand, offer a more mutually advantageous option. For individual cases, they provide avenues to obtain evidence, including witness testimony, thus boosting the chances that the defendant will be able to more fully present his or her case. On a broader scale, they increase communication and promote interpersonal contacts that could facilitate international cooperation in the future.10

This paper will first examine the positive options offered by legal cooperation under MLATs, specifically how the bilateral agreement between the United States and China was used in the Bank of China case. The paper will then turn to Lai Changxing case to examine the more troubling questions that extradition and other channels for returning fugitives raise in ensuring domestic compliance with international human rights protections, especially when suspects face the risk of torture and capital punishment.
Mutual legal assistance treaties

In September 2005, five witnesses gave testimony via a live video-conference from a hotel in Guangzhou for use in the Bank of China case pending in U.S. federal court. This was the first time that the Chinese government allowed the U.S. government to take a video deposition on the mainland for a criminal case. A U.S. Department of Justice (DOJ) lawyer who is involved intimately in the case heralded it as the “poster boy” for cooperation between the two countries.

This cooperation did not come about overnight. In a joint statement issued on October 29, 1997, during President Clinton’s state visit to China, the two countries announced that they would “strengthen cooperation in combating international organized crime, narcotics trafficking, alien smuggling, counterfeiting and money laundering. To this end, they intend to establish a joint liaison group for law enforcement cooperation composed of representatives of the relevant agencies of both governments. They agree to begin consultations on mutual legal assistance aimed at concluding a mutual legal assistance agreement.”

Following this call to action, legal cooperation between the U.S. and China took a significant step forward in 2000 with the signing of the Agreement between the Government of the People’s Republic of China and the Government of the United States of America on Mutual Legal Assistance in Criminal Matters (the U.S.-P.R.C. MLAA). Both China and the United States have a history of using MLATs. They had also cooperated with each other on criminal matters prior to the existence of the U.S.-P.R.C. MLAA, but in an informal manner.

As is common with these types of agreements, the U.S.-P.R.C. MLAA addresses various forms of judicial assistance such as serving documents, taking testimony, providing documents, seizing evidence and locating and identifying persons (Art. 1). Separate articles elaborate the procedures for taking evidence in the other party’s territory (Art. 9); inviting people to appear to give evidence or assist with investigations (arts. 11, 12); providing records of government agencies (Art. 10); and executing requests for the inquiry, search, freezing and seizure of evidence (Art. 14).

When the need for any of these forms of assistance arises, the first step is for the central authority of one party to send a request to its counterpart. The central authorities designated by the U.S.-P.R.C. MLAA are the P.R.C. Ministry of Justice and the U.S. Attorney General (Art. 2). The U.S. Attorney General has delegated authority to DOJ’s Office of International Affairs (OIA), which “coordinates the extradition or other legal rendition of international fugitives and all international evidence gathering.”

If the request meets all requirements, the central authority will contact the relevant body to execute the request. In the United States, this generally entails contacting the U.S. Attorney’s office that has jurisdiction over the geographic area at issue. In China, the Ministry of Justice often enlists the help of the Ministry of Public Security. Problematically, the Ministry of Justice’s powers do not rival those of the public security authorities. This power imbalance is vividly illustrated by the inclusion of the Minister
of Public Security, Zhou Yongkang, in the Politburo of the Central Committee of the Chinese Communist Party, while neither the president of the Supreme People’s Court nor the Minister of Justice holds comparable rank. DOJ would effectively remove a bureaucratic hurdle if it were able to develop means of involving the Ministry of Public Security directly.\textsuperscript{16}

Each party agrees to use “everything in its power” to execute requests promptly (Art. 6), but a party may deny assistance in certain circumstances, such as when the request relates to a purely military offense, or would prejudice public order or national security (Art. 3).

Of key importance to human rights concerns, a party may also deny assistance if the request relates to a “political offense” (Art. 3). Although the political offense exception is commonly built into MLATs, determining what qualifies as a political offense can be a nettlesome matter. A 2007 report by the ADB/OECD Anti-Corruption Initiative for Asia and the Pacific\textsuperscript{17} explains, “Although the concept of political offences is found in many arrangements, the definition of such offenses is usually nebulous. There is no consensus about its scope, and hence the application of this doctrine is unclear.”\textsuperscript{18}

To lessen this confusion, the U.S.-P.R.C. MLAA uses a broad formulation by providing that a central authority may deny assistance if “the request relates to a political offense or the request is politically motivated or there are substantial grounds for believing that the request was made for the purpose of investigating, prosecuting, punishing, or otherwise proceeding against a person on account of the person’s race, religion, nationality, or political opinions” (Art. 3.1(d)).\textsuperscript{19} This expansive language gives considerable leeway when a party is confronted with a request that treads on any of the enumerated protected grounds. It also comports with language in the U.N. Model Treaty on Extradition, which was proposed by the Seventh and Eighth U.N. Congresses on the Prevention of Crime and the Treatment of Offenders in 1985 and 1990.\textsuperscript{20} Nonetheless, one cannot overlook the tit-for-tat implications of denying assistance. Governments are sensitive to the fact that if one party repeatedly or readily denies assistance, chances are that it will encounter greater push-back when the tables are turned.

**THE BANK OF CHINA CASE**

The transnational component of the Bank of China case came about after Xu Chaofan, Xu Guojun (unrelated to Xu Chaofan) and Yu Zhendong (collectively, the three managers) allegedly committed the initial crime of embezzling funds from the Kaiping City branch of the Bank of China where they all worked as managers. Rather than enjoy their profits in China, the three managers decided to remove themselves and the money to the United States and Canada. This required additional players to siphon money through Hong Kong, and to serve as vehicles for the three managers and their wives to settle abroad. Consequently, investigating and prosecuting the case required international cooperation on several levels,\textsuperscript{21} which is still ongoing. China needs help from the U.S. in order to recover the suspects and proceeds of the crime. In turn, the U.S. needs China’s assistance to obtain evidence and witness testimony that is available only in China.
Cooperation between authorities has enabled the presentation of more evidence than would otherwise have been the case.

China’s work to recover suspects has been done outside the framework of the U.S.-P.R.C. MLAA, but the U.S.-P.R.C. MLAA does address cooperation with respect to the recovery of proceeds and instrumentalities of crime (Art. 16).22 Despite much-touted cooperation, efforts to locate missing funds in the Bank of China case have brought little success to date. In 2004, the U.S. Attorney General returned $3.5 million in seized funds to China. Charges against the defendants also include two forfeiture allegations that cover seized currency, jewelry, computers, real property and cars. Even so, the value of the recovered assets pales in comparison to the $485 million allegedly embezzled.

Requests from the United States have centered on assistance under the U.S.-P.R.C. MLAA in the provision of “originals, certified copies or photocopies of documents, records or articles of evidence” (Art. 1(1)(c)). Piecing together the activities of the three managers and their cohorts required documents from both the mainland and Hong Kong. According to the minutes of a January 23, 2007, status conference in the U.S. District Court, all of the U.S. government’s requests to China for documents had been satisfied, though “still outstanding are the translation of the previous documents that have been provided to defense that are in Chinese, only.”23

Apart from physical evidence, Article 9 of the U.S.-P.R.C. MLAA addresses the taking of testimonial evidence. In order to obtain testimony from Yu Zhendong and other witnesses in China for the upcoming trial in the United States, DOJ raised three options with the Chinese government: 1) U.S. officials and the detained defendants all traveling to China, 2) use of a video-link, or 3) sending all witnesses to the United States at the U.S. government’s expense.24 China chose the second option. In September 2005, Yu and four other witnesses gave testimony via a live video-conference from a hotel in Guangzhou. Xu Guojun’s attorney and a U.S. prosecutor traveled to China for the event. Over the course of the investigation, Chinese officials have traveled to Nevada in hopes of meeting with defendants in custody there, but thus far the defendants have steadfastly refused to talk with them.

In any event, cooperation between authorities in the U.S. and China has enabled the presentation of more evidence at the upcoming trial than would otherwise have been the case. Yet the mere fact that the government has unearthed additional evidence does not necessarily mean that this evidence is available to the suspect. In a typical criminal trial, the suspect is among the parties who benefits from the availability of evidence, but the U.S.-P.R.C. MLAA contains a standard MLAT stipulation that the agreement is strictly for requests between government agencies.25 A criminal suspect thus has no right to access information or otherwise request assistance through the U.S.-P.R.C. MLAA. Despite this limitation, a suspect can benefit from information obtained by a party government if inter-governmental cooperation is carried out with a high level of transparency. In the Bank of China case, defense attorneys were present in Guangzhou to question witnesses. In future cases, efforts will need to be made to ensure that suspects and their lawyers, both in the U.S. and in China, have access to relevant evidence and information obtained by governments under the U.S.-P.R.C. MLAA.

More generally, the U.S.-P.R.C. MLAA reaches beyond case-specific cooperation to provide that the United States and China may “consult on criminal justice matters,
including informing each other of the laws in force or the laws which used to be in
force and the judicial practices in their respective countries” (Art. 18). Under this pro-
vision, law enforcement groups from China regularly visit the United States to meet
with U.S. prosecutors, a process that helps build interpersonal ties and facilitates the
sharing of information on concrete issues. Evidentiary requirements is one area where
further cooperation and consultation is needed. The U.S.-P.R.C. MLAA (Art. 10) calls
for evidence to be transmitted in a form or accompanied by certification that makes it
admissible in the other party’s courts, but this is easier said than done. Under U.S. law,
the “chain of custody” rule requires a careful paper trail showing the seizure, custody,
control, transfer, analysis and disposition of physical evidence. It is difficult for evi-
dence from China to meet these requirements, given the logistical hurdles of tracing
the path of evidence from China across the Pacific and, more acutely, the less stringent
practices of Chinese law enforcement agencies.

The U.S.-P.R.C. MLAA is not an end in itself, but rather a building block in a larger
process. Going forward, the goal of building more meaningful cooperation between
the United States and China—as with China’s other bilateral relationships—will be
best served by continuing broad legal exchanges while also seeking out case-specific
win-win situations such as the Bank of China case. Both countries want to see the
three managers and their accomplices behind bars, and the lack of a political element
has prevented the triggering of the political offense clause or other exceptions to
coop eration under the U.S.-P.R.C. MLAA. Cooperation is inevitably trickier when
religious (e.g., Falun Gong followers) or political (e.g., democracy advocates) factors
are in play. In such cases, either party may invoke the political offense exception and
deny assistance, and international attention and pressure may also be brought to
bear. But in cases where both governments want to see criminal suspects appre-
hended and tried, the U.S.-P.R.C. MLAA provides a helpful framework to facilitate
this process.

**Extradition treaties and other channels for the return of fugitives**

The Chinese government’s receptivity to sharing evidence, conducting joint investiga-
tions and engaging in other forms of legal cooperation is often linked to an ultimate
goal of securing the return of Chinese criminal suspects who have fled abroad. Extradition
proceedings provide a principal channel to achieve repatriation. Extradition
involves the formal surrender of a fugitive by one jurisdiction for criminal trial or pun-
ishment in another jurisdiction based on either international comity or a treaty, and it
is fundamentally a function of the executive branch. The courts still play a role: in the
United States, for instance, the courts hold hearings at which the evidence of criminal-
ity is considered and, if deemed sufficient, the person facing extradition may be
detained pending surrender to the foreign government. However, extradition pro-
ceedings are not criminal in nature and, consequently, the person facing extradition
cannot invoke constitutional protections that apply only to criminal cases, such as the
right to confront witnesses under the Sixth Amendment.

Extradition arrangements typically require the requesting state to produce some evi-
dence of the alleged crime. At the end of the day, however, it is the Department of State that must approve extraditions from the U.S. Under the P.R.C. Extradition Law, promulgated and effective on December 28, 2000, the Ministry of Foreign Affairs is the main authority for handling extraditions from China (Art. 4). The law includes detailed procedures for evaluating requests, including examination and review by the relevant High People’s Court and the Supreme People’s Court to confirm that the request meets all legal requirements (arts. 16–28), but it is the State Council that makes the final decision on whether to extradite (Art. 29). The ADB/OECD Anti-Corruption Initiative for Asia and the Pacific reports that many Asia-Pacific countries follow a similar two-stage procedure whereby the person sought is first brought before a judge and, if the necessary conditions for extradition are met, the executive branch then decides whether the person should be surrendered based on all of the circumstances.

China has concluded extradition treaties with close to 30 countries, although under the P.R.C. Extradition Law, China also welcomes extradition without the existence of a treaty. While not necessarily a deal-breaker, China’s use of the death penalty has been a sticking point in concluding extradition agreements with some countries, in particular European Union members. Spain and China overcame this hurdle by including a provision in their 2005 extradition treaty that China promises not to execute extradited persons. While some Chinese criticize this concession as an unacceptable limitation on sovereignty, others, like Huang Feng, director of the Institute of International Criminal Law at Beijing Normal University, contend, “Yes, we’re limiting our legal sovereignty but, if we can’t repatriate the person, then we can’t exercise that sovereignty. By making a concession, we can exercise some or all of it.” Likewise, under the extradition treaty...
signed by France and China in March 2007, France will only extradite someone accused of a crime punishable by death if China guarantees that the person will not be executed.33 Amnesty International France has objected that there is “no certainty that a Chinese citizen extradited one day with the clearest guarantees will not be sentenced to death at a later date on a different charge.”34

Unlike Spain and France, the United States and Canada have not concluded extradition treaties with China,35 nor is either expected to conclude one anytime soon.36 Then how is it that Yu Zhendong is back in China, and there is a real possibility that Lai Changxing will be sent back too? The short answer is that extradition is just one method for repatriating fugitives.

In Yu’s case, the channel used was “removal proceedings,” the standard process for expelling aliens from the United States.37 U.S. authorities arrested Yu in Los Angeles on December 19, 2002, on immigration charges.38 In his plea agreement, Yu submitted to a judicial order of removal, thereby accepting his return to China and waiving any claim to relief from removal, such as claims under the U.N. Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT).39 As part of the deal for Yu’s return, China provided the United States with a formal written promise that Yu would not be sentenced to more than 12 years in prison, nor would he be sentenced to death or tortured.40

Yu was more fortunate than most Chinese fugitives in obtaining the P.R.C. government’s written assurances that he would not be tortured, put to death or sentenced to more than 12 years in prison. Nonetheless, not everyone finds such assurances convincing. In response to reports that Xu Chaofan and Xu Guojun of the Bank of China case were offered plea bargains with similar terms to Yu’s deal, Xu Guojun’s lawyer told reporters, “We think it is still old China and at some point they are going to shoot all of them anyway.”41

These are not idle concerns. As discussed below, judges, UN officials and the human rights community have raised serious questions regarding the reliability of diplomatic assurances. Unlike in the extradition context, however, the plea bargain accepted by Yu, and those reportedly offered to Xu Chaofan and Xu Guojun, required their consent. In other words, the person facing the risk that the diplomatic assurance would not be upheld was given the opportunity to judge for himself and decide accordingly.

It further bears underscoring that the U.S.-P.R.C. MLAA contains no mechanism for transferring people for prosecution or punishment. The only provision that addresses any transfer of persons in custody is Article 12, which allows such transfer for the purpose of giving evidence or assisting in investigations. At the same time, the U.S.-P.R.C. MLAA does not protect people from being returned outside of the extradition context. It is still possible for the U.S. government to repatriate Xu Chaofan and Xu Guojun using the standard removal proceedings for illegal aliens, as in Yu’s case. Likewise, in Canada, Gao Shan faces repatriation not for his alleged involvement in embezzling money from the Bank of China, but rather because he lied on his immigration forms. The Canadian government is reportedly seeking to revoke the permanent residency sta-
tus of Gao and his wife on the basis that they failed to declare all the money they were carrying when entering Canada.42

In any case, Yu Zhendong is now in prison in China, and both countries hail his return as a glowing success.43 In his opening remarks to the U.S.-P.R.C. Joint Liaison Group in February 2005, the U.S. Ambassador to China, Clark T. Randt, highlighted Yu’s return as one of the “fruits of this close cooperation” in criminal cases.44 Yet the relationship is not without strain. China focuses on the return of high-profile fugitives, especially those who abscond with large sums, but has been less enthusiastic in pursuing the much more common and mundane cases of P.R.C. citizens who are in the U.S. illegally. In 2006, Michael Chertoff, head of the U.S. Department of Homeland Security, visited Beijing in hopes of persuading the government to accept some 39,000 P.R.C. citizens who the U.S. government claims are in the United States illegally.45 Further complicating matters is that citizenship can be difficult to prove when identifying documents are unavailable (either accidentally missing or intentionally destroyed) or possibly forged.

Lai Changxing’s situation is markedly different from that of Yu Zhendong. Unlike Yu, who was facing prison time in the United States, Lai is not battling criminal charges in Canada. He is in the courts for a different reason. Lai has spent the past seven years contesting the denial of his application for refugee status, and the end is not yet in sight. In April 2007, after two immigration hearings and six court appeals—all of which supported his removal—the federal courts granted Lai’s application for judicial review of his removal order.46 The chief issue the Canadian courts have been grappling with is whether China’s assurances that it will not execute or torture Lai are reliable.

The P.R.C. government issued a diplomatic note in 2001 in which it undertook that “after [Lai’s] repatriation to China, the Chinese appropriate criminal court will not sentence [Lai] to death for all the crimes he may have committed before his repatriation.” Moreover, during investigation, trial and imprisonment (if convicted), “Lai will not be subject to torture and other cruel, inhuman or degrading treatment or punishment,” which comports with China’s obligations as a party to CAT.47 Although the Canadian court upheld the immigration officer’s conclusion that the assurances against the death penalty were reliable, the court found that the immigration officer erred in her determination that the assurances regarding torture met the essential requirements to make them meaningful and reliable.

In her discussion, the judge looked to a joint report issued by Amnesty International, Human Rights Watch and the International Commission of Jurists (the Joint Report),48 which argues that diplomatic assurances are not an effective safeguard against the risk of torture, “even if the assurances contain arrangements for a post-return monitoring mechanism.” The Joint Report asserts that reliance on such assurances in sending people to a state where they face a risk of torture or other ill-treatment violates the international law principle known as the non-refoulement obligation. This obligation, which is enshrined in Article 3 of CAT,49 prohibits the return or transfer of any person to a country where there are substantial grounds for believing he or she would be at risk of being subjected to torture. The U.N. Special Rapporteur on Torture has also expressed concerns that post-return monitoring is ineffective. During a discussion on the devel-
The contours of the “fair trial” requirement are far from clear despite its repetition in the ICCPR and other international human rights documents, and it remains an evolving issue as to how courts might invoke this requirement to block repatriation of a person facing criminal charges. Further complicating matters, the “fair trial” requirement is in tension, if not direct opposition, with the rule of non-inquiry, according to which “courts of many states refuse to inquire into the standards of criminal justice to which the fugitive is likely to be subjected in the requesting state on the grounds that it is a matter best left to executive determination.” In other words, courts are hesitant to judge other courts. In practice, however, courts vary considerably in the application of this rule. Adding another wrinkle, China signed the ICCPR in 1998, but has not yet fulfilled repeated promises to ratify it and undertake the necessary reforms to bring P.R.C. laws and practice in line with the ICCPR’s standards. In short, there is swirling debate over how the right to a fair trial and extradition law intersect, and no swift or easy resolution is in sight.

Balancing procedural efficiency and human rights protections

China should be applauded for its rapid embrace of international legal cooperation, as exemplified by the ongoing Bank of China case. The U.S. government has openly praised the close work: “Investigators were able to piece together the complex scheme of racketeering, money laundering and fraud charged in this indictment because of the extensive cooperation we received from our law enforcement partners overseas.” At the same time, countries need to consider the impact specific forms of legal cooperation with China might have on human rights.
MLATs, as used in the Bank of China case, offer a positive example of facilitating the exchange of information and evidence in individual cases while nurturing interpersonal ties among law enforcement and other government authorities. However, because MLATs are expressly for government use alone, procedures are needed to ensure that suspects and defense lawyers have access to relevant evidence and information. In the United States, this can be accomplished through the so-called Brady rule, which requires prosecutors to turn over to the defense any evidence that might tend to negate guilt or reduce punishment. To enhance protections for the accused in cases involving MLATs, foreign governments should work with the P.R.C. government to apply a Brady-rule approach when the suspect is located in China.

Extradition treaties present a different story. In light of the evolving debate over how to reconcile extraditions with human rights concerns and, in particular, with concerns over weaknesses in China’s criminal justice and penal systems, the most prudent course at this time appears to be for countries to refrain from entering into extradition treaties with China. Some may contend that protections built into the treaties with Spain and France are sufficient to assuage human rights concerns, but mounting skepticism over the efficacy of pre-return diplomatic assurances and post-return monitoring brings these safeguards into question. For now, a wait-and-see attitude may be more sound.

Notes

1. No formal charges have been filed against Lai, but the Canadian courts report in the April 5, 2007, decision that he is wanted for smuggling and bribery under Articles 153 and 389 of the P.R.C. Criminal Law: http://cas-ncr-nter03.cas-satj.gc.ca/rss/IMM-2669-06.pdf, Order, Lai Cheong Sing and Tsang Ming Na (Applicants) and the Minister of Citizenship and Immigration (Respondent), April 5, 2007, Docket: IMM-2669-06, Citation: 2007 FC 361, page 38.
3. This amount is taken from U.S. court documents. The trial is scheduled to commence on October 29, 2007.
5. A crime is commonly considered transnational when it is committed in more than one country, planned in one country and committed in another, or committed in one country but substantially affects another country. The need for international cooperation can also arise when a witness or piece of physical evidence is located abroad. Other issues arise when crimes under international law are involved, i.e., crimes that are prohibited by international treaties, norms and customs. For example, the U.N. International Law Commission is currently studying the obligation to extradite or prosecute (aut dedere aut judicare) in cases of crimes under international law, such as genocide. See U.N. General Assembly, A/CN.4/571, Preliminary report on the obligation to extradite or prosecute, by Zdzislaw Galicki, Special Rapporteur, June 7, 2006.
7. Even when there is a formal agreement, governments may choose to use flexible forms of cooperation, such as a letter rogatory, which involves a direct request from a court in one state to a foreign court that the latter supply evidence or other assistance. This procedure is gener-
ally less reliable (non-obligatory) and efficient (no centralized authority or stipulated time-frame) than using treaties.

8. These figures are from an April 2007 speech by Jia Chunwang, Procurator-General of the Supreme People's Procuratorate: http://www.fmprc.gov.cn/chn/wjb/zwjg/zybd/zybd/t313481.htm.


10. Of course, two countries can violate a suspect's human rights in tandem as severely as, if not more egregiously than, when they operate independently. As widely reported (see for instance Jane Mayer, "Outsourcing Torture; The secret history of America's 'extraordinary rendition' program," The New Yorker, February 14, 2005), the U.S. government has used the technique of "extraordinary rendition," whereby suspects are sent from one foreign state to another for interrogation and prosecution under conditions unacceptable in the U.S.


12. Mutual legal assistance arrangements are not always formally "treaties" and are sometimes called "agreements" for political or other reasons. The difference is not material for purposes of this article, but it is curious that the Chinese government describes the U.S.-P.R.C. MLAA as a "treaty" on the Ministry of Foreign Affairs' English-language Web site: (http://test.fmprc.gov.cn/eng/wjb/zzjg/bmdyzs/gjlb/3432/default.htm). The Chinese-language Web site more accurately calls the U.S.-P.R.C. MLAA a "xieding," which is commonly translated as "agreement": http://www.fmprc.gov.cn/chn/wjb/zzjg/bmdyzs/gjlb/1948/default.htm. The U.S.-P.R.C. MLAA covers only criminal matters. For civil matters, judicial assistance between the United States and China is governed by the Vienna Convention on Consular Relations, the U.S.-China Consular Convention and the Hague Convention on the Taking of Evidence Abroad in Civil and Commercial Matters. There is no online source for the full text of the U.S.-P.R.C. MLAA, which is on file with the U.S. Department of State, Office of Treaty Affairs, but the author and HRIC have copies of the MLAA.

13. This cooperation met with varying degrees of success, a low point being the heroin smuggling case of Wang v. Reno, 81 F.3d 808 (9th Cir. 1996)—known as the "goldfish" case because a shipment of heroin was concealed in the cavities of dead goldfish. U.S. officials secured Wang as a witness but disregarded the fact that he would face torture and possible execution upon his return to China. The U.S. federal court ruled that the U.S. government's conduct violated Wang's Fifth Amendment due process rights, and in an unusual move, the court permanently enjoined DOJ from removing Wang from the United States or from returning him to the custody of officials from China.

14. The use of central authorities is common practice. Participants at the ADB/OECD Anti-Corruption Initiative for Asia and the Pacific (see note 17 below) commented at a 2006 meeting that "many countries in Asia-Pacific have established central authorities to transmit, receive, and handle all requests for assistance." ADB/OECD Anti-Corruption Initiative for Asia and the Pacific, Denying Safe Haven to the Corrupt and the Proceeds of Corruption, Papers Presented at the 4th Master Training Seminar in Kuala Lumpur, Malaysia, March 28-30, 2006, p. xiii.

15. The OIA further assists in the negotiation of judicial assistance agreements and participates in international committees under the United Nations and other bodies. In short, the OIA is the hub for all things criminal and international at DOJ. Information on OIA is available from the DOJ website at http://www.usdoj.gov/criminal/links/oia.html.

16. Both the Ministry of Justice and the Ministry of Public Security are designated as central
authorities under the U.N. Convention against Transnational Organized Crime, and it might be possible to amend the U.S.-P.R.C. MLA A in line with this approach. Recent efforts to increase contacts with the Ministry of Public Security bode well for such a development. In July 2006, at the conclusion of the Minister of Public Security’s visit to the United States, the two countries issued a Joint Statement on Further Strengthening Law Enforcement Cooperation, which built on the 1997 Joint Statement by “prom[ising] to deepen pragmatic cooperation in bilateral law enforcement and to increase mutual visits of Chinese and U.S. personnel at various levels and exchanges of various forms.” See BBC Monitoring Asia Pacific, Text of Sino-US joint statement on law-enforcement cooperation, July 31, 2006 (text of report by Xinhua News Agency).

17. Launched in 1999, the ADB/OECD Anti-Corruption Initiative for Asia and the Pacific is a joint project of the Asian Development Bank (ADB) and the Organisation for Economic Co-operation and Development (OECD). The Initiative developed an Anti-Corruption Action Plan for Asia-Pacific, to which 27 countries and economies have signed on, including China in 2005. The Initiative supports dialogue and capacity building activities.


19. For a recent detailed discussion of the “political offense” exception under U.S. law in the extradition context, see Ordinola v. Hackman, 478 F.3d 588 (4th Cir. 2007). As explained by the court, “[t]raditionally, there have been two categories of political offenses: ‘pure’ and ‘relative.’ The core ‘pure’ political offenses are treason, sedition, and espionage. . . . Such crimes are perpetrated directly against the state and do not intend to cause private injury. Most extradition treaties preclude extradition for ‘pure’ political offenses. ‘Relative’ political offenses, on the other hand, are common crimes that are so intertwined with a political act that the offense itself becomes a political one.”

20. Article 3 of the Model Treaty provides, in part, that extradition shall not be granted “[i]f the requested State has substantial grounds for believing that the request for extradition has been made for the purpose of prosecuting or punishing a person on account of that person’s race, religion, nationality, ethnic origin, political opinions, sex or status, or that that person’s position may be prejudiced for any of those reasons.” GA Res. 45/116, annex, UN GAOR, 45th Sess., Supp. No. 49A, at 211, UN Doc. A/45/49 (1990), 30 ILM 1407 (1991), http://www.un.org/documents/ga/res/45/a45r116.htm.


22. Article 16 provides, in part, “The Parties shall assist each other to the extent permitted by their respective laws in proceedings relating to the forfeiture of the proceeds and instrumentalities of offenses. This may include action to temporarily immobilize the proceeds or instrumentalities pending further proceedings.”

23. Extensive documentation in the Bank of China case is available through the Public Access to Court Electronic Records (PACER) system, which is a public access service with information on cases in U.S. federal courts.

24. This third option was possible under Article 12 of the U.S.-P.R.C. MLA A, which addresses the transfer of persons in custody for giving evidence or assisting in investigations. In such case, “the receiving Party shall not require the sending Party to initiate extradition proceedings for the return of the person transferred” (Art. 12).

25. Article 1(3) provides, “This Agreement is intended solely for mutual legal assistance between the Parties. The provisions of this Agreement shall not give rise to a right on the part of any
A common threshold requirement is that of “dual criminality” (or “double criminality”), meaning that a persons may be extradited only if his conduct is a crime punishable at a given level of severity (e.g., by more than one year imprisonment) in both countries. Some treaties, especially older ones, use the "list" method, which requires that the person have committed one of the enumerated offenses in order to be extradited. The concept of dual criminality is also used in MLATs with regard to when a party may deny assistance. The U.S.-P.R.C. MLAA does not hold to a strict dual-criminality standard. Instead, it provides that a party may deny assistance if “the request relates to conduct that would not constitute an offense under the laws in the territory of the Requested Party, provided that the Parties may agree to provide assistance for a particular offense, or category of offenses, irrespective of whether the conduct would constitute an offense under the laws in the territory of both Parties” (Art. 3).

31. The Extradition Law does not allow for the extradition of Chinese nationals to a foreign state (Art. 8).

32. Mark O'Neill, "A Landmark Treaty with Spain Signifies a Tactical Change in the Mainland's Hunt for Corrupt Officials in Exile," South China Morning Post, May 11, 2006, p.13. Under the P.R.C. Extradition Law, the Ministry of Foreign Affairs may, on behalf of the P.R.C. government, give promises to the extraditing country regarding additional requirements, provided that the promises do not harm China's sovereignty, national interests, or public interests. Promises with respect to limitations on prosecutions must come from the Supreme People's Procuratorate, and promises with respect to punishments must come from the Supreme People's Court (Art. 50).


34. "France backs extradition to China," BBC News, March 20, 2007. Under the widely accepted principle of specialty (or "speciality"), an extradited person will be tried or punished by the requesting state only for conduct in respect of which the extradition was granted. However, a person may also be tried for conduct committed after extradition.

35. Canada and China have an MLAT that addresses criminal matters. The United States and Canada both signed MLATs for the surrender of fugitive offenders with Hong Kong prior to the handover. The U.S.-Hong Kong agreements are expected to be used in the
case of a man who was arrested in Hong Kong in May 2007 for charges of raping his daughter in the United States. According to news reports, investigators learned that he was traveling from Suzhou to Hong Kong, and he was arrested at the Hong Kong airport. MSNBC.com, “Arrest in Hong Kong child abuse case,” May 2, 2007, http://www.msnbc.msn.com/id/18437930/. U.S. law (18 U.S.C. 3184) provides that extradition may be granted only pursuant to an extradition treaty, subject to two narrow exceptions. The P.R.C. Extradition Law allows extradition without a treaty, but it provides that the requesting country should make “reciprocal promises” (Art. 15). Presumably, the U.S. was unwilling to do this.

36. Unlike Spain, France and Canada, the United States still allows the death penalty, and countries have refused to extradite people to the United States based on concerns that the death penalty will be applied. This is not a new issue. A 1924 article in the American Journal of International Law discusses how the Costa Rican and Portuguese governments required that people extradited to the United States not be subjected to the death penalty. J.S. Reeves, Extradition Treaties and the Death Penalty, 18 Am. J. Int’l L. 298 (1924).

37. Under old terminology, removal proceedings were divided between exclusion and deportation proceedings.


39. It is common for aliens in removal proceedings to pursue several avenues of relief concurrently, most notably, asylum, withholding of removal and protection under CAT. For example, U.S. courts held that a P.R.C. citizen husband was eligible for asylum and withholding of removal on the ground that his P.R.C. citizen wife had been involuntarily sterilized pursuant to population control programs. Qu v. Gonzales, 399 F.3d 1195 (9th Cir. 2005). In another case, U.S. courts held that a P.R.C. citizen was entitled to withholding of removal on the basis of an imputed anti-governmental political opinion involving the Falun Gong. Zhou v. Gonzales, 437 F.3d 860 (9th Cir. 2006).

40. DOJ press release, ibid.

41. Elaine Wu, “U.S. and Mainland Strike Rare Deal to Try Accused Officials,” South China Morning Post, September 13, 2005, p. 8. According to Article 383(1) of the Criminal Law, the severity of punishment for embezzlement varies based on the seriousness of the circumstances. A person who embezzles not less than 100,000 yuan (approximately $13,000) is subject to fixed-term imprisonment of not less than 10 years or life imprisonment and may also be sentenced to confiscation of property. Further, if the circumstances are especially serious, he shall be sentenced to death.

42. “Lawyer: Banker could face execution.”


45. Chertoff told reporters that almost 700 P.R.C. nationals were held in U.S. detention centers, and an additional 38,000 had been released on bond after spending the maximum 180 days in lockup. Mark O'Neill, A Landmark Treaty with Spain Signifies a Tactical Change in the Mainland’s Hunt for Corrupt Officials in Exile, South China Morning Post, May 11, 2006, p.13.

46. The courts also granted the applications for judicial review made by Lai’s ex-wife and three children. The ex-wife’s return raises similar concerns to Lai’s because she was allegedly involved in the criminal enterprise. The children’s claims for refugee status are derivative of their parents’ claim. For simplicity, this article focuses on Lai.

47. The English version of the diplomatic note is reprinted in the April 5, 2007, decision, which is


49. Article 3 provides, in part, “No State Party shall expel, return (‘refouler’) or extradite a person to another State where there are substantial grounds for believing that he would be in danger of being subjected to torture.”


51. The issue as to whether Lai would receive a fair trial was not addressed in the diplomatic note from China. In Yu Zhendong’s case, it was basically a done deal that he would receive 12 years in prison as capped in the agreement for his return. Because of this understanding, the U.S. government and Yu did not focus on whether there would be a fair trial, or even anything resembling a full trial. As previously mentioned, the Chinese media published reports on Yu’s court hearing in August 2005.

52. The U.N. Model Treaty on Extradition similarly provides that extradition shall not be granted “if the person whose extradition is requested has been or would be subjected in the requesting State to torture or cruel, inhuman or degrading treatment or punishment or if that person has not received or would not receive the minimum guarantees in criminal proceedings, as contained in the [ICCPR]” (Art. 3(f)).

53. John Dugard and Christine Van den Wyngaert, Reconciling Extradition with Human Rights, 92 Am. J. Int’l L. 187, 189 (1998). As described by a U.S. federal court, “[U]nder what is called the ‘rule of non-inquiry’ in extradition law, courts in this country refrain from examining the penal systems of requesting nations, leaving to the Secretary of State determinations of whether the defendant is likely to be treated humanely.” Lopez-Smith v. Hood, 121 F.3d 1322 (9th Cir. 1997).

54. Even in the absence of ratification, Article 18 of the Vienna Convention on the Law of Treaties provides that states that have signed but not yet ratified a treaty are obliged to refrain from acts that would defeat its object and purpose.


56. This rule was first set forth by the Supreme Court in Brady v. Maryland, 373 U.S. 83 (1963).
THE WIDER IMPLICATIONS OF AN EXTRADITION CASE

In August 1999, Lai Changxing, accused of being the mastermind of a massive Xiamen-based smuggling network, fled to Canada with his wife and three children. Fearing prosecution under the death penalty in China, the Lais applied for refugee status in Canada, but were denied. In the meantime, China has demanded the extradition of Lai and his wife to face trial in China. In March 2007, the Chinese authorities announced that Lai would not be executed if he went to trial in China. However, in early April a Canadian Federal Court judge ordered a review of the pre-removal risk assessment for the Lais, expressing concern that they could still face torture upon their return to China. Two Chinese writers consider the broader relevance of this case in reflecting the current situation in China’s legal and political systems.

THE POLITICS OF LAI CHANGXING’S LIFE

By Le Shangjia

The Chinese Communist Party’s Central Commission for Discipline Inspection recently announced that Lai Changxing, who is currently facing extradition from Canada to stand trial in China on smuggling charges, would not be executed upon his return. This announcement promptly caught the attention of China-watchers across the world. “China will not execute Lai Changxing”: such a simple phrase actually highlights a number of unique current trends and conveys a number of important messages, while also perhaps revealing developments at the much deeper and generally inscrutable level of internal Party politics.

Article 50 of the Extradition Law of the People’s Republic of China states that “assurances with regard to the extent of any penalty shall be decided by the Supreme People’s Court.” This law clearly applies to death penalty cases, particularly in such a major case as that of
Lai Changxing. In the Lai case, however, the Central Commission for Discipline Inspection has intervened to provide an assurance that the death penalty will not be used. Of course, we all know that in China “the Party commands the gun,” and that the authority of the Supreme Court could never compare with the sheer omnipotence of the Party’s own disciplinary organ. Nevertheless, the CCP has strived to maintain the illusion of the rule of law by at least giving the Supreme Court the appearance of control in most cases. Thus, the prominent role of the Central Commission for Discipline Inspections in making and announcing this decision stands out from past institutional protocol.

Recent official rhetoric has placed a strong emphasis on obeying the law and developing rule of law. However, a thorough review of the laws which apply to Lai Changxing’s case show that this recent assurance was unique not only in institutional terms, but also in legal terms. The death penalty remains a component of China’s criminal law, and Lai’s case has yet to be closed; according to a strict and literal reading of Chinese law, Lai Changxing would likely receive the death penalty. Such considerations make this recent assurance even more out of the ordinary, as it is a clear example of the Party yielding to international standards. Considering the emphasis that the Chinese Communist Party has always placed upon “sovereignty,” this is an essentially unprecedented event in China’s history.

Attempting to reassure the world that the government would stand by its word, the spokesman for the Central Commission for Discipline Inspection referred to the case of Lai’s younger brother: “Lai Changtu came back from Australia and turned himself in. On the basis of his crimes, he should have received the death penalty; but because he turned himself in and cooperated with legal proceedings, he received a lighter punishment.”

In accordance with Chinese law, Lai Changtu was eligible for lighter punishment because he surrendered himself to the authorities; but if Lai Changxing were to be extradited to China, would this qualify as “turning himself in”? Moreover, Lai Changxing has been implicated in much more serious crimes than his younger brother. Considering all of the above, the Central Commission for Discipline Inspection’s promise to spare Lai Changxing’s life can only be classified as an extraordinary case of extralegal leniency.

A reflection of determination to fight corruption

I am of the opinion that the decision to resort to such extralegal leniency reflects the firm determination of China’s central government, under the leadership of Hu Jintao and Wen Jiabao, to do its utmost to fight corruption. The prominent role played in this case by the Central Commission for Discipline Inspection, which is under the direct control of the central government, also seems to hint at such determination. This Commission has, in fact, been behind the investigation of a series of corruption cases within the past year, the most prominent being the case of former Shanghai mayor Chen Liangyu. Thus, the appearance of the Central Commission for Discipline Inspection is, in and of itself, a powerful signal.
Not long ago, the Canadian Federal Court held a judicial review of a pre-removal risk assessment for Lai Changxing. In the course of this review, the Canadian judicial authorities expressed no doubts about Lai’s involvement in serious economic crimes during his time in China. However, a range of issues remained, which would need to be resolved prior to Lai’s deportation. First, there is no extradition treaty between China and Canada. Second, according to general international practice, suspects are not extradited for cases in which they could face the death penalty. In order to get Lai Changxing back to China, therefore, the Chinese government had no choice but to adopt a pragmatic approach and promise to refrain from applying the death penalty. This single assurance could possibly, in one fell swoop, resolve the Lai Changxing case, which has dragged on for a total of seven years. Such flexible pragmatism seems to hint at the firm determination of Hu Jintao and Wen Jiabao to employ all available means to fight the massive problem of corruption.

The promise to spare Lai Changxing’s life might also have a particular significance at a deeper political level.

The political significance of the Lai Changxing case

There are two key changes that have made the present situation for the Lai Changxing case much different from the past. The first is in Hu Jintao and Wen Jiabao’s control of the central government. Ever since the sudden downfall of Shanghai mayor Chen Liangyu in late September 2006,¹ there have been no signs of a further expansion of the central government’s fight against corruption. Over the past few months, the majority of arrests have been confined to cadres in medium to smaller cities, and occasionally
some mid-level cadres in larger cities. Due to the apparent slowdown in anti-corruption efforts, the “Shanghai Gang” has gradually begun to show signs that it is gaining a steadier foothold in the current power struggle, with rumors flying throughout Shanghai officialdom that “the drama has come to an end,” and that “acting Secretary Han Zheng will soon become the official Secretary of the Shanghai Municipal Committee.” Jiang Zemin has recently made a couple of unexpected appearances, and there have even been rumors on the streets that Vice President Zeng Qinghong is creating trouble for Hu Jintao and Wen Jiabao.

The second change has been in the behavior of Lai Changxing himself: after more than seven years of complete silence, he has finally begun talking. Although his statements remain evasive and short on concrete details, he has nevertheless revealed a few pieces of information for us to ponder. For example, Lai claims that he has classified information capable of ending a senior Party official’s career; he has even begun pointing fingers, explaining that he had a close relationship with Jia Qinglin, the current Chairman of the Chinese People’s Political Consultative Conference. Lai has also said that he would be willing, “under certain conditions,” to provide investigators with information about his relationships with other senior officials.

These two changes have led me to think about recent developments in the case more closely. No matter how much money Lai Changxing may have, his past seven years in exile could not have been easy. The constant stress that has borne down upon him over these years might have already led him to consider bringing this whole ordeal to an end; so long as he could be certain that he would not face execution, he might be willing to return to China to serve his time in prison. Considering China’s recent assurance in this respect, one cannot help but wonder whether officials from the Central Commission for Discipline Inspection have already established contacts with Lai Changxing and struck a deal: perhaps he has promised to provide them with the information they seek, so long as they promise to spare his life.

Lai Changxing was a close acquaintance of many prominent government figures prior to his flight from China. When his case first broke seven years ago, Party Central under the leadership of Jiang Zemin grasped the opportunity to successfully close in on Liu Qinghua, a top military figure at the time; the case ended up finishing Liu’s career and eliminating his influence within the ranks of both the Party and the Army. Now Party Central could, at the very least, follow this example by digging deep into the Lai Changxing case to eliminate Jia Qinglin, and possibly take the investigation one step further and drag Jiang Zemin into the drama: would this not be the perfect opportunity for Hu Jintao and Wen Jiabao to deliver a final, deadly strike to their political opponents in the current power struggle?

Translated by Kevin Carrico

LAI CHANGXING’S PROPOSAL FOR AN OPEN PUBLIC DEBATE

By Qi Yanchen

Lai Changxing recently exercised the freedom of speech available to him overseas to make an unexpected announcement: he declared his wish to hold an open public debate with leading officials upon his return to China, in order to reveal the truth about the Yuanhua smuggling case to the people of China and the entire world.

To those of us who detest the present plague of corruption, Lai’s request might initially seem quite strange; after all, what does a smuggler have to teach us about freedom of speech? Yet, upon closer inspection, Lai’s proposal could in fact serve as an excellent starting point for more open discussion of public affairs in China. I believe that holding such a debate would open the gates for public debate about numerous other “sensitive cases” relating to religion and other sensitive topics.

Experience shows that there can be no democracy without freedom; any form of democracy without complete freedom is an incomplete and counterfeit democracy. Just think, if your right to express your will and aspirations is always being usurped by some so-called “people’s representative” and you never know who you have indirectly “voted for” or even who the candidates are, what sort of a “democracy” is this?

The word for liberty in Chinese is ziyou. In ancient times, the character you originally meant “conduct,” but was also commonly used to represent the concept of a “path,” and eventually these two meanings were joined. Later, you was combined with the word for self, zi, to create the word ziyou, meaning “liberty,” or literally, “one’s own path.”

Throughout history, the best-known proponents of freedom have not arisen from among the general populace, but rather from among the aristocracy. Let us consider, for example, a renowned tyrant, Emperor Yang Jian of the Sui Dynasty. The Emperor hoped to marry a beautiful imperial concubine, but his wife’s explosive jealousy left him unable to do so. In a furor, he went galloping out of the then capital at Chang’an on horseback, shouting, “I cannot be Emperor any longer!” A crowd of senior aristocrats followed in his tracks, both urging and threatening him to return. Caught in a moment of despair, the Emperor sighed sorrowfully: “Even though I am the most esteemed son of heaven, I am unable to choose my own path in life!”

If even the “most esteemed son of heaven” was unable to choose his own path in life, what chance could the average citizen, or shall we say “subject,” possibly have? Centuries later, the Chinese Communist Party cast itself as the solution, as the creators of a new utopia on earth. Numerous elites were willing to sacrifice everything for the ideals represented by the Party, an idealism expressed most eloquently in one particularly soul-stirring piece of poetry: “Life is dear, and love is dearer, yet both can be given up for freedom.” The concept of “freedom,” however, soon became politically taboo within the Party following Mao Zedong’s rise to power at the Zunyi Conference in 1935. Just
two years later, in 1937, Mao wrote his renowned piece, “Combat Liberalism,” laying the theoretical foundation for the brutal Yan’an Rectification Movement and the Anti-Rightist Campaign of 1957.

I will leave the task of researching the shifting political dynamics between 1937 and 1957 to specialists in Party history. However, I believe that the majority of academics and other elites in this period had already seen through Maoist politics and could sense what it would bring to China. Thus, looking at the lives of Zhang Bojun and Hu Shih, I would have to say that I feel sympathy towards the former and admiration towards the latter. Hu Shih reportedly once said, “First, we had the Americans, who had bread as well as freedom. Then we had the Soviets, who all had bread, but no freedom. Now we have the people of Yan’an, who have neither bread nor freedom!”Hu Shih eventually had the foresight to leave behind the third world and move to United States. Zhang Bojun, on the other hand, stayed in China, where he was initially granted the “honor” of a ministerial position. However, Zhang Bojun later ended up being labeled a rightist, and even today his daughter, author Zhang Yihe, continues to regularly “enjoy the privilege” of having “partial restrictions” placed upon her freedoms.

To be fair, of course, expanded economic liberties have indeed brought about a slight loosening of Party controls on the sociopolitical front. However, there is still no denying that any political environment that refuses to grant its people full liberty is not an ideal environment. The process of gradually expanding liberties in China must incorporate changes in many areas of society, including opening nominally “public” trials of political cases to legal public witnesses, as well as allowing for the free and open debate of issues, as requested by Lai Changxing.

I have plenty of personal experience with so-called “public trials” in China: back in 1999, it was announced that hearings in the political case against me would be open to the public. However, when it came time for court proceedings to actually begin, not even my wife was allowed into the courtroom. Seven years later, in the exact same courthouse, hearings in the Guo Qizhen case were also to be “open to the public,” yet I was blocked from entering the courthouse along with another renowned dissident, as were all other spectators deemed to be potential objectors.

Although the Lai Changxing case is not in itself a political case, it has already been immensely politicized. The government’s response to Lai’s request for a public debate will serve as a key measuring stick for determining whether the oft-mentioned concept of “building a harmonious society” is fact or fiction. In fact, the issue of whether or not Lai Changxing will receive a fair hearing, a charged question with immense political implications, has already exceeded in importance the case itself and even its final verdict. Respect for the people’s right to know is the main issue on everyone’s mind at this time.

The law states that no institution or individual has the power to deprive Lai Changxing of his rights prior to the concluding verdict of a final, second trial. Thus, Lai has the full legal right to exercise his freedom of speech: the only way that he could lose this right prior to his trial would be for him to suddenly “vanish,” or to die from a “sudden and
serious illness,” which, of course, always remains a possibility. However, so long as Lai Changxing lives, he will be able to contribute all that he can to expanding and improving liberties and freedoms in China, even if he is doing so purely out of self-interest. Should a scholar in the latter half of our century compose a history of the development of liberties in China, something along the lines of John Boorstin’s *The Americans: The Democratic Experience*, I would bet that Lai Changxing will be remembered as much more than the “villain” many imagine him to be today.

Translated by Kevin Carrico


**Editor’s notes:**

3. Zhang Bojun (1895-1969) was vice-chairman of the 2nd Chinese People’s Political Consultative Conference and Minister of Communications, but was purged and imprisoned during the Anti-Rightist Campaign.
4. Hu Shih (1891-1962), a philosopher educated in the U.S., returned to China in 1917 to lecture at Peking University and became a leading figure in the May Fourth Movement and the New Culture Movement, which advocated the use of vernacular Chinese. Contrary to what is implied further down in this article, Hu later moved to Taiwan, where he spent the rest of his life.
5. Qi Yanchen was the first Chinese writer known to have been convicted of subversion for articles published on the Internet. Qi was sentenced to four years in prison on September 19, 2000, and was released prior to completion of his jail term on May 1, 2003. See Bobson Wong, “Unappealing Case,” http://www.bobsonwong.com/research/china/qiyan chen-appeal/, and “Cyber-dissident Qi Yanchen freed early,” Reporters Without Borders, October 1, 2003, http://www.rsf.org/article.php3?id_article=8126.
6. Guo Qizhen, based in Changzhou City, Hebei Province, was tried on September 12, 2006, on charges of “incitement to subvert state power,” and a month later was sentenced to four years in prison. See “Four-year jail sentence against cyber-dissident Guo Qizhen,” Reporters Without Borders, October 17, 2006, http://www.rsf.org/article.php3?id_article=19286.
THE TESTIMONY OF A FORMER TIBETAN PRISONER

By Tenzin Tsundue

An idealistic overseas Tibetan learns that his foreign connections may be all that saved him from the harshest treatment afforded by China’s justice system.

My name is Tenzin Tsundue. I am a Tibetan, born and brought up in India. I have three recorded years of birth: 1972, 1973 and 1974. My Indian Certificate, the formal refugee paper issued to Tibetan refugees in India, says I was born on May 10, 1973, but I recently learned this is impossible, since my mother was still pregnant with my older sister at that time. I have no horoscope and no birthday to celebrate. My parents were too busy to record our dates of birth, and there was little infrastructure available to Tibetan refugee workers to record these facts.

Born in exile

My father, Rinzin Choephel, came from Riwoche in Kham Province of eastern Tibet, which was completely destroyed during the Chinese military invasion of the late 1940s. A well-educated Tantric priest from the Kagyu tradition of Tibetan Buddhism, my father took up arms, and with other men in his village, joined the Voluntary Cavalry Resistance Forces, Tensung Danglang Mak, while the women, children and old people retreated to the hills. He was separated from his family for nine years while the Khampa warriors fought the well-organized invading Chinese army with matchlock guns they’d used to protect their cattle from wolves. Finally, Mao’s Red Guard army poured into Riwoche and overwhelmed the handful of Tibetan Cavaliers. Many were killed, and the remaining Cavaliers escaped to India.

My mother, Sonam Paldon, comes from a peasant family in Lhokha Chongye, which is south of Tibet’s capital city, Lhasa. During the Chinese invasion, resisters were openly gunned down in the street, either spontaneously or through organized mass executions that village people were forced to watch. This created an atmosphere of terror in her village.

In 1959, when China finally laid siege to Lhasa, my parents both followed His Holiness
the Dalai Lama in escaping to India, leaving many of their family members behind in the chaos of flight. My mother and her family first arrived in various refugee camps set up by the India government, being transferred first to Massomary, then to Manali and then to Bir, all in North India.

My father was reunited with his family in Ladakh, North India. There he picked up the Hindi language and managed to secure employment constructing the mountain road from Manali through the Rotang Pass to Leh, the capital of Ladakh. This road, notable as the motorway with the highest altitude in the world, was constructed mainly through the manual labor of Tibetan refugees and other mountain people in the region.

Due to the language skills my father acquired, he began acting as a contractor liaising between Tibetan laborers and Indian government construction firms. He managed and paid small teams of Tibetan manual laborers, and kept track of materials used. Around this time he met and married my mother, who was probably no more than 14. My elder sister and I were both born in a makeshift tent on the roadside of the mountain pass, where we spent our formative years.

My father died in 1974 or 1975, soon after my birth, due to ill health and the harshness of our existence. I don’t even remember his face. After my father’s death, we were sent to Kollegal, one of the new refugee camps in South India. My mother was 17 or 18 years old, a widow with two young children and no other family for support. The camp was very poor, and my mother struggled without the financial support that had been provided by my father. Eventually she remarried, and she and my stepfather still live in the Kollegal camp today. Her six children grew up and were scattered to different places as we searched for new lives.

When I was around eight, my elder sister and I were admitted to Tibetan Children’s Village Pathlikuhl, a boarding school in North India. During my 10 years of schooling, my mother and stepfather lacked the funds to visit us regularly, and I saw them only three times. My separation from my parents and our home in the refugee camp continued after I began my university education. As a result, since my early childhood, I never had the comfort of a home, parental love and care and citizenship, and I have always felt deprived of these basic human needs. From early on I developed a deep sense of loss and yearning to live in my own home, in my own country, with freedom and dignity in life, and resolved to work for the freedom of my country.

Imprisoned in my homeland

In 1993, after finishing my education at Tibetan Children’s Village Dharamsala, I was accepted to study English Literature at Loyola College, Madras University. Following my graduation in 1996, I began teaching at Tibetan Children’s Village school in Ladakh, which borders western Tibet. In March 1997, I went to Tibet with the aim of seeing my homeland with my own eyes, and to join our people in their struggle for freedom. I
walked across the India-Tibet border at the Dumtse section of eastern Ladakh on March 4, 1997, having told no one of my plans. I was alone and carried only a sleeping bag, and felt no need to ask anyone’s permission, since I was returning to my own country.

I walked for four and a half days in the mountains with no food or water until, exhausted and emaciated, I was apprehended at Cha-gang by a border policeman disguised as a nomad. He grabbed me by the collar and took me to his house in the village, where he handed me over to the Chinese Army. He was a Tibetan and no doubt handsomely paid.

Two military jeeps came to his house with four armed soldiers—a captain and three other Tibetans. They blindfolded me, and for the next day and a half took me to various army offices, where senior officers questioned me repeatedly. I was never told why I had been apprehended, where I was being taken and on what grounds I was deprived of my liberty. During these initial interrogation sessions my blindfold was removed, but it was replaced before every journey so I did not know where I was going.

Finally on March 10, I was taken to an unknown location in Ngari Town and presented to a group of some 15 people apparently composed of Army, intelligence, police and local Tibetan informers. Here I was interrogated for many hours. Later that night I was thrown into Ngari Town Prison. There were many Tibetan prisoners in the jail, which had an armed guard prominently stationed at the main entrance of the tower. I was put in one of the prison cells, which looked like storage cupboards, and in fact were used to hold meat and charcoal as well as prisoners. It was extremely cold, and my only view was from a small grill above the door that served as the only source of ventilation.

For the next eight days, I was interrogated every morning for three to five hours at a time. For the next eight days, I was interrogated every morning for three to five hours at a time. Throughout these interrogation sessions, they kept asking me who sent me to Tibet, who backed me in my mission, what it was about, whom I was meeting in Tibet, who accompanied me, what weapons I carried, what training I had received and whether I had been sent by the government of India. During these sessions the interrogators, who were mostly Tibetans, would kick me or punch me in the chest, and often slapped my face and hit me in the nose with their fingers. My eyeglasses were always removed during interrogation sessions, and I was made to sit very upright. Although they beat me, they made sure that no marks remained, because I came from outside Tibet.

On one occasion, four days after my arrival at Ngari Prison, I was interrogated in English. At the outset I found this hugely liberating, as I was desperate to make the interrogators understand that the accusations they made against me—of being a spy, of having received specialized training for this mission—were untrue, and I thought that through the English language I might be more successful than in Tibetan. But my interrogator was a Chinese army officer, and his translator was also Chinese. The Army Officer would make long speeches poorly translated by the translator, who stuttered and stammered in broken English. I had no idea of how competently he translated my answers back to the army officer, who was becoming increasingly aggravated.
In any case, something was going very wrong. The interrogation room was heated by a hearth of burning charcoal, beside which lay a long metal poker. The Chinese army officer became so angry that he picked up the red-hot poker, and gripping my neck with his other hand, he brought the poker close to my eyes and threatening to burn them. A Tibetan officer jumped on him and pulled him away, probably saving me from being blinded. After shaking him off, the Chinese officer returned to me and punched me in chest. I fell off the bench I had been sitting on, which came crashing down on top of me. Again the Tibetan intelligence officer restrained the Chinese officer, and I was returned to my cell.

The Tibetan officer who had restrained the Chinese officer was subsequently assigned to investigate my case. I learnt that his effort to protect me was a matter of self-interest. The Tibetans understood that I was a Tibetan from abroad, and that since I was a foreigner, they could not leave torture marks on me. If I had been blinded or scarred by the red-hot poker, they would have been obliged to kill me rather than allow me to return to India with such obvious marks of torture.

At another interrogation sessions following this episode, the same questions were repeated. Sometimes after a hard slap I would go nearly deaf, and remained dazed for a long time. These sessions were so intimidating, humiliating and traumatizing that sometimes in the middle of the night in my cell, I found myself crying.

I regret to say that, apart from the head of the interrogation team, the staff were all Tibetans. They were heartless, cruel and calculating in their treatment of me, and seemed to have lost every Buddhist value, preserving only their Tibetan faces.

After three or four days, probably on March 13 or 14, I saw, six prisoners dressed in navy blue prison uniforms, their heads shaved bald. They came from a corner of the prison yard to collect water, and remained silent. They didn’t break out of line, and they didn’t look up from the ground. I asked another prisoner what had happened to them. He told me that prisoners dressed in navy-blue prison uniforms would be killed the following month, and that seven prisoners had been executed in February. Prisoners were calling 1997 a “black year.”

At this point, the fear of execution became very real to me. I explained to this prisoner where I came from and why I had come alone into Tibet. He advised me not to tell my interrogators that I wanted a free Tibet, as I would be executed as an example to the other inmates. When I told him I had already said this to the jailers, he worried that I would be executed, exposed to other harsh treatment. He said that if I stayed at Ngari Prison I would probably be all right, but that if I were transferred to Lhasa, I would be as good as dead.

Other prisoners were robbers, rapists and murderers, but although I had merely crossed the border from India to Tibet without a permit, my case was considered worse than theirs—I was given less food and less freedom, and was kept in solitary confinement. After 12 days in Ngari Prison, I was standing in the sun when the jail guards told me I was being transferred to Lhasa, but that I was not to tell anyone about this transfer
or about my case. I had been afraid all along, but at this point, the prisoner’s warning made me reflect on my fate.

My main regret was that my motivation to come to Tibet had been strong, but my calculations and preparation had been poor; as a result, I had fallen into the hands of Chinese, who now controlled my fate and therefore my ability to do anything for my country and my people.

In Ngari Prison, the food was poor and served only twice a day, leaving me constantly hungry. I was given two steamed buns and hot water for breakfast, and an evening meal consisting of wheat gruel with bones, including the skulls and hooves of animals, mostly sheep. When I was transferred from the jail, I was charged 760 Indian rupees for the food, the same as my monthly mess bill at Madras University, where we ate very well. The money I had brought with me from India was taken to pay this bill, and desperate to survive, I offered no resistance.

During my 12 days in Ngari Prison I was never presented before any court or given any access to legal counsel. The whole process was controlled by prison guards who dictated to me what I was supposed to do, where I was supposed to sign, and what precautions I should take. To protect themselves, they insisted that I should repeat the same story to the next round of interrogators, as they would suffer if I produced a new statement.

The Head of Intelligence at Ngari Prison was called Tsering Dorjee, a tall man who always wore a hat. His assistant was called Wangchen. I was never told the proper names of my interrogators, but learned them later.

In the jeep to Lhasa, the Tibetan officer who had prevented the Chinese Army officer from blinding me, and who had been appointed to investigate me, was speaking to another officer in the jeep. He expressed pride in the fast and fluent English I spoke, compared with the Chinese officer’s poor and halting English. It was pride that as a Tibetan, I spoke better English than the trained Chinese translator.

Once reaching Lhasa, I was taken to the Seiru Detention Center, where I was imprisoned from March 26 to May 14. I arrived in the evening, and the interrogation commenced the next morning. The interrogations were long hours of mental stress during which the interrogators asked me the same questions I had been asked 100 times since my arrest at the border. This time, the interrogation was conducted by three people who were all Tibetans. Every day they came with a new set of questions about my relatives and parents and details of my life in India, and I was shocked to find that they knew every detail of my personal life, and seemed to receive updates every night. I suspected that they had informers based in India. After every session they made me sign statements written in Chinese. I don’t know Chinese, but I had no choice—I was simply trying to survive.

During the interrogation I was constantly threatened and intimidated to reveal the names of people and organizations I was working with. Since I had no such names or information to give, they threatened to put a bullet in my head or leave me to rot in
I fantasized constantly about my release, and I worried that I might be going mad.

In this prison, there were some old Tibetans who served food and did odd jobs in the prison. They were excessively obedient and meek, working like slaves. The interrogators told me that these men were prisoners who had spent nearly 20 years in jail. Faced with the threat of death or an eternity of submission to the Chinese like these old men, deprived of any personal contact, I felt overwhelmed by the claustrophobic atmosphere of the jail.

I fantasized constantly about my release, and returning to my friends and family in India. Sometimes these fantasies came to me as dreams, and sometimes as random thoughts in the afternoon; sometimes I found myself confused over whether it was a dream, a memory or just an afternoon fantasy, and then I worried that I might be going mad.

In this prison, the meals consisted of two small steamed buns and hot water for breakfast, fried rice with small cubes of piglet skin for lunch and rice gruel for dinner. Although my meals left me hungry, I would save half of my lunch for later to stave off the hunger and desire to sleep that would build up through the course of the day. I had to stay awake all day in my cell; we were not allowed to sleep until 10 p.m.—the idea was to ensure that we slept through the night so we wouldn’t do anything else. This often resulted in physical and mental exhaustion, however, as the bright lights were kept on all night, depriving us of sleep then as well.

Throughout my interrogations I was continually asked to write confessions. On one occasion I was allowed to write my own confession in Tibetan, rather than signing the unknown Chinese statements prepared for me without translation. The feeling of putting pen to paper gave me a sense of great freedom, and an opportunity of expression.
that was otherwise denied to me. I wrote many, many pages, probably the longest essays I have ever written in the Tibetan language, which contained unnecessary descriptions of many things, of friends in India, and of what I enjoyed in India.

The prison cells were arranged in a single-story row forming a barrack. On one side was a corridor that opened into the cell, and on the other side each cell had a large window, guarded by thick iron bars. Prison guards would pass by the cell window and look in on us, and sometimes I would be found sitting on the bucket toilet with my pants down. It was embarrassing and humiliating to be caught this way by the prison officials, because we were supposed to stand at attention by the window during these random inspections.

At Seitru Detention Centre, I was kept in Cell 3. My neighbor in Cell 2 was a Tibetan who was usually treated badly by the jail authorities; sometimes they deprived him of food, and often of the 15-minute fresh air break in the morning, which the Chinese called fangfeng. The prisoner had a small hard face, and when he was allowed his fresh air break, I noticed he walked with a limp in his right foot. Later I learned that his name was Dawa Gyaltse. For prisoners who spent all their days and nights in one cold locked room, with a plastic bucket for a toilet, uncertain of their future and with no opportunity for communication or personal contact, this 15-minute exposure to the open sky meant a great deal.

Once during a fresh air break, I stood outside Dawa Gyaltse's window and commiserated with him for not being allowed out. I was paranoid that I would be discovered talking to him, and kept the glass of the window pane at a slant to reflect activity in the passageway so I could watch for the jail authorities while continuing my conversation. In Seitru, prisoners were not allowed to speak to each other, and if caught in the act, jailers beat them up right then and there. My cell mate for 20 days, a middle-aged Chinese man, pointed to two red and blue bruises around his eyes, then crossed his mouth with his index fingers, cautioning me not to talk to other prisoners.

After learning this new trick, however, I often talked with Dawa Gyaltse in the afternoons, when we knew the prison guards had eaten enough and were feeling lazy. He would often ask me to sing songs about the Dalai Lama and the Panchen Lama, and about the Tibetan families separated on either side of the Himalayas. He said this gave him a great deal of comfort, and I often found myself singing with my eyes full of tears.

He was happy to hear that I came from India, but said that I was too young and naïve, because I had told my interrogators my real reason for coming to Tibet, which was to take part in the Tibetan freedom struggle. He was happy to hear about the awareness and support the Tibetan struggle was receiving in the Western countries, and he couldn’t believe that the Dalai Lama had become a hero and role model beloved by people the world over. He had never heard any of these things in Tibet, where the media are state controlled, and the only access is to China's state propaganda.

I found a new world beyond the Himalayas, and in that darkness I found this man who, even without seeing the Dalai Lama, or knowing of Tibet’s supporters in India and the
West, continued to work for the independence of Tibet. Once Dawa Gyaltsen showed me his wrists, and I saw rings of white scar tissue that were clear signs of torture. He told me that when he was first arrested, he was handcuffed and thrown into a dark room without food for 10 days. To keep him alive, his jailors splashed water on him once a day. The handcuffs tightened around his wrists and ate into his flesh, developing sores and puss. When they unlocked the shackles after 10 days, the metal rings ripped skin from his wrists. He said he was not given medical attention, and in the cold prison cell at Seitru, it took many months for the sores to heal, leaving these scars behind.

Dawa Gyaltsen told me that he was from Nagchu Town in central Tibet, about 400 kilometers north of Lhasa. He was arrested for making “Free Tibet” posters that were put up by his younger brother, a monk, and a friend. The police caught his brother and friend with the posters in their hands. They were beaten and tortured to such an extent that the brother gave Dawa Gyaltsen’s name as the mastermind, and he was arrested in early 1996.2

He told me that he had studied banking and accountancy in Beijing and later returned to his village in Nagchu to work as an accountant at a bank. He was married, with two children. He said he was 28, and that all the education in Beijing did not make him Chinese, but rather had strengthened him to fight the Chinese occupation of Tibet.

Today, as I make this testimony, Dawa Gyaltsen is in prison in Tibet serving an 18-year jail term. He has been transferred to the most notorious prison in Tibet, Drapchi No. 1 Prison, where Tibetan freedom fighters are treated the worst. Many prisoners have been beaten to death, tortured by use of electric batons, electric shock, mental torture, rape and deprivation of sleep and food. When prisoners become invalids or ill to the point of death, the prison authorities release them on “medical grounds.” Yet with an unbelievable spirit of non-violent resistance, Tibetans continue to survive torture and long jail terms in the hope that one day Tibet will be free and that the Dalai Lama will return to Lhasa.

Every morning we were supposed to wake up at 7 o’clock, and prison guards came to check on us. This was followed by the blaring of news in Chinese and then Tibetan, broadcasted by Lhasa Radio. The news was always propaganda about the development of Tibet and the new prosperity that was coming to Tibetan nomads, farmers, traders and city folk. Living in the conditions we did within the prison, being forced to listen to the noise and propaganda in the morning, and again in the evening, was both provoking and intimidating. For me, having come from outside and having received an education, the blatant lies in the newscasts were ridiculous, constructing and reinforcing the false world that China had created in Tibet. Many times I would find myself laughing at it, but in Tibet, this has been continuing for the past 50 years, and entire generations have grown up listening to this new world created and reinforced by state media. For them China is the ultimate power and authority, and they know of no other world.
Unexpected release

In early May, my interrogators asked me if I wanted to stay in Tibet or leave. They offered me money to stay, but I believed I was being entrapped, and so I refused. They arranged to take me on a tour of Lhasa in an army jeep, showing me the highways that had been constructed, the Lhasa Radio communication tower and the Bank of China. I was forced to pose in front of the Potala Palace and have my photograph taken from the front and in profile, like mug shots. When we reached Bharkor Square in the middle of Lhasa, they told me that all people were free to practice all religions here, and tried to convince me that China had made Tibet a better place to live. Upon my return to Seitru Detention Centre, I was interviewed on video. They asked me for my impressions of the improvements that had been made in Tibet, and what I thought of my time in prison. I replied that I was hungry in prison, and they laughed.

Political prisoners in Tibet are marked as anti-social elements by the police, who harass any relative or friend who maintains a relationship with the prisoner, or who supports a prisoner with money or food. As a result, prisoners usually become ostracized from their communities and are stripped of all social contacts. Dawa Gyaltsen’s wife divorced him, and today he is fighting his own case alone in prison. Even after prisoners are released from jail, they find it difficult to mix with their former communities. Many people will not cooperate with former political prisoners. They are unable to find work, housing or solace among their former friends and often end up begging on the outskirts of urban areas. That’s why many former political prisoners try to escape into India.

On May 14, Dawa Gyaltsen was removed from Seitru Detention Centre. He dropped his bar of soap—a prized possession in jail—through the hatch in my cell door. I thought he was being released, but as it turned out, that evening I myself was released, and I was taken to India the next day. Throughout my time in Ngari Prison and Seitru Detention Center, I never imagined that I would be free again, much less that I would have the opportunity to reveal my treatment and the treatment of Dawa Gyaltsen and other freedom fighters to a court investigating Chinese behavior in Tibet.

After returning to India, I went to Bombay to study for a master’s degree in English literature and philosophy. In January 2000, I was working with a Tibet support group called Friends of Tibet (India), when we invited Phuntsok Wangchuk, a former political prisoner who had recently escaped to Dharamsala, to talk about the struggle for freedom. Phuntsok Wangchuk had been arrested for organizing a student gathering at his middle school in the Lhoka region, and also for possession of “Free Tibet” leaflets. He was beaten, tortured and imprisoned in Drapchi Prison for five years. Talking to him about my limited prison experience in Tibet, I mentioned Dawa Gyaltsen. He told me about a Dawa Gyaltsen whose details, including the scars on his wrist, his limp and his life story, matched the identity of the Dawa Gyaltsen I had met in Seitru Detention Centre. I learned that he had actually been transferred to Drapchi Prison, and not released as I had imagined on May 14, 1997.

In 2003, I met another former political prisoner in Dharamsala who had escaped to
India after his release from Drapchi Prison. He had been imprisoned near Dawa Gyalt-
sen until his release, and confirmed that Dawa Gyalsen was serving an 18-year sen-
tence for “counterrevolutionary activities of splitting the Chinese motherland,”4 and
that his 14-month detention at Seitrul Detention Camp was not included in the 18-year
sentence.

I later learned of an international cross-border agreement under which individuals
who have been caught in another country without documents can be detained for
investigation for a maximum of 3 months, and that they should then be released if they
are found not to have committed a criminal offence. This international agreement
helped to protect me, although I did not know of it at the time of my detention. I also
subsequently learned that the Indian government had become aware of my border
crossing and subsequent arrest, after my school in Ladakh filed a missing persons
report on me. The Indian police and intelligence had traced my footsteps and found I
had crossed into Tibet, and had asked their Chinese counterparts if I had been found or
detained. After I left Ngari Prison, two monks from Choglam Refugee Camp in India
were arrested after making a crossing similar to mine. They heard in Ngari Prison that I
had been badly beaten and tortured, and reported this upon their return to India,
before my release. They also reported that I had been taken to Lhasa, and that I was
feared dead. Indian security officers in Ladakh took this seriously, and apparently Chi-
nese intelligence learned of India’s concern for me. The reports of these two monks and
the response of Indian security helped secure my release, I am sure.

I continue to work for the independence of Tibet, which has become the purpose of my
life. I work for it as a writer and as an activist, devoting every ounce of energy I have,
day in, day out. I strongly believe that no force can continue to control the power of
truth. It is only a matter of time before truth will prevail and the broken families of
Tibet will once again be reunited to celebrate freedom in Tibet. Until then, I continue
to seek inspiration from all the freedom fighters working silently inside Tibet for our
freedom.

Tenzin Tsundue submitted his sworn testimony in July 2006 for a criminal suit filed in
Spain’s High Court by three Tibet Support Groups (TSG) accusing former Chinese Presi-
dent Jiang Zemin and former Premier Li Peng of committing genocide and crimes against
humanity in Tibet.

Notes

1. Chinese pinyin for Ngari is “Ali.”
2. For more information on Dawa Gyalsen, see Free Tibet Campaign, http://www.freetibet.org/
campaigns/stoptorture/DawaGyalsenNyima.html.
3. For more information on Phuntsok Wangchuk and his prison experiences, see: http://www.
guchusum.org/AboutUs/Committee/CommitteeMemberTestimonies/PhuntsokWangchuk/
tabid/104/Default.aspx.
4. This refers to the 1979 Criminal Law’s counterrevolutionary statutes, which were super-
seded in 1997 by the new Criminal Law.
CONTROLLING THE SUPPLY OF “TOOLS OF TORTURE”

by Clare Turnbull
of the Omega Research Foundation

Torture remains a subject of controversy in attempts to reform China’s criminal justice system. Current information indicates that China not only routinely uses torture equipment, but is also a key exporter of such equipment to other countries.

Internationally agreed standards have condemned the use of torture since 1948, when the Universal Declaration of Human Rights was adopted. Article 5 of the Declaration unequivocally prohibits torture, and states that “no one shall be subject to torture or other cruel, inhuman or degrading treatment or punishment.” This Article was expanded on in the mid-1980s by the United Nations Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment (CAT), which states that “no exceptional circumstances whatsoever, whether a state of war or a threat of war, internal political instability or any other public emergency, may be invoked as a justification of torture.”

China ratified CAT in 1988 but has done little to implement its provisions. In 2005, nearly a decade since the initial request of the mandate, the United Nations Special Rapporteur on Torture and other cruel, inhuman or degrading treatment or punishment (Special Rapporteur on Torture), Professor Manfred Nowak, spent two weeks visiting and assessing the prevalence of torture in China. Nearly two decades after China ratified CAT, the Special Rapporteur found that the practice of torture, though on the decline—particularly in urban areas—remains widespread in China. The Special Rapporteur’s report on China commented that “(A)lthough Chinese law prohibits gathering evidence through torture and provides for punishment of those guilty of torture, the Chinese definition of torture does not fully correspond to the international standard contained in CAT. In particular, physical or psychological torture that leaves no physical trace is difficult if not impossible to punish with appropriate penalties in China (indeed, the Chinese word for torture, “kuxing,” principally connotes physical torture).” The Chinese definition of torture thus clearly falls short of CAT’s definition of torture as “any act by which severe pain or suffering, whether physical or mental, is intentionally inflicted on a person for such purposes as obtaining from him or a third person information or a confession.”
States and international bodies are increasingly recognizing that international obligations to prohibit torture also include the need to control the supply of the “tools of torture.” The Special Rapporteur has argued that such controls form part of the obligations of states under CAT, and in December 2004 the UN Commission on Human Rights called upon all Governments “to take appropriate effective legislative, administrative, judicial or other measures to prevent and prohibit the production, trade, export and use of equipment that is specifically designed to inflict torture or other cruel, inhuman or degrading treatment.”

Reports from both torture survivors and human rights defenders suggest that many of the torture techniques employed in China do not require specialist equipment. Stress positions such as forcing prisoners to kneel for extended periods or to stand in the “flying airplane” position are widely reported to be used in prisons, forced labor camps and detention centers. Basic items such as wooden clubs, soldering irons, metal bars and cigarette butts have also been used to subject prisoners to torture or other cruel, inhuman or degrading treatment or punishment. And of course, psychological torture using isolation, darkness, oppressive lighting and threats, can have the same long-term effects as physical brutality. However, witness accounts also claim that specially designed policing and security equipment, including electroshock weapons and restraints, are widely used for torture in China. Torture using this kind of equipment, at the very least, could be brought under more effective international control.

This article will first examine the use of “torture tools” in China, focusing on the use and abuse of leg irons and electroshock equipment. It then focuses on the international trade in tools that have been shown to be used in the torture and ill treatment of prisoners. Finally, this article argues that the lack of regional control mechanisms facilitates the use of, and trade in, Chinese-made “tools of torture” beyond China.
Some common tools of torture

**LEG IRONS**

There is a legitimate argument for the use of restraint equipment by law enforcement officials to control prisoners who pose a threat or to secure prisoners during transportation, but restraints, particularly leg irons, can easily be misused and abused. International standards have delineated the proper and permitted use of such restraints. Article 33 of the United Nations’ Standard Minimum Rules for the Treatment of Prisoners clearly states that restraints should never be applied as a punishment; that “such instruments must not be applied for any longer time than is strictly necessary;” and that “chains and irons shall not be used as restraints.”

China’s own regulations on the use of leg irons contravene the Standard Minimum Rules for the Treatment of Prisoners. Regulations published for prison and labor camp wardens explicitly stipulate that “leg-irons and handcuffs may be used together on prisoners awaiting execution.” There have also been cases where prisoners have been shackled in weighted leg irons, a particularly cruel method of restraint:

**Zhuo Xiaojun** was tried and sentenced to death for “intentional killing” in September 1990. The main evidence against Zhuo was his “confession,” which he testified had been extracted under torture. Zhuo alleged in his testimony that for the first 33 hours of his detention he had been suspended from handcuffs attached to the bars of a door, with his feet locked in 50kg leg irons, while his confession was extracted. An appeal in 1992 found the evidence to be insufficient, and the case was adjourned for further investigations.

Despite no new evidence being introduced, Zhuo was found guilty again at a second trial in January 2000. It is believed that he has been held with his feet and hands shackled together since his second conviction. It is not clear whether Zhuo is still being detained or whether he has been executed.

**Zhang Sufang**, a Falun Gong practitioner, was detained in December 2000. She was taken to the detention center of Huaiyang County in January 2001, where she was held for about 10 months. Zhang alleges that while in detention she was forced to run in leg irons on several occasions. Zhang claimed in a statement that her ankles were “torn and bloody due to the grinding of the leg irons.” She also described being made to wear leg irons and being locked to seven other people continuously for about 20 days. Zhang claims that detention center officials used leg irons to threaten her into rejecting the Falun Gong beliefs. Zhang refused to do this and was kept in leg irons for twenty-nine days until she passed out during a hunger strike.

These accounts are supported by the Special Rapporteur’s report on China in 2005, in which he described seeing some prisoners who had been sentenced to death “handcuffed and shackled with leg-irons weighing approximately 3kg, 24 hours per day.” This continuous use of leg irons and / or handcuffs makes it impossible for prisoners to
CHINESE DOMESTIC LAW ON TORTURE

Definition of torture

- No explicit definition of torture

Prohibitions against torture

- The personal dignity of Chinese citizens is “inviolable”
- Use of torture or coercive methods to gather evidence or extract confessions prohibited
- Judicial officers and policemen prohibited from physically abusing individuals in their custody, or instigating detainee-on-detainee violence

Prohibitions against extracting confessions

- Extracting confessions through torture prohibited
- The Supreme People’s Procuratorate stipulates only torture involving the following will be investigated:
  - Cruel methods or evil impact
  - Results of suicide or mental disorder
  - Resulting in unjust, false or erroneous cases
  - Coercing confessions or testimony by violence more than three times or against more than three people
  - Instigating others to coerce confessions or testimony

Penalizing Torture

- Penalties for acts of torture stipulated in Criminal law and other regulations*
- Investigations will not be pursued where:
  - The law is unclear or inconsistent
  - The error occurs as a result of unforeseen or unavoidable circumstances
  - The policeman is acting under the orders of a superior
  - The policeman was handling a case according to regulations on co-operation with other units.

Falling short of international standards

- No explicit prohibition against mental torture as required
- Prohibiting and penalizing torture limited to acts committed by judicial officers and policemen; international standards reach to acts committed at the consent or with the acquiescence of a public official
- No exclusionary rule; confessions procured through torture can still be used in court as long as the confession does not form the basis of the charge

* See, e.g., Articles 247 and 248 of the Criminal Law; the Regulations on the Use of Police Instruments and Weapons by the People’s Police; the Supreme People’s Court’s Measures Concerning the Punishment of Judicial Personnel of the People’s Court Who Break the Law during Trials, and Disciplinary Measures Concerning Judicial Personnel of the People’s Court; and the Rules on the Handling of Criminal Cases by Public Security Authorities.
eat or use the toilet without help from other prisoners. It is clearly an “inhuman and degrading” practice that serves only as an additional punishment for someone subjected to the stress and grievance associated with a death sentence.17

**ELECTROSHOCK EQUIPMENT**18

The number of reports of electroshock equipment being used for torture in China exceeds that of any other country.19 There is continued debate over the legitimacy of using of such equipment in policing: for example, using projectile stun devices as a less than lethal alternative to firearms.20 However, there is no justification for the routine use of electroshock equipment in prisons, forced labor camps and detention centers, where prisoners do not pose a threat to public safety. Their availability within detention facilities does, however, invite their use for torture and ill treatment.

Following are some reported cases of the use of electroshock equipment in China:

**Gao Rongrong** was reportedly sent to the Longshan Forced Labor Camp in July 2003 after appealing for the Chinese government to end the persecution of Falun Gong practitioners. Gao managed to escape from the labor camp in October 2004 and described being handcuffed to a pipe and tortured for seven hours with electric batons in May 2004. Falun Gong Web sites published photos of burns that Gao sustained to her face, head and neck. Gao was detained again in March 2005, and after allegedly suffering further torture in detention, she died in a hospital in Shenyang City, Liaoning Province on June 16, 2005.21

**Ye Guozhu** was sentenced to four years’ imprisonment in 2004 after campaigning against Olympics-related forced evictions. While in detention in Beijing, he was reportedly suspended from the ceiling by his arms and was beaten with electroshock batons for refusing to “admit his guilt.”22

**Palden Gyatso**, a Tibetan monk, spent 33 years in Chinese prisons and labor camps before escaping, smuggling with him some of the tools of his Chinese torturers. He described his experiences as follows: “This is the worst thing—an electric cattle prod. They use this on your body. If they press that button, your whole body will be in shock. If they do it for too long, you lose consciousness but you do not die. If they press this button, you can die. They used it all the time on my body. They tortured me because I was speaking out for independence and I will continue to speak out.”23

“Torture equipment”: Production and sale in China

A study on the worldwide manufacture of electroshock equipment between 2000 and 2004, conducted by the Omega Research Foundation28 for the Special Rapporteur on Torture, found that no country had more domestic suppliers of electroshock equipment than China.29 While there are limitations to this survey,30 it is clear that Chinese
factories now produce electroshock equipment on a wide scale, possibly with external assistance: in 1997, the managing director of a Scottish company admitted selling electroshock batons to China seven years earlier, claiming that “the Chinese wanted to copy them.” The Omega Research Foundation has identified at least 60 Chinese companies and factories either manufacturing or distributing electroshock weapons since 1990.32

The availability of these “tools of torture” arguably invites the ill treatment of prisoners within China. In addition, Chinese companies have made use of thriving export markets. Electroshock equipment has been exported from China to countries with documented cases of electroshock torture, including Cambodia and Indonesia.33 Also, suppliers in the United States and Russia have offered electroshock equipment identical to that manufactured in China. Since China is arguably the leading production center for such equipment, there is clearly a need for controls not only on domestic use, but also on the international trade and export of “policing” and “security” equipment commonly used in torture and ill treatment.

Such equipment extends beyond electroshock equipment and restraints. For instance, at least four companies in China manufacture or trade in “sting sticks” or “wolf sticks” (shown in the photograph at left), a heavy steel bar with spikes. Such equipment can have no legitimate policing use except for torture, ill treatment or the excessive use of force. There have been reported cases of equipment matching the description of a sting stick used in Nepal34 and Tibet, although there is no information on where the particular equipment used was manufactured.35

The Omega Research Foundation is unaware of any current international restrictions on trade in implements such as sting sticks. They are so easily procured that even a group of British school students were able to import one from a Chinese supplier.36 This sale of a sting stick to teenagers who were not old enough to drink alcohol or vote was exposed in a UK television documentary. The program highlighted the need for international regulations governing the trade in policing and security equipment, including a “catch-all clause” to cover unique items such as sting sticks that may not otherwise be covered in control lists of well-known policing and security equipment.37

A “catch-all clause” would also help restrict the trade in “dual-use” technologies. Dual use equipment is that which may have a legitimate purpose, such as use in policing or investigation, but also has the potential to be used in torture, such as shackles. A more mundane and therefore harder to regulate example would be pliers, which can be utilised in a number of domestic functions, but can also inflict pain when used in torture. It would be unreasonable to call for export controls on pliers, but a catch-all clause could require exporters to request a government export decision if they received a large order for pliers from an end-user such as a Chinese prison, where there might be a reasonable suspicion of use in torture.

In 2002, the Chinese government reviewed and updated its export control regulations covering international arms transfers by the government.38 It remains unclear whether these revised regulations cover policing and security equipment such as electroshock devices and leg irons.39 In any case, it is almost impossible to measure the effectiveness
or impact of these revised regulations, because China has not published information about its exports of military, security and police equipment since 1996, and prior to that date only reported (to the UN Register of Conventional Arms) on transfers of large military equipment.40

Controlling the trade in “tools of torture”

The European Union (EU) imposed an arms embargo against China in June 1989 in response to the brutal repression which had culminated in the massacre at Tiananmen Square.41 The embargo covers large military weapon systems, but doesn’t cover police and security equipment, devices that this report has shown to be used in torture and repression China. The embargo, now under renewed debate, was an important statement of the EU’s intolerance of the Chinese government’s actions, but has had very little impact on actually reducing the incidence of repression and torture in China.

Ensuring that China meets its international obligations requires a mechanism capable of monitoring and regulating the country’s domestic and international export trade in military, security and police (MSP) transfers. A legal instrument of this kind should increase transparency in the reporting of MSP equipment transfers, and ban the manufacture and trade in inherently abusive equipment.

DOMESTIC CONTROL

A domestic control mechanism would limit access to “tools of torture” and would make it more difficult for Chinese police and security forces to get hold of MSP equipment. It would also impede international transfers, specifically countries where recent cases of electroshock torture have been documented, from acquiring electroshock weapons from China.

The transnational nature of the industry, however, means that no domestic control mechanism could prevent all such equipment from reaching torturers. While 34 out of the 53 companies (64 percent) world-wide found to be manufacturing electroshock equipment were based in the Asia Pacific region, predominately in China, a significant number of these companies are not mainland Chinese.42 They include several companies based in Taiwan that maintain factories in mainland China. These cross-border operations suggest the need for international regulations and controls.

REGIONAL CONTROL

One solution could be a regional model similar to the regulation that the European Commission (EC) has recently implemented “concerning trade in certain goods which could be used for capital punishment, torture or other cruel, inhuman or degrading treatment or punishment.”43 This trade regulation prohibits European Union countries
from importing and exporting “goods designed for the execution of human beings” (e.g. gallows, guillotines and electric chairs), and certain goods with no other use than for torture or ill treatment (including electroshock belts). The trade regulation also requires government export authorization for a range of policing and security equipment, including restraint chairs, leg irons, shackles and thumb-cuffs; portable electroshock devices; and certain chemical irritant devices such as pepper sprays.44

The EC trade regulation also covers dual-use technologies with a catch-all clause for equipment with applications in weapons of mass destruction. EC Dual Use Regulation No. 1334/2000 has a 72-page list of controlled dual-use items (such as “acoustic beam forming software” and “filament winding machines”), but none of these items have applications in torture.45 The Regulation does, however, include a provision (Article 4) for controlling goods not on the list, if either the government or the exporter suspects the goods are intended for use in weapons of mass destruction, or for military equipment in embargoed countries.46 In this respect it could serve as a model for a catch-all clause for equipment with applications in torture for the Asia-Pacific region.

The EC trade regulation is not a perfect model. A recent Amnesty International report47 exposed loopholes that still allow a range of “torture tools” to be traded from the EU without control, and the regulation does not control transfers of equipment internally within the EU. And of course, any mechanism is only as good as its implementation at the domestic level. However, it is the first international control on such equipment, and is likely to become more effective as it is adapted and strengthened over the coming years. Given that the current lack of regional control mechanisms in the Asia-Pacific region can only facilitate China’s trade in tools of torture, a mechanism modelled on the EC’s ground-breaking legislation could at least serve as a step forward.

The centrality of the Asia Pacific region to this global trade in “torture tools” means that an Asian trade control mechanism is even more urgently required. An Asian regional association could design and implement such a regulation, perhaps modeled on the EC “torture trade” regulation. The Association of Southeast Asian Nations (ASEAN) would be the most obvious choice, but mainland China, Taiwan and South Korea are not members, and given their dominant role in electroshock weaponry and security equipment trade, any meaningful regional controls must include all three. Political agreement between these three states is difficult, but without trade controls, Chinese companies will continue to profit from the trade in the tools of torture; domestic police and security forces will continue to have access to equipment with which to torture prisoners; and torture equipment will continue to be supplied to torturers and human rights abusers in other countries.

Notes

3. China was first reviewed by the Committee Against Torture in May 2000, during which time
the Committee expressed concern about the widespread prevalence of torture and the lack of an effective investigative organ in China. Conclusions and recommendations of the Committee against Torture: China, UN Doc. A/55/44, May 9, 2000, paras.106–145. China will next be reviewed in May 2008.


6. Convention Against Torture and Other Cruel Inhuman and Degrading Treatment or Punishment, ibid.


11. To avoid confusion, this article uses the term “leg irons” to refer to all forms of leg restraints, cuffs and shackles.


18. This refers to a wide range of electric batons and guns, also known as “stun” batons / guns.

19. Based on ongoing analysis of Amnesty International and other human rights documentation relating to China, currently conducted by the Omega Research Foundation.


27. International prohibitions are against the involvement of a public official directly or at the instigation or consent or with the acquiescence of a public official or another person acting in an official capacity; and infliction of the act for a specific purpose, such as extracting a confession, obtaining information, punishment, intimidation, discrimination. See: Convention Against Torture.

28. The Omega Research Foundation has used open source information to compile information over a number of years on companies that manufacture and trade in military, security and police equipment.

29. The other countries in the top four were Taiwan, the United States and South Korea. These four countries accounted for 77 percent (41 out of 53) of the manufacturers identified.

30. This analysis has several limitations. Firstly, identifying a company as a manufacturer can be difficult, as many companies claim to be manufacturers when in fact they are simply distributing products made by others. Secondly, establishing the number of manufacturing companies does not establish the actual number of electroshock weapons produced and exported. Thirdly, identifying which company (or even country) was responsible for manufacturing electroshock weapons is also complicated by the growth in the use of “drop shipping,” i.e., a process in which an online marketer takes an order and payment for an item, and then purchases it from a wholesaler, who ships the merchandise to the client.


32. Information from Omega Research Foundation archives.

33. Crowley, ibid.

34. “He has lost his right eye after being subjected to an indiscriminate baton charge by the Police during a peaceful torch rally on 11 May 2003 in Ratnapark, Kathmandu. Mr Sharma sustained severe injuries to both his eyes because the Police allegedly hit him several times with iron-spiked sticks and specifically targeted his eyes.” Quoted from the Asian Human Rights Commission—Urgent Appeals Program, http://www.ahrchk.net/ua/mainfile.php/2003/461/.


36. Norton-Taylor, R. *Pupils import torture tools to highlight UK arms loopholes*, http://www.guardian.co.uk/armstrade/story/0,1742627,00.html [Accessed 08.05.07].


39. The Economic and Commercial Office of the Chinese Embassy in the UK was contacted to request details of equipment covered by these revised export regulations, but no response had been received at the time of writing.


42. The 34 Asia-Pacific companies 14 in China, seven in South Korea, one in India and 12 in Taiwan.


44. Oleoresin capsicum (OC) and pelargonic acid vanillylamide (PAVA).


A JUDGE DIES IN CUSTODY

A report from *Beijing News*

Unexplained deaths in custody are far from rare in China’s criminal justice system. But when the deceased is a judge, even China’s state-run media take note.

A death in detention

On April 21, 2007, a reporter for China Court Net (www.chinacourt.org) noticed that an article entitled, “Judge meets violent death under mysterious circumstances in the Pingle County Court in Guilin” had been posted on the Web site’s “Rule of Law Forum” at 7:00 the evening before. The article, which was written by Li Chaoyang’s wife, stated:

On March 22, [Judge Li Chaoyang] was summoned by security cadres and police of the Guilin City procuratorate for questioning and to write a statement. At approximately 3:30 p.m. on March 24, I received a fax from the Guilin City procuratorate indicating that [my husband] had been detained in a criminal case at Guilin City’s No. 1 Detention Center. After that he had no way of contacting family members (by telephone or in person).

On April 2 at 1:30 p.m., I received a notification from the Pingle County Court. I called my husband’s younger brother and younger sister and we went together to see him at the Xing’an County detention center (he had been moved there, though no one had told me before). We got to the Xing’an County detention center at 6:10 p.m. and had dinner. At 8:10 p.m. we talked with the director of the detention center. He told us that despite frantic efforts to save him, my husband had died on the 2nd at 8:50 a.m. He told us that the cause of death was unknown. My husband’s brother, sister and I asked to see the body but we were refused. We insisted that we had to see him. When we were finally allowed to see the body we found that it was covered from head to toe with cuts and bruises, which was completely inconsistent with what we had been told at the detention center about the cause of death.

No word of explanation

Early in the afternoon on April 21, China Court Net posted an article about the case entitled, “Guangxi Judge Li Chaoyang dead in detention center with mysterious injury..."
marks all over his body.” The article stated, “When the next of kin asked the officials in charge at the government department concerned what had happened, they were brushed off. No one was willing to tell them the cause of death, and no one offered any explanation. After that, the relatives wrote petition letters to the Guilin City People’s Congress, the city government, the city law and politics committee (zhengfawei), the procuratorate and the public security bureau, but in every case they were ignored or fobbed off with perfunctory formulations. No one offered them an explanation.” When a China Court Net reporter contacted the Pingle County Court, an official confirmed Li Chaoyang’s death but said that the cause of death was unknown.

During a follow-up telephone call from Beijing News, a Pingle Court officer said there was nothing more to be said, because all that was known about the case had already been posted on the Internet; the China Court Net article had already been picked up by every major Web site. When this reporter phoned the Guilin City procuratorate—it was well before 5 p.m.—the officer on duty said that no one could answer any questions, because they had had all finished work for the day and were on their way home.

Dead on arrival at the hospital

An emergency room doctor at Xing’an County Hospital said she had not personally participated in the effort to save Li Chaoyang, but that everyone basically knew what had happened. This is what she had heard: On the morning of April 2, officers from the detention center brought Li Chaoyang to the hospital for emergency treatment. They had not called an ambulance beforehand. By the time Li reached the hospital, he had no respiration or heartbeat, the electrocardiogram showed a flat line and his pupils were dilated. The on-duty doctor attempted cardiopulmonary resuscitation, to no avail. The patient was pronounced dead at 8:50.

According to Li Xiuqing, Dr. Jiang, a physician who had participated in the emergency rescue effort, told her that Li Chaoyang had been brought to the hospital wrapped in a bed quilt. He was naked and black and blue from head to toe.

Li Xiuqing said that when the family asked to see the body on April 2 they were refused access on the grounds that such a request could only be made “in the name of an organization.” The next day, 35 members of Li Chaoyang’s family went to the Xing’an funeral home and vehemently insisted on seeing the body, and were finally allowed to view Li Chaoyang. Li Xiuqing says that before Li Chaoyang was summoned by the police, he had been in the best of health and none of his front teeth had been missing. But the corpse they saw was clearly covered with bruises and injuries.

When this reporter visited the deceased’s family, he was shown a dozen photographs of the corpse. The most obvious sign of injury was an approximately 15-centimeter-long gash below the nose, which had been sutured with more than 10 stitches, and two upper front teeth were also missing. In addition, there was a round, red bruise mark on the throat and a long purple wound on the right waist. Along the spine there were two
FACED WITH BRUTE FORCE AND LAWLESSNESS, EVERYONE IS POWERLESS

A commentary by Deng Jiangxiu

Judge Li from Pingle County, Guangxi Province, died on April 2 in a detention center a month after he was arrested by the Guilin City procuratorate on suspicion of taking bribes. Photographs provided by Li’s family show that his body was covered with bruises. *Xinhuai Bao* (News Express) reports that before the results of the investigation are made available, there is no way to determine whether Judge Li died under torture to extort a confession or as a result of some other act of violence in the detention center. In any case, this incident illustrates once again the urgent need to develop guarantees that the rights of suspects guaranteed by the Criminal Procedure Law, including the right to life, are actually protected during criminal investigations.

This case reveals another problem worth serious consideration: when the news and photographs of the case were posted on the Internet, many readers posted comments expressing intense hostility against the victim. One person wrote, “A corrupt official beaten to death. Serves him right.” Another wrote, “A wielder of power and influence got his comeuppance.” Such comments reflect a worrisome attitude. Social injustice has made some people draw a line in their minds between the powerless and the powerful based on simple criteria: the possession of wealth and power. People see the wealthy and those who enforce the laws of the state (police officers, judges and administrative officials) as the group that wields power and influence. Conversely, they regard peasants, ordinary townspeople and low-level workers as weak and disadvantaged groups.

This division between the powerful and the powerless accounts for the troubling public attitude to the fatal beating of a judge. One can well imagine that if the man who was beaten to death had been a beggar or migrant laborer, public opinion would have denounced the perpetrators. Yet because under ordinary circumstances the victim would be a wielder of power, some people responded with a sense of vindication and schadenfreude.

If we disregard the division between the privileged and the weak, I believe that any decent and reasonable person would condemn a savage beating that caused a death in police custody, regardless of whether the victim was a judge or an ordinary citizen. It is clear that it is attitude, rather than circumstances, that affects how someone views an incident, and this is something that calls for earnest reflection by all of society.

In fact, when confronted with brute force, there is no difference between judges and ordinary citizens; all are at an equal disadvantage. Seen from this perspective, everyone ought to consider the unlawful death of a Guangxi Province judge in detention a grave and illegal act of violence against the powerless.

For example, a policeman has the authority to take coercive measures against a criminal suspect, but the moment that same policeman is brought before a court of law and has his rights violated by the judicial authorities, he becomes powerless. To give another example, a city administration official wields power while enforcing the law, but should he ever find himself on the other side of the fence he may have his own rights encroached upon by a wielder of administrative power; the moment that happens, he too joins the ranks of the powerless.

The logical conclusion is that no matter how strong you are, there is always someone stronger. In the final analysis, every power holder in society could become the victim of an unlawful act of violence that will relegate him to the ranks of the powerless. The best way for the wielders of power and wealth to avoid such humiliation is for each of them to take the initiative to abide by the law and eschew violence. By refraining from violating the rights of the powerless, they will avoid joining their ranks themselves.

Translated by Paul Frank

round dark brown marks about the size of a one-yuan coin, and there were red bruise marks along the back of both legs.

Yesterday [April 24], *Beijing News* learned that the GZAR government had set up a special investigation team to look into the case.

### Who performed the autopsy?

As of yesterday, Li Xiuqing and the other family members had still not received an autopsy report. Li Xiuqing said that the police told them they could choose one of two medical facilities to perform the autopsy: either a PLA hospital or Guilin Medical College Affiliated Hospital. The family chose the latter, and Li Xiuqing specifically wrote “Guilin Medical College Affiliated Hospital” on the autopsy application.

A doctor from the department in charge of forensic medical examinations at Guilin Medical College Affiliated Hospital told *Beijing News* that the hospital had not performed an autopsy on Li Chaoyang. The doctor said that when they asked the forensic medicine unit of the public security bureau’s criminal investigation department whether they should perform an autopsy, they were told that Li Chaoyang had died at the detention center and that the autopsy could only be performed upon the joint request of the detention center and the deceased’s next of kin. The hospital never received an instruction from the detention center to perform the autopsy, so it was unable to proceed with it. The doctor also said that members of Li’s family contacted the hospital twice and obtained a photocopy of Li’s medical history form.

Li Xiuqing was astonished when *Beijing News* told her what the doctor had said. She said that on the afternoon of April 4, the family sent a representative to observe and sign off on the autopsy. If the autopsy the family representative witnessed that day was not performed by a doctor from Guilin Medical College Affiliated Hospital, who did perform it?

In addition, Li Xiuqing said she had acted as the family’s representative in all dealings with various departments, but she had not had any direct contact with Guilin Medical College Affiliated Hospital and had not requested a photocopy of her husband’s medical history from them (she had only obtained a photocopy of the medical history at Xing’an County People’s Hospital). So who was the person who obtained the photocopy from Guilin Medical College Affiliated Hospital?

Postscript: Following a public outcry, Chinese officials attributed Li Chaoyang’s death to “Adult Sudden Death Syndrome.”

Translated by Paul Frank

Editor’s notes:

1. The posting has apparently since been removed.

FOUR SHORT POEMS BY DONGHAI YIXIAO

“An Extraordinary Esteem”

Surveillance and monitoring
Secret watchers in the highest state of alert
Even armed force & prison bars . . .
What is sometimes thereby expressed is an extraordinary Esteem.

“To Put it Bluntly”

At the moment of Shakyamuni’s Awakening,
With one finger toward heaven, one finger toward earth,
He spake in a loud voice:
In the heavens above & on earth below
I alone am perfect.
Master Yunmen says,
“Had I been there,
I would have clubbed him to death and fed him to the dogs
— In quest of universal peace.”

“Waving a Big Stick”

Waving a big stick,
Crushing everything in sight . . .
I wonder, in ten more years,
Will any hearts still know how to bleed?
How many heads
Will still feel
Pain?

“Untitled”

It’s a fine thing, sure, to soar on high.
But those who can go up must be able to come down.
Who climbs a peak should return to the plain:
That’s the real feat.

It’s a fine thing, sure, to soar on high.
But if a mind exalted like the moon among pale clouds
Bears still some scent of clay, or whiff of hearth,
Is that not more marvelous?

Rendered into English by A.E. Clark

The Archer and the Moon Goddess:
Mythic Interviews on a June Anniversary

by A.E. Clark

Welcome. Mind the step! Until your eyes
Adjust to this gray world, permit a shade
To be your guide among the shadows. Which,
Those flowers on the table? Asphodel.
Sit down; please drink with me a noble vintage
From a blighted year. There’s nothing like
The taste of a remembered future.
You see a wine-cup tremble in my hand,
But once—made strong by love (she later left
With theft, in haste to climb the silver stair)—
This arm shook Heaven. The power above,
I said, must answer to the life below;
And I refused to cringe and sweat, and wait
For change: I took my stand, I took my aim,
I took my chances. Nine times the bowstring sang,
The notes an anthem. It all seemed possible.
Then Heaven shook me.
I woke in twilight, puzzled, like a soldier
After amputation. None of us
Are any longer what we were, but I,
I am still who I was. Can she say that?

What do you want? OK, five minutes, then.
This press kit ought to answer any questions.
Go easy on your eyes, don’t look too close;
Here everything is dazzling or dark,
And hard the edge between. Watch this coin soar!
The gravity’s a game, incredible,
Things simply want to rise, and I can’t wait
To see the pole-vault. Renovation of
The craters is complete. What stood here once
I don’t recall.

He was a fool, I’m sorry,
A perfect fool in an imperfect world;
A wise man learns to take the better part.
You know my choice, you see my raiment shine;
I will not wring my hands and whimper just
Because the other side is cold and black
Or an inhuman vacuum strains the heart.
You think it’s easy, all that I’ve attained?
The other things will come some day, I guess.
You want perfection, catch a hare for dinner.
I’m busy. He can eat his honor. Next!
VOICES OF TIANANMEN: THE HRIC PODCAST SERIES

Over the past year, Feng Congde, a student leader of the 1989 Democracy Movement and now Domestic Advocacy Program Officer for HRIC, has been conducting interviews to provide an oral history of the movement. Following are translated and edited excerpts from a selection of the interviews, which are part of HRIC’s June 4th Podcast Series.

THE CRACKDOWN: CHENG ZHEN

In 1989, Cheng Zhen was a fifth-year student in the Chinese Department at Beijing Normal University, due to graduate that year. After the crackdown, Cheng left China through Hong Kong and went to the U.S. She remains active in the overseas democracy movement.

The weather was terrible that day, June 3, and then we heard that the authorities might start a crackdown that night. Before I went on hunger strike, I once said that unless the very last student left the square, I wouldn’t leave, no matter what. But when I thought about what had been said about crushing the movement, I realized things were serious, and there was a possibility that we might die that night on the square. I was with a young male student from Beijing Normal University, and we felt we should have a good last meal while we were waiting for the crackdown, so we went to the restaurant closest to the square, at the Beijing Hotel.

When we got there, of course we were short on cash, so we only ordered a couple of dishes. Then the waiter came out and said that the chef had made a few more dishes just for us, for free. We’d just started eating when we heard gunfire outside. We went rushing out of the hotel, but the revolving door was spinning so fast, the student caught his hand in it. When he pulled his hand out, it was covered with blood, the whole outer layer of skin scraped off—you could see the bone. But he ignored it and we just ran like mad in the direction of the square. When we reached that section of the road where you’re just about to enter the square, we came across a bunch of guys in shorts and white vests. We thought they were thugs, but later somebody told us they were plainclothes military police, trying to stir up trouble. They were completely surrounded by Beijing citizens, but somehow they found a way out and got away. While all this was happening, some people came up and helped my student friend bandage his hand and offered to take him to a hospital, but he didn’t want to go, so we went back to the square.
Once back in the square, we stayed on Beijing Normal’s communications truck. Some students from the Hong Kong Students’ Union came up and asked me what they should do. There was a lot of news coming in from different parts of town, saying shots had been fired and that some people had even been killed or wounded. But we hadn’t seen it with our own eyes, and the smallest doubt still persisted in our minds. We felt like, could this really happen? Then we got the news that there were already a lot of soldiers over by the Museum of History and the Revolution, so we organized about 20 people and went hand-in-hand to the museum, where we were faced with hundreds of soldiers, armed to the teeth and red in the face as if they were on drugs. We thought that if they wanted to clear the square, we could block them by sitting down in a row across from them, holding hands. By then it was around 8 or 9 at night. The face-off lasted a long time, and as we sat there, the number of soldiers kept growing, and every time more of them came, they shouted slogans, as if they were occupying a hilltop or something.

During this time, a young male student, he looked about 16 or 17, ran over to tell us that the information about people being shot was solid, and tried to charge at the soldiers, saying, “I’ll take them on!” I remember that Li Lanju held him back, and when we asked him what was going on, he said his brother student had been killed over at Muxidi. He was really beside himself, he wanted to fight those soldiers. Lanju walked over to the soldiers and knelt down, pleading with them to let these children go, but the commander’s face was blank, he just laughed grimly. This is something that stands out clearly in my memory. Afterwards, Li Lanju and some other students escorted the young student away; they didn’t want him to die for nothing.

After we’d been waiting there for a while, we heard tanks coming from the direction of the Great Hall of the People, and we ran over to see what was happening. The rest of the students were there, and when we ran up, one tank came racing out and headed straight for the crowd. We chased the tank, hoping to block it. There weren’t many people on that part of the square just then; some had gone to block other military vehicles, some were at the center of the square, and there were a lot of people who, like us, were hoping to catch that tank and block it. But we couldn’t catch up with the tank—it was going at a tremendous speed, and when it reached Tiananmen, it turned right and disappeared. Later we heard that that tank charged at the crowd in Tiananmen, but whether anyone was run over, I’m not sure.

By then it was around midnight or 1 a.m., and we started thinking, if there are tanks showing up even here, then what about the tanks coming from Muxidi? All we could think of was how to keep those tanks from reaching the square. So we walked in the direction of Liubukou, and joined some Beijing residents in putting up pedestrian railings, trash cans, whatever, to create barriers across the roadway. When it was finished, I remember Chen Huaqing from Hong Kong saying in his terrible Mandarin something that really cleared my mind: “Do you think this simple little road barrier, this bunch of trash cans, can stop their tanks? Do you think their tanks are made of paper?” What he was really wanted was for everyone to get together and decide whether to evacuate the square. I could see there was nothing an individual could do alone, so I was thinking of going back to the square just when an announcement came over the loudspeakers saying all the students should gather below the Monument to the People’s Heroes.
HRIC: That was at 2 a.m.

At the time I was thinking of saying, no, by the Museum of History and the Revolution, because I wasn’t sure if that wall of people was still there; I couldn’t just pick up and leave, so I went back to the Museum and saw the students were still sitting there, hands linked in a human wall. And I saw fires breaking out in the direction of Tiananmen and Chang’an Avenue; the army was already moving into Tiananmen Square. And I remember clearly that there was a bus—only later did I find out that it was Guo Haifeng and the others who were driving it—trying to block the soldiers, but at the time I had no idea what was going on, I just saw that there was a big fire over there. I told the other students to stay there for the time being, and I ran with a few others toward Chang’an Avenue, hoping to keep others from sacrificing themselves unnecessarily.

The soldiers had already reached Mao Zedong’s portrait, and under the flagpole on the square, about a dozen meters in front of me, I saw a young man pick something off the ground, maybe a bottle, and throw it at the soldiers. I’m not sure if he even left his hand, but all at once he went down. We didn’t know what had happened, all we knew was he might have been hurt, but when we ran over to look, we saw he had been shot. His face had gone white and the whites of his eyes were showing.

Several of us carried him toward the center of the square; I was carrying his head, somebody else had his feet and arms, and we were rushing with him toward the center of the square. I discovered that my legs and feet were covered with blood. We quickly turned him over and saw that in his back, at the waist, there was a big hole spurting blood. I found a big wad of gauze to stop up the wound, but when we turned him back over and picked him up again, I saw that only the whites of his eyes were showing. I went numb, and the other guys scooped him up and carried him to the emergency station. I don’t know what happened to him after that, but I’ve never been able to forget him.

HRIC: Ding Zilin has identified several of those who died on the square. One of them died under the flagpole, and if I’m not mistaken he was a People’s University student named Chen Renxing.

I don’t know for sure, but later I found out that Chen’s age was about right, and where he was, so I thought it must have been him. At the time I still had a thread of hope that he might have recovered, but obviously he died.

After the others had carried him off, I just stood there in a daze. Then Lin Yaoqiang from the Hong Kong students’ union pulled me away and said, “What are you doing standing here? Hurry up and get back to the monument!” So I went with Lin and some other students back to the monument. Everyone was sitting there, quietly waiting for them to clear the square. I remember that Liu Xiaobo, Zhou Duo, Hou Dejian and Gao Xin were there, and everyone was hoping they might do something. Later Liu Xiaobo told me I should do what I could to persuade the students not to sacrifice themselves
for nothing, and that if I could get them to leave the square, I should do it. But in fact, I just couldn’t do it. I just sat down on the top step of the memorial, waiting quietly for them to clear the square, and I actually fell asleep, maybe for half an hour.

What woke me up was when the soldiers opened fire at the memorial. At that time, I saw a student pour oil on his military greatcoat, intending to set himself on fire and charge at the soldiers, but other students held him back and removed the coat. Just before then, the students had taken a voice vote and announced that they would withdraw. The withdrawal was really slow, with those at the very bottom going first, and as we were slowly withdrawing, the bullets kept flying at us. By the time I reached the bottom of the memorial, I found that the soldiers had already occupied the topmost level and were pointing their guns at us. But I waited until I saw the contingent from Beijing Normal, and I saw Li Lu and Chai Ling. And Chai Ling said to me, almost in tears, “Let’s go, Cheng Zhen.”

Finally we moved out of the square, walking in the direction of Qianmen with the tanks not far behind us. There was still gunfire, but not aimed directly at the crowd. After we’d been walking like this for a while, some enraged Beijing residents started shouting, “Down with Fascism…One day we shall return!” And there was another bunch who even wanted to charge back into the Square. Gao Xin, Lin Yaoqiang and I and some others were trying to persuade these folks when one of them was shot in the back of the head. All hell broke loose, and a group of people picked the man up and carried him away. So when you hear that not one person was killed on the square, it’s a lie.

We continued walking, but when we reached Qianmen, we couldn’t go any further—the soldiers were already blocking all the intersections. Gao Xin went up to some soldiers, pleading with them in tears, saying, “These are all children, the future pillars of the nation, I hope you’ll let them through.” And the soldiers made way and let us through. Later we wound around and around and finally came to Liubukou, and when we got there, I saw a lot of pedicabs and vans all along the road from Chang’an Avenue to Xidan carrying the wounded.

At the time, Beijing residents saw us still wearing headbands or arm bands, and they pulled us aside and said, “Those tanks up there will see you like this and run you down, what do you want to keep those things on for?” And we saw people running for all they were worth in the opposite direction … there were people injured, and we didn’t know what had happened up in front. Only later did we find out that a tank had run up on the sidewalk and charged at students on the road past Liubukou and Xidan. I didn’t see this personally, but I saw pedicabs and vans all continuously carrying wounded students away. From Liubukou to Xidan, I saw blood flowing non-stop on the sidewalk, and while we were walking we thought of what had happened there. Once we got to Xidan, we walked back to Beijing Normal. That was my experience from the evening of June 3 to the early hours of June 4.
INJURED: ZHANG BIN

Zhang Bin, a 34-year-old employee of a foreign corporation, was wounded by gunfire on the night of June 3, 1989.

On the night of June 3, around 9 o’clock, a few old classmates and I went to see what was happening in the Xidan area of Beijing, as we heard that the entire army was moving in. Later, after tens of thousands of people had gathered there, the streetlights suddenly went out at 10 o’clock. It was very quiet. Can you imagine how terrified we were? Around 10:30, we heard gun shots coming from a building on the west side of Muxidi. The shots continued for about 10 minutes, and then we saw the dead and injured being moved down from that area. Then, after another half hour or so, the bullets came our way, from the west side towards the Xidan intersection, and people began retreating towards Tiananmen. There were many people at Liubukou, tens of thousands, so I stayed where I was, and another half an hour passed before the bullets came again, reaching Xinhuaomen. That was where I was hurt, at about ten minutes before 11 o’clock.

I was in front of the concert hall, in a side street about 60 or 70 meters away from the intersection. When the army arrived, they just started shooting down the street. We thought they wouldn’t fire on people who were retreating, but we were wrong. The moment they arrived, they opened fire. We were not being brave, we just miscalculated; no one thought they would open fire into a side street. The soldiers were too close, and the bullets were fired in rapid succession. It was not that we kept our courage in the face of real bullets; we were too surprised for fear. A lot of people were killed and wounded there, at Liubukou.

While we were retreating into Liubukou, we warned people to hide, not stand in the road, because the army was using real bullets, not rubber ones, but no one believed us. They didn’t realize until the bullets were fired into the square—did you know they used grenades? We didn’t know exactly how they worked; apparently they didn’t need to hit anything before exploding. Boom! Boom! Boom! One fire ball after another, that was when people realized they were really opening fire, and finally began to run. I was just missed by a grenade, which flew right by me, but the shrapnel hit my leg, buttocks and waist. It felt like my flesh was being set afame. Thin pieces of iron, the size of a fingernail, were later dug piece after piece out of my leg.

When I thought about it afterwards, about how we were completely defenseless, with no weapons at all, going against those with guns, tanks, armored vehicles—it was just too unbalanced. Never again will something like this happen. Especially for Beijingers, I don’t know the opinions of other people, but I know that the people of Beijing will never do something like this again.

I was lying on the ground, but I could still sit up. I remember thinking, “Oh no, the bone must have shattered.” When I managed to sit up, I started to call out, but it was so chaotic. There were no lights, but I could see there were six or seven people lying on the ground next to me. It was only when I got to the hospital that I learned from residents...
and students that there were many casualties at Liubukou, and that people were crushed by tanks there.

At the hospital, the staff just bandaged my left leg—there were so many injured that those not in danger of death were put on low priority. But my right leg felt like water, and when I felt it there was blood everywhere. I asked some students to look at it, and they found wounds in both legs. So we called the doctor over, and when he cut open my pants, he saw a bullet had shot straight through both legs, passing through muscle on the left leg, but shattering bone in the right leg.

There were about 47 wounded brought to our hospital, with many more in critical condition or dead. Those who could be saved were saved, those who could not just died. It was a brutal scene. The next morning, around 7:30, the emergency room became too crowded, and all those with only flesh wounds were moved to other hospitals. I was in a group sent to Xuanwu Hospital. It was 11 o’clock when I arrived. The emergency room was near Hepinmen, very close to Liubukou. It was a tragic scene; there were people on the ground, covered in blood and not yet dead, and others were trying to save them using CPR or oxygen masks, but they all died, one after another.

HRIC: Was the operation on your legs successful?

Not at all, the hospital messed up the surgery. I had to transfer to two different hospitals and go through three surgeries. The entire process took about two years before I could begin walking again. Later I learned it was because the hospitals were too inexperienced with injuries of this kind. They didn’t know how to deal with the broken bone in my leg; they initially wanted to insert a metal pin, but when they tried to drill into the bone, the entire bone shattered, so as a desperate measure they braced the bone with a steel bar. That steel bar is still in my leg. After that surgery, a friend recommended a Dr. Chen who specialized in injuries like mine, and he personally operated on my leg. Then in 1991, I fell and broke that leg again, bending the steel bar inside. So I had to go back to the emergency room and undergo a third operation. It was not until April or May of 1992 that I was finally able to begin walking with a cane. However, during surgery I’d been given blood transfusions and contracted Hepatitis C as a result. With that disease you have to reduce stress, or else you become extremely weak and thin. I have to avoid alcohol and not get tired or stay up too late, because there is no cure.

HRIC: How much did you have to pay for medical treatment?

Back then it was still relatively cheap, unlike now—so I spent less than 30,000 yuan in total. I worked for a private company, so I could afford to pay for my own treatment. There was a kid from Hebei who was really unfortunate. He couldn’t pay a cent because he was a farmer, a kid in his twenties. His family came and took him back to Hebei, and I heard he eventually committed suicide because they couldn’t afford medical treatment. Also, where he came from there was strong prejudice against anyone who participated in June 4th, unlike in Beijing, where most people at least understood our position. Outside Beijing, people only knew what the government told them.
Zhai Weimin, from Xin’an in Henan Province, was a 21-year-old student at the School of Economics at Peking University and a member of the Standing Committee of the Beijing Students’ Autonomous Federation. After June 4th, a nationwide summons for his arrest was issued, and his whereabouts were unknown for more than a year. He was later arrested for founding an underground organization and sentenced to three-and-a-half years in prison. Since his release from prison, he has continued to promote democratic reform and has been detained on several occasions.

The night of June 4th, after the incident happened, I left the square and went to the Dazhalan District of Beijing. Some of us leaving the square at that time had lost clothes or shoes. I went to the home of a Beijing resident who was giving people shoes to wear, and once these people found out who I was, they urged me to stay with them. They didn’t talk to me, they just gave me something to eat—noodles, as I recall. Right after eating I fell asleep and slept all night. Later they told me they’d put some sedatives in my food to help me rest. The next morning, these people put me in a handcart and had some people take me to a bus station in the eastern suburbs. From there, one of my classmates took me to his family’s home in Shunyi County. A lot of people looked after me there, and took really good care of me, too. I stayed with them until around June 8.

After that, because the situation was really tense, they looked into several places that might be safer for me and finally drove me to a place in the mountains of Hebei, near a small train station called Shizi Goutou. When we arrived, the people there seemed really scared of us. I had been told that this was a very remote place and the local people didn’t have much contact with the outside world, but it turned out that they had watched TV and found out what had happened, and they got scared. The person who was taking care of me asked me what I thought we should do, and I asked them to take me back to the Shizi Goutou train station. I stayed alone in Shizi Goutou village that night, and the people taking care of me went back to Beijing.

The next day, not knowing what else to do, I took a bus to Chengde. I saw policemen patrolling the train station, but they weren’t questioning or stopping people, so I bought a train ticket to Shijiazhuang. At that time, my only plan was to get out of Beijing, and after that I’d figure out what to do. After I bought my train ticket, I went to a nearby post office and sent a telegram telling my family that I was alright, but only signed my firstname. Then I got on the train. A day later, around June 9 or 10, when the train arrived in the east station in Beijing, I suddenly felt anxious and got off the train.

It was completely dark by then, and I was walking alone on the street. A young person on a bicycle rode up to me and asked if I was a student. I said no. He said, “You look like a student. Come on, I’ll take you to my house.” So I went to his home, and he made me something to eat. I drank a glass of beer, even though I wasn’t a beer drinker then. The young man said that we knew each other, but he didn’t seem to know my name, and I think even today he still doesn’t know who I was. He didn’t ask any more questions of
me, he just said that the next morning I should go to Beijing’s Yongdingmen train station and leave from there. He said that a student from his unit had recently left from there to attend school somewhere else, and no one had asked any questions.

So the next morning I took a bus to Yongdingmen train station and bought a ticket for the slow train to Zhengzhou. While I was resting in the waiting room, a drink in my backpack started leaking, and two security guards came up and pointed their guns at me. They made me take everything out of my backpack, one thing at a time. Luckily, I was carrying a reporter’s ID for a magazine I was working for, and I told them I was traveling on business. They didn’t question me any further and let me go. I was sweating like crazy.

I arrived in Zhengzhou around 2:00 that afternoon. From there I bought a ticket to Xi’an on the train to Urumqi.

The next day—that was around the 11th—we arrived in Lanzhou some time in the afternoon, and I heard an announcement over the loudspeakers issuing a summons for the arrest of June 4th people. As soon as I heard it I knew it was trouble, because I had no idea where to go. All around me, other passengers were discussing the summons and their reaction was quite strong. I watched one group of people, and it was clear from what they said that they were students. After about an hour, I went over to them, and after they confirmed they were students and I said I was also a student, I asked them for a favor. “When we arrive in Urumqi, could you please watch out for me and help me to leave the train station? I’ve never been there before and I don’t know the area, so I’m a bit scared. You’re from there, right?”

They said they were from Xinjiang but were students at National Chengchi University, and that it was no problem for them to help me. Just then, one student happened to recognize a railway employee at the train station, and after a long time talking to him, he came back and said that the railway employee seemed to be pretty sympathetic to students and asked me if it was all right to tell the railway employee who I was. But I said no, better not tell him yet, let’s observe him for a while first.

Later, on the train, the students talked to the railway employee again and decided he was all right, so they told him who I was. He got me a railway worker’s uniform and took me to the staff lounge area to rest, and in that way, I was able to use the “back door” to make my journey safely. The railway employee also had a good friend on the train who was returning to Xinjiang after a business trip. I can’t recall his name now, I was so nervous and anxious, but I’m extremely grateful to him. He gave me some money at that time, and since I ended up having to spend several months in Xinjiang, I don’t know how I would have managed without the money he gave me.

When I got to Urumqi, I stayed at the home of the railway employee for a long time. Later, they started checking household registrations (hukou) in Urumqi, so the railway employee found me a job at a gravel pit in Changji. After I spent two weeks working there in the hot sun, the household registration check was over in Urumqi, so I was able to return.
Once the situation stabilized, I returned to Beijing. Back in Beijing, I felt a need to give talks. I explained that I wasn’t against the Communist Party, but hoped that, through reform, the current system could become democratic; that I didn’t refute socialism but hoped to improve production capacity; and finally, that I was not advocating capitalism, that I thoroughly repudiated feudalism, and that I wanted the country to continue along the road of reform. I remember that foreign media were present at one of my talks—reporters from *Time* magazine and Canada’s *Globe and Mail*—and that talk became a main piece of evidence used in the indictment against me.

After that, I returned to Xinjiang. In hindsight, I believe the person who had been taking care of me had told a friend about me, and that friend reported me. In any case, I began to have bad dreams, and told the person taking care of me that I had a premonition that something was going to happen. Not 20 minutes after those words were out of my mouth, a large group of people arrived and surrounded me. That’s how I was captured. It was around March 15. The person who had been looking after me was also arrested. I still feel terrible about that.

After I was arrested, they tried to get me to give them names of people or identify photographs, and at first I said I didn’t know. Then they gave me tapes of conversations to listen to, and I knew that they knew everything already. Later, I was sent to the Wujiayu Police Station in Xinjiang and was held there for about 20 days. Then in April they sent me back to Beijing, to Qincheng Prison. I remember I was in Cell 7, and Wang Dan was in Cell 6.

One day, I was reading the newspaper and saw that the people in the cell next to me had stuck a sheet of newspaper in the hole in the wall where the cable for the speaker was. Inside the newspaper was a note. Using this method, we made a secret code by arranging pinyin letters in different ways and tapping out the sequence on the walls to communicate. They would tap, I’d write it down, and then reply. But I didn’t have much experience, and one day, I was concentrating so hard on getting the code right that I suddenly saw blood stains on the wall and found that my fingers had gone all bloody from tapping so hard!

At that time, Guo Haifeng’s cell was quite close to mine. He was often put in shackles, both handcuffs and leg irons. We made a request to the prison not to treat us so inhumanely, and they actually listened to us and removed Guo’s leg shackles.

After I’d been in solitary confinement for about two years and no trial had been held, and no verdict had been passed, one day I was feeling really anxious and decided to write a letter to the central authorities asking them to quickly handle my case. I said that I wouldn’t plead guilty or lie, even if they were going to execute me. About a month after I sent that letter, my trial was held and a verdict of three-and-a-half years was handed down. I’d already been inside for two-and-a-half years, and all the other students at Qincheng had been transferred elsewhere.

They transferred me to—I think it was, anyway—Beijing Municipal Detention Center, and threw me in together with ordinary criminals. There’s something that happened to
me there that I’ve never told anyone before. One time they told me to spend the night watching the other prisoners. I wasn’t supposed to sleep, but with nothing else to do, I fell asleep anyway. As punishment, one of the prison guards hung me by my wrist shackles from a door and just left me there for ages. I couldn’t stand properly, I could only try to support myself with my arms overhead. I couldn’t squat or sit or lie down. My physical health wasn’t good at that time, and I remember my whole body was covered in sweat and after I while I couldn’t see and finally passed out. They didn’t release me until the next morning. That incident left an extremely deep impression on me and I still recall it vividly.

**HRIC:** Did things like that happen often while you were in prison?

While I was at Qincheng, I can honestly say that they treated me very humanely. They really cared about our welfare. But later, after I was sent to that other place, everything changed and they didn’t treat us the same way at all.

**HRIC:** Were you ever locked up in a “black room” (xiaohao)?

I was never locked up in a black room while I was in Qincheng. But while I was at Qincheng, I went on hunger strike—it was right after the National People’s Congress had concluded and Li Peng had given a press conference during which he mentioned June 4th. There was a very strong reaction from those of us in the prison and we staged a hunger strike in protest. So afterwards, they sent each of us to different places to split us up, and after my verdict was announced they sent me to Kaifeng, to Henan No. 1 Prison. They put me in the Prison Administration Unit in a small room all by myself. No one was allowed to talk to me or make contact with me, it was just me. One time, I caught prison guards going through my belongings and accused them of stealing, and because of this I was sent to the black room for a long time—around two weeks, maybe longer. I was put in with an ordinary criminal who had some sort of mental illness, in a very small black room with no windows. They wanted me to write an inventory of my belongings, but I refused. Later, the warden found out and ordered them to release me.

**HRIC:** So how long were you in Henan No. 1 Prison?

I was there until I was released at the end of my term. I didn’t get even one day off my sentence because I refused to admit guilt. On the day my verdict was handed down, they urged me to sign it, saying it would be better for me. I refused, but they told me to think about it some more, so I did. Finally, I drew a big exclamation point on the verdict and signed my name. So up until I was released, I didn’t get a single day taken off my sentence.

**HRIC:** What happened after you got out of prison?

I have to say that after I got out, the local government was quite good to me. The people in my hometown were also very good to me, and even arranged work for me. But I didn’t want to do that kind of work anymore, so I quit and tried to go to Beijing, but they kept sending me back. There were people following me, you see—wherever I went,
there was always someone following me. So I thought, since I can’t go to Beijing, I may as well go back to my hometown and relax there for a while. I realized that I wouldn’t be allowed to do any of the things I wanted to do for my country, so I decided to take care of personal and family matters first. But I regret that I couldn’t do more.

I got married in 1995, and my child is now 11 years old. Eventually, I just relied on myself to make a living and get by. I really wanted to do something useful and practical, but because in China we have so many restrictions, I’ve been very frustrated. Some foreign journalist friends once suggested the idea of going abroad, but I refused. Now, looking back, it’s very hard to judge whether that decision was right or wrong. Back then, I felt that too many people were leaving, but now, although I stayed I haven’t really been able to do anything, so maybe it wasn’t the right decision.

IMPRISONED: LI HAI

Li Hai, a native of Beijing, was 35 years-old during the 1989 student movement. A graduate student in the Peking University Philosophy Department, he was also the head of the external affairs division of the Student Organizations Preparation Committee. In 1990, he was arrested for organizing activities in honor of the anniversary of June 4th, and was consequently imprisoned in the Beijing Hai Dian Qu Detention Center for seven months, during which he was subjected to brutal torture. Following his release, Li Hai began providing HRIC with information regarding others imprisoned for June 4th-related activities, for which he was sentenced to nine years in prison in 1995. He was released from Chao Yang prison in 2004.

HRIC: Can you talk about the commemorative movement in May and June 1990?

Around March, or maybe February, a student I didn’t know very well started talking to me; he’s now a friend, Liu Xiangqian. He introduced himself as someone who was also at the Square, so we spoke about our experiences, and eventually we began talking about organizing memorial services for June 4th. Liu said he intended to organize an event in Wuhan, and suggested I do something with Peng Rong. The plan was for April 5, and if that did not work, then June 4th. I remember starting the event on April 5, but when I heard nothing from Peng Rong, I didn’t continue. Liu Xiangqian managed to light a few fireworks and pass out leaflets at a few places.

What happened next was unexpected. In May, towards the end of my second year as a graduate student, we were basically done with classes, so I took the month off to leave town and meet up with some friends. When I got back to the university on May 30, I heard that Peng Rong had been arrested, and that they were asking about me. When I returned to the university the following day, a lot of sympathetic students tried to warn me off in various ways, some quite forcefully, and some with eye or hand gestures. I decided that I should go, but as I was riding my bicycle to the university’s west gate, I recalled that I had left contact information for all my friends in my desk drawer, and I knew my things would be searched if I left. I didn’t want to bring trouble to my friends, so I went back and cleared out my belongings, leaving some things with friends to keep for
me. Just when I was ready to leave again, state security agents burst into my room, and I knew I’d lost my chance to escape.

I was taken to the university’s checkpoint, where a car without police lights drove up and took me to the Hai Dian Detention Center. I spent about seven months there, 209 days. At the end of the year, December 25, I was released along with 40-odd others as part of a nation-wide release of prisoners.

I’m not sure about the exact circumstances of our release, because none of us was ever told much, but I think we were finally released because they just couldn’t find anything on us. Actually, around September 1990, some guards at the detention center started giving me hints on what I should be prepared for, because they still felt sympathy for us. I learned that Peking University had already expelled me. After my release, I asked the university’s disciplinary department why I was expelled, but they just said my expulsion was on order of the university President’s office and refused to provide any explanation. I knew it would be a waste of time to inquire further, and I wanted to spend my life on work that actually had a purpose, so I didn’t go to them again.

**HRIC: What was your life like during the 209 days in Hai Dian?**

My days in Hai Dian were the most terrifying of my life. I was later imprisoned in Chao Yang, where they were also brutal, but the worst days were definitely in Hai Dian. It was something very close to hell. They packed me in Cell 11, which was the innermost observation room. It was very dark and very crowded, about twenty-some people stuck in a 15-square-meter room. At one point it held about 30 people. You couldn’t even lie down to sleep. The detention cells in Beijing prisons are all pretty violent. I was transferred to Cell 11 because in my first cell, Cell 5, I was beaten by the other prisoners because I was a student.

**HRIC: It was a criminal holding cell wasn’t it?**

Yes, they were all criminal holding cells, and in Cell 5 most of the criminals had been arrested for beating up students; they all lived behind the Peking University campus.

**HRIC: How badly were you injured?**

I didn’t have any serious wounds, it was just basically a full-body beating for 10 to 15 minutes. I had to lie down for a couple of days afterwards.

---

**Remembering Li Hai**

by Ouyang Xiaorong

After you left Beijing
It started to snow.
Before I arrived
The willows had not yet put forth buds.

They called me a child,
But you were even younger.

That time is still not distant,
Those mournful memories.
How could it surpass the light that floats
upon the other side?
If you pluck a snowflake from the storm,
A thousand years dissolve within your palm.

I’ve a friend named Train.
He once recalled
The way you sprang down from the carriage window;

But in this interminable night
Those things all seem so far away.

Those ancient trees festooned with withered vines
I’ve purged from memory,
For an early spring will surely come.
They say she will bear arms: longsword and
   bow of Qin.
But for me
What’s more attractive is her skirt.

Rendered into English by A.E. Clark

Death was a threat to every prisoner; just after I left, a prisoner was beaten to death. Every year several died of beatings, and some killed themselves. My sharpest memory of suicides is from 1995, when I was in Chao Yang. The prisoner in charge of the cell was friendly with the warden, and he told me that 14 people were beaten to death in Beijing’s detention centers in 1995, seven in Chao Yang. People who died of starvation or illness were not counted, and if you were beaten yesterday and today you died, they considered this death from illness. So you can imagine what the real numbers are like. The 14 beating deaths on record couldn’t be covered up because they occurred in the midst of violence.

HRIC: *Do you think they beat you of their own accord, or did the police order it?*

I think it was their own choice, but the police probably knew what to expect when they put me in that cell, because those prisoners had histories of beating up students.

Death was a threat to every prisoner; just after I left, a prisoner was beaten to death. Every year several died of beatings, and some killed themselves. My sharpest memory of suicides is from 1995, when I was in Chao Yang. The prisoner in charge of the cell was friendly with the warden, and he told me that 14 people were beaten to death in Beijing’s detention centers in 1995, seven in Chao Yang. People who died of starvation or illness were not counted, and if you were beaten yesterday and today you died, they considered this death from illness. So you can imagine what the real numbers are like. The 14 beating deaths on record couldn’t be covered up because they occurred in the midst of violence.

HRIC: *How did you sleep in the crowded conditions of Cell 11?*

People slept on their sides, packed tight together, face to feet, each gripping the legs of the other person.

HRIC: *What if you want to roll over?*

You didn’t; you spend the entire night in one position. At least I was on the outer edge, so I didn’t have someone pressed against my back during the heat of summer.

Certain aspects of our treatment were truly horrendous. For instance, the wardens were very casual about letting us out for fresh air. Sometimes we’d be allowed outside once every few days, but other times we’d be locked in our cells for over a month. Another thing was that the wardens pretty much left us to ourselves, and prisoners had to deal with their own needs, no matter what happened. For example, for going to the bathroom, there were a lot of prisoners, so you had to do it in a very narrow slot of time, and the others would watch over you and keep track of how much time you took. If a prisoner had stomach problems and insisted on going again, two other prisoners would turn him upside down, and if he still insisted, he’d be beaten. If he finally got to use the bathroom, afterward he’d be pushed up against the wall and severely beaten.

The third thing was hunger; we had to subsist on two meals a day, usually two buns per meal, maybe a little bit of soup every few days. Those who were in for the long haul really start going crazy. The fourth thing was scabies, which were frightfully easy to catch because Beijing summers are humid to begin with, and we never got air and everyone slept pressed against each other. The other thing was we could never get medical treatment. The rule was that if you asked for a doctor without having a fever of at least 39 degrees Celsius (102 Fahrenheit), they would take you out and give you a severe beating. If you didn’t have a fever, you had to take care of yourself.

Given all these factors, the prison was a harrowing place to be. My immune system was still strong at first, and I avoided catching scabies during the first hundred days of my
imprisonment. But eventually my immune system weakened considerably due to the brutal conditions and sustained hunger. I developed sores that festered and spread all over my body, and I had scabies everywhere, red and oozing. My hands were so swollen I couldn’t even make a fist. We had a very simple remedy: if you stood in the sun the scabies would go away, and once when we were allowed out for an hour or so my swelling went down dramatically. But we were only allowed out once a month, and in the cells we couldn’t get so much as a glimpse of sunlight. Another common treatment was with toothpaste, but that wasn’t effective at all, and I lost hope of any cure. In the last couple months I had to watch my body fester and deteriorate, with no way to save myself. At the time of my arrest, I weighed more than 62 kilos, but after several months I weighed just over 50 kilos. When one of the student-beating prisoners from Cell 5 was transferred to my cell, he could no longer recognize me. I was essentially a skeleton; all my muscle was gone, even in my calves and thighs. The scabies sores would not heal and I was suffering from severe malnutrition.

Finally in November 1990 they started treating scabies in the prisons, because even the government found it intolerable that at least 90 percent of the prisoners in every cell were infected, with at least one or two prisoners completely paralyzed by the swelling. The treatment was to have prisoners in each cell strip bare, then they herded us into an empty chamber and dowsed us with hot water for a few minutes. After we came out, we had to pick the scab off of every sore, which was excruciatingly painful, and then rub ourselves with a medicinal paste they gave us. After repeating this process several times, the scabies began to come under control, but I still had several open sores that refused to close. It was the kind of pain that exhausts all your body’s endurance and resources when you’re living on four little buns a day. After I was released, my wounds closed up within a week, because I ate a lot. It was kind of scary—I gained over 10 pounds in 10 days.

HRIC: After your release in 1990 . . .

I returned home after my release. I didn’t receive any news from Peking University, so I recuperated at my family’s home in Beijing for nearly six months. Since then my life has basically been the work I’m doing now.

LOOKING BACK: ANONYMOUS

The following interview is with a Hong Kong student who participated in the student movement in Beijing. He preferred not to be identified.

Some Hong Kong students went to Beijing to support the student movement at Tiananmen, and I was among them. The Hong Kong students saw themselves as supporters rather than direct participants; while we were happy to support what the Beijing students chose to do, we were in no position to bring up issues or direct the course of their actions. What we did as their supporters was to ask them what they needed from Hong Kong, and provide them with financial and material resources, like tents.
There were more than 20 students from Hong Kong in Beijing at the time, but not all at once. We were also busy with exams, so while some gave up their exams to stay, others went back to take their tests and then come back. We went over there once at the beginning of May, and then a second time in mid-May, when we stayed up until the incident.

For most of the time, it was quite relaxed in the Square; every day there were quite a few people going in and out. Some people would be there for half a month or so and then go home or go back to school, and new students would come from other cities. So there was a constant exchange of people throughout the square.

**HRIC:** Can you discuss what you witnessed in June?

When the loudspeakers began telling us to leave the Square, the atmosphere became very tense, because everyone realized that if they didn’t leave, eventually something big would happen. But no one anticipated how massive the government’s response would be; we certainly weren’t expecting tanks to be brought in. We were still thinking that they would just use the police to clear the area.

The mainland students walked towards the west, because they had to go towards where their schools were, while our group of Hong Kong students and teachers went in the direction of the Beijing Hotel around two or three o’clock in the morning. As we were leaving, we saw Beijing residents fearlessly riding their bicycles toward the guns and bullets—it looked like they were trying to save the students at the Square. As we were retreating we saw many people fall; we didn’t see any tanks at this point, only a lot of guns and bullets aiming at Chang’an Avenue. There were many white ambulances on Chang’an Avenue constantly carrying people away. Once the tanks arrived, it was 5 or 6 a.m. before we were able to get closer. By the time we saw the tanks, we were all feeling frustrated and agitated because everything was out of our control. And there was a feeling of being alone that you have at the end of such a big movement. Those were my main emotions, but honestly, at that time my head was empty of all thoughts.

After we returned to the hotel, many people wanted to make calls to Hong Kong, but all the telephone lines had been disconnected. Our identification was also confiscated for registration. But the next day the Hong Kong government sent over a plane to take home all the remaining students, teachers and journalists.

**HRIC:** How were things for you after that?

I felt disappointed, very disappointed. It wasn’t just me; all the students from Hong Kong who went to China felt really let down. We didn’t feel the students’ peaceful and righteous requests for reform and action against corruption warranted the measures the government took to suppress them. The students were so peaceful, completely unlike some of the demonstrations in other countries, where they loot shops and attack bystanders. When the students would walk from their schools to the Square, all along the way there were citizens giving them drinks and ice cream against the heat, and you could see that the public strongly supported the movement. That’s why we found it hard to accept such an end, and why for a year or so afterwards I didn’t know what I should do.
Many of us continued with our studies, because we had no other choice. Some others began participating in some of Hong Kong’s grassroots organizations. The ones who were less traumatized were able to talk to the media or provide public testimonies about what they witnessed. But some students, like me, were unable to talk about it; for some of us it took many, many years before we could be ourselves again, before we could share our experiences. It wasn’t until the tenth anniversary that some of us were able to talk about it even among ourselves, and as we reminisced we realized there were many details we’d forgotten.

Even now, I’d rather not think about it, rather not face what happened. All I can say is that by now I’m more or less back to normal; it all happened a long time ago, and I now realize that if you raise yourself too high above the ground view, it’s hard to keep your footing. In the past few years I’ve been focusing on independent civil society projects providing help to people in Hong Kong and the mainland, and that’s the path I’m now following.

**HRIC:** *Looking back, is there anything you wish had been done differently?*

Looking back, some will say the students were too passionate, too impulsive, they should have left the Square earlier, they shouldn’t have started the hunger strike. But what if we compare 1989 to other situations, such as the May Fourth movement in 1919? Weren’t those students more passionate, more hotheaded than the June 4th students? Or what if we compare 1989 to the student protests in France in 2006—who was more passionate and rash? What did the students actually do in 1989? They just staged a hunger strike; they simply took over a public square. Even on the night of June 3, when they had to leave the square, and knew they would be facing tanks and armies, I saw with my own eyes that they just sat within the square, very quietly. The most hot-headed of them held small sticks of bamboo, just bamboo, that they never used to hit anyone.

Back then, I was still young and could question why we didn’t leave the square earlier, whether we had been too impulsive. But now that I’m older, when I look back on what we actually did, I see that there was a hunger strike and we slept in the square, but we didn’t do anything worse than that. If we think that’s too hot-headed or too much, then I can’t imagine what any movement should be like.

**HRIC:** *Do you have any hopes?*

I believe that sooner or later a similar movement will happen again. It’s only a question of time. And I believe that the people who participated before will be ready to support the new movement, as long as they still have hope. The only difference is that now some of them will be members of the middle class, some may be CEOs, even government officials, or university professors. I don’t believe they’ll deny what they did then, or that any of them will regret it. In fact, the more time passes, the more certain I am that I have no regrets.

Translated by Roberta Raine and two friends of HRIC

Chinese transcripts and English translations are currently in preparation.

**Editor’s notes:**

1. Li Lanju was a student protester from Hong Kong.
2. Guo Haileng, a student at Peking University, was a leader of the protests.
3. Ding Zilin’s son was killed during the crackdown. She subsequently established the Tiananmen Mothers with other family members and victims of the crackdown, and for the past 18 years has been working to aid victims and families, establish the facts regarding who was killed and injured, and call for accountability from the government.
4. Liu Xiaobo, a teacher and literary critic, was in New York when the protests began. He flew to Beijing on April 26. Zhou Duo was an economist, Hou Dejian a Taiwanese rock singer, and Gao Xin a lecturer and editor of the university paper at Beijing Normal University. All became active participants in the democracy movement, and due to their relative maturity and experience, took on the role of key advisors to the students.
5. Li Lu and Chai Ling were leaders in the student movement.
6. The summons actually occurred on June 13th.
7. A student from Hubei Province, Liu was sentenced to two years in prison for June 4th-related activities.
8. A student organizer at Peking University, Peng was imprisoned for two years for his attempt to commemorate the anniversary of the crackdown. An interview with Peng is included in HRIC’s Podcast Series.
For many young people in China, the 1989 Democracy Movement was a transformative event, even from a distance.

On the afternoon of April 15, 1989, the air was already sun-scorched and sticky at 85 degrees in Chongqing, a city of seven million people known as one of the four furnaces of China. I had just taken the simulated English examination, an exercise for students my age, 18, who were preparing for college entrance exams. Over the past 10 years it had become the conventional wisdom that only one out of 10 students taking college entrance exams would succeed, and that only they could hope to resolve basic living issues such as housing and food. To me it seemed unacceptable that a country could leave more than 90 percent of its people struggling for a living. The average pay of urban residents was around 50 yuan a month (about $20 at the exchange rate then). A college graduate could earn double that amount and also hope for employment in a Party work unit, complete with housing. The size of the stakes only increased my anxiety over the college exams, scheduled for July 7 to 9, and seemed to magnify the effect of the heat as I walked home.

That night, the television news reported that the former General Secretary of the Chinese Communist Party, Hu Yaobang, had died. Many people in China regarded Communist Party officials as the leaders of our country, but I usually felt cheered by the sound of funeral music accompanying the announcement of the death of some Communist leader; they had made life for ordinary people so hard, especially those in the countryside. But this time I didn’t feel happy. I had heard that in the winter of 1986, when students carried out protests in major cities across China, Hu Yaobang had refused to crack down on the protesters, and that was the impetus for his resigning from his position as General Secretary, the highest position in the Party. Just a year earlier, I had seen images of Hu attending a Communist Party plenum and looking quite well. But now all of a sudden, this apparently good man had died.

The next morning, during a break in my morning classes, a classmate in front of me turned around and asked, “Do you know how Hu Yaobang died?”

“No,” I replied.

“From what I heard, it was during a meeting. Premier Li Peng abused him, and he became so angry that his heart gave out on him,” she said.
I could think of nothing to say in response. Li Peng was a conservative leader in the Communist Party, and many people disliked him. I saw him as someone capable of little more than pressing the button on a calculator for a publicity photo while visiting some factory. But at that time, while ordinary people might feel free to exchange general opinions on social issues or pass along news, no one would feel free to say, “I wish the Communist Party would fall from power,” or, “I enjoy hearing the funeral music when they announce the death of a leader.”

All my life involved struggling in an environment created by those Communist leaders. I attended classes for math, Chinese, English, politics, history and geography, and all but math involved large amounts of memorization. In the college entrance examination I was preparing to take in two months, I could expect a question like this: “To what agricultural region does the Great Lakes Region of the United States belong?” The answer in the textbook stated, “the corn region.” A typical question in history would be, “How long did the American War of Independence last?” According to the textbook, “Six years and six months.” “Where and when was the First Continental Congress of America held?” “Philadelphia, 1774.” A question on the English exam might run, “It’s raining cats and dogs, __ makes us give up our travel plans,” with multiple-choice answers: A) which, B) that, C) what and D) but.

Few people saw much value in this information, but it was all part of the game set by the government, and if I wanted to make a living, I had to memorize it.

The television news showed some college students going to Tiananmen Square in Beijing to pay respects to Hu Yaobang. They looked just like me, young, cultured, no violent tendencies, but I observed this only briefly as I concentrated on preparing for my college entrance examinations.

On another night, the television news broadcasted a dialogue between the mayor of Beijing and some college students. “Mayor, do you see this bloody shirt? Some of us students got beaten by the police,” a student said. Like the answer of other communist officials, the mayor’s answer did not seem to address the question. Later he claimed the police wore a different kind of leather shoe than that described by the students, so it couldn’t have been the police who beat them.

None of this made a deep impression on me, because there had been recurring protests by college students since 1985. I didn’t understand the background of these demonstrations; college students seemed the only group of people who had the privilege of protesting, while other people with more grievances never took to the streets.

On April 26, People’s Daily, the leading official newspaper of the Communist Party, published an article entitled, “We Must Take a Firm Stand Against the Turmoil.” Then in early May, it was reported that Qin Benli, editor-in-chief of Shanghai’s World Economic Herald, had been dismissed. I hadn’t read either the People’s Daily editorial or articles about Qin’s dismissal, but a lot of people around me were expressing their disapproval. The Chinese word for “turmoil” carried negative connotations of intention to bring trouble upon others. I also heard others describe the World Economic Herald as a liberal newspaper.
One morning in May, the classmate sitting in front of me turned and said, “I feel the two conditions the students have set to end their protest are reasonable.”

I agreed it was reasonable to demand that the government withdraw the People’s Daily editorial of April 26, and that Qin Benli should be reinstated. “How can those college students go back to school if they’re still being labeled as trouble-makers?” I said.

One steamy afternoon, the temperature was soaring near 90 degrees as I finished my classes and walked to the bus stop. To my surprise, there were no buses. Instead, hundreds of college students holding banners emblazoned with slogans such as “Down with Corruption!” and “We Need Democracy!” filled the street along the bus route, shouting slogans from time to time. Looking closer, I saw that college students were not the only people taking part in the demonstration. Here came a procession from the local newspaper, holding a streamer with the slogan, “Today There Is No News!” It was true: under the Communist regime, there was only propaganda serving the political needs of the Communist Party, and no news reported from the perspective of a journalist’s conscience. Even a group of students from the police academy showed up, car-

Stirring images and reports of the protests at Tiananmen Square inspired young people throughout China. Photo: Reuters
rying a streamer with the slogan, “The People’s Police Love the People.” College students walked together in groups, according to their school, and workers marched together according to their companies or work units in an apparently endless stream.

With no bus in sight, I decided to walk home. About a mile along the way, I met up with someone who had been in a previous class with me. She was heading in the opposite direction, on her way to class. We just exchanged smiles and passed each other. She was also facing the ordeal of college entrance exams, and like me, her home was three or four miles away from the school, a distance she had to cover by foot today.

I continued on my way along with thousands of college students. They walked on the road, while I walked on the sidewalk with other pedestrians. Suddenly, a group of college students in front of me slowed their pace, nearly stopping. A stout female student in a yellow shirt was brandishing a green flag that snapped boldly as she waved it. The sound appealed to me, and I wished that everyone in the procession was as energetic as she was.

“Down with corruption!” “We need democracy!” “Down with official and business collusion!” The shouts of the college students rang in my ears. They were calling out what I wanted to say. We needed democracy because students and their parents had no influence over what we should learn, and because there was no discussion over whether it was right that only 10 percent of the population could hope for a decent living, with most young urban residents forced to depend on their parents in perpetuity.

As I passed the halfway point to my home, I saw a popsicle peddler walk over to the students and hand them handfuls of popsicles. These icy treats were a popular way of cooling off in the summer time, when temperatures often reached 100 degrees, and I never saw a peddler giving them away. In the movies, ordinary people were always depicted gladly offering goods to the Communists, but I never saw that in real life. Indeed, whenever our Party-run schools gathered donations, we hated contributing, but felt we had no choice. They would charge us if they added a class to our schedule, or our teachers would oblige us to pay for exercise papers. I’d been handing money to the Communist Party unwillingly for more than 10 years.

Now I was ready for change. Walking along with the endless procession, I felt my blood rise. I wished the students would do something bold, like occupying a government office building announcing the formation of a new government. Then everything might change—maybe even the college entrance exam would be abolished! Or we might discover some secret underground treasure trove of the Communist Party, chests of gold, silver and gems, cases of U.S. dollars. The Communist Party was always prepared for war, and it was said to have built six underground command centers across China, which would be stocked with funds—the people’s money.

When I was within a mile of my home, I saw college students holding a cardboard box to collect donations. I walked over, took two yuan from my pocket and gave it to them. To my surprise, I was immediately surrounded by college students applauding me. I blushed and walked away. Every month my parents gave me five yuan, about two U.S.
dollars. But I didn’t mind—I’d been so busy recently preparing for my college entrance exam that I’d had no chance to spend the money. All the same, I was disappointed when there was no announcement of a major development, like the forming of a new government.

Time went on, and the tension between the students and the government continued, and on May 20, the government declared martial law in Beijing. Since Hu Yaobang’s death on April 15, protests by students and ordinary residents in Beijing had been reported on television every day, and protests in my city, Chongqing, were also reported on our local TV. The conflict between the Communist government and people had been exposed to a billion Chinese people, and also, I supposed, to people in places such as America and Taiwan. This was totally different from previous instances, when conflicts between the government and people had been kept under wraps. Maybe it was because this time the protests had been taking place at a focal point of China—Beijing’s Tiananmen Square—for over a month, and the government simply couldn’t keep it secret. Something else about the protests was new—it was the first time that the people themselves had risen in opposition to the Communist Party since it had come to power in 1949; other mass protest and social unrest, such as during the Cultural Revolution, had been organized and mobilized by the Communist Party.

One morning at school in late May, I asked my classmate Liu, “Do you know how many people are demonstrating in Beijing now?”

“I believe there have been around three million over the last couple of days,” she answered.

“That’s so many!” I remarked.

“Do you know why the students are doing this?”

“To save our nation, to save guys like me,” I said.

“You got it,” she smiled. And I smiled back.

I was eager to see how the Communist Party would act. If it compromised and allowed democratic reform, the situation in China might improve, although I couldn’t see how. Taking education as an example, after the student protests in 1985 and 1986, school was still the same, the college entrance exams were just as tough. On the other hand, if the Communist Party cracked down on the students, it would expose itself as a government that shamelessly suppressed its own people.

On June 5, 1989, state television showed footage of the students picking up their ragged streamers and walking away from Tiananmen Square under the machine guns of the Communist army. The scene was taking place in the depths of night on June 4. Walking away from the place where they had struggled for 50 days, the students looked haggard, tired and depressed, their clothes dirty and creased. There were no smiles on their faces. Knowing the cruelty of the Communists, I wondered how many students and civilians
had been killed, and despaired over the government’s defeat of the democratic movement.

I wondered what would happen next. I listened to broadcasts on a shortwave radio. On broadcasts from Hong Kong and Taiwan I could hear the “Pa—pa—pa—” of machine gun fire. The stations reported that the Communist government was slaughtering thousands of people in Beijing, and that Hong Kong people were outraged. Other media around the world gave similar reports.

Then? I expected something more, an uprising somewhere. No, after a while, still nothing. People didn’t talk about it either, fearing that amateur spies would report them to the high-handed regime.

Why didn’t those students talk of their ideals and their sorrows? Did they feel it impossible to admit failure? That’s how it looked. And why? Perhaps because they regard themselves as gods or omnipotent and impossible to defeat.

Now it is 2007, and 18 years have passed since June 4, 1989. The Communist Party still oppresses Chinese people as before. We ordinary Chinese people recognize our vulnerability, and have become stronger as a result. The road to the democracy is long; it could even be that there is no such road, and we will have to make it for ourselves. Each step is just the beginning, and we cannot hope for breaks, only heartaches. Nevertheless, I believe we will see democracy prevail in the nation with the largest population in the world. Those who sacrificed their lives for democracy in China on June 4, 1989, never really died; they remain with us as we make our way toward democracy.

**Editor’s notes:**

1. Party hardliners blamed Hu Yaobang for a series of student demonstrations in late 1986, which were attributed to Hu’s promotion of free speech and freedom of the press, and his tolerance of liberal intellectuals who were pushing for reform. Accusing Hu of committing “mistakes in matters concerning important political principles,” Deng Xiaoping forced Hu to resign, effective January 16, 1987.
2. Hu Yaobang died of a heart attack while attending a Party Politburo meeting on April 15, 1989.
3. Giving in to the demands of student protesters, the government ordered Beijing Mayor Chen Xitong to meet with student representatives in a televised session on April 30, during which the students sharply questioned Chen. The author recalls at least three televised interviews with Beijing officials around that time. The news media enjoyed extraordinary freedom in the spring of 1989, prior to the proclaiming of martial law in Beijing on May 20. For the recollections of some Beijing residents at that time, see Linda Jakobson, “Lies in Ink, Truth in Blood: The Role and Impact of the Chinese Media During the Beijing Spring of ’89,” http://www.tsquare.tv/themes/liesink.html; and the Peking Duck blog, http://www.pekingduck.org/archives/002444.php.
4. *The Herald*, one of China’s most liberal newspapers, reported on the student protests and demands in late April. Shanghai’s then-Party secretary, Jiang Zemin, announced on April 26 that Qin had been dismissed.
1989 Democracy Movement veteran Jiang Pinchao, now living in Los Angeles, compiled 385 poems to mark the 18th anniversary of the June 4th crackdown. Advance drafts of the book, reproduced in pirated editions, have been confiscated by officials throughout China. Following are translations of a small selection of the poems.

From “Beijing Notebook”

By Xiao Qiang

STARS

That night, I was so tired.
Once asleep, I didn’t wake.

When the tanks came grinding past the tents,
I was still in the midst of the sweetest dreams.

Our flesh was cleft in the freezing tracks,
blood seeping by inches into the slabs;

Our youth
Sprang up with the roaring flames.

We watch yet over the square,
The brightest stars of dawn.

FRESH FLOWERS

It is the sixth dawn
After the hunger strike.
An old woman, both eyes blind and rheumy,  
Leaning on a little girl,

Grasping a bouquet of fresh flowers,  
Totters in among us.

The picket line instantly parts  
And the raucous square falls silent.

In the vast darkness  
Flowers as red as blood.

**BIG GUY**

Who's in charge here?  
I want to speak with him.

Tell me, whose lousy idea  
Was all this?

We were just fine here in Beijing;  
What are you doing, driving your tanks in here?

You're Chinese, too!  
Put down your guns, I'll take you to Tiananmen for a look.

Please, put your guns down!  
It's just a bunch of kids over there.

**THE DRUMMER**

Singing all night, shouting slogans all night,  
Everyone's exhausted.

Just as dawn approaches  
The lights in the square go out.

We understand, the troops are approaching;  
The end has come.

In the deathly stillness, someone  
Grabs a drum and climbs the cenotaph.

Two hundred thousand people sit in silence;  
In the darkness no sound but the drum's increasingly urgent tattoo.
For Seventeen (Commemorating the Second Anniversary of 6/4)

By Liu Xiaobo

(You didn’t listen to your parents’ warnings, jumped out the bathroom window, snuck away. When you fell, holding up a banner, you were just 17. But I lived; I am already 36. In the presence of your shade, to survive is a crime, and to give you a poem is even grosser shame. The living ought to keep their mouths shut, ought to listen to the murmurs from the grave. That I should write a poem for you! I am unfit. Your age, 17, is worth more than any word or work—more than any thing that can be made.)

I live,
even sustain a certain notoriety.
I want the courage, or the quality,
to proffer a handful of flowers and a poem,
to come before a seventeen-year-old’s faint grin,
though I know—I know—
Seventeen doesn’t carry the slightest grudge.

Your age (seventeen) tells me this:
life is plain. It lacks splendor,
like gazing at a desert with no borders:
with no need for trees, no need for water,
no need for the dappled touch of flowers,
you take the sun’s malice; that is all.

At seventeen, you fell on the road,
and so the way was lost.
At seventeen, eyes open in the mud,
you were peaceful as a book.
Here, in this world,
seventeen,
you clung to nothing,
nothing but your pure, white, spotless youth.

When, at seventeen, your breathing stopped—
well, it was like a miracle—
you had not lost hope.
The bullets ripped through the mountains,
convulsed the seas,
as, for a time, all the flowers in the world
took on one color only.
Seventeen, you didn’t lose hope,
couldn’t lose hope.
Take the love you never spent,
give it to your mother;
her hair is white now.

Your mother, who once locked you away.
Her line was broken
under the red and five-starred flag.
High and fine,
your mother,
your own blood,
shout-roused by your dying glance.
She carries with her your last will,
walks among all the tombs.
When she herself is ready to fall,
with your ghost breath
you brace her up,
you set her on the road.

Past age or youth,
past death,
Seventeen,
already
forever.

(June 1, 1991, late at night in Beijing.)

Altar

By Yuan Hongbing

Ardent hearts,
doused
in dead-cold desolation.
Blasted hearts,
changed
to massive crags, wind-riven.

At the top of these rocky crags,
an altar, endlessly rebuilt.
And offered there,
offered there:
hardened blood, a single drop;
glittering ice, a single piece;
feathery sunlight, one gold gleam.

The sunlight is pain and sorrow, carved on iron bones,
the cold ice, grief and mourning; it will not melt away.
And

The hardened blood—
the hardened blood—
one night’s legacy: 6/4.

Hide-and-Seek

By Yang Jianli (Written in Prison)

You hide, I’ll seek.
One, two, three . . . let’s go!
Two pillows stuff the counterpane
(but under the bed the crossed-up feet).
Still:
I can’t find you, I can’t find you!

I’ll hide, you seek.
One, two, three . . . let’s go!
Crouch in the shower, pull the curtain closed
(but leave one slipper still outside).
Ooh,
you’ve found me, now you’ve found me!

You hide, I’ll seek,
I’ll hide, you seek.

One, two, three . . .
This time Papa hid for good.
Still looking today,
You must be mad!

(Written on July 24, 2003, the birthday of Yang’s son Aaron)

Translators and Chinese links

[Beijing Notebook] Translated by Stacy Mosher and Caitlin Anderson
[For Seventeen] Translated by Caitlin Anderson
[Altar] Translated by Caitlin Anderson
[Hide-and-Seek] Translated by Caitlin Anderson
THE JUNE FOURTH MASSACRE AND CHINA’S ECONOMIC MIRACLE

By Hu Ping

China’s ability to implement economic reform without social justice or public legitimacy can be traced back to its successful suppression of the 1989 Democracy Movement.

Deciphering the “China Miracle”

On February 24, 2004, Dr. Jiang Yanyong issued an open letter to the National People’s Congress calling for a reexamination of the June 4th Massacre. News of this letter spread quickly, and Dr. Jiang’s request was soon echoed by many others around the world. When a journalist asked Premier Wen Jiabao about Dr. Jiang’s letter during the National People’s Congress press conference on March 14 that year, Wen did not provide a straightforward answer, instead reciting a lengthy speech that had clearly been carefully prepared in advance:

In the late 1980s and early 1990s, China experienced a severe “political storm.” Around the same time, the Soviet Union was disintegrating, and Eastern Europe was in the midst of sudden and great change. At this crucial juncture for the fate of our Party and country, the Central Committee relied firmly upon all comrades within the Party and all people of our nation and reaffirmed our unwavering determination to implement the policies first articulated in the Third Plenary Session of the Eleventh Central Committee, thereby creating a stable environment for China’s continued reform and opening, and safeguarding our nation’s pursuit of socialism with Chinese characteristics…. Fifteen years have passed, and China’s reform, opening and socialist modernization drives have achieved momentous success, as each and every one of you can see today. These successes are rooted in our continued determination to maintain unity and solidarity within the Party, as well as social and political stability throughout the country. The next two decades will be a crucial strategic period for China’s development, with many opportunities waiting to be seized. We cannot miss these opportunities, and must focus our attention on development, wholeheartedly striving for ever greater progress. I believe that with another 20 to 50
years of stability, China will have certainly developed into a much stronger country. Thus, unity and stability are more important than anything else at this moment, and are the factors that concern me, as Premier, above all else.

We should remember that Wen Jiabao could have not attained the position of Premier of China without a thorough mastery of “CCP Party-speak,” in which the cruelest and most tyrannical of ideas are expressed in the most refined and stately of ways, washing away even the slightest scent of innocent blood. Under the cover of Party-speak, Wen managed to express his point quite clearly: namely, that the June 4th Massacre was the right decision and that without it, China would not have the stability that it enjoys today. According to his reasoning, the massive economic achievements of the past 15 years prove that the June 4th Massacre was the correct choice for China. In other words, slaughter and suppression are the source of China's continued stability and economic development.

Wen Jiabao’s speech was merely a repetition of the official stance on the Tiananmen Massacre as expressed by other senior Party leaders, and provided no new information. Nonetheless, these comments direct our attention towards an extremely important issue: what exactly is the relationship between the June 4th Massacre and China’s economic development?

In recent years, the rapid growth of China’s economy has captured the world’s attention and admiration; many have even referred to China’s experience in the nearly two decades since 1989 as the “China Miracle.” Elsewhere in the world, the formerly communist countries of Eastern Europe and Russia have implemented similar market-oriented economic reforms following a transition to democracy; however, in stark contrast to the “China Miracle,” their economic performance has been quite lackluster, with many countries even experiencing lengthy economic declines. These developments are quite perplexing: how is it that economic reform in the democratic or semi-democratic states of the former Soviet Union and Eastern Europe could lag behind those of China, which continues to be home to a one-Party dictatorship?

The so-called “East Asian experience” is an oft-cited “answer” to this quandary: both South Korea and Taiwan underwent economic takeoffs during periods of authoritarian rule, suggesting that authoritarianism may be the best option for developing countries. With the single caveat that an authoritarian government must make economic development its priority and point the nation’s development in the right direction (meaning that it remains dedicated to developing a private market economy and steers clear of communism and economic planning), the “East Asian experience” stipulates that an authoritarian system could theoretically achieve more immediate results than a democratic system. This argument is clearly a broad generalization, as there are plenty of counterexamples, yet it is also not completely illogical. The issue of greatest importance to us here, however, is not the general question of whether democracy or autocracy provides a better environment for economic development, but rather the more specific question of whether economic reform and development in formerly communist countries would benefit more from a transition to a democratic system or from continued authoritarian governance.
Turning fish soup back into an aquarium

Let us begin our exploration of this topic by analyzing the various approaches to economic reform adapted in formerly communist countries. Such reform, which consists of making the transition from a planned economy and public ownership to a market economy with private ownership, is a task much easier said than done. The difficulties inherent in this process became obvious almost immediately upon their initiation in many formerly Communist countries, where people compared it to “turning fish soup back into an aquarium.”

Roughly speaking, there are three ways by which public assets can become private assets: returning, distributing or selling.

The first option, returning assets, consists of returning assets seized during communalization to their original owners, or providing reparations for seized assets. Most people nowadays attribute the success of China’s economic reform to Deng Xiaoping and his well-known admonition to “let some people get rich first.” But an elderly peasant from Shanxi Province revealed the hollowness of this rhetoric: “Back before liberation our village already had one landlord and two rich peasant families. Some people had already ‘gotten rich first.’ If we had only known what things would be like today, what need was there for all that we went through back then?”

Now that time has passed and everyone can agree that communalization was a mistake, the Party should return all property and assets to their original owners. One approach would be to return actual assets or property: for example, returning the Zhang family’s factory to Mr. Zhang or his descendants, or returning the Li family’s land to Mr. Li or his descendants. Another approach would be to provide compensation for confiscated assets to their original owners. Czechoslovakia, Hungary and East Germany all included the return of assets to their original owners as part of their reform packages.

This approach, however, is only applicable in certain situations. Many decades have passed since communalization; people have passed away and the world has changed. Thus, even with firm dedication and effort, returning everything to its original owners and original condition remains an impossible task. Let us also not forget that since seizing power in 1949 the Chinese Communist Party has built countless buildings, started up numerous enterprises and opened up new fields for cultivation: none of these new buildings or enterprises or plots of land have any former owners to which they could be returned. Because of the shortcomings inherent in this method, the two other methods of distributing or selling public assets have served as the primary means of privatization in most formerly communist countries.

The second privatization option, division and distribution, consists of distributing to “the people” assets long nominally theirs; everything formerly under “collective ownership by the people” is actually divided up and redistributed to each member of “the people.” One example of this method would be the household contract responsibility system, a major component of China’s rural economic reform; although farmers do not
enjoy full ownership of their land, the authority to manage their land independently has brought about positive changes in the Chinese countryside.

However, while this method works well in some cases, it cannot be applied in all cases. We can begin to see the problems inherent in this approach if we take it one step further: you can divide up fields and give them to farmers, but can you do the same with a factory? How about a state-owned enterprise (SOE)? Obviously, the answer is no. You can divide a large block of land into 10 individual fields, and the land will still be land; but if you take a lathe and split it into ten parts, it will no longer be of any use to anyone. Splitting up a factory and distributing pieces of it to its employees would achieve nothing more than ruin and waste. To avoid such problems, public assets are generally transferred into shares according to their values, and then distributed evenly amongst the people. Czechoslovakia and Russia are two nations that adapted this approach of “one share for everyone.”

Distributing shares of public assets is a particularly even-handed way of achieving privatization, but it also has its shortcomings. First, shares and their accompanying rights are left far too dispersed in this approach, hindering initiatives that can spark positive change in management and operations. Everyone has a share, but at the same time, everyone has only one share: in the end, no one really cares about operational efficiency, thus perpetuating a managerial weakness inherent in past communal ownership.

Transforming a SOE into a true private enterprise entails taking an entity that at least theoretically belongs to “everyone” and making it belong to just a few qualified individuals. This process requires a period of competition during which certain qualified individuals will consolidate an ever greater concentration of shares, and finally become true “capitalists” capable of adeptly managing their enterprise. However, in the early stages prior to the “arrival” of these capitalists, an enterprise’s efficiency will not necessarily improve, and may in fact decline.

The second problem with this approach is that despite the equal distribution of shares, discrepancies remain in terms of investment knowledge and opportunities for further investment. The average citizen in a post-communist society would have no investment experience, and would know little or nothing about corporate operations: how could they go about making sound investments? A drastic asymmetry clearly exists between the knowledge available to the average citizen and that available to “insiders” (government officials and corporate senior management). These discrepancies make shares essentially worthless in the hands of ordinary citizens; at the same time, those who rush to cash in their shares are not necessarily any more secure: with a sudden burst of currency inflation, money itself could be just as worthless.

Another dimension of this problem is that without strong oversight, “insiders” could use their superior access to information and official relationships to quickly amass vast fortunes through legal as well as illegal means, a trend that would breed resentment and opposition amongst the citizenry. Ultimately, such potential difficulties have made each country’s experience of “one share for everyone” different: the process went rela-
tively smoothly in the former Czechoslovakia, while Russia’s experience was fraught with problems.

The third privatization option, selling, consists of selling state-owned assets at public auctions, raising funds that can then be used for public welfare expenses (public services, social security, etc.). One country that used this approach extensively is Hungary.

This method, however, is also not free of difficulties. The main problem inherent in this approach is the severe shortage of surplus funds available in the initial stages of reform: even those individuals considered wealthy at the time would probably lack sufficient savings to purchase a state-owned enterprise.

One option would be to wait for private enterprise to grow stronger and for a greater concentration of capital to accumulate among average citizens. However, this would leave state-owned enterprises stuck in a “waiting period” without any potential buyers, frozen in a condition somewhere between life and death.

This dilemma might be avoided by implementing reforms prior to the sale of an enterprise: for example, making enterprises responsible for their own profits and losses could provide them with greater vitality during this waiting period. However, upon closer inspection, this solution is also plagued with problems. Theoretically speaking, state-owned enterprises are supposed to be the property of all of the nation’s people, but making an enterprise take responsibility for its performance essentially hands it over completely to its employees. On a more practical level, massive differences also exist between enterprises: some are furnished with the latest equipment and have products that suit consumer tastes, while others have only old and worn-out equipment and products that are out of step with market trends. If SOEs suddenly had to take responsibility for their own performance, some would be able to reap massive profits without the slightest effort, providing all of their employees, from top to bottom, with a better life, while others might continue to suffer losses no matter how hard they try, leaving them unable to sustain even their employees’ most basic daily needs.

Such differences are not the result of an enterprise’s own policies, but rather of previous government planning; even employees had no choice as to where they wanted to work, and were assigned their posts by the government. Due to the government’s formerly domineering role, employees at sinking enterprises would inevitably think: “The government originally made all of the decisions, so why are they forcing us to bear all of the disastrous results now?”

Setting aside such potential resistance for a moment, we should also note that there is no guarantee that making enterprises responsible for their performance would really boost efficiency: without private ownership, it would be difficult to guarantee sufficient stimulus to truly shake-up and rejuvenate operations.

Considering the problems inherent in the “waiting period,” one way to avoid this stage altogether would be for interested buyers to take out loans from the bank, with the enterprise serving as collateral. This solution, however, provides corrupt officials with
opportunities to embezzle funds. Those in power could easily earn fortunes by selling state assets at low prices to friends and relatives, or to whoever offers the largest bribe, and because there are no objective and precise criteria for the valuation of state assets, it would be difficult to prove any wrongdoing. Still another issue is the possibility that borrowers may fail to repay their loans: there is a popular saying that one should not be too concerned about massive debt, because the more you owe, the harder it becomes for anyone to force you to pay it back.

Yet another way to avoid the aforementioned “waiting period” is to sell state-owned enterprises to international investors. With no domestic tycoons appearing anytime soon, why not give foreign tycoons a chance? Hungary is one example of a nation which took this approach, selling so many of its state-owned enterprises to international buyers that citizens began to ask if their nation still belonged to the Hungarian people. Innate resistance to extensive foreign buyouts, combined with discontent stemming from the resulting massive income disparity, leaves this approach, like all of the others described above, plagued with problems.

While the preceding analyses and accounts qualify as nothing more than a rough sketch of three general methods of privatization, they should be sufficient to show the complexity and challenges inherent in the transition from a system of public ownership to one of private ownership. Any course of action will be fraught with difficulties, breeding widespread discontent and criticism. In democratic societies, people can use their freedom of speech and assembly as well as their rights to strike, unionize and vote as a means of expressing their opinions. Faced with such complex and contentious issues, newborn democratic governments often undergo a series of setbacks, experience difficulty reaching consensus and implementing policies, and are forced into repeated major policy revisions. In fact, during the initial stages of reform, the prime ministers of numerous countries have been unable to finish their terms in office. In the long run, such common trends amongst new democracies can push the entire economic environment into a state of vacillation and unrest, stirring up doubt among foreign investors and having a negative impact on overall economic development. Considering all of these issues, it is not hard to understand the ups and downs and continuous difficulties that characterized Russia and Eastern Europe’s experience of economic reform: the problems that these nations have faced are, after all, only natural.

As the saying goes, “In capitalism, you have poor people and wealthy people, while in socialism you have poor people and poorer people.” The transition from socialism to capitalism calls for the creation of a small group of wealthy individuals within a society of endemic poverty; at the same time, this must be achieved in a way that the majority of people would be able to accept. This is clearly a daunting challenge.

The Chinese model of reform—armed robbery

Besides the approaches described above, there remains one other quite direct and simple approach to economic reform in formerly communist nations: giving away public

The transition from socialism to capitalism calls for the creation of a small group of wealthy individuals within a society of endemic poverty.
assets, as practiced in China. As early as the 1980s, Hong Kong economist Stephen Cheung Ng-sheung laid out his own vision for reform: “Just allow some cadres to get rich first, granting them assets and clear ownership rights.” Are you worried about a lack of capitalists? Well, if you just give away assets to cadres, making local Party secretaries into capitalists, then your problem is solved! In other words, if you make state enterprises the private property of officials, these officials will naturally manage affairs just like any capitalist, providing a boost in efficiency, and allowing for a smooth, one-step transition from state ownership to private operations.

But, what justification could there possibly be for giving away state assets to Party cadres? Stephen Cheung explains: “China’s economic reform cannot ignore the immediate interests of cadres. While there are no pressing economic or moral reasons for cadres to receive special treatment, there is a practical reason: their opposition could block reform.”

Obviously, if reform consists of simply giving away enterprises to officials, these officials will naturally all become reformers. But while such an approach clearly takes sufficient, or even excessive, care of the immediate interests of cadres, it is also a clear violation of the immediate interests of the people. Why should the interests of a small group of cadres take precedence over the interests of the general populace? The obvious reason, which Stephen Cheung was unwilling to state directly, is that the opposition of the general populace, unlike that of cadres, would not be capable of blocking reform. But, we may ask, what if the people choose to voice their opposition through protest? According to this line of reasoning, the only possible response to such protest would be suppression by force. Thus, upon closer analysis, Stephen Cheung’s proposal for reform is essentially a program of plunder at gunpoint: armed theft under the protection of authoritarian power.

For fear of triggering intense opposition among the people, the Chinese Communist Party, at least initially, could not just brazenly accept Stephen Cheung’s already quite brazen proposal. But everything changed with June 4th. After the terror of 1989, the Party was confident that the people would no longer dare to oppose them; at most, there might be a few dispersed incidents of resistance, but never enough to pose a significant threat to one-party rule. As a result, the Party accelerated the pace of economic reform in the 1990s and essentially applied Stephen Cheung’s proposal in repackaged form.

Thus, the essence of the “China model” and the roots of its success can be briefly summarized as follows: economic reform has been implemented under the iron fist of a one-party dictatorship, providing officials with an opportunity to get rich by plundering state assets, thus making every official an enthusiastic reformer; officials have reaped fortunes through deception and the use of force, and have implemented instant privatization by making public assets their own; Party secretaries have, in the blink of an eye, been transformed into capitalists and dedicated advocates of economic development and efficiency. Due to the interweaving of power and money, those with the most power are most likely to rapidly accumulate a massive abundance of capital. Such an arrangement provides a fertile environment for the privatization of former state-
owned enterprises and the development of larger enterprises, and thus drives economic development in general.

Because China remains a one-party dictatorship, the government has been able to reform the economy as it pleases without any pressure from the public: it can change whatever it wants in precisely the manner it sees fit. It can raise prices, lay off workers, sell a SOE at a certain price or give away an enterprise for free. Given the non-existence of an effective opposition or checks and balances, and the government’s control over an extensive and elaborate system to suppress any “disagreeable” public opinion, all policies can be implemented in full without difficulty.

Because China remains governed by a one-party dictatorship that nips any and all sources of instability in the bud (for example, by banning independent workers’ or peasants’ unions), Chinese society appears to have attained a state of extreme stability. Meanwhile, the government’s control over the economy, its highly consistent and predictable economic behavior and the absence of any opposition or any prospect of a change in leadership all serve to attract international businesses, while also providing the domestic economy with resilience against international economic shocks.

Similarly, because China remains governed by a one-party dictatorship, many fields of activity—especially political activity—have been designated “off limits,” leaving the majority of people with no choice but to focus on economic activity. These restrictions, combined with the emergence of a spiritual vacuum, individual greed and an unprecedented emancipation of material desires, have added fuel to the fire of economic development. Meanwhile, those at the bottom of the social ladder who have suffered at the hands of bigwig officials and their manipulation of economic reform have no outlets to pursue justice within the present system; the dispossessed have no choice but to start all over and to find a way to make it through each day. Chinese labor is already quite inexpensive, but the creation of slave labor through the policy of armed theft disguised as “reform” has naturally made labor even cheaper, further boosting China’s “greatest advantage” in global economic competition.

Bringing reform back onto the right path

As noted above, the transition from socialism to capitalism is essentially a process of cultivating a small group of wealthy individuals in a society in which everyone is poor. In situations where there is no need for the government to be concerned with public opinion, China’s approach of reform-via-plunder is inevitably the fastest route to this goal. The leaders of the Chinese Communist Party claim that China would not have the stability and economic development it is enjoying today without the June 4th Massacre; yet in making such statements, they are effectively admitting that China’s reform is a case of armed robbery. This is the secret of the “Chinese miracle.”

No matter how many problems Russia and Eastern Europe may have encountered in the course of privatization, at the very least we can say that public oversight and demo-
cratic participation were part of the reform process. People had the freedom to speak their minds and to vote, thus providing the reforms in general with a basic legitimacy. China’s situation is the exact opposite. No matter how much intoxicating splendor might result from reform-via-armed-robbery, the complete rejection of all forms of public oversight and democratic participation means that the outcomes of reform, particularly the current distribution of property and wealth, will never be accepted by the general public.

The leaders of the Chinese Communist Party understand these facts very clearly, which is why they so adamantly refuse to reassess the June 4th Massacre. They are worried that once the reins of political suppression are loosened, a tidal wave of economic grievances will overwhelm them. Wen Jiabao voiced his wish that China will have “another 20 to 50 years of stability.” Obviously, he hopes to continue reform and development under the iron fist of autocratic power, so that the Party’s dirty money can be washed clean with the passage of time, and the massive income disparity in Chinese society can begin to narrow: at that point, as Wen said, “China will have certainly developed into a much stronger country.” But any “great power” created by such unlawful means would undoubtedly be much more self-assured and view values such as human rights, democracy and justice with even greater contempt and hostility, thus constituting an even greater threat to freedom and peace for all of mankind.

Since the June 4th Massacre in 1989, China’s reform has proceeded down the road to perdition. The further that China moves down this path, the more difficulty it will have changing course. Yet despite the difficulties, we must still do all that we can to bring this nation back onto the right track. We must be willing to exert ourselves and to make sacrifices; otherwise, the sacrifices required later will be much, much greater.

Translated by Kevin Carrico

The original Chinese article was published in the March 2007 issue of Beijing Spring. It can also be accessed on the Web site of Minzhu Zhongguo, http://minzhuzhongguo.org/Article/ShowArticle.asp?ArticleID=912.

Notes

WHOM WILL COMPENSATE VICTIMS OF THE ANTI-RIGHTIST CAMPAIGN?

By Shao Yangxiang

A renowned poet reviews the origin and development of the Anti-Rightist Campaign and argues that as the inheritor of Mao Zedong’s regime, the Chinese Communist government owes a historical debt to the campaign’s victims.

On the fortieth anniversary of the October Revolution in 1957, Hu Yaobang called on China’s youth to advance the cause of socialism. Young people across the nation danced for joy.

No one could have imagined that in that same year, Mao Zedong was switching his political strategy from inner-party rectification to an “anti-rightist” purge of great numbers of prominent people from the worlds of politics, culture, education, industry and commerce, and the sentencing of countless intellectuals, young students and ordinary people who had no interest in politics to “supervised labor,” “Reeducation-Through-Labor” and even prison terms. More than 500,000 people were forced to “wear a (political) cap” (dai maozi) and millions of their relatives were dragged down with them. The government called this campaign, which it hailed as a great success, a “socialist revolution on the political and ideological fronts.”

The background of the Anti-Rightist Campaign

In the fall of 1947, at the height of the Chinese Civil War, Mao telegraphed Stalin, “When the Chinese revolution is finally victorious, all political parties but the Chinese Communist Party will have to leave the political arena.” Although Stalin immediately challenged Mao’s claim, within a decade Mao had launched the Anti-Rightist Campaign and achieved his aim of taming the “democratic parties.”

As far as most intellectuals were concerned, the Anti-Rightist Campaign was neither sudden nor unexpected. Since 1949, the Party had consistently enforced thought
During the Hundred Flowers period, Mao used a tactic that had proved effective for him in the past: he lured out his enemies.

reform, insisting that intellectuals were inherently guilty of all manner of offences by virtue of their class background, occupational status, educational and professional record, party affiliation and social connections. The regime was not looking for people of talent to serve the country, but rather for slaves to serve the Party and Mao Zedong. Anyone who proved unwilling to be a slave, no matter how worthy or talented, could not be employed, or at least could not be employed in any important capacity, and was cut down at the earliest opportunity.

After Stalin’s death in 1953, Mao greatly stepped up the pace of “revolution.” Reneging on his earlier promise that there would be a long “New Democracy” stage, at the beginning of 1956, he announced the successful completion of the socialist transformation of agriculture, handicrafts and capitalist industry and commerce. Mao believed that only one capitalist bastion remained to be conquered by the socialist revolution: the spheres of politics, culture and thought, which were infested with bourgeois intellectuals. He suspected that a small number of “higher intellectuals” and large numbers of “ordinary intellectuals” and young students constituted a hostile force that could instigate trouble like the Polish and Hungarian uprisings of 1956, and therefore concluded that they posed a threat to his political power.

To nip the evil in the bud, Mao issued a public call to “Let a hundred flowers bloom, let a hundred schools of thought contend!” This slogan was designed to mislead intellectuals into thinking that they were being called upon to “help the Party rectify its work style.” Mao planned to kill three birds with one stone: First, the criticism would discipline grassroots Party cadres; second, if criticism was directed at the higher levels and even the top levels of the Party, Mao could use it to purge fellow leaders; third, by encouraging the masses to “speak out freely,” Mao hoped that hidden troublemakers would come out into the open and instigate separate “small Hungarian incidents” in work units across the country, which could then be crushed one by one.

Mao’s main focus was on the third of these, because he wanted to score a big victory in his preventive war against counterrevolutionaries. His unaccomplished goal of bombarding the “bourgeois headquarters” (within the Party) had to wait nine years until the beginning of the Cultural Revolution.”

The mass campaign against intellectuals

During the Hundred Flowers period, Mao used a tactic that had proved effective for him in the past: he lured out his enemies. For example, during the Rectification Campaign and the examination of cadres’ personal histories in Yan’an in the 1940s, Mao had created an atmosphere of terror that enabled him to encircle and strike down his quarry. The same tactic had proved successful again in 1955, during the persecution of Hu Feng and the campaign to “weed out counterrevolutionaries.” But during the 1957 Anti-Rightist Campaign, “rightists” were arrested on an unprecedented scale up and down the country, from the People’s Congress and Chinese People’s Political Consultative Conference to local primary schools in remote areas. The principle of “Party rule of
the nation” dictated that anyone who expressed any disagreement with a Party organization or Party cadre was an opponent of the Communist Party.

During the height of the Anti-Rightist Campaign in 1957, the whole Party and nation became theoretically and practically engaged in the collective persecution of intellectuals. Only a year earlier, Zhou Enlai had delivered a report recommending better treatment for intellectuals, particularly for “higher intellectuals.” But when Mao criticized this report in 1957 for being “rightist,” Zhou Enlai and other farsighted policymakers were unable to defy his will, and the whole Party took part in the ruthless persecution of intellectuals. Any intellectual branded a rightist (literally “made to wear a cap,” dai maozi) was subjected to personal surveillance and psychological intimidation. The Party also issued new regulations formalizing the “Reeducation-Through-Labor” system, which treated its victims like common criminals and required them to perform forced labor. Countless families were broken and lives lost as a result.

Mao Zedong then decided to apply the grand tactics that had proven so successful for him during the Anti-Rightist Campaign to the field of economics. He launched the Great Leap Forward, a movement that forced millions of farmers to neglect their crops to make iron and steel in backyard furnaces and organized them into “people’s communes,” with the result that 25-30 million people starved to death. At the “7,000 Cadres Conference” in early 1962, Mao once again beat the drums of class struggle, foreshadowing the launch of the Cultural Revolution in 1966, about which there is no need to go into detail here.

Rehabilitation but no apology or admission of guilt

Around the time of the Third Plenum of the Eleventh Party Congress in December of 1978, a major campaign was launched to “redress unjust and erroneous cases” (pingfan yuanjia cuo’an) from past political campaigns. The Party intended to signal that now that the Cultural Revolution was over, it recognized that it had made mistakes and sought to win back the people’s trust through reconciliation. Although the real reasons for the campaign had much more to do with the Party’s need to reestablish its legitimacy to govern, many cadres who had lived through the disaster of the Cultural Revolution did engage in reexamination and soul-searching and transcended their narrow self-interests to seek the truth and recover the facts of history. Hu Yaobang was one of these leaders. He was representative of the generation of Party members who had come to realize that neither history nor the people could be cheated.

I was a relative latecomer, and my awareness was also late in coming. In an article I wrote in 1982, I asked, “As a member who joined the Communist Party before 1957, shouldn’t I assume some measure of responsibility for the leftist disaster that caused the whole socialist undertaking such profound harm and pain?”

When my article was published, some people came right out and told me, “Who asked you to assume this responsibility? Are you able to assume it? Who appointed you? Whose responsibility are you assuming?”
It felt as if someone had thrown a bucket of cold water on me. But I never heard anyone say who was supposed to assume historical responsibility. All I heard was that opposing rightists had been necessary. Platitudes became ever more frequent, and the Cultural Revolution gradually became a taboo subject that was never discussed openly. After Yang Xianyi’s wife Gladys Yang died, his sister, Professor Yang Minru, spoke of Gladys Yang’s imprisonment during the Cultural Revolution and the pain of losing her son: 11 “On behalf of my country, I want to say ‘Sorry’ to you!” Reading this, I could not help shed an old man’s tear.

Yet was Yang Minru the right person to make this apology? Although I, too, had been attacked during the Anti-Rightist Campaign and the Cultural Revolution, compared to many, I could count myself fortunate. Unlike many who were killed, I came out of it alive, and unlike many whose families were destroyed, I still had family on whom I could depend. Was I qualified to apologize on behalf of the Communist Party to the innocents who had lost their lives? All I could really do was quietly examine my conscience in the still of the night. What is an individual’s remorse weighed against the lack of historic repentance from a group that wielded the power of life and death in the name of millions upon millions?

What is an individual’s remorse weighed against the lack of historic repentance from a group that wielded the power of life and death in the name of millions upon millions?

Apology and reparations in Taiwan; none in China

It was recently reported that a rich man who was sentenced to death by a Beijing court for hiring a killer had been executed. After the execution, a creditor of the rich man sued the man’s wife and children for repayment of a debt of several million yuan. The court ruled that as the inheritors of the debt, the wife and children had to pay it back.

After the February 28 Incident in 1947, the Nationalist, or Kuomintang (KMT), government owed a debt of blood to the people of Taiwan. 12 Half a century later, the Taiwan authorities rehabilitated the innocent victims of the incident and set up a reparations fund for them. Ma Ying-Jeou, a leader of the KMT, which is now the opposition party, also extended condolences and apologies to the victims. The Taiwan authorities thereby showed that they had made a wise choice in supporting the values that are most consistent with the spirit of the age and trend of history: freedom, democracy, the rule of law and human rights.

So much for the situation on the Taiwan side of the strait. On this side of the strait, from 1949 to 1976, the Mao regime also incurred a debt with the people of a size and duration that cannot be ignored. Acting as one of his right-hand men, Liu Shaoqi built up Mao’s individual power and promoted his ultra-leftist line. But by the beginning of 1962, in the face of a famine that cost tens of millions of lives and was “three parts natural disaster and seven parts man-made disaster,” Liu and his colleagues began to fear the censure of history. 13 Liu told Mao: “If you starve people to death, it will make the history books.” 14 But Mao behaved as if nothing had happened, and Liu Shaoqi fell into disfavor because of this run-in.
When Mao looked back on his life, he said that personally launching the Cultural Revolution was one of his immortal contributions, along with his seizure of national power. Most of the speeches and essays Mao wrote immediately before, during and after the Anti-Rightist Campaign were included in the five volumes of his *Collected Works* and became part of the canon of Mao Zedong Thought. Deng Xiaoping’s speeches that had a bearing on the Anti-Rightist Campaign also became part of Deng Xiaoping Theory.

**Mao’s legacy of no apology, no regret**

Mao Zedong Thought and Deng Xiaoping Theory are the guiding ideological foundation of the CCP’s third and fourth generation leadership. Therefore, after the Party proclaimed a “thorough repudiation of the Cultural Revolution,” “concealing the truth on behalf of the high in rank” (*wei zunzhe hui*) became the order of the day, and the history of the Anti-Rightist Campaign and the Cultural Revolution became a sensitive matter that was not to be brought up again. Repeated prohibitions were issued to news publishers. Even the question, “If Lu Xun were alive today,” which was raised in academic circles, was ruled off-limits by the authorities on the grounds that it sowed discord between the Party and intellectuals. Ba Jin’s essay proposing that a Cultural Revolution museum be established was redacted and censored. Clearly, the Party has found it difficult to break the old Maoist practice of controlling public opinion, concealing the truth and distorting history.

In other words, the historical legacy of the past, manifested in both thought and deed, continues to exert an insidious influence to this day. It is inescapably apparent that after the system was established by the leaders of the first and second generation, it continued to run by inertia and to exert a pervasive influence on people’s thoughts, feelings and daily life.

For example, Mao Zedong considered the legalist statesmen Shen Buhai and Han Fei his teachers, modeled himself on successive Chinese emperors and acknowledged that he was a student of Lenin and Stalin. He not only wanted to set up a dictatorship of the proletariat, but also arrogated all power and authority to himself. He personally added the slogan “Long Live Mao Zedong” to the May 1 celebrations in 1950, and was pleased to hear Hu Qiaomu extol the Party as “great, glorious and correct,” because an encomium to the Party was an encomium to himself.

Mao was a law unto himself, did not let others speak their minds, would not brook criticism and never admitted a mistake. Consequently, he made new mistakes to cover up old ones, and used other people as scapegoats, even when they had not criticized him. On top of the old debts he had incurred toward the people, he ran up new debts, but he never felt he owed them anything, even when famine left the country littered with corpses and the whole nation was deprived of all means of livelihood. Even then he maintained that he was the representative of the revolution and the embodiment of truth, and that the whole people ought to prostrate themselves in worship to him.
The CCP must not ignore demands for reparation

This year is the 50th anniversary of the Anti-Rightist Campaign, and many Anti-Rightist Campaign victims have demanded reparations. The letters they have sent to Party committees and government agencies at all levels have gone unanswered. For the most part, the victims are asking for wages that were withheld during the Anti-Rightist Campaign and the Cultural Revolution to be paid, and the woefully inadequate pension benefits that have been disbursed since they were rehabilitated to be supplemented. Numerous urgent cases are crying out for resolution. Why is no one paying attention? The question of reparations may appear to be economic, but it is actually political. Financial reparations are certainly needed, but political reparations even more so. Moreover, the political debts incurred during and after the Maoist period are not limited to the Anti-Rightist Campaign. They are too many to enumerate.

The problem right now is not that the government cannot afford to pay reparations, but that it does not know how to confront the negative aspects of history to avoid repeating them. Therefore, before problems arising from the historical legacy can be resolved in a realistic and responsible way, a clear consensus has to be reached on the urgent need for political reform. In the 1970s and 1980s, it was no easy matter to set in motion a reevaluation of history, the debate on the “criterion of truth” and the “redress of unjust and erroneous cases.” This process was tragically interrupted. Today, it needs to be restarted, but this is still no easy undertaking. Given that the victims of past political campaigns are inexorably aging, will they and other witnesses to the events gradually disappear and thus end the matter once and for all?

If the lessons of history fail to be applied both in theory and practice to political reform, old debts will never be settled and new ones are likely to be added to them. A quarter century has elapsed since 1980, when Deng Xiaoping promised political reform. Time and again, opportunities have been missed and action delayed. And now time is running out.

Translated by Paul Frank

This translation is of an edited version of a Chinese article that originally appeared in the February 2007 edition of Hong Kong’s Open Magazine (Kaifang).

Translator’s notes

1. The broad crackdown of the Anti-Rightist Campaign began in June 1957.
2. Stalin telegrammed Mao in April 1948: “We do not agree with this. We believe that several political opposition parties that represent the middle classes of the Chinese population and oppose the Kuomintang clique will continue to exist for a long time and the CCP will be forced to involve them in the fight against the Chinese reaction and the imperialist powers once it has achieved hegemony, by which we mean the leading opposition.” Quoted in Dieter Heinz, The Soviet Union and Communist China 1945-1950: The Arduous Road to the Alliance (M.E. Sharpe, 2003), pp. 140–41.
3. In May 1948, eight “democratic parties” responded to the CCP’s call to hold the Chinese Peo-
ple’s Political Consultative Conference that established the PRC in September 1949. In theory, the CCP still promises to consult with the “democratic parties” and accept supervision from them, but in reality these parties always do the CCP’s bidding. See Gerry Groot, Managing Transitions: The CCP, United Front Work, Corporatism and Hegemony (Taylor & Francis, 2004).


5. Mao recalled that the formula of a hundred schools of thought contending dated from the Spring and Autumn and Warring States periods (c. 770–221 BC), when there were a hundred schools of leading philosophers with many different doctrines, all freely engaging in debate. Stuart Schram, The Thought of Mao Tse-tung (Cambridge University Press, 1989), p. 120.


8. In January 1956, Zhou Enlai delivered a report to the CCP Central Committee, “On the Question of Intellectuals,” in which he argued that “the fundamental question of intellectuals was no longer a question of their political and ideological reliability” and recommended improving “the manner of employing and placing them,” giving them “due confidence and support,” and providing them with “the necessary working conditions and appropriate treatment.” See Cong Cao, China’s Scientific Elite, (Routledge, 2004), p. 43.


10. In 1978, Hu Yaobang launched a massive rehabilitation campaign, which continued for more than five years, to review and correct politically motivated miscarriages of justice and cases of persecution in the past. “Together with their families, the affected numbered one hundred million, or one-tenth of China’s population,” Hu later told a group of Yugoslav journalists.” Andrew Nathan, Chinese Democracy (University of California Press, 1986), p. 7.

11. Yang Xianyi and his British wife Gladys Yang were the most prolific translators of Chinese literature immediately before and after the Cultural Revolution. In 1957–58, Xianyi narrowly escaped being labeled a “rightist” for his outspokenness. In 1968 both Gladys and Xianyi were jailed without trial, and she was held in solitary confinement. Their son committed suicide in 1979. See obituary by Bill Jenner, The Independent (London), December 1, 1979.

12. On February 28, 1947, an incident of police brutality in Taipei sparked an uprising that quickly swept through Taiwan and lasted until the end of March that year. The Kuomintang army brutally repressed the uprising, killing an estimated 10,000 to 20,000 people in what for many Taiwanese became the symbol of mainland Chinese domination over local Taiwanese. In February 1992, the Taiwan government issued a multi-volume publication, "February 28 Incident Research Report," that acknowledged that KMT government corruption and
misrule were the fundamental causes for the uprising and admitted the killing up to 20,000 Taiwanese. In 2003, Taiwan’s Control Yuan reopened investigation into the incidents, and recognized officially the innocence of the victims. The government subsequently paid compensation to the families of victims through a memorial foundation, and established several “2–28” memorials and exhibits.


16. Ba Jin achieved great popularity for his short stories and novels in the 1930s and 1940s and became one of the most widely-read Chinese writers of the twentieth century. Labeled a counterrevolutionary during the Cultural Revolution, he was rehabilitated in 1977. Shortly before his death in 1987, he wrote an essay proposing the establishment of a Cultural Revolution museum.

17. Shen Buhai (280–233 BC) was a legalist minister in the state of Han who introduced a series of administrative reforms. Han Fei (400–337 BC) was the leading proponent Legalism, a political philosophy that argued that it was pointless to “try to win the hearts of the people,” as the Confucians believed, and that rewards and punishments were the “two handles of the ruler.” From Han Fei Zi, in De Bary et al. trans., Sources of the Chinese Tradition, vol. 1 (Columbia University Press, 1960), pp. 131–32.

18. Hu Qiaomu was director of the General Press Administration, and a key architect of Mao’s cult of personality. The appellation ”weida guangrong zhengque,” typically abbreviated to weiguangzheng, is now often scornfully applied to the Party by dissident writers.

19. On May 11, 1978, the Guangming Ribao published a pseudonymous article entitled “Practice is the sole criterion for testing truth,” which became a rallying cry for Deng Xiaoping’s supporters because it challenged a fundamental tenet of Cultural Revolution doctrine, namely that Mao’s writings were eternal truths that must not be tampered with. Roderick MacFarquhar, The Politics of China: The Eras of Mao and Deng (Cambridge University Press, 1997), pp. 317–318.

20. In a 1980 speech to the CCP Politburo, Deng Xiaoping advocated establishing systemic checks on arbitrary rule: “First of all, it is not good to have an over-concentration of power. . . . Second, it is not good to have too many people holding two or more posts concurrently or to have too many deputy posts. . . . Third, it is time for us to distinguish between the responsibilities of the Party and those of the government and to stop substituting the former for the latter. . . . Fourth, we must take the long-term interest into account and solve the problem of the succession in leadership.” Deng Xiaoping, “On the Reform of the System of Party and State Leadership,” August 18, 1980, in Selected Works of Deng Xiaoping 1975–1982 (Foreign Languages Press, 1983), p. 303.
PETITIONING FOR REDRESS OVER THE ANTI-RIGHTIST CAMPAIGN

In the run-up to the fiftieth anniversary of the Anti-Rightist Campaign, an increasing number of public petitions have been circulated, gathering public support for official accountability on the issue. Following are two such petitions. The first, initiated in Shandong in 2005, has attracted thousands of signatures worldwide.

Petition for redress to those wrongfully labeled rightists

Addressed to the CCP Central Committee, the NPC and the State Council Organizer: Surviving victims of the Anti-Rightist Campaign and their families

Initiation Date: 11/13/2005

Cut-off date: open

Forty-eight years ago, in 1957, Mao Zedong spear-headed the rectification and anti-rightist campaign. Twenty-six years ago, in 1979, the rightist label was “corrected,” and the officially acknowledged number of rightists was adjusted to around 550,000, an obvious reduction. Not included in that number were those labeled during the same period as counterrevolutionaries, traitors and anti-Party elements, and moderate rightists.\(^1\) Also not included were many who, on returning from Reeducation-Through-Labor (RTL) to have their cases reexamined and amended, were found never to have actually been labeled as rightists, although they had been persecuted as such for 22 years.

During the reexamination of rightist cases in 1979, reassessment was still based on the “six criteria” used during the Anti-Rightist Movement;\(^2\) but it was ultimately determined that over 99 percent of “rightists” had been wrongly labeled, and only a few “classic examples” were not rehabilitated in order to maintain the conclusion that “the Anti-Rightist Campaign was a necessary step that got out of hand.”\(^3\) Even so, the figure of more than 550,000 rightists amounted to over 10 percent of the total number of intellectuals at the
time. When these rightist cases were corrected, not one cent of their 22 years of lost wages was compensated, and in general, wages were simply restored to their original level. Upon correction of their cases, most of the mislabeled rightists returned to their original work units, where many were given new jobs. There were others who returned to their places of origin to find employment on their own or to become farmers. Between the Anti-Rightist Campaign and the Ten-Year Calamity, thousands of those labeled right-wing died in labor camps or from torture or starvation, and their families were also implicated. No compensation was made for the resulting mental anguish.

The Anti-Rightist Movement rocked China and shocked the world. Until the correction of rightist cases in 1979, the central government took a low-key approach. There was a written “notice of correction,” but no significant meeting, no summing up of the historical lessons of the Anti-Rightist Campaign and certainly no expression of apology to
the masses of the people. The brutality of the campaign and the softly, softly approach of the correction reflected the mentality of those in power.

One cannot help but note that those labeled “capitalist roaders” in the Cultural Revolution were not only completely exonerated, but their wages were compensated, many were reinstated to their former positions and some enjoyed a significant rise in status. Furthermore, a meeting was held to evaluate and criticize the “two whatevers.” Yet, those persecuted as rightists by Mao Zedong were not exonerated, but only given a “correction.” This suggests that the Anti-Rightist Campaign was simply a mistake, and not a grave injustice, and that there is no need to hold it up to the mirror of history.

How many of those victimized in the Anti-Rightist Campaign, and who experienced labor camps, famine and the Cultural Revolution, were already dead by the time of the “correction”? No official figure has been released. Twenty years later, the number of those still alive, the youngest of whom are over 70, is less than half what it was in 1979. Time is short and these elderly victims who have experienced serious physical and psychological trauma, and their families who were implicated along with them, now raise these old issues with the central government in hopes of establishing whether today’s central government governs on behalf of the people, whether it is accountable to history and the people, and whether it will take concrete action to thoroughly exonerate those labeled as rightists and provide material and psychological compensation to victims and their survivors.

WAS THE ANTI-RIGHTIST CAMPAIGN NECESSARY OR ILLEGAL?

In 1978, the central government organized a large-scale discussion on “Practice is the Sole Criterion of Truth,” which was primarily aimed at the “two whatevers” of the Cultural Revolution. In that same year, the central government issued Document 55 regarding the rightist corrections; but rather than embodying the spirit of “practice as the criterion of truth,” this document only established whether the rightist label might be “corrected” upon reexamination. To this day there has been no change to the position that “the Anti-Rightist Campaign was necessary.” This shows that the “two whatevers” are still with us.

The Rectification Campaign of 1957 opposed subjectivism, sectarianism and bureaucracy. Mao Zedong called on the democratic parties and intellectuals to speak their minds to aid the Party in the task of rectification, guaranteeing that “critics would not be blamed” and that the policy of the “three nos” would be implemented: no seizing on shortcomings; no unsparing criticism; no labeling of others. The deployment and undertakings of the time indicate that this was a top-down campaign; it was not spontaneous, much less was there any so-called “attack on the Party.”

The Central government’s decision on rectification had been in force just over half a month when Mao Zedong wrote his internal Party directive, “Things Are Changing,” under which secret plots became blatant schemes, and it was determined that intellectuals were enemies that must be “lured in, rounded up and annihilated.” Even before he
had the rightists in his grasp, Mao Zedong had already defined them as enemies, after landlords, rich peasants, reactionaries and bad elements. From the latter half of 1957 and for the next two years, the rectification campaign gave him the opportunity to pounce on more than 550,000 rightists inside and outside the Party. These people were all made to wear the rightist hat, and had their ranks and salaries downgraded and portions of their wages withheld. Most were dispersed throughout the country and to the borderlands for reform and reeducation through labor.

The history of the last 50 years shows that it is just as absurd to ask whether the Anti-Rightist Campaign was necessary as it is to raise the question of whether the Cultural Revolution was necessary. During the rightist corrections, the criteria for reexamination were still, incredibly, Mao Zedong’s “six criteria,” which had already been determined to be full of loopholes following the Cultural Revolution.

The reexamination and correction of the Anti-Rightist Campaign proved that 99.9 percent of those termed rightist had been wrongly labeled. The claim that “the Anti-Rightist Campaign was necessary” is pure deception that defies logic, quite apart from the fact that history has shown that much of what was labeled “right-wing expression” was accurate and far-sighted—not weeds, but fragrant flowers.

There is no need to be reticent about the fact that Comrade Deng Xiaoping was involved in planning the Anti-Rightist Movement and that he was one of those who later said, “The Anti-Rightist Campaign was necessary, but it got out of hand.” That this conclusion is being maintained even today shows how deep the poison of the “two whatevers” runs. But there are some who have a one-sided view of this or who turn a deaf ear. Deng also said, “China suffered during the Ten-Year Calamity. And not just during those 10 years—our leftist errors began in the latter half of 1957.” In this statement, Deng Xiaoping magnanimously faced up to history. What reason do we have to ignore his final words on the subject?

In 1954, Mao Zedong presided over the National People’s Congress as it passed China’s first Constitution. Article 2 of this Constitution reads: “All power in the People’s Republic of China belongs to the people.”

In the Anti-Rightist Campaign of 1957, Mao held sole power in his own hands. Forgoing any discussion or authorization from the NPC, he mobilized everyone to “let a hundred thoughts contend.” Then he broke faith with them, using tactics of large-scale attack and retribution toward the democratic parties and intellectuals who raised any dissenting views, and consigning 550,000 of the cream of Chinese intellectuals to the 18th level of hell.

Article 27 of the Constitution states, “All state organs and functionaries must rely on the support of the people, keep in close touch with them, heed their opinions and suggestions, accept their supervision and do their best to serve them.” But Mao only liked to hear shouts of “Long Live!” and was antagonistic toward dissenting views. Dissenters could expect to have calamity pour down on their heads, along with cruel struggle and merciless attacks.
• **Article 35** of the Constitution: “Citizens of the People’s Republic of China enjoy freedom of speech, of the press, of assembly, of association, of procession and of demonstration.”

• “The state will provide necessary material assistance.”

• **Article 40**: “The freedom and privacy of correspondence of citizens of the People’s Republic of China are protected by law.”

• **Article 47**: “Citizens of the People’s Republic of China have the freedom to engage in scientific research, literary and artistic creation and other cultural pursuits.”

But Mao Zedong failed to keep faith; he was inconsistent and contradictory, stripping citizens of the rights and freedoms they should enjoy. His series of campaigns against individuals and cliques and large-scale suppression of intellectuals facilitated his launch of the Great Leap Forward. Mao’s promotion of anti-scientific arguments such as “the bolder the people are, the more the land can produce” led to a manmade famine in which millions died of starvation.

During the Cultural Revolution, Mao pushed the claim that “more knowledge makes one more reactionary.” Universities were shut down for extended periods, and intellectuals were the first to suffer. Mao used Red Guards to struggle against “capitalist roaders,” bringing about an unprecedented national disaster that lasted a decade.

History has shown that the Anti-Rightist Campaign was the greatest injustice of the PRC’s early years. Some 550,000 intellectuals were labeled as rightists and the core strength of the democratic parties was broken. The political persecution continued for 22 years. The casual addition of the phrase, “got out of hand,” cannot wipe away the blood and tears that stain this history. That is why the anti-right campaign was not “necessary,” but in fact was illegal. It is not only in its violation of the Constitution that the anti-right campaign was illegal; no basis for it can be found in either the civil or criminal codes of Chinese law. The Legal Code of the early PRC lists no crime of “anti-Party/anti-socialism” activity. Mao himself fabricated the crime of being a “rightist” to persecute intellectuals and put himself above Party and State, which is even more illegal.

The serious consequences of the Anti-Rightist Campaign and its adverse impact in the international arena are incalculable. The fear with which the people of Taiwan regard the mainland’s repeated political campaigns is an important factor affecting reunification. That is why complete vindication of the great injustice of the Anti-Rightist Campaign and learning the lessons of history would have a far-reaching impact.

**COMPENSATION FOR MATERIAL AND PSYCHOLOGICAL DAMAGES**

Article 41 of the Constitution states, “Citizens who have suffered losses as a result of infringement of their civic rights by any state organ or functionary have the right to compensation in accordance with the law.”
Those who were labeled rightists suffered 22 years of political persecution and torment that can hardly be put into words. Their families, relatives and friends were implicated, and many families were scattered. Their homes were broken up and their children suffered discrimination, affecting their schooling and employment. Their lives were difficult and only got worse during the Cultural Revolution, during which there was widespread harassment and damage to family property, beatings and persecution to the point of death. At one labor camp during the 1960s, 80 of 120 rightists serving reform through labor died of starvation during a single winter.

Today, these elderly victims urge the central government to 1) face up to these 22 years of history of political persecution, 2) use history as a mirror and draw lessons from it, 3) make a fair assessment and a complete exoneration of the unjust cases of rightists, and 4) provide compensation for material and psychological damages in order to uphold the legitimate rights of citizens enshrined in the Constitution. This is commensurate with today’s spirit of “rule of law.”

We demand compensation, not simply for financial reasons, but primarily as a political issue. Withholding wages is a political punishment following from a presumption of guilt. This in turn results in both physical and mental torture for victims. We demand compensation because those who suffered as rightists are innocent, and also in order to safeguard the human dignity of citizens and the legitimate rights and interests of citizens enshrined in the Constitution. We call on the central government to respect human rights and resolve problems left over from history through democracy and rule of law. Only by conscientiously summing up the lessons of history and by overturning injustice is it possible to gradually achieve social harmony.

Taiwan’s 2–28 patriotic pro-democracy movement in 1947 was an instance of armed insurrection suppressed by the Kuomintang (KMT) authorities. In 1995, 48 years later, the KMT authorities, who were then still in power, engaged non-governmental organizations to conduct a detailed investigation of the incident, followed by a registration and complete vindication of more than 800 victims and their families, who received on average several million NT dollars in compensation. A monument and memorial hall were also erected. What the KMT can do, we believe our central government should also be able to do today.8

Now 48 years have passed; the handling of rightists at the time was complicated, and changes in original work units have caused some files to be lost. But this can be addressed through the files from the correction of right-wing labels from 1979, as well as through additional investigation and verification, with individuals providing witnesses and material evidence. The difficulty lies in the large number of victims who have died. These cases must rely on information provided by family members, former colleagues, friends and relatives. Over these 22 years, staff salaries rose two levels, while the salaries of those labeled rightists fell. The issue of compensation of wages for the victims of the anti-rightist campaign also involves the price index over 48 years, which has increased about 20 fold. Recently the central government raised the starting threshold for personal income tax from 800 to 1,600 yuan, which reflects a more than 20-fold increase in wage levels over those of the 1950s, when wages were 60 or 70 yuan. On this
basis, it is appropriate to compensate the withheld wages of anti-rightist victims based on a multiple of 20 times original pay levels, with a time limit of 22 years.

With regard to compensation for mental suffering over those 22 years, both victims and the descendants of those who have died should be included. Elderly victims from Hunan have made a rather reasonable demand to the central government: 10,000 yuan per year, with a limit of 22 years.

Now that 48 years have passed since the Anti-Rightist Campaign, we suggest that the central government truly take history as its mirror. Govern for the people and undertake a complete vindication of the injustices of the Anti-Rightist Campaign, conscientiously handling the problems left from history as the first steps in reform of China’s current political system. This is without question a matter of great significance for the building of China’s spiritual and material civilization in the 21st century, for the achievement of a thriving and harmonious society, for China’s international image and for the promotion of continued improvement in cross-strait relations. If the central government can achieve all this, it will be good for the nation and good for the people!

Respectfully submitted by victims and family members of victims of the anti-rightist campaign

Translated by a friend of HRIC


Open Letter to the National People’s Congress

From Zhejiang Residents Wrongly Labeled Rightists

The Anti-Rightist Campaign of 1957 was the worst injustice in Chinese history. In terms of the number of people wrongly accused, the broadness of its implications, its length and the poisonous nature of the tactics employed, it was thousands of times worse even than Qin Shihuang’s burning of books and burying alive of Confucian scholars. This year marks the 50th anniversary of the Anti-Rightist Campaign. As those who suffered directly in this campaign, we present a solemn demand to the highest authority of the state—the National People’s Congress—for a thorough and complete repudiation of the Anti-Rightist Campaign, and compensation to victims of that campaign according to the law.

The campaign was a deliberate act of the Communist Party, and the wronged were suppressed by the government’s actions. Up to the present, the Communist Party and the government have not admitted their wrongdoing, have not apologized, have not
compensated victims, and have dragged out the repression for 50 years. Today only the highest organ of power in the nation has the authority to demand that the Communist Party and the government correct their wrongdoing, apologize and make compensation.

At the same time, it must be pointed out that the Kuomintang (KMT), which in 1947 carried out armed suppression against the 2-28 democracy movement by the people of Taiwan, has after 48 years publicly admitted its wrongdoing, apologized and paid compensation according to the law. It has further constructed memorials and a 2-28 Park. On February 28 this year, Kuomintang chairman Ma Ying-jeou personally hosted a reception in memory of 2-28, in order to demonstrate the Party’s sincere desire to admit its error, apologize and make compensation. We recommend that the NPC demand that the Communist Party learn from the KMT’s accountability to the people and its self-reproach before the spirit of the law. The reasons for our demands and proposal are as follows:

• Neither the Party’s own constitution, nor the NPC, nor any law authorizes the Communist Party to investigate and punish non-Party citizens, nor to do its Party committees at any level have a legal right to label non-Party citizens rightists; rather, this was a violation of law. The Communist Party and all democratic parties should relate to each other as political equals, as organizationally independent political parties: brother parties, not as father and son. It is against the organizing principles of the Communist Party for Party committees at any level to impose the label of rightist on members of democratic parties. From ancient to modern times the world over, a political party that ignores the laws of the state and carries out investigation and punishment of non-Party citizens is an illegal party. On this basis, we can assert categorically: the Anti-Rightist Campaign was completely wrong and illegal.

• The Communist Party has publicly admitted that the rate of error during the Anti-Rightist Campaign was over 99 percent. But the Party has determined that the campaign itself was not wrong, but only got out of hand. This is an open betrayal of the principle of seeking truth from facts: there are absolutely no legal grounds on which to establish this claim.

• Article 41 of the Constitution of the PRC clearly states, “Citizens who have suffered losses as a result of infringement of their civic rights by any state organ or functionary have the right to compensation in accordance with the law.” Cases of both capitalist roaders (the majority of whom were Communist Party members) and rightists (the majority of whom were non-Communists) were mishandled. However, when the cases of capitalist roaders were corrected and they were rehabilitated, their entire salaries were compensated according to the Constitution, while when rightists’ cases were corrected, Communist Party policy stipulated that there would not be even a cent of compensation paid. This is unjust and amounts to “founding a party to work against the interests of the people.” It is a crime against the Constitution for the Communist Party to negate the provisions of the Constitution, an enormous illegality.
In March 2006, Professor Shi Ruoping of Shandong University, along with more than 100 victims of the Anti-Rightist Campaign nationwide (this number later grew to more than 1,400 individuals) made a public appeal to the Central Committee of the Chinese Communist Party, the NPC and the State Council to rehabilitate those wrongfully accused, and to compensate the resulting material and psychological damages. This provoked deep sympathy and strong support from the masses in China and abroad. Recently in Beijing, Shanghai and across the nation, victims of the Anti-Rightist Campaign are all defending their rights in accordance with law. Our Zhejiang contingent sincerely sends this open letter to the NPC, respectfully requesting that the Party, according to its stipulation that letters and visits from the people must be accorded a reply, respond publicly to our letter. With deep gratitude, we are the Zhejiang contingent of victims of the Anti-Rightist Campaign and their families, as listed below:

He Yi’ou, 83, labeled a rightist at Zhejiang Teachers University, retired from Zhejiang University
Han Changxian, 81, labeled a rightist at Zhejiang Teachers University, retired from Zhejiang University
Ye Guangting, 85, labeled a rightist at Zhejiang Teachers University, retired from Zhejiang University
Hu Xueyan, 82, labeled a rightist at Zhejiang People’s Publishing House, retired from same
Shi Yuying, 85, labeled a rightist at Zhejiang Institute/School of Education, retired from Hangzhou Teachers College
Ye Xiaogang, 79, labeled a rightist at Zhejiang Sino-Soviet Friendship Association, retired from Hangzhou Teachers College (transcriber)
Shen Minghua, 75, labeled a rightist at Dongyang Library, retired from the Kaibhua Library
Yang Shiyuan, 72, labeled a rightist at Yunhe Bureau of Education, retired from same
Wu Minghai, 69, labeled a rightist at Jiashan Middle School, retired from Jiashan Hongxi Middle School
Ye Tianhe, 70, labeled a rightist at Hangzhou Zhaokou Power Plant, retired from same
Qin Tan, 80, labeled a rightist at Hangzhou Foreign Languages Bookstore, retired from Hangzhou Xinhua Bookstore (family member)
Lu Pingzhi, 74, labeled a rightist at Beijing Railway Institute, retired from Linhai Technical (Labor) Services Administration [Management Bureau]
Hua Jinhua, 75, labeled a rightist at Yuhang Agriculture Bureau, retired from same
Qian Yurong, 72, labeled a rightist at Shanghai University of Sport, retired from Xiaoxing University of Arts and Sciences
Jiang Yanming, 74, labeled a rightist at Shanxi University of Agriculture, retired from Hangzhou Jianggan District Bureau of Agriculture
Wang Pinjiang, 73, labeled a rightist at Ningbo Industrial [Development] Bureau, retired from Cixi Chemical Fertilizer Plant
Chen Xiaoqian, 74, labeled a rightist at Shanghai Railway Bureau, retired from Xiaoning Railway Company
Zhu Luting, 86, labeled a rightist at Xinchang Bureau of Education, retired from same
Wan Guojie, 72, labeled a rightist at Zhejiang Provincial Affairs Administration, retired from same
Gong Fangjun, 78, labeled a rightist at Zhejiang Provincial Affairs Administration, retired from same
Zhou Jinchang, 73, labeled a rightist at Zhejiang Provincial Affairs Administration, retired from same
Shen Dewen, 76, labeled a rightist at Hangzhou Printing and Dyeing Mill, retired from same
Liu Zhiwen, 72, labeled a rightist at Zhejiang Medical University, retired from same
Lin Jiaxiong, 77, labeled a rightist at Cixi Longshan Middle School, retired from Pingyang Aojiang Middle School
Zhang Jinfa, 75, labeled a rightist at Pingyang PSB, retired from same
Zhao Dehuang, 80, labeled a rightist at Hangzhou Kindergarten Teachers Institute, retired from Hangzhou Normal Institute
Lou Xueli, 86, labeled a rightist at Hangzhou Normal Institute, retired from Zhejiang University
Sang Yazhong, 83, labeled a rightist at Hangzhou Municipal Bureau of Education, retired from Hangzhou Municipal Normal Institute
Wu Pengfei, 77, labeled a rightist while a reporter at Zhejiang Labor Reform News, retired from Yongkang Health Bureau
Li Yigang, 81, labeled a rightist at the Haiyan County PSB, retired from Yongkang Health Bureau
Xu Wangnan, 73, Yongkang Machinery Factory
Wang Xikang, 77, Yiwu County Forest and Water Authority, retired from Yongkang Water Authority
Lü Pengnian, 77, Principal, Yongkang Nizhai District School Yongkang Civil Affairs Bureau
Chen Kenhua, 80, Editor at Ningbo Masses News, retired from Yongkang Health Bureau
Xu Yunsong, 75, Yongkang County Public Security Bureau, Yongkang People’s Court
Wang Ruiqi, 81, People’s Liberation Army, Yongkang Pottery Factory
Ying Yongquan, 78, Yongkang County Primary Education Counsellor, Yongkang Middle School
Fang Zhulan, 81, Yongkang County, Nizhai District Central School, Teacher at Yongkang Nizhai District Central School
Hu Rongkang, 75, Yongkang County Limadong Primary School, Yongkang Health Bureau
Li Zhongrong, 73, Yongkang County People’s Government Cultural Education Section, Yongkang Middle School
Cheng Lizhong, 76, People’s Liberation Army Second Field Army, Yongkang Education Unit

March 8, 2007

Submitted by Ye Xiaogang (Hangzhou)

Translated by a friend of HRIC

This is a slightly edited version of the original Chinese petition posted on a number of overseas Chinese Web sites, among them China Information Center, http://www.observechina.net/info/artshow.asp?ID=42824.
Editor's notes for “Petition for redress to those wrongfully labeled rightists”

1. Apart from those labeled “rightists” (youpai fenzi) and “extreme rightists” (jijyou fenzi), other individuals were labeled “moderate rightists” (zhongyou fenzi) or accused of “right-wing expression” (youpai yinlun). Although these latter two categories were not considered to “wear the rightist hat,” they were exposed to the same suppression and punishment as those in the first two categories of “rightists.”

2. In his 1957 article, “The Correct Handling of Contradictions Among the People,” Mao Zedong wrote, “In the political life of our people, how should right be distinguished from wrong in one’s words and actions? . . . We consider that, broadly speaking, the criteria should be as follows: 1) Words and actions should help to unite, and not divide, the people of our various nationalities. 2) They should be beneficial, and not harmful, to socialist transformation and socialist construction. 3) They should help to consolidate, and not undermine or weaken, the people’s democratic dictatorship. 4) They should help to consolidate, and not undermine or weaken, democratic centralism. 5) They should help to strengthen, and not discard or weaken, the leadership of the Communist Party. 6) They should be beneficial, and not harmful, to international socialist unity and the unity of the peace-loving people of the world. Of these six criteria, the most important are the socialist path and the leadership of the Party.” For the full article, see http://www.marxists.org/reference/archive/mao/works/red-book/ch04.htm.

3. An alternative term for the Cultural Revolution.

4. The “two whatevers” refers to the statement published in a joint editorial in People’s Daily and Red Flag on February 7, 1977, to the effect that “we will resolutely uphold whatever policy decisions Chairman Mao made, and unsparingly follow whatever instructions Chairman Mao gave.” One of the most prominent of the “capitalist readers,” Deng Xiaoping, subsequently stated that the “two whatevers” were “unacceptable.” See http://english.people.com.cn/dengxp/vol2/text/b1100.html and http://english.peopledaily.com.cn/dengxp/vol2/note/B0180.html.


7. The original petition draws its quotations from the 1954 version of the Constitution, which the editor was unable to access. The provision quoted here does not exist in the current Constitution. However, Article 45 states that citizens “have the right to material assistance from the state and society when they are old, ill or disabled,” and Article 122 guarantees the supply of financial, material and technical assistance to the minority nationalities.

8. It should be noted that the KMT did not begin to redress wrongs until Taiwan embarked on its political transition to democratization in the 1990s. A summary of this process is included in “Comparative International and Domestic Approaches,” China Rights Forum, No. 4, 2005. For articles and information about the KMT crackdown on demonstrators on February 28, 1947, and subsequent reparations, see http://www.taiwandc.org/228-intr.htm.

Editor's notes for “Open Letter to the National People’s Congress”

1. For articles and information about the KMT crackdown on demonstrators on February 28, 1947, and subsequent reparations, see http://www.taiwandc.org/228-intr.htm.

SOME DEATHS ARE MORE EQUAL THAN OTHERS

By Li Jianhong

The governments and media of two different countries display very different levels of concern in cases of tragic loss of life.

In a tragic coincidence no one could have predicted, two disasters occurred recently in close succession in the United States and in China. The first cost 33 lives; the second 32.

On the morning of April 16, 2007, a mass shooting occurred on the campus of Virginia Tech, claiming 33 lives and wounding many. It was the deadliest campus shooting in U.S. history.

In the early morning of April 18, an accident involving an industrial steel ladle occurred at Qinghe Special Steel Corporation in Tieling City, Liaoning Province. The ladle was moving into pouring position above a teeming platform when it suddenly sheared off from the blast furnace, spewing 30 tons of white-hot molten steel into a room five meters away, where workers had gathered for a routine shift change. Thirty-two workers were killed and six injured. This was the deadliest steel industry accident in recent years in China, a country where industrial accidents are all too frequent. Recalling what happened, a lucky survivor said, “It was a nightmare come true.”

As the molten steel that had engulfed the workers cooled, it formed a steel block measuring 70 square meters. When families of the dead gathered to view their loved ones, the police refused to allow them in until the bodies were identified. Officials said that they were going to have to identify the bodies through DNA testing because the victims had been burned beyond recognition.

Both incidents resulted in the loss of innocent lives; both are equally heartrending. But considering the media coverage and the response from people in all walks of life in the two countries, I cannot help but sigh. The fateful coincidence of these two tragedies shows that not all lives are considered equal.

Immediately after the Virginia Tech massacre, all major U.S. news outlets reported the story. When Virginia Governor Timothy Kaine heard the news, he cut short a visit to Japan and returned home. At noon on the day of the shooting, White House spokesman Dana Perino said that President Bush was “shocked and saddened” and expressed his deep concern for the victims’ families and the students and professors of
Virginia Tech. The police launched a full investigation into the incident that same day. The day after, students, professors and members of the community came together at the Virginia Tech campus to remember the 33 victims in a memorial service that was attended by President Bush and his wife. The president ordered all national flags to be flown at half mast in memory of those who had died.

I found out about the Tieling accident from the Internet the morning after it happened. That evening, I made a point of watching the entire 7:00 broadcast of China's national television network, CCTV. The main news stories that evening were these:

- Hu Jintao has urged China's modern theater professionals to reflect the aspirations of the people and celebrate the spirit of the age
- Wen Jiabao chaired an executive meeting of the State Council to review the economy's first-quarter performance
- China's economy grew by 11.1 percent in the first quarter
- Jia Qinglin [chairman of the National Committee of the Chinese People's Political Consultative Conference] met with Tunisian President Zine al-Abidine Ben Ali
- Jia Qinglin arrived in Accra on a state visit to Ghana
- Wu Guanzheng [a member of the Politburo] met with the president of the Spanish Senate
- A ceremony in memory of the Yellow Emperor was held in Xinzheng City, Henan Province
- A campaign has been launched to cleanse the Internet of obscene and pornographic content

Not a single news item mentioned the Tieling accident. The evening's news program ended with a piece about a package the Virginia Tech killer had mailed to a TV network midway through his rampage.

Disappointed, I checked the CCTV Web site and did an online search for the news stories from April 18, the day of the Tieling accident. The day's lead story was that Hu Jintao had sent a message of condolence to George Bush over the mass shooting incident at Virginia Tech. The follow-up stories were:

- Hu Jintao met Pakistani Prime Minister Shaukat Aziz
- The Chinese Propaganda Department, Ministry of Education and the General Political Department have jointly issued a document entitled, “Implement Comrade Hu Jintao's Important Instructions in the Circular on Launching Wide-Ranging Activities to Learn from Comrade Fang Yonggang”
- Jia Qinglin met with the Tunisian president
- Chinese Vice President Zeng Qinghong met with German minister of defense and Chad's minister of foreign affairs.
Wu Guanzheng met with Spain’s first deputy prime minister.

China has boosted its railway speed for the sixth time with the introduction of new high-speed trains. China has “entered the era of high-speed rail”

Localities across China are taking measures to ensure the safety of rail services.

There was no mention of the Tieling accident anywhere. It was as if this tragedy, which had taken 32 lives earlier that day, had never happened in China.

Among the news stories for April 18, there was also the headline, “It has been confirmed that the suspected shooter in the Virginia Tech attack was a Korean student.”

I then checked the news for the day before, April 17. Because of the time difference with the United States, the Virginia Tech shooting was reported in the first news program broadcast by CCTV that day. There were three reports on the shooting:

- Li Zhaoxing [China’s foreign minister] sent a letter of condolence to US Secretary of State Condoleezza Rice over the shooting rampage at a Virginia Tech.
- The Virginia Tech shooting incident cost 33 lives.
- The Foreign Ministry spokesperson answered reporters’ questions about the Virginia Tech shooting incident.

The death of 30 students struck down in the prime of life, a professor at the height of his career and an elderly professor who gave his life to save his students fills me with sorrow. But the senseless death of my 32 compatriots fills me with indignation. How can it be that when 30 young students are killed on an American university campus, CCTV devotes three days of continuous coverage to the story, the Chinese foreign ministry expresses its shock, and the Chinese foreign minister and President Hu Jintao send messages of condolences, but when just as many Chinese compatriots are killed in an industrial accident, not a word about it is said in the Chinese media? Our country’s leaders continued to make scheduled appearances at theater performances and official receptions for foreign dignitaries, but when did any of them shed a tear of sorrow for the death of their compatriots?

As usual, the fragmentary reports on the incident that did appear in the Chinese media focused on such-and-such a leader issuing “important instructions,” and high-level officials rushing to the scene of the accident to deal with the aftermath. The gruesome deaths of the victims and the grief felt by their family members were hardly mentioned at all. The media’s cold packaging of the tragedy completely obscured the heavy loss of life and deep distress it caused. It was only on the Internet that I was able to find messages mourning the workers who died in the accident:

- “The steel mill was near my home. From the top of our apartment building, I was able to see the factory building. It was horrific! Two brothers died together, and a father and son too. All were rural migrant workers. Pitiful!”
• “To warn future generations and comfort the souls of the departed, we demand that the block of molten steel be turned into a memorial to industrial safety in China.”

• “What a tragedy! I suggest that the molten steel be recast into a memorial to honor the dead workers.”

• “In America and other Western democracies, people who die in such accidents are never nameless.”

Following is a report by the official Xinhua News Agency about the Tieling tragedy (http://news.xinhuanet.com/society/2007-04/18/content_5993172.htm). The item, which was the most comprehensive Chinese media report found through a Google search, was accompanied by a photo of grieving relatives (see screenshot below).

LIAONING PROVINCE LAUNCHES RIGOROUS EFFORT TO DEAL WITH CAUSE OF HUGE SAFETY ACCIDENT AT QINGHE SPECIAL STEEL CORPORATION

By Yang Chengjun, Xinhua Net, April 18, 2007

At 7:45 a.m. on April 18, a newly constructed production line at Qinghe Special Steel Corporation in Tieling City, Liaoning Province, experienced an accident in which a ladle of molten steel dropped on workers, causing the deaths of 32, including three who were rural migrants, and injuring six, two seriously. After the accident, Liaoning Province’s top officials and heads of relevant departments rushed to the scene to apply the law in determining the cause of this accident that caused so many fatalities.

This reporter arrived at the head office of Qinghe Special Steel Corporation around 11:30 a.m., and found a crowd of more than 100 people gathered around the building; some family members of workers were weeping bitterly. The local police had already taken control of the area and prevented anyone from going in or out. Around 3:30 p.m., this reporter accompanied provincial officials into the company’s office.

The location of the accident was at a new production line of the company. Entering the workshop seven hours after the incident, this reporter could still feel a wave of heat, and the ground was covered with slag that had formed after the molten steel had cooled, some of it up to 20 centimeters thick. This reporter stood on a piece of slag that was still warm, and very soon felt the heat permeate the soles of my shoes.

The fallen steel ladle remained on the ground like an enormous wok, two meters in diameter and weighing some 30 tons. Approaching within two meters of the ladle, this reporter found the heat so intense that breathing was nearly impossible. It was in a crude concrete room less than five meters away that 32 workers met their end.

Translated by Stacy Mosher
Some netizens asked hard questions:

- “Isn’t it astonishing that the workshop where the workers changed shifts was located right next to a steel ladle carrying molten steel? As far as industrial safety is concerned, this is certainly a case of negligence. The management showed no concern whatsoever for the workers’ safety!”

- “Whenever natural or man-made disasters occur in other countries—be it the Virginia Tech shooting, the derailing of a high-speed passenger train in Germany, the Daegu subway fire in South Korea or the Beslan school hostage massacre in Russia—the government expresses its sorrow, sympathy for the victims and humanitarianism by lowering flags either in the affected region or across the country. When will our flag be lowered for ordinary people?”

Even worse than such disasters is the disregard and disrespect for human life. How many times have such tragedies been concluded with cold statistics that glossed over real lives and human suffering, platitudes for the bereaved and government intervention to nip a disturbance in the bud? When will our government officials show that they value and respect human life? When will we have a genuine system of government accountability? When will ordinary Chinese citizens no longer be abstract numbers in statistical tables?

I long for the day when the loss of human lives will be equally mourned in every country, when the memory of the departed will be honored and their souls will find peace in equal measure. We can only hope that from now on measures will be taken to minimize the probability of industrial accidents.

Shanghai, April 20, 2007

Translated by Paul Frank


Notes

1. Since naval academy professor Fang Yonggang was visited in hospital by Hu Jintao on February 20, 2007, he has become the focus of a propaganda campaign urging the Chinese public to study and emulate his “advanced achievements.” Fang Yonggang’s main achievement has been his contribution to Hu Jintao’s ideological armory, particularly the slogans of a “harmonious society” and the “scientific view of development.” See “Long live comrade Fang Yonggang! The battle begins over the heart of the 17th Party Congress,” China Media Project, April 12, 2007, <http://tinyurl.com/2f28ls>.

2. It should be noted that China’s media are state-run, and have their content closely monitored and regulated by officials. Internet Web sites, while also monitored and censored, are often privately operated and allow greater freedom of expression.

3. The Eschede train disaster in 1998 killed 101 and injured 100.
4. The Daegu subway fire in 2003 killed 198 people and injured 147.
5. At least 396 people, mostly child hostages, were killed during the Beslan school crisis in 2004.
BRIDGING THE GAP: EXPERIENCES AND ATTITUDES IN SINO-AFRICAN RELATIONS

By Carol Wang and Danielle Flam

China’s diplomatic relations with Sudan and other African nations have attracted increasing international attention. At the same time, there is a growing but still inadequate awareness of the complex relations between very different cultures at the personal level.

Across Africa today, there are myriad signs of China’s assiduous courtship of African states: Chinese-built dams, power lines, roads, stadiums, schools, hospitals, railways and increasing trade. The expanding relations between the PRC government and a number of African nations have also ushered in an unprecedented degree of contact between Chinese and Africans, through increased migration, business interactions, academic and official exchange programs, and even online discussions. Individual interactions are also increasing, a fact that highlights the importance of cultural understanding between Chinese migrants, workers, businesspeople, and tourists, and their African hosts. Similarly, Chinese at home have more opportunities now to interact with African students, officials, and businesspeople, as a result of the friendly overtures of the Chinese government towards African countries and economic interests.

To date, however, aside from anecdotal reporting, Chinese and African personal views and attitudes towards each other have not been surveyed systematically. The methodological challenges of attitudinal and opinion research are complex and daunting, and in the context of China-Africa, include:

- Media content analysis: News reports, academic studies and online blogs covering African views of Chinese are not as widely available as Chinese views of Africans. Differences in coverage of the African and Chinese perspectives pose difficulties for studies conducted without personal interviews.

- “Africa” and “China” tend to be referenced as two monolithic entities in much of the existing media, despite the fact that the African continent includes a diversity
of states, each engaged in their own bilateral relationships with China; for example, South Africa-China relations have different history and dimensions from Sudan-China relations.

- Conceptual differences between race and nationality are often conflated in popular understanding, as expressed in news, film, television, blogs and other forms of media. This is evident not only in Chinese views of blacks (e.g., Malian, Zambian, Senegalese and black Americans are viewed the same way), but within the context of the Chinese nation (“Chinese” is used to refer overwhelmingly to Han Chinese).

Much of the existing literature on Sino-African relations has focused on strategic, economic, diplomatic and political issues, with limited or tangential discussion of current perceptions and personal views of individuals affected by the burgeoning levels of official cooperation and exchanges. News reports and other literature have only skimmed issues such as the individual costs born by local Africans, the impact of Chinese competition on African businesses, and the loss of benefits for workers as African state-operated enterprises (SOEs) are replaced by Chinese companies. Most available information consists of accounts from visitors, popular media reports or online discussions. These glimpses do not give us an accurate picture of social interactions or attitudes, but only a narrow sampling of the perceptions that exist among Africans about Chinese, and among Chinese about Africans.

Tensions arising in the current Sino-African context take a variety of forms, from resentment over job competition to curiosity regarding physical and cultural differences. While the interaction between the two cultures appears to be thriving, it is worth taking a closer look at the history, and examining how race plays into political and economic relationships between China and countries in Africa.

This article attempts to examine the effect of existing attitudes on Chinese relations with African nations through accounts of the experiences of Africans in China for academic, business and diplomatic reasons, and those of Chinese in Africa for business and government initiatives.

Because the views presented here are not comprehensive or representative, this article does not seek to draw conclusions about African-Chinese inter-personal relations, but rather to suggest the need for a more comprehensive and rigorous examination of existing prejudices and discriminatory practices, and their impact and role on growing Sino-African interactions.

Chinese in Africa

Hindered by vast distance as well as lack of technology, Chinese excursions to Africa were relatively limited until recent decades. Aside from the expedition by the famous Chinese Admiral Zheng He in 1405, there was direct and indirect trade dating back to the Tang Dynasty (618–896 A.D.), and relatively small groups of Chinese laborers, pris-
oners and immigrants who went to Africa subsequently. During the late Mao era, in the 1960s and 1970s, a more solid relationship between Africa and China developed through aid projects, most notably the Tan-Zam railroad extending from Tanzania to Zambia. Chinese engineers worked to construct stadiums, lay down roads and build hospitals as part of the battle to “win the hearts and minds of Third World citizens” following the Sino-Soviet split. During the 1980s, Chinese interest in large-scale projects in Africa waned, as China occupied itself with its own changing economic policies. It was not until recently that China rekindled its interest in Africa, once again bringing aid, but also looking for resources.

China’s rapidly growing influence on the African continent today can be attributed to business interests in the form of trade, investment and aid:

- **Trade:** China is now Africa’s third largest trading partner, following the United States and France. Chinese trade with Africa increased from $11 billion in 2000 to a record $55.5 billion in 2006. African exports to China have increased from nine percent in 1990 to 27 percent in 2005. Most of the increase can be attributed to oil imports from Sudan beginning in 1995, and massive energy investments in Angola between 2003 and 2004. Roughly 800 Chinese-owned companies now operate in Africa.

- **Investment:** Chinese investment in Africa is also increasing. In the first 10 months of 2005, Chinese companies invested $175 million in African countries. The stock of Chinese Foreign Direct Investment (FDI) in Africa in 2005 totaled $1.6 billion. (However, it is important to note that this is only 3 percent of China’s total FDI; Chinese investment is focused primarily on Asia and Latin America.)

- **Aid:** Chinese aid to African nations is also growing. Estimated at a proffered $8.1 billion in 2007, Chinese aid is expected to surpass the World Bank’s assistance of $2.3 billion. Aid from China takes the form of credits from the Chinese Export-Import Bank as well as humanitarian aid programs.

**Quick numbers: How many Chinese are in Africa today?**

<table>
<thead>
<tr>
<th>Businesses</th>
<th>800 Chinese-owned companies operating in Africa in 2006, up from 650 in 2005</th>
</tr>
</thead>
<tbody>
<tr>
<td>Migrants</td>
<td>30,000–80,000 Chinese migrants in Zambia in 2006</td>
</tr>
<tr>
<td></td>
<td>300,000 in South Africa in 2006</td>
</tr>
<tr>
<td>Students</td>
<td>About 2,000 Chinese students in Africa (1.8% of all Chinese students studying abroad) in 2003</td>
</tr>
<tr>
<td>Tourists</td>
<td>110,000 to Africa in 2005, up from 55,000 in 2004</td>
</tr>
<tr>
<td></td>
<td>40,000 to South Africa in 2005</td>
</tr>
</tbody>
</table>
Despite efforts to translate increasing trade, investment and aid into goodwill toward China, available information indicates that African views of Chinese interests vary widely, from an enthusiastic welcoming of non-Western aid and investment options to apprehensions regarding the motives behind Chinese interests.

The following section reviews accounts of African-Chinese encounters in a few select African countries. Although no single country’s experience can be considered representative of the entire African continent, this sampling gives some insight into the differing perspectives between cultures, as well as between political elites, workers and businesspeople.

THE EXPERIENCE OF SUDAN

China’s interest in Africa is mainly as a source of raw material, especially oil. China became a net importer of oil in 1993, accounting for 40 percent of total growth in global demand for oil between 2003 and 2007, according to the U.S. Energy Information Administration. By 2045, China is expected to depend on imported oil for 45 percent of its energy needs, with Africa as a major source.19 At present, China is seeking oil supplies from six African countries: Nigeria, Angola, Sudan, Equatorial Guinea, Gabon and the Republic of Congo, and accounts for 64 percent of Sudan’s oil exports.20
Chinese businesses operate in 49 African countries at present. Most news coverage depicts Africans as welcoming of Chinese investment, excited about the possibility of new jobs, trade and alternatives to Western aid. However, African workers and small business owners seem to share a common fear that local industry and the needs of local people will be neglected as China devotes its energies to extracting resources.

Many African leaders have commented favorably on China’s lack of “colonial baggage,” with China perceived as a fellow developing country seeking to build a “south-south” relationship, not as a world power intent on exploitation. Chinese aid and investment does not place conditions on how to spend the money. As Awad al-Jaz, Sudan’s energy minister, pointed out in an interview with Granta, “With the Chinese we don’t feel any interference in our Sudanese traditions or politics or beliefs or behaviours... business is business. There is no other business but the business.”

China’s “no-strings-attached” approach promises not only wealth, but also a chance to challenge western pressure.

It is precisely this no-strings-attached attitude, however, that has drawn widespread criticism from both Western and African observers. China’s role in Darfur and the Sudan’s human rights situation in general have recently drawn increasing criticism from the international community, including human rights groups such as Amnesty International. Actress and UNICEF Goodwill Ambassador Mia Farrow recently made a public appeal for China to use its power to stop violence in Darfur, at the same time as reports surfaced that China was violating a United Nations arms embargo by selling weapons to Sudan.

The negative impact of Chinese investment on the lives of Sudanese is not limited to China’s complicity in the continued conflict in Darfur. The lives of Sudanese are impacted by Chinese business in many ways, as exemplified by Sudanese refugees forced off their land to make way for Chinese oil fields. Business is not just business; how and why business is conducted affects people’s lives and livelihoods. The roads the Chinese built as a part of the Sudanese oil deal allowed electricity to be supplied to nearby homes; but thousands of displaced refugees now living in poverty in Khartoum are forming their own, less positive, opinions of the Chinese: “Investment is good. It will develop our land, but the most important thing is how we are treated. In the end, the Chinese must go home. This is not their country. Then this will all be ours.”

As China extracts oil from Sudan and Angola, timber from Gabon, platinum from Zimbabwe and copper from Zambia, ordinary Africans are beginning to voice doubts about the balance of gain and loss.

**THE EXPERIENCE OF ZAMBIA**

African resentment against Chinese migrants and businesses mainly arises from issues of land and job competition. Chinese investment in projects throughout Africa, from basic infrastructure to tourist hotels, gives rise to construction jobs, but Chinese businesses tend to bring their own work crews rather than providing jobs and transferring skills to locals. In cases where African labor is hired, laborers often meet with difficulty.
One well-known example is the experience of workers in a copper mine in Zambia’s Chambishi Township. The mine has a deplorable safety record, workers’ benefits are constantly cut, and employees are paid only $100 a month. One miner, who refused to give his name for fear of losing his job, told a journalist, “We are glad that the Chinese reopened the mine, as unemployment here was very high . . . but they are difficult to work for. Safety is still poor even after the explosion that killed my friends, and when we ask for more money, they threaten to sack us. I would prefer to work for white managers—they are better educated and they understand what a Zambian needs to live on.”

Decreasing benefits may well be the unavoidable byproduct of privatization of a previously state-owned mine. But the resentful attribution of this loss to the new Chinese owners may reflect wider anxieties circulating among local laborers. Another miner was quoted as observing, “They have created employment but they should improve the social conditions . . . . If they are taking our copper they should give something back to the community.” Tensions over the Chinese presence were recently highlighted in a spate of kidnappings of Chinese workers and attacks on Chinese-owned facilities.

This complex relationship seems to define a general African sentiment toward the Chinese. While on the whole Africans appear to welcome Chinese investment and the

“They have created employment but they should improve the social conditions . . . . If they are taking our copper they should give something back to the community.”

Zambian mine worker
accompanying jobs, trade and alternatives to Western forms of aid, they also want to be sure that benefits stay in Africa.

The fear and resentment that has developed among some Africans in relation to Chinese business practices became palpable in Zambia’s October 2006 elections, when Zambia’s main opposition leader, Michael Sata, nearly unseated Levy Mwanawasa as Zambia’s president by campaigning on an anti-Chinese platform. Sata depicted the recent arrival of more than 80,000 Chinese as a threat to the interests of the African people.

As local businesses and jobs are taken over by Chinese, and land that was taken from white farmers during the independence struggle is given to Chinese to cultivate, many like Sata fear a repeat of the colonial experience, and are resentful of the Chinese who introduce such a possibility. In a recent speech, Sata stated, “The land will be repossessed without compensation because the whole independence struggle was about land ... We can't be invaded by more than 80,000 human beings and stand with our hands akimbo.”

Even allowing for the exaggerated posturing of political candidates, the evident resonance of Sata’s campaign suggests there are plenty of Africans who equate the Chinese extraction of resources, land appropriation and importation of labor with previous colonial incursions, despite claims by China’s vice minister of Commerce, Wei Jianguo, that Africa and China are “complementary partners,” and that this “new type of strategic partnership between China and Africa is characterized by equality, mutual benefit and economic win-win cooperation.”

As Chinese traders flood Africa with cheap products such as electronics, plastic goods and clothes, they bring competition to the African marketplace, and concerns of damage to the local economy. In an interview with The Economist, a local trader of Indian origin complained, “Two years ago I did not have time to sit down; now I’m sitting doing nothing.” He blames this on competition from Chinese traders. The Congress of South African Trade Union’s head of fiscal, monetary and public sector policy unit, Neva Makgetla, has expressed worries that competition in goods manufacturing will limit African employment to mining, farming and tourism, which he believes will never create enough jobs or a basis for sustainable development.

It is this concern that Zambia’s African workers will ultimately be driven out of local business that seems to raise the most serious questions over the ways in which Africans stand to benefit from the Chinese presence. According to Guy Scott, the Patriotic Front leader in the Zambian parliament, “It’s hard to know how they all got here. ... There’s a lot of Chinese here doing construction. Zambians can do that. The Chinese building firms are undercutting the local firms ... Our textile factories can't compete with cheap Chinese imports subsidized by a foreign government. People are saying: 'We've had bad people before. The whites were bad, the Indians were worse but the Chinese are worst of all.'”

South Africa, for one, has addressed this issue through trade unions, which have suc-
ceeded in protecting South African textile production by negotiating quotas on Chinese clothing imports. Actions like this in other African nations could help reduce resentment and anxiety among local workers and merchants, and ensure that relations with China might actually live up to Hu Jintao’s vision of “equality, mutual benefit and economic win-win cooperation.”

THE ENTREPRENEURIAL VIEW

In contrast to the apparent mixed feelings among workers, it appears that many African leaders and entrepreneurs hold more positive views of the Chinese. In contrast to Zambia’s opposition party, the president, Levy Mwanawasa, insists that Chinese investment offers new opportunities for economic development and change.

Moreover, members of the upper class in several African countries argue that the Chinese treat them as equals, and invest in infrastructure, a sector that is avoided by Western aid and investment. One opinion piece in the East African Standard argues that African political leaders believe that China’s Confucian emphasis on collective interests over individual liberties is beneficial to economic development. Africans see Chinese managers and translators living in barracks-style accommodations, without the comfort and expense demanded by Western expatriates, and attribute this to devotion to African development. As Sierra Leone’s Information Minister told Granta, “The Chinese don’t seem to rest . . . We could learn from that.”

The question of capital- and skills-transfer to the general populace in African countries remains unresolved. As long as Chinese nationals are imported for labor, technology is limited to Chinese projects, trade remains one-sided and few new jobs are created, Africans will inevitably complain of a lack of lasting benefits.

Africans in China

The exponential increase in the number of Chinese heading towards Africa each year is not matched by Africans going to China. In addition, information on African businesspeople or immigrants in China is largely limited to the experiences of African students at Chinese universities.

Quick numbers: How many Africans are in China today?

<table>
<thead>
<tr>
<th>Students</th>
<th>Scholarships for 1500/2,000 African students are awarded by China each year</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>In 2003, 1,793 students from Africa accounted for 2.31 percent of all international students in China</td>
</tr>
<tr>
<td>Officials</td>
<td>14,000 Africans trained by China since 2004</td>
</tr>
</tbody>
</table>
In the 1960s, African students in China numbered in the hundreds as a result of Mao Zedong’s overtures to friendly states in Africa. His attempt to bill the PRC as a leader of the Third World led him to offer support for anti-colonial movements against Western powers, and concrete cooperation in the form of infrastructure projects and academic exchanges.44 In 1961 and 1962, Mao’s scholarship program brought 118 African students to China to study technology and the sciences.45 In 2003, China hosted 1,793 students from African countries, accounting for 2.31 percent of all international students in China.46

AFRICAN DISCONTENT AND CHINESE ATTITUDES

During the 1950s and 1960s, African students studying in China generally came from elite backgrounds, and a survey about their experiences cited low living standards, language difficulties and a lack of social opportunities as causes for discontent with life in China.51 Many African students left China in 1962 after the beating of a Zanzibari by Beijing hotel staff in a dispute over the sale of cigarettes.52 This incident, which had reportedly racist overtones, exacerbated the situation of dissatisfaction that many African students felt. In the early 1970s, Africans began returning to China; but living standards remained a source of dissatisfaction, and a dozen students at the Beijing Railroad Engineering School burned portraits of Mao intentionally so that they would be deported.53

In the 1980s, a series of racist brawls and incidents culminated in a rash of anti-African riots throughout major cities in 1988 and 1989. Comments by both African and Chinese students during that period indicate that racial tensions had become a major problem, particularly in the eyes of many of the 1,500 African students in China at the time. When asked by a reporter why Africans were leaving China in March 1989, Ibnou Ndiaye, a Senegalese national studying engineering in Shanghai, told a reporter, “We are leaving because of racism against blacks. It’s the simple reason why I cannot continue.”54

There were protests from a few African government officials and the Organization of African Unity, but these were reportedly watered down in the interests of preserving diplomatic relationships.55 Chinese officials were slow to respond to requests by African officials for meetings on the matter, and denied that racism was an issue. In March 1989, then Foreign Minister Qian Qichen declared that “[r]acial discrimination simply does not exist in China,” attributing the riots instead to headstrong youth: “Young people tend to get excited and problems like this occur among young people ... it is not realistic to call it racial discrimination,” he added.56

ATTITUDES ABOUT RACE AND OFFICIAL RESPONSES IN RECENT YEARS

While high-tension incidents such as those in the 60s, 70s and 80s have not been reported more recently, blacks say they continue to be singled out in China as a result of their appearance. Buddy Buruku, the Chinese-speaking daughter of a retired Ugandan diplomat, told The South China Morning Post that she is subjected to non-stop
comments about her appearance when she walks the streets of Beijing. While some are harmless, others indicate misguided stereotypes, and some are outright offensive.

As the Chinese government lays out the welcome mat, Africans in China continue to receive mixed messages from ordinary Chinese, as reactions to their presence range from expressions of curiosity to overtly derogatory remarks. In 2005, racist comments flooded the online forums of sina.com, a popular Chinese Web site, after a visit to China by U.S. Secretary of State Condoleezza Rice. Liu Xiaobo, a veteran writer and democracy activist, wrote on the New Century Net Web site that of the 800 messages he read on about Rice’s visit, 70 were racist comments about the color of her skin. These comments echoed sentiments expressed in other online discussions, such as one on a China Daily BBS strain labeled, “Why do Chinese in China hate black people?”

Blatantly derogatory comments on these forums were accompanied by positive, if less than progressive, portrayals of blacks: “[C]hinese people is full of enthusiasm to foreigner, that’s extraordinarily right! [I]n my memory, the black are always funny, they are talkative and adept in humor! [A]t least, most of my friends think so!” While these comments cannot be considered representative of Chinese attitudes towards blacks, they reflect stereotyped perceptions. Views expressed on Internet forums and chatrooms also need to viewed in light of the existing digital divide in which online users tend to be demographically elite, male and urban residents.

While Chinese government officials have hailed a new era of Sino-African relationships, there was no official response to these forums, and the derogatory comments have gone uncensored; for an authoritarian state that is quick to crack down on discussions of taboo topics, racism does not appear to be one of concern. As with derogatory comments against the Japanese, these expressions are problematic for a government that claims to want equal footing and respect in its bilateral relationships.

What does this mean for Sino-African relations today?

However positive and mutually beneficial the current relationships between African states and the Chinese government, individual perceptions and attitudes will impact the way Africans and Chinese cooperate in the professional realm. Although there is little empirical data on Chinese attitudes towards blacks today, or African perceptions about the Chinese, anecdotal evidence suggests that there is a lot more to be done in terms of bridging cultural gaps, and teaching understanding of the “other.”

Recently, African and Chinese civil society organizations (CSOs) came together to discuss China’s growing presence in Africa. Sara Musa El Saeed, a consultant with Christian Aid in Sudan, expressed the sentiment that the “general public on the two sides are not aware of what is going on, how this might affect them, [and] how to address the relations . . .,” and went on to suggest a significant role that CSOs can fill in this void. She emphasized the need to “build trust, contacts/connections and exchange of information.”
More meetings such as this may help to ensure that as interactions increase between Chinese and Africans on the soil of African countries, the focus will grow on whether the Chinese are good guests in a foreign land, and whether the business they bring—and the way they go about it—extends benefit beyond their own interests to include those of local Africans.

Notes

7. Mauro De Lorenzo, op. cit.
10. De Lorenzo.
11. Ibid.
20. Ibid.
30. Ibid.
31. Ibid.
32. In January, militants in Nigeria abducted nine Chinese oil workers and five telecommunications workers, who were all later released unharmed. In another incident, gunmen kidnapped two Chinese workers in the southern Nigerian state of Anambra in March; they also were later released unharmed. Additionally, a Chinese engineer was killed in an attack on a Chinese stone materials plant in Kenya earlier this year. And on April 24, guerrillas attacked a Sinopec oil facility in eastern Ethiopia, killing 68 Ethiopian workers and nine Chinese, and kidnapping seven Chinese technicians, who were later released.
57. Didi Kirsten Tatlow, "True colours; Reaction to US Secretary of State Condoleezza Rice's Beijing visit suggests judgments based on race and sex are an entrenched part of mainland life," South China Morning Post, April 1, 2005.
60. In the online comments about Rice, there was reference to Rice's support for Japan's bid for a permanent seat on the UN Security Council. This fanned the existing anti-Japanese sentiment expressed in the forums. See for example, Didi Kirsten Tatlow, "True colors," South China Morning Post, April 1, 2005.
61. In 1992, a poll researching racial hierarchy and social elitism in China was conducted. The population surveyed included 461 persons in 14 diverse sampling populations, primarily students and intellectuals, but also high school students, PLA recruits, research institute staff, factory management personnel, and municipal employees. See Barry Sautman, "Anti-Black Racism in Post-Mao China," The China Quarterly, No. 138 (June 1994), p. 413–437.
62. The meeting was convened by China Development Brief, Fahamu, Focus on the Global South and the Transnational Institute.
SEEING GREEN—STANDING UP FOR FARMERS IN CHONGQING

By Li Miao Lovett

Small environmental groups battle with industrial giants in China’s most populous industrial center.

From a small, well-equipped office overlooking the cityscape of bustling Chongqing, Wu Dengming recounts the early battles against illegal logging that put Green Volunteers League in the spotlight. In 1998, his group discovered that virgin forests in federally protected areas of Sichuan were being clear-cut to pave the way for housing developments. Wu secretly led reporters from CCTV into the Hongya forest, risking reprisal from local thugs as well as the powers governing the state-owned broadcasting network. But the gamble paid off, and when CCTV publicized the illegal operations, the developers were sent packing and the clear-cutting stopped.

As president of the 12-year-old NGO, Wu is now a seasoned activist who understands the inner workings of China’s political system. He has faced death threats and his researchers have been arrested, but Wu believes in the potency of grassroots action. “We are a small NGO,” he said, “but our human capacity is as powerful as a bomb.”

His group halted the construction of the Jiulongpo Power Station through the efforts of volunteers who held forums and wrote petitions and reports to the government. Wu is visibly proud of those who have rallied to the cause, of the 20,000 college students who declared opposition to the Nu River dams, and another 10,000 who signed a petition to stop the Minfeng Nonghua Group from dumping toxic waste into the Jialing River.

It’s often an uphill battle, however, to advocate for environmental protection when a booming economy and deep ties between local governments and industry stack the odds in favor of business interests. The campaign against Minfeng appeared successful; the city government of Chongqing agreed to shut down the plant in 2003. But on the prescribed day, business continued as usual, and the local press was censored from printing stories about the intended closure.

Wu and his team have been unfazed by the setbacks. His volunteers, from academics and college students to farmers from surrounding communities, continue to monitor and report on environmental degradation in the Chongqing municipality and neighboring areas of Sichuan Province. In 2003, student activists from Green Volunteers League protested outside one of several chemical and paper mills dumping waste into
the Xiao’an Xi River. Volunteer investigators uncovered the effects of untreated sewage and industrial dumping—blackened forests, residents and schoolchildren sickened by pollution, and a cesspool of toxic chemicals contaminating the local river, which flows into the Jialing and on from there into the Yangtze River.

Construction of the Three Gorges Dam has tamed the silt-laden Yangtze along a 200-km stretch. Each year, 750 million cubic meters of waste from households and factories are being dumped into this reservoir. The consequences of impounding a tremendous volume of water between the city of Chongqing and the dam site at Sandouping have been a major concern of Wu’s. Yet local governments tend to focus on the economic realities; they rely on revenue from businesses, and the shuttering of factories translates into a loss of jobs, tax money and investments.

The deeper problem, as Wu sees it, is the disconnect between the rich and poor sectors of society. In its dizzying pursuit of private wealth and economic development, China has become more prosperous, he says, but morally poor. Getting rich may be glorious, and nowhere is the display of wealth more flagrant than in the ritzy skyscrapers and storefronts of Chongqing’s Yuzhong district. Yet dire poverty lurks in the shadows where scavengers and rural migrants struggle to survive in a metropolis of more than 30 million.

“If there’s no poverty, how can there be wealth?” said Wu. “Without a derriere, how can there be a brain? Our social values encourage people to be on top; no one wants to be at the rear end.”

“What’s lacking in China is jiaoyu,” Wu continued with an emphatic glance, referring to what he sees as a lack of moral education orienting individuals toward the greater good of society.

At 66, Wu has seen China’s evolution since its early days under Mao’s rule. He has worn numerous hats, as a peasant and laborer, a soldier in the People’s Liberation Army, a Party official who worked in local government. He is critical of the corruption that has become rampant in a culture where business deals are routinely conducted through bribery and collusion.

“I’ve seen this country go from the promise of Communism to the degeneration of values, from a landless peasantry that acquired land, and has once again lost out.”

Besides fighting industrial pollution through grassroots action, Green Volunteers League works with rural communities to increase productivity in sustainable ways. Agricultural experts provide training for peasants to improve farming practices and increase crop yields. “You couldn’t use a manual to encourage farmers to adopt these methods,” said Xiang Chun, who coordinates the NGO’s programs. “The experts show them the results of experimentally grown crops. They need to see the benefits for themselves.”

There’s also an initiative to promote organic farming as a way to supplement peasant incomes. However, degradation of the environment remains a challenge. “You need a
healthy environment to grow crops organically,” said Xiang, “but pollution issues—such as acid rain—make it difficult to find a solution.”

The challenges faced by rural communities in Chongqing are systemic throughout China. At a presentation for the College Students’ Green Forum, researcher Yang Yong detailed the country’s long-term plans to channel water to the arid north through the South-North Water Diversion Project by tapping the Yangtze and other southern rivers. Yet the city of Chongqing, at the confluence of the middle Yangtze and Jialing Rivers, has been coping with water scarcity for the past two years.

Through initiatives like the Green Forum, Green Volunteers League is educating young people about ecological issues such as the rampant development of dams and the impacts of deforestation. Youth volunteers have gone to areas of the upper Yangtze, the Qinghai-Tibetan Plateau and the ancient forests by the Hejiang River to conduct investigations. The training program, conducted annually, enlists students from more than 20 colleges and universities in Chongqing.

“Our vision is far-reaching, but our resources are limited,” said Wu. He sees the strength of the organization in its volunteers. At the same time, he is concerned about the lack of civic engagement among Chinese generally. In a country where labor unions, media and NGOs are strictly controlled or regulated by the government, there are numerous obstacles to grassroots involvement. The Internet has been an effective tool in reaching the masses, but access in the countryside is still quite limited.

That hasn’t stopped a group of farmers near Chongqing City from banding together with the support of Green Volunteers League. The Dazu County Eco-agriculture Development Association grew out of efforts to fight pollution from factories that produce strontium carbonate, which is used in the production of optical glass, color TVs and magnetic materials. China is the world’s second largest source of strontium, and Chongqing contains China’s largest reserve of that mineral.

Tang Xuhan, the Association’s chair, says that his group one is of the first grassroots organizations of its kind in the country. It has more than 100 members from villages in Dazu and Tongliang counties who are active on a number of fronts: monitoring pollution sources, petitioning local authorities on environmental enforcement, and developing renewable energy sources like biogas.

The fight against industry has been ongoing. In 1993, Hongdie Strontium Industrial Company relocated the first of several plants from Qingdao, in Shandong Province, to the town of Anju. By 2002, a large-scale production base for strontium salt was developed in the area, and the company built additional plants in Nongshui and Yongqi. Industrial waste from the plants was discharged into nearby lakes and rivers.

Several newspapers have reported on the severity of the pollution affecting these rural communities. A cover photograph of the Chongqing Times in September 2004 depicts a child whose body is covered with rashes. Such images only scratch the surface of health problems accompanying the influx of strontium. Official statistics are lacking, but Tang
says cases of cancer began cropping up only three months after the factory moved into Yongqi, and since then there have been many deaths from cancer in the affected counties.

Lu Fuliang, a 71-year old farmer from Tongliang County, owned a grove of fruit trees destroyed by pollution from Hongdie’s strontium factories. He says that 400 mu (about 60 acres) of land in his area has been affected. A methodical man, Lu showed me a stack of papers detailing his efforts to petition the government about his case, poring over each of the documents with great zeal. A few of the letters were drafted on Green Volunteers League letterhead. There are records calculating the yield from his fruit trees, and estimated losses. In 2005, a high court in Chongqing Municipality actually ruled in Lu’s favor, but that only brought him trouble from the local government. He was strong-armed and beaten, then jailed for 15 days.

The incident only strengthened Lu’s resolve. “They violated my rights, and I don’t accept it,” he said. His first trip to petition Beijing produced no results, as his case was simply referred back to the local government, but he is planning another trip to Beijing this year. Lu says he has spent 80,000 yuan on his case over the past 12 years. He has
hired three lawyers, but says that those on the industry’s side are much more powerful.

Tang doesn’t think Lu will win his case, because the orchard farmer is asking for compensation above the 20,000 yuan the government offered him to relocate. According to Tang, Lu has already received the funds, but his family hasn’t moved yet.

David and Goliath battles such as these have not diverted Tang from optimism in his broader view. “The central government is concerned about its citizens in a way that it hasn’t been before,” said Tang, referring to the leadership of Wen Jiabao and Hu Jintao. “Before, it was all about rapid economic development. Now there’s concern for the welfare of the people.”

However, Beijing’s awareness of environmental impacts does not necessarily filter down to the local level. Hongdie was required to build a treatment plant so its industrial waste would no longer pour directly into the Huai Yun Lake, which residents use for drinking water and irrigation, and which flows into the Jialing River and from there to the Yangtze. But treating the discharge costs 80,000 yuan per day, and the company
has balked at complying. Tang says it would cost several hundred million yuan to remediate the problems stemming from this one pollution source.

Concerned citizens such as Lan Huadong have advocated for action on behalf of the Dazu farmers’ association. In 2003, Lan wrote a letter to the Chongqing municipal government blaming the illegal discharge from Hongdie for poisoned fish stocks, ruined crops and deleterious effects on residents’ health. On the first day of my trip to Dazu, a few of the association members gathered around Lan as he read the letter aloud. Nearby, an elderly man with late-stage cancer, evident in a purple tumor mushrooming from his neck, lay bedridden.

“We citizens feel that economic development is beneficial, but we believe that the government cannot allow harm to the environment in order to protect industry.” Lan delivered his plea in an oratorical style amidst the occasional blare of horns on Yongqi’s main street. “If economic gain means the sacrifice of the environment and citizens’ health, this is not the Communist way.”

The letter had been distributed widely to various local and municipal bureaus, and government officials subsequently held a meeting in Dazu County to discuss the situation. Lan said the officials gave notice to Hongdie, but considered their task done after that. What they really did, Lan claims, was simply put the company on the alert that citizens had made a complaint.

Program coordinator Xiang Chun says Green Volunteers League helped put pressure on the local government, going through the courts and garnering media attention. The Chongqing government ordered smaller strontium factories to close down, but Hongdie is still in operation, and the belching smokestacks of the company’s Yongqi plant are visible from the balcony of the temple in Tang Xuhan’s village.

It’s an idyllic setting where Tang lives, amidst forested hills and a verdant patchwork of farmland. He and his neighbors grow sorghum, corn, rice, potatoes and yams. Having previously lived in Guangdong Province, where his son and daughter are working, he is grateful to return to the slower pace of the countryside. And yet, he is all too aware of the environmental challenges that belie such tranquility. Tang’s granddaughter has recently given birth; Tang and his wife will care for her child when she goes back to work. He’s thinking about the next generation, and hopes to leave a better legacy through his work with the Eco-agricultural Development Association. “If you don’t deal with things now, and wait until the pollution is severe, it’s too late,” he said. “You have to nip the problem in its infancy.”
That is How it Went

A review of Ruyan@SARS.com

By Hu Ping

Last October, the China International Broadcasting Press published the novel Ruyan@SARS.com (Ruyan) by the Wuhan-based author Hu Fayun. The book’s publication deserved its hype as a major event in contemporary Chinese literature, including the high praise it drew from the celebrated author of The Past is Not Like Smoke, Zhang Yihe: “There was no literature in the Six Dynasties period save for Tao Yuanming’s “On Returning Home” [Guiqu Laici]; there is no literature in our era save for Hu Fayun’s Ruyan.”

Many Internet users commented that the book’s publication indicated progress on the part of the Chinese government. Who would have guessed that the book would be banned before the applause died down?

Earlier this year, the Deputy Director of the General Administration of Press and Publications (GAPP), Wu Shulin, announced that a ban had been issued on eight titles, and that the publishers involved would be punished. Ruyan was included among the banned titles, along with Zhang Yihe’s Past Stories of Peking Opera Stars. Zhang Yihe spoke out: “I will defend my writing with my life.” Her statement caused strong reactions and reverberations in China and abroad.

But let me return to Ruyan. According to the author, the novel was completed in 2003. In 2004, the electronic text of the book was posted on the Web site Renovation and Construction (Gaizao yu Jianshe) operated by dissident intellectuals Chen Ziming and He Jiadong, and then widely disseminated on the Internet. Not long afterwards, the Renovation and Construction Web site was closed down, but a number of excellent works posted on the Internet continue to circulate. When I discovered Ruyan on the Internet last summer, I reposted it on the Web site of my magazine, Beijing Spring. More than one friend in China told me: “You’ve got to read this book; it perfectly illustrates what you talk about in your essay ‘The Disease of Cynicism [Quanrubing].’” I had written that essay in 1998 to dissect and analyze the spiritual crisis in China after June 4th, and have since been told that it was widely disseminated on Web sites in China.

The novel Ruyan takes place in an unnamed city during the SARS outbreak. The main character, Ruyan, is a middle-aged woman who has been a widow for many years. A colleague introduces her to the vice-mayor of the city, and they fall in love. Meanwhile, Ruyan gets to know an intellectual named Dharma and others like him via the Internet. The SARS outbreak brings all sorts of previously hidden contradictions out in the open as people react differently to this unexpected occurrence. The novel provides a meticulous in-depth depiction of contemporary Chinese social life, and is especially revealing of the complex attitudes of intellectuals and the mental tenor of society as a whole.

The book gives an accurate account of June 4th and reveals the cynicism that flooded China afterwards, especially among intellectuals. In particular through the character Maozi (“little Mao”), the novel accurately depicts the cynicism of Chinese intellectuals as the result of the fear created by the massacre. As the character Dharma puts it, “Fear is often more powerful than killing. Killing only destroys the flesh, but fear can change the soul. The wildest rebel becomes the most tractable slave and serves as an example
to others of his kind. The most frightening thing about fear is that it lingers in the heart for a long time, and no one can excise it for you.”

When people talk about the moral decline of intellectuals in China today and the fact that they have lost their critical stance vis à vis the authoritarian power structure, they often sum it up as intellectuals having been bought out by the Communist Party. Many intellectuals themselves quite happily admit they’ve been bought out, because that suggests they’re worth something; they’re not ashamed to hear it said, and may even be a bit proud of it. Some even say, “If you take someone’s money, then you have to work for them. To take someone’s money and then criticize them just isn’t on.” Putting it this way implies that those intellectuals who maintain a critical stance toward the authoritarian regime are actually being unethical.

In fact, the Communist Party always uses two tactics: threats and inducements, and for most intellectuals, it is only after threats are effective that they are willing to accept inducements. As for saying that Deng Xiaoping made intellectuals happy, and that therefore intellectuals should be grateful and support the Deng Xiaoping line, everyone knows that the fortune of Chinese intellectuals underwent its great change during the late 1970s and early 1980s, before the 1989 Democracy Movement. So why was there a Democracy Movement in 1989, and why did intellectuals play a leading role in it? The decline of intellectuals into cynicism clearly took place after June 4th, and therefore must have been a product of fear. Can there still be any doubt about this?

The author does a brilliant job in depicting the debates between Maozi and Dharma. As Dharma presses his case, his questions grow sharper and sharper, and affect Maozi like the enlightenment represented by the sharp rap on the skull novice monks receive. Ultimately, Maozi decides to say goodbye to cynicism and regain his lost idealism. Of course he knows what sort of trouble and dangers this will bring, but what’s so extraordinary about that? Maozi says it well: “I tumbled into all this naked; what have I got to lose?” Furthermore, however oppressive China becomes, it can never be worse than under Chairman Mao.

Cynicism is a mental illness. Treatment of a disease generally requires diagnosing the disease and analyzing its causes. Cynics seldom want to admit their cynicism, and often fabricate all sort of specious theories and excuses to rationalize their cynical mindset. This complicates but also facilitates treatment. Precisely because most cynics are uneasy about cynicism, pointing out that they suffer from the disease might very well compel them to overcome it. In my view, this is the great and real significance of the novel Ruyan.

Translated by a friend of HRIC

The original Chinese article was posted on the Web site of HRIC’s monthly Chinese-language electronic journal, Ren Yu Renquan, http://www.renyurenquan.org/ryrq_article.adp?article_id=594

Note

1. The title character’s name, Ruyan, can be literally translated as “This is how it goes.” The title of the book is likewise often translated as This is How It Goes@SARS.com.

Review Notice

Zhao Ziyang: Captive Conversations (Zhao Ziyang ruanjin zhongdi tanhua)

Zong Fengming
Open Books (Hong Kong), January 2007
430 pp, HK$88

Hu Ping wrote a lengthy review of Captive Conversations for London’s Times Literary Supplement, published on June 1, 2007. The full article can be accessed at http://tls.timesonline.co.uk. Following are some highlights:

It is the revelation of this clear-minded reformist vision existing inside the Communist Party of China within living memory that has made Zhao Ziyang: Captive Conversations a book of explosive relevance and interest, and a surprise best-seller in Hong Kong . . .
Zhao Ziyang led an extraordinary life, and his failure to leave a memoir of his experiences is highly regrettable. Indeed, as pointed out by publisher Jin Zhong in the book’s forward, no senior Chinese communist official to date has produced anything that might be called a genuine memoir. “The large number of ‘revolutionary memoirs’ circulating in China were penned by Party writers and published only after heavy censorship,” Jin notes, “and they have little historic value.” We are indebted to Zong Fengming for giving us a book that goes some way to rectifying this situation…

Zhao’s rare integrity of vision led him to the ultimate sacrifice of his official status and his personal freedom. At the same time, his fall from grace left him little more to lose, and it is for that reason that we now have a book revealing his frank observations on China’s past and future.

My Country, My Prison

Postscript to China’s Bastille (Zhongguo Bashidi)

Li Guiren
Laogai Research Foundation Black Series, May 2007
354 pages, $22

Li Guiren was expelled from college during the Anti Rightist Movement in the 1950s. He worked as editor-in-chief of the Hua Yue Literature and Art Publishing House in Shaanxi before participating in the 1989 Democracy Movement, for which he was imprisoned in July 1989. He was released on medical parole in 1993 but immediately imprisoned again for continuing his pro-democracy activities. Li was released after completing his prison term in June 1994, by then 51 years old and in poor health.

I write for a living, and previously worked in the news industry, but at the age of 60, I still hadn’t authored a book. In fact, before the June 4 massacre, I’d already finished editing an anthology of my collected works, Humanitarianism—The Spirit of Literature, but before I could publish it, I was arrested. In the summer of 2005, while I was critically ill with a stroke, one of my oldest and dearest friends, in order to spare me regret, raised 20,000 yuan and had 500 copies of this book published and presented as gifts to friends. I was extremely grateful to him. At the end of that year, when I had recovered from the brink of death and could begin writing again, this same friend urged me to write about my experiences after June 4th as a valuable historical record for later generations. In early 2006, Yi Ping, the editor of Ren Yu Renquan, gave me similar encouragement. Their words moved me to put pen to paper.

Unfortunately, the materials that I had entrusted to a friend after my release from prison in 1994 were unexpectedly lost and almost all destroyed. I could only attempt to reproduce them as accurately as possible from memory. My health, already poor, was further weakened by repeated strokes, and inevitably my memory was affected. As a result, I was unable to write many things that I should have.

Initially I fell into despondency; I suffered a great loss of self-confidence and doubted I could write anything that would hold a reader’s interest. Fortunately, I was able to dig deep within myself and find the strength to carry on. I didn’t abandon my efforts, and at last, haltingly, in the midst of my illness, I was able to write several pieces. Quite frankly, they lacked weight, substance and elegance, and in many places their inadequacies were so glaring that I was ashamed to let others read them. But conscious that my days were numbered, I realized that I couldn’t nitpick over my essays as I had in the past, and disregarding their crudeness and inferiority, I simply published what I had written.

The Web sites of Ren Yu Renquan, Democracy Forum and the Independent Chinese Pen Center all provided valuable opportunities for me. What I didn’t anticipate was that some of my articles would attract wide attention as soon as they were published. My articles were reposted on Web sites in North America, Europe, Australia, Hong Kong and Taiwan, and even on Web sites and blogs in mainland China.

Not long afterward, a man named David in Hong Kong sent me an email saying he would like to recommend my articles to the head of America’s Laogai Research Foundation, Mr. Harry Wu Hongda, to be collected into a volume for publication and distribution worldwide. This naturally brought me great and unexpected happiness and encouragement.

BOOK REVIEWS | 217
Besides being extremely grateful, I felt inspired to redouble my efforts, striving to finish the remaining articles a little faster and write them a little better. After losing two months to illness, I finally completed the bulk of the project, and handed in the manuscript. I now feel that I’ve completed something worth celebrating, and can die content.

The records of those who personally experienced the June 4th Massacre and its aftermath, as well as those of witnesses and researchers, already fill an immense number of books. Compared to this, my contribution is merely a drop in the ocean, hardly worth mentioning. All I can offer are the inconsequential perspectives and reflections resulting from my own unremarkable experiences. Observations of society, political analysis, thoughts on human existence—the are the sources of my writings. The collective product is an indictment of a rights-butcherding dictatorship.

The content of the middle section of this book is a miscellany of personal reflections, a record of events from the Cultural Revolution, mourning over the departed, and commentary on current politics. Some of the content was first published overseas in the magazines *Beijing Spring* and *Open Magazine*, as well as on the Web sites of Peacehall, Democracy Forum, Independent Review, New Century and Free Commune. Many were first published in China on the Kdnet "Cat’s-eye View" forum, which I managed for a short time in the spring of 2004 under the penname “Ai’er.”

The final section of the book contains previously unpublished material, as well as articles on literary theory and criticism culled from the volume my friend published on my behalf. Most of the essays were written in the 1980s, and to some extent can be said to reflect the essence of Chinese literature, and even Chinese society, at that point. The tone is somewhat different from that of the first and second sections, but the substance is essentially the same.

If asked to draw some sort of conclusion from my records, I could only say this: In the past, China was the world’s greatest, darkest and most brutal prison, and now it is still the world’s greatest, darkest and most brutal prison. People bearing the crushing weight of despotism, especially those with independent personalities and free spirits, no matter where they are, no matter what they do, are all serving life sentences in this prison.

When I was locked up in jail, my son, who was studying English at a university, wrote an excellent article that moved me. The article discussed how my experience reminded him of Dickens’ *A Tale of Two Cities*, and the circumstances of that novel’s Dr. Manette, who was imprisoned in the Bastille.

The Bastille! The Bastille that I have raged against in my heart for decades!

That fortress of a feudal, despot government, stormed and captured by the people of Paris in 1789!

Does China have a Bastille? Who dares to say it doesn’t? All of China is exactly that—a Bastille!

China’s Bastille—how long will you ravage the country? How long can you?

Translated by a friend of HRIC


For more information on the Black Series and other publications of the Laogai Research Foundation, see http://www.laogai.org/news/index.php.

Notes

Liu Binyan, a pathbreaking investigative journalist, was twice expelled from the Chinese Communist Party. Within months of Liu’s death in 2005, the eminent sinologist Perry Link brought out for English-speaking readers this selection of his friend’s writings. Although it is largely a revision of a collection published in the 1980s, *Two Kinds of Truth* contains new material. Particularly valuable is the opening interview, conducted a year before his death, in which Liu traces the evolution of his thinking. Each piece has detailed end-notes to explain the context for the general reader. The translations, provided by a group of scholars including Link himself, have been done with great fluency.

Liu Binyan began working as a reporter in 1950, and in 1988 he left China forever. For more than half that time (1957–1979) he was forbidden to work as a journalist: labeled a “rightist” for writing two exposes in 1957, he continued to suffer during the Cultural Revolution. Most of the pieces in this volume date from a period of intense activity between 1979 and 1986. Many of them represent “reportage,” a genre that seeks meaning behind the facts in an extended, somewhat literary, format.

To write “People or Monsters,” Liu traveled to his native province to “dig deeper” into the story of a woman recently arrested there. The chaos of the Cultural Revolution had allowed a semi-literate cashier at a small coal company to wheedle her way up. Once named manager and admitted to the Party, she had set about leveraging the company’s resources to weave a web of graft and embezzlement that not only enriched her but made her for a decade the de facto county boss. Liu details the mechanics of corruption. After reviewing the minutes of an oversight committee from the years of the worst abuses, he notes wryly, “The Communist Party regulated everything, but would not regulate the Communist Party.” Yet he still believed that, with improved morality, the system could be made to work.

In “Sound is Better than Silence,” Liu tells of a Sichuan farmer who found an ingenious way to escape political witch-hunts: he pretended to be deaf and dumb. He kept this up, even with his family, for 11 years. The most powerful parts of this narrative are flashbacks to the 1950s that help explain the famine that swept China during the Great Leap Forward. Liu describes the farmer’s cognitive dissonance:

... he often felt a struggle going on in his mind. There was one voice that accused him of being too conservative, backward ... Another voice kept saying other kinds of things: The crops are sown too close together, aren’t they? The production target is set too high, isn’t it? ... This voice was rather weak and timid, but it accored with Zhou Jiajie’s experience and the things he understood so well. ... [H]e began to listen to the second voice.

This echoes the concept of “two kinds of truth” that Liu set forth in a 1979 speech, and which provides the title for this book. To Liu, it’s clear which truth had to prevail. Less clear is the degree of conviction with which he called them both “truth.”

“The Fifth Man in the Overcoat” is a short story that, like other “Scar Literature” that blossomed in the wake of the Cultural Revolution, explores the sufferings of individuals stigmatized during the political campaigns that convulsed China for 20 years. Liu, however, does not settle for official exoneration as a happy ending. He shows the same corruption and dishonesty at work in the aftermath as in the time of darkness; there is little justice either for the victims or for those who wronged them.

“Report on a Void Investigation” tells how a well-known petitioner, Wang Fumian, was arrested and dragged back to his home province the night before he was to meet Liu in Beijing. The subsequent opaque legal proceedings had an unusual outcome: the troublemaker was judged insane and
remanded for life to a psychiatric hospital under the direction of the province’s Public Security Bureau.

With a team from his newspaper, Liu tried to investigate. After weeks of stonewalling, they succeeded in interviewing Wang, who appeared sober and reasonable. But obstacles multiplied. People with information disappeared or were reported to be ill. All files relating to the case were sealed. Plain-clothes guards outside their residence turned away several people who wished to speak with the reporters. By sneaking out at night, Liu and his colleagues managed to gather enough information to write three articles. But as soon as a former provincial boss who had achieved high office in Beijing condemned the first article for “serious errors,” the remaining two became unpublishable. Liu’s account, his last work to be published in China, anticipates themes that came to the fore in later decades: the abuse of psychiatry as an instrument of political control, and the crude brutality of provincial officials who don’t have to answer to anyone.

The volume ends with two essays written in exile. One reviews Zheng Yi’s Red Memorial, an investigation into incidents of cannibalism that occurred in the Guangxi region during the Cultural Revolution. Unlike the desperate acts that had occurred in some provinces during the famine of 1959–60, this cannibalism was motivated by political hatred: “Eating class enemies had become recognized as a revolutionary act.” Zheng Yi’s account of the final, “hysterical” stage of this movement is painful to read.

The second essay, on which Liu collaborated with Perry Link, reviews the early economic research of He Qinglian, whose work will be familiar to readers of China Rights Forum. Liu and Link provide a lively summary of He’s insights into the “marketization of power,” and reflect on the changing tone of Chinese society during the 1990s.

The book appeals on several levels. Liu had a reporter’s eye for the telling detail, the emblematic incident; but he also strove to understand the big picture and sometimes made startling connections, as when he says that, without the Cultural Revolution, China would have followed the same path as North Korea. This combination of skills gives most of these pieces an enduring value.

One cannot read Liu Binyan uncritically, however. When he says he had no serious doubts about Mao until 1975, this suggests something of a blind spot.

One is left, above all, with a sense of his integrity. During his years as a pariah, he was often separated from his family. One lengthy work assignment was to haul human excrement around the capital; another billeted him with a peasant family during the bleakest years of the famine. Yet he never brandished this experience as either a grievance or a distinction: he was more concerned with the fate of those who had suffered worse, and with what those injustices signified for China. However sophisticated and worldly he may have been as a journalist, his fundamental motivations appear to have been extremely simple: he loved his country and wanted to serve it. “Here lies a Chinese,” he proposed for his epitaph, “who did what it was his duty to do, and said what it was up to him to say.” Although it was a great personal loss for Liu to be barred from China after 1989, Perry Link suggests that China lost far more.

And China has lost not only what Liu could have contributed during those years of exile, but what he had achieved before. In December 2005, a newspaper editor was invited to give a lecture at a school of journalism in Beijing. Having just learned of Liu’s death, he asked the class, “Do you know Liu Binyan?” His account (as translated by Roland Soong) continues:

... there was silence in the room. After a while, someone whispered, “I know.” But it was an uncertain “I know.” I asked again, “Do you know which are the most representative works of Liu Binyan?” There was dead silence in the audience. I believe that with the exception of the professor who invited me, none of the attending graduate students had read anything by Liu Binyan.

The editor, Lu Yuegang, wrote an essay recounting this visit. He was fired for it. Even in death, Liu Binyan enjoys what a contemporary poet has called “extraordinary esteem.”
Two previous issues of CRF (No. 2, 2003 & No. 2, 2005) have published a resource list of Web sites relating to Chinese law and useful for researching China’s laws and legal system. Following is an updated resource list for researching Chinese law.

ONLINE SERVICES AND FULL TEXT DATABASES

IsinoLaw
http://www.isinolaw.com
English, Chinese
This Hong Kong-based bilingual commercial database provides expansive coverage on the laws and regulations of the PRC and Hong Kong. Moreover, it is probably the best place to find English versions of newly enacted laws or regulations for the PRC and Hong Kong at present.

Law Info China
http://www.lawinfochina.com
English
This English-language resource on Chinese law is maintained by Chinalawinfo Co., Ltd., and the Legal Information Center of Peking University. The membership Web site provides a detailed introduction to the judicial system in China, a large collection of laws and regulations and white papers, and updated legal news.

Law Star
http://www.law-star.com
Chinese
This Web site provides a comprehensive collection of Chinese laws, regulations, case analysis, law papers and blogs by legal scholars.

Lawyee
http://lawyee.net
Chinese
This Beijing-based online database provides full text case reports in Chinese on a fee basis, along with legal news articles.

Legal Database
http://www.lawyer.ln.cn/lex.htm
Chinese
This online database provides a large collection of full-text national and local laws, international treaties that China has signed, and court judgments and judicial interpretations. It also includes a small number of international treaties in English. The database was most recently updated in April 2006.

OFFICIAL GOVERNMENT RESOURCES

All China Lawyers’ Association (ACLA)
http://www.acla.org.cn
English, Chinese
The ACLA is the professional bar association for Chinese lawyers at the national level, which by law carries out professional administration over lawyers. All lawyers of the People’s Republic of China are members of ACLA, and local lawyers’ associations are group members of ACLA. Law resources and information on lawyers’ associations in major Chinese cities are provided on this Web site.
China.org.cn: The Legislative System of China  
http://www.china.org.cn/english/features/legislative/75857.htm  
English  
This Web site provides an overview of the Chinese legislative system through an official gateway to news and information. Examples include the lawmaking powers of the National Peoples’ Congress and the State Council, and lawmaking powers at the local level.

China Court  
http://en.chinacourt.org  
English, Chinese  
This Web site, sponsored by the Supreme People’s Court of the PRC, focuses on judicial news and legal information. Access is free, and laws and regulations are available in English. However, court judgments are not easily available on this site, and the database can only be searched by using keywords.

National Institute of Law  
http://www.iolaw.org.cn  
English, Chinese  
Established by the Chinese Academy of Social Sciences, the Institute’s Web site provides legal analysis as well as information on the institute’s activities.

People’s Congress Research  
http://www.rdyj.com.cn  
Chinese  
This Web site of a research institute established under the Standing Committee of the People’s Congress in Gansu includes an online monthly periodical that examines various aspects of political representation in China, along with legal issues.

PRC Ministry of Justice  
http://www.legalinfo.gov.cn  
English, Chinese  
The site contains relevant news and announcements related to the Ministry’s duties, including the drafting of laws and regulations, the regulation of the legal profession, court and prison system, and information regarding the Ministry’s activities.

The Supreme People’s Court of the PRC  
http://www.court.gov.cn/  
Chinese  
The official Web site of the Supreme Court covers information similar to that of China Court, but the provisions do not include hyperlinks, and the search function is less user friendly. This site contains directory information about the Court and also provides databases on statutes and regulations, along with the court’s own interpretations. “Important Cases” (dianxing anli) are excerpted from the Gazette of the Supreme People’s Court, but the cases are not indexed.

The Supreme People’s Procuratorate of the PRC  
http://www.spp.gov.cn  
Chinese  
The Web site of the Supreme People’s Procuratorate of the PRC introduces the Chinese procuratorate system and the structure of the Procuratorate. It maintains a vast collection of the major national laws and case analyses, and working reports of the National People’s Congress from 1987 to 2000, information rarely accessible in other databases. The databases, however, are not searchable.

LEGAL RESEARCH TOOLS AND DIRECTORIES

Chinese Civil Law Network  
http://www.cclaw.net  
English  
This site offers a collection of Chinese laws and articles covering civil law areas such as property, contract and company law. This site is sponsored by Babelcom, a network of professionals offering legal consulting and related services to companies doing business in China in areas such as trading, technology licensing or direct investment. Most of the material requires payment on a per-piece basis.

A Complete Research Guide to the Laws of the People’s Republic of China (PRC)  
http://www.llrx.com/features/prc.htm  
English  
This online guide is produced by two U.S.-based Chinese legal research specialists, Wei Luo and Joan Liu. It provides an overview of the Chinese legal system and a guide to both Web-based and printed Chinese legal resources categorized by topic.
trends in China. However, it appears to be published irregularly, with the first two issues published in 2004 and the third in December 2006.

China Law and Practice
http://www.chinalawandpractice.com/
English
This is the electronic version of the journal of the same title published by Asia Law and Practice. This commercial journal offers the most current reports, translations and commentaries on new laws and legal development in China, and has multiple search functions. Access to certain areas of the Web site requires free registration.

China Law Digest
http://www.chinalawdigest.com
English, Chinese

China Law Magazine
http://www.cnlaw.com.hk
English, Chinese
The print version of the bilingual quarterly China Law Magazine, sponsored by the PRC’s Ministry of Justice, is published in Hong Kong. The Web site provides abstracts of articles from the magazine.

Chinese Academic Journals Database
http://online.eastview.com
English
This U.S.-based database provides law reviews and law-related articles with English abstracts for a fee. The Web site is run by East View, a digital information services company.

Hong Kong Law Journal
http://www.hku.hk/law/hklj
English
The Hong Kong Law Journal is an English-language scholarly journal on mainland and Hong Kong law. The abstracts on this Web site have not been updated since 2002. Full and current articles can be obtained in hardcopy or through fee-paying databases such as LexisNexis.
Journal of Comparative Law
Chinese
http://www.unusuniversus.com/bjfx/bjfyj.html
This journal is published by the Institute of Comparative Law at the China University of Politics and Law. A number of full-text articles are available online, the most recent posted in 2005.

Peking University Law Journal
http://www.chinalawinfo.com/ad/20051103/zwfx_jj.asp
Chinese
This Web site offers abstracts and hardcopy subscription information for the print journal.

Renda Baoka Series Online
http://www.tpcincweb.com/cld/nyu.html
Chinese
This Web site provides a database of law reviews and law-related articles in Chinese, as well as information on a variety of subjects in the social sciences and humanities. It is maintained by Treasure Presentation China-USA, Inc., a company specializing in online digital library services and literature database products.

BLOGS AND FORUMS

British Council: China Young Lawyer Online Community
http://yloc.britishcouncil.org.cn/en
English, Chinese
This Web site provides a forum for young lawyers to discuss items related to Chinese law, as well as information on legal employment opportunities across China.

China Digital Times: Law
http://www.chinadigitaltimes.net/law
English, Chinese
China Digital Times is a collaborative news Web site aggregating information on China's social and political transition and its emerging role in the world. The Web site, run by the Berkeley China Internet Project of the Graduate School of Journalism at the University of California, Berkeley, includes a “Law” section with legal news and analysis from a variety of online sources.

China Law Blog
http://www.chinalawblog.com
English
This blog is written by two international lawyers, Steve Dickinson based in China, and Dan Harris in the United States. It is primarily focused on issues and news surrounding Chinese business law.

China Law Prof Blog
http://lawprofessors.typepad.com/china_law_prof_blog
English
This Web site is run by Donald C. Clarke, a Professor of Law at George Washington University and a member of the Law Professor Blog Network. The site provides commentary on Chinese law, as well as links to various English translations and Chinese legal research guides.

Chinese Law and Politics Blog
http://sinolaw.typepad.com/chinese_law_and_politics_
English
The Blog is run by Carl Minzner, a China specialist and fellow at the Council on Foreign Relations. It provides legal and political news, as well as commentary and analysis of these issues.

China Human Rights Lawyers Concern Group (CHRLCG)
http://www.chrlcg-hk.org
Chinese, English
The group, established by members of the Hong Kong legal profession, university professors and legislators in January 2007, advocates for the protection of rights defense lawyers in China. The Web site contains articles and links to news concerning the weiquan movement in China, as well as information regarding events organized by the CHRLCG.

China Labour Bulletin
http://www.clb.org.hk/public/main
English, Chinese
This Web site of the Hong Kong-based NGO contains information and analysis on Chinese labor law.
See also: HRW’s Report: “A Great Danger for Lawyers”
http://hrw.org/reports/2006/china1206
English
This report examines the negative impact of the recently introduced “Guiding Opinions on Lawyers Handling Mass Cases” issued by the ACLA on efforts to build the rule of law in China.

International Bridges to Justice (IBJ)
English
http://www.ibj.org/china.html
IBJ is an independent non-profit organization dedicated to ensuring that all citizens know their basic legal rights, have equal access to competent counsel and obtain a fair trial. In China, IBJ works in partnership with the Ministry of Justice’s National Legal Aid program to publicize citizens’ rights and provide practical training and support to defense lawyers. The Web site provides an overview of IBJ’s projects and activities.

http://hrichina.org/public/contents/34781
English
This Trends Bulletin examines several aspects of the Chinese Government’s attack on lawyers and its implications for the development of an independent, transparent and accountable legal system.

See also: Renyu Renquan
http://www.renyurenquan.org
Chinese
HRIC’s monthly online Chinese-language journal offers in-depth analysis, investigative reports and research papers. Its Human Rights and Law section carries commentaries and articles on Chinese legal issues.

U.S.-China Law Society
http://www.uschinalawsociety.org/index.htm
English, Chinese
The U.S.-China Law Society is an independent non-profit organization based in Cambridge, Massachusetts, dedicated to advancing legal reform and the rule of law in China. Its members include lawyers, legal scholars, policy makers and law students, as well as economists, political scientists, journalists and other members of the public who are interested in China’s legal and institutional reform issues. Its Web site contains commentary and analysis of China’s legal system. It also provides news, but many of the articles are at least three years old.

Human Rights Watch (HRW)
http://hrw.org
English
Human Rights Watch is an independent nongovernmental organization dedicated to protecting the human rights of people around the world.
TAKE ACTION

This new regular feature, “Take Action,” provides up-to-date information about lawyers, or “defenders of human rights defenders,” under fire, and what you can do to help, along with links to current updates on our Web site. In each issue of CRF, a group of imprisoned human rights defenders will be introduced, along with ways to engage with NGOs, the United Nations and the Chinese government about these cases. The “What you can do” section will provide more details on the ways you can help and get involved.

Check out HRIC’s Web site for the most up-to-date information on these individuals’ cases, at www.hrichina.org and www.zhongguorenquan.org.

Compiled by Carol Wang and Vivian Shen

INTRODUCTION TO THE SITUATION OF CHINESE LAWYERS

China’s legal profession has encountered increasingly severe crackdowns in recent years. Lawyers have faced institutional setbacks including 1) the misuse of Chinese law and tightening of regulations to undermine defense work 2) procedural obstacles to hinder defense of criminal defendants, and 3) personal assault and intimidation of lawyers, in addition to surveillance, harassment and detention.

These alarming trends raise doubts about the Chinese government’s commitment to its stated objective of establishing a rule of law. Through official use of legal and extra-legal means to silence and control public dissent and unrest, this crackdown further calls into question the openness and fairness of the Chinese judicial system and the future of an independent bar in China.

LAWYERS UNDER ATTACK

<table>
<thead>
<tr>
<th>NAME</th>
<th>CASE SUMMARY</th>
<th>CURRENT STATUS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yang Maodong (also known as Guo Feixiong)</td>
<td><strong>Yang Maodong</strong>, better known as <strong>Guo Feixiong</strong>, 40, is a writer and rights defender who provided legal advice in several controversial rights defense cases. He served in 2005 as an advisor to the law firm of Beijing lawyer Gao Zhisheng, and in July 2005 provided legal support to villagers in Taishi Village, Guangdong Province, who were demanding the resignation of a village official accused of corruption. Guo was detained for “disturbing the peace” and spent three months in prison, during which he went on a hunger strike for 59 days to protest abuse he suffered in custody. Following his release without a formal charge on December 27, 2005, Guo was beaten by public security officers on three occasions in 2006. His current detention stems from editing work he did in 2001 for <em>Shenyang Political Earthquake</em>, a book published in Liaoning Province regarding a political scandal in Shenyang City. He is scheduled to go on trial on June 15 in Guangzhou’s Tianhe District Court.</td>
<td>In prison: Guangzhou Municipal No. 3 Detention Center</td>
</tr>
</tbody>
</table>

Portraits by Fan Ye
<table>
<thead>
<tr>
<th>NAME</th>
<th>CASE SUMMARY</th>
<th>CURRENT STATUS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chen Guangcheng</td>
<td><strong>Chen Guangcheng</strong>, a blind self-taught lawyer, published an online report on official abuses in implementing family planning policy in Linyi, Shandong Province, and <strong>organized a class-action lawsuit against the local government over the practice of sterilization and forced late-term abortions</strong> in June 2005. He is currently serving four years and three months in prison for “damaging public property” and “gathering people to block traffic.” Prior to his arrest, Chen was repeatedly assaulted by the police. From March to June 2006, Chen was detained without access to counsel. His trial took place without the presence of his legal team, and he was sentenced on August 24, 2006. An appeal court ordered a new trial, which was held on November 27. Prior to his retrial, most of Chen’s defense witnesses were detained or abducted, and the verdict against him was upheld based only on written documents on January 12, 2007.</td>
<td><strong>In prison:</strong> Yinan County Public Security Bureau Detention Center (last reported) <strong>Anticipated release: 2010</strong></td>
</tr>
<tr>
<td>Zheng Enchong</td>
<td><strong>Zheng Enchong</strong>, a lawyer, <strong>represented Shanghai residents in disputes with real estate developers over forced evictions stemming from urban redevelopment.</strong> In 2001, Shanghai authorities revoked his law license in an attempt to stop him from counseling displaced residents; however, he continued to assist them in more than 500 cases until his detention on June 6, 2003. Zheng served a three-year prison sentence for “leaking state secrets abroad” after he contacted Human Rights in China about property disputes. Released in June 2006, he has since remained under surveillance, and is constantly harassed by the police. His political rights have also been suspended for one year, and he has not been allowed to resume the practice of law. In a 2007 interview with Radio Free Asia, Zheng revealed that if he promises not to leave the country after his political rights suspension expires in June 2007, the authorities have promised to expedite review of his case.</td>
<td><strong>Under house arrest:</strong> Shanghai <strong>Released in June 2006, he has since remained under surveillance, and is constantly harassed by the police. His political rights have also been suspended for one year, and he has not been allowed to resume the practice of law. In a 2007 interview with Radio Free Asia, Zheng revealed that if he promises not to leave the country after his political rights suspension expires in June 2007, the authorities have promised to expedite review of his case.</strong></td>
</tr>
</tbody>
</table>
SEND MESSAGES OF SUPPORT

Please remove the postcard from the insert, and send a personal message of support to these prisoners and their families. A simple note of encouragement can bring hope to those who are imprisoned. Let them know that they are not forgotten!

Because of the sensitivity and heightened surveillance over these individuals and their families, HRIC will collect all postcards and transmit these messages in a safe and secure way.

**NAME**

**CASE SUMMARY**

**CURRENT STATUS**

**Gao Zhisheng** is a lawyer known for his work defending underground Christians, dissidents and other lawyers detained for human rights work. Gao had his license to practice law revoked in 2005, and was monitored by the police for organizing a hunger strike to call attention to attacks on legal activist Yang Maodong.

Gao was convicted of “inciting subversion” and was sentenced to three years’ imprisonment with a five-year suspension and a one-year deprivation of political rights on December 22, 2006. He was denied access to his family-appointed lawyers and ultimately pleaded guilty, represented by two government-appointed lawyers. Gao had been under surveillance and beaten by police before he was detained on August 18, 2006 “for suspected involvement in criminal activities.” Dozens of dissidents signed a petition for his release, and many were put under house arrest for varying periods of time. Gao’s wife and two children have also been periodically confined to their home. Gao remains under surveillance.

**Under house arrest:** Beijing
CALL FOR THEIR IMMEDIATE AND UNCONDITIONAL RELEASE

Join the international community in calling for the immediate and unconditional release of these and other human rights defenders. You can send copies of letters expressing concern for prisoners to:

Permanent Mission of the People’s Republic of China to the United Nations Office at Geneva and other International Organizations in Switzerland
11, Chemin de Surville
1213 Petit-Lancy
Geneva, Switzerland
Email: mission.china@ties.itu.int

President Hu Jintao
The State Council General Office
2 Fuyoujie
Xichengqu
Beijingshi 100017, PRC

Minister of Justice, Wu Aiying
Ministry of Justice
10 Nandajie Chaoyangmen
Chaoyangqu
Beijingfu 100020, PRC
Fax: 011 86 10 65 292345
Email: minister@legalinfo.gov.cn

Minister of Foreign Affairs, Li Zhaoxing
Ministry of Foreign Affairs
2 Chaoyangmen Nandajie
Chaoyang District
Beijingfu 100701, PRC

And for those subjected to ill-treatment:

Chinese Medical Association
42 Dongsi Xidajie
Beijing 100710, PRC
Fax: 86-10-6512-3754
E-mail: cmafrd@public3.bta.net.cn

International Committee of the Red Cross
19 avenue de la Paix
CH 1202 Geneva, Switzerland
Fax: 41 (22) 733 20 57

SEND MESSAGES OF CONCERN TO UN BODIES AND URGE THEM TO TAKE APPROPRIATE ACTION

Special Rapporteur for Independence of Judges and Lawyers
c/o Office of the High Commissioner for Human Rights
United Nations office in Geneva
8-14 Avenue de la Paix
1211 Geneva 10, Switzerland
Fax: 011 41 22 917 9003
Email: urgent-action@ohchr.org

BASIC FACTS
The mandate of the UN Special Rapporteur for the Independence of Judges and Lawyers is three-fold:

• to inquire into any substantial allegations transmitted to him and to report his conclusions thereon;
• to identify and record not only attacks on the independence of the judiciary, lawyers and court officials but also on progress achieved in protecting and enhancing their independence, and make concrete recommendations, including the provision of advisory services or technical assistance when requested by the State concerned;
• to study, for the purpose of making proposals, important and topical questions of principle with a view to protecting and enhancing the independence of the judiciary and lawyers.

PROCESS

• Allegation letters: The UN Special Rapporteur acts on information submitted to his attention regarding alleged violations regarding the independence and impartiality of the judiciary and the independence of the legal profession by sending allegation letters and urgent appeals to concerned governments to clarify and/or bring these cases to their attention.

• Urgent appeals: In rare cases of particularly grave allegations of violations, for example, threats to life, the Special Rapporteur will send an urgent appeal to the concerned country. This government will then be expected to respond expeditiously to the Special Rapporteur’s request for information or explanation.

• Submissions:
  • Can be made by various actors, including NGOs and individuals;
  • Should include information about the alleged vic-
tim and the event or interference alleged, corroborative sources and relevant law in force.

- **Decisions:**
  - If the Special Rapporteur believes the information submitted is prima facie credible, he or she will transmit the letter to the concerned government in order to obtain a response from the government.
  - The government concerned will be expected to respond expeditiously to the Special Rapporteur’s request for explanation or information.

- **Country visits:** The Special Rapporteur also conducts country visits, which can be initiated through a request by the Special Rapporteur to the government concerned, or by a government directly inviting the Special Rapporteur. Both cases require the government’s consent.

The Special Rapporteur reports annually to the United Nations about the activities undertaken during the year, highlighting important issues or areas of concern, summarizing the urgent appeals, allegation letters and other communication with governments, and additional comments by the Special Rapporteur on various country situations.

**SEND MESSAGES TO THESE ORGANIZATIONS AND ASSOCIATIONS, URGING THEM TO INTERVENE ON BEHALF OF THESE LAWYERS IF THEY HAVE NOT ALREADY DONE SO**

**International Commission of Jurists**

Center for the Independence of Jurists and Lawyers (CIJL)
P.O. Box 91
33 rue des Bains
1211 Geneva 8, Switzerland
Fax: 011 41 (0)22 979 3801
Email: info@icj.org

**BASIC FACTS**
The International Commission of Jurists’ Center for the Independence of Judges and Lawyers works to promote and protect judicial and legal independence and impartiality through a variety of means:

- Intervenes with governments in particular cases of harassment of jurists;
- Observes trials which impact upon judicial independence or where lawyers are targeted;
- Conducts fact-finding missions to countries where the functioning of the judiciary is under serious threat;
- Organizes seminars to promote the UN Basic Principles on the Independence of the Judiciary and the UN Basic principles on the role of Lawyers;
- Publishes country reports documenting cases of harassment and persecution of judges and lawyers throughout the world.

**All China Lawyers Association: Commission on Safeguarding Lawyers’ Lawful Rights in Practice**

5th Floor, Qinglan Mansion
No. 24 Dongsi Shitiao
Dongsheng District, Beijing, PRC
Fax: 011 86 (010) 64060207
Email: cilec@public.bta.net.cn

**BASIC FACTS**
The All China Lawyers Association (ACLA) serves as a self-disciplined professional body for lawyers at the national level, which by law carries out professional administration over lawyers. All lawyers of the People’s Republic of China are members of ACLA, and local lawyers’ associations are group members of ACLA. The aim of the ACLA is to unite and educate its members to protect the dignity of the Constitution and law; to be faithful to the legal profession and abide by professional ethics and rules of conduct; to defend lawful rights and interests of its members; to enhance professional competence of lawyers; to strengthen professional self-regulation for sound development of the legal profession; and to build up the socialist state with rule of law and develop social civilization and progress.

**PROCESS**
The ACLA’s Commission on Safeguarding Lawyers’ Lawful Rights in Practice guides the safeguarding of lawyers’ rights at national and local levels; crafts measures for lawyers’ associations to safeguard lawful practice; and forwards proposals to related organs about further normalizing and safeguarding lawyers’ rights to practice.
International Bar Association: Human Rights Institute (HRI)
10th Floor
1 Stephen Street
London W1T 1AT, United Kingdom
Fax: 011 44 (0)20 7691 6544
http://www.ibanet.org/humanrights/headerpage.cfm

**BASIC FACTS**
The HRI works to promote, protect and enforce human rights under a just rule of law in a variety of ways. These include: training lawyers, judges and prosecutors in human rights law and international humanitarian law; pioneering training programs to strengthen the judiciary in post-conflict countries or countries where basic state infrastructure may have been eroded; undertaking fact-finding missions and sending trial observers to countries where the rule of law has deteriorated; making representations to authorities worldwide where individuals or the independence of the judiciary has been threatened; galvanizing international support to lobby for change through media and advocacy campaigns; and providing long-term technical assistance to under-resourced Bar Associations and Law Societies.

**PROCESS**
The HRI welcomes members from across the legal, social and political spectrum; indeed, many of HRI’s most active participants do not practice human rights law in their daily lives but, through membership of the HRI, demonstrate their commitment to supporting human rights and the freedom of the profession.

American Bar Association: Asia Division, Rule of Law Initiative
740 15th Street, N.W.
Washington, DC 20005-1019
Fax: (202) 662-1684
Email: abaasia@abanet.org
http://www.abanet.org/aba-asia/projects/china.shtml

**BASIC FACTS**
Over the past several years, ABA-Asia has focused on building Chinese capacity to advocate for citizens’ rights. ABA-Asia works with local partners to identify and begin to address legislative, structural, organizational, financial and other barriers to effective broad-based advocacy. In practical terms, the ABA-Asia works to strengthen the Chinese bar for its critical role as an advocate for citizens’ rights and the rule of law.

**PROCESS**
ABA-Asia works with the All China Lawyers Association (ACLA), local bar associations, non-governmental organizations, law schools and legal aid providers to support the development of public interest litigation in China.

**STAY INFORMED**

**Human Rights in China resources:**


Supporting Human Rights Defenders in China

HRIC’s advocacy supports Chinese grassroots activists, journalists, lawyers and other rights defenders inside China. HRIC actively engages with policymakers and governments, and collaborates with diverse NGO partners. HRIC works to generate constructive international pressure to promote greater civil space for human rights defenders and activists in China working for social, legal and democratic change.

GENERATING GREATER INTERNATIONAL ATTENTION

HRIC engages directly and indirectly with the Chinese government on individual cases and current human rights issues through participation in international processes. In May, Executive Director Sharon Hom and European Liaison Officer Isabella Nitschke attended a briefing for EU Parliament members organized by the EU Parliament’s Subcommittee on Human Rights. Ms. Hom was invited to present an assessment of the human rights situation and the impact of the EU-China bilateral dialogue.

HRIC attended the 4th session of the Human Rights Council in Geneva in March. Executive Director Sharon Hom, Law Program Officer Elisabeth Wickeri, European Liaison Officer Isabella Nitschke and Program Officer Carol Wang participated in NGO side panels, networked with NGO representatives, and raised individual rights defenders cases and human rights issues with UN special procedures, including Special Rapporteurs and working groups.

PROMOTING MEDIA ATTENTION AND AN INDEPENDENT REVIEW OF CASES

In 11 of the 12 press releases and statements issued from March through May 2007, HRIC advocated on behalf of mainland Chinese rights activists and defenders, including Uyghur activist Ablikim Abdureyim, Three Gorges activist Fu Xiancai and rights defender Guo Feixiong, among others.

To bring attention to cases of individuals detained in violation of international human rights and to promote an international independent review of those cases, HRIC regularly makes submissions to the UN Working Group on Arbitrary Detention with factual information and analysis of international and Chinese Law. Since 2002, HRIC has submitted a total of 43 cases to the Working Group, including those of journalist Shi Tao and pro-democracy activist Hu Shigen. This year, the Working Group determined that both activists are being detained in violation of international law. Of the 14 cases from HRIC for which a final decision has been reached, all have been determined to be arbitrary. As a result of these determinations by the Working Group, the Chinese authorities have responded to the Working Group with increasingly greater detail on the abuses and violations submitted by HRIC.

Cultivating the Conditions for Long-term Social and Political Change

HRIC promotes a growing human rights consciousness among citizens inside China through our collaborative work with civil society groups and by providing uncensored information to Internet users on the mainland. At the same time, HRIC’s advocacy and research contributes to generating constructive solutions to systemic problems. HRIC also conducts academic outreach and a rigorous internship program to seed greater interest in the human rights field.

CONTRIBUTING TO POLICY DEBATES

As part of the Carnegie Debate Series “Reframing China Policy,” hosted by the Carnegie Endowment, Executive Director Sharon Hom was invited to debate Professor Jacques DeLisle of the University of Pennsylvania on the topic “U.S. Engagement and Human Rights in China.” The March 5 debate, moderated by Pei Minxin, director of the China Program and senior associate at the Carnegie Endowment, examined specific opportunities for gaining greater traction for human rights reforms through U.S. engagement with China. The debate drew an audience of...
more than 85 representatives from NGOs, policy groups, think tanks and the U.S. Government. To view the webcast, please go to: http://www.carnegieendowment.org/events/index.cfm?fa=eventDetail&id=961.

**ENGAGING DIVERSE STAKEHOLDERS**

To identify practical solutions to the human rights challenges faced by technology companies doing business in authoritarian countries, HRIC has been participating in a private multi-stakeholder process convened by Business for Social Responsibility (BSR) and the Center for Democracy and Technology (CDT). This collaboration between a diverse group of companies, academics, investors, technology leaders and human rights organizations aims to draft and adopt guidelines for participating

---

**HRIC REPORTS AND PUBLICATIONS**

**China: Minority Exclusion, Marginalization and Rising Tensions**

HRIC’s study on China, launched on April 25, is part of a multi-country project by the Minority Rights Group examining linkages between issues of conflict, inequitable development and minority rights. HRIC introduced the report at NGO events during the 4th session of the UN Human Rights Council in Geneva, and also fielded extensive press inquiries, including a news spot on BBC TV.

“Although many laws, regulations, policies and statements address the importance of equality among Chinese ethnic groups, the PRC is not meeting its international obligations on minority rights for the Mongols, Tibetans, and Uyghurs.”

**Challenging China: Struggle and Hope in an Era of Change**

Co-published by HRIC and The New Press and edited by Sharon Hom and Stacy Mosher, this volume includes selected articles and essays from China Rights Forum.

“Often fascinating and eloquent, these analyses, reports, testimonials and poems paint a vivid portrait of the challenges facing China and the world as its nearly 1.4 billion citizens increasingly lay claim to basic human rights.”—Publishers Weekly, April 23, 2007.

**State Secrets: China’s Legal Labyrinth**

HRIC will present a talk on state secrets at the Council on Foreign Relations on June 11, to be followed by the official launch of the report.

“The state secrets framework, with its severe restrictions on information and the criminalization of possessing and leaking information, undermines both domestic law and the PRC’s international legal obligations.”

**The Fog of Censorship: Media Control in China**

The English translation of an updated edition of He Qinglian’s Chinese-language report, The Fog of Censorship: Media Control in China is currently in production for release this summer.

“The incontrovertible fact is that [China’s] rulers... abuse their power to deprive the people of their memory and rewrite history.”
companies on human rights, including freedom of expression. Executive Director Sharon Hom participated in the most recent April meeting in London.

OUTREACH

Executive Director Sharon Hom and European Liaison Officer Isabella Nitschke attended the 36th Congress of La Fédération Internationale des Droits de l’Homme (FIDH) in Lisbon. The Congress, which drew together the 141 member organizations of FIDH as well as prominent rights activists, opened with a public forum to explore migration issues, followed by an internal congress for FIDH member organizations. Ms. Hom spoke on a panel with professors, lawyers and researchers on how to promote the rights of migrants, including economic and social rights.

European Liaison Officer Isabella Nitschke participated in a leadership workshop and seminar in Brussels hosted by the World Uyghur Congress (WUC) and the Unrepresented Nations and Peoples Organization (UNPO) to build the human rights capacity of more than 50 leaders of the Uyghur community. Ms. Nitschke introduced HRIC’s international advocacy work and discussed how NGOs can effectively collaborate with the European Parliament. Other speakers included Rebiya Kadeer of the World Uyghur Congress and representatives from the Society for Threatened Peoples, the National Endowment for Democracy and the International Criminal Court.

For the second year in a row, Executive Director Sharon Hom and Director of IT Shirley Hao attended Human Rights and the Media, a three-weekend conference hosted by Harvard University in April. HRIC joined students, journalists, scholars, NGOs and practitioners to discuss campaigning for human rights during the Beijing Olympic Games. Ms. Hom gave a presentation about the responsibilities of the media during the games and HRIC’s Incorporating Responsibility 2008 campaign. The other panelists included representatives from the International Campaign for Tibet, Duquesne University, Hactivismo and Harvard Business School.

Executive Director Sharon Hom participated in the NYU School of Law Reunion panel “Can the UN do anything about human rights disasters?” in May. Ms. Hom addressed the role of China in the international community and its impact on the global human rights situation. The session was attended by more than 100 NYU alumni and other lawyers, and Continuing Legal Education credit was awarded for participants of the session.

HRIC Organizational Notes

In January 2007, HRIC opened our EU Liaison Office, based in Brussels, Belgium, and welcomed European Liaison Officer Isabella Nitschke. With a portfolio that includes advocacy on individual cases and systemic human rights issues, Ms. Nitschke will liaise with EU institutions, NGO partners and the corporate community in coordination with HRIC’s New York and Hong Kong offices. In March, HRIC hosted a joint opening reception in Brussels with La Fédération Internationale des Droits de l’Homme (FIDH) and the International Campaign for Tibet (ICT). The opening drew more than 100 NGOs, academics, journalists and representatives from EU institutions and governments, including correspondents from People’s Daily and China Youth Daily and Chinese scholars in Brussels.

HRIC thanks Wing Lam for her contributions and hard work at HRIC over past few years. We wish her the best in the next stage of her career!
Q. **What kind of press access can journalists expect in covering events in China during the Olympics?**

A. Through a decree signed by Premier Wen Jiabao in 2006, China issued Regulations on Reporting Activities in China by Foreign Journalists During the Beijing Olympic Games and the Preparatory Period (Regulations), which cover reporting activities by foreign journalists in the run-up to and during the Beijing 2008 Olympic Games (Olympics). The Regulations apply to foreign journalists covering the Olympics and “related matters,” and therefore do not apply to domestic journalists. The term “related matters” does not provide a clear description of permissible topics and may be used by authorities to restrict sensitive topics. On December 1, 2006, a Foreign Ministry spokesperson recognized that journalists will “also cover politics, science, technology and the economy,” but Chinese official practice and policy in implementing these regulations will need to be monitored for ongoing developments.

Q. **Why were these Regulations passed?**

A. In addition to responding to pressure from the international community and media, these Regulations appear to address one of the hosting commitments China made during the Olympic bidding process in 2001, when it promised that there would be “no restrictions on journalists.”

Q. **What kind of press access can journalists expect in covering events in China during the Olympics?**

A. Through a decree signed by Premier Wen Jiabao in 2006, China issued Regulations on Reporting Activities in China by Foreign Journalists During the Beijing Olympic Games and the Preparatory Period (Regulations), which cover reporting activities by foreign journalists in the run-up to and during the Beijing 2008 Olympic Games (Olympics). The Regulations apply to foreign journalists covering the Olympics and “related matters,” and therefore do not apply to domestic journalists. The term “related matters” does not provide a clear description of permissible topics and may be used by authorities to restrict sensitive topics. On December 1, 2006, a Foreign Ministry spokesperson recognized that journalists will “also cover politics, science, technology and the economy,” but Chinese official practice and policy in implementing these regulations will need to be monitored for ongoing developments.

Q. **Why were these Regulations passed?**

A. In addition to responding to pressure from the international community and media, these Regulations appear to address one of the hosting commitments China made during the Olympic bidding process in 2001, when it promised that there would be “no restrictions on journalists.”

Q. **What kinds of reporting equipment can journalists and other media staff bring with them?**

A. The Regulations allow foreign journalists to bring a reasonable quantity of equipment with them, provided that (1) they apply for the appropriate permission, (2) the equipment is for their own use, and (3) it is removed from the country after their reporting is concluded.
journalists are also allowed to bring in, install and use radio communication equipment after obtaining approval. No explicit mention is made of equipment used by television and Internet reporters, including video cameras. Journalists working with major media networks, such as NBC, will likely be allowed to bring in their own equipment. However, the vagueness of this provision could signal official concern about activists using technical equipment to disrupt official broadcasts, such as a recent incident in Guangdong where hackers hijacked local television programming to display anti-Party messages.

Q. Are foreign reporters allowed to hire Chinese staff as assistants or researchers?

A. The Regulations allow foreign journalists to hire Chinese citizens to assist them in their work. However, journalists must use organizations that expressly provide services to foreign nationals. BOCOG has contracts with many such agencies, mostly foreign services centers with the stated aim of ensuring that “the legal rights of both foreign employers and Chinese employees are properly protected.”

Q. Do the Regulations cover journalists from Taiwan, Hong Kong and Macao?

A. Similar but separate regulations were issued on December 27, 2006 for journalists from Taiwan, and on December 30 for journalists from Hong Kong and Macao. As with foreign journalists, these “compatriot” journalists are allowed to interview any organizations or individuals who give consent during the regulation period, and can hire mainland citizens to assist them. In addition, journalists with valid Olympic accreditation cards are entitled to multiple reentries to the mainland. Taiwan, Hong Kong and Macao residents can use Resident Passes instead of visas, and will apply for equipment certificates at the relevant liaison office instead of at a foreign embassy.

Q. What is the significance of the Regulations in the broader context of freedom of expression and rule of law in China?

A. These Regulations do not exist in isolation, and their application must be assessed within the broader legal and political framework within which foreign and domestic journalists have been operating for years.

Although Article 35 of the Chinese Constitution protects freedom of speech, most Chinese media organizations, even those not explicitly state-run, still have strong ties to the state, and all media, from newspaper to blogs, are allowed to publish only news that has already appeared in state-run media outlets such as the Xinhua News Agency. Regulatory tools that explicitly restrict and control expression include strict State Secrets legislation, revocation of Internet café licenses and the shutting down of newspapers, magazines, Web sites and other news sources when they cover politically sensitive issues. These restrictions are bolstered by state-of-the-art technical controls, including firewalls, proxy servers, ISP filtration software and surveillance.

Some recently implemented restrictions affecting the media include:

- A Supreme People’s Court ruling in September 2006 banning courts from releasing information that con-
Any laws and regulations exist more on paper than in practice, leaving journalists vulnerable to arbitrary enforcement.

Q. Have journalists faced any problems since the Regulations were passed?

A. Soon after the Regulations went into effect, many foreign reporters tested the limits of these new press freedoms. Some were able to report freely, while others have discovered that particular issues and regions are still too sensitive to expose to the spotlight of the foreign press corps. For example, a Reuters reporter was denied access to Shanghai human rights lawyer Zheng Enchong, because Zheng had been “deprived of his political rights.”

According to the Service Guide, foreign journalists are permitted to travel freely within China, provided they have the same valid visa or certificate as any other foreign traveler and only travel to places open to foreigners, as designated by the Chinese Government. These places include the Autonomous Regions, such as Tibet and Xinjiang, where all visitors still must attain travel visas.

Recently an American journalist wrote about the difficulty he had in gaining approval to travel and report in Tibet and the dressing down he received from the Foreign Ministry for going there. Despite a Foreign Ministry spokesperson’s assurance in December 2006 that the Regulations “are applicable to all provinces in China,” another Foreign Ministry spokesperson said in February 2007 that journalists could justifiably be restricted in Tibet because of “restraints in natural conditions and reception capabilities.” Authorities recently announced even tighter travel restrictions to Tibet after Americans staged a protest at a base camp on Mt. Everest.

Q. Are there any steps foreign journalists can take to protect their sources?

A. Journalists should obtain prior consent from the interview subject before any interview is conducted. In addition, reporters and staff should proceed with caution during interviews, especially concerning sensitive issues, since association with a foreign journalist can cause problems for local individuals.
Notes
2. Regulations, Article 2.
8. Regulations, Article 8.
11. Regulations, Article 5.
15. Provisions on Reporting Activities Carried out by Taiwan Journalists in the Mainland of China during the Beijing Olympic Games and Preparatory Period. Measures for the Reporting Activities in the Mainland Conducted by the Journalists of Hong Kong and Macao during the Beijing Olympic Games and Preparatory Period.
19. In this system, each publication would start with 12 points which would be deducted based on the seriousness of each violation, as determined by government officials, until they ran out of points and were punished accordingly. "RSF: Plans to put the press on a penalty points’ system,” Reporters Sans Frontieres, February 9, 2007, http://www.rsf.org/article.php3?id_article=20983.
22. Ibid, Article 11.

Correction
Incorporating Responsibility 2008: HRIC’s Beijing Olympics Campaign

In 2003, HRIC launched IR 2008, a research and monitoring project focusing on the Chinese government’s human rights practices in the run-up to the 2008 Olympics. The IR 2008 campaign seeks to take strategic advantage of international windows of opportunity arising from China’s role as host of the 2008 Olympics, its increasing integration into the international community, and a growing Chinese civil society. Through specific initiatives and outreach, IR 2008 targets a range of actors, including corporations, multilaterals, the media, governments and NGOs.


Following is a summary of the campaign’s activities in the most recent quarter. For more information on these activities, please visit http://www.ir2008.org.

HRIC invites you to visit IR2008.org and support the IR 2008 Campaign activities!
IN THIS ISSUE

THE PARTY’S LEADERSHIP OF THE JUDICIARY, AS EMBEDDED IN THE CONSTITUTION, IS THE KEY TO UNDERSTANDING CHINA’S JUDICIAL SYSTEM.
—MO SHAOPING

HOW CAN PEOPLE DISCERN WHAT ARE LEGITIMATE MATERIAL RIGHTS, WHAT IS LEGITIMATE PRIVATE PROPERTY, AND WHAT ARE THE SPOILS OF THEFT?
—LIU ZILI

WHAT IS AN INDIVIDUAL’S REMORSE WEIGHED AGAINST THE LACK OF HISTORIC REPENTANCE FROM A GROUP THAT WIELD THE POWER OF LIFE AND DEATH IN THE NAME OF MILLIONS UPON MILLIONS?
—SHAO YANGXIANG

COMING UP IN THE NEXT ISSUE

2008 BEIJING OLYMPICS
TAKING ADVANTAGE OF A HISTORIC OPPORTUNITY
COST AND BENEFIT FOR THE CHINESE PEOPLE
A VISITOR’S GUIDE TO HUMAN RIGHTS IN CHINA