

This Update describes recent press coverage of the use of the justice system to combat corruption, the growing debate about the death penalty, and performance measures for the justice system.

Justice System Reports Surge in Corruption Convictions

Chinese leaders say they have stepped up efforts to crack down on corruption. Recent signs include high profile cases, such as that of Huang Songyou, the Vice President of Supreme People's Court, who was removed from office on corruption charges in October. Also, in a report to the Standing Committee of National People's Congress, Wang Shenjun, the President of the Supreme People's Court, revealed that the total number of officials charged with criminal offenses increased 12 percent over the past five years.

Chinese Courts Sentenced 120,000 Officials on Corruption Charges Over the Past Five Years

The *People's Daily* reported on October 26 that at a meeting of the National People's Congress on the same day, Wang Shengjun, President of the Supreme People's Court of China, said that courts convicted more than 120,000 officials on corruption charges since 2003, an increase of 12 percent over the preceding five year period.

Wang reported more detailed figures on the performance of the justice system to the third plenary meeting of the annual session of the 11th National People's Congress in March. According to that report, "prosecutors investigated more than 209,000 officials in nearly 180,000 cases of embezzlement, bribery, dereliction of duty and rights

violations in the past five years. These figures are down 13.2 percent and 9.9 percent from the previous five years, although the combined number of officials convicted of these offenses rose 30.7 percent to nearly 117,000. In addition, prosecutors nationwide investigated 35 officials at the provincial or ministerial level, 930 at the municipal level, and nearly 14,000 at or above the county level for embezzlement, bribery, and/or misappropriation of public funds in the past five years. Prosecution offices also arrested 4,547 fugitives charged with official crimes who were at large at home and abroad, recovering economic losses exceeding \$3 billion US. Finally, nearly 1,200 government officials were prosecuted for concealing major work safety incidents or conniving at illegal production."

In a March report to the National People's Congress, Wang also identified two key tasks for 2008. "The investigation and prevention of crimes by public officials will be a priority," he said, and "efforts will be continued in handling major and important cases of corruption (relating to high-ranking officials and with more money involved), cases that "most concern the public," and also in establishing a mechanism for the punishment and prevention of corruption.

<http://news.sohu.com/20081026/n260248429.shtml>

High Profile Cases of Corruption Dominate the News

The *China Daily* reported on November 3 that there had been many high profile corruption cases in the past month. "Few of the 31 days of the past month have passed without reports of public officials from central government ministries and also the provinces being probed by the Disciplinary Committee of the Central Committee of Communist Party of China or investigated by the legal system for involvement

in corruption scandals," the report said. The paper added a list of prominent cases to illustrate this trend.

"On October 28, Huang Songyou, a vice president of the Supreme People's Court, was dismissed by vote of the NPC standing committee on charges of corruption (involving RMB 400 million for real estate corruption). Huang is the highest-ranking official in the judiciary to be sacked since 1949. On October 18, former vice mayor of Beijing Liu Zhihua was sentenced to death, albeit with a two-year reprieve, for taking bribes. The fifth session of the 11th NPC Standing Committee accepted the resignation of Zhu Zhigang, a member of the NPC Standing Committee and deputy director of the NPC Financial and Economic Affairs Committee."

The China Daily emphasized President Hu Jintao's approach to corruption control and clean governance "with Chinese characteristics." At the 17th National Congress of the CPC, said Hu, "it is important, to bring the corrupt to justice. People want to see actual cases and hard blows. But beyond that, we need well-thought-out designs to make sure those in positions of power cannot so easily abuse them. The central authorities have promised to present such a framework in five years. Almost a year already has slipped away."

http://www.chinadaily.net/opinion/2008-11/03/content_7166404.htm

Experts Advocate Inclusion of "Collective Corruption" in Criminal Law Stirs Debate

The *Xinjing Daily* in August reported that Liu Xirong, a member of the Standing Committee of NPC and former deputy secretary of the Central Disciplinary Committee of the Communist Party of China, raised the idea of including "collective corruption" in criminal law as part of amendments to Criminal Law. He pointed out that a loophole exists for collective corruption as there are no laws punishing such activities. "Collective corruption," Liu said, includes "setting up funds for internal use (*xiao jinku*) without going through the budget," an unlawful arrangement in which officials from the top to

the lowest level of an organization share in the proceeds.

Experts doubted the conversion of the concept of collective corruption would be practicable. According to Lin Ji, Professor of School of Central Committee of China Communist Party, the justice system does not treat a collective body as a criminal entity, therefore it will be difficult to criminalize such group activity. A Legal Daily article written by Fu Dalin on October 24 argued that although the inclusion of collective corruption into criminal law might cater to popular interests, it will be difficult to introduce in practice. More importantly, argued Fu, the leader of a criminal collectivity should also be punished more severely than in current practice. In the end, to solve the root cause, according to Fu, democratic governance should be strengthened in order to control "public power."

<http://www.chinanews.com.cn/gn/news/2008/10-24/1424207.shtml>

Death Penalty Debate Expands

The Death penalty continues to attract public attention as the comments of the new chief judge of the Supreme People's Court stirred up debate. A death sentence for a police killer raises concerns about the treatment of suspects while a closed-door trial caused a rare protest.

China Mulls Death Penalty Reform

The *Legal Daily* reported on October 26 that Wang Shengjun, President of Supreme People's Court stressed three bases for a courts ruling: the law, the level of security in society (*zhi an*) and the "society and people's feeling" (*shehui he qunzhong ganjue*). Wang's remarks stirred up a debate that lasted in the media for months.

The *Nandu Weekly Magazine* reported that He Weifang, Professor of Law at Beijing University, said that Wang's remarks were certainly not in line with

the principle of ruling by law. "The judicial system," said He, "should be independent from popular will. It is very dangerous to have a system with ruling decided by people votes." China, added He, needs to improve its professionalism in the judicial system. Among the 200,000 judges in China, only 20% have a university law degree.

In the *Asia Times*, Zhang Jianwei, a professor of Law School of Qinghua University in Beijing, was quoted as saying "China's legal system is still immature and courts mustn't blindly cater to popular will by becoming its rubber stamps," We should remember the lessons of the Cultural Revolution. All those public executions carried out by the masses made the calamity even worse. We have plenty of historical evidence to believe that the public will tends to favor harsher punishments."

Liu Xiaoyuan, a lawyer at the Beijing Yitong Law Firm, added China was engaged in an intense battle against corruption and if public opinion was taken as basis for judging corrupt officials there would be plenty of death sentences. "The irony is that in China public opinion is almost never a factor in trying corruption cases," says Liu. "More often than not corrupt officials are given lenient sentences in belief of their repentance, while other criminal cases where public opinion is fiercely divided are resolved with the death penalty."

"I believe the principal of adherence to the popular will raised by the top judge refers only to this public belief," suggests legal researcher Xie Pengcheng. "Sometimes nothing but the death penalty can placate people's anger."

Death sentences today are handed down only for an "extremely small number of extremely serious and extremely vile criminals posing a grievous threat to society," according to former top judge Xiao Yang in a report to the annual session of the National People's Congress in March. Xiao Yang didn't state the number of the people executed. The Dui Hua Foundation - a US-based advocacy group that researches Chinese prisons - documented about 6,000 executions in 2007, a 25% to 30% drop from the year before.

The Asia Times added its own judgment. "By suggesting that popular will should be a factor in carrying out death sentences, top judge Wang Shengjun had only voiced the desire of certain legal officials and experts to reform China's much criticized death penalty system. But the uproar that ensued sheds light on the hurdles the reform movement needs to overcome."

<http://www.atimes.com/atimes/China/JF18Ad01.html>

Death Sentence For Cop Killer Sparks Debate in China

Protesters staged a rare demonstration outside a Shanghai court on October 13. The *China Daily* reports that "around a dozen" people staged a brief protest at the beginning of the closed-door trial of Yang Jia, a 28 year old unemployed man sentenced to death last month for the murders of six police officers. The protest expressed support for Yang Jia's appeal against his conviction. Yang reportedly had stormed into a Shanghai police station on July 1 and went on a stabbing frenzy in revenge for being wrongfully detained on suspicion of stealing a bicycle.

The China Daily reported on Oct 14 that at the second trial of Yang on Oct 13, the presiding judge denied a request from the new defense lawyer for a second psychiatric test. Yang's father and aunt were denied access to the court hearing at the first trial but were allowed to attend the appeal hearing. Yang's sentence is now waiting for the approval of the Supreme People's Court.

http://www.chinadaily.net/china/2008-10/14/content_7101435.htm

Justice System Goals and Measures Discussed

Supreme People's Procuratorate Reports Goals and Performance of Justice System

The *Xinhua News Agency* reported that Cao Jianming, the President of Supreme People's Procuratorate, delivered a report on justice goals and performance a meeting of National Committee of National People's Congress on Oct 27, pledging to strengthen the supervision of criminal prosecution and safeguard justice, correct injustices at trial, rectify illegal procedures in prosecution, and increase the quality of supervision in trials involving the death sentence.

Cao Jianming, highlighted the increased number of criminal prosecutions and the growth of human rights cases in an earlier report.

More Criminal Prosecution

From 2003 to 2007, prosecution offices across the country issued more than 4.23 million arrest warrants for criminal suspects and brought 4.69 million persons to court, an increase of 20.5 percent and 32.8 percent over the previous five-year period.

Greater Human Rights Protection

In the past five years, prosecutors looked into nearly 35,000 cases of the violation of citizens' political and civil rights, involving at least 42,010 officials. Of these officials, 16,060 were found guilty, 2.3 times the total from the previous five years.

At the same time, the number of criminal suspects under illegally prolonged custody by police department was reduced from nearly 25,000 in 2003 to 85 in 2007.

http://news.xinhuanet.com/english/2008-10/26/content_10254407.htm

Law Society Conference Describes Progress in Justice

The Institute of Criminal Law of the China Law Society held its annual conference on October 13-15, focusing on the last 30 years of criminal justice development. According to the *Legal Daily*, experts stressed the need for improvements in protecting human rights. Professor Zhao Bingzhi, President of the Criminal Law Institute said China has made

great progress to protect human rights through improvements in the judicial system. In 1997, guilt by analogy (*youzui leitui*) was discarded, and an item of prohibition of interrogation was added to criminal law. In 2006, the principal of balancing harsh and light punishments (*kuanyan xiangji*) were introduced.

Chen Guoqing, Director General of the Policy Studies Department of Supreme People's Procuratorate said that more study is needed of the practices of reconciliation (*xingshi hejie*). When the defendant has admitted the crime and made compensation and is forgiven by the victims, Chen argued, he should enjoy a lenient sentence or not be prosecuted. Another expert pointed out that in practice criminals given death sentences with a 2 year conditional stay of execution are often released from prison after an average of 14.5 years. To ensure public security, some experts said, repeat offenders should not be released on parole.

Also at the conference, Zhang Jun, Vice President of Supreme People's Court, reported that among 800,000 criminal cases last year, 1500 to 2000 ended in acquittals, and 3-5 percent of sentences were quashed or adjusted upon appeal.

http://news.xinhuanet.com/legal/2008-10/20/content_10223125.htm

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