

This update covers recent reports of a pilot project on the [inspection of detention centers](#) to prevent torture, a government declaration to [refrain from using the police](#) in response [rural social unrest](#), the [appeal against sentence](#) by the former dairy boss in the melamine tainted milk scandal, [opposition to the death sentence](#) for a teenage murderer, and the rescue of 3059 [forced child thieves](#) by the police.

Detention Facility Inspection System Tested in Jilin Province

The *Jinghua Times* reported on Feb 2 that a test of a new system for inspecting and preventing torture in detention facilities was conducted last year in Jilin province. The pilot involved 20 independent inspectors interviewing 32 detainees in a detention center in Liaoyuan city.

Planning for the system began in 2006 when the Chinese People's University Litigation System and Judicial Reform Research Center began consulting with the Liaoyuan City People's Procuratorate on mechanisms for preventing torture as part of a joint Chinese and European anti-torture cooperation project. In April 2008, Liaoyuan City People's Procuratorate and the Liaoyuan city public security bureau and Chinese People's University formed a team to implement the project. Inspector-interviewers were selected from a list of candidates nominated by the municipal Chinese People's Congress (CPC) and the Chinese People's Political Consultative Conference (CPPCC), including 40 CPC deputies and CPPCC members as alternative candidates. Among the inspectors selected were doctors, business executives, civil servants, private entrepreneurs and community representatives.

The Inspector-Interviewers focused on allegations of forced confessions and torture. They also assessed

inmate living conditions and treatment, the physical conditions of detention facilities, and compliance with the legal rights of detainees to representation and the timely notification of relatives upon admission. Few inmates reported torture or violence, but some complained to those inspectors about problems such as bad sanitary conditions in the kitchen and inadequate physical check-ups. After receiving a formal report from inspectors, the Detention Center invested RMB 100, 000 (\$14,700) to improve living conditions for the inmates.

In an interview with the *Jinghua Times*, Professor Chen Weidong, the Director of the Chinese People's University Litigation System and Judicial Reform Research Center (JRRC) said that torture used to be a serious problem in Liaoyuan city. Some police officers had already been prosecuted for violently coercing confessions. Now, he says, "because of the inspection system, the police dare not torture detainees". The JRRC is planning to expand the project to Lianyungang City in Jiangsu province and Jinzhong City in Shanxi province.

Chen believes that this type of inspection can be effective in combating the incidences of torture and should be introduced nation-wide through the adoption of a new law. However, since the project is only a trial at the moment, there still needs to be modifications to the inspection system in order to develop a truly "independent" (*duli*) torture inspection policy. When asked what is the key to success of this type of new policy, Chen expressed that the most important thing is to obtain the cooperation of the detention center. In order to do that, the policy must reward the detention centers so that the latter can benefit from those changes.

http://news.xinhuanet.com/politics/2009-02/02/content_10748039.htm

http://news.xinhuanet.com/politics/2009-02/02/content_10748046.htm

Police deemed inappropriate for response to rural social unrest

According to the *Xinhua News Agency* the central government declared on February 2 that police forces should not be used as the first resort in dealing with possible social unrest in rural areas this year. The new policy adds that local politicians should not "hide behind doors" when unrest occurs but instead, stand at the forefront of the confrontation. "Now, said Chen Xiwen, director of the office of the Central Leading Group on Rural Work of the Central Committee of the Communist Party of China, "police will not be called in unless there are extreme cases of violence, such as beating, looting and arson."

Chen's remarks came amid rising concerns about social instability in rural regions, where about 20 million migrant workers have returned after losing their jobs -- a result of the global financial crisis, according to *Xinhua*. Maintaining social stability in what Premier Wen Jiabao in January called "the hardest year for China's economic development since entering the new century" will be a daunting task for the government, argued Chen.

Chen acknowledged there had been cases of social unrest in some rural areas last year, although the exact number will not be reported until early next month. Some local governments had ignored and harmed farmers' interests in the pursuit of economic growth. Along with corruption by officials, such economic harm was a major factor behind unrest. Land requisition, environmental pollution in rural areas, relocation of farmers, and the mishandling of collectively owned assets are four other factors that sow seeds of rural social unrest, he added. Now, "a large number of jobless migrant workers returning to rural homes ... is a new factor impacting this year's social stability."

The *Xinhua* report added that the government's position on the role of the police reflected commitments expressed by Public Security Minister Meng Jianzhu. In the November edition of *Qiushi* (seeking truth), Meng called for "the continued exercise of caution in the use of police force, police instruments and weapons and compulsory measures."

<http://news.sina.com.cn/c/2009-02-02/110017133432.shtml>

Former dairy boss in melamine milk scandal appeals life sentence

The former chairwoman of the Sanlu Group, Tian Wenhua, filed an appeal to overturn a life sentence for her role in the melamine milk contamination scandal, reported *Xinhua News Agency* on February 1. Three other former Sanlu executives received jail terms of 5 to 15 years for their roles in the scandal. All of the defendants appealed their sentences even though the Company itself as a legal entity was implicated in this case as an accused and did not appeal. Tian's lawyer, Liang Zikan said she had appealed to the Higher People's Court of Hebei Province because the judgment in the first trial did not clearly distinguish the facts and lacked sufficient evidence.

Tian was convicted by the Shijiazhuang Intermediate People's Court of manufacturing and selling fake or substandard products. A life sentence was imposed on January 22. Tian was also fined 24.7 million yuan (3.6 million U.S. dollars). The scandal was exposed in September 2008 and nearly all the major Chinese dairy producers were involved. According to the Ministry of Health, melamine-contaminated milk was responsible for the deaths of six children and serious health problems to at least 296,000 infants. In the appeal, Tian and her lawyers argued that the Court lacked evidence to determine that Tian had knowledge that the crude milk was contaminated. Tian claimed that the Sanlu Group management had found out about the contamination only after the Hebei Provincial Entry-Exit Inspection and Quarantine Bureau confirmed that samples sent by the company were contaminated and the management had recalled and stopped selling the milk powder on August 1. Even if the milk powder department under the group failed to inform the downstream dealers, said Liang, Tian should not bear responsibility. According to Tian's lawyer, the PRC Criminal Law here supports the argument that responsibility here accrues to the company and thus, any punishment should be imposed on that entity.

http://news.xinhuanet.com/newscenter/2009-02/01/content_10746500.htm

http://news.xinhuanet.com/video/2009-02/02/content_10750987.htm

http://news.xinhuanet.com/video/2009-02/03/content_10754280.htm

Experts Oppose Death Sentence for Convicted Teenage Murderer

The *Legal Daily* reported in January that Meng Chao, an 18-year-old student, was sentenced to death for killing a classmate in a love-triangle dispute that involved a teacher, Wang Yongli. Meng was reportedly in a "jealous rage" because his classmate He Xiaoli, a close friend, was also in love with Wang, the 45-year-old class director at Guiyang No. 6 Middle School.

The report said that Wang told Meng on his 18th birthday, September 27, 2007, that He, the deceased, had been bothering her. Meng said he had attempted to talk to He but was infuriated by what He said. Meng stabbed He with a 30-centimeter blade. When police arrived at the school the next morning to arrest Meng, the latter defended himself, declaring that "My class director seduced me. She triggered the tragedy," Meng told the court. "I wanted to turn myself in, but she said she could not bear to lose me, and that the police would never solve the case." Guiyang Intermediate People's Court found Meng guilty of murder and sentenced him to death in April 2008. Guizhou Superior People's Court affirmed the ruling, but Meng's lawyers insist the previous trials were flawed. Zhang Yuanzhong, Meng's lawyer from Beijing Wentian Law Firm, said records of 103 phone calls Wang made to Meng have gone missing. The death sentence has not yet been approved by the Chinese Supreme People's Court.

The trial has aroused considerable public debate and controversy. The *Legal Daily*, for example reported that "netizens" believe the trial court erred in its judgment, citing an online survey by Sohu.com that found 32,400 respondents objected to the court ruling. Another 2,300 netizens reportedly supported the ruling, based on the fact that Meng turned 18 before the killing, and refused to turn himself in.

So far, Wang has not faced charges, and her only court appearance has been as a witness for the prosecution – another fact that is the subject of some controversy. For example, Dong Lihua, Director of the Beijing Juvenile Legal Aid and Research Center, who had objected to the ruling. Dong

insisted that "Wang should share some responsibility for emotionally appealing to the murderer to rid herself of He." Dong believes that the seemingly deliberate omission of the phone records in the trial had essentially eliminated her criminal responsibility in this case.

Dong's commentary in the *Legal Daily* emphasized the inadequate protection of underage youths against sexual violation and abuse in this case. Comparing provisions for the protection of youths against sexual exploitation in other jurisdictions such as USA and Victoria, Australia, Dong found that China lacked adequate laws for protecting young people, especially exploitation from people in authority such as teachers, foster parents and employers.

Liu Guiming, deputy secretary general of the China Association for the Study of Juvenile Crime believes that this case is both peculiar in its circumstances and at the same time reflects many contemporary social, family, and education problems. Liu urged that court try this case with these special considerations in mind, including the involvement of the teacher and the vulnerability of young people to sexual exploitation by those who have authority over them. Liu urged that "a child's life must not be lost due to mistakes of the society; the family and school must not cause the loss of the life of a child."

http://www.legaldaily.com.cn/2007fxy/2009-01/05/content_1013975.htm

Chinese police rescue 3059 forced child thieves

The Xinhua News Agency reported on February 5 that police in northwest China's Xinjiang Uygur Autonomous Region in 2008 rescued 746 children that human trafficking gangs had kidnapped and forced into pick-pocketing. "Eight trafficking rings were busted (*daohui*) and 177 suspects have been arrested in 2008," announced Dai Guanghui, a senior police officer with Xinjiang Public Security Department.

The report said that youngsters from the region had been kidnapped by gangs and trafficked to other regions in the country where they were forced to work as pickpockets and shoplifters. Dai said a total of 3,059 children have been rescued from trafficking gangs since 2006 when the Xinjiang police launched their drive against the human traffickers. Most of the kidnapped children are from underdeveloped regions. In order to facilitate the rescue of those children, the local police agency recruited residents from Xinjiang to join the police force whose language abilities might improve the investigation. Once rescued, the children themselves were subjected to serious interrogations by the police to find traces to the responsible criminal organizations.

http://www.humanrights.cn/cn/dt/szyzgrq/zxszt20090206_412274.htm

Editors

Todd Foglesong, Ph.D.
Senior Research Associate
todd_foglesong@harvard.edu

Jitao Niu
Research Assistant
jitao_niu@ksg10.harvard.edu

Amy Zheng
Research Assistant
amy_zheng@ksg10.harvard.edu

Harvard Kennedy School

Program in Criminal Justice Policy and
Management
79 John F. Kennedy Street
Cambridge, MA 02138
617.495.5188
www.hks.harvard.edu/criminaljustice