

Executive Summary

Freedom of speech, of the press, of assembly, of association, of procession and of demonstration are guaranteed by Article 35 of the Constitution of the People's Republic of China, while Article 41 guarantees Chinese citizens the right to criticize and make suggestions to any state organ. Accordingly, China is obliged, by its own laws, to immediately cease the arbitrary detention (including house arrest) of innocent people under the guise of state subversion.

I. BACKGROUND AND FRAMEWORK

In addition to its obligations under international law, the People's Republic of China is obliged to follow its own constitution, which among other things guarantees the right of freedom of speech, of the press, of assembly, of association, of procession and of demonstration, and of criticizing any state organ.

II. PROMOTION AND PROTECTION OF HUMAN RIGHTS ON THE GROUND

A. Implementation of international human rights obligations

1. Freedom of religion or belief, expression, association and peaceful assembly, and right to participate in public and political life

China must stop the arbitrary detention of innocent people under the guise of subversion. Such detention is counter to provisions of the Constitution of the People's Republic of China.

Article 35 of the Constitution of the People's Republic of China guarantees freedom of speech, of the press, of assembly, of association, of procession and of demonstration. Article 41 guarantees Chinese citizens the right to criticize and make suggestions to any state organ or functionary.

Despite these guarantees, there are numerous examples of the egregious violation of these articles of the Constitution, of which the following are only a few:

- Chen Guangcheng, an activist who has worked to help women forced by the authorities to abort a second or subsequent pregnancy (including late-term abortions) under China's one-child policy, was put under house arrest as a result of his activities.
- Feng Zheng Hu, a human-rights activist known for assisting people to file petitions for

grievances against the authorities, was denied re-entry into China seven times in 2009. Feng had given a press conference in Tokyo's Bunkyo ward on April 30, 2009 stating that in the pursuit of rapid development, residents' rights were being ignored. He also gave a speech in Tokyo on June 4 at an event sponsored by our organization (Federation for a Democratic China (Japan)) commemorating the Tiananmen Square Massacre. On June 7, he travelled from Narita Airport to Shanghai but was refused entry. Since 2010 he has been under house arrest.

- In late 2012, the editorial team of the "Nan Fang Zhou Mo (Southern Weekend) weekly newspaper in Canton were planning to publish an article titled "The dream of constitutional government – China's dream" for the January 3, 2013 edition of the paper. The article discussed democratization of the government, freedom of speech, and the improvement of human rights. In addition, the article used words such as "democracy", "freedom", and "equality", and called for a calm response to anti-Japan protesters.

The government censors had completed their review and five members of the editorial staff signed off on the issue and finished their work for the day; all that remained was the printing. However, in the evening of January 1, just before the newspaper was due to go to press, the Chief of Propaganda for the Canton Provincial Branch of the Communist Party summoned the editor Huang Can and demanded that the article be replaced with an article praising the Communist Party thus: "We are closer now than to any time in history to achieving the grand dream of rebuilding our nation". On January 2 when the editor and journalists had the day off, the newspaper was altered and printed as the Propaganda Department had demanded. However, errors within the article appeared in the newspaper, uncorrected.

The above examples illustrate how the Chinese authorities are violating basic rights guaranteed by the Constitution. China must uphold the Chinese Constitution, and protect the rights of Chinese citizens as guaranteed by Chinese law. These rights include, but are not limited to, the right of freedom of speech, of the press, of assembly, of association, of procession and of demonstration, and of criticizing state organs. We urge China to protect the rights of Chinese citizens by upholding the Constitution, in particular Articles 35 and 41, with immediate effect.