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## **Rights Violations in the 709 Trials conducted on 2-5 August 2016**

### **Some Observations – by the China Human Rights Lawyers Concern Group**

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## On Open Trial

**(1) The court deprived family members' right to attend the trials under the pretext that "the defendants" were unwilling.**

i. Violation of the "Rules of People's Court" (the Rules)

The "Criminal Procedure Law" (CPL) stipulates that open trials should be publicised. Any member of public, as long as s/he meets the requirements for attending a trial, may apply for it.

Article 9 of the "Rules of the People's Court" issued by the Supreme People's Court (SPC) provides that if there are insufficient seats in the courtroom, family members of the defendants or stakeholders of the case should be given priority to sit in the hearing, if they wish to be present.

Accordingly, the court hence is obliged to take note of the wish of the family members and the stakeholders of the case, and the "reluctance" of the defendants cannot be invoked as a pretext to deny the family member's independent right of attending a court hearing.

In fact, the authenticity of the so-called "reluctance of the defendants" should be seriously questioned, as the wish of Zhou Shifeng <sup>1</sup> and Zhai Yanmin,<sup>2</sup> both of whom have been held incommunicado for more than a year, was single-handedly dealt with and announced by the official media.

For all major cases in the past, as long as they were for open trial, the court always gave the family members priority to sit in the hearing unless it was the family member who refused to take part in it. For instance, 4 family members sat in the hearing when Ilham Tohti was trialled. Family members were also present in the trials of Gao Yu, Pu Zhiqiang, as well as the 3 cases of "inciting subversion of state power" implicating Tang Jingling, Su Changlan and Chen Qitang. Same applied to the case of Guo Feixiong.

This unprecedented practice of the court could bear significant implications for trials in the future. The "unwillingness" or "reluctance" of the defendant could be exploited in an extensive manner to justify secret trial, non-disclosure of charges or even location of detention.

**(2) Police held family members under house arrest or sent them back to their home town**

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<sup>1</sup> (Translated from Chinese) Application of Zhou Shifeng - Honourable People's Court, I am Zhou Shifeng, born on 18 November 1964, director of the Beijing Fengrui Law Firm. I am prosecuted for the crime of "subverting state power". I sincerely admit and repent the crime done. Considering my family being peasants with low education level. It is not good for me or them if they come to attend the court hearing. Hence, I have previously told the court not to let my family members to come to the court for the hearing. I am still holding this view - I don't require my family members to attend the court trial. Zhou Shifeng, 3 August 2016.

<sup>2</sup> 2016-08-02 at 23:25 in the First Caijin: 《秘密審判？不允許被告人家屬旁聽？天津二中院回應翟岩民案網上傳言：與事實嚴重不符！》  
<http://money.163.com/160802/23/BTGIDT4R00253B0H.html>

- i. Liu Ermin, wife of Zhai Yanmin, was taken to the Daiwangzhuang police station together with Wang Qiaoling in the middle of the night of 31 July 2016. The next morning, they were forced onto to a police car and taken to Beijing. At midnight of 1 August, Liu was put under house-arrest. To date, she still cannot leave her house.
- ii. Hu Shuigen and Li Shujin, the two brothers of Hu Shigen, were taken by the police on 1 August 2016 right outside the Tianjin Municipal Second Intermediate People’s Court. They were later forced on board of a train to Nanchang of the Jiangxi province where they now are.
- iii. The family of Zhou Shifeng was approached by police in the early morning of 4 August and warned against going to Tianjin. The police have stationed at the entrance to the building since then. The family is still under close monitoring.
- iv. Fan Lili, wife of Gou Hongguo, was summoned to the local police station in the night of 29 July 2016. On 1 August, the family was forcefully sent back to the hometown in Shanxi.

**(3) Citizens intending to attend the trials are either ignored or dispersed by force**

- i. Lawyer Liu Xiaoyuan, partner of the Beijing Fengrui Law Firm and colleague of Zhou Shifeng submitted an application requesting to attend trial of Zhou on 25 July 2016 by speed post. The application was addressed to the Wang Weihong, head of the Tianjin Municipal Second Intermediate People’s Court. Lawyer Liu was likely the first applicant to attend the trial of Zhou and as he is a clear stakeholder in the case of the Fengrui, he should normally be given priority to attend the trial.<sup>3</sup> However, lawyer Liu has not received any reply from the court up to now.
- ii. Li Meiqing and Guo Hong, human rights defenders from Beijing, arrived at the Tianjin Municipal Second Intermediate People’s Court at 10 am on 3 August 2016 to submit application for attending the trial. Both had their identity cards seized by the police and they were taken to the Xinfang Centre of the municipal city.

**(4) Public notice of case trials not posted outside the court in accordance to the law**

According to the law and regulations, notifications of court trial should be posted on the notice board or electronic board “outside” the court 3 days in advance. However, for the 709 cases, the Tianjin Municipal Second Intermediate People’s Court posted the notifications on the electronic board of the hall of litigation service “inside” the court. The move contravenes the legal provision and will resulted in having few people knowing about the trials since people seldom go into the court unless they have lawsuit. It remains to be questioned why the court did not announce the dates of trials via their official website and microblog if they

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<sup>3</sup> According to the CPL, open trials should be made open and be accessible to all members of the society meeting requirement of sitting in on a trial. Art. 9 of the People’s Court Rule provides that if seats are insufficient in a courtroom, the People’s court should give priority to the next of kin of the defendant and or stakeholders of the case.

do have the legal obligation to publicise information of this kind.

**(5) Only “pro-China” press and media were allowed to attend the trials**

- i. The 5 “overseas” media to have attended the trials were Want Daily (Taiwan), SCMP (Hong Kong), Sing Tao Daily (Hong Kong), Phoenix TV (Hong Kong) and Oriental Daily (Hong Kong). All of them take the “pro-Beijing” stance <sup>4</sup>and are not regarded as independent media. The official media claimed as blatant lies that “overseas media including BBC and Associated Press were working on spot”.
- ii. A foreign press arrived at the Second Intermediate Court at 9h30 in the morning of 4 August 2016 intending to cover the trial but was dispelled. At 10h on 3 August, a journalist of the VOA was told that media were not allowed in the court after he revealed his identity to the police. A journalist from the AFP stated on his twitter that he was stopped by the plain-clothes police for ID check in a restaurant nearby.

## **On Fair Trial**

**(1) Role of the defence lawyers was minimal, if not passive and collaborative with the authorities**

- i. During the court’s investigation, the officially appointed defence lawyer noted “there is no evidence to be presented to the court regarding facts”; and “there is no objection to all the evidence provided by the prosecutor”. The defence lawyer also took initiative to give up the right to raise questions in the court. “There is no need (for me) to ask the defendant any question.”
- ii. In the court debate, the defence counsel said “no objection to the charge of ‘subverting state power’ as in the Indictment.

**(2) Self-appointed lawyers not allowed to participate in the trials.**

During the stages of investigation and deliberation for indictment, defence counsels

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<sup>4</sup> **Want Daily** (TW) was established in Taipei on 11 August 2009 by Tsai Eng Meng, head of the Want Want Corp., when he bought China Times. Want Daily mainly cover China news and is collaborating with quite a few press in the mainland. When interviewed by the Washing Post, Tsai was quoted denying the June 4<sup>th</sup> massacre having existed. **SCMP** (HK) was a Hong Kong-based English newspaper established in 1903. It was bought by the Alibaba Holdings Ltd in December 2015 under an agreement made between Alibaba and SCMP Corp. Alibaba also bought all other media properties under SCMP in the same deal. **Singtao Daily** (HK), a Chinese language newspaper started in 1938. The Singtao News Corp. is headed by Charles HO Tsu Kwok, a member of the National Political Consultative Conference since 1998. **Phoenix TV** (HK) was partially sold in June 2006 to the China Mobile HK, which is wholly owned by the China Mobile Communications Corporation -- a Chinese state-owned telecommunication company. China Mobile HK now owns 19.9% of the Phoenix TV and is the second biggest shareholder of the TV. The biggest shareholder is Liu Changle, previously a party staff for the China National Radio. **Oriental Daily** (HK) is a Hong Kong based Chinese language newspaper established in 1969. Its political stance changed to become “pro-Beijing” after the handover in 1997. Ma Ching Kwan, chairman of Oriental Press Group, is a member of the National People’s Political Consultative Conference since 2003.

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legitimately entrusted by the family members including lawyer Li Baiguang (for Hu Shigen), Yang Jinzhu (for Zhou Shifeng), Ji Zhongjiu (for Gou Hongguo), Ge Wenxiu and Hu Linzheng (for Zhai Yanmin) were all dismissed unilaterally by the authorities as defence counsels. All the above lawyers were rejected when they sought to confirm the dismissal in person with their clients, in accordance to the legal provision. These lawyers did not receive any notification from the court regarding the trials after all.

**(3) False statements by defendants in their expression of “gratitude”, “pleaded guilty”, and “not to appeal”**

For the final stage in the court trials, Zhai Yanmin, Hu Shigen and Zhou Shifeng all read aloud from pre-written papers. (1) Zhai Yanmin was telling the court, “I find today’s trial fair and my rights are well protected in the whole process”. (2) The same happened to Hu Shigen when he said, again in court, “This trial on me is fair and is done in accordance with the law. Procedure is strictly observed and well-regulated. The officers have been serious and responsible in handling the case and my lawyer has provided me with very professional assistance.” (3) Zhou Shifeng went as far as to say, “the second person I thank is President Xi Jinping for his policy on rule according to law which has made China even stronger”; and “I thank the court! I thank the prosecutors!”

All Zhai Yanmin, Hu Shigen and Zhou Shifeng simultaneously have told the court that they “plead guilty and accept the penalty”, that they “genuinely regret the crime” and “apologise to the country”, “apologise to their family members” and that they will “never ever appeal the case’.

It however needs to be noted that with an incommunicado detention of almost 400 days, with family members consistently harassed, there are reasonable grounds for us to raise doubts on whether the defendants are speaking out on free will and mind.

Moreover, it is odd and against the normal nature of any individual for a defendant to praise the court and the judges for being fair and just, and that he will not appeal, immediately after a trial, especially when he is found guilty and sentenced. If this is an acceptable practice, then we should be imaging that the appeal system is going to be repealed soon. It will not be need any more.

**(4) The acts of the defendants did not constitute crime of “Subverting State Power”**

- i. The “criminal facts” that the court has used to affirm the culpability of Zhai Yanmin were (1) Jiansanjiang case in which Zhai was said to have organized individuals to gather in front of the detention centre, to provoke troubles and post photos online for hyping the cases. He also push for these trouble-makers to be named “the heroes in pursuit of constitutionalism who go against dictatorship and totalitarian rule”; (2) in the Zheng Zhou Ten Gentlemen case, Zhai took people to assemble in front of the detention centre to show support. He organised

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and directed the people to stay long time in front of the detention centre. With slogans-chanting, tent-building, sit-in petitions and hunger-strikes etc., these people provoke troubles and hype cases via microblogs and we-chats; (3) Zhai attended the Qiweixiao meal gathering to discuss how lawyers could intervene in labour movement to clash with the state organs as well as the necessity, feasibility and possible modes of operation to divide and dissolve the political organ of the state via means of hyping popular social issues; (4) In the Fan Mugen case, Zhai instructed others to go to Suzhou before the court trial opened and render their support there; (5) In the Qing'an case and under the authorization of Hu Shigen, Zhai instructed others to organise and go to assemble and provoke troubles in Qing'an.

- ii. The "criminal facts" that the court has used to affirm the culpability of Hu Shigen were (1) Hu instructed others to attend the 9<sup>th</sup> study camp for ethnic young leaders; (2) attended the Qiweixiao meal gathering and expounded on the "Three Major Factors", "Five Major Plans"; (3) In the Qing'an case, Zhai Yanmin instructed others to go and support.
- iii. The "criminal facts" that the court has used to affirm the culpability of Zhou Shifeng were, (1) In the Dali case, he instructed others to go to Dali to hype a civil case relating to the Bai ethnic group. And they went to the court, Procuratorate and local government offices to put up posters and drove by the court building in cars with slogans. They also provoked troubles by posting messages on the internet; (2) Zhou attended the Qiweixiao meal gathering as above noted; (3) In the Baoding case, Zhou authorised others to send materials by posts and disseminate messages via microblog; (4) In the Qing'an case, he gave consent to his law firm staff to go to Qing'an and issued supportive statement via the law firm's microblog; (5) For the Jiangxi High Court case, Zhou claimed that Wu Gan, one of his staff members, was framed by the state organ in an interview he gave to an "extra-territorial" media on the criminal detention of Wu.
- iv. Overall speaking, the "criminal facts" of the 3 defendants include holding sit-in petition outside the state organs, posting online messages/ petitions or expressing them in private meal gathering, and also via means of chanting slogans, holding placards, banners, hunger-strikes, sit-ins, set up tents, posters, send microblogs, post materials, use performance arts.... All these however, should fall under the scope of citizens' right and freedom of expression. They do not satisfy the conditions constituting the crime of "subverting state power" as in article 105 of the PRC Criminal Law.

**(5) Heavy sentencing targeting lawyer**

Judging from the term of sentence, Zhou Shifeng is by far the most heavily punished practicing lawyer ever since the lawyer's system was resumed in 1979, done under the pretext of endangering state security.

## **On Official Maneuvers outside the Court**

## (1) Slander the family members and the diplomatic communities

- i. On 2 August 2016, a wechat account bearing the name of Chang'an sword issued an article to accuse that the Joint Statement by Family Members was fake<sup>5</sup> <sup>6</sup> and was written by lawyers in Hong Kong. Almost at the same time, there was a joint statement by the 709 family members to condemn the NGO to release statement in their names. The fact however was, the statement was genuinely drafted by the family members.
- ii. At 20h on 3 August 2016, the official microblog site of Central Party Youth League released a video clip,<sup>7</sup> which shows Li Wenzhu (wife of Wang Quanzhang), and Fan Lili (wife of Gou Hong Guo) holding placards outside the Tianjin Municipal Second People's Court demanding the release of the Wang Qiaoling (wife of Li Heping) and Liu Ermin (wife of Zhai Yanmin), both unlawfully detained by the police. Li and Fan protested with the company of diplomats from 8 countries (Belgium, Finland, UK, US, Canada, Germany, EU and France).

However the video was dubbed with provocative narratives stating that the family members and the diplomats were self-directing a farce, and that Fan had pretended to fall. The whole episode was part of a setup aiming at hyping the case and creating trouble. The video was then uploaded to Youtube and further posted on other website. In the Phoenix Net, for instance, hit rate for the video has attained 170,000 hit by 17h on 4 August 2016.

## (2) Slander the rights (Sike) lawyers

On 2 August 2016, the official microblog of People's Daily issued an animation about the human rights (Sike) lawyers.<sup>8</sup> It told in an ironic tone how rights lawyers were rumors- and trouble-makers.

The animation summarized 10 code of practice of the Sike lawyers, (1) no matter what the cases are, they have to incline to disadvantaged social sectors, and in between the individual and the government, the government is always the wrong one. Truth is not important, the significance is everything should be related to the system; (2) if one can choose a case, always choose cases related to demolition, town/ urban management personnel (*chengguan*) and or the operational department of the government; (3) should immediately hype a case once it is taken up. This can be done via microblog and have to create public opinion; (4) whenever one goes to meet the client, one should pretend to be victims having been blocked by the police, stress on the difficulties encountered in the process. Need to claim that one's life is in imminent danger; (5) after meeting a client, one should immediately publicise news about torture, no matter how vague or exaggerating that might be; (6) when one's case reaches the Procuratorate, one should highlight the lack of access to file. Best way is to stand outside the Procuratorate's office holding placards and banners; (7) once entering

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<sup>5</sup> The account was unverified, but activists circle believes it to be owned by the Central Political and Law Commission.

<sup>6</sup> 2016-08-02 Chang'an Sword 长安剑:《天津庭审四个“没想到”,让境外想“闹场”的人哭晕在厕所……》  
[https://mp.weixin.qq.com/s?\\_\\_biz=MzI0MjI0Nzc5Mg==&mid=2653855319&idx=1&sn=d5c7728226e2646201874ff1138f35fa](https://mp.weixin.qq.com/s?__biz=MzI0MjI0Nzc5Mg==&mid=2653855319&idx=1&sn=d5c7728226e2646201874ff1138f35fa)

<sup>7</sup> [http://m.weibo.cn/3937348351/4004483015259157?sourceType=sms&from=1061095010&wm=9006\\_2001](http://m.weibo.cn/3937348351/4004483015259157?sourceType=sms&from=1061095010&wm=9006_2001)

<sup>8</sup> <http://bit.ly/2aR9yLt>

the stage of trial, tell stories about how the court tried to mislead the defendants and the lawyers; (8) when trials open, should go directly to request for the collegial panel to withdraw/ sidestep, try best to deny all evidence, say whatever one wants and if one is interrupted by the judge, then accuse the judge as depriving the lawyers' right to defend; (9) deliberately break the rules by recording and sending microblogs; (10) when the verdict is out, criticize the public security, the Procuratorate and the court as a gang and that the problem lies with the institution.

**(3) Attack international human rights organisations using the defendants**

Wang Yu, one of the arrested persons in the 709 crackdown, is awarded with two human rights awards in 2016: the Ludovic Trarieux International Human Rights Prize and the American Bar Association International Human Rights Award. At 15:00 on 1st August, 2016, the Hong Kong media ON.CC published an interview video tape of Wang with the headings "Arrested female lawyer accuses foreign countries for messing up China by sensationalizing human rights cases". In the video, Wang accuses international human rights organizations using the languages of Chinese government officials. She blamed the organization which tried to help her son Bao Zhuoxuan (Aka Bao Mengmeng) leave the country after she and her husband Bao Longjun were being detained. Wang claimed that someone tries to use her son as hostage to defame China. Regarding the two human rights awards or any potential awards awarding to her, she gave a response of 'Not acknowledging, not approving and not accepting' and would not send anyone to receive on behalf of her. She continued that "No matter what awards the foreign organizations are trying to give to me, I believe their purpose is to defame China using me."

**(4) Surveillance and intimidation of family members and self-appointed lawyers**

- i. At 20:00 on 31st July, 2016, Wang Qiaoling, wife of lawyer Li Heping, was put under illegal restriction of personal freedom at Tianjin Dawazhuang police station and Beijing Yizhuang Boxing Road police station consecutively for a total of 28 hours. Since then, Wang has been placed under house arrest with close monitoring by the police.
- ii. At 17:00 1st August, 2016, Li Wenzu, wife of lawyer Wang Quanzhang, was being summoned by over 10 police officers and not allowed to leave until 00:00 at night. Since then Li has been placed under house arrest with close monitoring by the police.
- iii. Since 1st August, 2016, Beijing lawyer Yu Wenseng, Liang Xiaojun, Guangdong lawyer Wu Kuiming, Chen Jinxue, Ge Yongxi were being summoned by the police and warned not to support the trial of 709 cases in Tianjin. Henan lawyer Meng Meng was requested to delete his posts about Zhou Shifeng case on Wechat.

**(5) Manipulative usage of media outside China mainland**

Instead of utilizing official media platforms such as CCTV and People's Daily before, the authorities this time chose "foreign media" like South China Morning Post, Sing Tao Daily, Oriental Daily, Phoenix TV, and the Taiwanese Want Daily.

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They arranged case interviews for the litigants to act in concert with their plea.<sup>9</sup>The authorities also make good use of social media like Wechat and Weibo and disseminate trial information through words, videos and animations. This compensates the disadvantage that the official media platforms lack credibility and shows their all-round monitoring in different media platforms.

**(6) Set up specific microblog page to “Caution against Colour Revolution” 5**

Since the first day of trial on 1st August,2016, Sina Weibo publish a page of “Alerting colour revolution”, the introduction reads like this, “Don’t ask about what is colour revolution, Iraq, Libya, Syria, Ukraine, these names are not unfamiliar. Look at the dead bodies on the beaches: Who wants China to be like that!? Stepping over our bodies first!” At the same time, all the posts the page forwards are related to the trials of Zai Yanmin, Hu Shigen, Zhou Shifeng. Up to 17:00 4th August, 2016, the posts have reached 420 millions of people and raised 169 thousands of posts discussing about them.

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<sup>9</sup> At 15h on 1 August 2016, HK media on.cc released an exclusive interview with Wang Yu who was said to be in a restaurant in Tianjin. The coverage was entitled “Arrested female lawyer criticised foreign countries of hyping weiquan cases with an intention to mess up China”. Wang commented that foreign organisations provide financial resources to intervene into the right defence cases in order to mess up the country. They also wanted to smuggle her 16-year old son to the US in order to keep him as hostage for attacking China. Wang said she would not admit or recognise or accept the human rights award given to her by the alliance of the European lawyers.

## Annex: Reference for Legal Provisions

### Rights At Pretrial Stage

#### Constitution of the People's Republic of China

**Article 33** The state respects and protects human rights.

**Article 37** Freedom of the person of citizens of the People's Republic of China is inviolable.

No citizen may be arrested except with the approval or by decision of a people's procuratorate or by decision of a people's court, and arrests must be made by a public security organ.

Unlawful detention or deprivation or restriction of citizens freedom of the person by other means is prohibited, and unlawful search of the person of citizens is prohibited.

#### Criminal Procedure Law of the People's Republic of China

**Article 37** A defense lawyer may meet and communicate with a criminal suspect or defendant in custody. As permitted by the people's court or people's procuratorate, a defender other than a defense lawyer may also meet and communicate with a criminal suspect or defendant in custody. When a defense lawyer files a request for a meeting with a criminal suspect or defendant in custody on the basis of the lawyer's practicing license, a certificate issued by the law firm, and a power of attorney or an official legal aid document, a jail shall arrange a meeting in a timely manner, no later than 48 hours after the request is filed. Where a defense lawyer files a request during the period of criminal investigation for a meeting with a criminal suspect in custody who is suspected of compromising national security, terrorist activities, or extraordinarily significant bribery, the meeting shall be subject to the permission of the criminal investigation authority. In such a case, the criminal investigation authority shall issue a prior notice to the jail. At a meeting with a criminal suspect or defendant in custody, a defense lawyer may learn relevant case information and provide legal advice and other services, and from the day when the case is transferred for examination and prosecution, may verify relevant evidence with the criminal suspect or defendant. A meeting between a defense lawyer and a criminal suspect or defendant shall not be monitored. Where a defense lawyer meets or communicates with a criminal suspect or defendant under residential confinement, paragraphs 1, 3 and 4 hereof shall apply.

**Article 38** A defense lawyer may, from the day when the people's procuratorate examines a case for prosecution, consult, extract, and duplicate case materials. As permitted by the people's court or people's procuratorate, a defender other than a defense lawyer may also consult, extract, and duplicate such materials.

#### Provisions of the Supreme People's Court, the Supreme People's Procuratorate, the Ministry of Public Security and Other Departments on Legally Protecting Lawyers' Practicing Rights

**Article 8** Where a criminal suspect or defendant in custody requests the termination of authorization, the case handling authority shall require the criminal suspect or defendant to issue written documents, and transfer them to the authorized lawyer or law firm within three days. The defense lawyer may request meeting the criminal suspect

or defendant in custody and confirm the termination of authorization with the criminal suspect or defendant on the spot, and the jail shall arrange the meeting; and if the criminal suspect or defendant refuses the meeting in writing, the jail shall transfer the relevant written materials to the defense lawyer and shall not arrange the meeting.

### **International Covenant on Civil and Political Rights**

**Article 7** No one shall be subjected to torture or to cruel, inhuman or degrading treatment or punishment. In particular, no one shall be subjected without his free consent to medical or scientific experimentation.

### **Article 9**

1. Everyone has the right to liberty and security of person. No one shall be subjected to arbitrary arrest or detention. No one shall be deprived of his liberty except on such grounds and in accordance with such procedure as are established by law.

2. Anyone who is arrested shall be informed, at the time of arrest, of the reasons for his arrest and shall be promptly informed of any charges against him.

3. Anyone arrested or detained on a criminal charge shall be brought promptly before a judge or other officer authorized by law to exercise judicial power and shall be entitled to trial within a reasonable time or to release. It shall not be the general rule that persons awaiting trial shall be detained in custody, but release may be subject to guarantees to appear for trial, at any other stage of the judicial proceedings, and, should occasion arise, for execution of the judgement.

4. Anyone who is deprived of his liberty by arrest or detention shall be entitled to take proceedings before a court, in order that that court may decide without delay on the lawfulness of his detention and order his release if the detention is not lawful.

5. Anyone who has been the victim of unlawful arrest or detention shall have an enforceable right to compensation.

### **Rights to Fair Trial**

### **Constitution of the People's Republic of China**

**Article 33** The state respects and protects human rights.

### **Criminal Procedure Law of the People's Republic of China**

**Article 11** People's courts shall hear cases in open court, except as otherwise provided for by this Law. A defendant shall have the right to defense, and a people's court shall have the duty to ensure that a defendant acquires defense.

**Article 53** In deciding each case, a people's court shall focus on evidence, investigation, and research, and credence shall not be readily provided for confessions. A defendant shall not be convicted and sentenced to a criminal punishment merely based on the defendant's confession without other evidence; a defendant may be convicted and

sentenced to a criminal punishment based on hard and sufficient evidence even without his or her confession. Evidence is hard and sufficient when the following conditions are met:

- (1) All facts for conviction and sentencing are supported by evidence;
- (2) All evidence used to decide a case has been verified under legal procedures; and
- (3) All facts found are beyond reasonable doubt based on all evidence of the case.

**Article 54** A confession of a criminal suspect or defendant extorted by torture or obtained by other illegal means and a witness or victim statement obtained by violence, threat, or other illegal means shall be excluded. If any physical or documentary evidence is not gathered under the statutory procedure, which may seriously affect justice, correction or justification shall be provided; otherwise, such evidence shall be excluded. If it is discovered during the criminal investigation, examination and prosecution, or trial of a case that any evidence shall be excluded, such evidence shall be excluded and not be used as a basis for a prosecution proposal, a prosecution decision, and a sentence.

**Article 182** After deciding to hold a court session to hear a case, a people's court shall determine the members of the collegial panel and serve a copy of the indictment of the people's procuratorate upon the defendant and the defender thereof no later than ten days before the court session is opened. Before a court session is opened, the judges may call together the public prosecutor, parties, defenders, and litigation representatives to gather information and hear opinions on trial-related issues, such as disqualification, a list of witnesses to testify in court, and exclusion of illegally obtained evidence. After determining the opening date of a court session, a people's court shall notify the people's procuratorate of the opening time and place of the court session, summon the parties, notify the defenders, litigation representatives, witnesses, identification or evaluation experts, and interpreters, and serve the summons and notices no later than three days before the court session is opened. If a case is to be heard openly, the cause of action, the name of the defendant, and the opening time and place of the court session shall be announced no later than three days before the court session is opened. The above proceedings shall be recorded in the transcripts, which shall be signed by the judges and court clerk.

**Article 183** A people's court of first instance shall hear cases openly. However, a case involving any state secret or personal privacy shall not be heard in open court; and a case involving any trade secret may be heard in camera if a party files such a request. The reasons for hearing a case in camera shall be announced in court.

**Article 195** After a defendant makes his or closing statement, the presiding judge shall announce an adjournment, and the collegial panel shall conduct deliberation and, based on the established facts and evidence and according to relevant legal provisions, render a sentence as follows:

- (1) if the facts of a case are clear, evidence is hard and sufficient, and the defendant is found guilty in accordance with law, the collegial panel shall render a guilty sentence;
  - (2) if the defendant is found innocent in accordance with law, the collegial panel shall render an acquittal sentence;
- or
- (3) if the defendant cannot be found guilty for insufficient evidence, the collegial panel shall render an acquittal sentence stating that the charges are denied for insufficient evidence.

## **Court Rules of the People's Courts of the People's Republic of China**

**Article 8** The people's court shall, through the official website, electronic display screens, and bulletins, disclose

such information on the serial number and specific location of each courtroom as well as the quantity of seats in the public gallery.

**Article 9** Citizens may observe the public trial.

When the public gallery fail to satisfy the needs, the people's court may issue attendance certificates according to the sequence in the filing of applications or by means of drawing lots or lottery; however, priorities shall be given to the close relatives of the parties involved or other interested persons in the case to observe the trial.

## **International Covenant on Civil and Political Rights**

### **Article 14**

1. All persons shall be equal before the courts and tribunals. In the determination of any criminal charge against him, or of his rights and obligations in a suit at law, everyone shall be entitled to a fair and public hearing by a competent, independent and impartial tribunal established by law. The press and the public may be excluded from all or part of a trial for reasons of morals, public order (*ordre public*) or national security in a democratic society, or when the interest of the private lives of the parties so requires, or to the extent strictly necessary in the opinion of the court in special circumstances where publicity would prejudice the interests of justice; but any judgement rendered in a criminal case or in a suit at law shall be made public except where the interest of juvenile persons otherwise requires or the proceedings concern matrimonial disputes or the guardianship of children.

2. Everyone charged with a criminal offence shall have the right to be presumed innocent until proved guilty according to law.

3. In the determination of any criminal charge against him, everyone shall be entitled to the following minimum guarantees, in full equality:

- (a) To be informed promptly and in detail in a language which he understands of the nature and cause of the charge against him;
- (b) To have adequate time and facilities for the preparation of his defence and to communicate with counsel of his own choosing;
- (c) To be tried without undue delay;
- (d) To be tried in his presence, and to defend himself in person or through legal assistance of his own choosing; to be informed, if he does not have legal assistance, of this right; and to have legal assistance assigned to him, in any case where the interests of justice so require, and without payment by him in any such case if he does not have sufficient means to pay for it;
- (e) 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;
- (f) To have the free assistance of an interpreter if he cannot understand or speak the language used in court;
- (g) Not to be compelled to testify against himself or to confess guilt.