FREEDOM OF EXPRESSION

REPRINTED

FROM THE

2007 ANNUAL REPORT

OF THE

CONGRESSIONAL-EXECUTIVE COMMISSION ON CHINA

ONE HUNDRED TENTH CONGRESS

FIRST SESSION

OCTOBER 10, 2007

Printed for the use of the Congressional-Executive Commission on China

Available via the World Wide Web: http://www.cecc.gov

U.S. GOVERNMENT PRINTING OFFICE

40–480 PDF WASHINGTON : 2008

For sale by the Superintendent of Documents, U.S. Government Printing Office
Internet: bookstore.gpo.gov Phone: toll free (866) 512–1800; DC area (202) 512–1800
Fax: (202) 512–2104 Mail: Stop IDCC, Washington, DC 20402–0001

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FREEDOM OF EXPRESSION

INTRODUCTION

The Commission's previous recommendations addressed three areas where China's citizens do not enjoy the right to free expression. First, the Commission has noted that restrictions on the free flow of information threaten the well-being of Chinese citizens and, increasingly, citizens around the world. In its 2003 Annual Report, the Commission noted that China's news media restrictions prevented citizens from being fully informed during the 2003 SARS crisis. After China began considering a proposal in 2006 to further limit media coverage during public emergencies, the Commission recommended in its 2006 Annual Report that the President and Congress urge China's leaders to recognize the importance of complete transparency in the administration of public health, and the importance of an unimpeded press in providing critical information to the public in a timely manner. Recent international concern over the global health impacts of food, drugs, consumer products, disease outbreaks, and pollution originating from China underscore the importance of the free flow of information.

Over the last five years, public access to government information, at least on paper, has improved, but major obstacles to government transparency remain, reflecting the Communist Party's overarching concern that it maintain control over the flow of information. In 2007, the government passed China's first national "freedom of information" regulation, but it remains subject to a "state secrets" exception that gives the government broad latitude to withhold information. The Party and government continue to maintain tight control over the press, and the prospects for a free press remain dim. While foreign reporters in theory were granted some increased press freedom in accordance with promises China made in 2001 as part of its successful bid to host the 2008 Summer Olympic Games, China continues to use upcoming important events such as the Party's 17th Congress in October 2007, and corruption among Chinese reporters, as a pretext for increased restrictions on domestic media. The lack of a free press to monitor the government leaves citizens poorly informed about major problems and unable to fully investigate the root causes of such problems and the extent to which the Party or the government should be held accountable.

Second, previous Commission reports highlighted China's pervasive censorship of the Internet and other electronic media. In its Annual Reports from 2002 to 2006, the Commission recommended that the President and Congress urge the Chinese government to stop blocking access to foreign news broadcasts and Web sites, and allow its citizens freer access to information on the Internet, particularly information concerning the rights of Chinese citizens to free speech and a free press. The Commission has also rec-

ommended that the President and Congress urge China to cease detaining journalists and writers, many of whom are punished for posting essays critical of the Chinese government on the Internet.

Over the last five years, the Party and government have continued to emphasize management and control over the Internet. They have done so by requiring Web sites to be licensed, blocking access to politically sensitive information on the Internet, and detaining citizens who criticize the government online. In 2007, Hu Jintao called for "purifying" the Internet, saying "the stability of the state" depended on the Party taking full advantage of and successfully controlling the Internet. The Internet poses a daunting challenge for the Party. In 2007, citizen activists used the Internet and cell phones to raise public awareness about cases involving slave labor and the construction of a hazardous chemical plant, driving the reporting agendas of the state-controlled press and forcing the government to address these problems. Their success, however, reflects the creativity of China's citizenry in evading censors and the difficulty in trying to monitor China's growing online environment, rather than any government policy of liberalization. Furthermore, journalists and writers who criticize the government online continue to face imprisonment for such crimes as "inciting subversion."

Third, the Commission's previous reports have noted China's prior restraints on publishing, which prevent citizens from freely expressing ideas and opinions. In its Annual Reports from 2003 to 2006, the Commission recommended that the President and Congress urge the Chinese government to eliminate prior restraints on publishing. Over the last five years, public officials in China have maintained prior restraints on publishing and continue to ban and confiscate books and magazines that do not conform to the Party's political requirements. This past year, publication and propaganda officials stepped up their efforts to clean up the publishing industry in preparation for the Party's 17th Congress to be held in October 2007.

FREE FLOW OF INFORMATION

Improvements and Obstacles to Government Transparency

The Commission notes that over the last five years, the Chinese government has made progress in increasing public access to government sources of information. The Communist Party and State Council have directed all levels of government to increase transparency.[1] In its 2003 Annual Report, the Commission noted that most provinces and major cities had set up detailed government Web sites.[2] By March 2007, 86 percent of all government agencies had official Web sites.[3] Many of the Web sites provide detailed and substantive information.[4] In addition, by the end of 2006, most central government institutions and all provinces, autonomous regions, centrally administered municipalities, and top-level courts had established public spokesperson systems.[5]

Over the last five years, the government has also sought to improve its ability to respond to public emergencies and make information available to the public more quickly. The government's slow response to the SARS disease outbreak in 2003 and to the Songhua River chemical spill in 2005 led to passage of measures to prevent

provincial and local officials from covering up such incidents.[6] The Regulation on the Handling of Public Health Emergencies, for example, requires provincial governments to report a public health emergency to central officials within one hour and requires central officials, or provincial governments who have received approval from central officials, to release information in a timely manner.[7] However, as the Commission noted in its 2003 and 2006 Annual Reports, these reforms were not intended to relax the government's control over the media or the free flow of information to the general public.[8] Rather, the goal was to increase the flow of information to central authorities in Beijing, control how the press reported on the matter, and prevent private citizens from publishing opinions regarding the government's handling of the crisis.

In April 2007, the State Council issued the Regulation on the Public Disclosure of Government Information (Public Disclosure Regulation), the first national "freedom of information" regulation requiring all government agencies to release important information to the public in a timely manner.[9] The new regulation, which takes effect on May 1, 2008, requires government agencies to timely disclose vital information regarding the government's handling of issues that have been at the forefront of controversy in recent years, such as food, drug, and product safety, public health emergencies, environmental protection, land expropriation, the sale of state-owned property, and population planning.[10] The regulation also provides citizens, legal persons, and other organizations with the right to request information from a government agency and to file an administrative lawsuit to appeal an agency's decision not to provide information.[11] The State Environmental Protection Administration subsequently issued implementing measures in April mandating public disclosure of information on China's environment.[12] [See Section II—Environment.]

The impact of these freedom of information regulations is limited, however, by the presence of a "state secrets" exception that gives the government broad latitude to withhold information from the public.[13] This policy reflects the continuing perception by the Party that relinquishing too much control over the flow of information will cause "social instability" and challenge the Party's supremacy. Chinese laws and regulations provide lists of what may be deemed a state secret, but these lists are broad and vague, encompassing essentially all matters of public concern.[14] For example, information about China's environmental pollution that would "reflect negatively on China's foreign affairs work" is considered a state secret.[15] Legal scholars in China have noted that the inclusion of a "state secrets" exception in the Public Disclosure Regulation gives officials too much discretion to withhold information.[16] In addition, the Public Disclosure Regulation's heavy penalties for officials who fail to protect state secrets may encourage even less transparency.[17] Moreover, citizens and journalists have encountered resistance from local officials when requesting information under similar administrative rules already in place in some Chinese cities. In June 2006, a Shanghai journalist sued the Shanghai Municipal Planning Bureau under a similar freedom of information regulation, but lost the case and was fired from his job as a result.[18] Some legal experts in China have also questioned whether

provisions in such regulations, granting citizens the right to request information, would apply to citizens acting in their role as journalists, an interpretation that would severely limit the law's impact.[19]

The National People's Congress recently issued the Emergency Response Law, which requires people's governments to publicly disclose accurate and timely information regarding emergencies.[20] The law was issued in August 2007 and will take effect on November 1, 2007. The Commission noted in its 2006 Annual Report that a draft of this law contained a provision that would have imposed a heavy fine on domestic or foreign media who reported on a public emergency without government approval.[21] The Commission noted that the provision would have impeded the efficiency of the Global Public Health Intelligence Network, an electronic surveillance system used by the World Health Organization to monitor the Internet for reports of communicable diseases and communicable disease syndromes. In a positive step, the provision was removed from the final version of the law.[22] The law, however, now contains a provision prohibiting the fabrication and spread of "false information."[23] Media who violate this provision may be shut down.[24] This provision could have a chilling effect on journalists who worry that the government retains too much discretion to determine whether information is false or not.[25] In January 2006, for example, public officials sentenced journalist Li Changqing to three years in prison for violating a Criminal Law provision that prohibits the "intentional dissemination of terrorist information that is knowingly fabricated to disturb public order," even though Li's reporting on a dengue fever outbreak turned out to be materially similar to the government's own accounts.[26]

Public officials have punished citizens for sharing second-hand information over the Internet or cell phones, threatening the free flow of information and forcing citizens to wait for the government's official version of the "truth" before discussing important public events. Commentators in China have expressed concern over the government's liberal application of Article 25 of the Public Security Administration Punishment Law, which provides for the detention of citizens who spread rumors with the intent to disturb public order.[27] [See Section II—Rights of Criminal Suspects and Defendants for more information about this law.] For example, in July 2007, officials in Jinan city, Shandong province, detained a resident for noting in an online discussion that she had heard that citizens had perished in heavy flooding that hit the city.[28]

The Supreme People's Court (SPC) has continued its campaign to increase public access to court proceedings. As the Commission noted in its 2003 Annual Report, the SPC has taken steps to improve the quality and availability of judicial decisions.[29] In June 2007, the SPC issued several opinions calling on courts to provide public access to all stages of the trial process,[30] and to make more judgments available in publications and over the Internet.[31] The opinions, however, contain the "state secrets" exception, which courts have commonly used to conduct politically charged trials behind closed doors.[32] [See Section II—Rights of Criminal Suspects and Defendants for more information about these opinions.] In addition, court officials concerned about media threats to judicial

independence have sought to limit media reporting of court activities. In September 2006, top officials at the SPC announced a policy prohibiting news media from interviewing judges or court officials without government permission and directing the media not to issue commentary on pending court cases.[33]

NO FREE PRESS

China's restrictions on the press violate the right to freedom of expression as provided for under international human rights standards and China's Constitution. Both the International Covenant on Civil and Political Rights[34] (ICCPR) and the Universal Declaration on Human Rights[35] (UDHR) guarantee the freedom to seek, receive, and impart information, through any media, regardless of frontiers. Article 35 of China's Constitution provides China's citizens freedom of speech and the press.[36] While this freedom is not absolute, the ICCPR and UDHR provide that restrictions may be imposed only to protect the following interests: national security or public order, public health or morals, or the rights or reputations of others. Furthermore, the restriction must be prescribed by law and must not exceed the scope necessary to protect a compelling interest.[37] China restricts the press for political and ideological reasons. Restrictions such as directives from propaganda officials are not prescribed by law because they are issued by a Communist Party entity, rather than one of the parties authorized to pass legislation under China's Legislation Law.

Party and Government Control Over Media

China's media could play an important role in helping inform the public about important events but, as noted above, recent laws and regulations dealing with government disclosure and public emergencies limit this potential. A more fundamental limitation, however, is the Party's continued control over all media in China, either directly or through its control over the government agencies that regulate China's media. The Party exercises direct control over the media through the Central Propaganda Department (CPD). The CPD issues directives informing publishers and editors what stories can and cannot be covered. It works together with lower-level propaganda departments to deliver these directives to all media and to appoint media managers to monitor each publication.[38] The CPD also requires editors and publishers to attend indoctrination sessions. In addition, government agencies heavily regulate the media. News publishers must be licensed by the General Administration of Press and Publication (GAPP) and have a government sponsor.[39] GAPP requires all journalists to be licensed.[40] The State Administration of Radio, Film, and Television (SARFT) controls the content of radio, television, satellite, and Internet broadcasts.

Major media, such as the People's Daily and Xinhua, remain closely affiliated with a Party or government entity.[41] Central Party and government officials use journalists to gather information so that they can monitor provincial and local officials, under a policy called "public opinion supervision."[42] Stories they deem too critical or politically sensitive to be published in the media are in-

stead forwarded as intelligence reports to relevant officials through classified channels.[43] Commercialization of the industry in the 1990s and the "public opinion supervision" policy has led to the development of media with a reputation for more hard-hitting journalism, including Southern Metropolitan Daily and Caijing.[44] Yet, even these more independent media remain subject to control by propaganda officials and have been singled out for punishment in the past.[45]

Roles the Media Is Expected to Play

The media in China is expected to act as the Party's mouthpiece.[46] Just before becoming President and Party General Secretary, Hu Jintao, in 2002, reiterated this longstanding policy, which has remained firmly in place during Hu's first five years in power.[47] For example, the Party's Central Committee issued a resolution at the end of its sixth plenum meeting in October 2006, calling on the news media to promote Hu's "harmonious society" policy.[48] To create a "positive public opinion atmosphere" for the Party's 17th Congress in October 2007, propaganda officials issued guidelines restricting media coverage of 20 topics, including the 50th anniversary of the anti-Rightist campaign, judicial corruption, and campaigns by legal rights defenders.[49] SARFT ordered television stations to air only "ethically inspired TV series" during prime time in the months leading up to the Party Congress.[50]

The Party also expects the media to paint central Party and government officials in a positive light. While media may report critically on the activities of provincial and local officials, their criticisms must remain at that level and may not threaten Party supremacy. The media must emphasize efforts by central Party and government officials to remedy the situation. For example, after news media and Internet activists exposed the widespread use of forced labor in brick kilns in May and June 2007, authorities chided local officials for trying to hide information from the media, but then instructed journalists to limit their coverage and to applaud the rescue efforts of central Party and government officials.[51]

Media that disobey propaganda directives or publish content unacceptable to censors continue to risk being disciplined or censored by the Party. In November 2006, the CPD ordered senior executives at the Beijing-based weekly magazine, Lifeweek, to engage in self-criticism and required its journalists to undergo political training after the magazine violated a Party directive not to highlight politically sensitive events.[52] Staff at a newspaper in Sichuan province were suspended for inadvertently running an advertisement that included a veiled reference to the Chinese government's June 4, 1989 crackdown on the Tiananmen Square democracy protests.[53] In March 2007, Caijing was reportedly ordered to withdraw an issue containing an article about a contentious draft of the Property Law then under consideration.[54]

Consequences of the Lack of a Free Press

Over the last five years, events such as the SARS crisis in 2003 and more recent government scandals show that the Party's control over the press denies citizens critical information at important

times. Chinese citizens and citizens around the world cannot effectively monitor the Chinese government because they remain dependent on the willingness of one unsupervised source, the Party, to provide accurate, timely, and unbiased information. Some recent examples include:

- Even after measures implemented following the SARS crisis in 2003 discouraged local officials from hiding information, local officials in the provinces of Jilin and Heilongjiang delayed notifying relevant officials and the general public about a chemical plant explosion in 2005 that released chemicals into the Songhua River, the main water source for the Heilongjiang capital of Harbin.[55] They imposed a two-week press blackout, and the incident led to panic among citizens and a diplomatic incident with Russia.
- When the top Party official in Shanghai was forced to step down in September 2006 amid allegations that he had mismanaged the city's nine billion yuan (US$1.2 billion) pension fund,[56] propaganda officials ordered local media to publish only official news reports from Xinhua.[57] During this time, Shanghai's municipal government reportedly did not hold a press conference for almost four months.[58]
- In May 2007, international and Hong Kong officials complained that Chinese officials were tight-lipped about a rumored epidemic affecting pigs in a province near Hong Kong, and about contaminated pet food that had reportedly caused large numbers of cats and dogs in the United States to become ill.[59] China's media had reportedly issued few reports on the incidents.[60]
- In July 2007, the Financial Times reported that officials at the State Environmental Protection Administration and Ministry of Health asked the World Bank to remove from a joint report the figure of 750,000 premature deaths every year in China, caused mainly by air pollution.[61] Officials reportedly said the information was "too sensitive" and could cause "social unrest."[62] A foreign ministry official denied the charge that any information had been censored.[63]
- In July 2007, propaganda officials ordered restrictions on food safety reports after a Beijing reporter issued a false news report alleging that food vendors were filling steamed buns with pieces of cardboard.[64]

Limited Prospects for a Free Press

Central government officials have urged local officials to cooperate more with the media, but this development should not be interpreted as a shift in government policy to allow for a freer press.[65] For example, in July 2007, a State Council Information Office official criticized local officials for blocking media coverage of the forced labor scandal at brick factories in central China.[66] This criticism is consistent with the central government's "public opinion supervision" policy of relying on journalists to gather information so that they can monitor provincial and local officials. The central government's support of this policy has, however, given commentators in China justification for calling for broader press freedom,

although they have been careful to do so in the context of local initiatives to restrict press freedom and to fashion arguments consistent with "public opinion supervision."[67] For example, a deputy editor at Southern Weekend argued in an editorial that the purpose of news is not to serve as a propaganda tool, and that the central government's "public opinion supervision" policy is intended for the press to be a check on public power.[68] The editorial was in response to the Anhui provincial government's issuance in October 2006 of rules requiring journalists to write a minimum number of "positive" stories about Anhui in order to receive a promotion.[69]

The Chinese government also allowed foreign journalists greater freedom in 2007. To fulfill China's commitment to give journalists "complete freedom" to report on China when it bid for the 2008 Summer Olympic Games in 2001,[70] Premier Wen Jiabao signed into law new regulations in December 2006, which eliminate the requirement that foreign journalists must obtain government permission before conducting interviews.[71] The new rules, which went into effect on January 1, 2007 and expire on October 17, 2008,[72] have had mixed results. The Foreign Correspondents Club of China, an association of Beijing-based foreign journalists, and Human Rights Watch both issued reports noting that while some journalists have said that China's reporting environment has improved, harassment, intimidation, and detention of foreign journalists and the Chinese citizens they interact with remains commonplace.[73] Problems have included intimidation of citizens who speak to foreign journalists,[74] harassment of journalists in politically sensitive areas such as the Tibet Autonomous Region,[75] harassment of citizens who work with foreign journalists,[76] and the refusal of local officials to recognize that the new rules extend to non-Olympics related coverage.[77] It remains to be seen whether the rules will be extended beyond the Olympics and what effect they will have on domestic journalists. For a more detailed and updated analysis on the impact of these regulations on freedom of expression in China, see the Commission's Web site at *www.cecc.gov*.

One obstacle to press freedom in China is that the state's control over the media contributes to corruption in the media. According to David Bandurski, a research associate at the China Media Project at the University of Hong Kong: "Media corruption is facilitated by the quasi-official status of reporters, who are seen by many Chinese as government functionaries with special authority. This combination of power and profit motive is a key ingredient in many extortion attempts."[78] In May 2007, the People's Daily reported that a person who had posed as a reporter and top editor at the paper had collected 3.79 million yuan (US$500,000) in bribes before being caught and sentenced to life in prison.[79] Problems of journalists asking for bribes in return for not publishing negative news or writing a positive story are reportedly widespread.[80]

This corruption has provided the state with a pretext to restrict China's media even more.[81] In March 2007, for example, the GAPP issued a notice requiring media to take greater measures to purge their local offices of unlicensed journalists after one was beaten to death by the owner of an illegal coal mine who thought the journalist was seeking a bribe.[82] Later in 2007, a Beijing journalist falsified a report on food vendors filling steamed buns with cardboard.

Amid rising international concern over China's food exports, China responded with a crackdown on false news and illegal publications, including "illegal political newspapers and magazines that fabricate political rumors."[83]

INTERNET CENSORSHIP

China's Internet Policy

Since the Internet first became popular in the late 1990s, China's policy has emphasized management and control over this medium. In a January 2007 speech to Politburo officials, Communist Party General Secretary Hu Jintao called for "purifying" the Internet environment, saying that "the stability of the state" depended on the Party taking full advantage of and successfully controlling the Internet.[84] China has controlled the Internet through licensing requirements for Web sites, shutting down and blocking access to Web sites that post political content, and detaining citizens who criticize the government online or post politically sensitive content. Its efforts have been relatively successful. Despite heavy censorship, many citizens consider the Internet in China to be quite free, with unprecedented access to information about sports, entertainment, and business, and in some cases, political content that China fails to block. According to a recent survey, more than 80 percent of Internet users in China are satisfied with the diversity of content.[85]

Far from simply limiting online information that runs counter to the Party's ideology, the Party has sought to use the Internet to bolster its monopoly on political power and to drive China's economy. According to the World Bank, information and communication technologies have led China's economic ascent, growing two to three times faster than China's overall GDP over the last 10 years.[86] Internet use has skyrocketed from 59 million users in 2002 to 162 million in June 2007.[87] According to Tim Wu, an expert on China and a professor at Columbia Law School, "the Chinese government has seen the Internet as an enormous opportunity at igniting public opinion in its favor."[88] During his January 2007 speech to Politburo officials, President Hu emphasized the central role the Internet plays in the Party's efforts to shape public opinion.[89] China views the Internet as a battleground for public opinion that is currently monopolized by the West,[90] and has sought to overcome this perceived monopoly by increasing Chinese sources for online information. The fact that it is easy to communicate with large numbers of people over the Internet, and that users rely heavily on the Internet for news and information, make the Internet a powerful platform for promoting the Party's ideology and policies.

Measures To Control the Internet

China's measures to control the Internet do not conform to international standards for freedom of expression. Under the ICCPR and UDHR, such restrictions may be imposed only if they are provided by law and are necessary to protect national security or public order, public health or morals, or the rights or reputations of others.[91] In some cases, China has imposed restrictions to address issues of public concern, such as privacy protection, false advertise-

ments, spam, online pornography, and youth addiction to the Internet.[92] But public officials in China also prohibit citizens from accessing or posting online content if they find such content to be politically unacceptable without any formal determination of necessity based on ICCPR and UDHR standards.

Licensing System

As noted in the Commission's 2006 Annual Report, the government requires all Web sites in China to be either licensed by, or registered with, the Ministry of Information Industry (MII).[93] Web sites that fail to register or obtain a license may be shut down and their operators fined.[94] Authorities appear to be shutting down more Web sites in preparation for the 17th Party Congress, many for being unregistered.[95] Anyone wishing to post or transmit news reports or commentary relating to politics and economics, or military, foreign, and public affairs, must also have a government license.[96] According to the OpenNet Initiative, "In large measure, the registration regulation is designed to induce Web site owners to forego potentially sensitive or prohibited content, such as political criticism, by linking their identities to that content. The regulation operates through a chilling effect."[97] China continues to draft regulations to bring new forms of online media into the registration system. In April 2007, for example, Xinhua reported that the General Administration of Press and Publication (GAPP) had drafted the Regulation on the Supervision of Internet Publishing, which would require online magazines to be examined and approved by GAPP prior to publication.[98]

Monitoring, Blocking Access, and Filtering Content

China has continued to block access to foreign Web sites, which it is able to do because it controls access at the gateway connection between China and the global Internet.[99] Over the past five years, the Commission has noted that at various times China has blocked the Web sites of AltaVista, Google, and foreign news providers such as the Voice of America, Radio Free Asia, and the BBC, and human rights advocacy groups such as Human Rights Watch, Human Rights in China, Reporters Without Borders, and the Committee to Protect Journalists. The Commission has noted in its recommendations on the Internet that China's censorship system prevents its citizens from accessing information about their rights and China's violations of them. Since May 2005, the Chinese government has prevented its citizens from accessing the Commission's Web site. In June 2007, China reportedly unblocked access to the English Wikipedia Web site after it had been blocked for most of the last 18 months, but the version of Wikipedia designed for Chinese users remained blocked. Bloggers reported that certain pages on the English site remained blocked as well, such as those relating to Tibet or Tiananmen Square.[100] In July, Yahoo!'s photo sharing Web site, Flickr, reported that China had blocked its site, after ruling out the possibility of a technical problem.[101]

China employs a large number of public security officials to monitor the Internet and is improving its monitoring capabilities as Internet usage grows. In April 2007, Xinhua reported that by the end of June, all major portals and online forums would be mon-

itored by "virtual cops" of the Ministry of Public Security.[102] In May, the MII announced that by October the ministry would complete a database of registered Web sites that would make it easier for law enforcement officials to keep track of the rapidly growing number of Web sites.[103] Xinhua reported that more than 2,000 Web sites are registered each day.[104]

China compels Internet companies to assist in censorship by requiring them to filter search results and to monitor the Internet activities of its customers to ensure that "harmful information" does not come online. Chinese search engines such as Baidu, and the China-based search engines of Yahoo!, MSN, and Google filter search results, including those relating to the Voice of America, Radio Free Asia, and human rights.[105] Providers of Internet access and services must monitor customers' online activity, maintain records of such activity, provide such information to officials as part of a "legal investigation," and remove any "harmful" information.[106] In February 2007, Radio Free Asia reported that Sohu.com, a major Chinese Internet portal, had shut down two of the blogs of Pu Zhiqiang, a prominent lawyer who has promoted citizens' legal rights.[107] Internet cafes, where many Chinese access the Internet, are also required to record the identities of their customers, monitor their online activity, and maintain records of both for not less than 60 days.[108]

Internet companies have also repeatedly pledged publicly to support China's censorship policies over the last five years, although they have shown a willingness to resist some proposals. This past year, the Internet Society of China (ISC), a think tank affiliated with the MII, sought to implement a policy requiring all bloggers to register under their real names. Real name systems may be useful for encouraging civil discourse and accountability, but in the context of China's tightly censored Internet it threatens what has become a haven for expression, as bloggers had come to rely on a veneer of anonymity[109] that had emboldened many to publicly express opinions they otherwise would not have. Real name systems that have already been implemented have reportedly led to dramatic drops in participation.[110] In May 2007, the ISC decided against making the proposal mandatory following industry resistance.[111] Instead, major Internet companies such as Sina Corporation, NetEase.com, Inc., TOM Online, Inc., Yahoo! China, which Yahoo! retains a minority stake in but reportedly does not have day-to-day operational control over,[112] and MSN's China service, signed a self-discipline pledge in August to encourage Internet users to use their real name when posting blogs or essays online.[113] Yahoo! and MSN, however, both indicated that there were no current plans to require customers to use their real names to register for blogging services.[114]

Imprisoning Online Critics

Over the last five years, public officials in China have frequently used Article 105 of the Criminal Law to detain citizens for criticizing the government and the Party online, especially on Web sites outside of China.[115] Article 105 outlaws "subversion" or "incitement of subversion." The UN Working Group on Arbitrary Detention has criticized China's use of such "vague, imprecise, and sweeping" pro-

visions to punish peaceful expression of rights guaranteed in the UDHR and ICCPR.[116]

Over the past year, public officials in China have punished numerous online critics in the run-up to the 17th Party Congress and the 2008 Beijing Summer Olympic Games.

- In October 2006, a court in Hebei province sentenced Internet essayist Guo Qizhen to four years in prison for inciting subversion in connection with 30 essays he posted on a U.S.-based Web site.[117]
- In October 2006, a court in Shandong province sentenced Internet essayist Li Jianping to two years in prison for inciting subversion in connection with essays he posted on foreign Web sites.[118]
- In March 2007, a court in Zhejiang province sentenced writer Zhang Jianhong (whose pen name is Li Hong) to six years in prison for inciting subversion by "slandering" the government and China's social system in 60 essays he posted on foreign Web sites.[119]
- In April 2007, a Zhejiang court sentenced painter and writer Yan Zhengxue to three years in prison for inciting subversion by "attacking the Party's leaders" on foreign Web sites.[120]
- In August 2007, a Zhejiang court sentenced writer Chen Shuqing to four years in prison for inciting subversion after he criticized the government online.[121]

The above individuals in Zhejiang were reportedly members of the China Democracy Party (CDP) or charged with being a CDP member,[122] and joined other reported CDP members in Zhejiang who were punished this past year, including Chi Jianwei and Lü Gengsong. Chi was sentenced to three years in prison in March for "using a cult to undermine implementation of the law"[123] and Lü was detained in August on charges of inciting subversion.[124] [See Section III—Civil Society for more information on the CDP.] Authorities also refused to renew the license of Li Jianqiang, the lawyer who represented Chen, Zhang, Yan, and Guo.[125] Li has represented numerous writers and activists, including freelance writer Yang Tongyan (whose pen name is Yang Tianshui), sentenced in May 2006 to 12 years in prison on "subversion" charges for criticizing the government online and attempting to form a branch of the CDP.[126]

Public officials in China have also used Article 105 to punish citizens who criticize China's human rights record in the context of the 2008 Olympic Games. In August 2007, public security officials in Jiamusi city, Heilongjiang province, arrested Yang Chunlin and charged him with inciting subversion after he organized an open letter titled "We Want Human Rights, Not the Olympics," and gathered more than 10,000 signatures from farmers who had reportedly lost their land.[127]

Additional information on these cases and others is available on the Commission's Political Prisoner Database [See Section I—Political Prisoner Database].

Both the UDHR and ICCPR allow for restrictions on free speech only to the extent necessary to protect national security. Available opinions from these cases, however, provide no examples of any subversive language and make no attempt to show that the actions

in question caused or were likely to cause a threat to China's national security.[128] Moreover, the courts did not place any constitutional limitations on the authority of the government to criminalize certain types of speech, or balance the need to protect national security with the right to freedom of expression. Chinese officials have also begun to punish citizens for simply looking up and viewing Web sites deemed to be reactionary or a threat to its power. Zhang Jianping was barred from using the Internet for six months after he allegedly accessed the Web site for the Epoch Times, a New York-based newspaper linked to Falun Gong and known for its critical coverage of China.[129]

Challenges to Control

The Internet presents a daunting challenge for the Party. Its decentralized nature and the ability to send information to large numbers of people quickly makes it increasingly difficult to control.[130] This challenge is expected to increase over time as more people use the Internet and rely on it for information. With a penetration rate of only 12.3 percent of China's population, below the world average of 17.6 percent, there is plenty of room to grow.[131] The average number of hours per week spent online rose from 11.5 in 2002 to 18.6 in June 2007. Almost all Internet users in China look to the Internet first for information and more than three-fourths said that they first found out about a major news event from the Internet.

Commentators have noted recently that the Internet and blogs in particular are becoming a powerful vehicle for citizens to provide one another information that contrasts with information in the state-controlled press and Party propaganda. The number of blogs, personalized Web pages that citizens use to provide running commentary on all kinds of topics, has grown to an estimated 20 million in China.[132] Xiao Qiang, Director of the China Internet Project at the University of California at Berkeley, testified at the Commission's hearing in September 2006 that "[o]nline discussions of current events, especially through Internet bulletin board systems (BBS) and Weblogs, or 'blogs,' are having real agenda-setting power." According to Ashley Esarey, a Middlebury College professor and expert on China's media controls, China's blogs exhibit much higher freedom and pluralism than the state-controlled press.[133] The Internet has provided a platform for "citizen journalists" who operate largely outside of the censorship system for traditional media[134] and citizens are using less regulated blogs to break news stories. "[E]very blogger is a potential source of news. The Internet has the power to take any local news story and make it national news overnight," said Li Datong, the ousted former editor of Freezing Point, a weekly published by the China Youth Daily, who now writes for the current affairs Web site openDemocracy.[135]

Other information sharing technologies, especially cell phones, are posing similar challenges to China's information control. Cell phone use is ubiquitous in China and popular among broad segments of the population. By July 2007, cell phone usage had grown to 500 million, almost 40 percent of the population.[136] Rural residents made up nearly half of China Mobile's 53 million new cell phone subscribers in 2006.[137] While cell phones are a less condu-

cive platform for exchanging large amounts of information, in China they are a popular tool for sending short text messages. Chinese of all ages use the "text messaging" function much more often than in the United States, where it has remained largely the province of the young.[138] China also employs censorship technology to filter out politically sensitive text messages.[139]

Citizens have been using the Internet and cell phones with increasing success to shape and even drive the reporting agendas of mainstream news outlets, and to force governments to address problems. Censors have not been able to stop an initial tide of information and instead have been left to contain the situation after the fact. Several high-profile instances over the last year include:

- Officials in the southeastern port city of Xiamen, home to more than 2 million people, planned to build a 300-acre, 10.5 billion yuan (US$1.4 billion) hazardous chemical plant in a heavily populated neighborhood.[140] In March 2007, central government officials criticized the project's safety,[141] but officials in Xiamen kept local residents in the dark about the concerns and made sure local media touted the project's economic benefits.[142] A local resident who became aware of the concerns began to use his blog to organize opposition to the plant, telling readers the plant would hurt the local property market and tourism industry.[143] Word quickly spread over the Internet. Meanwhile, residents began to circulate cell phone text messages comparing the plant to an "atomic bomb."[144] Xinhua reported that citizens sent nearly one million text messages opposing the project, leading local officials to suspend construction in May 2007.[145] Despite local officials' efforts to censor the Internet and cell phones, area residents used both to organize and document protest marches in early June that attracted thousands.[146]
- The Internet also helped bring nationwide and international attention to the kidnapping of migrant workers forced into labor in brick factories in central China. In early June 2007, the relative of a rescued child posted a plea on the Internet on behalf of hundreds of parents still looking for missing children.[147] The post was rejected by a Xinhua forum for containing "sensitive content," but was successfully posted on another forum. Her original post and a re-posting were each viewed hundreds of thousands of times. Following the postings, China's traditional media outlets gave the story extensive coverage, exposing in graphic detail the large numbers of migrant workers, including many children and mentally ill, who were forced under heavy guard to work for no pay and little food.[148] In response, the government launched raids involving a reported 35,000 policemen, ordered media to highlight the Party's rescue efforts, sought to discredit the Internet activist who helped uncover the scandal, and warned parents and lawyers for victims not to speak to journalists.[149] [See Section II—Worker Rights for more information on the labor issues relating to this case.]
- In March 2007, Chinese bloggers made a national news sensation of a couple in Chongqing city in western China who resisted pressure to sell their home to developers, leaving their

house protruding in the air like a nail after the land around it had been excavated.[150] Bloggers posted photos of the "awesome nail house" and traveled to the scene to conduct their own reporting of the story, which hit the headlines shortly after the landmark Property Law had been passed.[151]

While these technological tools have offered citizens new opportunities to express themselves and to elude censors, they have not increased citizens' freedom of expression per se, as the Chinese government has consistently responded to these outpourings of discontent with increased restrictions. Officials imposed restrictions on media coverage, blocked access to or removed offending blogs and cell phone text messages, and in some cases warned citizens not to speak with the media.[152] After the Xiamen chemical plant protests, for example, local officials drafted legislation that would prohibit area Internet users from commenting on blogs and discussion forums anonymously and require local Internet service providers to improve their capability to filter out "harmful and unhealthy" information.[153]

FREEDOM TO PUBLISH IDEAS AND OPINIONS

Government Policy Toward Publishing

The Chinese government's licensing scheme for print media[154] that has remained in place over the last five years does not conform to international standards for freedom of the press.[155] An individual who wishes to publish a book, newspaper, or magazine may not do so on their own, but must do so through a publisher that has been licensed by the General Administration of Press and Publication (GAPP).[156] The GAPP requires that to obtain a license, publishers must have a government sponsor and meet minimum financial requirements.[157] Every book, newspaper, and magazine must have a unique serial number, and the GAPP maintains exclusive control over the distribution of these numbers.[158] GAPP officials have explicitly linked the allotment of book numbers to the political orientation of publishers.[159]

While not speaking specifically about this licensing scheme, Premier Wen Jiabao acknowledged in March that government agencies with too much licensing authority, and little restraint or oversight, had bred corruption among officials.[160] In July, popular writer Wang Shuo accused television censors of abusing their authority and collecting bribes in exchange for a television show's approval, a situation that one official acknowledged, but denied being widespread.[161] Concern over corruption has not stopped officials from continuing to expand their licensing authority over free expression. In April 2007, the Ministry of Culture announced that it would begin to require actors, singers, directors, and other artists to receive certification in order to be hired.[162]

Publishers and writers must serve the Communist Party's interests. Long Xinmin said in October 2006 while he was director of GAPP that press and publishing departments must "insist on the unwavering guiding position" of Marxism and the Party.[163] In November, President Hu Jintao told writers that the Party hoped that "each would make their own contribution to building a harmonious society."[164] In March 2007, Long Xinmin said that press and pub-

lishing industries must "firmly grasp the correct guidance of public opinion and create a good public opinion environment" for the Party's 17th Congress and "harmonious society" policy.[165]

Banning and Confiscating Illegal Publications

The government continues to target publications that contain political and religious information and opinions with which the government disagrees or for simply not having a license to publish. Between 2002 and 2006, public security officials in China confiscated 590 million "illegal publications."[166] Many of the publications are targeted for violating intellectual property rights or containing pornographic content, but in 2004, for example, public officials confiscated hundreds of thousands of copies of publications solely because of their political content. In 2005, officials seized 996,000 copies of "illegal political publications." During a two-month period in 2006, officials seized 303,000 copies of "illegal publications" deemed to have harmed social stability, endangered state security, or incited ethnic separatism.[167] During that same period, officials confiscated 616,000 unauthorized newspapers and periodicals.[168] In February 2007, a GAPP official explained that a crackdown on "illegal political publications," including those that "attacked the Party's leaders," "slandered the socialist system," or concerned Falun Gong, would be a major focus of the ongoing Sweep Away Pornography and Strike Down Illegal Publications campaign in preparation for the Party's 17th Congress.[169] [See Section II—Freedom of Religion—Religious Speech for more information on restrictions on religious publications.] In the first three months of 2007 alone, authorities confiscated 357,000 copies of publications deemed to have harmed social stability, endangered state security, or incited ethnic separatism.[170]

China's onerous licensing requirements encourage citizens to publish illegally, eroding the rule of law, and subjecting them to the risk that they will be caught and their publication shut down. One editor of a college magazine in China said in June 2007 that he had set up his own campus magazine because he had been disappointed with other magazines in China, which he described as "homogeneous, very contrived, and lacking in energetic content."[171] A professor commenting on the publications, however, said that without a publication number the students were engaged in illegal publishing. The professor said the licensing system was intended to ensure that publications were not "abused by certain groups."[172]

Censoring Publications

Authors who have published through a licensed publisher still risk being censored. Propaganda officials decide what to censor behind closed doors, making verification difficult and a legal challenge impossible. The Hong Kong-based South China Morning Post reported that at a meeting in January 2007, GAPP said it had banned eight books because propaganda officials determined they had "overstepped the line."[173] The books dealt with topics such as China's media, SARS, the Cultural Revolution, the Great Leap Forward, and democracy. Officials reportedly criticized one of the

books for "romanticizing" Japan's occupation of China in the 1930s and 1940s and others for revealing state secrets.[174]

In response to media attempts to confirm the ban, GAPP officials denied its existence.[175] Publishers, however, confirmed the ban.[176] As punishment, authorities reportedly required the editors at one publisher to write self-criticisms and forego bonuses, and reduced the publisher's allotment of book numbers by 20 percent. Zhang Yihe, the daughter of a prominent rightist figure from the 1950s and whose book on the repression faced by classical opera stars in 1960s China was banned, sought to have a Chinese court overturn the action, but two courts in Beijing refused to accept her application.[177]

Preventing Writers From Traveling Freely

Chinese officials have also punished critics by restricting their travel. In February 2007, local police officials prevented 20 writers from attending an International PEN conference in Hong Kong by refusing to approve their travel documents or warning them not to go.[178] The writers included Zhang Yihe and Zan Aizong, a journalist who was detained in 2006 after he posted reports on foreign Web sites about detentions of Protestants protesting the destruction of a church in Zhejiang province.

POLITICAL PRISONER DEVELOPMENTS

The case of Shi Tao, a Chinese journalist currently serving a 10-year sentence for "illegally providing state secrets to a foreign organization,"[179] gained greater attention outside of China in 2007, as new information about his case became public. In 2004, Shi Tao reportedly e-mailed notes to a New York-based democracy Web site that were from a propaganda document restricting media coverage during the 15th anniversary of the 1989 Tiananmen democracy protests. Shi Tao's conviction in 2005 was based in part on information provided by Yahoo! China, then under the control of Yahoo!.[180] In July 2007, the Dui Hua Foundation and Boxun released a copy of the request Chinese police made to Yahoo! China seeking information about Shi Tao's e-mail account. The release of the request brought to light new information about the basis of the request as communicated to Yahoo! China because it indicates that the request related specifically to a suspected "illegal provision of state secrets" case.[181] In addition, Shi Tao's case remains significant because he exposed China's censorship of its media. As the global impact of events within China has grown, China's censorship of the media has become more important because the rest of the world relies on China's media to better understand such events. The Commission will continue to monitor and note future actions by Chinese officials to punish citizens for exposing censorship of China's media, in violation of these citizens' internationally protected right to freedom of expression.

Another journalist, Zhao Yan, completed his three-year sentence for fraud and was released in September 2007.[182] Authorities originally arrested Zhao, a Chinese researcher for the New York Times (NYT), for providing state secrets to foreigners.[183] Sources said the "state secret" was information that former President and Com-

munist Party General Secretary Jiang Zemin had offered to resign as Chairman of the Central Military Commission. Jiang's resignation was later reported in the official press. In August 2006, an intermediate court in Beijing sentenced Zhao to three years in prison on an unrelated fraud charge dating from 2001, but acquitted him of disclosing state secrets. Jerome Cohen, an expert on Chinese law and advisor to the NYT on Zhao's case, testified at a Commission hearing in September 2006 that Zhao was "sentenced to three years in prison after another trial that can only be regarded as a farce, and after highly illegal—according to Chinese law—pre-trial detention, interrogation, et cetera."

In a positive sign, one journalist was released early while another received a sentence reduction. Local officials released former Xinhua journalist Gao Qinrong from a prison in Shanxi province in December 2006, 4 years before his 12-year sentence was to expire.[184] Gao was sentenced in 1999 after he exposed corruption at an irrigation project in Yuncheng district, Shanxi province, that implicated top provincial officials. Xu Zerong received a nine-month sentence reduction on an unknown date and is due for release in September 2012.[185] Xu, a senior research fellow at the Guangdong Academy of Social Sciences in Guangzhou city and head of an independent publishing company in Hong Kong, was sentenced to 13 years in prison in 2001 for revealing state secrets by copying and sending historical material dating from the 1950s about the Korean War to researchers overseas, and illegally operating a business by selling books and periodicals without officially issued book numbers.

Additional information on these cases and others is available on the Commission's Political Prisoner Database [see Section I—Political Prisoner Database].

Endnotes

[1] CECC, 2005 Annual Report, 11 October 05, 103. According to a 2005 State Council Information Office White Paper: "The Chinese government requires its subordinate departments at all levels to make public their administrative affairs as far as possible, so as to enhance the transparency of government work and guarantee the people's right to know, participate in and supervise the work of the government." State Council Information Office, White Paper on Political Democracy, 19 October 05.

[2] CECC, 2003 Annual Report, 2 October 03, 61–62.

[3] "China Effectively Promotes Administrative Transparency," People's Daily (Online), 23 March 07.

[4] For example, the Web site for the State Environmental Protection Administration contains links to relevant policies, laws, and regulations, a daily report on air quality in major cities, and news stories on the environment. State Environmental Protection Administration of China (Online), visited on August 28, 2007.

[5] "China's Media Announcement Work and Construction of Media Spokesperson System Makes New Progress" [Zhongguo xinwen fabu gongzuo he xinwen fayanren zhidu jianshe qude xin fazhan], China.com.cn (Online), 22 January 07; "Supreme People's Court and High Courts Have Already All Established News Spokespersons" [Zhongguo zuigaofayuan he gaojifayuan yi quanbu jianli xinwen fayanren], Xinhua, reprinted in People's Daily (Online), 12 September 06.

[6] See, e.g., Regulation on the Handling of Public Health Emergencies [Tufa gonggong weisheng shijian yingji tiaoli], issued 9 May 03, art. 45; Ching-Ching Ni, "China Toughens Stance on Environmental Protection," Los Angeles Times (Online), 22 February 06; Elaine Kurtenbach, "Environmental Agency Says Disasters Must Be Reported Within One Hour," Associated Press, reprinted in South China Morning Post (Online), 7 February 06.

[7] Regulation on the Handling of Public Health Emergencies, arts. 19, 25.

[8] CECC, 2003 Annual Report, 37; CECC, 2006 Annual Report, 20 September 06, 102.

[9] Regulation of the People's Republic of China on the Public Disclosure of Government Information [Zhonghua renmin gongheguo zhengfu xinxi gongkai tiaoli], issued 5 April 07, art. 1.

[10] Ibid., arts. 10, 11, 12.

[11] Ibid., arts. 13, 20, 21, 22, 23, 24.

[12] Measures on Environmental Information Disclosure (Trial) [Huanjing xinxi gongkai banfa (shixing)], issued 11 April 07.

[13] Regulation on Public Disclosure of Government Information, art. 14; Measures on Environmental Information Disclosure (Trial), art. 12.

[14] See, e.g., Provisions on the Protection of Secrets in News Publishing [Xinwen chuban baomi guiding], issued 13 June 92, art. 14: "Anyone wishing to provide a foreign news publishing organization a report or publication with contents that relate to the nation's government, economy, diplomacy, technology or military shall first apply to this agency or their supervising organ or unit for examination and approval." See also PRC Law on the Protection of State Secrets [Zhonghua renmin gongheguo baoshou guojia mimi fa], issued 5 September 88, art. 8; Measures for the Implementation of the Law on the Protection of State Secrets [Zhonghua renmin gongheguo baoshou guojia mimi fa shishi banfa], issued 25 April 90, art. 4; and Article 1 of the Explanation of Certain Issues Regarding the Specific Laws to be Used in Adjudicating Cases of Stealing or Spying to Obtain, or Illegally Supplying, State Secrets or Intelligence for Foreigners [Guanyu shenli wei jingwai qiequ, citan, shoumai, feifa tigong guojia mimi, qingbao anjian juti yingyong falü ruogan wenti de jieshi], issued 20 November 00, which states: "The term 'intelligence' in Article 111 of the Criminal Law refers to items which involve the security and interests of the nation, but which are not public or which, according to relevant regulations, should not be made public." See also "Secrets Protection Knowledge" [Baomi zhishi], posted on the Administration for the Protection of State Secrets of Guangdong province Web site, which states: "'Relating to the security and interests of the nation,' means that, if a secret matter were known by people who do not currently know it, it would result in various kinds of harm to the security and interests of the nation." In September 2003, the Guangzhou Daily published a warning to readers that everyone from Internet users to garbage collectors can run afoul of China's state secrets legislation. "If a Nanny Can Disclose State Secrets, Then Average Citizens Should Raise Their Awareness of Preserving Secrets" [Baomu jingran xielou guojia jimi baixing yexu tigao baomi yishi], People's Daily (Online), 5 September 03.

[15] Regulations on the Specific Scope of State Secrets in Environmental Protection Work, issued 28 December 04, art. 2; Human Rights in China (Online), "State Secrets: China's Legal Labyrinth," June 2007, 174.

[16] Ye Doudou and Duan Hongqing, "How Wide Is the Door to Chinese Governments' Information Disclosure," Caijing (Online), 2 May 07; "China Issues Landmark Decree To Encourage Gov't Transparency," Xinhua (Online), 24 April 07.

[17] Human Rights in China, "State Secrets: China's Legal Labyrinth," 51.

[18] Committee to Protect Journalists (Online), "Falling Short, As the 2008 Olympics Approach, China Falters on Press Freedom," August 2007, 17; "Shanghai Journalist Sues Municipal Authorities for Refusing Interviews" [Caifang zao jujue shanghai jizhe qisu shi guihua ju xinxi bu gongkai], Xinhua (Online), 2 June 06.

[19] Ibid.

[20] PRC Emergency Response Law, enacted 30 August 07, art. 53.

[21] CECC, 2006 Annual Report, 20.

[22]

want. As long as the system stays the same, I can't imagine any major improvement." Ting Shi, "Journalists Welcome Revision of Rules on Reporting Emergencies," South China Morning Post (Online), 26 June 07.

[26] "Li Changqing Gets Three Years Imprisonment for Reporting Disease Outbreak," CECC Human Rights and Rule of Law Update, February 2006, 15–16.

[27] PRC Public Security Administration Punishment Law, enacted 28 August 05, art. 25. See, e.g., Yan Lieshan, "Xin Yanhua's Luck and the Bad Fortune of the Three Xinyi Netizens" [Xin Yanhua de jiaoxing he xinyi sanwangmin de buxing], Southern Metropolitan Daily (Online), 12 July 07; and Zhan Jiang, "Selectively Taking Citizens' Text Messages Out of Context Violates Freedom of Communication" [Suiyi jiequ gongmin duanxin qinfan tongxin ziyou], Southern Daily (Online), 27 July 07.

[28] Yu Wei, "Accused of Spreading Rumors While Participating in Discussion Over Rainstorm, 23 Year Old Female Jinan Internet User Who Posted Is Detained" [Canyu bayou taolun bei zhi sanbu yaoyan jinan 23 sui nuwangyou gentie bei ju], Southern Metropolitan Daily (Online), 25 July 07.

[29] CECC, 2003 Annual Report, 64.

[30] Supreme People's Court Several Opinions on Strengthening Open Adjudication Work of the People's Courts [Zui gao renmin fayuan guanyu jiaqiang renmin fayuan shenpan gongkai gongzuo de ruogan yijian], issued 4 June 07, arts. 5, 15.

[31] Ibid., art. 22.

[32] Ibid., art. 3.

[33] "Supreme People's Court Clarifies 'Restricted Area' for People's Court News Publishing Work" [Zuigaofayuan minque renminfayuan xinwen fabu gongzuo "jinqu"], Xinhua (Online), 13 September 06. For a discussion of the competing roles that the media and the courts play for the Party, and the media's influence over China's courts and legal development, see Benjamin L. Liebman, "Watchdog or Demagogue? The Media in the Chinese Legal System," 105 Colum. L. Rev. 1, 7 (2005).

[34] International Covenant on Civil and Political Rights, adopted by General Assembly resolution 2200A(XXI) of 16 December 66, entry into force 23 March 76 [hereinafter ICCPR]. China has signed, but has not yet ratified, the ICCPR. The Chinese government has committed itself to ratifying, and thus bringing its laws into conformity with, the ICCPR, and reaffirmed its commitment as recently as April 13, 2006, in its application for membership in the UN Human Rights Council. China's top leaders have previously stated on three separate occasions that they are preparing for ratification of the ICCPR, including in a September 6, 2005, statement by Politburo member and State Councilor Luo Gan at the 22nd World Congress on Law, in statements by Chinese Premier Wen Jiabao during his May 2005 Europe tour, and in a January 27, 2004, speech by Chinese President Hu Jintao before the French National Assembly.

Article 19 of the ICCPR states: "1. Everyone shall have the right to hold opinions without interference. 2. Everyone shall have the right to freedom of expression; thTw(3one shPR, inehina)TjT0.2286 to freeghtnt,k,t as lecour, an

edly harassed a reporter for the U.S.-based news Web site Boxun, accusing him of working for an illegal news outlet and failing to have a journalist license. Committee to Protect Journalists (Online), "China Reporter Arrested Following Months of Police Harassment," 4 June 07.

[41] Liebman, "Watchdog or Demagogue?," 18–20.

[42] CECC, 2004 Annual Report, 5 October 04, 47; CECC, 2005 Annual Report, 56–57.

[43] Provisions on the Protection of Secrets in News Publishing. For example, in April 2003, two editors at the Xinhua news agency were fired for publishing a news report about SARS that had been classified as secret. "Two Chinese Editors Sacked over Confidential SARS Document," South China Morning Post, 29 April 2003.

[44] Committee to Protect Journalists, "Falling Short," 25.

[45] See, e.g., CECC, 2004 Annual Report, 48; and Andrew Batson, Geoffrey Fowler, and Juying Qin, "China Magazine Is Pulled," Wall Street Journal (Online), 9 March 07.

[46] CECC, 2004 Annual Report, 47; CECC, 2005 Annual Report, 56–57.

[47] "Hu Jintao Delivers Important Remarks at National Meeting of Propaganda Department Directors" [Hu Jintao zai quanguo xuanchuan buzhang huiyi shang fabiao zhongyao jianghua], Xinhua (Online), 12 January 01.

[48] "Party Uses Journalists, Artists, Academics To Promote 'Harmonious Society'," CECC China Human Rights and Rule of Law Update, December 2006, 10. Following the plenum, top officials such as Li Changchun, a Politburo member, and Liu Yunshan, a top Party official and Director of the Central Propaganda Department, told journalists that their "foremost duty is to study, publicize, and carry out" the spirit of the sixth plenum and the important statements of President Hu to unify the thoughts of the whole party and the whole nation, and to be "loyal to the Party's news work and protect the interests of the Party and the people." The duty of journalists to be caretakers of the Party's ideology is also embodied in formal regulations. See, e.g., the Interim Provisions on the Administration of Those Employed as News Reporters and Editors issued jointly by the General Administration of Press and Publication, the Central Propaganda Department, and the State Administration of Radio, Film and Television in 2005, which provides that reporters and editors must be "guided by Marxism, Leninism, Mao Zedong Thought, Deng Xiaoping Theory, and the important ideology of the 'Three Represents', support the leadership of the Chinese Communist Party, and support the socialist system" and "protect the interest of the Party and the government." Interim Provisions on the Administration of Those Employed as News Reporters and Editors, art. 1. One Chinese court has recently held that for purposes of China's criminal law, journalists at state-owned newspapers are state functionaries. "Former China Business Times Reporter Meng Huaihu Final Sentence of 12 Years for Extortion" [Zhonghua gongshang shibao jizhe Meng Huaihu zhongshen yi shouhui zui panxing 12 nian], Xinhua (Online), 19 April 07.

[49] "Liu Yunshan: Begin Contruction of a Good Ideological and Public Opinion Atmosphere for the 17th Party Congress" [Liu Yunshan: wei shiqi da yingzao lianghao sixiang yulun qifen], Xinhua (Online), 9 July 07; "Perform Well News Publishing Work, To Create a Positive Cultural Environment for the 17th Party Congress" [Zuohao xinwen chuban gongzuo wei shiqi da zhaokai yingzao lianghao wenhua huanjing], Xinhua (Online), 16 July 07; Edward Cody, "Broadcast Media in China Put On Notice," Washington Post (Online), 27 February 07; Cary Huang, "Party Introduces New Censorship Rule," South China Morning Post (Online), 16 January 07.

[50] "China To Show Only 'Ethically Inspiring TV Series' in Prime Time From Next Month," People's Daily (Online), 22 January 07.

[51] Gordon Fairclough, "Finally Rescued, China's 'Slaves' Detail Their Plight," Wall Street Journal (Online), 19 June 07; "1,340 Rescued from Forced Labor," Xinhua (Online), 13 August 07.

[52] Cary Huang, "Magazine Censured for Political 'Defiance'," South China Morning Post (Online), 30 November 06. After further investigation, propaganda officials docked the magazine six points under a 12-point punishment system imposed in January 2007 (12 points meaning closure of the magazine) and issued a serious internal warning to the executive editor. Cary Huang, "Editor and Magazine Disciplined by Party," South China Morning Post (Online), 26 April 07.

[53] Kristine Kwok, "Two Newspaper Staff Suspended for 'June 4' Advert," South China Morning Post (Online), 8 June 07.

[54] Batson, Fowler, and Qin, "China Magazine Is Pulled."

[55] CECC, 2006 Annual Report, 102.

[56] "Shanghai's Top Leader Removed Over Scandal Involving Alleged Misuse of City Pension Funds," Associated Press (Online), 25 September 06; James T. Areddy, "China Warns of Broader Corruption Probe," Wall Street Journal (Online), 27 September 06.

[57] "Media Told To Downplay Demise of Party Boss," South China Morning Post (Online), 27 September 06.

[58] "Shanghai City Government Press Conferences Come Back Online, No Mention of Chen Liangyu" [Shanghai shi zhengfu xinwen fabuhui chongxin dengchang bu ti Chen Liangyu], Boxun (Online), 4 November 06.

[59] Keith Bradsher, "China Tells Little About Illness That Kills Pigs, Officials Say," New York Times (Online), 8 May 07.

[60] Ibid.

[61] Richard McGregor, "750,000 A Year Killed by Chinese Pollution," Financial Times (Online), 2 July 07. The article also said that the World Bank removed a map showing the areas with the most deaths because it was too sensitive.

[62] Ibid.

[63] "China Denies Requiring WB to Delete Environmental Data from Report," Xinhua, reprinted in People's Daily (Online), 5 July 07.

[64] "Censors Clamp Down on Food Safety Reports," South China Morning Post (Online), 31 July 07.

[65] For example, in March 2007, State Council Information Office (SCIO) Director Cai Wu said that "leaders should not be afraid of reporters." "Cai Wu: Some Leaders Fear Facing Reporters

Because They Worry They Will Lose Their Official Posts" [Cai Wu: moxie lingdao pa jian jizhe shi danxin diudiao ziji de wushamao], Chinanews.com, 9 March 07. In January 2007, SCIO's vice-minister, speaking about foreign journalists, said that the Chinese government was moving away from its practice of "managing the media" and was preparing to "serve" and not shy away from reporters. "China Gov'ts 'Serve Media, Not Manage Them,'" China Daily (Online), 4 January 07.

[66] "Official: Transparency Key to Public Faith," China Daily (Online), 29 July 07.

[67] "Anhui Requires Journalists To Write 'Positive' Reports for Promotion," CECC China Human Rights and Rule of Law Update, December 2006, 18–19

[68] "Linking Professional Evaluations to Positive Reporting Is Absurd" [Zhicheng pingding yu zhengmian baodao guagou tai huangtang], Southern Metropolitan Daily (Online), 27 October 06.

[69] "Anhui Requires Journalists To Write 'Positive' Reports for Promotion," CECC China Human Rights and Rule of Law Update, December 2006, 18–19

[70] In 2001, when the Chinese government was bidding to host the 2008 Summer Olympic Games, Wang Wei, then the Secretary-General of the Beijing Bid Committee, said that the government would give the news media "complete freedom" to report on China and that the guarantee had been made in China's bid documents. "Journalists To Write Whatever They Like if Beijing Holds 2008 Games," China Daily (Online), 12 July 01.

[71] Regulations on Reporting Activities in China by Foreign Journalists During the Beijing Olympic Games and the Preparatory Period [Beijing auyunhui ji qi choubei qijian waiguo jizhe zai hua caifang guiding], issued 1 December 06.

[72] The regulations expire one month after Beijing hosts the 13th Paralympic Games. The Paralympic Games follow the 2008 Summer Olympics Games, which run from August 8 to August 24, 2008. "Paralympic Games Schedules Set," China Daily (Online), 22 May 06.

[73] In a survey of 163 journalists conducted by the Foreign Correspondents Club of China and released in August 2007, 43 percent of the respondents said that China's reporting environment had improved, although 95 percent said reporting conditions still did not meet what they considered to be international standards. Respondents reported 157 incidents of interference, including 57 instances of intimidation of local citizens who spoke with foreign reporters. Foreign Correspondents Club of China, "Foreign Correspondents: China Yet To Fulfill Olympic Pledge of Free Media Coverage, Harassment Still Common," 1 August 07. A report by Human Rights Watch also found that government and state security officials, as well as unidentifiable thugs, were harassing, intimidating, and detaining foreign journalists, but that some foreign reporters also said that the new rules "significantly widened access to sources and topics previously taboo, such as access to certain prominent political dissidents and to villages with public health emergencies." Human Rights Watch (Online), "Beijing 2008 China's Olympian Human Rights Challenges," 10 August 07.

[74] Foreign Correspondents Club of China, "China Yet To Fulfill Olympic Pledge of Free Media Coverage."

[75] Ibid. In May 2007, a foreign ministry official reportedly summoned two foreign journalists to the ministry to reprimand them for stories they had written about the TAR. Reporters Without Borders (Online), "Two Foreign Reporters Summoned and Warned About Tibet Stories," 25 May 07. The new regulations do not contain any exception or carve-out for Tibet or any other region of China. Foreign ministry officials, however, have indicated orally that existing regulations applicable to Tibet, such as special permit requirements, remain in effect. In a February 13, 2007, press conference Foreign Ministry Spokeswoman Jiang Yu said the following about the new rule's applicability to Tibet: "The new Regulations should be abided by generally when foreign journalists conduct reporting activities in Tibet and elsewhere. In the meantime, due to restraints in natural conditions and reception capabilities, Tibetan local authorities have some regulations for foreigners' access there, which should be abided by. Please contact the local foreign affairs office for conducting reporting activities in Tibet." Ministry of Foreign Affairs (Online), "Foreign Ministry Spokeswoman Jiang Yu's Regular Press Conference on 13 February 2007," 14 February 07 (English translation); Ministry of Foreign Affairs (Online), "Foreign Ministry Spokeswoman Jiang Yu's Regular Press Conference on 13 February 2007" [2007 nian 2 yue 13 ri waijiaobu fayanren Jiang Yu juxing liexing jizhehui], 13 February 07 (Chinese).

[76] Human Rights Watch, "Beijing 2008 China's Olympian Human Rights Challenges."

[77] In March 2007, local officials in Hunan province detained two BBC journalists covering a riot, telling them the rules apply only to Olympics coverage. Reporters Without Borders (Online), "Disturbing Lapses in Application of New Rules for Foreign Media," 22 March 07. Foreign ministry and State Council officials have publicly stated that the rules cover not only the Olympics but also politics, economy, society, and culture in China. "Journalists Promised Wide Access in 2008," China Daily (Online), 2 December 06; "Foreign Journalists 'Welcome in China'," China Daily (Online), 29 December 06. The "Service Guide for Overseas Media Coverage of the Beijing Olympic Games and the Preparatory Period" issued by the Beijing Organizing Committee for the Games of the XXIX Olympiad state that under the rules "[f]oreign journalists can carry out reporting activities not only on the Beijing Olympic Games and the preparatory period, but also on politics, economy, society, and culture of China." Beijing Organizing Committee for the Games of the XXIX Olympiad, "Service Guide for Overseas Media Coverage of the Beijing Olympic Games and the Preparatory Period," 3.

[78] Christopher Bodeen, "China Media Seen as Corrupt, But Experts Blame Communist Controls for Skewing System," Associated Press (Online), 31 January 07.

[79] "Fraudster Who Impersonated People's Daily Deputy Editor-in-Chief Liu Yonghong Sentenced to Life" [Maochong renmin ribao fu zongbianji zha pian zhe Liu Yonghong bei pan wuqi tuxing], People's Daily (Online), 9 May 07.

[80] Edward Cody, "Blackmailing By Journalists in China Seen as 'Frequent'," Washington Post (Online), 25 January 07; Winny Wang, "China To Improve Supervision of Reporters," Shanghai Daily (Online), 9 July 07.

[81] The Commission noted in its 2004 Annual Report that the media in China often focus on the ethical problems within its own industry. CECC, 2004 Annual Report, 48.

[82] Notice Regarding Further Improving Standards for Supervision of Press Journalist's Stations [Guanyu jin yibu guifan baoshe jizhezhan guanli de tongzhi], issued 18 March 07.

[83] "China Targets 'False News' Ahead of Party's Congress," Associated Press (Online), 16 August 07; "Special National Operation Launched To Resolutely Rid News Publishing of the 'Four Dangers'" [Quanguo kaizhan zhuanxiang xingdong jianjue qingchu xinwen chuban "si hai"], People's Daily (Online), 15 August 07.

[84] "Hu Jintao: Increase the Building and Administration of Internet Culture with a Spirit of Innovation" [Hu Jintao: yi chuangxin de jingshen jiqiang wangluo wenhua jianshe he guanli], Xinhua (Online), 24 January 07; "Hu Asks Officials To Better Cope With Internet," Xinhua (Online), 24 January 07.

[85] China Internet Network Information Center, 20th Statistical Survey on Internet Development in China, 18 July 07.

[86] "Infocom Is 'Vital' for China," Xinhua (Online), 27 April 07.

[87] China Internet Network Information Center, 11th Statistical Survey on Internet Development in China, 15 January 03; China Internet Network Information Center, 20th Statistical Survey.

[88] "China's Internet Conundrum," Podcast with Tim Wu, CNET News.com (Online), 1 June 07.

[89] "Hu Jintao: Increase the Building and Administration of Internet Culture with a Spirit of Innovation," Xinhua. In his January 2007 speech, President Hu Jintao also said it was important to "strengthen the battlefield position over ideology and public opinion on the Internet."

[90] "Build Up An Online Culture, Solidify Our Position Online" [Jianshe wangluo wenhua gonggu wangshang zhendi], Guangming Daily, reprinted in Xinhua (Online), 19 June 07.

[91] This language is found in Article 19 of the ICCPR. Article 29 of the UDHR states the following: "everyone shall be subject only to such limitations as are determined by law solely for the purpose of securing due recognition and respect for the rights and freedoms of others and of meeting the just requirements of morality, public order and the general welfare in a democratic society."

[92] Ariana Eunjung Cha, "In China, Stern Treatment for Young Internet 'Addicts'," Washington Post (Online), 22 February 07; "New Measures Come Out: Excessive Senders of Junk Mail To Be Recorded on 'Black List'" [Xin cuoshi chutai lanfa lese youjian jiang jiru "hei mingdan"], Xinhua (Online), 1 March 06; "Authorities Crack Down on Internet Porn," Agence France-Press, reprinted in South China Morning Post (Online), 15 August 07; "China's News Websites Vow To Clean Up the Internet," Xinhua, reprinted in China Daily (Online), 18 May 07.

[93] All commercial Web sites must obtain a government license. Measures for the Administration of Internet Information Services [Hulianwang xinxi fuwu guanli banfa], issued 20 September 00. All non-commercial Web site operators must register. Registration Administration Measures for Non-Commercial Internet Information Services [Fei jingyingxing hulianwang xinxi fuwu bei'an guanli banfa], issued 28 January 05. Because the MII's registration system gives the government discretion to reject an application based on content (i.e., whether the Web site operator intends to post "news," and if so, whether it is authorized to do so), it is qualitatively different from registration which all Web site operators must undertake with a domain registrar, and constitutes a de facto licensing scheme.

[94] Peter Ford, "Why China Shut Down 18,401 Websites," Christian Science Monitor (Online), 25 September 07; "MII Reports China's Government Has Met its Goals in Private Web Site Crackdown," CECC Human Rights and Rule of Law Update, September 2005, 5; "Ministry of Information Industry: Web Sites That Fail to Register May Be Shut Down," CECC Human Rights and Rule of Law Update, June 2005, 3.

[95] Ford, "Why China Shut Down 18,401 Websites."

[96] "Government Shuts Down Web Site; China Scholars and Activists Respond," CECC China Human Rights and Rule of Law Update, September 2006, 12–13; "Government Agencies Issue New Regulations Restricting News Reporting on the Internet," CECC China Human Rights and Rule of Law Update, November 2005, 4; Provisions on the Administration of Internet News Information Services [Hulianwang xinwen xinxi fuwu guanli guiding], issued 25 September 05.

[97] OpenNet Initiative (Online), "OpenNet Initiative: Bulletin 011–Analysis of China's Non-Commercial Web Site Registration Regulation," 22 February 06. The Opennet Initiative comprises researchers at the Citizen Lab at the Munk Centre for International Studies, University of Toronto, Berkman Center for Internet & Society at Harvard Law School, the Advanced Network Research Group at the Cambridge Security Programme, University of Cambridge, and the Oxford Internet Institute, Oxford University.

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[99] OpenNet Initiative (Online), "Internet Filtering in China in 2004–2005: A Country Study," 14 April 05; China Internet Network Information Center, 20th Statistical Survey.

[100] Steven Schwankert, "English Wikipedia Unblocked in China," IDG News Service (Online), 18 June 07; Simon Burns, "Wikipedia Partly Unblocked in China," VNUnet (Online), 18 June 07.

[101] Juan Carlos Perez, "Flickr Investigates Blocking of Images in China," IDG News Service (Online), 11 June 07.

[102] "Clean Up Cyberspace," China Daily, reprinted in Xinhua (Online), 19 April 07.

[103] "China's Law Enforcement Internet Database Set for Completion This Year," Xinhua, reprinted in People's Daily (Online), 28 May 07.

[104] Ibid.

[105] CECC, 2006 Annual Report, 35.

[106] Measures for the Administration of Internet Information Services, arts. 14, 15, 16.

[107] "Lawyer Pu Zhiqiang Sees 2 Blogs Closed Within 10 Days" [Lüshi Pu Zhiqiang shi tian nei liangge boke bei guan], Radio Free Asia (Online), 21 February 07.

[108] Regulations on the Administration of Business Sites of Internet Access Services [Hulianwang shangwang fuwu yingye changsuo guanli tiaoli], issued 29 September 02, arts. 19, 23; China Internet Network Information Center, 20th Statistical Survey.

[109] Bloggers are never truly anonymous because they can be traced back to an IP address. Jason Leow, "Why China Relaxed Blogger Crackdown, Registration Plan Was Dropped In Face of Tech-Industry Protests," Wall Street Journal (Online), 17 May 07.

[110] See, e.g., "Real Name Registration in Full Bloom, 'Lilac' Withers and Falls: To Post on Harbin Institute of Technology's BBS Requires Information About Full Name and School Department" [Shimingzhi shengkai zidingxiang diaoxie hagongda BBS fatie xuyao xingming he yuanxi xinxi], Southern Metropolitan Daily, 13 July 07.

[111] Jason Leow, "China Eases Real-Name Blog Effort," Wall Street Journal (Online), 23 May 07.

[112] The Internet in China–A Tool of Freedom or Suppression?, Joint Hearing of the Subcommittee on Africa, Global Human Rights, and International Operations, and the Subcommittee on Asia and the Pacific, Committee on International Relations, U.S. House of Representatives, 15 February 06, Testimony of Michael Callahan, Senior Vice President and General Counsel, Yahoo! Inc.; "Congressional Committee to Investigate Disparity Between Documents and Hearing Testimony by Yahoo!," House Foreign Affairs Committee (Online), 3 August 07.

[113] Internet Society of China (Online), "Internet Society of China Formally Issues 'Blogging Services Self-Discipline Pledge' To Promote Orderly Development of Blogging Services" [Zhongguo hulianwang xiehui zhengshi fabu "boke fuwu zilu gongyue," cujin boke fuwu youxu fazhan], 21 August 07.

[114] Reporters Without Borders (Online), "Yahoo! and MSN Comment on 'Self-Disciplinary Pledge'," 28 August 07.

[115] PRC Criminal Law, enacted 1 July 79, amended 14 March 97, 25 December 99, 31 August 01, 29 December 01, 28 December 02, 28 February 05, 29 June 06, art. 105.

[116] UN Working Group on Arbitrary Detention, Report of the Working Group on Arbitrary Detention, Mission to China, Addendum, 29 December 04, para. 78.

[117] "Authorities Sentence Guo Qizhen to Four Years in Prison for Online Essays," CECC China Human Rights and Rule of Law Update, November 2006, 5–6.

[118] "Shandong Court Sentences Internet Essayist Li Jianping to Two Years' Imprisonment," CECC Human Rights and Rule of Law Update, December 2006, 12–13.

[119] "Well-Known Online Article Writer Zhang Jianhong Sentenced for Inciting Subversion of State Power" [Wangshang zhuanwen da Zhang Jianhong shandong dianfu guojia zhengquan an xuanpan], Xinhua, reprinted in Phoenix Television (Online), 20 March 07.

[120] Independent Chinese Pen Center (Online), "ICPC Statement Regarding Protest of Member Yan Zhengxue's Sentence" [Duli zhongwen bihui guanyu huiyuan Yan Zhengxue bei panxin de kangyi shengming]," 19 April 07.

[121] "China Jails Internet Writer for Subversion, Disbars Lawyer," Reuters (Online), 16 August 07.

[122] Independent Chinese Pen Center, "ICPC Statement Regarding Protest of Member Yan Zhengxue's Sentence"; "Overseas Service Center of Chinese Democracy Party Calls for Attention to Case of China Democracy Party's Chen Shuqing and Li Hong (Zhang Jianghong)" [Zhongguo minzhu dang haiwai fuwu zhongxin huyu guanzhu Chen Shuqing, Li Hong (Zhang Jianhong) zhongguo minzhu dang yi an], Radio Free Asia (Online), 19 September 06.

[123] Gao Shan, "Zhejiang China Democracy Party Member Chi Jianwei Sentenced to 3 Years in Prison" [Zhejiang sheng zhongguo minzhu dang chengyuan chi jianwei bei pan xing 3 nian tuxing], Radio Free Asia (Online), 27 March 07.

[124] Chinese Human Rights Defenders (Online), "Pro-Democracy Activist Detained for 'Inciting Subversion' Government Must End Criminalization of Free Speech," 25 August 07.

[125] "Lawyer for Journalists and Cyber-Dissidents Loses License," Reporters Without Borders (Online), 6 August 07.

[126] "Authorities Arrest and Imprison Writers for Online Essays Criticizing Government," CECC China Human Rights and Rule of Law Update, November 2006, 4–5.

[127] Chinese Human Rights Defenders (Online), "Yang Chunlin Accused of 'Subversion Against the State Power'," 4 September 07; "Refused Meeting With Lawyer, Yang Chunlin's Sister Reveals Police Intimidation" [Ju lüshi huijian Yang Chunlin mei jie jingfang konghe], Epoch Times, 17 September 07.

[128] See, e.g., "Authorities Sentence Guo Qizhen to Four Years in Prison for Online Essays," CECC China Human Rights and Rule of Law Update, November 2006, 5–6 and "Shandong Court Sentences Internet Essayist Li Jianping to Two Years' Imprisonment," CECC Human Rights and Rule of Law Update, December 2006, 12–13.

[129] China Information Center (Online), "Administrative Penalty Decision for Zhang Jianping" [Xingzheng chufa jueding shu], 17 April 07. In punishing Zhang, officials relied on the Measures for the Administration of Security Protection of Computer Information Networks with International Interconnections, which prohibit individuals from using the Internet to look up "information that incites the subversion of state power and the overthrow of the socialist political system." Measures for the Administration of Security Protection of Computer Information Networks with International Interconnections [Jisuanji xinxi wangluo guoji lianwang anquan baohu guanli banfa], 11 December 97. Zhang filed an administrative appeal with the Changzhou PSB. The PSB denied the appeal on June 6 and noted that there was evidence that Zhang had browsed certain hostile foreign Web sites, and used censorship circumvention tactics. "Changzhou Public Security Administrative Reconsideration Decision Calls Tianwang A Hostile Foreign Web Site" [Changzhou gongan xingzheng fuyi cheng tianwang jingwai didui wangzhan], 64tianwang.com, 6 June 07.

[130] Xiao Qiang, "China Censors Internet Users With Site Bans, Cartoon Cop Spies," San Francisco Chronicle (Online), 23 September 07.

[131] China Internet Network Information Center, 20th Statistical Survey.

[132] "China Eases Off Proposal for Real-Name Registration," Xinhua (Online), 22 May 07.

[133] Access to Information in the People's Republic of China, Hearing of the U.S.-China Economic and Security Review Commission, 31 July 07, Written Statement Submitted by Ashley Esarey, Luce Fellow of Asian Studies and Assistant Professor of Comparative Politics, Middlebury College.

[134] Edward Cody, "China's Muckrakers for Hire Deliver Exposés With Impact," Washington Post (Online), 2 May 07; Edward Cody, "Text Messages Giving Voice to Chinese," Washington Post (Online), 28 June 07. Because they post on the Internet, however, such journalists are still subject to China's censorship of that medium.

[135] Clay Chandler, "Is China Emerging from a Media Ice Age," Fortune (Online), 1 June 07.

[136] "500 Mln Cellphone Users Mark China's 20th Anniversary of Mobile," Xinhua, reprinted in People's Daily (Online), 20 July 07.

[137] China Mobile Limited (Online), visited on September 27, 2007.

[138] Mitchell Landsberg, "Chinese Activists Turn to Cellphones," Los Angeles Times (Online), 1 June 07.

[139] Louisa Lim, "China To Censor Text Message," BBC (Online), 2 July 04. Until recently, prepaid phones could be purchased anonymously. In 2005, in an apparent move to curb fraud and spamming, mostly committed via text message, the government began to require real name registration of cell phones. "China Cracking Down on Cell Phone Fraud, Spam," Reuters (Online), 28 December 05. This was aimed mostly at pre-paid phones, which in 2006 represented more than half of all mobile phones. It is unclear how widely enforced this requirement is.

[140] "Xiamen Suspends Controversial Chemical Project," Xinhua (Online), 30 May 07.

[141] Ibid.

[142] Cody, "Text Messages Giving Voice to Chinese."

[143] Landsberg, "Chinese Activists Turn to Cellphones."

[144] Cody, "Text Messages Giving Voice to Chinese."

[145] "Xiamen Suspends Controversial Chemical Project," Xinhua.

[146] Mang, ho0 4o466.4 445.75.446 oBni00 0cmnc pos Con.490ho0gh written reports and cell phone photos posted on blogs. So49sites were blocked but mang,of the reports had alos dy been forward.446o othersites ho0 4o466.4 before censors could os ct. Cody, "Text Messages Giving Voice to Chinese."

[147] Zhu Hongjun, "She Start.446 oBStorm Over 6 oBShanxi Illeg CoBrick Kilns" [Shanxi hei zhuanyao fengbao bei ta dianran], Southern Weekend (Online), 12 July 07.

[148] Faircl0gh, "F6.4lly Rescued, China's 'Slaves' Detail Their Plight."

[149] "China's Internet Justice," Wall Street Journal (Online), 21 June 07; Josephine Ma, "Beijing's Damage Control Moves Behin446 oBScenes," South China Morning Post (Online), 10 July 07; Josephine Ma, "Top Official Plays Down Scale,of Kiln Slavery," South China Morning Post (Online), 14 August 07.

[150] Howard French, "In China, Fight Over Development Cos tes Star," New York Times (Online), 26 March 07.

[151] "Blogger Also Comes to Report on 6 oB'Aweso49Nail House'" [Boke ye lai baodao "zui niu dingzi hu"], Southern Metropolitan Daily (Online), 30 March 07.

[152] Ma, "Beijing's Damage Control Moves Behin446 oBScenes"; Geoffrey York, "The Coolest Nail Housenc pHistory," Globe and Mail (Online), 29 March 07.

[153] "Draft Xiamen Regulation of Online Forums Abolishes Anonymous Comment Function" [Xiamen ni guiding luntan quxiao niming fatie gongneng], Taihai Wang, reprinted c pSina.com, 4 July 07.

[154] Regulations on 6 oBAdministration of Publishing.

[155] Altho0gh no absolute international standard prescribes what constitutes freedom,of the press, international human rights standards set forth a minimum prerequisite: no leg Cosystem can be said to respect freedom,of the press if it subjects the print media to ang,prior restraint 0ho0gh a licensing scheme. In 2003, the UN Special Rapporteur on Freedom,of Opinion and Expression, the Organization for Security and Cooperation c pEurope (OSCE) Representative on Freedom,of the Media, and the Organization of American States (OAS) Special Rapporteur on Freedom,of Expression issued a joint declaration saying that licensing schemes he unnecessary and subject to abuse. The UN Human Rights Committee ruled c pMarch 2000, that a licensing scheme c pBelarus similar to China's violated Article,19 becausenthe government of Belarus had fail.446o show how the licensing requirements were necessary 6o ni00 ct ang,of the legin.4ate purposes set forth c pArticle,19. The Commission has recommended c pits annual reports that China eliminate this,prior restraint on publishing.

[156] Notice Regarding Prohibin.ng the Transmission of Harmful Information and FurtherRegulating Publishing Order[Guanyu jinzhi zhuanbo youhai xinxi jinyibu guifan chuban zhixu de tongzhi], issued 5 November01: "No one may establish an entity whose,primary purpose is 6o transmit news information and engage c pothernews publishing activin.es witho0t permission from,the press and publication administration agency."

[157] Circular Regarding Issuance,of the "Temporary Provisions on 6 oBFunctions,of the Sponsoring Work Unit and the Managing Work Unit for Publishing Work Units", arts. 5–6; Regulations on 6 oBAdministration of Publishing, art. 11(2).

[158] Regulations on 6 oBAdministration of Publishing, art. 29.

[159] Guangdong Press and Publication Administration (Online), "Responsible,Person at the General Administration of Press and Publication Book Office Reports on 6 oBPrevious Year's National Book Publishing Administration Work" [Zongshu tushusi fuzeren 6ongbao qunian quanguo tushuchuban guanli gongzuo], 24 February 05 (saying that authorin.es should usenthe opinions provided when screen.ng the selection of topics 6o determinenthe distribution of book numbers, becausenthis "reducesnthe risks relating 6o orientation").

[160] "Wen Jiabao: Pushing Forward Political Reform, Strengthening People's Supervision of the Government" [Wen Jiabao: tuijin zhengzhi tizhi gaige jiaqiang renmin zhengfu de jiandu], China

Shi Tao also joined a lawsuit against Yahoo! filed with the U.S. District Court for the Northern District of California, alleging, among other things, that the company had aided and abetted the commission of international human rights violations. See Amended Complaint for Tort Damages, Xianing et al v. Yahoo! Inc., et al., U.S. District Court Northern District California, Oakland Division, 29 May 07.

[182] Jim Yardley, "China Releases Jailed New York Times Employee," New York Times (Online), 15 September 07.

[183] The Beijing High People's Court upheld the sentence in December 2006. "Beijing Court Rejects Zhao Yan's Appeal, Affirms Three-Year Sentence," CECC Human Rights and Rule of Law Update, December 2006, 3–4.

[184] Reporters Without Borders, "Journalist Gao Qinrong Released Five Years Early," 11 December 06. In August 1999, a court in Shanxi province sentenced Gao for accepting bribes, fraud, soliciting prostitutes. "After Anti-Corruption Journalists Speaks the Truth" [Fan fu jizhe jiangle zhenhua yihou], Southern Weekend (Online), 12 December 02. Gao's reporting exposed a sham irrigation project in Yuncheng in 1998. "Gao Qinrong," PEN Canada (Online), December 2006. Investigative reports by several Chinese news media found that authorities in Yuncheng detained Gao in the absence of reliable evidence, started building a criminal case against him only after he was detained, and convicted him on the basis of insufficient evidence. "After Anti-Corruption Journalists Speaks the Truth" [Fan fu jizhe jiangle zhenhua yihou], Southern Weekend (Online), 12 December 02; "To Only Have Right To Interview Is Not Enough" [Jin you caifangquan shi bugou de], Legal Daily (Online), 14 May 01.

[185] Dui Hua Foundation, "Nine-Month Sentence Reduction Confirmed for Xu Zerong," 26 September 06.