

Refugee Review Tribunal

AUSTRALIA

RRT RESEARCH RESPONSE

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This response was prepared by the Country Research Section of the Refugee Review Tribunal (RRT) after researching publicly accessible information currently available to the RRT within time constraints. This response is not, and does not purport to be, conclusive as to the merit of any particular claim to refugee status or asylum.

Questions

1. What information exists about the farmers union in PRC and of the forced removal from leased farm lands to pave the way for the PRC's industrial development?
2. What is known about the National Appeal and Letter Bureau?

RESPONSE

1. What information exists about the farmers union in PRC and of the forced removal from leased farm lands to pave the way for the PRC's industrial development?

Sources indicate that although there is no official national body for farmers a large number of local farmers' groups exist in China. Land is taken from farmers, sometimes with inadequate compensation resulting in protests and demonstrations which turn violent.

Farmers union

The US State Department reported that farmers do not have a union or similar organisation (US Department of State 2006, 'The Right of Association' in *Country Reports on Human Rights Practices for 2005 – China*, 8 March – Attachment 1).

In a report prepared for a Country of Origin Information Seminar held in Budapest (on 1-2 December 2005) Dr. Thomas Weyrauch wrote:

The political system of the PRC is based on the leading role of the Communist Party of China (CCP). Other tolerated smaller political organizations do not oppose the leading party. So there is no legal opposition in the state. As a consequence, the party rejects every attempt to build up democratic structures or to found new parties, craft unions or farmer's associations in opposition to the CCP and persecutes their members...(Weyrauch, Thomas 2006, *Important Aspects on Human Rights in the*

People's Republic of China, 10th European Country of Origin Seminar in Budapest (1-2 December 2005), ECOI website, 17 March, p.6 – Attachment 2).

Bruce Gilley, in the *Far Eastern Economic Review* of 2 August 2001, stated that farmers had “long been denied” their own official national body (Gilley, Bruce 2001, ‘A plot for the Farmers’, *Far Eastern Economic Review*, 2 August – Attachment 3).

Gilley continued:

The formal reason is that communist China was founded for and led by farmers and workers. Therefore, Beijing argues, their interests are fully taken into account by the ruling Communist Party. Yet that does not explain why workers have their own separate national body. Nor does it explain the stagnation of farmers’ incomes since the mid-1980s.

Behind Beijing’s unconvincing argument, experts on rural China say, is the real reason farmers in China have long been denied representation: Beijing fears that the 600 million people dependent on farming would use such a group to agitate for economic policies which give them a fair shake with urbanites. If they succeeded, it would jeopardize the urban-centred development strategy on which Beijing stakes so much of its prestige (Gilley, Bruce 2001, ‘A plot for the Farmers’, *Far Eastern Economic Review*, 2 August – Attachment 3).

However, local farming groups do exist. A November 2004 *Xinhua* article noted that, among the China’s 100,000 farmers’ industry associations, only 10,000 were registered with local departments of civil affairs and obtained legal status (‘Farmers’ industry association mounts to be major force in rural China’ 2004, *Xinhua’s China Economic Information Service*, 25 November – Attachment 4).

According to Gilley:

...More than 100,000 local farming groups already exist in the country, according to official figures. They are organized by product, such as the orchid-growers’ association in Shaoxing in Zhejiang province and the grape-growers’ association in Zhangqiu in Shandong province. Several of these are linking up to lobby for broader policy changes...(Gilley, Bruce 2001, ‘A plot for the Farmers’, *Far Eastern Economic Review*, 2 August – Attachment 3).

Sources in a Congressional-Executive Commission on China (CECC) Annual Report state:

...Rural Chinese organizations range from formally registered rural cooperative organizations that seek to protect the economic rights of local farmers or provide social services to independent (and often underground) “burden reduction committees” that vigorously challenge local tax policies...(Congressional-Executive Commission on China 2005, *Annual Report 2005*, CECC website, 11 October, p.166/footnote 2 <http://www.cecc.gov> – Accessed 13 October 2005 – Attachment 5).

Removal from leased lands

According to the CECC’s *2004 Annual Report* the Chinese Rural Land Contracting Law gives farmers 30-year land use rights to individual plots of land free from local re-adjustments. Individuals hold a land use right and may own buildings of fixtures. However, ownership of the land itself remains with the state or collective (Congressional-Executive

Commission on China 2004, 'Forced Evictions and Land Requisitions', *2004 Annual Report*, 5 October <http://www.cecc.gov/pages/virtualAcad/rol/property2004.php> - Accessed 25 February 2005 – Attachment 6).

In March 2006 *The Economist* wrote:

...Since the 1990s, leases of 30 years (but in practice often less) have been granted on these tiny plots, but peasants have not been able to use the land as collateral for loans or to sell it. They can rent it out, but this often involves paying a fee to the village administration ('Fat of the land' 2006, *The Economist*, 23 March http://www.economist.com/PrinterFriendly.cfm?story_id=5623357 – Accessed 19 July 2006 – Attachment 7).

According to *The Economist*, land is a vital resource for local governments which:

...either hand it over for little or nothing to attract industry or sell it at high prices to property developers. They also use requisitioned land as collateral for bank loans, adding to the potential woes of a banking system in which risk is poorly understood...('Fat of the land' 2006, *The Economist*, 23 March http://www.economist.com/PrinterFriendly.cfm?story_id=5623357 – Accessed 19 July 2006 – Attachment 7).

The Economist article continued:

When land is seized, peasants are compensated for its agricultural value, which according to some Chinese scholars averages about one-tenth of its market value. Village administrations take a cut, so the amount received by the peasants is often far less...('Fat of the land' 2006, *The Economist*, 23 March http://www.economist.com/PrinterFriendly.cfm?story_id=5623357 – Accessed 19 July 2006 – Attachment 7).

On the conversion of rural land for urban use the CECC report for 2004 stated:

In the countryside, authorities are converting large tracts of farmland to accommodate urban expansion and village economic initiatives. To proceed with such projects, the state must first requisition arable land from and compensate peasant collectives according to a detailed legal process set out in the Land Management Law and related regulations. After the state compensates the collective for requisitioned land, it may then use the land or sell land use rights to private developers. According to official estimates, nearly 5 percent of the country's arable land has been lost as a result of urbanization and development over the past seven years, and more than 40 million peasants have been displaced by such development over the past 20 years. This trend has alarmed Chinese authorities, who view landless, unemployed peasants as a threat to social stability. (Congressional-Executive Commission on China 2004, 'Forced Evictions and Land Requisitions', *2004 Annual Report*, 5 October <http://www.cecc.gov/pages/virtualAcad/rol/property2004.php> - Accessed 25 February 2005 – Attachment 6).

The CECC report noted that, although many relocations take place without incident, a number of problems have arisen with relocations and land requisitions. In rural areas, collectives retain much of the compensation that the state provides and the amount that farmers receive is significantly less than the economic value of the 30-year land use right (Congressional-Executive Commission on China 2004, 'Forced Evictions and Land

Requisitions', 2004 Annual Report, 5 October

<http://www.cecc.gov/pages/virtualAcad/rol/property2004.php> - Accessed 25 February 2005 – Attachment 6).

Many of the 87,000 civil disturbances reported for 2005 were said to involve peasants protesting the confiscation of their land for development purposes (Kuhn, Anthony 2006, 'Inside China's angry villages', *Orlando Sentinel*, 9 April – Attachment 8).

According to Bernstein protests fell into two categories – the more or less legal efforts and those that were clearly considered illegal. Legal efforts included petitioning higher levels through the Letters and Visits offices of which a part was collective petitioning (*jiti shangfang*) which was strongly discouraged but tolerated (see question 2 below) (Bernstein, Thomas P. 2004, 'Unrest in Rural China: A 2003 Assessment', *eScholarship Repository*, University of California, p.2 <http://repositories.cdlib.org/cgi/viewcontent.cgi?article=1043&context=csd> – Accessed 18 July 2006 – Attachment 9).

A May 2006 report prepared for the Congressional Research Service states:

In the past few years, a new kind of protest has appeared, caused by anger over local development projects and resulting land confiscation and environmental degradation. The lack of property rights in China has led to many governmental abuses at the local level. The country's first comprehensive bill on property rights, which purportedly would help both wealthy private entrepreneurs and common citizens protect their rights to property, was shelved at the annual session of the National People's Congress in March 2006 following opposition from conservative leaders. A majority of Chinese peasants have long term (30 year) land-use contracts but not ownership or the right to sell them. When land takings occur, farmers are entitled only to compensation based upon agricultural output and resettlement costs. Village, township, and county governments generally receive the lion's share of the price of the "sale" or transfer of land-use rights to the developer. Violent clashes between demonstrators and police have erupted in not only poor regions in China's interior, but also rich coastal areas, where development pressures are heavy. Furthermore, in these areas, communications links to the outside are more developed and political fallout is more likely... (Lum, Thomas 2006, 'Social Unrest in China', Congressional Research Service, Federation of American Scientists website, 8 May, p.3 <http://www.fas.org/sgp/crs/row/RL33416.pdf> - Accessed 13 July 2006 – Attachment 10).

In December 2005 a STRATFOR report on violence in Shanwei (Guangdong province) stated:

The shooting is new. The pattern is not. There has been intensifying unrest in China over the past year – frequently, as in this case, over issues that have been simmering for years. This has been particularly true for peasants who have seen their land confiscated by the government for industrial projects. Money is issued to local officials by state-owned enterprises and other investment groups to cover the cost of the land. That money passes through the regional and local bureaucracies. By the time it should reach the owners, there often is nothing left; it has been stolen by officials at various levels. No one denies the farmers' claims to the land, but no one acts to compensate them. The laborers go from being small farmers to being destitute.

This is a critical process at the heart of Chinese industrialization. The purchase of

land, including forced sale, is considered necessary for Chinese economic development. However, Chinese economic development is driven as much by corruption as by land. The government in Beijing has no particular desire to see the farmers dispossessed; on the contrary, the money is made available for delivery to the farmers. But the diversion of funds is hard-wired into the process. It is one of the primary means for capital formation in China (Friedman, George 2005, *The Shanwei Shootings and China's Situation*, STRATFOR, 13 December – Attachment 11).

Further information on civil unrest involving farmers, workers, homeowners and tenants prepared by the Canadian Immigration and Refugee Board is attached (Immigration and Refugee Board of Canada 2006, *CHN101063.EX – China: Civil unrest involving farmers, workers, homeowners and tenants, particularly in rural areas of Guangdong; conditions causing the unrest; government response; reports of arrests, beatings and detention (2004 - 2006)*, 24 April <http://www.irb-cisr.gc.ca/en/research/ndp/ref/?action=view&doc=chn101063ex> – Accessed 13 July 2006 – Attachment 12).

2. What is known about the National Appeal and Letter Bureau?

No information was found in the sources consulted specifically on the National Appeal and Letter Bureau. However, a reference was found to a “Letters and Appeal Office” and other various references to “Bureau of Letters and Visits”, “Bureau for Letters and Calls”, “Letters and Complaints Bureau”, “Appeals Office”, “Public Petition Centre” and “Appeal Bureaus”. These names may refer to the *xinfang* (信访) system, translated literally as “letters and visits”. The information provided in this Country Research Response is in relation to the *xinfang* system (Yu, Zhang 2000, ‘Villagers’ appeals show upward trend – Villagers’ self-rule calls for judicial involvement’, *SinoFile Information Services*, 5 January – Attachment 13; Zifa, Zhao 2005, ‘China: Tiananmen bombing prompts mass arrest of appellers’, *The Epoch Times*, 28 September <http://theepochtimes.com/news/5-9-28/32766.html> – Accessed 29 September 2005 – Attachment 14; ‘China: Appeals in China increase 500-Fold in last 20 years’, *Voice of America*, 25 September <http://theepochtimes.com/news/5-9-25/32658.html> – Accessed 27 September 2005 – Attachment 15; ‘China: Getting petitions heard’ 2005, *Xinhua*, 18 January <http://www.china.org.cn/english/2005/Jan/118091.htm> - Accessed 8 July 2005 – Attachment 16; Immigration and Refugee Board of Canada 2004, *CHN43074.E - China: News accounts of a demonstration on 20 July 1999 outside the Beijing Public Petition Centre protesting the rumoured imminent ban of the Falun Gong movement*, 21 October – Attachment 17; Pearson-Smith, Michael 2004, ‘Jiang’s personal campaign – one man’s decision to “eradicate” the traditional belief of 100 million people’, *Falun Dafa Australia*, 16 March <http://www.falunau.org/searchArticle.jsp?itemID=1195> – Accessed 23 June 2004 – Attachment 18; Michelson, Ethan 2006, ‘Justice from Above or Justice from Below? Popular Strategies for Resolving Grievances in Rural China’, Department of Sociology, Indiana University-Bloomington, 16 July, p.8 [http://www.indiana.edu/~emsoc/Publications/Michelson_Justice\(endnotes\).pdf](http://www.indiana.edu/~emsoc/Publications/Michelson_Justice(endnotes).pdf) – Accessed 19 July 2006 – Attachment 19).

The *Xinfang* system

Human Rights Watch writes that the words *xinfang* and *shangfang* are most commonly translated as “petition” (Human Rights Watch 2005, “*We Could Disappear At Any Time*”: *Retaliation and Abuses Against Chinese Petitioners*, December, Vol. 17, No. 11(C), p.3 – Attachment 20).

Michelson defines the *xinfang* system in the following terms:

One of the most important channels for direct appeals is the *xinfang* (信访) system (translated literally as “letters and visits”), a large network of complaints offices vertically spanning many levels of government and horizontally spanning many administrative jurisdictions. Formalized in the early 1950s, *xinfang* offices have multiplied and strengthened in recent years as part of an official effort to contain the growing volume of conflict and to preserve social stability. Besides the official *Xinfang Administration*, there are *xinfang* departments in the State Council, in the public security system, in the courts, in the procuracy, and in the Women’s Federation, just to name a few examples (Michelson, Ethan 2006, ‘Justice from Above or Justice from Below? Popular Strategies for Resolving Grievances in Rural China’, Department of Sociology, Indiana University-Bloomington, 16 July, pp.8-9 [http://www.indiana.edu/~emsoc/Publications/Michelson_Justice\(endnotes\).pdf](http://www.indiana.edu/~emsoc/Publications/Michelson_Justice(endnotes).pdf) – Accessed 19 July 2006 – Attachment 19).

He also states that virtually any government office can be a site for citizen complaints, direct appeals and petitions (Michelson, Ethan 2006, ‘Justice from Above or Justice from Below? Popular Strategies for Resolving Grievances in Rural China’, Department of Sociology, Indiana University-Bloomington, 16 July, p.9 [http://www.indiana.edu/~emsoc/Publications/Michelson_Justice\(endnotes\).pdf](http://www.indiana.edu/~emsoc/Publications/Michelson_Justice(endnotes).pdf) – Accessed 19 July 2006 – Attachment 19).

According to Michelson the term *shangfang* (上访), translated literally meaning “to appeal to a higher authority” and is almost synonymous with *xinfang*; the terms are generic and ambiguous (Michelson, Ethan 2006, ‘Justice from Above or Justice from Below? Popular Strategies for Resolving Grievances in Rural China’, Department of Sociology, Indiana University-Bloomington, 16 July, p.9 [http://www.indiana.edu/~emsoc/Publications/Michelson_Justice\(endnotes\).pdf](http://www.indiana.edu/~emsoc/Publications/Michelson_Justice(endnotes).pdf) – Accessed 19 July 2006 – Attachment 19).

Human Rights Watch also reports that:

Under the petitioning system, citizens unsatisfied with the decisions handed down by local officials or local courts may write letters of complaint or appear in person at special petition bureaus throughout the country. If petitioners are unsatisfied with the response to a petition they have the right to continue up the chain of petition bureaus all the way from the village level to the township, county, provincial, and national levels (Human Rights Watch 2005, “*We Could Disappear At Any Time*”: *Retaliation and Abuses Against Chinese Petitioners*, December, Vol. 17, No. 11(C), pp.3-4 – Attachment 10).

And:

In essence, the petitioning system functions as a general complaints system for complaints about any government misdeed, ranging from minor bureaucratic infractions to official corruption and police torture. Petitioners submit statements describing their complaints, and petitions offices are supposed to review the complaints, investigate the cases, and issue a letter about the matter. In some cases, a petitions office may transfer the case to a different government agency.

In theory, the petitioning system establishes a mechanism for independent review of local government. In practice, the petitioning system is overwhelmed by the quantity

of complaints, while officials often have a disincentive to process complaints about their misdeeds or those of their colleagues (Human Rights Watch 2005, “*We Could Disappear At Any Time*”: *Retaliation and Abuses Against Chinese Petitioners*, December, Vol. 17, No. 11(C), p.17 – Attachment 21).

A survey cited by Human Rights Watch indicates that petitioners may visit as many as eighteen different bureaus in Beijing including the National Bureau of Letters and Visits, the State Council, the Supreme Court, the Communist Party Central Disciplinary Commission, the Public Security Bureau, the Supreme People’s Procuratorate, the National Bureau of Land Resources, the Agriculture Bureau, and the Civil Administration Bureau (Human Rights Watch 2005, “*We Could Disappear At Any Time*”: *Retaliation and Abuses Against Chinese Petitioners*, December, Vol. 17, No. 11(C), p.19 –Attachment 21).

A CECC report notes that:

...Individual petitioning may be as simple as one dissatisfied individual visiting multiple government xinfang offices.³ Collective petitioning may involve organized demonstrations, speeches, and marches of hundreds or thousands of people seeking to present their grievances to officials...(Congressional-Executive Commission on China 2005, *Annual Report 2005*, CECC website, 11 October, p.95 <http://www.cecc.gov> – Accessed 13 October 2005 – Attachment 22).

Treatment of Petitioners

In December 2005 Human Rights Watch published an 87-page report on the petitioning system and the treatment of petitioners. The full report is at : Human Rights Watch 2005, “*We Could Disappear At Any Time*”: *Retaliation and Abuses Against Chinese Petitioners*, December, Vol. 17, No. 11(C) (hypertext linked only – not attached).

Human Rights Watch noted that local authorities may see petitioners as a threat. The petitioners draw negative attention to their home province and are a threat to the financial well-being of local officials. Human Rights Watch reported the worst aspect of the petitioning system is that many petitioners experience retaliation including beatings, intimidation and kidnapping. Much of the violence emanates from local officials attempting to stop local residents from going to Beijing. Petitioners may be forced to return to their home province which “often exposes them to grave dangers” (Human Rights Watch 2005, “*We Could Disappear At Any Time*”: *Retaliation and Abuses Against Chinese Petitioners*, December, Vol. 17, No. 11(C), pp.5-7 – Attachment 20).

Bernstein writes:

Violence also erupted in connection with collective petitioning. When groups of villagers visited county authorities to seek relief, officials might refuse to meet with their leaders, fop them off with empty, placating promises of investigations, or simply pass the buck by sending them to other offices. In such cases, anger might be publicly voiced, and more villagers might arrive to reinforce their vanguard. Public Security officials might then order the group to disperse and violence would ensue.

Leaders. Leaders of collective protests came from three groups: respected villagers who did not hold office, to a lesser extent from among village cadres and Party members, and also, perhaps increasingly so, from elected village officials. With regard to the first, in early 2000, the internal edition of a popular journal, Banyuetan, gave this introduction to a 22- page report on and analysis of informal leaders, called

“peasant heroes,” in Hunan:

In recent years, in some villages where cadre-mass relations were tense, “peasant leaders” have appeared. Under their leadership, organization, and slogans, peasants engage in collective petitioning, accuse cadres, even surround and attack basic-level Party and government organs. What are they, heroes or troublemakers? Where does their “magic power” come from?

Also called “burden reduction representatives” (jianfu daibiao) or “collective petitioning representatives” (jiti shangfang daibiao), or “representatives of peasant interests” (nongmin liyi daibiao ren), such leaders had a record of outspoken advocacy on behalf of peasants. They remonstrated with township officials, and, when this didn’t work – township Party and government had the greatest interest in extracting peasants funds – they led groups to petition higher levels, often all the way to Beijing in order to make their case. They frequently were involved in clashes with the authorities (Bernstein, Thomas P. 2004, ‘Unrest in Rural China: A 2003 Assessment’, *eScholarship Repository*, University of California, p.7 <http://repositories.cdlib.org/cgi/viewcontent.cgi?article=1043&context=csd> – Accessed 18 July 2006 – Attachment 9).

Of interest may be the attached regulations on Letters and Visits (*Regulations on Letters and Visits*, Decree of the State Council of the Peoples’ Republic of China No. 431, Adopted at the 76th Executive Meeting of the State Council on January 5, 2005, effective as of May 1, 2005 <http://www.china.org.cn/e-news/news050428-3.htm> - Accessed 18 July 2006 – Attachment 23).

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List of Attachments

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5. Congressional-Executive Commission on China 2005, *Annual Report 2005*, CECC website, 11 October, p.12,82,166-167 (<http://www.cecc.gov> – Accessed 13 October 2005)
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16. 'China: Getting petitions heard' 2005, *Xinhua*, 18 January (<http://www.china.org.cn/english/2005/Jan/118091.htm> - Accessed 8 July 2005) (CISNET China CX126023)
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