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PEOPLE'S REPUBLIC OF CHINA

No Improvement in Human Rights: The Imprisonment of dissidents in 1998

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Despite the marking of the 50th anniversary of the adoption of the United Nations Declaration of Human Rights in 1948 and despite the recent signing by China of the two United Nations Covenants on Human Rights there are still no guarantees for the Chinese people that they will not be detained or arrested for seeking the freedoms of association and expression enshrined in the UN Declaration.

In the past twelve months, many scores of people throughout China have been detained, harassed and imprisoned solely for exercising these rights.

The Chinese government's signing of the International Covenant on Civil and Political Rights (ICCPR) in October 1998, the visits to China of American President Bill Clinton, and the UN High Commissioner for Human Rights, Mary Robinson were heralded as triumphs for diplomacy and human rights 'dialogue'. International opinion began to suggest that the Chinese authorities were making improvements in human rights. However, as the prospect of international censure recedes and the international spotlight faded, the Chinese authorities once again began to crack down on dissidents and activists.

During the last few weeks of 1998, over 29 dissidents were detained, four leading dissidents sentenced to lengthy terms of imprisonment and several other dissidents and labour activists have been sentenced to re-education through labour terms and lengthy terms of imprisonment.

Since October 1998 when China signed the ICCPR it is estimated that over 80 dissidents have been detained and at least 15 high profile dissidents have been given heavy prison sentences or assigned to re-education through labour. The Chinese authorities have rushed through the trials of three key dissidents who had attempted to openly set up a political party.¹ The trials of Wang

¹ Throughout China dissidents in various provinces have been attempting to register the party locally. Each attempt has been met with refusal and the detention/harassment of the activists. According to the constitution of the Party there is no reference made to it seeking the overthrow of the Chinese Communist Party.

Youcai, Xu Wenli and Qin Yongmin took place on 17 and 21 December. Each trial lasted only a few hours.

These are the first very high-profile dissidents to be tried under the new “national security” provisions of the Criminal Law, which replaced the provisions on “counter-revolutionary crimes” after the law was revised in 1997 (which came into force in October 1997). The three trials took place in three different provinces, barely three weeks after the defendants were detained, on 30 November 1998.

The speed with which the defendants were brought to trial and the harassment of the chosen defenders made it impossible for them to hire lawyers of their choice and to prepare a proper defence. Wang Youcai and Qin Yongmin did not have lawyers - only Xu Wenli had a lawyer, appointed by the state.

The trials and the sentences given to these dissidents and many others not highlighted in this document show very clearly that the repeal of the old provisions on ‘counter- revolution’ have not lead to any meaningful reform of the law itself. Instead it is clear that the new charges regarding activities allegedly violating ‘state’ or ‘national security’ are being used instead for the continuing repression and imprisonment of dissidents and political activists.

Unofficial Groups

Many of those detained in 1997 have been detained in connection with their support for a small but growing number of unofficial political groupings or parties.

Among recent groupings, the most organised and widespread seems to be the Chinese Democratic Party (CDP) which was initially founded in Zhejiang province by a group of dissidents; Wang Youcai, Wang Donghai and Lin Hui.

The first arrests of members of the CDP began on 10 July 1998 within hours of the first application to register the CDP. The arrests of party members started a chain of protests within China from other dissidents, many of whom were themselves later harassed, questioned or detained. Members in other provinces also began to try to legally register provincial branches of the CDP and were themselves detained or arrested.

According to Statements received the Chinese Democratic party’s main aims are “Freedom, Democracy, Justice and Peace” by "non-violent, rational and peaceful methods". In the application to register the group in Shanghai, it was stated that the CDP will ‘continue to recognize ‘ the Chinese Communist Party as the ruling party.

According to Chinese law, all independent groups must be registered. Under the Chinese Constitution “citizens of the people’s republic of China enjoy freedom of speech, of the press, of assembly, of association, of procession and of demonstration.”² and could therefore organise themselves into groups. In practice however this is not the case.

²Article 35, Constitution of the People’s Republic of China (1982).

In October 1998, the same month that it signed the International Covenant on Civil and Political Rights, which enshrines the right to freedom of association, the Chinese government revised several laws on the registration of groups which had the effect of increasing the limitations on this right.³

These laws cover the whole of Chinese society. They increase the legal requirements and time necessary for establishing a social group, they allow the authorities more leeway to forbid the registration of selected groups, forbid any involvement of people who have ever had their political rights removed, and increase the controls which can be placed on the groups by their official government 'sponsors'.

The new laws also specify the amount of 'legitimate' funds a new group should have. The term 'legitimate' is not clear and the authorities could use this clause to interfere with and stop the running of a group. Under Chinese laws, receiving funds from "harmful to state security" or "hostile" individuals and groups outside the country may be considered a criminal offense. Related charges have been used against many of the dissidents who have been recently sentenced such as Wang Youcai who was accused of, amongst other things, colluding with overseas hostile organisations and 'accepted overseas assistance to engage in activities for the purpose for subverting state power'.

Other groups which have emerged in the past twelve months include the China Development Union and its sister organization the China New Development Strategy Research Institute⁴. The leader of this grouping of self styled "moderates", reformist writer, Peng Ming, led weekly discussions in their Beijing office on reform issues. In October he was briefly detained and allegedly ordered to dissolve the Institute. Still optimistic about his future at that time he told a journalist: " If the authorities cannot tolerate a moderate like me, does China still have hope?"⁵. On 23 November Peng Ming and six other members were detained and the Beijing Bureau of Civil Affairs "disbanded" the organization, claiming it was an un approved and unregistered body and equipment was confiscated from the office. On 26 November Beijing Dongcheng District Court reportedly accepted a lawsuit filed by Peng Ming against the Bureau for unlawfully closing the group. Two months later, on 25 January 1999, Peng was detained by the police for allegedly 'buying sex' from prostitutes, in what he and his family assert was a set-up. On 26 February his family were informed that he had been assigned to 18 months' re-education through

³On October 25, 1998, China's State Council promulgated new Regulations on the Registration and Management of Social Groups. It also promulgated the Provisional Regulations on the Registration and Management of People-Organized Non-Enterprise Units and another law, the Provisional Regulations on the Registration and Management of Institutional Units is expected.

⁴Reportedly, the Institute was initially sponsored in late 1997 by the official China International Culture Broadcast Centre, affiliated to the Ministry of Public Security, and the Union was registered in Hong Kong in 1998.

⁵Reuters 8. 11. 98

labour for prostitutes and their clients (shouke jiaoyang) for "suspected involvement in hiring prostitutes". They were reportedly not informed of his whereabouts.

Several other dissidents have been sent to re-education through labour camps for similar alleged offences in the past few months including Wei Quanbao and Zhang Lin who were both assigned to three years' re-education through labour for various alleged offences including hiring prostitutes.

Other similar new groups include the 'Economic and Social Rights Promotion Association' headed by Leng Wanbao and An Fuxing, the China Human Rights Monitor which involved Qin Yongmin and others who have also been detained, and the 'Corruptive Behaviour Observers' headed by An Jun in Henan province which was ordered by the authorities to shut down all its activities in October 1998.

In addition to the detention and arrests of political activists many others have also been the victims of the Chinese authorities unwillingness to respect the human rights of their citizens. Many others working for freedom of association, the right to hold strikes and form trade unions, people who have been supporters of democracy activists and those exercising their right to participate in elections have all been harassed, detained or imprisoned.

This document and the following cases outline some illustrative examples of the people being sentenced to imprisonment for daring to call for freedom of association or the freedom to have independent trade unions and even for exercising the freedom to use the Internet. It does not cover the cases of people detained for exercising their right to freedom of religion or those belonging to minority groups.

WANG YOUCAI

Wang Youcai, 32 years, a former student leader in Beijing in 1989, based in Hangzhou, Zhejiang province, was sentenced on 17 December 1998 to eleven years imprisonment and three years deprivation of political rights for the crime of "Subverting State Power". The accusations against Wang Youcai included organising meetings, using computer e-mail to send information and accepting donations from overseas.

An official from the Chinese Foreign Ministry stated that Xu Wenli, Qin Yongmin and Wang Youcai had "colluded with overseas hostile organisations and accepted overseas assistance to engage in activities for the purpose for subverting state power".

Hu Jiangxia, the wife of Wang Youcai attempted to find a lawyer to defend him. The lawyer that was chosen was then detained on several occasions and warned against defending him. Hu Jiangxia made three applications to defend her husband herself, but each application was rejected.

The trial began at 8.30am and was over by 10.50 am. Only Wang Youcai's wife and brother and sister were able to attend the hearing. Wang Youcai had no defence lawyer or

representative. His statement in his own defence was persistently interrupted by the judge who reportedly declared his defence was not 'pertinent' to the case.

One judge was reported as saying " In June 1998, Wang Youcai agreed with others to set up the CDP, set up a preparatory committee, and drafted the rules and a declaration which slandered state power and the socialist system"... "He repeatedly incited others to overthrow state power and should be severely punished according to the law"

He had been previously arrested on 10 July for trying to establish Chinese Democratic Party in Zhejiang. He was charged with 'incitement to subvert the state power' overthrow state power' on 7 August 1998. This charge was later changed in the verdict to the more serious charge of 'subverting' state power. It was reported that Wang Youcai was released on 31 August after signing a 'confession' and held under a form of house arrest until his re-detention on 30 November 1998. Wang Youcai had been questioned and detained by police on several occasions earlier in the years after co-signing petitions and appeals on behalf of other detained dissidents.

Wang Youcai announced the formation of the China Democratic party with Wang Donghai and Lin Hui on 25 June 1998, the start of the visit to China by the American president Bill Clinton.

One of the "most wanted" student leaders after the repression of the 1989 pro-democracy protests, Wang Youcai had spent two years in prison for his activities during the 1989 movement.

XU WENLI

Xu Wenli, 55, a veteran pro-democracy campaigner in Beijing who had previously been jailed for 12 years as a prisoner of conscience, was sentenced to 13 years' imprisonment for organising and planning to "subvert the state power".

His trial, held on 21 December 1998 in Beijing, lasted about three and a half hours. Xu Wenli was represented by a state-appointed lawyer. His wife was reportedly informed of the trial only on 18 December, after being denied information about his whereabouts and legal status since his detention on 30 November.

According to the official Xinhua news agency, the court found that, in November, Xu Wenli had "secretly planned the founding of the so-called Beijing and Tianjin regional Party Committee of the China Democratic Party, with the purpose of subverting state power", that he has attempted to recruit members in the party, and had sought and accepted funds from some "hostile organisations abroad" in order to organise and conduct subversive activities.

The official indictment of the court included the charges that Xu Wenli had, between November 1997 and April 1998 given numerous interviews with foreign journalists, 'tried to incite the formation of "independent unions"', 'made a great fuss about "ending the one party tyranny, building the third republic, protecting human rights and freedoms, and re-make constitutional democracy'.

The indictment goes on to state that “This court believes that..Xu Wenli, having served one criminal sentence, continued to ignore state laws, and colluded with foreign enemy elements, received funds from overseas, organised and planned to subvert state power and overthrow the socialist system. His criminal activities are great, and his behaviour ...constitutes subversion of state power...it deserves strict punishment.”

In March 1998 Xu Wenli, had also set up an organisation “China Human Rights Monitor” with Qin Yongmin who later tried to register the group in Wuhan, Hubei province.

During 1998, Xu Wenli was detained and questioned on numerous occasions, while meeting other dissidents or travelling. Xu Wenli was detained in Xian on 2 September with his wife, He Xintong, as he met with another dissident , Li Zhiying . Xu Wenli was taken in for questioning on 22 September. Xu Wenli was previously detained on 10 May 1998 when he arrived in Wuhan, Hubei province, where he was planning to meet Qin Yongmin. Xu was released after two days on condition he should return immediately to Beijing, without meeting Qin Yongmin. Xu was detained again on 29 May while on a train bound for the southern city of Shenzhen, where he was planning to meet his sister. He was held by police for three days in a city of Guangdong province then put on a return train to Beijing on 2 June.

QIN YONGMIN

Qin Yongmin, 48, a veteran and outspoken dissident from Wuhan, Hubeiprovince was tried on 17 December on charges of ‘subverting state power’ and sentenced to twelve years imprisonment.

Qin Yongmin was detained on 30 November 1998 and charged with subversion. Lawyers in Wuhan city had reportedly been warned by the authorities not to defend Qin, and his family was unable to find a defence lawyer for him.

Qin Yongmin was previously detained in Wuhan on 25 September 1998 with **Chen Zhonghe** who was later released. It was reported that donations collection by the dissidents as aid to victims of the recent floods in China were confiscated.

Qin Yongmin had been briefly detained by police on 28 March 1998 for questioning about a series of open letters he had addressed to the authorities about human rights issues. In late May 1998, police reportedly confiscated Qin Yongmin’s identity card and told him to stay at home over the 4 June anniversary.

Qin Yongmin had been active, with Xu Wenli, in the formation of an independent human rights group, “the Human Rights Monitor” in March 1998, and had been calling repeatedly for political reforms and an improvement in China’s human rights record. Qin Yongmin later attempted to register the group in Wuhan, Hubei province. It was reported that no response had been given by the authorities to the application until 24 September when Qin Yongmin was informed by the local police that the organisation was ‘illegal’. Qin Yongmin was then taken in for questioning and his home searched.

Qin was imprisoned several times since the early 1980s for his activities in support of democratic and human rights reforms. It was also reported that Qin Yongmin was involved in an attempt to register the China Democratic party.

In a letter sent just after Christmas, Qin Yongmin's daughter wrote

*“ Dear daddy!
I miss you every day” Where have you gone? Why haven't I seen you for so many days?
I heard Grandpa say that you have to go to prison for 12 years, is this really true?... ”*

YANG QINHENG

Yang Qinheng, 44, a pro-democracy and human rights activist from Shanghai who had been active since the late 1970s, was detained on 26 February 1998 and sentenced without trial in late March to three years of “re-education through labour” for "disturbing social order".

It is reported that he is being held in the Dafeng camp near Shanghai

According to unofficial sources, the authorities accused him of stirring up social unrest because he had read an open letter on Radio Free Asia on 27 January 1998, in which he spoke about unemployment and called for independent trade unions. Yang Qinheng had previously issued or co-signed several petitions calling for human rights reforms. Following his sentencing, his family reportedly complained that the authorities had failed to follow proper legal procedures in detaining him.

Yang Qinheng had been jailed for several years twice before during the 1980s and in 1994. He was also briefly detained in early February 1998 in connection with the visit to China of exiled dissident Wang Bingzhang.

In September, an appeal against his sentence was heard by the Shanghai Intermediate people's Court in a special session held at the Da Feng labour camp where he is being held. It was reported that his brother was allowed to attend as was a dissident, who was briefly detained outside the camp. No further news is known.

ZHAO CHANGQING

Zhao Changqing, a 28-year-old teacher in a middle school attached to Factory 813 in Hanzhong, Shaanxi province, was sentenced in September 1998 by Hanzhong Intermediate People's Court to three years imprisonment.

Zhao Changqing was first detained on 13 January 1998 as he was trying to stand as a candidate in local elections. Zhao Changqing designed and circulated amongst his fellow workers a survey looking at conditions in the factory. The results of the poll showed a high level of dissatisfaction with corruption and the treatment of workers. Zhao then attempted to stand as a candidate for the factory election to the local people's Congresses. It was reported that although he had collected enough signatures in support of his election, he was told that only Communist party members of a certain rank were eligible to stand. He had reportedly distributed leaflets protesting a ruling by his factory that he was not allowed to take part in local People's Congress elections, due to be held on 14 January.⁶

He was reportedly detained for ten days in his dormitory, then formally arrested on 23 January and taken by police to an unknown destination. He was later released on 22 February 1998, and reportedly placed under house arrest at his home in Hanzhong.

Zhao Changqing was detained once again on 25 March 1998 and charged on 1 April with "endangering national security". There was no news of him until autumn 1998 when it was reported that he was already in a labour camp - the date and length of his sentence as well as the specific charges against Zhao remained a secret until months after his sentencing.

At the end of August his family was informed that Zhao had been sentenced to prison. However it was reported that the authorities refused to give any details of the trial, the date and location of the trial, the length of sentence and where he was imprisoned

Zhao Changqing had previously been detained for over three months in connection with his activities in the 1989 pro-democracy protests.

In an open letter to fellow factory workers (January 11 1998), after Zhao had been pressurised not to stand for elections he wrote that;

"...the factory management demanded that every workshop and department confiscate my letter and criticise me by name at their meetings....in truth I have not broken any laws. Article 3 of the Criminal Code says "A person may be convicted and punished in accordance with the law for an act explicitly stipulated as a crime in the law, while no-one should be convicted and punished for any act not expressly defined as a crime under existing law." Our nation's law does not prohibit me from carrying out public opinion surveys, nor from publishing the results of such surveys, nor from presenting myself to voters as a candidate..."

Zhao Changqing goes on to state that

..."electing a representative is a very serious undertaking. For our subsistence and development, as well as for the development and prosperity of Factory No. 831, you should treasure your own democratic rights. Even if I cannot run as a formal candidate,

⁶See *People's Republic of China: Summary of Amnesty International Concerns*, February 1998, AI Index: ASA 17/06/98, and *People's Republic of China: Appeal for Li Qingxi and Zhao Changqing*, 12 February 1998, AI Index: ASA 17/05/98.

if you believe I am capable of representing you and of struggling for your interests, then I ask you to write in my name in the ballot. If I am elected, I will be worthy of your trust and will demonstrate my loyalty to you through my actions”

Zhao Changqing is now imprisoned in an unknown location.

SHEN LIANGQING

Shen Liangqing, 35 years, a pro-democracy campaigner and former assistant public prosecutor from Hefei, Anhui province, was detained by police on 25 February 1998 and assigned in late March 1998 to two years of “re-education through labour” for “unauthorized contacts” with foreign journalists and human rights groups in Hong Kong and outside China.

Shen Liangqing was previously detained with two others (Ma Lianggang and Huang Xinming) in 1992 for alleged counter revolutionary activities. He was held for 17 months and released on bail. It was only in November 1996, that he was formally charged. He was charged with ‘plotting to overthrow the government’ and belonging to an unofficial organisation and in December 1996 he was sentenced to 17 months imprisonment and released as he had already served the term. Huang Xinming was sentenced to 12 months in prison and Ma Lianggang given a three year probationary term

In September 1997 he was detained for almost two months in connection with a letter he had written on labour unrest in the province of Sichuan. He was released on bail on 16 October 1997 and placed under ‘police supervision’. Shen Liangqing had many restrictions placed upon him after his release which included a ban on giving interviews to foreign journalists, leaving his province and issuing open letters.

However Shen Liangqing continued to write open letters and in November 1997 he issued a statement to the police demanding that they correct his illegal detention from September to October 1997. In January he co-signed a petition issued by other dissidents demanding the release of a political prisoner. Shen Liangqing also called upon the authorities to fully implement the provisions of the International Convention on Economic, Social and Cultural Rights which China signed in October 1997

LI BIFENG

Li Bifeng, 34, a former tax department employee in Sichuan province was sentenced to seven years in prison by Mianyang People’s Court on charges of ‘fraud’ after he had revealed details of worker protests and unrest in Mianyang town, Sichuan province. Li Bifeng was arrested in March 1998 after spending eight months on the run.

It was reported that his trial took one day. It was reported that no witnesses were found to testify and that the only evidence of 'fraud; was an IOU slip allegedly linking Li to a suspect transaction. Li Bifeng argued that he was being tried for pro democracy work and that his trial was political. The court rejected his claims and despite the lack of evidence sentenced Li to the maximum term of seven years for minor fraud. The defence lawyer hired by Li Bifeng was also warned against defending him

On 10 July 1997, a workers protest of reportedly 10,000 people took place in Mianyang town in Sichuan province over lack of unemployment benefits and corruption. It was reported that the authorities sent in the People's Armed Police and over 100 demonstrators were beaten. Eighty people were reportedly arrested and a curfew was placed on the town. Li Bifeng reported the protests and their suppression to foreign media and later went into hiding.

He was finally caught at a motorway toll booth as he was on his way to visit his wife and two year old daughter. While on the run, on 11 January 1998, Li Bifeng had published the results of a survey of 20,000 redundant workers

Li Bifeng is also a writer and a poet who edited a dissident magazine in the mid-1980s and was spokesman for a local Christian group who looked after the interest of laid off workers. Li Bifeng previously spent five years in prison after the 1989 pro-democracy protests.

Below is an extract from the Open Letter that Li Bifeng sent to the international Labour Organisation (ILO) after the demonstrations in Mianyang, Sichuan, June 1997.

"Beginning in late June, over 100,000 workers in the city of Mianyang, Sichuan province, took part in large scale protests...As a result of corrupt officials, at all levels, embezzling already inadequate unemployment relief funds, the workers have been left in dire circumstances. The reaction of the authorities was to totally disregard the livelihood of the workers and make no effort to answer the questions they raised, Instead the authorities announced a curfew, drafted in large numbers of military police from the surrounding districts and resorted to armed repression against the unarmed workers..... I appeal to the ILO to immediately make representations to the relevant persons in the Chinese government demanding that:

1/ The Chinese government rigorously fulfills its claim that the problem of feeding, clothing and the right to subsistence of 1.2 billion people has been solved.

2/ immediately and unconditionally release all those involved in the demonstrations who have been illegally detained;

3/ immediately provide medical care to the injured workers;

4/punish the officials involved in embezzlement that has left workers unable to survive"

During his months on the run. Li Bifeng continued to publish open letters calling for help for the protestors as well as joining with other dissidents in calling for the release of political prisoners.

ZHANG SHANGUANG

Zhang Shanguang, 45 years, a labour activist was sentenced to ten years imprisonment for 'endangering state security' on 27 December 1998 by the Huaihua Intermediate People's Court in Hunan province.

Zhang was accused of revealing secret information on peasant and worker unrest during an interview with Radio Free Asia . Zhang was formally arrested on 28 August 1998 after being detained on 21 July 1998.

It was reported that Hou Xuezhu, Zhang Shanguang's wife had not received any formal notification of the trial which allegedly concentrated on an account that Zhang gave to the media of unrest and his expression that the burden on workers was 'too great'.

The trial took 2 hours and twenty minutes and took place behind closed doors, during a court lunch break. When his wife arrived at the court, she was refused entry and reportedly told that she could not enter as the trial would involve 'information' that should not be made public.

Zhang was the founder of the local 'Shu Pu Association to Protect the Rights and Interests of Laid-off workers' and it is believed that his arrest was partly in connection with his plans to register his organisation.

It was also reported that Zhang was beaten up by members of an unknown police or armed force because he had allegedly failed to answer questions about his organisation and his overseas connections. It is feared that Zhang may be suffering from tuberculosis which he contracted whilst he was imprisoned for seven years for activities during the 1989 pro-democracy protests. Zhang had been previously sentenced in September 1989 and was released on January 15 1996 with three years of deprivation of political rights.

The verdict of the court states that;

*"while still deprived of his political rights, on March 1, 1998, the accused carried out a telephone interview from his home with reporter Li XX of 'Radio Free Asia'. During the interview, the accused passed onto the Radio station details of the kidnapping case of Zhang Qingren which public security organs had yet to make public."*⁷

"This court maintains that, by exercising free speech during a period of being deprived of political rights, and by illegally supplying details of a case still not made public by the security organs, thus inadvisably making the case known abroad, the defendant Zhang Shanguang deliberately flouted national law. His behaviour violates the regulations of article 111 of the PRC, Criminal Code, concerning illegally supplying intelligence to (organisations) outside China. Moreover, recidivist criminal behaviour should be severely punished...

Therefore the following judgement applies: the defendant Zhang Shanguang is sentenced to 10 year's imprisonment for the crime of supplying intelligence to (organisations) outside China and deprivation of political rights for five years; to run concurrently with the completion of the remaining 19 days of deprivation of political rights left over from the previous sentence".

⁷ The case was linked to farmer's protests against taxes

In an appeal against his sentence Zhang argued that he was not guilty of the charges as China and that

“My conversation with the foreign journalist was concerning an event that was already known by the local people. Based on the principle of the law being unclear and on the regulations in Article 3 of the Criminal Code, there is absolutely no legal basis for (the information) being defined as “intelligence”⁸. Indeed, if this really is the case, then any contact between a foreigner and a citizen of China can be defined as passing on of intelligence and thus criminal behaviour. The court is clearly mistaken in maintaining I was supplying intelligence to a foreign organisation.”

LIN HAI

Lin Hai, 30 years, a computer software business man was sentenced to two years in prison for ‘inciting the overthrow of the state’ on 21 January 1999 by the Shanghai Number One Intermediate People’s Court. Lin Hai was accused of using other people's Internet domains to covertly share the e-mail addresses with "anti-China" magazines abroad from September 1997 onward.

Lin Hai was detained on 25 March 1998, accused of ‘harming social order’. He was formally arrested on 30 April, accused of ‘subverting state power’. In June, this charge and ‘tax evasion’ were submitted to the procuratorate who in September 1998 reportedly sent the case back to the police for re-investigation due to ‘lack of evidence’.

The sentence came more than seven weeks after his trial was held in a closed session on 4 December. Lin Hai’s wife, Xu Hong, who had been actively pursuing all legal avenues for her husband, in the face of threats, intimidation and harassment by the authorities, was reportedly detained at Tianping police station for six hours on the day of the hearing on trumped up charges of theft.

It was reported that during the trial the prosecution claimed that Lin used other people's Internet domains and the nickname "Black Eyes" to covertly provide the e-mail addresses of 30,000 Chinese residents to overseas "anti-China" magazines from September 1997 onward. It was claimed in court documents that the overseas magazine used Lin's data "to disseminate large numbers of articles aimed at inciting subversion of state power and the socialist system, carrying out on a massive scale, activities that endanger state security”.

⁸Article three of the Criminal Law states that ‘Any act deemed by explicit stipulations of law as a crime is to be convicted and given punishment by law and any act that no explicit stipulations of law deems a crime is not to be convicted or given punishment’. This article was considered a step towards meeting international standards and an improvement upon the previous practice of ‘crime by analogy’

It was reported that speaking in his own defence, Lin Hai reportedly denied being a dissident and said he shared the e-mail addresses purely as a business deal. He said he swapped address lists with the magazine purely in hopes of reaching larger numbers of people with advertisements for his software, adding he had no idea how the overseas magazine planned to use the addresses he supplied. His defence lawyer, Liu Jianping, reportedly added that Lin Hai had not realised that the Internet magazine “Big Reference” (Da Cankao) was considered a “foreign enemy publication” so there was no objective basis for the offence of subversion.

Lin Hai’s defence lawyer, Liu Jianping, who was not present at the sentencing, said a judge telephoned to inform him of the result. It was reported that authorities in Shanghai refused to provide any information on the case to diplomats and reporters.

Xu Hong, the wife of Lin Hai, said that she had been hoping for a non-guilty verdict because China had recently signed the International Covenant on Civil and Political Rights. The trial was the first time that Xu Hong had met her husband since he was detained on March 25 1998.

Lin ran a now closed software company that set up web sites and provided job searches for multinational companies. Lin's supporters say he frequently exchanged or bought e-mail addresses to build up a database for his online job search business.

Lin Hai is the first Chinese person to be sentenced for subversive use of the Internet. His wife, Xu Hong has suffered continued harassment for contacts with journalists. The couple have a baby son.

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