CHINA'S CRIMINAL JUSTICE SYSTEM
AND THE TRIAL OF
PRO-DEMOCRACY DISSIDENTS
Hungdah Chiu

School of Law
University of Maryland
Occasional Papers/Reprint Series
in Contemporary Asian Studies

General Editor: Hungdah Chiu
Executive Editor: Chih-Yu Wu
Associate Executive Editors: Su Yun Chang
David Salem
Managing Editor: Chih-Yu Wu
Associate Managing Editor: Chun-li Ouyang

Editorial Advisory Board
Professor Robert A. Scalapino, University of California
at Berkeley
Professor Gaston J. Sigur, George Washington University
Professor Shao-chuan Leng, University of Virginia
Professor J. S. Prybyla, The Pennsylvania State University
Professor Bih-jaw Lin, Institute of International Relations, National
Chengchi University, Republic of China
Professor Toshio Sawada, Sophia University, Japan
Professor Gottfried-Karl Kindermann, Center for International
Politics, University of Munich, Federal Republic of Germany
Professor Choon-ho Park, International Legal Studies,
Korea University, Republic of Korea

All contributions (in English only) and communications should be sent to:
Professor Hungdah Chiu, University of Maryland School of Law,
500 West Baltimore Street, Baltimore, Maryland 21201-1786 USA.

All publications in this series reflect only the views of the authors.

While the editor accepts responsibility for the selection of materials to be published,
the individual author is responsible for statements of facts and expressions of opinion
contained therein.

Subscription is US $22.00 for 6 issues (regardless of the price of individual issues) in
the United States and $28.00 for Canada or overseas. Check should be addressed to
OPRSCAS.

Tel.: (410) 706-3870
FAX: (410) 706-4045

Price for single copy of this issue: US $3.00.

ISSN 0730-0107
ISBN 0-925153-24-9

Occasional Papers/Reprints Series in
Contemporary Asian Studies, Inc.

Reprinted with permission of the New York University Journal of International Law and
Politics: China’s Criminal Justice System and the Trial of Pro-Democracy Dissidents, 24
# CHINA’S CRIMINAL JUSTICE SYSTEM AND THE TRIAL OF PRO-DEMOCRACY DISSIDENTS

*Hungdah Chiu*

## TABLE OF CONTENTS

<table>
<thead>
<tr>
<th>Section</th>
<th>Page</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. The Nature of the Chinese Criminal Justice System</td>
<td>1</td>
</tr>
<tr>
<td>II. Defining a Criminal Act</td>
<td>2</td>
</tr>
<tr>
<td>III. Criminal Process</td>
<td>4</td>
</tr>
<tr>
<td>A. Arrest and Detention</td>
<td>4</td>
</tr>
<tr>
<td>B. Interrogation</td>
<td>6</td>
</tr>
<tr>
<td>C. Prosecution and Sentencing</td>
<td>7</td>
</tr>
<tr>
<td>D. Simplified Process</td>
<td>8</td>
</tr>
<tr>
<td>IV. Administrative Sanctions</td>
<td>9</td>
</tr>
<tr>
<td>A. Sanctions Imposed by the Police</td>
<td>9</td>
</tr>
<tr>
<td>B. Reeducation Through Labor</td>
<td>10</td>
</tr>
<tr>
<td>C. Shelter and Investigation</td>
<td>11</td>
</tr>
<tr>
<td>D. Number of People Under Administrative Sanctions</td>
<td>11</td>
</tr>
<tr>
<td>V. The Role of Lawyers</td>
<td>12</td>
</tr>
<tr>
<td>VI. The June 4, 1989 Tiananmen Massacre and Subsequent Arrests and Trials of Pro-Democracy Dissidents</td>
<td>14</td>
</tr>
<tr>
<td>VII. Conclusion</td>
<td>20</td>
</tr>
</tbody>
</table>

*This article was originally published in New York University Journal of International Law and Politics (JILP), Vol. 24, No. 3 (1992), pp. 1181-1201, reprinted with permission. Original page number of the article appears in brackets.*
CHINA'S CRIMINAL JUSTICE SYSTEM AND THE TRIAL OF PRO-DEMOCRACY DISSIDENTS

Hungdah Chiu*

I. The Nature of the Chinese Criminal Justice System

Mao Zedong, who established the People's Republic of China (PRC) in 1949, once said: "The state apparatus such as the army, police, and courts consists of instruments by which classes oppress classes. To the hostile classes the state apparatus is the instrument of oppression. It is violent, and not 'benevolent.'" Under Mao's theory of law, it seems clear that those principles of justice generally recognized by non-communist countries, such as the independence of the judiciary, the presumption of innocence of the accused, and the equality of all persons before the law, have no place in the PRC legal system. The first two principles would be inconsistent with the view that law is an instrument of state policy, while the third would be inconsistent with the class nature of law.

The criminal justice system that was built on this theory during the Maoist period (1949-1976) was unique—it had neither a criminal code nor a criminal procedure code, and lawyers were virtually non-existent. Judges were not required to have had legal training, nor were they required or expected to cite legal provisions in rendering judgments. The basic principle of criminal justice was the so-called "leniency" with those who confess and severity with those

* Professor of Law, University of Maryland School of Law (Baltimore). In addition to this article's presentation at the Symposium on Asia in the Twenty-First Century, Panel on "Issues in Human Rights and Refugees," this article was prepared for the Committee on Asian Affairs of the American Bar Association, October 25, 1991, New York, N.Y.


3. See id.
who resist."4 Anyone who refused to accept the charges would be severely punished, and any attempt to appeal a guilty sentence would most likely result in a more severe sentence.

The above theory of law and practice prevailed until Mao's death in 1976. Since then, the new leadership has tried to modify some aspects of Mao's theory of law and to establish a more stable legal system.5 However, article 2 of the 1979 Chinese Criminal Law still provides that "[t]he tasks of the Criminal Law of the People's Republic of China are to use criminal punishments to fight against all counterrevolutionary and other criminal acts in order to defend the system of the dictatorship of the proletariat."6

II. Defining a Criminal Act

The Criminal Law enacted in 1979 has a total of 192 articles and specifies the types of acts subject to criminal sanctions.7 It narrows the definition of a counterrevolutionary that had previously prevailed in the Mao period by stressing that such a person must have committed some overt act; thus, under this law, mere thoughts against the dictatorship of the proletariat and the socialist system may no longer be considered criminal offenses.8 However, some criminal provisions still contain vague definitions of the kinds of conduct that come within their reach. For instance, articles 116, 117, and 121 provide penalties for "serious" violations of customs, foreign exchange, tax, and other regulations.9 These penalties are to be imposed in addition to the administrative sanctions provided by the regulations them-

4. See id. at 19.
5. See generally LENG & CHIU, supra note 2 (providing a study of the post-Mao Chinese legal system).
8. Id.
9. Criminal Law, supra note 6, arts. 116-17, 121.
selves, but nowhere does the law define the term "serious." The law also provides a wide range of penalties that can be imposed for offenses.\textsuperscript{10} Thus, a court may punish corruption with anything from a six-month detention period to the death penalty.

The most serious defect of the 1979 Chinese Criminal Law is its retention of the analogy principle found in the 1951 Counterrevolutionary Act.\textsuperscript{11} Article 79 of the Criminal Law provides:

Crimes that are not expressly defined in the Specific Provisions of this Law may be determined and punished according to whichever article in the Specific Provisions of this Law that covers the most closely analogous crime, but the judgment shall be submitted to the Supreme People's Court for approval.\textsuperscript{12}

This analogy principle conflicts with one of the basic maxims of criminal justice: \emph{nullum crimen sine lege} (no crime in the absence of a preexisting law making the act a crime), which is also incorporated in article 11, paragraph 2, of the 1948 Universal Declaration of Human Rights.\textsuperscript{13}

Articles 90 through 104 of the Criminal Law deal with "Crimes of Counterrevolutionaries."\textsuperscript{14} These offenses, ranging from treason and espionage to "propagandizing for and inciting the overthrow of the political power of the dictatorship of the proletariat and socialist system, through counterrevolutionary slogans, leaflets or by other means" are defined in such broad and vague terms that procurators and the courts may arbitrarily interpret them. These articles have been used to charge persons who are guilty of nothing

\textsuperscript{10} For details, see Werner Pfennig, \textit{Political Aspects of Modernization and Judicial Reform in the PRC}, I \textit{J. Chinese Stud.} 1, 91-97 (1984).

\textsuperscript{11} Article 16 of the Act of the PRC for Punishment of Counterrevolution provides: "Those who, with a counterrevolutionary purpose, commit crimes not covered by the provisions of this Act may be given punishments prescribed for crimes [enumerated] in this Act which are comparable to the crimes committed." \textit{Cohen}, \textit{supra} note 1, at 302.

\textsuperscript{12} Criminal Law, \textit{supra} note 6, art. 79.

\textsuperscript{13} This paragraph states: "No one shall be held guilty of any penal offense on account of any act or omission which did not constitute a penal offense, under national or international law." G.A. Res. 217, U.N. Doc. A/810, at 71, 73 (1948).

\textsuperscript{14} \textit{See} Criminal Law, \textit{supra} note 6, arts. 90-104.
more than the open expression of their views, despite constitutional guarantees of this freedom. They have also been used to punish persons who have organized demonstrations, disrupted traffic, disclosed official information to foreigners, or formed associations outside state control.

III. Criminal Process

While there are four levels of courts, i.e., basic, intermediate, higher, and supreme people's courts, a defendant has the right to appeal only once. For instance, a decision of an intermediate people's court can only be appealed to a higher people's court. The only exception is for death sentences, which must be sent to the Supreme People's Court for final approval. However, since 1983, the Supreme People's Court has been authorized to allow the higher people's courts to approve the death penalty in cases of murder, rape, robbery, and illegal use of explosives as well as in other cases that seriously endanger public security and social order.

A. Arrest and Detention

The pretrial proceedings of the Chinese criminal process are composed of two principal parts: arrest and detention, and investigation. To prevent illegal arrests and prolonged detentions, the 1979 Criminal Procedure Law of the People's Republic of China and the 1979 Arrest and Detention Regulations of the People's Republic of China set

17. See id. arts. 129-43.
18. Id. art. 144.
19. See LENG & CHIU, supra note 2, at 110.
20. Id. at 87.
21. See Criminal Procedure Law, supra note 16, art. 44.
22. See Arrest and Detention Regulations of the People's Republic of China, 1979, art. 12, reprinted in LEGISLATIVE AFFAIRS COMM'N OF THE STANDING COMM. OF THE NAT'L PEOPLE'S CONGRESS OF THE PEOPLE'S RE-
up proper arrest procedures and strict time limits. In carrying out an apprehension or in making an arrest, the police must produce a warrant. In accordance with article 5 of the Arrest and Detention Regulations, the family of the detainee or the arrestee should be notified of the reasons for the action and the place of confinement within twenty-four hours, "except where notification would hinder the investigation or there is no way to notify them." Interrogation must start within twenty-four hours after any apprehension or arrest, and the detainee or the arrestee must be released immediately if no legitimate grounds are found upon which to hold the person. When the public security organ formally declares a detainee "arrested," the matter must be submitted to the procuracy for approval within three days or, in special circumstances, seven days. The procuracy must either sanction the arrest or order the release of the detainee within three days. However, article 47 of the Criminal Procedure Law gives the procuracy the right to extend this deadline if supplementary investigations are needed in order to make a decision. It is not clear whether the suspect should be released by the police under such circumstances.

During the investigation stage, the tasks for law enforcement officers include interrogation of the accused and witnesses, search and seizure of property, examination of evidence, and preparation of the indictment. Mindful of past abuses, the Criminal Procedure Law stipulates that police, judges and procurators are strictly forbidden from extorting confessions by the use of torture, threats, enticement, deceit, or any other illegal means. This prohibition extends to the

---

Public of China, supra note 6, at 49 [hereinafter Arrest and Detention Regulations].
23. See id. art. 5; see also Criminal Procedure Law, supra note 16, art. 43.
24. See Arrest and Detention Regulations, supra note 22, art. 5.
25. See Criminal Procedure Law, supra note 16, art. 44; see also Arrest and Detention Regulations, supra note 22, art. 12.
26. See Criminal Procedure Law, supra note 16, art. 48; see also Arrest and Detention Regulations, supra note 22, art. 8.
27. See Arrest and Detention Regulations, supra note 22, art. 8.
28. Criminal Procedure Law, supra note 16, art. 47.
29. See id. arts. 62-104. The Criminal Procedure Law addresses the listed tasks as follows: interrogation, articles 62-70; search and seizure, articles 79-87; examination of evidence, articles 71-78; preparation of the indictment, articles 92-104.
collection of all kinds of evidence throughout the entire judicial process. At the time of a search, except in emergency situations, investigators shall show the searched party a search warrant. The Criminal Procedure Law further provides that detention of an accused during investigation should not exceed two months. If necessary, a one month extension may be granted by the procuracy at the next higher level. A procuracy is required to decide whether to prosecute a case sent to it by the police within one month to one and a half months.

B. Interrogation

The usual interrogation procedure, as described by many people, is very harsh. In order to create psychological pressure, a suspect is often unexpectedly awakened in the middle of the night to be interrogated. After each interrogation, the suspect must impress a fingerprint in red ink on each page of the record taken by the interrogator or clerk. After several interrogations, the interrogating officer asks the suspect to write his own account of the alleged crime(s) committed, i.e., a personal confession. Torture and ill-treatment of prisoners persist as a widespread problem in China. A 1987 study by Amnesty International, which was based primarily on published Chinese sources, found that "most torture victims are criminal suspects who are tortured to force them to confess" and "their torturers are usually police officers, or Communist Party officials, and members of the many informal security units who illegally detain individuals they suspect of committing crimes."

The most common methods of torture described in the Chinese press are severe beatings, usually with the victim bound or handcuffed, suspension by the arms, assault with

30. See id. at 32.
31. Id. at 81.
32. See id. at 92.
33. Id.
34. Id. at 97.
35. Information based upon interviews with former detainees (identities have been withheld for the protection of interviewees).
37. See id. at 1.
instruments such as electric batons, whipping or striking victims with various objects, unspecified forms of humiliating or degrading treatment, and around-the-clock interrogation. 38
In addition to the use of torture to extract confessions, suspects are frequently detained under intolerable conditions. 39

C. Prosecution and Sentencing

Once a case is referred to the procuracy by the public security (police), there is a high likelihood that it will be prosecuted. According to the published statistics, between 1986 and 1988, 819 counterrevolutionary cases were prosecuted while only fifty-seven cases were dismissed. 40

Once a suspect is prosecuted, conviction is almost certain. 41 The April 6, 1987 report of the Supreme People's Court to the National People's Congress revealed that only 0.7% of the suspects prosecuted were exonerated. 42 The rationale for this high conviction rate stems from the failure to adopt a “presumption of innocence” into the 1979 Criminal Procedure Law. This presumption is provided for in article 11, paragraph 1 of the 1948 Universal Declaration of Human Rights and in article 14, paragraph 2 of the 1966 International Covenant on Civil and Political Rights. 43

In practice, most Chinese trials are essentially sentencing hearings at which the defense lawyers or representatives plead for leniency for their clients and, with few exceptions, do not contest the charges. Courts usually assume the guilt of any person brought to trial. Defendants may appeal both

38. See id. at 9.
39. See id. at 10.
42. See id.
43. Article 11, paragraph 1 of the Universal Declaration states: “Everyone charged with a penal offense has the right to be presumed innocent until proven guilty.” G.A. Res. 217, supra note 13, at 73. Article 14, paragraph 2 of the 1966 Political Covenant states: “Everyone charged with a criminal offense shall have the right to be presumed innocent until proven guilty according to law.” International Covenant on Civil and Political Rights, Dec. 19, 1966, art. 14(2), 999 U.N.T.S. 171, 176.
verdicts and sentences to the next highest court.\textsuperscript{44} Appeals can result in stiffer or reduced sentences for the accused. Although China has four court levels, it allows only one appeal.\textsuperscript{45} Moreover, only in a few exceptional cases, such as certain death sentences, can an accused appeal to the Supreme People’s Court.

The Chinese judiciary is nominally independent, but in reality it is controlled by the Chinese Communist Party. There is no legal sanction against a party committee’s interference with judicial independence.\textsuperscript{46} On the contrary, for serious or political cases, the procurators and the judges usually discuss the handling of these cases with the party committee at the same level.

D. \textit{Simplified Process}

For certain offenses, the procedural guarantee provided in the Criminal Procedure Law and limits on punishment were revised by several resolutions of the Standing Committee of the National People’s Congress (NPC).\textsuperscript{47}

On September 2, 1983, the NPC Standing Committee adopted a resolution to amend article 13 of the Organic Law of People’s Courts, enacted by the NPC, to allow the Supreme People’s Court to delegate the authority to approve death sentences to the provincial-level higher people’s courts in cases of murder, rape, robbery, the use of explosives, and other serious offenses.\textsuperscript{48} Another resolution of the NPC Standing Committee removed practically all guarantees of due process provided in the Criminal Procedure Law for persons accused of murder, rape, armed robbery, and other violent crimes.\textsuperscript{49}

The resolution rendered ineffective article 110 of the Criminal Procedure Law, which requires that defendants receive a copy of the indictment at least seven days before the

\textsuperscript{44} See Leng \& Chiu, supra note 2, at 108.
\textsuperscript{45} See Criminal Procedure Law, supra note 16, arts. 129-43; see also Leng \& Chiu, supra note 2, at 108.
\textsuperscript{46} See Leng \& Chiu, supra note 2, at 98-104.
\textsuperscript{47} See id. at 110.
\textsuperscript{48} Id.
\textsuperscript{49} See id. at 110-11.
trial in order to prepare their defenses. Furthermore, it shortened the time limit for an appeal to three days instead of the ten days stipulated in article 131 of the Criminal Procedure Law. In another resolution adopted on the same day, the NPC Standing Committee revised the Criminal Law enacted by the NPC. The revision increased sharply the number of capital offenses to cover virtually any serious crime and ordered the courts to impose stiffer penalties, including execution, on people convicted of violent crimes.

Under the amended Criminal Law and Criminal Procedure Law, a person charged with one of the violent or serious crimes could be executed within approximately eight days—an extremely short time for arrest, investigation, prosecution, sentencing, appeal, and execution.

IV. ADMINISTRATIVE SANCTIONS

A. Sanctions Imposed by the Police

A unique aspect of the Chinese criminal justice system is the imposition of administrative sanctions without judicial review. There are three types of administrative sanctions dealing with certain individuals alleged to be political or social deviants. The first one involves enforcement of the Security Administration Punishment Act. This Act, formalized in 1957, allows the police to issue warnings, impose modest fines, and detain persons for up to fifteen days. The 1957 Act also allowed the police to use the principle of “analogy” to impose sanctions not specifically provided for in the Act. Judicial review of a police decision was not possible. However, the Act was revised in 1986 to remove the analogy provision and also to subject police decisions to judicial review.

50. See Criminal Procedure Law, supra note 16, art. 110.
51. See id. art. 131.
52. Leng & Chiu, supra note 2, at 110.
54. Leng & Chiu, supra note 2, at 235-48.
55. See id. at 248.
B. Reeducation Through Labor

The second type of administrative sanction is reeducation through labor, formalized in the 1957 State Council’s Decision on Reeducation Through Labor.\textsuperscript{57} The Decision authorizes the police and civil administrative organs to send a wide range of offenders to special camps to work and reeducate themselves. The offenders include (1) people who have no decent occupation, who behave like hoodlums, and who engage in theft, swindling, and other antisocial conduct; (2) counterrevolutionaries and antisocial reactionaries not subject to criminal prosecution; (3) people who refuse to work or to comply with work assignments or transfer; and (4) troublemakers who refuse to correct themselves despite repeated criticism. Reeducation through labor is similar to reform through labor in many aspects. However, it is a non-criminal punishment not subject to court approval. Those assigned to reeducation are paid a salary according to their work and output.\textsuperscript{58} The original decision fixed no specific length of time for reeducation. Thus the police could send “undesirable elements” to labor camps for an indefinite period.

In republishing the 1957 decision on November 29, 1979, the NPC Standing Committee also passed Supplementary Regulations Concerning Reeducation Through Labor\textsuperscript{59} to make some improvements. First, special committees composed of public security, civil affairs, and labor officials were established for provinces, autonomous regions, and large and medium cities to direct and administer the work accomplished by reeducation through labor programs. The range of “admittance” was confined to those people in large and medium cities who need reeducation through labor. Second, the duration of reeducation through labor became more definite; it would last from one to three years with a possible extension for another year. Third, once they were released from the reeducation labor camps, the regulations assured that they would not be discriminated against in employment.

\textsuperscript{57} See Leng & Chiu, supra note 2, at 249-51.
\textsuperscript{58} See id. at 153.
\textsuperscript{59} Id. at 251-52.
or schooling. Fourth, the People’s Procuratorates were required to exercise supervision over organs managing reeducation through labor programs. Finally, the State Council adopted a decision in February 1980 to curb the use of such administrative methods as “forced labor” and “taking in for investigation” by consolidating them with reeducation through labor.\textsuperscript{60} Despite such improvements, an internal (unpublished) regulation enacted in 1982 by the Ministry of Public Security extended the scope of persons subject to this sanction by including undefined “anti-[Communist] Party elements” and “anti-socialist elements.”\textsuperscript{61}

Reports indicate that Chinese authorities have used this administrative measure to detain thousands of people, ranging from vagrants to political dissidents, in rural camps.\textsuperscript{62}

C. Shelter and Investigation

The third type of administrative sanction is the so-called “shelter and investigation” (shourong shencha) imposed by the police. This measure is based on an unpublished document entitled “Notice Concerning the Incorporation of the Forced Labor and the Shelter and Investigation into Reeducation Through Labor” which was issued by the State Council on an unknown date.\textsuperscript{63} A published article states that people who commit minor offenses and whose identity, address or background are unclear, or who are suspected of having roamed from place to place committing crimes, or of forming criminal gangs, may be subjected to “shelter and investigation” by the police for one to three months.\textsuperscript{64} The legal basis for this type of detention is not clear.

D. Number of People Under Administrative Sanctions

The exact number of people who are now placed under

\textsuperscript{60} Id. at 153.


\textsuperscript{63} See Wang Jian, What Is Shelter and Investigation?, Zhongguo Fazhi Bao, Aug. 30, 1986, at 1; see also Amnesty International, supra note 62, at 5-14. Many political dissidents were detained under this administrative sanction. See id. at 15-19.

\textsuperscript{64} Amnesty International, supra note 62, at 9.
various types of administrative sanctions is unascertainable since China publishes no statistics in this area. However, persons who were formerly subjected to such sanctions have claimed that there are at least several million.\textsuperscript{65}

V. THE ROLE OF LAWYERS

As they took over mainland China, the Chinese Communists abolished the legal system that existed prior to 1949 in China. The PRC tried to introduce “people’s lawyers” to its judiciary in 1955. However, with the 1957 Anti-Rightists Campaign, the legal profession gradually disappeared.\textsuperscript{66} Further, the Party policy of the Cultural Revolution period, that of dealing leniently with those who confess and severely with those who resist, strongly discouraged accused persons from even asserting a defense, and had the effect of emasculating the defense lawyer system.

The Constitution of 1978 restored the lawyer system. The 1982 Constitution also explicitly states in article 125 that “the accused has the right of defense.”\textsuperscript{67} In addition, the 1979 Criminal Procedure Law specifies that the accused may have, for his defense, a lawyer, relative, guardian, citizen recommended by a people’s organization, or a citizen designated by the court in addition to his own advocacy.\textsuperscript{68} The responsibility of a defender is, on the basis of the facts and the law, to present “materials and opinions proving the innocence of the defendant, the pettiness of his crime and the need for a mitigated punishment or exemption from criminal responsibility, thus safeguarding the lawful rights and interests of the defendant.”\textsuperscript{69}

It should be noted here that no Chinese legislation provides for the right to counsel before trial. As stipulated by article 110 of the Criminal Procedure Law, defense counsel apparently becomes involved in a case only after the court

\textsuperscript{65} See id. at 15-19. A recent report indicates that there are 10 million people in Chinese prison/labor camps, but it is not clear how many are under administrative sanctions. See Charles Lane et al., The Last Gulag, NEWSWEEK, Sept. 23, 1991, at 26.

\textsuperscript{66} Leng & Chiu, supra note 2, at 72-73.

\textsuperscript{67} See Xianfa art. 125 (1982).

\textsuperscript{68} See Criminal Procedure Law, supra note 16, art. 26.

\textsuperscript{69} Id. art. 28.
has decided to "open a court session." A Chinese lawyer would prepare for the defense by studying the relevant materials, and getting acquainted with the circumstances of the case. The lawyer would also interview and correspond with the defendant when permitted by the court. It must be noted that a Chinese lawyer has very limited time to prepare a defense for a criminal suspect. The court needs to send the indictment of the procuracy only seven days before the court hearing; therefore, a lawyer may have only seven days to prepare the defense. At trial, the defense lawyer has the right to question the prosecution's witnesses, experts, and the defendant, summon and question new witnesses, introduce new evidence and participate in courtroom debates. If necessary, he can also, with the consent of the defendant, lodge an appeal from the judgment and present his version of the case to the court of second instance.

The 1980 Interim Regulation on Lawyers states that a Chinese lawyer, in performing his functions, "shall serve the cause of socialism and the interests of the people, act on the basis of facts, and take the law as the criterion" and that the attorney is protected by the law from any organization or individual. According to Chinese writers, the defense counsel is not the defendant's agent in a criminal proceeding. He is an independent party in the litigation and is not bound by the will of the accused. He must carry out his activities within the legal framework and under no circumstances should he fabricate evidence, distort facts, or use deception to help his clients. If the evidence presented by the prosecution is incorrect in whole or in part, the lawyer should try to prove the innocence of the defendant or mitigate his guilt. If, on the other hand, the crime has been established beyond any doubt, then the counsel should defend the accused from the standpoint of certain extenuating circumstances, such as motives and means of the crime, the age of the defendant,
the degree of his repentance, or the objective reasons for the crime. The lawyer should not say anything detrimental to the defendant at the trial but must persuade the defendant to reveal to the court concealed facts to seek the leniency of the court. The purpose of the defense counsel is considered well-served if he can help the court to render a just verdict and protect the legitimate rights and interests of the defendant.73

Under the 1980 Interim Regulation on Lawyers, all lawyers must be Chinese citizens who support the socialist system and have the right to elect officials and be elected (article 8).74 This requirement precludes the possibility of foreign lawyers appearing in Chinese courts, handling legal cases, or acting as legal advisers to any Chinese organization or enterprise. However, the Chinese authorities do not interfere with foreign law firms establishing branches in China provided that they do not engage in these activities.

VI. THE JUNE 4, 1989 TIANANMEN MASSACRE AND SUBSEQUENT ARRESTS AND TRIALS OF PRO-DEMOCRACY DISSIDENTS

On June 4, 1989, the Chinese Communist government ordered its military forces to use tanks and machine guns to massacre participants in a peaceful student-led democracy movement at Beijing’s Tiananmen Square. Several thousand participants perished.75 This massacre was followed by a drastic, country-wide crackdown on participants, supporters, and sympathizers. Thousands were arrested, and some were reportedly secretly executed.76 Those who were “detained”

73. Leng & Chiu, supra note 2, at 93.
74. See Interim Regulations of the People’s Republic of China on Lawyers, supra note 72, art. 8.
75. This massacre was reported in almost all newspapers. For an extensive collection of media reports on this subject see F.B.I.S., Daily Rep., China, June 5, 1989. See also Russell Watson et al., Beijing Bloodbath, Newsweek, June 12, 1989, at 24-29; Jesse Birnbaum & Howard G. Chua-Eoan, Despair and Death in a Beijing Square, Time, June 12, 1989, at 24-27; Russell Watson et al., Reign of Terror, Newsweek, June 19, 1989, at 14-22.
or "arrested" by the Chinese authorities fell into four broad categories: (1) workers who organized or participated in independent labor organizations; (2) students who played key roles in the formation of groups such as the Beijing Students Autonomous Federation, the Autonomous Federation of Students from Outside Beijing, and numerous other independent campus organizations; (3) leading intellectual figures, journalists, Party theoreticians and college professors, whose public statements and writings were characterized by the Chinese government as "bourgeois liberal" hence thought to have laid the ideological basis for the pro-democracy movement termed the "counterrevolutionary rebellion" of June 3-4, 1989, by the Chinese authorities; and (4) an overwhelming number of ordinary workers and urban residents who, in a desperate attempt to protect the students in Tiananmen Square, physically confronted the military forces on the streets of Beijing on the night of the massacre, helped provide shelter to fugitive students and workers who had been placed on government wanted lists after the June 4 massacre, or participated in demonstrations throughout China to protest the massacre.  

The worldwide condemnation of the massacre and the subsequent economic sanctions imposed by Western powers shocked the Chinese government and placed it in a conundrum. If the government severely punished those who had participated in the pro-democracy movement, it would provoke the Western countries to stiffen their economic sanctions and thus cause severe economic difficulties for China. On the other hand, because the government had already labelled the student-led pro-democracy movement a "counterrevolutionary riot," it would be slapping its own face by releasing those it had placed under detention or arrest. Therefore, China simply detained large numbers of people involved in the pro-democracy movement in violation

of the time limit for detention and investigation provided in the Criminal Procedure Law—within seven days the public security (police) must release the detainee or convert his/her status from detention to arrest, at which time the procurators have up to three months to investigate the case.\textsuperscript{80}

Under Western economic sanction pressure China announced, in the first six months of 1990, that it had released 881 detainees and that 355 remained in pre-trial detention.\textsuperscript{81} Many observers believed that considerably more individuals were still under detention. Many of those released from detention were neither informed of the charges against them, nor apprised of the legal grounds upon which they had been detained in violation of the time limit provided by the Criminal Procedure Law.

In January 1991, the Chinese government announced the release of an additional sixty-nine dissidents held after the June 4, 1989 massacre. Among them, six were tried and convicted but “exempted from punishment,” eighteen were reportedly charged but released before trial, and forty-five were reportedly released without being charged.\textsuperscript{82} The cases against the remaining detainees posed a difficult problem for China—if the government was to have any chance of persuading the Western powers to end their economic sanctions, it had to close these cases.

Apparently taking advantage of the worldwide preoccupation with the Gulf War between the U.S.-led coalition and Iraq in January and February 1991, China quickly put the remaining dissidents on trial. Although it is believed that at least thirty-two detainees were put on trial, the official New China News Agency (NCNA) announced verdicts against only twenty-one of them on January 5, 26, and February 12, 1991.\textsuperscript{83} All twenty-one defendants were convicted, but the NCNA reported that six of them were “exempted from crim-

\textsuperscript{80} See Criminal Procedure Law, supra note 16, arts. 50, 51, 92.


inal punishment" and then released. The fifteen others were sentenced to prison terms ranging from two to thirteen years. The verdicts against eleven other defendants have not yet been announced. On March 20, 1991, a Chinese official told a delegation from the American Bar Association that all trials concerning the Tiananmen cases had been "basically completed."

Notwithstanding the Chinese government's best efforts to portray the trials as part of a fair, sophisticated system, the orientation of the trials was mainly political. Officially described as "open to the public," admission to the trials was in fact by ticket only. Despite repeated requests from international human rights groups and Chinese dissidents abroad, the Chinese government did not permit any outside party to observe the trials. Moreover, while NCNA asserted that teachers, students, and family members of the accused attended the trials, friends and family of the defendants were "often unable to determine when trials were scheduled, let alone attend them."

Except for that of Wang Juntao, the judgments in the following table have not been published in full. All other judgments are based on Chinese press releases. Each of the defendants was charged with "plotting to overthrow the government" or "spreading counterrevolutionary propaganda and agitation" or both.

84. Further on Sentencing of Wong Juntao, Others, supra note 83, at 15.
85. Id.
<table>
<thead>
<tr>
<th>Name</th>
<th>Charges</th>
<th>Sentence</th>
<th>Note</th>
</tr>
</thead>
<tbody>
<tr>
<td>Chen Ziming</td>
<td>Plotting to overthrow the government and counter-revolutionary propaganda and agitation</td>
<td>13 years</td>
<td>Not willing to repent</td>
</tr>
<tr>
<td>Wang Juntao, Ren Wanding</td>
<td>Same, Counter-revolutionary propaganda and agitation</td>
<td>13 years</td>
<td>Same, Refused to admit that he committed the crime</td>
</tr>
<tr>
<td>Liu Gang</td>
<td>Plotting to overthrow the government</td>
<td>6 years</td>
<td>Acknowledged his crimes and showed willingness to repent Repented</td>
</tr>
<tr>
<td>Bao Zumxin</td>
<td>Counter-revolutionary propaganda and agitation</td>
<td>5 years</td>
<td>Repented</td>
</tr>
<tr>
<td>Wang Dan</td>
<td>Same</td>
<td>4 years</td>
<td>Showed repentance, confessing his own crimes and exposing others</td>
</tr>
<tr>
<td>Wang Youcai, Zhang Ming, Ma Shaoting</td>
<td>Same</td>
<td>2 to 4 years</td>
<td></td>
</tr>
<tr>
<td>Kong Xianteng, Zhang Qianjin, Xue Jian'an</td>
<td>Charge not published, but a NCNA January 5, 1991, report indicated that they were accused of assembling crowds, undermining public order, and impeding the advance of martial law troops</td>
<td>2 to 3 years</td>
<td></td>
</tr>
<tr>
<td>Guo Haiteng</td>
<td>Counter-revolutionary sabotage</td>
<td>4 years</td>
<td>Confessed crime and showed repentance</td>
</tr>
<tr>
<td>Yao Junling</td>
<td>Same</td>
<td>2 years</td>
<td></td>
</tr>
</tbody>
</table>

The above sentences were announced on January 5, 26, and February 12, 1991. In order to gauge domestic and international reaction, the lenient verdicts were reported in early January. On January 28, 1991, U.S. State Department Spokeswoman Margaret D. Tutwiler commented on the
prison sentences of five defendants, finding "no evidence that their offenses consisted of more than a non-violent expression of political views," and thus their sentences "would appear to violate the United Nations Universal Declaration of Human Rights, which guarantees the right of political expression." Tutwiler also stated that the absence of independent observers raised concerns about "whether these trials meet recognized standards of due process and fairness." On February 12, 1991, after a Chinese court imposed thirteen year jail terms on Chen Ziming and Wang Juntao, spokeswoman Tutwiler charged that "no prison sentence imposed for non-violent political activity can be considered lenient." She also commented that "the speed of the verdicts, the limited opportunity afforded defendants to prepare a defense and the inability of independent observers to attend the trials inevitably raises questions of justice, fairness, and due process."

Since June 1990, the Chinese government has maintained the position that only 355 people were detained for the "counterrevolutionary rebellion" in June of 1989. As of mid-1991, 95 people were known to have either gone to trial or been released without trial. However, the fate of the remaining 240 acknowledged detainees remains unknown—as does the fate of thousands of other people who were arrested throughout China after the June 4, 1989 Tiananmen Square massacre. Many believe that the Chinese govern-

92. Id.
94. Nicholas D. Kristof, Chinese Trials End; Fate of Hundreds Unclear, N.Y. TIMES, Feb. 14, 1991, at A6. On February 28, 1992, China suddenly announced that it had handed down relatively short sentences, i.e., up to five years imprisonment, to up to 11 dissidents in connection with the Tiananmen Square demonstrations and subsequent pro-democracy protests, with no details of the trials given. A report in a Hong Kong newspaper on the same day suggested that China had closed all of the cases raised by the United States Department of State 1992 Human Rights Reports. China, however, has not provided information concerning approximately 12 other dissidents named in a list sent to China in November 1991 by
ment sentenced a great number of the pro-democracy movement's participants to reeducation through labor camps, a punishment which—because it is not a criminal sanction under the Chinese legal system—allows the government to bypass all judicial procedures.

VII. Conclusion

Two significant aspects of the Chinese criminal justice system fall far short of minimum international standards. By permitting the use of analogy in defining what constitutes a criminal act, the Chinese system rejects the principle of no punishment without pre-existing law. Moreover, the Chinese Criminal Law is drafted in such general terms as to give the judge wide discretion in establishing the criminality of an act.

With respect to criminal procedure, the Chinese system refuses to accept the principle of presumption of innocence. And while the system accepts the right of defense, it excludes defense lawyers from the investigatory stage of prosecution. Limitations on the time allotted for preparation of a defense severely undermines the effectiveness of that defense.

Astonishingly, when the Chinese Communist authorities arrested many pro-democracy dissidents and held them for trial, the authorities failed to comply with their own established procedures.

Moreover, so-called "reeducation through labor" and similar administrative sanctions are in fact criminal sanctions imposed on an individual without a judicial trial, constituting a flagrant violation of the principles of criminal justice recognized by civilized nations.


96. Cf. Universal Declaration of Human Rights, art. 10, G.A. Res. 217, supra note 13 (providing that "[e]veryone is entitled in full equality to a fair and public hearing by an independent and impartial tribunal, in the determination of his rights and obligations and of any criminal charge against him"). On April 4, 1989, an Administrative Litigation Act was promulgated, which entered into force on October 1, 1990. See Collection of Laws of the People's Republic of China in 1986, supra note 56, at 23-39. Article 11, paragraph 1, subparagraph 2, provides that a citizen may appeal to a people's court for a compulsory review of measures restricting
Finally, the Chinese government’s assertion that human rights are exclusively the domestic concern of the state has no basis in modern international law. Article 55 of the United Nations Charter provides that “the United Nations shall promote . . . universal respect for, and observance of, human rights and fundamental freedoms for all without distinction as to race, sex, language, or religion.” Article 56 provides that “[a]ll members pledge themselves to take joint and separate action in cooperation with the Organization for the achievement of the purposes set forth in article 55.” As a member of the United Nations and an adherent to the U.N. Charter, the People’s Republic of China implicitly recognizes that “human rights referred to in it are a subject of international concern and, to that extent, no longer within its exclusive domestic jurisdiction.” Therefore, international concern over the Chinese treatment of its pro-democracy dissidents does not constitute interference in Chinese domestic affairs.

---

personal freedoms imposed by an administrative agency. Id. at 25. According to a PRC book, reeducation through labor decisions rendered by an administrative agency are now subject to judicial review. INFORMATION DEPT., MINISTRY OF JUSTICE, ZHONGHUA RENMIN GONGHEGUO XINGZHENG SUSONGFA JIANGHUA [TALKS ON THE ADMINISTRATIVE PROCEDURE LAW OF THE PRC] 25-26 (1990). On October 16, 1990, a people’s court accepted a case challenging an administrative decision to subject a person to reeducation through labor. However, before the court rendered its judgment, the decision on reeducation through labor was cancelled by an administrative agency, so the court dismissed the case. A member of the court considered that reeducation through labor decisions may be reviewed by a people’s court according to the above-stated provisions of the Administrative Litigation Act. See Chen Tianyuan, My View on Trying an Administrative Case Challenging [a Decision on] Reeducation Through Labor, FAXUE ZAZHI, No. 4, 1991, at 47.

97. U.N. CHARTER art. 55.
98. Id. art. 56.
Occasional Papers/Reprints Series
in Contemporary Asian Studies

500 West Baltimore Street
Baltimore, Maryland 21201
U.S.A.
(410) 706-3870
(For back issues new prices effective from October 1, 1991)

1977 Series

No. 1 - 1977  ISSN 0730-0107  ISBN 0-942182-00-6
Chinese Attitude Toward Continental Shelf and Its Implication on
Delimiting Seabed in Southeast Asia (Hungdah Chiu) 32 pp.  $3.00

No. 2 - 1977  ISSN 0730-0107  ISBN 0-942182-01-4
Income Distribution in the Process of Economic Growth of the Republic
of China (Yuan-Li Wu) 45 pp.  $3.00

No. 3 - 1977  ISSN 0730-0107  ISBN 0-942182-02-2
The Indonesian Maoists: Doctrines and Perspectives (Justus M. van der
Kroef) 31 pp.  $3.00

No. 4 - 1977  ISSN 0730-0107  ISBN 0-942182-03-0
Taiwan's Foreign Policy in the 1970s: A Case Study Adaptation and
Viability (Thomas J. Bellows) 22 pp.  $3.00

No. 5 - 1977  ISSN 0730-0107  ISBN 0-942182-04-9
Asian Political Scientists in North America: Professional and Ethnic
Problems (Edited by Chun-tu Hsueh) 148 pp. Index  $6.00

No. 6 - 1977  ISSN 0730-0107  ISBN 0-942182-05-7
The Sino-Japanese Fisheries Agreement of 1975: A Comparison with
Other North Pacific Fisheries Agreements (Song Yook Hong) 80 pp.  $5.00

Foreign Trade Contracts Between West German Companies and the
People's Republic of China: A Case Study (Robert Heuser) 22 pp.  $3.00
No. 8 - 1977  ISSN 0730-0107  ISBN 0-942182-07-3
Reflections on Crime and Punishment in China, with Appended Sentencing Documents (Randle Edwards, Translation of Documents by Randle Edwards and Hungdah Chiu) 67 pp. $3.00

No. 9 - 1977  ISSN 0730-0107  ISBN 0-942182-08-1
Chinese Arts and Literature: A Survey of Recent Trends (Edited by Wailim Yip) 126 pp. $5.00

Legal Aspects of U.S.-Republic of China Trade and Investment — Proceedings of a Regional Conference of the American Society of International Law (Edited by Hungdah Chiu and David Simon) 217 pp. Index $8.00

No. 11 - 1977  ISSN 0730-0107  ISBN 0-942182-10-3
Asian American Assembly Position Paper: I. A Review of U.S. China Relations 62 pp. $3.00

No. 12 - 1977  ISSN 0730-0107  ISBN 0-942182-11-1

**1978 Series**

Indian Ocean Politics: An Asian-African Perspective (K.P. Misra) 31 pp. $3.00

No. 2 - 1978 (14)  ISSN 0730-0107  ISBN 0-942182-13-8
Normalizing Relations with the People's Republic of China: Problems, Analysis, and Documents (Edited by Hungdah Chiu, with contribution by G. J. Sigur, Robert A. Scalapino, King C. Chen, Eugene A. Theroux, Michael Y.M. Kau, James C. Hsiung and James W. Morley) 207 pp. Index $5.00

No. 3 - 1978 (15)  ISSN 0730-0107  ISBN 0-942182-14-6
Growth, Distribution, and Social Change: Essays on the Economy of the Republic of China (Edited by Yuan-li Wu and Kung-chia Yeh) 227 pp. Index $5.00

No. 4 - 1978 (16)  ISSN 0730-0107  ISBN 0-942182-15-4
The Societal Objectives of Wealth, Growth, Stability, and Equity in Taiwan (Jan S. Prybyla) 31 pp. $3.00
No. 5 - 1978 (17)    ISSN 0730-0107    ISBN 0-942182-16-2
The Role of Law in the People's Republic of China as Reflecting Mao Tse-Tung's Influence (Shao-chuan Leng) 18 pp.        $3.00

No. 6 - 1978 (18)    ISSN 0730-0107    ISBN 0-942182-17-0
Criminal Punishment in Mainland China: A Study of Some Yunnan Province Documents (Hungdah Chiu) 35 pp.        $3.00

A Guide to the Study of Japanese Law (Lawrence W. Beer and Hidenori Tomatsu) 45 pp.        $4.00

No. 8 - 1978 (20)    ISSN 0730-0107    ISBN 0-942182-19-7
The Pueblo, EC-121, and Mayaguez Incidents: Some Continuities and Changes (Robert Simmons) 40 pp.        $4.00

No. 9 - 1978 (21)    ISSN 0730-0107    ISBN 0-942182-20-0
Two Korea's Unification Policy and Strategy (Yong Soon Yim) 82 pp. Index        $4.00

1979 Series

No. 1 - 1979 (22)    ISSN 0730-0107    ISBN 0-942182-21-9
Asian Immigrants and Their Status in the U.S. (Edited by Hungdah Chiu) 54 pp.        $4.00

No. 2 - 1979 (23)    ISSN 0730-0107    ISBN 0-942182-22-7
Social Disorder in Peking After the 1976 Earthquake Revealed by a Chinese Legal Documents (Hungdah Chiu) 20 pp.        $4.00

The Dragon and the Eagle — A Study of U.S.-People's Republic of China Relations in Civil Air Transport (Jack C. Young) 65 pp.        $5.00

No. 4 - 1979 (25)    ISSN 0730-0107    ISBN 0-942182-24-3
Chinese Women Writers Today (Edited by Wai-lim Yip and William Tay) 108 pp.        $5.00

No. 5 - 1979 (26)    ISSN 0730-0107    ISBN 0-942182-25-1
Certain Legal Aspects of Recognizing the People's Republic of China (Hungdah Chiu) 49 pp.        $4.00

No. 6 - 1979 (27)    ISSN 0730-0107    ISBN 0-942182-26-X
China's Nationalization of Foreign Firms: The Politics of Hostage Capitalism, 1949-1957 (Thomas N. Thompson) 80 pp. Index        $5.00
### 1980 Series

<table>
<thead>
<tr>
<th>No.</th>
<th>Year</th>
<th>ISSN</th>
<th>ISBN</th>
<th>Title</th>
<th>Pages/Publication Details</th>
<th>Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1980</td>
<td>0730-0107</td>
<td>0-942182-29-4</td>
<td>The Chinese Connection and Normalization (Edited by Hungdah Chiu and Karen Murphy)</td>
<td>200 pp. Index</td>
<td>$7.00</td>
</tr>
<tr>
<td>3</td>
<td>1980</td>
<td>0730-0107</td>
<td>0-942182-31-6</td>
<td>Policy, Proliferation and the Nuclear Proliferation Treaty: U.S. Strategies and South Asian Prospects (Joanne Finegan)</td>
<td>61 pp.</td>
<td>$4.00</td>
</tr>
<tr>
<td>5</td>
<td>1980</td>
<td>0730-0107</td>
<td>0-942182-33-2</td>
<td>Certain Problems in Recent Law Reform in the People's Republic of China (Hungdah Chiu)</td>
<td>34 pp.</td>
<td>$4.00</td>
</tr>
<tr>
<td>6</td>
<td>1980</td>
<td>0730-0107</td>
<td>0-942182-34-0</td>
<td>China's New Criminal &amp; Criminal Procedure Codes (Hungdah Chiu)</td>
<td>16 pp.</td>
<td>$3.00</td>
</tr>
<tr>
<td>7</td>
<td>1980</td>
<td>0730-0107</td>
<td>0-942182-35-9</td>
<td>China's Foreign Relations: Selected Studies (Edited by F. Gilbert Chan &amp; Ka-che Yip)</td>
<td>115 pp. (out of print)</td>
<td>$5.00</td>
</tr>
</tbody>
</table>

### 1981 Series

<table>
<thead>
<tr>
<th>No.</th>
<th>Year</th>
<th>ISSN</th>
<th>ISBN</th>
<th>Title</th>
<th>Pages/Publication Details</th>
<th>Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1981</td>
<td>0730-0107</td>
<td>0-942182-37-5</td>
<td>Structural Changes in the Organization and Operation of China's Criminal Justice System (Hungdah Chiu)</td>
<td>31 pp.</td>
<td>$3.00</td>
</tr>
<tr>
<td>No.</td>
<td>Year</td>
<td>ISSN</td>
<td>ISBN</td>
<td>Title and Author(s)</td>
<td>Pages</td>
<td>Price</td>
</tr>
<tr>
<td>-----</td>
<td>------</td>
<td>---------</td>
<td>-------------</td>
<td>----------------------------------------------------------------------------------------------------------</td>
<td>-------</td>
<td>--------</td>
</tr>
<tr>
<td>2</td>
<td>1981</td>
<td>0730-0107</td>
<td>0-942182-38-3</td>
<td>Readjustment and Reform in the Chinese Economy (Jan S. Prybyla)</td>
<td>58</td>
<td>$3.00</td>
</tr>
<tr>
<td>3</td>
<td>1981</td>
<td>0730-0107</td>
<td>0-942182-39-1</td>
<td>Symposium on the Trial of Gang of Four and Its Implication in China (Edited by James C. Hsiung)</td>
<td>118</td>
<td>$5.00</td>
</tr>
<tr>
<td>4</td>
<td>1981</td>
<td>0730-0107</td>
<td>0-942182-40-5</td>
<td>China and the Law of the Sea Conference (Hungdah Chiu)</td>
<td>30</td>
<td>$4.00</td>
</tr>
<tr>
<td>5</td>
<td>1981</td>
<td>0730-0107</td>
<td>0-942182-41-3</td>
<td>China’s Foreign Aid in 1979-80 (John Franklin Copper)</td>
<td>54</td>
<td>$4.00</td>
</tr>
<tr>
<td>6</td>
<td>1981</td>
<td>0730-0107</td>
<td>0-942182-42-1</td>
<td>Chinese Regionalism: Yesterday and Today (Franz Michael)</td>
<td>35</td>
<td>$4.00</td>
</tr>
<tr>
<td>7</td>
<td>1981</td>
<td>0730-0107</td>
<td>0-942182-43-X</td>
<td>Elite Conflict in the Post-Mao China (Parris H. Chang)</td>
<td>40</td>
<td>$4.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>(Out of print, please order No. 2 - 1983 (55) for a revised version of this issue.)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**1982 Series**

<table>
<thead>
<tr>
<th>No.</th>
<th>Year</th>
<th>ISSN</th>
<th>ISBN</th>
<th>Title and Author(s)</th>
<th>Pages</th>
<th>Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1982</td>
<td>0730-0107</td>
<td>0-942182-45-6</td>
<td>Socialist Legalism: Reform and Continuity in Post-Mao People's Republic of China (Hungdah Chiu)</td>
<td>35</td>
<td>$4.00</td>
</tr>
<tr>
<td>2</td>
<td>1982</td>
<td>0730-0107</td>
<td>0-942182-46-4</td>
<td>Kampuchea, The Endless Tug of War (Justus M. Van der Kroef)</td>
<td>51</td>
<td>$4.00</td>
</tr>
<tr>
<td>5</td>
<td>1982</td>
<td>0730-0107</td>
<td>0-942182-49-9</td>
<td>Constitutional Revolution in Japanese Law, Society and Politics (Lawrence W. Beer)</td>
<td>35</td>
<td>$4.00</td>
</tr>
</tbody>
</table>
No. 6 - 1982 (51)  ISSN 0730-0107  ISBN 0-942182-50-2
(Edited by David Salem, Roy Werner and Lyushen Shen) 67 pp.  $4.00

No. 7 - 1982 (52)  ISSN 0730-0107  ISBN 0-942182-51-0
Chinese Law and Justice: Trends Over Three Decades (Hungdah Chiu) 39 pp.  $4.00

No. 8 - 1982 (53)  ISSN 0730-0107  ISBN 0-942182-52-9
Disarmament and Civilian Control in Japan: A Constitutional Dilemma
(Theodore McNelly) 16 pp.  $4.00

1983 Series

Essays on Sun Yat-sen and the Economic Development of Taiwan (Maria Hsia Chang and A. James Gregor) 60 pp.  $3.00

Elite Conflict in the Post-Mao China (Revised version of No. 7-1981 (44))
(Parris H. Chang) 48 pp.  $3.00

No. 3 - 1983 (56)  ISSN 0730-0107  ISBN 0-942182-55-3
Media-Coverage on Taiwan in The People's Republic of China (Jörg-M. Rudolph) 77 pp.  $4.00

No. 4 - 1983 (57)  ISSN 0730-0107  ISBN 0-942182-56-1
Transit Problems of Three Asian Land-locked Countries: Afghanistan, Nepal and Laos (Martin Ira Glassner) 55 pp.  $3.00

No. 5 - 1983 (58)  ISSN 0730-0107  ISBN 0-942182-57-X
China's War Against Vietnam: A Military Analysis (King C. Chen) 33 pp.  $3.00

The People's Republic of China, International Law and Arms Control

1984 Series

No. 1 - 1984 (60)  ISSN 0730-0107  ISBN 0-942182-60-X
China's Nuclear Policy: An Overall View (Shao-chuan Leng) 18 pp.  $3.00
<table>
<thead>
<tr>
<th>No.</th>
<th>Year</th>
<th>Publication Title</th>
<th>Author(s)</th>
<th>Pages</th>
<th>ISBN</th>
<th>Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>3</td>
<td>1984</td>
<td>Legal Problems of Seabed Boundary Delimitation in the East China Sea</td>
<td>Ying-jou Ma</td>
<td>308</td>
<td>0-942182-62-6</td>
<td>$10.00</td>
</tr>
<tr>
<td>5</td>
<td>1984</td>
<td>Taiwan's Elections: Political Development and Democratization in the Republic of China</td>
<td>John F. Copper with George P. Chen</td>
<td>180</td>
<td>0-942182-65-0</td>
<td>Hardcover $10.00 (Paperback) $5.00</td>
</tr>
</tbody>
</table>

1985 Series

<table>
<thead>
<tr>
<th>No.</th>
<th>Year</th>
<th>Publication Title</th>
<th>Author(s)</th>
<th>Pages</th>
<th>ISBN</th>
<th>Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1985</td>
<td>The Political Basis of the Economic and Social Development in the Republic of China</td>
<td>Alan P. L. Liu</td>
<td>22</td>
<td>0-942182-67-7</td>
<td>$3.00</td>
</tr>
<tr>
<td>2</td>
<td>1985</td>
<td>The Legal System and Criminal Responsibility of Intellectuals in the People's Republic of China, 1949-1982</td>
<td>Carlos Wing-hung Lo</td>
<td>125</td>
<td>0-942182-68-5</td>
<td>$5.00</td>
</tr>
<tr>
<td>3</td>
<td>1985</td>
<td>Symposium on Hong Kong: 1997 (Edited by Hungdah Chiu)</td>
<td></td>
<td>100</td>
<td>0-942182-69-3</td>
<td>$4.00</td>
</tr>
<tr>
<td>4</td>
<td>1985</td>
<td>The 1982 Chinese Constitution and the Rule of Law</td>
<td></td>
<td>18</td>
<td>0-942182-70-7</td>
<td>$3.00</td>
</tr>
</tbody>
</table>
No. 6 - 1985 (71) ISSN 0730-0107 ISBN 0-942182-73-1
China’s Marine Environmental Protection Law: The Dragon Creeping in Murky Waters (Mitchell A. Silk), 32 pp. $3.00

1986 Series

No. 1 - 1986 (72) ISSN 0730-0107 ISBN 0-942182-74-X
From Tradition to Modernity: A Socio-Historical Interpretation on China’s Struggle toward Modernization Since the Mid-19th Century (Wen-hui Tsai), 76 pp. $4.00

No. 2 - 1986 (73) ISSN 0730-0107 ISBN 0-942182-75-8
Peace and Unification in Korea and International Law (Byung-Hwa Lyou), 205 pp. Index. $8.00

No. 3 - 1986 (74) ISSN 0730-0107 ISBN 0-942182-76-6
The Hong Kong Agreement and American Foreign Policy (Hungdah Chiu), 18 pp. $3.00

No. 4 - 1986 (75) ISSN 0730-0107 ISBN 0-942182-77-4
United States-China Normalization: An Evaluation of Foreign Policy Decision Making (Jaw-ling Joanne Chang), copublished with Monograph Series in World Affairs, University of Denver, 246 pp. Index. $8.00

No. 5 - 1986 (76) ISSN 0730-0107 ISBN 0-942182-79-0
Communications and China’s National Integration: An Analysis of People’s Daily and Central Daily on the China Reunification Issue (Shuhua Chang), 205 pp. $8.00

No. 6 - 1986 (77) ISSN 0730-0107 ISBN 0-942182-80-4
Since Aquino: The Philippine Tangle and the United States (Justus M. van der Kroef), 73 pp. $3.00

1987 Series

An Analysis of the U.S.-China Nuclear Energy Cooperation Agreement (Benjamin Chin), 40 pp. $3.00

No. 2 - 1987 (79) ISSN 0730-0107 ISBN 0-942182-82-0
Survey of Recent Developments in China (Mainland and Taiwan), 1985-1986 (edited by Hungdah Chiu, with the assistance of Jaw-ling Joanne Chang), 222 pp. Index $8.00
No. 3 - 1987 (80) ISSN 0730-0107 ISBN 0-942182-83-9
Democratizing Transition in Taiwan (Yangsun Chou and Andrew J. Nathan), 24 pp. $3.00

No. 4 - 1987 (81) ISSN 0730-0107 ISBN 0-942182-84-7
The Legal Status of the Chinese Communist Party (Robert Heuser), 25 pp. $3.00

No. 5 - 1987 (82) ISSN 0730-0107 ISBN 0-942182-85-5
The Joint Venture and Related Contract Laws of Mainland China and Taiwan: A Comparative Analysis (Clyde D. Stoltenberg and David W. McClure), 54 pp. $4.00

No. 6 - 1987 (83) ISSN 0730-0107 ISBN 0-942182-86-3
Reform in Reverse: Human Rights in the People’s Republic of China, 1986/1987 (Ta-Ling Lee and John F. Copper), 150 pp. $8.00

1988 Series

No. 1 - 1988 (84) ISSN 0730-0107 ISBN 0-942182-87-1
Chinese Attitudes Toward International Law in the Post-Mao Era, 1978-1987 (Hungdah Chiu), 41 pp. $3.00

Chinese Views on the Sources of International Law (Hungdah Chiu), 20 pp. $3.00

No. 3 - 1988 (86) ISSN 0730-0107 ISBN 0-942182-89-8
People’s Republic of China: The Human Rights Exception (Roberta Cohen), 103 pp. $5.00

No. 4 - 1988 (87) ISSN 0730-0107 ISBN 0-942182-90-1
Settlement of the Macao Issue: Distinctive Features of Beijing’s Negotiating Behavior (with text of 1987 Protocol and 1987 Declaration) (Jaw-ling Joanne Chang), 37 pp. $3.00

No. 5 - 1988 (88) ISSN 0730-0107 ISBN 0-942182-91-X
The Draft Basic Law of Hong Kong: Analysis and Documents (edited by Hungdah Chiu), 153 pp. $5.00

No. 6 - 1988 (89) ISSN 0730-0107 ISBN 0-942182-92-8
 Constitutionalism in Asia: Asian Views of the American Influence (edited by Lawrence W. Beer), 210 pp. $10.00
### 1989 Series

<table>
<thead>
<tr>
<th>No.</th>
<th>Year</th>
<th>ISSN</th>
<th>ISBN</th>
<th>Title</th>
<th>Pages</th>
<th>Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1989</td>
<td>0730-0107</td>
<td>0-925153-00-1</td>
<td>The Right to a Criminal Appeal in the People's Republic of China</td>
<td>43</td>
<td>$3.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>(Margaret Y.K. Woo)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>1989</td>
<td>0730-0107</td>
<td>0-925153-01-X</td>
<td>The Status of Customary International Law, Treaties, Agreements and</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Semi-Official or Unofficial Agreements in Chinese Law (Hungdah Chiu)</td>
<td>22</td>
<td>$3.00</td>
</tr>
<tr>
<td>3</td>
<td>1989</td>
<td>0730-0107</td>
<td>0-925153-02-8</td>
<td>One Step Forward, One Step Back, Human Rights in the People's</td>
<td>140</td>
<td>$6.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Republic of China in 1987/88 (John F. Cooper and Ta-ling Lee)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4</td>
<td>1989</td>
<td>0730-0107</td>
<td>0-925153-03-6</td>
<td>Tibet: Past and Present (Hungdah Chiu and June Teufel Dreyer)</td>
<td>25</td>
<td>$3.00</td>
</tr>
<tr>
<td>5</td>
<td>1989</td>
<td>0730-0107</td>
<td>0-925153-04-4</td>
<td>Chinese Attitude Toward International Law of Human Rights in the Post-</td>
<td>38</td>
<td>$4.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Mao Era (Hungdah Chiu)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6</td>
<td>1989</td>
<td>0730-0107</td>
<td>0-925153-05-2</td>
<td>Tibet to Tiananmen: Chinese Human Rights and United States Foreign</td>
<td>47</td>
<td>$4.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Policy (W. Gary Vause)</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### 1990 Series

<table>
<thead>
<tr>
<th>No.</th>
<th>Year</th>
<th>ISSN</th>
<th>ISBN</th>
<th>Title</th>
<th>Pages</th>
<th>Price</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1990</td>
<td>0730-0107</td>
<td>0-925153-06-0</td>
<td>The International Legal Status of the Republic of China (Hungdah Chiu)</td>
<td>20</td>
<td>$3.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>(Out of print, please order No. 5-1992 (112) for a revised version of this issue)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2</td>
<td>1990</td>
<td>0730-0107</td>
<td>0-925153-07-9</td>
<td>Tiananmen: China's Struggle for Democracy—Its Prelude, Development,</td>
<td></td>
<td>$8.00</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td>Aftermath, and Impact (Winston L. Y. Yang and Marsha L. Wagner)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>1990</td>
<td>0730-0107</td>
<td>0-925153-09-5</td>
<td>Nationality and International Law in Chinese Perspective (Hungdah Chiu)</td>
<td>37</td>
<td>$4.00</td>
</tr>
</tbody>
</table>
No. 4 - 1990 (99) ISSN 0730-0107 ISBN 0-925153-10-9
The Taiwan Relations Act After Ten Years (Lori Fisler Damrosch), 27 pp.
$3.00

No. 5 - 1990 (100) ISSN 0730-0107 ISBN 0-925153-11-7
The Taiwan Relations Act and Sino-American Relations (Hungdah Chiu), 34 pp.
$4.00

No. 6 - 1990 (101) ISSN 0730-0107 ISBN 0-925153-12-5
Taiwan's Recent Elections: Fulfilling the Democratic Promise (John F. Copper), 174 pp. Index
$8.00

1991 Series

$6.00

No. 2 - 1991 (103) ISSN 0730-0107 ISBN 0-925153-14-1
$10.00

$5.00

No. 4 - 1991 (105) ISSN 0730-0107 ISBN 0-925153-16-8
The 1989 US-Republic of China (Taiwan) Fisheries Negotiations (Mark Mon-Chang Hsieh), 84 pp.
$6.00

No. 5 - 1991 (106) ISSN 0730-0107 ISBN 0-925153-17-6
Politics of Divided Nations: China, Korea, Germany and Vietnam—Unification, Conflict Resolution and Political Development (Edited by Quansheng Zhao and Robert Sutter), 198 pp. Index
$12.00

No. 6 - 1991 (107) ISSN 0730-0107 ISBN 0-925153-18-4
Lawyers in China: The Past Decade and Beyond (Timothy A. Gelatt), 49 pp.
$5.00

1992 Series

$5.00
China's Ministry of State Security: Coming of Age in the International
Arena (Nicholas Eftimiades), 24 pp.  $4.00

No. 3 - 1992 (110)  ISSN 0730-0107  ISBN 0-925153-21-4
Libel Law and the Press in South Korea: An Update (Kyu Ho Youm), 23
pp.  $5.00

No. 4 - 1992 (111)  ISSN 0730-0107  ISBN 0-925153-22-2
Tiananmen Aftermath: Human Rights in the People's Republic of China,
1990 (John F. Copper and Ta-ling Lee), 133 pp.  Index  $15.00

No. 5 - 1992 (112)  ISSN 0730-0107  ISBN 0-925153-23-0
The International Legal Status of the Republic of China (Revised version
of No. 1-1990 (96)) (Hungdah Chiu), 37 pp.  $4.00

No. 6 - 1992 (113)  ISSN 0730-0107  ISBN 0-925153-24-9
China's Criminal Justice System and the Trial of Pro-Democracy
Dissidents (Hungdah Chiu), 21 pp.  $3.00
MARYLAND STUDIES IN EAST ASIAN LAW AND POLITICS SERIES

(The following books are published under the auspices or co-auspices of the East Asian Legal Studies Program of the University of Maryland School of Law. The views expressed in each book reflect only those of the author. All books published in hard cover edition, unless otherwise indicated.)


5. Hungdah Chiu and Shao-chuan Leng, editors, China: 70 Years After the 1911 Hsin-hai Revolution. Charlottesville, Virginia: University Press of Virginia, 1984. 600 pp. (Published under the co-auspices of the Committee on Asian Studies, University of Virginia.) ISBN No.: 0-8138-1027-7 $35.00


ORDER FORM

To Occasional Papers/Reprints Series in Contemporary Asian Studies, University of Maryland School of Law, 500 West Baltimore Street, Baltimore, Maryland 21201, U.S.A.

Check One:

☐ Please Send:

<table>
<thead>
<tr>
<th>No.</th>
<th>Author</th>
<th>Title</th>
<th>Copies</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

☐ Please start my subscription of the OPRSCAS: Starting issue

___

Subscription price is U.S. $22.00 for 6 issues in the U.S. and $28.00 for Canada or overseas (regardless of the price of individual issues).

My check of U.S. $__________ is enclosed

copy(s) of invoice/receipt required. (Institution/library may request billing before making payment) (Make check payable to OPRSCAS) (Please add postage/handling of $2.00 for one copy and $1.00 for each additional copy.)

Please send book to:
Name/Corp./Library:
Address: (Please include zip code)

_________________________________________________________________

_________________________________________________________________